



MANUAL OF REGULATIONS **FOR BANKS**

FOREWORD

The 2008 Manual of Regulations for Banks (MORB) is an updated compilation of banking regulations and policy issuances of the Bangko Sentral ng Pilipinas (BSP). Available in hard and soft copies, it is a convenient reference and guide for banks in the conduct of their operations.

The updated MORB incorporates regulatory policies issued to align banking practices on risk management, good corporate governance, and capital adequacy, accounting and reporting with international standards. It also includes rules implementing legislative reform measures, the more significant of which are the *General Banking Law of 2000*, the *Anti-Money Laundering Act of 2001* and the *Special Purpose Vehicle Act of 2002*.

In providing banks and the banking public easy access to this information, the updated MORB seeks to facilitate compliance with the BSP's supervisory and regulatory requirements that will contribute to the enhancement of the partnership between BSP and the banking sector, and ultimately to the strengthening of the Philippine Banking System and the economy.

AMANDO M. TETANGCO, JR.
Governor

FOREWORD

Soon after the establishment of the new Bangko Sentral ng Pilipinas (BSP), the Monetary Board recognized the need not only to update but also to improve the presentation of the Manual of Regulations for Banks to make it a more useful and accessible information resource for the banking industry and the interested public. A special committee was therefore created to revise the old Manual accordingly.

This revised format Manual is the outcome of that effort. It benefits from the inputs of many concerned departments of the BSP as well as the various banking industry associations. By combining the multi-dimensional perspective, we are hopeful that this new Manual and its subsequent updates will be able to more effectively disseminate the regulatory issuances of the BSP on a timely basis and provide appropriate guidance to the banking community.

We also believe that it will be a especially useful tool at this time when the BSP has come up with many new banking regulations and issuances in response to the unprecedented challenges posed by the Asian crisis.

Nevertheless, we recognize that there will always be room for improvement. Our task is therefore a continuing one of constant search for a better product to provide better services to the public.

GABRIEL C. SINGSON
Governor

PREFACE

(2008 Revised Edition)

The 2008 Manual of Regulations for Banks (MORB) is the latest updated edition from the initial issuance in 1996 . The updates consist of the significant policy developments and changes in statutory laws. It shall serve as the principal source of banking regulations issued by the Monetary Board and the Governor of the BSP and shall be cited as the authority for enjoining compliance with the rules and regulations embodied therein.

To accomplish the work of proposing revision to the Old Manual, the Monetary Board of the BSP, in its Resolution No. 1203 dated December 7, 1994, directed the creation of a multi-departmental Ad Hoc Review Committee. The Committee was officially constituted under Office Order No. 2 Series of 1995 and was reconstituted several times thereafter. Under the aforesaid office order, the Committee is tasked to update the Manuals on a continuing basis (i) to incorporate relevant issuances (ii) propose revision/deletion of provisions which have become obsolete, redundant, irrelevant or inconsistent with laws/regulations (iii) reformulate provisions as the need arises and (iv) oversee printing of the Manuals/ Updates in coordination with the Corporate Affairs Office.

The present Committee, as reconstituted under Office Order No. 430, Series of 2007 dated 08 June 2007, is composed of: Mr. Alberto A. Reyes, Director, Central Point of Contact Department (CPCD] II, Chairman; Atty. Magdalena D. Imperio, Deputy Director, Office of the General Counsel and Legal Services (OGCLS), Vice Chairman; Ms. Ma. Corazon T. Alva, Acting Deputy Director, Examination Department (ED) I; Ms. Ma. Belinda G. Caraan, Acting Deputy Director/Head, Financial Consumer Affairs Group (FCAG); Atty. Lord Eileen S. Tagle, Legal Officer III, OGCLS; Ms. Maria Cynthia M. Sison, Bank Officer IV, Office of the Supervisory Policy Development (OSPD); Ms. Concepcion A. Garcia, Bank Officer IV, OSPD; Atty. Florabelle S. Madrid, Manager, CPCD I, members; and Mr. Nestor A. Espenilla, Jr., Deputy Governor, Supervision and Examination Sector, Adviser.

The Committee Secretariat is composed of Ms. Celedina P. Garbosa, Acting. Manager, CPCD II, Head; Ms. Ma. Corazon B. Bilgera, Bank Officer II, OSPD; Ms. Ma. Cecilia U. Contreras, Supervision and Examination Specialist I, CPCD II, members.

The Bangko Sentral ng Pilipinas

PREFACE

(2005 Edition)

The 2005 Manual of Regulations for Banks (MORB) is an updated edition of the 1996 MORB. The updates consist of the significant policy developments and changes in statutory laws. It shall serve as the principal source of banking regulations issued by the Monetary Board and the Governor of the BSP and shall be cited as the authority for enjoining compliance with the rules and regulations embodied therein.

A multi-departmental Committee on the Updating of the Manual of Regulations for Banks and Non-Banks Financial Institutions was created under Office Order No. 430, Series of 2007 dated 08 June 2007. Under the aforesaid office order, the Committee is tasked to update the Manuals on a continuing basis (i) to incorporate relevant issuances (ii) propose revision/deletion of provisions which have become obsolete, redundant, irrelevant or inconsistent with laws/regulations (iii) reformulate provisions as the need arises and (iv) oversee printing of the Manuals/Updates in coordination with the Corporate Affairs Office.

The Committee is composed of Deputy Director Alberto A. Reyes (Central Point of Contact [CPC] II), Chairman; Deputy Director Magdalena D. Imperio (Office of the General Counsel and Legal Services [OGCLS]), Vice Chairman; Atty. Policarpo G. Barcarse, Manager II (Centralized Applications and Licensing Group [CALG]); Mr. Aristides R. Wylengco, Manager II (Supervision and Examination Department [SED] III); Ms. Jocelyn L. Lobas, Manager II (SED V); Atty. Ruben B. Parto, Acting Manager II (SED I); Ms. Ma. Corazon T. Alva, Acting Manager II (SED II); Ms. Ma. Belinda G. Caraan, Bank Officer IV (Office of Supervisory Policy Development [OSPD]); Atty. Lord Eileen S. Tagle, Bank Attorney I, (OGCLS); Ms. Maria Cynthia M. Sison, Bank Officer III (OSPD); Mr. Armando M. Dizon, Bank Officer II (CALG)); Atty. Florabelle S. Madrid, Bank Officer I (CPC I), members; and Deputy Governor Nestor A. Espenilla, Jr. of the Supervision and Examination Sector, Adviser.

The Committee Secretariat is composed of Ms. Celedina P. Garbosa, Asst. Manager (SED IV), Head; Ms. Ma. Corazon B. Bilgera, Bank Officer I (OSPD); Ms. Donah P. Marcelino, Administrative Services Officer III (SED V); Mr. Felix B. Corsino, Jr., Administrative Services Officer III (SED III), members.

The Bangko Sentral ng Pilipinas

PREFACE

(1996 Edition)

The Manual of Regulations Banks (the “New Manual”) is not only an updated edition but also a revised and consolidated version of the first three volumes of the present Manual of Regulations for Banks and Other Financial Intermediaries, Book I, II and III (the “Old Manual”). Its adoption was impelled by certain considerations, namely: (1) that the Central Bank of the Philippines as the administrative agency of the monetary, banking and credit system which promulgated the Old Manual has been replaced by the Bangko Sentral Ng Pilipinas (BSP) as the central monetary authority, (2) that the Old Manual was last updated as of 31 December 1989 and since that time, significant developments in the statutory law and the financial system of the country have rendered many of its provisions obsolete or irrelevant, and (3) that there was need to simplify the code of banking regulations for ready accessibility to, and the convenience of, the users.

To accomplish the work of proposing revisions to the Old Manual, the Monetary Board of the BSP, in its Resolution No. 1203 dated 07 December 1994, directed the creation of a multi-departmental Ad Hoc Review Committee. This committee was officially constituted under Office Order No. 2, Series of 1995 and consisted of Deputy General Counsel Melpin A. Gonzaga (Office of the General Counsel and Legal Services), as chairman; Deputy Director Ma. Dolores B. Yuvienco (Supervisory Reports and Studies Office); Deputy Director Rolando A. Q. Agustin (Department of Commercial Banks I); Deputy Director Danilo A. Monasterio (Department of Rural Banks); Deputy Director Erlinda S. J. Marzan (Department of Thrift Banks and Non-Bank Financial Institutions), as members; and Managing Director Fe B. Barin (Office of the Monetary Board), as adviser. The technical staff of the Ad Hoc Committee was composed of Atty. Magdalena D. Imperio, Bank Attorney III, as head; and Mr. Fernando B. Caballa, Manager II; Mr. Lauro C. Abuzo, Bank Officer III, Atty. Policarpo G. Barcarse, Manager II; Mr. Nicanor F. Rillera, Manager II; and Mr. Aristides R. Wylengco, Manager II, as members. Deputy Governor Armando L. Suratos, the BSP General Counsel, acted as committee consultant.

Under the aforesaid office order, the Ad Hoc Committee was instructed to examine, evaluate and review the provisions of the four (4) volumes of the Old Manual for purposes of (1) deleting therefrom provisions which are obsolete, redundant, irrelevant, superfluous or inconsistent with law, (2) amending provisions so as to make them consistent with each other or to harmonize them with existing statutes, executive issuances and official policies, and (3) reformulating provisions to make them more responsive to the needs and concerns of the banking and financial intermediation industry.

In discharging its mandated tasks, the Ad Hoc Review Committee sought the comments of certain departments of the BSP, particularly, Treasury, Foreign Exchange, Economic Research, Cash, Accounting, and Loans and Credit, on the proposed changes to provisions of the Old Manual relevant to their operations. Likewise consulted were the various associations in the banking industry, such as the Bankers Association of the Philippines, the Chamber of Thrift Banks, the Rural Bankers Association of the Philippines and the Trust Officers Association of the Philippines. Their valuable suggestions contributed much to the accomplishment of this project.

The New Manual comprises substantially the regulatory issuances of the BSP, as well as those of its predecessor agency, the Central Bank of the Philippines, as they were amended or revised through the years, up to 31 December 1996. It shall serve as the principal source of all substantive banking regulations issued by the Monetary Board and the Governor of the BSP and shall be cited as the authority for enjoining compliance with the rules and regulations embodied therein.

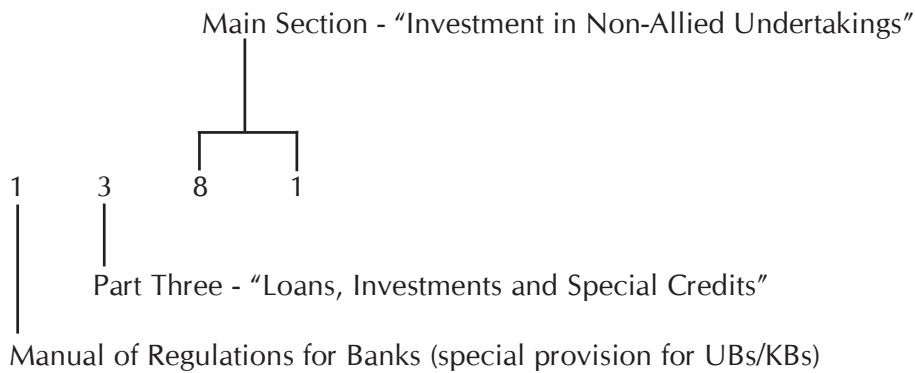
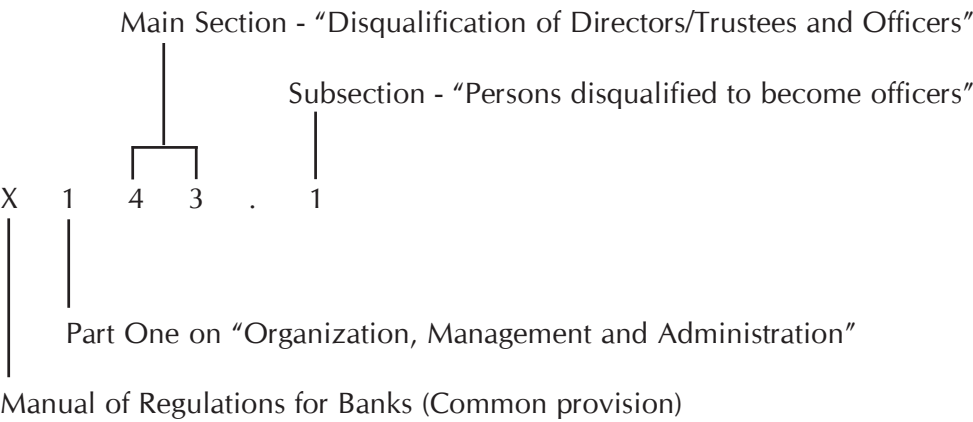
It is fervently hoped that the publication of this long-awaited new code of banking regulations will measure up to the expectations of the Philippine banking sector.

The Bangko Sentral ng Pilipinas

INSTRUCTIONS TO USERS
(2008 Revised Edition)

The Manual of Regulations for Banks (the “Manual”) is divided into nine (9) Parts. For provisions common to all types of banks, the sections and subsections of each part is prefixed by the letter “X”. Special provisions do not contain the prefix “X” but instead, the section/subsection applicable only to universal/commercial banks (UBs/KBs), thrift banks (TBs) and rural banks (RBs) and cooperative banks (Coop Banks) are indicated by the first digit showing the numbers 1, 2, and 3 applicable to said banks, respectively. The second digit refers to the Part of the Manual. The third and fourth digits refer to the section number of the Part while the number/s after the decimal point, if any, refer to the subsection.

Thus, to illustrate, Subsection X143.1 and Section 1381 would indicate



The runners in the upper-right or left hand corners of each page show the sections/subsections and the cut-off date of the regulatory issuances included in the page of the Manual where the runner is shown.

MANUAL OF REGULATIONS FOR BANKS

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POWER OF THE BANGKO SENTRAL TO EXAMINE BANKS

(2008 - X658) Examination by the Bangko Sentral. Effective 14 August 2004 the term “examination” shall, henceforth, refer to an investigation of an institution under the supervisory authority of the BSP to determine compliance with laws and regulations. It shall include determination that the institution is conducting its business on a safe and sound basis. Examination requires full and comprehensive looking into the operations and books of institutions, and shall include, but need not be limited to, the following:

- a. Determination of the bank’s solvency and liquidity position;
- b. Evaluation of asset quality as well as determination of sufficiency of valuation reserves on loans and other risk assets;
- c. Review of all aspects of bank operations;
- d. Assessment of risk management system, including the evaluation of the effectiveness of the bank management’s oversight functions, policies, procedures, internal control and audit;
- e. Appraisal of overall management of the bank;
- f. Review of compliance with applicable laws, rules and regulations; and

g. Any other activities relevant to the above.

Regular or periodic examination shall be done once a year, with an interval of twelve (12) months from the last date thereof. Special examination may be conducted earlier, or at a shorter interval, when authorized by the Monetary Board by an affirmative vote of five (5) members.

In the full exercise of the supervisory powers of the BSP, examination by the BSP of institutions shall be complemented by overseeing thereof. In this regard, the term “overseeing” shall refer to a limited investigation of an institution, or any investigation/s that is limited in scope, conducted to inquire into a particular area/aspect of an institution’s operations, for the purpose of overseeing that laws and regulations are complied with, inquiring into the solvency and liquidity of the institution, enforcing prompt corrective action, or such other matters requiring immediate investigation: *Provided, That* - (i) specific authorizations be issued by the *Deputy Governor, Supervision and Examination Sector*, and (ii) periodic summary reports on overseeings made be submitted to the Monetary Board.

PART ONE

ORGANIZATION, MANAGEMENT AND ADMINISTRATION

A. CLASSIFICATIONS AND POWERS OF BANKS

Section X101 Classifications, Powers and Scope of Authorities of Banks. The following are the classifications, powers and scope of authorities of banks, as well as the prerequisites for the grant of banking authorities.

a. *Classifications of banks.* Banks are classified into the following subject to the power of the Monetary Board to create other classes or kinds of banks:

- (1) Universal banks (UBs);
- (2) Commercial banks (KBs);
- (3) Thrift banks (TBs), as defined in Republic Act (R.A.) No. 7906, which shall be composed of: (a) savings and mortgage banks, (b) stock savings and loan associations, and (c) private development banks;
- (4) Rural banks (RBs), as defined in R. A. No. 7353;
- (5) Cooperative banks (Coop Banks), as defined in R. A. No. 6938; and
- (6) Islamic banks (IBs), as defined in R.A. No. 6848.

b. *Powers and scope of authorities* The following are the powers and scope of authorities of banks.

(1) *UBs.* A UB shall have the authority to exercise, in addition to the powers and services authorized for a KB as enumerated in Item “b(2)” and those provided by other laws, the following:

- (a) the powers of an investment house (IH) as provided under existing laws;
- (b) the power to invest in non-allied enterprises;
- (c) the power to own up to one hundred percent (100%) of the equity in a TB, an RB, a financial allied enterprise, or a non-financial allied enterprise; and

(d) in case of publicly-listed UBs, the power to own up to one hundred percent (100%) of the voting stock of only one (1) other UB or KB.

A UB may perform the functions of an IH either directly or indirectly through a subsidiary IH; in either case, the underwriting of equity securities and securities dealing shall be subject to pertinent laws and regulations of the Securities and Exchange Commission (SEC): *Provided*, That if the IH functions are performed directly by the UB, such functions shall be undertaken by a separate and distinct department or other similar unit in the UB: *Provided, further*, That a UB cannot perform such functions both directly and indirectly through a subsidiary.

(2) *KBs.* In addition to the general powers incident to corporations and those provided in other laws, a KB shall have the authority to exercise all such powers as may be necessary to carry on the business of commercial banking, such as accepting drafts and issuing letters of credit; discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; accepting or creating demand deposits; receiving other types of deposits and deposit substitutes; buying and selling foreign exchange and gold or silver bullion; acquiring marketable bonds and other debt securities; and extending credit, subject to such rules as the Monetary Board may promulgate. These rules may include the determination of bonds and other debt securities eligible for investment, the maturities and aggregate amount of such investment.

It may also exercise or perform any or all of the following:

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(a) invest in the equities of allied enterprises as provided in Sections 31 and 32 of R.A. No. 8791;

(b) purchase, hold and convey real estate as specified under Sections 51 and 52 of R.A. No. 8791;

(c) receive in custody funds, documents and valuable objects;

(d) act as financial agent and buy and sell, by order of and for the account of their customers, shares, evidences of indebtedness and all types of securities;

(e) make collections and payments for the account of others and perform such other services for their customers as are not incompatible with banking business;

(f) upon prior approval of the Monetary Board, act as managing agent, adviser, consultant or administrator of investment management/advisory/consultancy accounts;

(g) rent out safety deposit boxes; and

(h) engage in quasi-banking functions.

(3) *TBs*. In addition to the powers provided in other laws, a TB may perform any or all of the following services:

(a) grant loans, whether secured or unsecured;

(b) invest in readily marketable bonds and other debt securities, commercial papers and accounts receivable, drafts, bills of exchange, acceptances or notes arising out of commercial transactions;

(c) issue domestic letters of credit;

(d) extend credit facilities to private and government employees;

(e) extend credit against the security of jewelry, precious stones and articles of similar nature, subject to such rules and regulations as the Monetary Board may prescribe;

(f) accept savings and time deposits;

(g) rediscount paper with the Land Bank of the Philippines (LBP), Development Bank of the Philippines (DBP), and other government-owned or controlled corporations;

(h) accept foreign currency deposits as provided under R.A. No. 6426, as amended;

(i) act as correspondent for other financial institutions;

(j) purchase, hold and convey real estate as specified under Sections 51 and 52 of R.A. No. 8791; and

(k) offer other banking services as provided in Section 53 of R.A. No. 8791.

With prior approval of the Monetary Board, and subject to such guidelines as may be established by it, TBs may also perform the following services:

(l) open current or checking accounts;

(m) engage in trust, quasi-banking functions and money market operations;

(n) act as collection agent for government entities, including but not limited to, the Bureau of Internal Revenue (BIR), Social Security System (SSS) and the Bureau of Customs (BOC);

(o) act as official depository of national agencies and of municipal, city or provincial funds in the municipality, city or province where the TB is located;

(p) issue mortgage and chattel mortgage certificates, buy and sell them for its own account or for the account of others, or accept and receive them in payment or as amortization of its loan; and

(q) invest in the equity of allied undertakings.

(4) *RBs*. In addition to the powers provided in other laws, an RB may perform any or all of the following services:

(a) extend loans and advances primarily for the purpose of meeting the normal credit needs of farmers, fishermen or farm families as well as cooperatives, merchants, private and public employees;

(b) accept savings and time deposits;

(c) act as correspondent of other financial institutions;

(d) rediscount paper with the LBP, DBP or any other bank, including its branches and agencies. Said banks shall specify the nature of paper deemed acceptable for rediscount, as well as the rediscount rate to be charged by any of these banks;

- (e) act as collection agent;
- (f) offer other banking services as provided in Section 53 of R.A. No. 8791.

With prior approval of the Monetary Board, an RB may perform any or all of the following services:

- (g) accept current or checking accounts: *Provided*, That such RB has net assets of at least P5.0 million;
- (h) accept NOW accounts;
- (i) act as trustee over estates or properties of farmers and merchants;
- (j) act as official depository of municipal, city or provincial funds in the municipality, city or province where it is located;
- (k) sell domestic drafts; and
- (l) invest in allied undertakings.

(5) *Coop Banks*. A Coop Bank shall be organized primarily to provide financial and credit services to cooperatives and may perform any or all of the services offered by RBs.

(6) *IBs*. In addition to the general powers incident to corporations and those provided in other laws, as well as in Circular No. 105 (*Appendix 44*), insofar as they are not inconsistent or incompatible with the provisions of R.A. No. 6848, an IB may perform any or all of the following services:

- (a) open savings accounts for safekeeping or custody with no participation in profit and losses except unless otherwise authorized by the account holders to be invested;
- (b) accept investment account placements and invest the same for a term with the IB's funds in Islamically permissible transactions on participation basis;
- (c) accept foreign currency deposits from banks, companies, organizations and individuals, including foreign governments;
- (d) buy and sell foreign exchange;
- (e) act as correspondent of banks and institutions to handle remittances or any fund transfers;

- (f) accept drafts and issue letters of credit or letters of guarantee, negotiate notes and bills of exchange and other evidence of indebtedness under the universally accepted Islamic financial instruments;

(g) act as collection agent insofar as the payment orders, bills of exchange or other commercial documents are exclusive of *riba* or interest prohibitions;

(h) provide financing with or without collateral by way of leasing, sale and leaseback, or cost plus profit sales arrangement;

(i) handle storage operations for goods or commodity financing secured by warehouse receipts presented to the bank;

(j) issue shares for the account of institutions and companies assisted by the bank in meeting subscription calls or augmenting their capital and/or fund requirements as may be allowed by law;

(k) undertake various investments in all transactions allowed by the *Islamic Shari'a* in such a way that shall not permit the *haram* (forbidden), nor forbid the *halal* (permissible);

(l) act as an official government depository, or its branches, subdivisions and instrumentalities and of government-owned or-controlled corporations, particularly those doing business in the autonomous region;

(m) issue investment participation certificates, *muqaradah* (non-interest-bearing bonds), debentures, collaterals and/or the renewal and refinancing of the same, with the approval of the Monetary Board to be used by the IB in its financing operations for projects that will promote the economic development primarily of the Autonomous Region;

(n) carry out financing and joint investment operations by way of *mudarabah* purchasing for others on a cost-plus financing arrangement, and invest funds directly in various projects or through the use of funds whose owners desire to invest

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jointly with other resources available to the IB on a joint *mudarabah* basis; and

(o) invest in equities of the following allied undertakings:

- (1) Warehousing companies;
- (2) Leasing companies;
- (3) Storage companies;
- (4) Companies engaged in the management of mutual funds but not in the mutual funds themselves; and
- (5) Such other similar activities as the Monetary Board has declared or may declare as appropriate from time to time, subject to existing limitations imposed by law.

B. ESTABLISHMENT AND ORGANIZATION

Sec. X102 Basic Guidelines in Establishing Banks. In establishing a new banking organization and a Coop Bank, the basic guidelines shown in *Appendix 37* and *Appendix 38*, respectively, shall be observed.

§ X102.1 (2008 - X101.2) Prerequisites for the grant of a universal banking authority

- a. *Compliance with guidelines.* A domestic bank seeking authority to operate as a UB shall submit an application to the appropriate department of the SES. The applicant shall comply with the guidelines for the issuance of a UB authority and shall submit all the documentary requirements enumerated in *Appendix 1*.
- b. *Public offering of bank shares.* A domestic bank applying for a UB authority shall, as a condition to the approval of its application, make a public offering of at least ten percent (10%) of the required minimum capital and this condition must be complied with before it can be granted the license for authority to operate as a UB.

The term *public offering* shall mean the offer to sell equity shares to the public.

Public shall refer to all prospective stockholders, excluding the bank’s

directors, shareholders owning twenty percent (20%) or more of the bank’s subscribed capital stock, together with those of their relatives within the fourth degree of consanguinity or affinity, and corporations controlled or affiliated with them.

A bank whose shares of stock are already listed in the Philippine Stock Exchange (PSE) at the time of filing of its application for UB authority shall be deemed to have complied with the public offering requirement. Likewise, an applicant bank may opt to have its shares listed in the PSE directly instead of passing through the process of public offering. In either case, at least ten percent (10%) of the applicant bank’s capital stock should be held by public stockholders before it can be granted the license for authority to operate as a UB.

- c. *Listing of bank shares in the stock exchange.* Domestic banks granted a UB license, existing or new, must list their shares in the PSE within three (3) years: *Provided*, That in the case of new UBs, the three (3) year period shall be reckoned from the date the license to operate as a UB was granted. In the case of existing UBs which have not listed their shares in the exchange, the three (3) year period lapsed on 27 December 1998.

The guidelines on public offering and listing of bank shares are enumerated in *Appendix 1*.

§ X102.2 (2008 - X102.1) Suspension of the grant of new banking licenses on the establishment of new banks.

Pending completion of a study, there shall be an indefinite moratorium on the establishment of new banks, except in cities and municipalities where there are no existing banking offices.

The moratorium shall apply to all applications for establishment of new banks, including pending ones received prior to 16 August 1999.

However, approved but not yet opened banks shall be exempted from the moratorium. Requests for extension of the period within which to open approved but not yet opened banks shall, however, be evaluated on a case-to-case basis depending, among others, on the bank's substantial compliance with the pre-operating requirements.

In the case of KBs, the following rules shall govern:

a. No new KB shall be established within three (3) years from 13 June 2000 which is the date of effectivity of R.A. No. 8791 or until 12 June 2003. The moratorium as mandated by said law covers only KBs classified and defined as such under Sections 3.2(b) and 29 of R. A. No. 8791 as well as in Item "b.2" of Sec. X101 without prejudice, however, to existing or future moratoriums on other types of bank as has been or may be declared by the Monetary Board.

b. The moratorium under Section 8 of R.A. No. 8791 shall cover all applications for issuance of new commercial banking licenses as well as upgrading or conversion of old banking licenses into commercial banking licenses, the organization and incorporation by foreign banks of new commercial banking subsidiaries and any and all other transactions that may result in the issuance of new commercial banking licenses.

c. All such pending applications as of 13 June 2000, including those which have already been decided but with any incident thereto still unresolved or are on reconsideration or appeal, shall not be further acted upon by the BSP and shall be returned to the applicant banks without prejudice to the resubmission or re-filing thereof upon expiration of the moratorium at the option of the applicant banks. No such application shall be considered as automatically re-submitted or re-filed upon expiration of the moratorium.

d. The moratorium under Section 8 of R. A. No. 8791 shall not be applicable to:

(1) acquisition or purchase by foreign banks of up to 100% of the voting stock of existing domestic KBs;

(2) the transfer of license of an existing KB to another corporation, subject to prior approval of the Monetary Board;

(3) new KBs resulting out of mergers or consolidations where at least one (1) of the banks involved in such merger or consolidation is a KB; and

(4) downgrading or refocusing of UBs into KBs.

§ X102.3 (2008 - X102.2) *Partial lifting of general moratorium on the licensing of new thrift banks and rural banks.* The general moratorium on the licensing of new TBs and RBs is partially lifted to allow the entry of microfinance-oriented banks.

For this purpose, a microfinance-oriented bank is a bank that provides financial services and caters primarily to the credit needs of the basic or disadvantaged sectors such as farmer-peasants, artisanal fisherfolk, workers in the formal sector and migrant workers, workers in the informal sectors, indigenous peoples and cultural communities, women, differently-abled persons, senior citizens, victims of calamities and disasters, youth and students, children, urban poor and low income households for their microenterprises and small businesses so as to enable them to raise their income levels and improve their living standards. Microfinance loans are granted on the basis of the borrower's cash flow and are typically unsecured.

The guidelines on the establishment of a microfinance-oriented bank are as follows:

a. Microfinance-oriented banks may be established on a very selective basis, preferably in places not fully served by

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existing RBs or in areas not fully serviced by microfinance-oriented banks, subject to the following additional criteria (in addition to standard licensing requirements):

(1) That the microfinance-oriented bank to be established shall either be a TB or an RB;

(2) That the capital of the microfinance-oriented banks to be established should be owned by private persons, multilateral entities or a combination thereof;

(3) That in the case of an RB to be established as a microfinance bank, the minimum paid-in capital shall be P5.0 million or the applicable existing capitalization requirement for a new RB, whichever is higher. The capitalization requirement under existing regulations shall apply to TBs;

(4) That the organizers must have the capacity to engage in microfinancing, which may be indicated by the following:

(a) At least twenty percent (20%) of the paid-in capital of the proposed bank must be owned by persons or entities with track record in microfinancing.

(b) Majority of the members of the board of directors have experience in microfinancing with at least one (1) member having actual banking experience.

(c) The proposed bank must have as a minimum, an adequate loan tracking system that allows daily monitoring of loan releases, collection and arrearages, and any restructuring and refinancing.

(5) In addition to the requirements for the establishment of banks in *Appendix 37*, the application for authority to establish a microfinance-oriented bank must be accompanied by the following documents:

(a) A vision and mission statement with clear expression of the commitment to reach low-income clients.

(b) A written manual of operations, which shall include the administrative and credit program systems and procedures.

The Manual must be consistent with the core principles, characteristics and features of microfinance indicated in Sec. X361.

(6) At least fifty percent (50%) of the bank's gross loan portfolio shall at all times consist of microfinance loans as defined in Sec. X361.

b. The requirement that the president, chief operating officer or general manager of a TB or RB must have at least two (2) years experience in banking and/or finance may be substituted with microfinance experience in cases of officers of a microfinance organization applying for authority to establish, or convert into a TB or RB: *Provided*, That the concerned officer is a college graduate.

c. Subject to the standard branching requirements, microfinance-oriented banks are also exempted from the general moratorium on the establishment of bank branches, under Sec. X151. After one (1) year of profitable operations, a microfinance-oriented bank may apply for establishment of a branch but the Monetary Board may require additional capital to be infused for every branch in addition to the minimum capital of the TB/RB.

d. Existing microfinance organizations applying for authority to establish, or convert into a TB or RB may also be allowed to convert their existing branches/offices into branches of the bank proposed to be established by simultaneously applying for authority for the purpose. However, the standard requirements for the establishment of branches, particularly the capitalization requirement, have to be complied with. Moreover, there must be a proof that the area is not fully served by any existing RB.

(As amended by Circular No. 624 dated 13 October 2008)

§ X102.4 (2008 - X101.6) Conditions for the grant of authority to convert into a lower category

a. That the bank must have complied with the end-2000 minimum capital

requirement and other laws/regulations applicable to the lower bank category into which it is converting. For this purpose, the term “capital” shall be as defined under Sec. X111;

b. That the bank immediately upon receipt of notice of approval of conversion shall not engage in nor renew transactions under authorities not associated with those allowed for the lower bank category into which it is converting and within six (6) months from date of receipt of notice of approval of its application for conversion,the bank shall phase-out all inherent powers and activities under special authorities not normally associated to the lower bank category into which it is converting: *Provided*, That a TB (previously authorized by the Monetary Board to accept demand deposits) may be allowed to retain such authority when converting into an RB but may clear checks only through a correspondent bank and shall not be allowed to participate directly in the Philippine Clearing House Corporation (PCHC) and the BSP check clearing operations: *Provided, further*, That for failure to comply with these requirements, the following monetary and non-monetary penalties shall be imposed reckoned from the set deadline until the bank has fully complied with the said requirements

(1) *Monetary penalties*

From UB to KB	P30,000/day
From KB to TB	15,000/day
From TB to RB	
Within Metro Manila	P 5,000/day
Outside Metro Manila	500/day

(2) *Non-monetary penalties*

- (a) Suspension of branching privileges;
- (b) Suspension of declaration of cash dividends;
- (c) Restriction on lending to affiliates;
- (d) Denial of access to BSP rediscounting facilities;

(e) Suspension of authority to accept or handle government deposits;

(f) Suspension of authority to engage in derivatives activities (for a UB converting into a KB); and

(g) Suspension of authority to invest in allied undertakings.

c. That a bank which has not corrected as of date of application the major findings/violations noted in its latest examination shall submit upon application a Memorandum of Understanding that it shall correct the same within a period of six (6) months from date of receipt of notice of approval of its application, otherwise, the same monetary and non-monetary penalties mentioned in Item “b” above shall be imposed;

d. That the bank shall submit the pertinent amended Articles of Incorporation and By-Laws duly registered with the SEC within six (6) months from date of receipt of notice of approval of its application;

e. That the bank shall fully disclose its new status in its signage, financial statements and stationeries; and

f. That the bank shall start operation in the lower category into which it is converting after approval by the SEC of the bank’s amended Articles of Incorporation and By-Laws, its compliance with all the conditions of approval of the conversion and the issuance by the BSP of a certificate of authority to operate.

The same conditions and sanctions mentioned in Items “a” to “f” above shall apply to all banks which have downgraded or with approved downgrading prior to 13 March 2000: *Provided*, That the penalties mentioned in Items “b” and “c” above shall be reckoned from their respective prescribed deadlines or within six (6) months from 13 March 2000, if no such deadline is prescribed.

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§ X102.5 (2008 - X102.3) *Conversion of microfinance-oriented thrift banks/ rural banks*

a. Microfinance-oriented TBs and RBs are disallowed from converting to regular TBs and RBs.

b. Microfinance-oriented branches of regular TBs and RBs may convert into regular branches, five (5) years after the start of the branch’s operations, subject to the submission of the following:

(1) Certification signed by the president or officer of equivalent rank that:

(a) At least seventy percent (70%) of deposits generated by the branch to be established shall be actually lent out to microfinance borrowers; and

(b) The microfinance loans of said branch shall at all times be fifty percent (50%) of its gross loan portfolio are no longer feasible due to changes in market condition in the locality where it is located. The certification shall be supported by a market study citing, among others, changes in demographic, social, and economic factors; and

(2) Certified true copy of the resolution of the bank’s board of directors authorizing the conversion of the microfinance-oriented branch into a regular branch.

(CL-2008-075 dated 28 November 2008)

Sec. X103 Certificate of Authority to Register¹. The SEC shall not register the articles of incorporation of any bank, or any amendment thereto, unless accompanied by a certificate of authority issued by the Monetary Board, under its seal. The certificate shall not be issued unless the Monetary Board is satisfied from the evidence submitted that:

a. All requirements of existing laws and regulations to engage in the business for which the applicant is proposed to be incorporated have been complied with;

b. The public interest and economic conditions, both general and local, justify the authorization; and

c. The amount of capital, the financing, organization, direction and administration, as well as the integrity and responsibility of the organizers and administrators reasonably assure the safety of deposits and the public interest.

Likewise, the SEC shall not register the by-laws of any bank, or any amendment thereto, unless accompanied by a certificate of authority from the BSP.

(As amended by CL-2008-078 dated 15 December 2008)

Sec. X104 (2008 - X167) Business Name¹

a. *UBs/KBs.* Only a bank that is granted universal/commercial banking authority may represent itself to the public as such in connection with its business name.

b. *TBs.* TBs may be allowed to adopt and use any name: *Provided*, That the words *A Thrift Bank, A Savings Bank, A Private Development Bank* or *A Stock Savings and Loan Association*, as the case may be, are affixed after its business name.

c. *RBs/Coop Banks.* RBs/Coop Banks may adopt a corporate name or use a business name/style with the word *Rural* or *Coop*, as the case may be. Said banks may also adopt a name without such words: *Provided*, That the identifying phrase, *A Cooperative Bank* or *A Rural Bank*, as the case may be, is affixed after its business name: *Provided, further*, That where the name of the bank is shown on letterheads, billboards and other advertising materials, the size of the letters of such phrase shall be at least one-half (½) the size of the business name.

(As amended by CL Nos. 2008-053 dated 21 August 2008 and 2008-007 dated 21 January 2008)

§ X104.1 (2008-X607) Bank Advertisements. The following rules and regulations shall govern bank advertisements.

a. No bank shall publish, issue or distribute in any form, any advertisement

¹ See SEC. Circular No. 3 dated 16 February 2006.

that shall degrade, deprecate or otherwise prejudice other banking and financial institutions.

b. No bank shall publish, issue or distribute in any form of advertisement (in newspapers, magazines, television, radio, billboards, brochures, prospectuses, or any other medium) or allow itself to be used/mentioned in any form of advertisement unless such advertisement is in pursuance of its business or investment.

c. No bank shall place or cause to be placed any advertisement tending to mislead a depositor into believing that he will get more in benefits than what the bank is legally authorized to give. No bank advertisement shall contain any false claim or exaggerated representation as to its liquidity, solvency, resources, deposits and banking services.

d. No bank advertisement shall give the impression that the bank is engaged in a business other than banking.

e. Banks shall inform their depositors and other clients by advertisement or publication of the termination of benefits previously advertised or publicized.

f. Banks shall discontinue any advertisement whenever the same is deemed unethical/unwarranted or violative of the provisions of these regulations. The client banks and/or their advertising agencies shall incorporate in their contract/agreement for time and space with media the condition that such contract/agreement for time and space can be cancelled/terminated immediately whenever the client bank is directed by the BSP to desist or discontinue the particular advertisement in question.

g. Responsibility for compliance with the above rules and regulations rests with the bank officers or directors who caused the approval or placement of such advertisement.

Sec. X105 (2008 - X121) Liberalized Entry and Scope of Operations of Foreign Banks. The following rules shall govern the liberalized entry and scope of operation of foreign banks.

§ X105.1 (2008 - X121.1) Modes of entry of foreign banks. With prior approval of the Monetary Board, foreign banks may operate in the Philippines through any one (1) of the following modes:

a. By acquiring, purchasing or owning up to sixty percent (60%) of the voting stock of an existing domestic bank (including banks under receivership or liquidation, provided no final court liquidation order has been issued);

b. By investing in up to sixty percent (60%) of the voting stock of a new banking subsidiary incorporated under the laws of the Philippines; or

c. By establishing branches with full banking authority.

Interested foreign banks shall file with the Office of the Governor, BSP, their application for authority to operate in the Philippines through any of the modes of entry mentioned above. The application must be submitted in the prescribed forms shown in *Appendix 2*.

§ X105.2 (2008 - X121.2) Qualification requirements

a. *Investment in an existing domestic bank.* A foreign bank seeking to acquire, purchase or own up to sixty percent (60%) of the voting stock of an existing domestic bank needs only to meet the selection criteria under Subsec. X105.3.

b. *Establishment of subsidiary or branch.* Any foreign bank seeking to establish a new banking subsidiary or to establish branches with full banking authority, in addition to satisfying the criteria prescribed Subsec. X105.3, must be -

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(1) Widely-owned and publicly-listed (listed in any stock exchange authorized by the government of the country of origin), unless more than fifty percent (50%) of the capital stock of said foreign bank applicant is owned by the government of its country of origin. The bank is considered as widely-owned if it has at least fifty (50) stockholders without any stockholder owning more than fifteen percent (15%) of its capital stock: *Provided*, That if the bank is owned/controlled by a holding company, this requirement shall apply to the holding company; and

(2) Among the top 150 banks in the world or the top five (5) banks in its country of origin.

The determination of the top 150 banks in the world may be based on lists prepared and published by reputable organizations/publications.

The determination of the top five (5) banks in the country of origin shall be based on information supplied by the bank supervisory authorities in which country of origin as to the ranking of banks based on net worth. However, the Monetary Board may also use total assets as a criterion: *Provided*, That the same shall be based on book accounts only and on the consolidated balance sheet of the head office and all branches, excluding subsidiaries and affiliates.

In addition to the foregoing requirements, the foreign bank applicant must be in compliance with capital requirements as prescribed by the laws and regulations of its country of origin.

§ X105.3 (2008 - X121.3) Guidelines for selection. The following factors shall be considered in selecting the foreign bank which will be allowed to invest in majority of the voting stock of an existing domestic bank or to establish a subsidiary or branch in the Philippines.

a. *Geographic representation and complementation.* Representation from the different parts of the world and/or the international financial centers shall be ensured.

b. *Strategic trade and investment relationships between the Philippines and the country of incorporation of the foreign bank.* Consideration shall be given to the countries of origin of applicant foreign banks -

(1) With substantial financial assistance to, and loans and investments, past and present, in the Philippines; and

(2) With which the Philippines has significant volume of trade especially to those with which the country has substantial net exports.

c. *Relationship between the applicant bank and the Philippines.* Consideration shall be given to the capability of the foreign bank to promote trade with, and to bring foreign investments into, the Philippines. Long standing financial and commercial relationship with, and assistance extended to, the Philippines, shall likewise be taken into account.

d. *Demonstrated capacity, global reputation for financial innovations and stability in a competitive environment of the applicant.* Demonstrated capacity and stability may be indicated by the fact that the applicant ranks among the top 150 in the world or top five (5) in its country of origin. Global reputation may be measured by international presence, e.g., number of branches with full banking authority outside of its country of origin.

e. *Reciprocity rights enjoyed by Philippine banks in the applicant's country.* Philippine banks shall enjoy reciprocity rights in the applicant's country.

f. *Willingness to fully share technology.* The applicant bank shall submit an undertaking to this effect together with its application.

§ X105.4 (2008 - X121.4) Capital requirements

a. *For locally incorporated subsidiaries* - The minimum capital required for locally incorporated subsidiaries of foreign banks shall be the same as that prescribed by the Monetary Board for domestic banks of the same category.

b. *For foreign bank branches with full banking authority* - A foreign bank authorized to establish branches with full banking authority in the Philippines shall inwardly remit and convert into Philippine currency, as permanently assigned capital, the U.S. Dollar equivalent of P210.0 million at the exchange rate prevailing on 05 June 1994 (the date of effectivity of R.A. No. 7721), i.e., P26.979 to US\$1. The foreign bank shall thereby be entitled to establish three (3) branches in locations of its choice.

For purposes of this Subsection, the same foreign bank may open three (3) additional branches in locations designated by the Monetary Board by inwardly remitting and converting into Philippine currency, as additional permanently assigned capital the U.S. Dollar equivalent of P35.0 million for every additional branch, computed at the same exchange rate of P26.979 to US\$1. The Monetary Board, in determining the location of the next three (3) branches established pursuant to the provisions of R.A. No. 7721, shall consider, among other things, development requirements of a region and the contribution of a bank branch may make to regional development, expansion of basic financial services and enhanced access to credit by small and medium-scale enterprises: *Provided*, That the total number of branches for each new foreign bank entrant shall not exceed six (6).

c. *For foreign banks with existing branches in the Philippines* -

(1) A foreign bank with existing branch or branches in the Philippines upon the

effectivity of R.A. No. 7721 shall comply with the required permanently assigned capital by inwardly remitting and converting into Philippine currency the U.S. Dollar equivalent of P210.0 million computed at the same exchange rate of P26.979 to US\$1, within a period of one and one-half (1½) years from 05 June 1994.

The said foreign bank may establish up to six (6) branches in addition to its branch or branches existing as 05 June 1994, the first three (3) additional branches in locations of its choice, and the next three (3) additional branches in locations designated by the Monetary Board: *Provided*, That upon establishing any additional branch, the bank shall comply immediately with the permanently assigned capital mentioned in the next preceding paragraph: *Provided, further*, That the said permanently assigned capital shall be the capital for the bank's first three (3) additional branches, including its existing branch or branches, and for each branch established in addition thereto, the U.S. Dollar equivalent of P35 million computed at the same exchange rate of P26.979 to US\$1, shall be inwardly remitted and converted into Philippine currency.

If the permanently assigned capital of the existing branch/es of said foreign bank that has been converted to Philippine currency is sufficient to cover the above-mentioned amount of assigned capital required for the additional branches, no additional assigned capital shall be required; otherwise, the foreign bank shall comply immediately with the capital requirements under the above paragraphs.

(2) Foreign banks with existing branches in the Philippines on 5 June 1994 shall have a period of one and one-half (1½) years from said date within which to comply with the ratio between the assigned capital and the *Net due to head office, branches, subsidiaries and offices outside the*

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Philippines prescribed in Subsec. X105.6: *Provided*, That upon establishing any additional branch pursuant to the provisions of this Section, the bank shall comply immediately with the aforesaid ratio.

d. *Capital of Foreign Bank Branch Authorized to Operate as Expanded Commercial Bank* - The capital of a Philippine branch of a foreign bank which is authorized to operate as a UB may consist of its permanently assigned capital plus the *Net due to* account: *Provided*, That at no time shall the aggregate of said accounts fall below the amount required for UB authority under Subsecs. X111.1 and X111.2: *Provided, further*, That the amount of the *Net due to* which may be added to permanently assigned capital shall not exceed the equivalent of three (3) times the amount of the permanently assigned capital.

The *Net due to* as described in the preceding paragraph shall be net of the items enumerated in Subsec. X105.5d.

e. *Applicable Exchange Rate* - It is understood that the exchange rate of ₱26.979 to US\$1 mentioned hereinabove is applicable only to the minimum capital requirements provided in Items *b* and *c* of this Subsection. For other purposes, the exchange rate prevailing at the time of remittance shall be applicable.

§ X105.5 (2008 - X121.5) Composition of capital accounts; compliance with capital ratios

a. Foreign bank branches shall comply with the same capital ratios applicable to domestic banks of the same category.

b. For Philippine branches of foreign banks, the term *capital* shall include permanently assigned capital which shall be inwardly remitted and converted to Philippine currency and *Net due to* up to an amount prescribed under Subsec. X105.6. Should there be any *Net*

due from head office, branches, subsidiaries and other offices outside the Philippines, the same shall be deducted from the capital accounts for purposes of determining compliance with the required capital ratios.

c. Earnings not remitted to the head office shall constitute part of the *Net due to* of the local branch of a foreign bank: *Provided*, That said bank may elect to consider such earnings as part of the assigned capital, in which case said earnings may no longer be remittable to the head office.

d. The term *Net due to* shall be net of: (1) unbooked valuation reserves and other capital adjustments as may be required by the BSP; (2) total outstanding unsecured credit accommodations, both direct and indirect, to DOSRI; and (3) deferred income tax.

e. Where a foreign bank has more than one (1) branch or banking office in the Philippines, all its branches and banking offices shall be treated as a unit for purpose of determining compliance with the legal reserve requirement and with capital requirement prescribed in laws/regulations.

§ X105.6 (2008 - X121.6) Prescribed ratio of net due to and permanently assigned capital. The amount of *Net due to* which may be added to permanently assigned capital for purposes of determining compliance with capital ratios prescribed in laws/regulations shall not exceed the equivalent of four (4) times the amount of permanently assigned capital: *Provided*, That for the purpose of a foreign bank branch seeking to operate as a UB, the ratio shall not exceed three (3) times as provided in Item "*d*" of Subsec. X105.4.

At least fifteen percent (15%) of the *Net due to* required to comply with the prescribed capital ratio shall be inwardly remitted and converted into Philippine currency: *Provided*, That amounts invested

in productive enterprises or utilized by Philippine companies for export activities, including foreign currency denominated loans granted to Philippine exporters and loans for productive purposes such as the following: agriculture, fisheries and forestry; manufacturing; mining; public utilities; construction; and home building, need not be subject to conversion into Philippine currency.

If there is non-compliance with the prescribed fifteen percent (15%) of *Net due* to required to be inwardly remitted and converted to pesos, the bank shall immediately inwardly remit and convert to Philippine currency the amount of the deficiency.

Branches of foreign banks shall submit the reports prescribed in Appendix 6 to show compliance with the requirement that at least fifteen percent (15%) of its *Net due* to shall be inwardly remitted and converted into Philippine currency.

§ X105.7 (2008 - X121.7) Head office guarantee. The head office of foreign bank branches shall guarantee prompt payment of all liabilities of its Philippine branches, as well as the observance of the constitutional rights of the employees of such branches.

§ X105.8 (2008 - X121.8) Scope of authority for locally incorporated subsidiaries of foreign banks as well as branches with full banking authority. Subsidiaries and branches of foreign banks established under Subsec. X105.1 shall be allowed to perform the same functions and enjoy the same privileges of, and be subject to the same limitations imposed upon, a Philippine bank of the same category. Privileges shall include the eligibility to operate under an

expanded commercial banking authority subject to compliance with existing rules and regulations and the guidelines enumerated in *Appendix 3* on the matter: *Provided*, That foreign bank branches authorized to operate under an expanded commercial banking authority shall be exempted from the requirement of publicly offering at least ten percent (10%) of its shares. The limitations include, among other things, the single borrower's limit, the capital-to-risk assets ratio, and the capitalization and other requirements under R.A. No. 337, as amended, and other related laws.

§ X105. 9 (2008 - X121.9) Limitations

a. *Limit on mode of entry for each foreign bank* - A foreign bank may avail itself of only one (1) mode of entry provided under Items "a" to "c" of Subsec. X105.1: *Provided*, That entry pursuant thereto shall not preclude investment in the equity of a domestic bank pursuant to the provisions of R.A. No. 337, as amended. A foreign bank that comes in via the establishment of branches under R.A. No. 7721 may still invest in the equity of a domestic bank subject to the provisions of R.A. No. 337, as amended.

b. *Limit on the number of foreign banks which may be allowed to establish branches.* The Monetary Board may authorize up to six (6) new foreign banks to establish branches. However, upon recommendation of the Monetary Board, the President of the Republic of the Philippines may approve, as the national interest may require, four (4) additional new foreign banks to establish branches, subject to compliance with provisions of this Section.

c. *Limit on the period for entry through establishment of branches.* Foreign banks shall be allowed entry under Item "c" of Subsec. X105.1 by establishing

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branches with full banking authority within five (5) years from 05 June 1994. The entry of foreign banks through the establishment of a new banking subsidiary and through investment in existing domestic banks shall not be subject to any time limitation.

d. *Control of the resources of the banking system.* The Monetary Board shall adopt such measures as may be necessary to ensure that at all times the control of seventy percent (70%) of the resources or assets of the entire banking system is held by domestic banks more than fifty percent (50%) of the subscribed capital of which is owned by Filipinos. Said measures may include review of, among other things, the existing policies on -

(i) the granting of authority to establish additional subsidiaries and branches;

(ii) the granting of authority to (aa) engage in expanded commercial banking and trust activities; (bb) open an FCDU; (cc) collect taxes and customs duties; and (dd) invest in the equity of other entities; and

(iii) access to rediscounting facilities.

§ X105.10 (2008 - X121.10) Change from one mode of entry to another

a. As a general rule, a foreign bank which has been authorized to operate in the Philippines through any one (1) of the allowable modes of entry may change to another mode by giving up the first mode it availed of.

b. A foreign bank which pursuant to Items “a” and “b” of Subsec. X105.1, has established or acquired a banking subsidiary may sell its stockholdings therein and may apply for authority to establish a branch subject to the provisions of Subsec. X105.9c and to the following conditions:

(i) that the disposition/sale of its stockholdings in the subsidiary is done within five (5) years from 05 June 1994;

(ii) that the foreign bank qualifies under the provisions of Subsec. X105.2b; and

(iii) that the limit of ten (10) foreign banks establishing branches as a mode of entry has not yet been reached.

c. Foreign banks with existing branches in the Philippines, as well as those that may be allowed to establish branches under R.A. No. 7721, may incorporate under Philippine laws, in which case said foreign banks may own up to sixty percent (60%) of the voting stock of the new bank.

§ X105.11 (2008 - X121.11) Listing of shares with the Philippine Stock Exchange. At least ten percent (10%) of the capital of banks in which foreign banks have invested under Subsec. X105.1a and b, shall be listed in the PSE within a reasonable period of time after the investment is made as may be determined by the Monetary Board.

§ X105.12 (2008-X121.12) Applicability to Philippine corporations

a. Any right, privilege or incentive granted to foreign banks or their subsidiaries or affiliates under R.A. No. 7721 shall be equally enjoyed by, and extended under the same conditions to, domestic banks.

b. Philippine corporations, whose shares of stocks are listed in the PSE, or which are of long standing for at least ten (10) years, as determined by the Monetary Board, shall have the right to acquire, purchase or own up to sixty percent (60%) of the voting stock of a domestic bank: *Provided,* That said corporations, as well as foreign banks may own up to sixty percent (60%) of the voting stock of only one (1) domestic bank.

Secs. X106 - X107 (Reserved)

C. MERGER AND CONSOLIDATION

Sec. X108 (2008 - X111) Merger or Consolidation to Meet Minimum Capital

The merger or consolidation of banks and other financial intermediary(ies) to meet minimum capital requirements shall be allowed subject to the following regulations.

For purposes of merger and consolidation, the following definitions shall apply:

a. *Merger* - is the absorption of one (1) or more corporations by another existing corporation, which retains its identity and takes over the rights, privileges, franchises, and properties, and assumes all the liabilities and obligations of the absorbed corporation(s) in the same manner as if it had itself incurred such liabilities or obligations. The absorbing corporation continues its existence while the life or lives of the other corporation(s) is/are terminated.

b. *Consolidation* - is the union of two (2) or more corporations into a single new corporation, called the consolidated corporation, all the constituent corporations thereby ceasing to exist as separate entities. The consolidated corporation shall thereupon and thereafter possess all the rights, privileges, immunities, franchises and properties, and assume all the liabilities and obligations of each of the constituent corporations in the same manner as if it had itself incurred such liabilities or obligations.

§ X108.1 (2008 - X111.1) Requirement of Bangko Sentral approval. Mergers and consolidations including the terms and conditions thereof shall comply with the provisions of applicable law and are subject to approval by the BSP.

§ X108.2 (2008 - X111.2) Rules on exchange of shares. As a general rule, the ratio of exchange of shares between or among the participants in a bank merger or consolidation shall be based on mutual agreement of the parties concerned. However, any appraisal increment reserve (revaluation reserve) arising from the revaluation of the fixed assets, as may be agreed upon by the parties shall be limited to premises, improvement, and equipment which are necessary for its immediate accommodation in the transaction of the bank's business. Such revaluation should be based on fair valuation of the property which shall be subject to review and approval by the BSP.

§§ X108.3 (2008 - X112) Merger or Consolidation Incentives. In pursuance of the policy to promote mergers and consolidations among banks and other financial intermediaries as a means to develop larger and stronger FIs, constituent entities may, subject to BSP approval, avail themselves of any or all of the following incentives:

a. Revaluation of premises, improvements and equipment of the institutions: *Provided*, That such revaluation shall be based on fair valuation of the property conducted by a reputable appraisal company which shall be subject to review and approval by the BSP.

The following rules shall govern the revaluation of assets:

(1) The revaluation of the premises, improvements and equipment shall be allowed only to all institutions participating in a merger or consolidation if all of them belong to the same category, or at least two (2) of them belong to the highest category among the merging or consolidating institutions;

(2) In case the merging or consolidating institutions do not belong to the same

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category or only one (1) of them falls under the highest category, all of them may be allowed to revalue their premises, improvements and equipment: *Provided*, That the amount of appraisal increment resulting from such revaluation shall be limited to the amount of the total resources of the institution belonging to the lower category or categories.

(3) The appraisal increment resulting from the revaluation shall form part of capital for purposes of determining the single borrower's limit and capital-to-risk assets ratio. The use of appraisal increment for cash dividend shall be governed by the provisions of the Corporation Code.

(4) The revaluation of premises, improvements, and equipment of the institution as well as the recognition of goodwill as an incentive to mergers or consolidations as provided in Item "e" hereof shall only be allowed if the following conditions are met:

(i) The surviving or consolidated entity will meet the existing capital requirements after all adjustments are taken up in the books of accounts of the merging or consolidating entities but before considering appraisal increments and goodwill, or there will be infusion of fresh capital to meet said existing capital requirements; and

(ii) The merger or consolidation will result in a more viable FI as a result of cost savings and improved competitive position.

In case of purchase or acquisition of the majority or all of the outstanding shares of stocks of a bank, the same conditions must be satisfied.

b. Unbooked valuation reserves based upon the BSP examination and other capital adjustments resulting from the merger or consolidation may be booked on staggered basis over a maximum period of five (5) years.

The following guidelines shall govern the staggered booking of valuation reserves:

(1) The booking on staggered basis over a maximum period of five (5) years of unbooked valuation reserves based upon examination by the BSP may be allowed to all institutions participating in a merger or consolidation if all of them belong to the same category, or at least two (2) of them belong to the highest category among the merging or consolidating institutions.

(2) In case the merging or consolidating institutions do not belong to the same category or only one (1) of them falls under the highest category, all of them may be allowed to book the required valuation reserves based upon examination by the BSP on a staggered basis over a maximum of five (5) years: *Provided*, That the aggregate amount of the required valuation reserves shall be limited to the amount of the total resources of the institution belonging to the lower category or categories.

c. Exemption from the forty percent (40%) and sixty percent (60%) ownership limits prescribed in Subsec. X126.1 in the new or surviving institution of any Filipino individual or domestic non-bank corporation: *Provided*, That this shall be allowed only if the bank that is being merged is distressed as may be determined by the Monetary Board and such merger is for the purpose of rehabilitating the bank: *Provided, further*, That whenever any of said stockholders exceed the prescribed limits, his holdings shall not be increased, but may be reduced and once reduced, shall not thereafter be increased beyond such limits.

In the case of purchase or acquisition of majority or all of the outstanding shares of a bank/QB by another bank/QB, the revaluation of the assets and the booking of the required valuation reserves based upon examination by the BSP over a period of five (5) years shall be allowed only if such purchase or acquisition is for

the purpose of rehabilitating the former bank/QB: *Provided*, That the revaluation of assets and staggered booking of valuation reserves shall be allowed in full only if both banks/QBs belong to the same category. Otherwise, only the bank/QB being acquired/rehabilitated shall be allowed to recognize in full the appraisal increment resulting from revaluation of assets and to book valuation reserves on a staggered basis, while in the case of the acquiring bank/QB, the appraisal increment resulting from revaluation of assets and the privilege of staggered booking of valuation reserves shall each be limited to the amount of the total resources of the bank/QB being acquired/rehabilitated.

The exemption from the ownership limits prescribed in Subsec. X126.1 on existing stockholdings of any Filipino individual or domestic non-bank corporation in a banking institution, as an incentive to purchase or acquisition of majority or all of the outstanding shares of stock of bank/QB shall be allowed only if the bank being purchased or acquired is distressed as may be determined by the Monetary Board and such merger is for the purpose of rehabilitating the bank/QB.

d. If by reason of merger or consolidation, the resulting bank is unable to comply fully with the prescribed net worth-to-risk assets ratio, the Monetary Board may, at its discretion, temporarily relieve the bank from full compliance with this requirement under such conditions as it may prescribe;

The recognition of goodwill as an incentive to mergers or consolidations shall only be allowed subject to the conditions in Item “a (4)”.

e. Conversion or upgrading of the existing head offices, branches and/or other offices of the merged or absorbed institutions into branches of the new or surviving FIs;

f. Condonation of liquidated damages and/or penalties on loan arrearages to the BSP of RBs which are parties to the merger or consolidation: *Provided*, That loan arrearages of RBs to the BSP are paid in full or covered by a plan of payment payable on an equal monthly amortization schedule over a period not exceeding ten (10) years;

g. Relocation of branches/offices may be allowed within one (1) year from date of merger or consolidation in cases where the merger or consolidation resulted in duplication of branches/offices in a service area, or in such other cases/circumstances as may be prescribed by the Monetary Board;

h. Outstanding penalties in legal reserve deficiencies and interest on overdrafts with the BSP as of the date of the merger or consolidation may be paid in installments over a period of one (1) year;

i. Rediscount ceiling of 150% of adjusted capital accounts for a period of one (1) year, reckoned from the date of merger or consolidation: *Provided*, That the merged/consolidated bank meets the required net worth-to-risk assets ratio and all of the other requirements for rediscounting;

j. UBs/KBs whose total outstanding real estate loans exceed twenty percent (20%) of total loan portfolio may be given a period of one (1) year within which to comply with the prescribed twenty percent (20%) ratio reckoned from the date of merger or consolidation;

k. Restructuring/plan of payment of past due obligations of the proponents with the BSP as of the date of merger/consolidation over a period not exceeding ten (10) years;

l. In the case of RBs, grant of access to the rediscounting window of the BSP for a period of two (2) years from the date of merger or consolidation even if its past due ratio exceeds twenty five percent (25%) of loan portfolio but not exceeding

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thirty percent (30%): *Provided*, That the merged/consolidated bank meets all the other requirements. During said period of two (2) years, its rediscounting limit per application may also be increased to an amount equivalent to the total of the rediscounting limit per application of each of the constituent banks before merger or consolidation;

m. Subject to approval of the Monetary Board concurrent officerships between a merged or consolidated bank/FI and another bank/FI may be allowed;

Likewise, with prior approval of the Monetary Board, concurrent directorships may be allowed in cases where a bank acquires shares of stock of another bank for the purpose of merging or consolidating the two (2) banks regardless of whether the banks belong to the same category or both have quasi-banking functions;

n. Subject to other requirements on the establishment of branches, the merged/consolidated RBs may be allowed to establish a branch each in Cebu City and Davao City if it has put up the minimum capital requirement for these places;

o. Grant of automatic extension of five (5) years for retirement of government preferred shares to be reckoned from the date of merger or consolidation;

p. Training of officers and staff of the merging or consolidating RBs by the BSP; and

q. Any right or privilege granted a merging bank under a rehabilitation program previously approved by the Monetary Board or under any special authority granted by the Monetary Board shall continue to be in effect.

The revaluation of assets and staggered booking of valuation reserves shall be available for a period of two (2) years from 19 February 1999 while the rest of the

incentives enumerated under this Subsection shall be available for a period of three (3) years from 31 August 1998.

The foregoing incentives may also be granted in cases of purchases or acquisitions of majority or all of the outstanding shares of stock of a bank/QB.
(As amended by Circular 494 dated 20 September 2005)

Secs. X109 - X110 (Reserved)

D. CAPITALIZATION

Sec. X111 (2008 - X106) Minimum Required Capital. The following provisions shall govern the capital requirements for banks.

The term *capital* shall be synonymous to *unimpaired capital and surplus*, *combined capital accounts* and *net worth* and shall refer to the total of the unimpaired paid-in capital, surplus and undivided profits, less:

a. Unbooked valuation reserves and other capital adjustments as may be required by the BSP;

b. Total outstanding unsecured credit accommodations, both direct and indirect, to directors, officers, stockholders, and their related interests (DOSRI) granted by the bank proper;

c. Unsecured loans, other credit accommodations and guarantees granted to subsidiaries and affiliates;

d. Deferred income tax;

e. Appraisal increment reserve (revaluation reserve) as a result of appreciation or an increase in the book value of bank assets;

f. Equity investment of a bank in another bank or enterprise, whether foreign or domestic, if the other bank or enterprise has a reciprocal equity investment in the investing bank, in which case, the investment of the bank or the reciprocal investment of the other bank or enterprises, whichever is lower; and

g. In the case of RBs/Coop Banks, the government counterpart equity, except those arising from conversion of arrearages under the BSP rehabilitation program.

With respect to Item “b” hereof, the provision in Subsec. X326.1 shall apply except that in the definition of *stockholders* in said Subsection, the qualification that his stockholdings, individually and/or together with his related interest in the lending bank should at least amount to two percent (2%) or more of the total subscribed capital stock of the bank shall not apply for the purpose of this Item.

(As amended by Circular No. 560 dated 31 January 2007)

§ X111.1 (2008 - X106.1) Minimum capitalization. The minimum capital of banks shall be as follows:

- a. UBs - P5.4 billion each
- b. KBs - P2.8 billion each
- c. TBs -
 - (1) With head offices within Metro Manila - P400.0 million each; and
 - (2) With head offices outside Metro Manila - P64.0 million each.
- d. RBs -
 - (1) An RB may be established in any city or municipality, except in the cities of Manila, Kalookan, Quezon, Pasay, Mandaluyong, Makati, Parañaque, Malabon, Navotas and San Juan; and in the cities of Cebu and Davao, with minimum capital requirements as follows:
 - (a) In first, second and third class cities and in first class municipalities - P8.0 million each;
 - (b) In fourth, fifth and sixth class cities and in second, third, and fourth class municipalities - P4.8 million each; and
 - (c) In fifth and sixth class municipalities - P3.2 million each.
 - (2) Existing RBs within the excepted cities and municipalities shall maintain the following minimum capital requirements:

- (a) In the cities of Manila, Kalookan, Quezon, Pasay, Mandaluyong, Makati, Parañaque, Malabon, Navotas and San Juan - P32.0 million each; and
- (b) In the cities of Cebu and Davao - P16 million each.

e. Coop Banks -
Coop Banks that may be established shall have a minimum authorized capital of:

(1) P200.0 million for national Coop Banks divided into such number of shares with a minimum par value of P1,000 per share, with a private paid-in capital of at least P20.0 million; and

(2) P20.0 million for local Coop Banks divided into such number of shares, with a private paid-in capital of at least P1.25 million, except as follows:

(a) P20.0 million minimum private paid-in capital for Coop Banks to be established in Metro Manila;

(b) P10.0 million minimum private paid-in capital for Coop Banks to be established in the cities of Cebu and Davao; and

(c) P5.0 million minimum private paid-in capital for Coop Banks to be established in other cities: *Provided, however,* That for the first Coop Bank organized in the province, although it will be located in a city, the minimum private paid-in capital shall be P1.25 million.

The foregoing minimum capital requirements for UBs, KBs, TBs, and RBs shall immediately apply to applications filed after 12 March 1998.

§ X111.2 (2008 - X106.2) Capital build-up program

a. UBs and KBs which are existing, or which are newly authorized but not yet operating, or banks from which completed applications to operate under an UB/KB authority have been received as of 12 March 1998 but pending action by the BSP, are hereby allowed the following

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time frame within which to meet the above minimum capital requirement:

- (1) P4.5 billion for UBs and P2.0 billion for KBs on or before 24 December 1998;
- (2) P4.95 billion for UBs and P2.4 billion for KBs on or before 31 December 1999; and
- (3) P5.4 billion for UBs and P2.8 billion for KBs on or before 31 December 2000:¹ *Provided*, That for the P 4.95 billion/P2.4 billion and P5.4 billion/ P2.8 billion minimum capital, UBs/KBs shall submit to the BSP a capital build-up program for this purpose within three (3) months from 12 March 1998.

b. TBs which are existing, or which are newly authorized but not yet operating, or persons from whom completed applications to establish TBs have been received as of 12 March 1998 but pending action by the BSP, are allowed the following time frame within which to meet the above minimum capital requirement:

- (1) With head office within Metro Manila:
 - P250 million on or before 24 December 1998;
 - P325 million on or before 31 December 1999; and
 - P400 million on or before 31 December 2000;¹ and
- (2) With head office outside Metro Manila:
 - P52 million on or before 31 December 1999; and
 - P64 million on or before 31 December 2000:¹

Provided, That for the P325.0 million, P400.0 million, P52.0 million and P64.0 million minimum capital, TBs shall submit to the BSP a capital build-up program for this purpose within three (3) months from 12 March 1998.

c. RBs which are existing, or which are newly authorized but not yet operating, or persons from whom completed applications to establish RBs have been received as of 12 March 1998 but pending action by the BSP, are allowed the following time frame within which to meet the above minimum capital requirement:

(1) In the cities of Manila, Kalookan, Quezon, Pasay, Mandaluyong, Makati and Parañaque and in the municipalities of Malabon, Navotas and San Juan:

- P26 million on or before 31 December 1999; and
- P32 million on or before 31 December 2000;¹

(2) In the cities of Cebu and Davao:

- P13 million on or before 31 December 1999; and
- P16 million on or before 31 December 2000;¹

(3) In first, second and third class cities and first class municipalities:

- P6.5 million on or before 31 December 1999; and
- P8.0 million on or before 31 December 2000;¹

(4) In fourth, fifth and sixth class cities and second, third and fourth class municipalities:

- P3.9 million on or before 31 December 1999; and
- P4.8 million on or before 31 December 2000;¹

(5) In fifth and sixth class municipalities:

- P2.6 million on or before 31 December 1999; and
- P3.2 million on or before 31 December 2000:¹

Provided, That RBs shall submit to the BSP a capital build-up program for this purpose within three (3) months from 12 March 1998: *Provided, further*, That if the prescribed minimum capital necessitates an increase in the authorized capital stock, the RB shall cause the corresponding amendments to its articles of incorporation and submit the same to the BSP together with its capital build-up program.

The deadline of the second phase (1st phase for TBs outside Metro Manila and RBs) of the capital build-up program of banks is extended from 31 December 1999 to 31 January 2000.¹

For banks that have executed a Memorandum of Understanding (MOU) with the BSP, in compliance with Subsec. X111.3, the following guidelines shall apply:

(a) For banks with capital deficiency but with capital-to-risk assets ratio within the minimum prescribed and with no

¹ The target level of capitalization prescribed for banks as of end-2000 has been set aside. The level of required capitalizationas of end-2000 shall be the same as that prescribed as of end-1999.

weaknesses (i.e., high past due loans, DOSRI violations, etc.), the MOU may be set aside: *Provided*, That the bank will be able to comply with the minimum capital requirements as herein prescribed; and

(b) For banks with capital deficiency but with significant weaknesses (i.e., deficiency in capital-to-risk assets ratio, liquidity problems, high past due loans, etc.), the MOU, as executed, shall continue to be in full force and in effect until such time that it shall be amended by mutual consent of the parties; waived and/or terminated by the BSP.

Non-compliance with the above capital requirements shall subject the bank to sanctions/penalties provided under existing banking laws and BSP rules and regulations.

§ X111.3 (2008-X106.3) Memorandum of Understanding; Prompt Corrective Action Program; sanctions. The following are the policy guidelines and the corresponding sanctions for banks failing to comply with the minimum capital requirements and the corresponding sanctions:

a. *Memorandum of Understanding; Prompt Corrective Action Program*

(1) The adoption of the Memorandum of Understanding (format shown in Appendix 30) between the bank and the BSP; and

(2) The implementation of the Prompt Corrective Action Program as detailed below:

(a) *For undercapitalized banks of up to twenty percent (20%) -*

(i) Require the bank to execute a Memorandum of Understanding (MOU) with the BSP, binding itself, among others, to implement a viable capital restoration plan acceptable to the BSP within thirty (30) days from date of notice;

(ii) Require the intensified monitoring by BSP of bank's financial condition; and

(iii) BSP to conduct a special examination of the bank.

(b) *For significantly undercapitalized banks of up to sixty percent (60%) -*

(i) BSP to call a meeting with bank directors/principal officers to discuss and agree on remedial measures to be taken and the timetable for implementation;

(ii) Intensify monitoring by the Supervision and Examination Sector (SES) of the bank's financial condition;

(iii) BSP to conduct immediately an extensive on-site examination;

(iv) Require the bank to execute an MOU with the BSP, binding itself, among others, to implement a viable capital restoration plan acceptable to the BSP within thirty (30) days from date of discussion. Among the options to be considered are:

- disposition of a majority shareholder's interest;
- sale of assets;
- issuance of additional stock/capital infusion;
- sale of bank to highest bidder subject to terms set by BSP; and
- merger (assisted or unassisted) or consolidation with a stronger bank;

(v) Require the creation of a separate unit in the bank - remedial asset management group which will take care of bank's bad assets and make progress reports to the BSP;

(vi) Appoint an external auditor at the expense of the bank to perform a financial or operational audit under the terms of reference provided by BSP; and

(vii) If necessary, appoint a consultant specialist to diagnose the problem and to recommend the appropriate remedial measures (i.e., introduce new profit opportunities, improve internal and accounting controls, etc.) to restore bank's viability.

(c) *For critically undercapitalized banks of more than sixty percent (60%) -*

(i) Place the bank under Prompt Corrective Action Unit since this requires more than normal bank supervision;

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- (ii) BSP to call a meeting with bank’s principal shareholders/directors;
- (iii) BSP to conduct immediately an extensive on-site examination;
- (iv) BSP to conduct an intensive monitoring of bank’s financial condition;
- (v) Require the bank to execute an MOU with the BSP, binding itself, among others, to implement a viable capital restoration plan acceptable to the BSP within thirty (30) days from date of meeting. Among the options to be considered are:
 - disposition of a majority shareholder’s interest;
 - sale of assets;
 - issuance of additional stock/capital infusion;
 - sale of bank to highest bidder subject to terms set by BSP; and
 - merger (assisted or unassisted) or consolidation with a stronger bank;
- (vi) Create a BSP Ad Hoc Committee to oversee the implementation of the action plan;
- (vii) Require the creation of a separate unit in the bank - remedial asset management group to take care of bank’s bad assets and make progress reports to the BSP;
- (viii) Appoint an external auditor at the expense of the bank to perform financial or operational audit under the terms of reference of the BSP;
- (ix) If bank’s condition further deteriorates to the extent that depositors and creditors protection is at stake and its capital base is already deficient by more than eighty percent (80%), appoint/assist a resident examiner/comptroller or conservator, if legally feasible, to oversee/ take over management of the bank; and
- (x) If necessary, appoint a consultant specialist to diagnose the problem and to recommend the appropriate remedial measures (i.e., introduce new profit opportunities, improve internal and accounting controls, etc.) to restore bank’s viability.

b. *Sanctions.* The following sanctions for non-compliance with the minimum capital requirements are hereby prescribed:

- (1) *Monetary penalty*
 For delayed or non-submission of the capital build-up program reckoned from the time bank was notified in writing up to the time the program has been submitted, per banking day of delay, a monetary penalty of:

Type of Bank	Amount of Penalty
(a) UBs/ KBs	₱ 10,000.00
(b) TBs	5,000.00
(c) RBs	1,000.00

- (2) *Non-monetary penalty*
 Non-monetary penalties shall depend on the degree of capital deficiency incurred by the bank as follows:

Penalty	UBs/ KBs	TBs	RBs/ Coop Banks
(a) Up to twenty percent (20%) -			
- Suspension of authority to invest in non-allied undertakings (for UBs only)	✓	NA	NA
- Suspension of authority to invest in allied undertakings	✓	NA	NA
- Suspension of securities and dealership functions (for UBs only)	✓	NA	NA
- Suspension of branching privileges	✓	✓	✓
- Suspension of declaration of cash dividends	✓	✓	✓
(b) Up to forty percent (40%) -			
- Suspension of authority to invest in non-allied undertakings (for UBs only)	✓	NA	NA
- Suspension of authority to invest in allied undertakings	✓	NA	NA
- Suspension of securities and dealership functions (for UBs only)	✓	NA	NA
- Restrictions on lending to affiliates	✓	✓	NA
- Suspension of branching privileges	✓	✓	✓
- Suspension of declaration of cash dividends	✓	✓	✓
- Restrictions on overall loan growth/investments (new loans to the extent of collections only)	✓	✓	✓
- Denial of access to BSP rediscounting facilities	✓	✓	✓

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- Suspension of authority to accept or create demand deposits or operate NOW accounts	NA	✓	✓	accept or handle government deposits			
- Suspension of authority to accept or handle government deposits	✓	✓	✓	- Suspension of authority to engage in quasi-banking activities	✓	✓	NA
(c) Up to sixty percent (60%) -				- Suspension of authority to engage in derivatives activities	✓	NA	NA
- Suspension of authority to invest in non-allied undertakings (for UBs only)	✓	NA	NA	- Suspension of FCDU/EFCDU activities	✓	✓	NA
- Suspension of authority to invest in allied undertaking	✓	✓	✓	- Suspension of trust operations	✓	✓	NA
- Suspension of securities and dealership functions (for UBs only)	✓	NA	NA	- Suspension of international banking activities	✓	NA	NA
- Suspension of branching privileges	✓	✓	✓	- Suspension of lending activities	✓	✓	✓
- Suspension of declaration of cash dividends	✓	✓	✓	- Suspension of issuance of domestic L/Cs	NA	✓	NA
- Restrictions on overall loan growth/investments (new loans to the extent of collections only)	✓	✓	✓	(e) More than eighty percent (80%) -			
- Restrictions on lending to affiliates	✓	✓	NA	- Suspension of clearing privileges	✓	✓	✓
- Denial of access to BSP rediscounting facilities	✓	✓	✓	- Suspension of granting of bonuses/profit-sharing not covered by existing contracts or By-Laws	✓	✓	✓
- Suspension of authority to accept or handle government deposits	✓	✓	✓	- Cease and desist	✓	✓	✓
- Suspension of authority to engage in quasi-banking activities	✓	✓	NA	<i>(As amended by Circular No. 585 dated 15 October 2007)</i>			
- Suspension of authority to engage in derivatives activities	✓	NA	NA	§§ X112 - X114 (Reserved)			
- Suspension of FCDU/EFCDU activities	✓	✓	NA	E. RISK BASED CAPITAL			
- Suspension of trust operations	✓	✓	NA	Sec. X115 Basel II Risk-Based Capital			
- Suspension of authority to accept or create demand deposits or operate NOW accounts	NA	✓	✓	The guidelines implementing revised risk-based capital adequacy framework for the Philippine bank system to conform to Basel recommendations is provided in <i>Appendix 63b</i> .			
(d) Up to eighty percent (80%) -				The risk-based capital ratio of bank, expressed as a percentage of qualifying capital to risk weighted assets, shall not be less than ten percent (10%) for both solo basis (head office plus branches) and consolidated basis (parent bank plus subsidiaries and financial allied undertakings, excluding insurance companies).			
- Suspension of authority to invest in non-allied undertakings (for UBs only)	✓	NA	NA	<i>(The BSP's implementation plans to adopt the new international capital standards of Basel 2 contained in the Basel Committee on Banking Supervision document "International Convergence of Capital Measurement and Capital Standards")</i>			
- Suspension of authority to invest in allied undertakings	✓	✓	✓				
- Suspension of securities and dealership functions (for UBs only)	✓	NA	NA				
- Suspension of branching privileges	✓	✓	✓				
- Suspension of declaration of cash dividends	✓	✓	✓				
- Denial of access to BSP rediscounting facilities	✓	✓	✓				
- Suspension of authority to accept or create demand deposits or operate NOW accounts	NA	✓	✓				
- Suspension of authority to	✓	✓	✓				

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A Revised Framework”, are shown in Appendix 6.3)
(Circular No. 538 dated 04 August 2006, as amended by M-2008-015 dated 19 March 2008, Circular Nos. 605 dated 05 March 2008, 588 dated 11 December 2007, M-2007-019 dated 21 June 2007, Circular No. 560 dated 31 January 2007 and M-2006-022 dated 24 Novemebr 2006)

§ X115.1 Scope
The Basel II guidelines apply to all UBs and KBs, as well as their subsidiary banks and QBs.

§ X115.2 (Reserved)

§ 1115.2 (2008 - 1116.5) Market risk capital requirement. UBs/KBs shall also measure and apply capital charges for market risk, in addition to the credit risk capital requirement in this Section, in accordance with the Guidelines to Incorporate Market Risk in the Risk-Based Capital Adequacy Framework in *Appendix 46*.
The capital treatment of market risk exposures arising from the holdings of Dollar-Linked Peso Notes (DLPNs) is indicated in *Appendix 46a*.
The instructions for accomplishing the report on computation of the Adjusted Risk-Based Capital Adequacy Ratio covering combined credit risk and market risk are shown in *Appendices 46b* (for UBs and KBs with expanded derivatives authority), *46c* (for UBs and KBs with expanded derivatives authority but without options transactions) and *46d* (for UBs and KBs without expanded derivatives authority).

§ 2115.2 (Reserved)

§ 3115.3 (Reserved)

§ X115.3 (2008 - X116.8) Capital treatment of exposures/investments in certain products. The guidelines on the capital treatment of bank’s exposures/investments in the following products are in Part VI:

- a. Credit-linked notes in Sec. 1628 and its Subsections.
- b. Structured products in Subsec. 1635.4.
- c. EFCDU investments in Subsec. 1636.4.
- d. Investment in securities overlying securitization structures in Subsec. 1648.4

Sec. X116 Basel I Risk-Based Capital. The risk-based capital ratio of a bank, expressed as a percentage of qualifying capital to risk weighted assets, shall not be less than ten percent (10%) for both solo basis (head office plus branches) and consolidated basis (parent bank plus subsidiary financial allied undertakings, but excluding insurance companies).
The ratio shall be maintained daily.

§ X116.1 Scope. TBs, RBs, as well as QBs that are not subsidiaries of UBs and KBs shall continue to be subject to the risk-based capital adequacy framework, as provided under Sec. X116, as well as Subsecs. X115.3 and X116.2 to X116.7.

§ X116.2 (2008 - X116.1) Qualifying capital. The composition of qualifying capital is shown in *Appendix 6.3a*.
(As amended by Circular Nos. 560 dated 31 January 2007, 528 dated 03 May 2006 and Memorandum to All Banks dated 23 March 2006)

§ X116.3 (2008 - X116.2) Risk-weighted assets. The risk-weighted assets shall be determined by assigning risk weights to amounts of on-balance sheet assets and to credit equivalent amounts of off-balance sheet items (inclusive of derivatives contracts): *Provided*, That the following shall be deducted from the total risk-weighted assets: (1) general loan loss provision (in excess of the amount permitted to be included in upper Tier 2 capital) and unbooked valuation reserves;

and (2) other capital adjustments affecting asset accounts based on the latest report of examination as approved by the Monetary Board.

a. *On-balance sheet assets.* The risk-weighted amount shall be the product of the book value of asset multiplied by the risk weight associated with that asset, as follows:

- (1) *Zero percent (0%) risk weight* -
 - (a) Cash on hand;
 - (b) Claims on or portions of claims guaranteed by or collateralized by securities issued by -
 - i. Philippine National Government and BSP; and
 - ii. Central governments and central banks of foreign countries with the highest credit quality as defined in Subsec. X116.4;
 - (c) Claims on or portions of claims guaranteed by or collateralized by securities issued by multilateral development banks (MDBs);
 - (d) Loans to the extent covered by hold-out on, or assignment of, deposits/ deposit substitutes maintained with the lending bank;
 - (e) Loans or acceptances under letters of credit to the extent covered by margin deposits;
 - (f) Portions of special time deposit loans covered by Industrial Guarantee and Loan Fund (IGLF) guarantee;
 - (g) Real estate mortgage loans to the extent guaranteed by the Home Guaranty Corporation (HGC);
 - (h) Housing microfinance loans as provided under Subsec. X361.5 to the extent guaranteed by the HGC;
 - (i) Loans to the extent guaranteed by the Trade and Investment Development Corporation of the Philippines (TIDCORP);
 - (j) Foreign currency notes and coins on hand acceptable as international reserves; and
 - (k) Gold bullion held either in own vaults, or in another's vaults on an allocated

basis, to the extent it is offset by gold bullion liabilities;

- (2) *Twenty percent (20%) risk weight* -
 - (a) Checks and other cash items (COClS);
 - (b) Claims on or portions of claims guaranteed by or collateralized by securities issued by non-central government public sector entities of foreign countries with the highest credit quality as defined in Subsec. X116.4;
 - (c) Claims on or portions of claims guaranteed by Philippine incorporated banks/QBs with the highest credit quality as defined in Subsec. X116.4;
 - (d) Claims on or portions of claims guaranteed by foreign incorporated banks with the highest credit quality as defined in Subsec. X116.4;
 - (e) Claims on Philippine incorporated private enterprises with the highest credit quality as defined in Subsec. X116.4;
 - (f) Claims on foreign incorporated private enterprises with the highest credit quality as defined in Subsec. X116.4;
 - (g) Loans to exporters to the extent guaranteed by Small Business Guarantee and Finance Corporation (SBGFC): *Provided*, That loans to exporters to the extent guaranteed by the Guarantee Fund for Small and Medium Enterprises (GFSME) outstanding as of the date of the effectivity of the merger of the SBGFC and GFSME shall continue to have a zero percent (0%) risk weight: *Provided, further*, That the zero percent (0%) risk weight shall not apply to loans renewed after the merger of the SBGFC and the GFSME; and
 - (h) Foreign currency checks and other cash items denominated in currencies acceptable as international reserves.
- (3) *Fifty percent (50%) risk weight* -
 - (a) Loans for housing purpose, fully secured by first mortgage on residential property that is or will be occupied or leased out by the borrower, which are not classified as non-performing;

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(b) Local government unit (LGU) bonds which are covered by Deed of Assignment of Internal Revenue Allotment of the LGU and guaranteed by the LGU Guarantee Corporation; and

(c) Housing microfinance loans under Subsec. X361.5 other than those guaranteed by the HGC.

(4) *Seventy five percent (75%) risk weight*

(a) Defined small and medium enterprise (SME) and microfinance loan portfolio that meets the following criteria:

(i) *For individual claims that may form part of the SME and microfinance loan portfolio*

(aa) Claim must be on a small or medium business enterprise as defined under existing BSP regulations; and

(bb) Claims must be in the form of:

- Direct loans; or
- Unavailed portion of committed credit lines and other business facilities such as outstanding guarantees issued and unused letters of credit: *Provided*, That the credit equivalent amounts thereof shall be determined in accordance with Subsec. X116.3.b.

(ii) *For the SME and microfinance portfolio -*

(aa) It must be a highly diversified portfolio, i.e., it has at least 500 borrowers that are distributed over a number of industries; and

(bb) The past due ratios of the defined SME and microfinance loan portfolio for each of the immediately preceding three (3) years do not exceed five percent (5%).

(iii) *For the bank -*

(aa) It must have adequate risk management process approved by the board of directors, including as a minimum, a rigorous credit approval process and an adequate loan tracking system that allows timely monitoring of loan releases, collection and arrearages, and any restructuring and refinancing; and

(bb) The bank must be financially sound and in compliance with major prudential requirements, particularly the following:

- CAMELS composite rating of at least “3” and management score of at least “3” in its latest BSP examination; and
- Minimum applicable capital adequacy ratio.

(b) Non-performing loans (NPLs) for housing purpose, fully secured by first mortgage on residential property that is or will be occupied or leased out by the borrower; *Provided*, That risk weighting for such loans shall be increased to 100% in 2007;

(5) *One hundred percent (100%) risk weight -*

All other assets including, among others, the following:

(a) Claims on central governments and central banks of foreign countries other than those with the highest credit quality;

(b) Claims on Philippine local government units;

(c) Claims on non-central government public sector entities of foreign countries other than those with the highest credit quality;

(d) Claims on government-owned or -controlled commercial corporations;

(e) Claims on Philippine incorporated banks/QBs other than those with the highest credit quality;

(f) Claims on foreign incorporated banks other than those with the highest credit quality;

(g) Claims on Philippine incorporated private enterprises and claims on foreign incorporated private enterprises other than those with the highest credit quality;

(h) Loans to companies engaged in speculative residential building or property development;

(i) Equity investments (except those deducted from capital);

(j) Bank premises, furniture, fixtures and equipment (net);

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(k) Appraisal increment - bank premises, furniture, fixtures and equipment (net);

(l) Real and other properties owned or acquired (net);

(m) Foreign currency notes and coins on hand not acceptable as international reserves;

(n) Gold bullion held in either own vaults, or in another's vaults on an allocated basis, that is not offset by gold bullion liabilities;

(o) Foreign currency COCIs not denominated in foreign currencies acceptable as international reserves; except those which are deducted from capital, as follows:

(i) Unsecured credit accommodations, both direct and indirect, to DOSRI;

(ii) Unsecured loans, other credit accommodations and guarantees granted to subsidiaries and affiliates;

(iii) Deferred income tax;

(iv) Goodwill;

(v) Sinking fund for redemption of limited life redeemable preferred stock with the replacement requirement upon redemption;

(vi) Sinking fund for redemption of limited life redeemable preferred stock without the replacement requirement upon redemption (limited to the balance of redeemable preferred stock after applying the cumulative discount factor);

(vii) Equity investments in unconsolidated subsidiary banks and other financial allied undertakings, but excluding insurance companies;

(viii) Investments in debt capital instruments of unconsolidated subsidiary banks;

(ix) Equity investments in subsidiary insurance companies and non-financial allied undertakings;

(x) Reciprocal investments in equity of other banks/enterprises;

(xi) Reciprocal investments in unsecured subordinated term debt instruments of other banks/QBs in excess of the lower of:

(aa) an aggregate ceiling of five percent (5%) of total Tier 1 capital of the bank; or

(bb) ten percent (10%) of the total outstanding unsecured subordinated term debt issuance of the other bank/QB; and

(xii) Net due "from" head office, branches, subsidiaries and other offices outside the Philippines, if any (for foreign bank branches); and

(p) *Starting 2007, NPLs for housing purpose, fully secured by first mortgage on residential property that is or will be occupied or leased out by the borrower.*

(6) One hundred twenty five percent (125%) risk weight -

All NPLs (except NPLs for housing purpose, fully secured by first mortgage on residential property that is or will be occupied or leased out by the borrower) and all non-performing debt securities: *Provided, That risk weighting for such exposures shall be increased to 150% in 2007.*

NPLs, which are secured by eligible collaterals or guaranteed by eligible guarantors below, shall be assigned the risk weight of the collateral or guarantor: *Provided, That in cases of guarantees, the bank is able to pursue the guarantor of any monies outstanding within the period of time stipulated in the guarantee contract. Otherwise, the loan in question shall be assigned the risk weight applicable for NPLs.*

(a) List of eligible collaterals

(i) Securities issued by the Philippine national government and BSP, and central governments and central banks of foreign countries with the highest credit quality as defined in Subsec. X116.4;

(ii) Securities issued by multilateral development banks listed under Sec. X116.4;

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(iii) Cash in the form of hold out on or assignment of deposits/deposit substitutes maintained with the lending bank, and margin deposits for loans or acceptances under letters of credit; and

(iv) Securities issued by non-central government public sector entities of foreign countries with the highest quality as defined in Subsec. X116.4.

(b) List of eligible guarantors

(i) Philippine national government and BSP, and central governments and central banks of foreign countries with the highest credit quality as defined in Subsec. X116.4;

(ii) Multilateral development banks listed under Sec. X116.4;

(iii) IGLF;

(iv) HGC;

(v) TIDCORP;

(vi) Non-central government public sector entities of foreign countries with the highest credit quality as defined in Subsec. X116.4;

(vii) Philippine incorporated banks/QBs with the highest credit quality as defined in Subsec. X116.4;

(viii) Foreign incorporated banks with the highest credit quality as defined in Subsec. X116.4;

(ix) SBGFC; and

(x) LGU Guarantee Corporation (LGUGC), but only those guaranteed loans covered by Deed of Assignment of Internal Revenue Allotment of the LGU.

b. *Off-balance sheet items.* The risk-weighted amount shall be calculated using a two (2)-step process.

First, the credit equivalent amount of an off-balance sheet item shall be determined by multiplying its notional principal amount by the appropriate credit conversion factor, as follows:

(1) *One hundred percent (100%) credit conversion factor -*

This shall apply to direct credit substitutes, e.g., general guarantees of

indebtedness (including standby letters of credit serving as financial guarantees for loans and securities) and acceptances (including endorsements with the character of acceptances), and shall include -

(a) Outstanding guarantees issued - foreign loans;

(b) Outstanding guarantees issued - other than foreign loans and shipside bonds/airway bills; and

(c) Export letters of credit - confirmed.

This shall also apply to sale and repo agreements and asset sales with recourse where the credit risk remains with the bank (to the extent not included in the balance sheet), as well as to forward asset purchases, forward forward deposits and partly-paid shares and securities which represent commitments with certain drawdown: *Provided*, That these items shall be weighted according to the type of asset and not according to the type of counterparty with whom the transaction has been entered into.

(2) *Fifty percent (50%) credit conversion factor -*

This shall apply to certain transaction-related contingent items, e.g., performance bonds, bid bonds, warranties and standby letters of credit related to particular transactions, and shall include -

(a) Standby letters of credit - domestic (net of margin deposit) established as a guarantee that a business transaction will be performed; and

(b) Standby letters of credit - foreign (net of margin deposit).

This shall also apply to -

(c) Note issuance facilities and revolving underwriting facilities; and

(d) Other commitments, e.g., formal standby facilities and credit lines with an original maturity of more than one (1) year. This shall include underwritten accounts unsold.

(3) *Twenty percent (20%) credit conversion factor -*

This shall apply to short-term, self-liquidating trade-related contingencies,

e.g., documentary credits collateralized by the underlying shipments, and shall include -

- (a) Outstanding guarantees issued - shipside bonds/airway bills;
- (b) Domestic letters of credit outstanding (net of margin deposit);
- (c) Sight import letters of credit outstanding (net of margin deposit);
- (d) Usance import letters of credit outstanding (net of margin deposit);
- (e) Deferred letters of credit (net of margin deposit); and
- (f) Revolving letters of credit (net of margin deposit) arising from movement of goods and/or services.

(4) *Zero percent (0%) credit conversion factor –*

This shall apply to commitments with an original maturity of up to one (1) year, or which can be unconditionally cancelled at any time, and shall include committed credit line for commercial paper issues.

This shall also apply to those not involving credit risk, and shall include -

- (a) Inward bills for collection;
- (b) Outward bills for collection;
- (c) Items held for safekeeping/custodianship;
- (d) Trust department accounts;
- (e) Late deposits/payments received;
- (f) Items held as collaterals; and
- (g) Travelers’ checks; etc.

Second, the credit equivalent amount shall be treated like any on-balance sheet asset and shall be assigned the appropriate risk weight, i.e., according to the obligor, or if relevant, the qualified guarantor or the nature of collateral.

c. *Derivatives contracts.* The credit equivalent amount shall be the sum of the current credit exposure (or replacement cost) and an estimate of the potential future credit exposure (or add-on): *Provided*, That the following shall not be included in the computation:

- (1) Instruments which are traded on exchange where they are subject to daily

receipt and payment of cash variation margin; and

(2) Exchange rate contracts with original maturity of fourteen (14) calendar days or less.

The current credit exposure shall be the positive mark-to-market value of the contract (or zero if the mark-to-market value is zero or negative). The potential future credit exposure shall be the product of the notional principal amount of the contract multiplied by the appropriate potential future credit conversion factor, as indicated below:

<u>Residual Maturity</u>	<u>Interest Rate Contract</u>	<u>Exchange Rate Contract</u>
One (1) year or less	0.0%	1.0 %
Over one (1) year to five (5) years	0.5%	5.0 %
Over five (5) years	1.5%	7.5 %

Provided, That for contracts with multiple exchanges of principal, the factors are to be multiplied by the number of remaining payments in the contract: *Provided, further*, That for contracts that are structured to settle outstanding exposure following specified payment dates and where the terms are reset such that the market value of the contract is zero (0) on these specified dates, the residual maturity would be set equal to the time until the next reset date, and in the case of interest rate contracts with remaining maturities of more than one (1) year that meet these criteria, the potential future credit conversion factor is subject to a floor of five tenths percent (0.5%): *Provided, furthermore*, That no potential future credit exposure shall be calculated for single currency floating/floating interest rate swaps, i.e., the credit exposure on these contracts would be evaluated solely on the basis of their mark-to-market value.

The credit equivalent amount shall be treated like any on-balance sheet asset, and

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shall be assigned the appropriate risk weight, i.e., according to the obligor, or if relevant, the qualified guarantor or the nature of collateral: *Provided*, That a fifty percent (50%) risk weight shall be applied in respect of obligors which would otherwise attract a 100% risk weight.

The extent to which a claim is guaranteed/collateralized shall be determined by the amount of guarantee coverage/current market value of securities pledged, in comparison with the book value of the on-balance sheet asset or the notional principal amount of the off-balance sheet exposure, except for derivatives contracts for which determination is generally made in relation to credit equivalent amount.

The capital treatment of investments in credit-linked notes (CLNs) and similar credit derivative products such as credit-linked deposits (CLDs) and credit-linked loans (CLLs) shall comply with the guidelines in Sec. 1628 and its Subsections. *(As amended by M-2008-015 dated 19 March 2008 and Circular No. 560 dated 31 January 2007)*

§ X116.4 (2008 - X116.3) Definitions

a. *Amount due from the BSP*. This refers to all deposits of the reporting bank with the BSP.

b. *Appraisal increment reserve*. This shall form part of capital only if authorized by the Monetary Board.

c. *Bank premises, furniture, fixtures and equipment net of depreciation*. This refers to the cost of land and improvements used as bank premises, and furniture, fixtures and equipment owned by the bank.

d. *Cash on hand*. This refers to total cash held by the bank consisting of both notes and coins in Philippine currency.

e. *Central government of a foreign country*. This refers to the central government which is regarded as such by a recognized banking supervisory authority in that country.

f. *Claims*. This refer to loans or debt obligations of the entity on whom the claim is held, and shall include, but shall not be limited to, the following accounts, inclusive of accumulated market gains/ (losses) and accumulated bond discount/ (premium amortization), and net of specific allowance for probable losses:

- (1) Due from BSP;
- (2) Due from other banks;
- (3) Interbank loans receivable;
- (4) Loans and discounts;
- (5) Agrarian reform and other agricultural credit loans - P.D. 717;
- (6) Development incentive loans;
- (7) Bills purchased;
- (8) Customers' liability on bills/drafts under LCs/TRs;
- (9) Customers' liability for this bank's acceptances outstanding;
- (10) Restructured loans;
- (11) Trading account securities - loans;
- (12) Underwriting accounts - debt securities (for UBs);
- (13) Underwriting accounts - equity securities (for UBs);
- (14) Trading account securities - investments;
- (15) Trading account securities - equity (for UBs);
- (16) Available for sale securities;
- (17) Investments in bonds and other debt instruments (IBODI); and
- (18) Others, e.g., accounts receivable and accrued interest receivable.

Accruals on a claim shall be classified and risk weighted in the same way as the claim. Bills purchased shall be classified as claims on the drawee banks.

g. *Consolidated basis*. This refers to combined statement of condition of parent bank and subsidiary financial allied undertakings, but excluding insurance companies.

h. *Debt capital instruments*. This refers to unsecured subordinated term debt instruments qualifying as capital of banks.

- i. *Equity investments.* This refers to investments in capital stock of companies, firms or enterprises, made for purposes of control, affiliation or other continuing business advantage.
- j. *Exchange rate contracts.* This includes cross-currency interest rate swaps, forward foreign exchange contracts, currency futures, currency options purchased and similar instruments.
- k. *Financial allied undertakings.* This refers to enterprises or firms with homogenous or similar activities/business/functions with the financial intermediary and may include but not limited to leasing companies, banks, IHs, financing companies, credit card companies, FIs catering to small and medium scale industries (including venture capital corporations), companies engaged in stock brokerage/securities dealership, companies engaged in foreign exchange dealership/brokerage, holding companies (for UBs), and such other similar activities as the Monetary Board may declare as appropriate from time to time, but excluding insurance companies.
- l. *Claims on foreign country and foreign incorporated bank/private enterprise and Philippine incorporated bank/quasi bank/private enterprise with the highest credit quality.* This refers to claims on a country, bank or private enterprise given the highest credit ratings by any of the following BSP-recognized credit rating agencies:

(1) International rating agencies:

Rating Agency	Highest Rating
(1) Moody’s	“Aa3” and above
(2) Standard and Poor’s	“AA-” and above
(3) FitchRatings	“AA-” and above
(4) And such other as may be approved by the Monetary Board	

(2) Domestic rating agencies:

Rating Agency	Highest Rating
(1) PhilRatings	“PRS Aa” and above
(2) And such other rating agencies as may be approved by the Monetary Board	

- Provided, That* for purposes of this Subsection:
- (i) Any reference to credit rating shall refer to issue-specific rating; the issuer rating may be used only if the claim being risk-weighted is a senior obligation of the issuer and is of the same denomination applicable to the issuer rating (e.g., local currency issuer rating may be used for risk weighting local currency denominated senior claims), or in cases of guarantees;
 - (ii) For loans, risk weighting shall depend on either the rating of the borrower or the rating of the unsecured senior obligation of the borrower: *Provided, That* the loan is of the same denomination applicable to the borrower rating or rating of the unsecured senior obligation;
- Domestic debt issuances may be rated by BSP-recognized domestic or international credit rating agencies who may use a national rating scale acceptable to the BSP, while international debt issuances should be rated by BSP-recognized international credit rating agencies only; and
- If a claim has only one (1) rating by any of the BSP recognized rating agencies, that rating shall be used to determine the risk weight of the claim; in cases where there are two (2) or more ratings which map into different risk weights, the higher of the two (2) lowest risk weights should be used.
- m. *Forward asset purchases.* This refers to a commitment to purchase a loan, security or other asset at a specified future date, usually on prearranged terms.
 - n. *Forward forward deposits.* This refers to an agreement between two (2) parties whereby one (1) will pay and the other will receive an agreed rate of interest on a deposit to be placed by one (1) party with the other at some predetermined date in the future.
 - o. *Gold bullion held in another’s vault on an allocated basis.* This refers to gold bullion held by others to the order of the bank, and which is separately ascertainable.

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p. *Goodwill*. This refers to an intangible asset that represents the excess of the purchase price over the fair market value of identifiable assets acquired less liabilities assumed in acquisitions accounted for under the purchase method of accounting.

q. *Interest rate contracts*. This includes single-currency interest rate swaps, basis swaps, forward rate agreements, interest rate futures, interest rate options purchased and similar instruments.

r. *Loans for housing purpose, fully secured by first mortgage on residential property that is or will be occupied or leased out by the borrower*. This shall not include loans to companies engaged in speculative residential building or property development.

s. *Loans or acceptances under letters of credit to the extent covered by margin deposits*. This shall not include the unnegotiated letters of credit or the unutilized portion thereof, or other items booked under contingent accounts. This shall also not include margin deposits against loans or acceptance accounts which are fully liquidated.

t. *Loans to the extent covered by hold-out on, or assignment of, deposits or deposit substitutes maintained in the lending bank*. A loan shall be considered as secured by a hold-out on, or assignment of deposit or deposit substitute only if such deposit or deposit substitute account is covered by a hold-out agreement or deed of assignment signed by the depositor or investor/placer in favor of the bank. This shall not include loans transferred to/carried by the bank's trust department secured by deposit hold-out/assignment.

u. *Multilateral development banks*. These refer to the World Bank Group comprised of the International Bank for Reconstruction and Development (IBRD) and the International Finance Corporation (IFC), the Asian Development Bank (ADB),

the African Development Bank (AfDB), the European Bank for Reconstruction and Development (EBRD), the Inter-American Development Bank (IADB), the European Investment Bank (EIB); the Nordic Investment Bank (NIB); the Caribbean Development Bank (CDB), the Council of Europe Development Bank (CEDB) and such others as may be recognized by the BSP.

v. *Non-central government public sector entity of a foreign country*. This refers to entities which are regarded as such by a recognized banking supervisory authority in the country in which they are incorporated.

w. *Note issuance facilities and revolving underwriting facilities*. This refers to an arrangement whereby a borrower may draw down funds up to a prescribed limit over an extended period by repeated issues to the market of promissory notes which the bank committed to underwrite.

x. *Other commitments*. This includes undrawn portion of any binding arrangements which obligate the bank to provide funds at some future date.

y. *Other commitments with an original maturity of up to one (1) year*. This includes any revolving or undated open-ended commitments, e.g., overdrafts or unused credit lines, providing that they can be unconditionally cancelled at any time and subject to credit revision at least annually.

z. *Partly-paid shares and securities*. This arises where only a part of the issue price or nominal face value of a security purchased has been subscribed and the issuer may call for the outstanding balance (or a further installment), either on a date predetermined at the time of issue, or at an unspecified future date.

aa. *Perpetual preferred stock*. This refers to preferred stock that does not have a maturity date, that cannot be redeemed at the option of the holder of the instrument, and that has no provision that will require

future redemption of the issue. Consistent with these provisions, any perpetual preferred stock with a feature permitting redemption at the option of the issuer may qualify as capital only if the redemption is subject to prior approval of the BSP.

bb. Philippine local government units This refers to the Philippine government units below the level of national government, such as city, provincial, and municipal governments.

cc. Philippine national government. This shall refer to the Philippine national government and their agencies such as departments, bureaus, offices, and instrumentalities, but excluding government-owned and controlled commercial corporations.

dd. Private sector. This refers to entities other than banks and governments. This shall also include commercial companies owned by the public sector, such as government-owned or controlled commercial corporations.

ee. Redeemable preferred stock. This refers to preferred stock which may be redeemed at the specific dates or periods fixed for redemption, only upon prior approval of the BSP and, where the conditions of the issuance specifically state, only if the shares redeemed or replaced with at least an equivalent amount of newly paid-in shares so that the total paid-in capital stock is maintained at the same level immediately prior to redemption: *Provided*, That redemption shall not be earlier than five (5) years after the date of issuance: *Provided, further*, That such redemption may not be made where the bank is insolvent or if such redemption will cause insolvency, impairment of capital or inability of the bank to meet its debts as they mature.

Banks which have issues of limited life redeemable preferred shares compliant with Subsec. X126.5 and outstanding prior to 01 July 2001 shall be allowed to redeem

the same prior to the set redemption date, without the need for replacement with at least an equivalent amount of newly paid-in shares within one (1) year from 26 September 2003 (effectivity of Circular No. 397) upon prior BSP approval: *Provided*, That:

(i) The redeemable preferred shareholders will give consent;

(ii) The bank meets the required minimum risk-based CAR and minimum capital level for the bank category after such redemption; and

(iii) Such redemption will not cause the inability of the bank to meet its obligations as they mature.

ff. Sale and repurchase agreements and asset sales with recourse. This refers to arrangements whereby a bank sells a loan, security or fixed asset to a third party with a commitment to repurchase the asset after a certain time, or in the event to a certain contingency.

gg. Solo basis. This refers to combined statement of condition of head office and branches.

hh. Subsidiary. This refers to a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with the power to vote by a bank.

ii. Treasury shares. This refers to shares of the parent bank held by a subsidiary financial allied undertaking in a consolidated statement of condition.

jj. Private enterprises. This refers to all commercial companies whether organized in the form of a corporation, partnership, or sole proprietorship.

kk. Non-performing debt securities. This refers to debt securities as described below:

(i) For zero-coupon debt securities, and debt securities with quarterly, semi-annual, or annual coupon payments, they shall be considered non-performing when

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principal and or coupon payment is unpaid for thirty (30) days or more after due date.

(ii) For debt securities with monthly coupon payments, they shall be considered non-performing when three (3) or more coupon payments are in arrears: *Provided, however,* That when the total amount of arrearages reaches twenty percent (20%) of the total outstanding balance of the debt security, the total outstanding balance of the debt security shall be considered as non-performing.

§ X116.5 (2008 - X116.4) Required reports. Banks shall submit a report of their risk-based capital adequacy ratio on a solo basis (head office plus branches) and on a consolidated basis (parent bank plus subsidiary financial allied undertakings, but excluding insurance companies) quarterly to the appropriate department of the SES in the prescribed forms within the deadlines, i.e., fifteen (15) banking days and thirty (30) banking days after the end of reference quarter, respectively. Only banks with subsidiary financial allied undertakings (excluding insurance companies) which under existing regulations are required to prepare consolidated statements of condition on a line-by-line basis shall be required to submit report on a consolidated basis. The abovementioned reports shall be classified as *Category A-2* reports.

§ X116.6 Sanctions. Whenever the capital accounts of a bank are deficient with respect to the prescribed risk-based capital adequacy ratio (which for UBs/KBs shall pertain to adjusted capital adequacy ratio covering combined credit risk and market risk), the Monetary Board, after considering a report of the appropriate department of the SES on the state of solvency of the institution concerned, shall limit or prohibit the distribution of the net profits and shall require that part or all of net profits be used

to increase the capital accounts of the bank until the minimum requirement has been met. The Monetary Board may restrict or prohibit the making of new investments of any sort by the bank, with the exception of purchases of readily marketable evidences of indebtedness issued by the Philippine National Government and BSP included in Item “a(1)(b)i” of Subsec. X116.3, until the minimum required capital ratio has been restored.

§ X116.7 Temporary relief. In case of a bank merger, or consolidation, or when a bank is under rehabilitation under a program approved by the BSP, the Monetary Board may temporarily relieve the surviving bank, consolidated bank, or constituent bank or corporations under rehabilitation from full compliance with the required capital ratio for a maximum period of one (1) year.

Secs. X117 - X118 (Reserved)

F. CAPITAL INSTRUMENTS

Sec. X119 Unsecured Subordinated Debt
The guidelines for the issuance of unsecured subordinated debt (UnSD) eligible as Hybrid Tier 1 (HT1) and Tier 2 capital are as follows:

(As amended by Memorandum to All Banks dated 23 March 2006)

§ X119.1 Minimum features of unsecured subordinated debt

a. *Form.* A UnSD that will be publicly distributed may either be scripless in form or evidenced by certificates such as: promissory note, debenture or other appropriate certificate of indebtedness. A UnSD in scripless form shall comply with the provisions of R.A. No. 8792, otherwise known as the “Electronic Commerce Act”, particularly on the existence of an assurance on the integrity,

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reliability and authenticity of the UnSD in electronic form. An independent third party UnSD Registry shall maintain unissued UnSD certificates and the UnSD Registry Book, which must be electronic if the UnSD is scripless in form. A UnSD that will be issued privately or on a negotiated basis shall be evidenced by certificates.

All UnSD shall be registered in the name of individuals or entities and pre-numbered serially.

b. *Denomination.* The UnSD must be issued in minimum denominations of P500,000 or its equivalent if denominated in a foreign currency.

c. *Mandatory provisions.* If the UnSD is not scripless in form, the following provisions must appear in bolder prints on the face of every note, debenture or other certificate evidencing the same:

(1) This obligation is not a deposit and is not insured by the Philippine Deposit Insurance Corporation (PDIC);

(2) This obligation is neither secured nor covered by the guarantee of (name of bank) or its subsidiaries and affiliates, or other arrangement that legally or economically enhances the priority of the claim of any holder of the UnSD as against depositors and other creditors (for LT2); depositors, other creditors and holders of LT2 capital instruments (for UT2); and depositors, other creditors and holders of LT2 and UT2 capital instruments (for HT1);

(3) This obligation does not have a priority claim, in respect of principal and coupon payments in the event of winding-up of the (name of bank), which is higher than or equal with that of depositors and other creditors (for LT2); depositors, other creditors and holders of LT2 capital instruments (for UT2); and depositors, other creditors, holders of LT2 and UT2 capital instruments (for HT1); and

(4) The obligation is ineligible as collateral for a loan granted by (name of Bank), its subsidiaries and affiliates.

If the UnSD is scripless in form, the foregoing provisions/information shall be furnished every buyer/investor in a separate written instrument receipt of which must be duly acknowledged by him.

d. *Term.* The UnSD qualifying under HT1 capital shall be perpetual. The minimum maturity of a UnSD qualifying under UT2 and LT2 capital shall be ten (10) years and five (5) years, respectively.

(As amended by Memorandum to All Banks dated 23 March 2006)

§ X119.2 Prior Bangko Sentral approval. No UnSD shall be issued without the prior approval of the BSP.

§ X119.3 Pre-qualification requirements of issuing bank. A bank applying for authority to issue a UnSD shall comply with the following requirements:

a. It has complied with the minimum amount of capital required under Subsec. X111.1 or its paid-in capital is at least equal to the amount required therein.

b. It has established a risk management system appropriate to its operations characterized by clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system.

c. It is a locally incorporated bank.

§ X119.4 Public issuance of unsecured subordinated debt. Public issuance of UnSD is an issuance offered to the general public, which may or may not be qualified investors/buyers as hereinafter defined. The Issuing Bank must be rated by an independent credit rating agency recognized by the BSP and a Public Trustee shall be appointed for investor protection.

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a. *Application for authority*

(1) The application shall be signed by the president or officer of equivalent rank of the applicant bank;

(2) The application for authority on each UnSD issue/issue program shall be filed with the appropriate department of the SES: *Provided*, That the period of an issue program of two (2) or more tranches shall not exceed one (1) year from date of approval; and

(3) The application shall be accompanied by:

(a) A certified true copy of the resolution of the Issuing Bank's board of directors authorizing the issuance of the UnSD indicating, among others, the issue size, terms and conditions, offering period, purpose or intended use of proceeds thereof, the names of the Underwriter/Arranger, UnSD Registry, Selling Agent(s) and Market Maker(s), and Public Trustee;

(b) A certification by the corporate secretary that the issuance of the UnSD has been approved by the stockholders owning or representing at least two-thirds (2/3) of the outstanding capital stock of the Issuing Bank if the UnSD has convertibility feature;

(c) A written confirmation from the president or officer of equivalent rank of the Issuing Bank stating that all the conditions for UnSD under Item "a(2)(a)", Item "b(1)(h)" or Item "b(2)(c)", of Appendix 63a are complied with and that such conditions shall be contained in the UnSD Certificates if the UnSD is not in scripless form, in the Information Disclosure and Purchase Advice.

(d) A written undertaking from the president or officer of equivalent rank of the Issuing Bank not to support, directly or indirectly, by extending loans, issuing payment guarantees or otherwise, the buyer/holder of the UnSD of the Issuing Bank;

(e) A written confirmation from the president or officer of equivalent rank of the Issuing Bank stating that the designated Underwriter/Arranger, UnSD Registry, Selling Agent(s) and Market Maker(s) were provided with a complete list of subsidiaries and affiliates of the Issuing Bank including their subsidiaries and affiliates;

(f) A written undertaking from the president or officer of equivalent rank of the Issuing Bank to update the above-mentioned list within three (3) banking days from the date of change in composition thereof;

(g) Specimen of the UnSD; and

(h) A written external legal opinion that all the conditions for UnSD under Item "a(2)(a)", Item "b(1)(h)" or Item "b(2)(c)", of Appendix 63a, including the subordination (for HT1, UT2 and LT2) and loss absorption (for HT1 and UT2) features, have been met.

b. *Additional requirements for the issuance of UnSD*

After a bank's application to issue a UnSD has been approved, the applicant shall submit the following additional requirements to the appropriate department of the SES:

(1) At least fifteen (15) banking days before the date of offering:

(a) A written confirmation from the president or officer of equivalent rank of the Issuing Bank stating that the bank has been rated by an independent credit rating agency duly recognized by the BSP;

(b) Information disclosure of the UnSD issuance prepared by the Underwriter/Arranger;

(c) Promotional materials;

(d) Specimen of the proposed Purchase Advice and Registry Confirmation; and

(e) Copy of the agreements between the Issuing Bank and the Underwriter/

Arranger/UnSD Registry/Selling Agent(s)/ Market Maker(s), and Public Trustee.

The BSP reserves the right to suspend the date of offering, within the fifteen (15) banking day period from submission of the above-mentioned requirements.

(2) Within ten (10) banking days after issuance of the initial and subsequent tranches:

(a) A written notice of the actual date of issuance/offering of each initial and subsequent tranches.

c. *Requirements for other parties involved*

(1) Underwriter/Arranger

(a) It is either a UB or an IH: *Provided*, That if an offering is on a best effort basis, the Arranger may also be a KB: *Provided, further*, That if an offering is denominated in foreign currency, the Underwriter/ Arranger may also be any reputable international investment bank.

(b) It must be an independent third party that has no subsidiary/affiliate or any other relationship with the Issuing Bank that would undermine the objective conduct of due diligence.

(c) If Underwriter, it must have adequate risk management and must be well capitalized, which for a local Underwriter, shall be evidenced by compliance with the risk-based CAR prescribed under Sec. X116 for the past sixty (60) days immediately preceding the date of application where applicable.

(2) UnSD Registry

(a) It may be a UB, a KB, or such other specialized entity that may be qualified by the Monetary Board.

(b) It must be a third party that has no subsidiary/affiliate or any other relationship with the Issuing Bank that would undermine its independence.

(c) It must not be an Underwriter or a Market Maker of the UnSD.

(d) It must have adequate facilities and the organization to do the following:

(i) Maintain certificates of unissued UnSD and the Registry Book which must be electronic if the UnSD is in scripless form;

(ii) Deliver transactions within the agreed trading period; and

(iii) Issue Registry Confirmations and UnSD Certificates if they are not in scripless form to buyers/holders of UnSD.

(e) It must have a CAMELS composite rating of at least "3" in the last regular examination, where applicable.

(3) Selling Agent

(a) It may be any FI with dealership or brokering license and is under the supervision of the BSP.

(b) It must be a third party that has no subsidiary/affiliate or any other relationship with the Issuing Bank that would undermine its independence.

(4) Market Maker

(a) It must be a FI with a dealership or brokering license and is under the supervision of the BSP.

(b) It must be a third party that has no subsidiary/affiliate or any other relationship with the Issuing Bank that would undermine its independence.

(c) It must have adequate risk management and must be well capitalized as evidenced by compliance with the risk based CAR prescribed under Sec. X116 for the past sixty (60) days immediately preceding the date of application where applicable.

There is no need for a Market Maker if the UnSD is to be held on to maturity: *Provided*, That this condition is properly disclosed in the Purchase Advice, Registry Confirmation and Prospectus/Information Disclosure.

(5) Public Trustee

(a) It must be a FI authorized by the BSP to engage in trust and other fiduciary business.

(b) It must be a third party that has no subsidiary/affiliate or any other relationship

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with the Issuing Bank that would undermine its independence.

(c) It must have adequate risk management system and must be well capitalized as evidenced by compliance with the risk-based CAR prescribed under Sec. X116 for the past sixty (60) days immediately preceding the date of application where applicable. The sixty (60)-day compliance period with the risk-based CAR shall be waived in evaluating a bank's eligibility to act as Public Trustee for another bank's UnSD's Tier 2 offering, if the former bank has instituted remedial measure to its CAR deficiency by issuing Tier 2 capital.

(d) It may also be the UnSD Registry.

(e) A Public Trustee is mandatory if UnSD shall be offered to the general public and optional if offering will be limited to qualified investors/buyers.

d. *Functions/Responsibilities of other parties involved*

The respective parties shall have, among others, the following functions/responsibilities:

(1) Underwriter/Arranger

(a) Conducts due diligence on the Issuing Bank and determines the valuation/pricing of the primary issue;

(b) Prepares the prospectus/information disclosure, including updates for multi-tranche UnSD issues;

(c) Formulates the distribution/allocation plan for the initial offering and ensures proper and orderly distribution of the primary offering of the UnSD;

(d) Disseminates information to prospective investors of UnSD on the terms and conditions of the issue (including information of non pre-termination at the initiative of the holder and the liquidity mechanism in secondary trading) and the rights and obligations of the holder, issuer, Underwriter/Arranger, UnSD Registry, Selling Agent, Market Maker and Public Trustee; and

(e) When selling to its clients, it must perform the functions/responsibilities of the Selling Agent under Item "d(3)" hereof.

(2) UnSD Registry

(a) Keeps unissued UnSD certificates and maintains UnSD Registry book, which must be electronic if UnSD is scripless in form;

(b) Records initial issuance of the UnSD and subsequent transfer of ownership;

(c) Issues UnSD Certificates for primary offerings if UnSD is not scripless in form;

(d) Issues Registry Confirmation to buyers/holders;

(e) Functions as paying agent for periodic interest and principal payments;

(f) Monitors compliance with the prohibitions on holdings of UnSD, as prescribed under Subsec. X119.8 hereof; and

(g) Submits within ten (10) banking days from end of reference month, an exception report on Subsec. X119.8 to the appropriate department of the SES. This report shall be classified as a "Category B" report.

(3) Selling Agent

(a) Verifies identity of each investor to ascertain that Subsec. X119.8 is not violated and applies appropriate standards to combat money laundering as required under existing BSP regulations;

(b) Determines the suitability of the investor and ensures that he fully understands the features of the UnSD and the risk involved therein; and

(c) Issues the Purchase Advice for the primary offering of the UnSD to the buyer and sends a copy thereof to the UnSD Registry.

The sale or distribution of UnSD may also be performed by the issuer through its head office and branches subject to the following conditions:

(i) The in-house distribution shall not exceed fifty percent (50%) of the total issue;

(ii) The sale/distribution must be done under the supervision of an officer of the Issuing Bank who is capable of determining the suitability of the investor and ensuring that he fully understands the risk in UnSD;

(iii) All personnel assigned to distribute/sell UnSD must be capable of determining the suitability of the investor and ensuring that he fully understands the risk in UnSD; and

(iv) It must also perform the functions/responsibilities of the Selling Agent.

(4) Market Maker

(a) Sets an independent pricing for the secondary trading of UnSD;

(b) Posts daily the bid and offer prices for the UnSD on the screen of at least one (1) of the information providers until the operation of a fixed income exchange for UnSD;

(c) Verifies identity of each investor to ascertain that Subsec. X119.8 is not violated and applies appropriate standards to combat money laundering as required under existing BSP regulations;

(d) Determines the suitability of the buyer and ensures that he fully understands the risk involved in a UnSD;

(e) Issues the Purchase Advice for the secondary trading of the UnSD to the buyer and sends a copy thereof to the UnSD Registry; and

(f) Ensures secondary market transfers and registration in coordination with the UnSD Registry.

(5) Public Trustee

(a) Monitors compliance of the Issuing Bank with the terms and conditions of the UnSD;

(b) Monitors compliance of the other parties with their functions and responsibilities prescribed under this Memorandum;

(c) Reports regularly to UnSD holders non-compliance of the Issuing Bank with the terms and conditions of

the UnSD and such other developments that adversely affect their interest and advise them of the course of action they should take to protect their interest; and

(d) Act on behalf of the UnSD holders in case of bankruptcy of the Issuing Bank.

e. *Change of Underwriter/Arranger, UnSD Registry, Selling Agent(s), Market Maker(s).* After an application for authority to issue a UnSD has been approved by the BSP, the Issuing Bank cannot change its Underwriter/Arranger, UnSD Registry, Selling Agent(s), Market Maker(s) and Public Trustee without prior BSP approval.

f. *Agreements Between Issuing Bank and other parties involved.* The agreements between the Issuing Bank and the UnSD Registry/Selling Agent(s)/Market Maker(s)/Public Trustee shall comply with the provisions of Sec. X162 on bank service contracts. The Issuing Bank shall be liable to investors for any damages caused by actions of the UnSD Registry, Selling Agent(s) and Market Maker(s), which are contrary to the agreements entered into.

g. *Purchase Advice and Registry Confirmation.* The Purchase Advice and Registry Confirmation shall contain all the terms and conditions on the issuance of UnSD and shall conspicuously state the following caveat:

(1) This UnSD is not a deposit and is not insured by the PDIC.

(2) This UnSD is neither secured nor covered by a guarantee of the Issuer/Underwriter/Arranger or related party of the Issuer/Underwriter/Arranger or other arrangement that legally or economically enhances the priority of the claim of any holder of the UnSD as against depositors and other creditors (for LT2); depositors, other creditors and holders of LT2 capital instruments (for UT2); and depositors, other creditors and holders of LT2 and UT2 capital instruments (for HT1);

(3) This UnSD does not have a priority claim, in respect of principal and coupon

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payments in the event of winding-up of the Issuing Bank, which is higher than or equal with that of depositors and other creditors (for LT2); depositors, other creditors and holders of LT2 capital instruments (for UT2); and depositors, other creditors, holders of LT2 and UT2 capital instruments (for HT1);

(4) This UnSD is ineligible as collateral for a loan granted by the Issuing Bank, its subsidiaries or affiliates;

(5) This UnSD cannot be terminated by the holder nor by the Issuing Bank (for HT1). This UnSD cannot be terminated by the holder nor by the Issuing Bank before (maturity date) (for UT2 and LT2).

However, negotiations/transfers from one (1) holder to another do not constitute pre-termination.

(Item “g(5)” above shall apply if the Issuing Bank commits no pre-termination of the UnSD. Otherwise, it shall read as follows):

This UnSD cannot be terminated by the holder (for HT1). This UnSD cannot be terminated by the holder before (maturity date) (for UT2 and LT2).

However, it may be pre-terminated at the instance of the Issuing Bank upon:

(a) Prior approval of the BSP subject to the following conditions:

(i) The repayment is in connection with call option after a minimum of five (5) years from issue date, or even within the first five (5) years from issue date when:

(aa) The UnSD was issued for the purpose of a merger with or acquisition by the Issuing Bank and the merger or acquisition is aborted;

(bb) There is a change in tax status of the UnSD due to changes in the tax laws and/or regulations; or

(cc) The UnSD does not qualify as HT1, UT2 or LT2 capital, as the case may be, as determined by the BSP; and

(ii) The debt is simultaneously replaced with the issues of new capital

which is neither smaller in size nor of lower quality than the original issue, unless the Issuing Bank’s capital adequacy ratio remains more than adequate after redemption; and

(b) Prior notice to holders on record.

Negotiations/transfers from one (1) holder to another do not constitute pre-termination.

In case there is a feature allowing one-time step-up in the coupon rate in conjunction with a call option, the step-up shall be after a minimum of ten (10) years for HT1 and UT2 and five (5) years for LT2 after the issue date, and shall not result in an increase over the initial rate that is more than:

(i) 100 basis points less the swap spread between the initial index basis and the stepped-up index basis; or

(ii) Fifty percent (50%) of the initial credit spread less the swap spread between the initial index basis and the stepped-up index basis.

The swap spread shall be fixed at the pricing date and reflect the differential in pricing on that date between the initial reference security or rate and the stepped-up reference security or rate;

(6) The holders/owners of this UnSD cannot set off any amount they owe to the Issuing Bank against this UnSD.

(7) All negotiations/transfers of this UnSD prior to maturity must be coursed through a Market Maker until the operation of a fixed income exchange.

(8) The payment of principal may be accelerated on this UnSD only in the event of insolvency of the Issuing Bank.

(9) The coupon rate, or the formulation for calculating coupon payments shall be fixed at the time of the issuance of the UnSD and may not be linked to the credit standing of the Issuing Bank;

(10) The payment of principal and coupon due on this UnSD shall not be made to the extent that such payment will cause

the Issuing Bank to become insolvent (for HT1 and UT2);

(11) The holders of the UnSD shall be treated as if they were holders of a specified class of share capital in any proceedings commenced for the winding-up of the Issuing Bank (for HT1 and UT2);

(Item “g(11)” above shall apply if such is the manner by which the UnSD is to be treated in loss situation. Otherwise, it shall read as follows):

This UnSD shall be automatically converted into common shares or perpetual and non-cumulative preferred shares (for HT1) or into common shares or perpetual and non-cumulative preferred shares or perpetual and cumulative preferred shares (for UT2) upon occurrence of certain trigger events as follows:

- (a) Breach of minimum capital ratio;
- (b) Commencement of proceedings for winding-up of the Issuing Bank; or
- (c) Upon appointment of receiver for the Issuing Bank.

The rate of conversion shall be fixed at the time of the subscription of this UnSD.

(12) The amount and timing of coupons on this UnSD shall be discretionary on the Issuing Bank where the Issuing Bank has not paid or declared a dividend on its common shares in the preceding financial year, or determines that no dividend is to be paid on such shares in the current financial year; and the Issuing Bank shall have full control and access to waived payments (for HT1). The coupon payment on this UnSD shall be deferred where the Issuing Bank has not paid or declared a dividend on its common shares in the preceding financial year, or determines that no dividend is to be paid on such shares in the current financial year (for UT2);

(13) The coupon on this UnSD shall be non-cumulative. In case there is a feature allowing withheld cash coupon to be payable in scrip or shares of stock, the

shares of stock to be issued shall not be of lower quality capital than the UnSD (for HT1); and

(14) The coupon to be paid on this UnSD shall be paid only to the extent that the Issuing Bank has profit distributable determined in accordance with existing BSP regulations (for HT1).

N.B.: The last five (5) items (i.e., 10, 11, 12, 13 and 14) are applicable only to UnSD qualifying under HT1 and UT2 capital, as the case may be. The foregoing information shall also be shown in the Prospectus/Information Disclosure.

h. *Pre-termination by the Issuer*

(1) The Issuing Bank may pre-terminate the UnSD subject to the following conditions:

(a) The Information Disclosure, Purchase Advice and Registry Confirmation shall include the information that the Issuing Bank has the option to pre-terminate the UnSD;

(b) Compliance with Items “a(2)(a)vii”, “b(1)(h)v” or “b(2)(c)iv” as may be applicable, of Appendix 63a;

(c) Prior notification of thirty (30) banking days or more to holders of record; and

(d) Notwithstanding any agreement to the contrary, the Issuer shall shoulder the tax due, if any, on the interest income already earned by the holders.

(2) Within ten (10) banking days after the completion of the pre-termination transaction, the Issuing Bank must submit a written notice to the appropriate department of the SES of the following:

- (a) Actual pre-termination date; and
- (b) New capital composition.

i. *Primary offering/secondary trading*

(1) The primary offering of a UnSD shall be executed through an Underwriter under a firm commitment or through an Arranger on a best effort basis. Initial sale/distribution of UnSD shall be made by a Selling Agent, the Underwriter/Arranger or, to a limited extent, the Issuing Bank

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itself. Subsequent negotiations in secondary trading must be executed through authorized Market Maker(s) until the operation of a fixed income exchange.

The primary offering as well as the secondary trading of a UnSD must be supported by Purchase Advice to be issued by the Selling Agent or the Market Maker, as the case may be, with the original given to the buyer and a second copy to the UnSD Registry. Upon presentation by the buyer of the original copy of Purchase Advice, the UnSD Registry shall:

(a) record the primary issuance in the Registry Book and issue a Registry Confirmation and the corresponding UnSD certificate to the buyer if it is not scripless in form; and

(b) register the transfer of ownership in the UnSD Registry Book and issue a Registry Confirmation to the buyer, in the case of secondary trading.

(As amended by Memorandum to All Banks dated 23 March 2006)

§ X119.5 Private or negotiated issuance of unsecured subordinated debt

a. *Private or negotiated issuance of UnSD* is the issuance of UnSD to qualified investors/buyers, whether individuals or institutions as defined under Subsec. X119.7. There is no limit on the number of qualified investors/buyers and on the sale or negotiation of the UnSD: *Provided*, That such sale or negotiation shall only be made to another qualified investor/buyer.

b. *Application for authority of the Issuing Bank*

(1) The application shall be signed by the president or officer of equivalent rank of the Issuing Bank.

(2) The application for authority on each negotiated UnSD issue shall be filed with the appropriate department of the SES.

(3) The application shall be accompanied by:

(a) A certified true copy of the resolution of the Issuing Bank's board of

directors authorizing the private/negotiated issuance of UnSD indicating, among others, the amount, duration/maturity, interest rate, purpose or intended use of proceeds of the UnSD;

(b) A Certification by the corporate secretary that the issuance of the UnSD has been approved by the stockholders owning or representing at least two-thirds (2/3) of the outstanding capital stock of the Issuing Bank if the UnSD has convertibility feature;

(c) A written confirmation from the president or officer of equivalent rank of the Issuing Bank stating that all the conditions for UnSD under Item "a(2)(a)" excluding Item "(xiii)" on underwriting provision or Item "b(1)(h)" excluding Item "(xi)" on underwriting provision or Item "b(2)(c)" excluding Item "(ix)" on underwriting provision of *Appendix 6.3a* are complied with and that such conditions shall be contained in the UnSD Certificates, Prospectus/Information Disclosure and Debt Agreement/Contract.

(d) An undertaking from the president or officer of equivalent rank of the Issuing Bank that the UnSD shall be issued only to qualified investors/buyers;

(e) A certification from the president or officer of equivalent rank of the Issuing Bank that the investor/buyer shall not be among those prohibited to hold UnSD under Subsec. X119.8 and that the Issuing Bank has applied appropriate standards to combat money laundering as required under existing BSP regulations;

(f) A written undertaking from the president or officer of equivalent rank of the Issuing Bank not to support, directly nor indirectly, by extending loans, issuing payment guarantees or otherwise, the buyer/holder of the UnSD of the Issuing Bank; and

(g) Specimen of the proposed Debt Agreement/Contract containing the terms and conditions of the UnSD issuance.

(h) A written external legal opinion that all the conditions for UnSD under Item “a(2)(a)”, Item “b(1)(h)” or Item “b(2)(c)”, of Appendix 63a including the subordination (for HT1, UT2 and LT2) and loss absorption (for HT1 and UT2) features, have been met.

c. *Additional Requirements for the Private Issuance of UnSD.* Within ten (10) banking days after issuance of the UnSD, the Issuing Bank shall submit the following additional requirements to the appropriate department of the SES:

(1) A written notice of the actual date of full receipt of proceeds, accompanied by a certification from the president or officer of equivalent rank of the Issuing Bank stating that the pre-qualification requirements under Subsec. X119.3 have been complied with up to the time of full receipt of proceeds;

(2) A copy of each of the duly signed Debt Agreements/Contracts between the Issuing Bank and the investor/buyer as specified in the application for authority to issue negotiated UnSD; and

(3) A copy of the income tax return of the investor/buyer in case of a natural person.

d. *Debt agreement/contract*

The Debt Agreement/Contract shall contain all the terms and conditions on the issuance of UnSD and shall conspicuously state the following caveat:

(1) This UnSD is not a deposit and is not insured by the PDIC.

(2) This UnSD is neither secured nor covered by a guarantee of the Issuer or related party of the Issuer or other arrangement that legally or economically enhances the priority of the claim of any holder of the UnSD as against depositors and other creditors (for LT2); depositors, other creditors and holders of LT2 capital instruments (for UT2); and depositors, other creditors and holders of LT2 and UT2 capital instruments (for HT1).

(3) This UnSD does not have a priority claim, in respect of principal and coupon payments in the event of winding-up of the Issuing Bank, which is higher than or equal with that of depositors and other creditors (for LT2); depositors, other creditors and holders of LT2 capital instruments (for UT2); and depositors, other creditors, holders of LT2 and UT2 capital instruments (for HT1);

(4) This UnSD is ineligible as collateral for a loan made by the Issuing Bank, its subsidiaries or affiliates.

(5) This UnSD cannot be terminated by the holder nor by the Issuing Bank (for HT1). This UnSD cannot be terminated by the holder nor by the Issuing Bank before (maturity date) (for UT2 and LT2).

Item “d(5)” above shall apply if the Issuing Bank commits no pre-termination of the UnSD. Otherwise, it shall read as follows:

This UnSD cannot be terminated by the holder (for HT1). This UnSD cannot be terminated by the holder before (maturity date) (for UT2 and LT2).

However, it may be pre-terminated at the instance of the Issuing Bank upon:

(a) Prior approval of the BSP subject to the following conditions:

(i) The repayment is in connection with call option after a minimum of five (5) years from issue date, or even within the first five (5) years from issue date when:

(aa) The UnSD was issued for the purpose of a merger with or acquisition by the Issuing Bank and the merger or acquisition is aborted;

(bb) There is a change in tax status of the UnSD due to changes in the tax laws and/or regulations; or

(cc) The UnSD does not qualify as HT1, UT2 or LT2 capital, as the case may be, as determined by the BSP; and

(ii) The debt is simultaneously replaced with the issues of new capital which is neither smaller in size nor of

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lower quality than the original issue, unless the Issuing Bank's capital adequacy ratio remains more than adequate after redemption; and

(b) Prior notice to investors/buyers.

In case there is a feature allowing one-time step-up in the coupon rate in conjunction with a call option, the step-up shall be after a minimum of ten (10) years (for HT1 and UT2) and five (5) years (for LT2) after the issue date, and shall not result in an increase over the initial rate that is more than:

(i) 100 basis points less the swap spread between the initial index basis and the stepped-up index basis; or

(ii) Fifty percent (50%) of the initial credit spread less the swap spread between the initial index basis and the stepped-up index basis.

The swap spread shall be fixed at the pricing date and reflect the differential in pricing on that date between the initial reference security or rate and the stepped-up reference security or rate;

(6) This UnSD may only be sold, transferred or negotiated to another qualified investor/buyer;

(7) The holders/owners of this UnSD cannot set off any amount they owe to the Issuing Bank against this UnSD.

(8) The payment of principal may be accelerated on this UnSD only in the event of insolvency of the Issuing Bank.

(9) The coupon rate, or the formulation for calculating coupon payments shall be fixed at the time of the issuance of the UnSD and may not be linked to the credit standing of the Issuing Bank;

(10) The payment of principal and coupon due on this UnSD shall not be made to the extent that such payment will cause the Issuing Bank to become insolvent (for HT1 and UT2);

(11) The holders of the UnSD shall be treated as if they were holders of a specified class of share capital in any

proceedings commenced for the winding-up of the Issuing Bank (for HT1 and UT2);

(Item "d(11)" above shall apply if such is the manner by which the UnSD is to be treated in loss situation. Otherwise it shall read as follows):

This UnSD shall be automatically converted into common shares or perpetual and non-cumulative preferred shares (for HT1), or into common shares or perpetual and non-cumulative preferred shares or perpetual and cumulative preferred shares (for UT2) upon occurrence of certain trigger events as follows:

(a) Breach of minimum capital ratio;

(b) Commencement of proceedings for winding up of the Issuing Bank; or

(c) Upon appointment of receiver for the Issuing Bank.

The rate of conversion shall be fixed at the time of the subscription of this UnSD.

(12) The amount and timing of coupons on this UnSD shall be discretionary on the Issuing Bank where the Issuing Bank has not paid or declared a dividend on its common shares in the preceding financial year, or determines that no dividend is to be paid on such shares in the current financial year; and the Issuing Bank shall have full control and access to waived payments (for HT1). The coupon payment on this UnSD shall be deferred where the Issuing Bank has not paid or declared a dividend on its common shares in the preceding financial year, or determines that no dividend is to be paid on such shares in the current financial year (for UT2);

(13) The coupon on this UnSD shall be non-cumulative. In case there is a feature allowing withheld cash coupon to be payable in scrip or shares of stock, the shares of stock to be issued shall not be of lower quality capital than the UnSD (for HT1); and

(14) The coupon to be paid on this UnSD shall be paid only to the extent that

the Issuing Bank has profit distributable determined in accordance with existing BSP regulations (for HT1).

N.B.: The last five (5) items (i.e., 10, 11, 12, 13 and 14) are applicable only to UnSD qualifying under HT1 and UT2 capital, as the case may be.

e. *Pre-termination by the Issuer*

(1) The Issuing Bank may pre-terminate the negotiated UnSD subject to the following conditions:

(a) The Debt Agreement/Contract shall include the information that the Issuing Bank has the option to pre-terminate the UnSD;

(b) Compliance with Item “a(2)(a)vii”, Item “b(1)(h)v” or Item “b(2)(c)iv”, as may be applicable, of Appendix 63a;

(c) Prior notification of thirty (30) banking days or more to lender/investor; and

(d) Notwithstanding any agreement to the contrary, the Issuer shall shoulder the tax due, if any, on the interest income already earned by the holders.

(2) Within ten (10) banking days after the completion of the pre-termination transaction, the Issuing Bank must submit a written notice to the appropriate department of the SES of the following:

(a) Actual pre-termination date; and

(b) New capital composition.

f. *Functions/Responsibilities of the Issuing Bank*

(1) Prepares the Prospectus/Information Disclosure on the UnSD issues;

(2) Disseminates to prospective investors/buyers information on the terms and conditions of the UnSD (including information on no pre-termination at the initiative of the holder, and where applicable, the liquidity mechanism in secondary trading) and the rights and obligations of the holder and the issuer;

(3) Keeps unissued UnSD certificates and maintains UnSD Register;

(4) Records initial issuance of UnSD and subsequent transfer of ownership;

(5) Issues UnSD Certificates and Registry Confirmation to original investors/buyers;

(6) Issues Registry Confirmation to subsequent buyers/holders where applicable;

(7) Ensures compliance with Subsec. X119.8 and applies appropriate standards to combat money laundering as required under existing BSP regulations; and

(8) Determines suitability of the investors/buyers (original or subsequent) and assures that he fully understands the risk involved in a UnSD.

(As amended by Memorandum to All Banks dated 23 March 2006)

§ X119.6 Issuance abroad of unsecured subordinated debt. The overseas issuance of UnSD shall also be subject to the provisions of Sec. X119 except for the following:

a. Overseas issuance of UnSD may be allowed to be governed by the laws and applicable rules and regulations of the country where the UnSD is to be issued with respect to form, qualified investors/buyers and subsequent sale or negotiation;

b. The requirements under Subsecs. X119.1 c(1), X119.4 g(1), and X119.5 d(1) and d(6) may be allowed to be dispensed with in cases of overseas issuance of UnSD; and

c. The subsequent sale/negotiation in the Philippines of the UnSDs originally issued overseas shall not be allowed unless all the requirements for domestic issuance are complied with.

It is however understood that the applicant/issuer shall also secure the approval of the International Department (ID) of the BSP for the overseas issuance of foreign currency denominated UnSD.

(As amended by Memorandum to All Banks dated 23 March 2006)

§ X119.7 Qualified investors/buyers Qualified buyers of, or suitable investors in, a UnSD can be any of the following:

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- a. Banks;
- b. Investment house (IH);
- c. Insurance company;
- d. Pension or retirement fund of other entities which have no subsidiary/affiliate or any other relationship with the Issuing Bank;
- e. Investment company;
- f. Funds managed by another bank or other entities duly authorized to engage in trust or other fiduciary business;
- g. Domestic corporate or institutional investors with total assets of at least ₱100.0 million;
- h. Foreign multilateral organizations such as, the ADB and IFC;
- i. High net-worth individual investor/buyer who is sophisticated enough to understand and appreciate the significance of and the risk involved in UnSD as may be indicated by his/her educational background and/or employment/business experience; and
- j. Stockholder, director or officer with the rank of at least a vice-president of the Issuing Bank.

§ X119.8 Prohibitions on holdings of unsecured subordinated debt. The following persons and entities are prohibited from purchasing/holding UnSD of the Issuing Bank:

- a. Subsidiaries and affiliates of the Issuing Bank including their subsidiaries and affiliates; and
- b. Common trust funds (CTFs) managed by the Trust Department of the Issuing Bank, its subsidiaries and affiliates or other related entities: *Provided*, That other funds being managed by the Trust Department of the Issuing Bank, its subsidiaries and affiliates or other related entities are allowed to purchase or invest in UnSD of the Issuing Bank subject to the following conditions:
 - (1) That the fund owners give prior authority/instruction to the Trust

Department to purchase or invest in the UnSD of the Issuing Bank; and

(2) That the authority/instruction of the fund owner and his understanding of the risk involved in purchasing or investing in UnSD are fully documented.

For purposes of this Section, an *affiliate* refers to a related entity linked by means of ownership of at least twenty percent (20%) to not more than fifty percent (50%) of its outstanding voting stock.

§ X119.9 Accounting treatment Obligations arising from the issuance of UnSD (including the portion exceeding the allowable ceiling for purposes of determining the qualifying capital as provided in *Appendix 63a*) shall be booked under the following General Ledger account titles:

- a. “Other Equity Instruments - Others” for HT1 capital which shall be presented in the equity accounts section of the Balance Sheet which shall be accounted for in accordance with the provisions of PAS 32; and
- b. “Unsecured Subordinated Debt” for UT2 and LT2 capital, which shall be presented in the liability accounts section of the balance sheet.

However, only the proceeds actually received from the UnSD issues, (i.e., net of discounts, if any, and transaction costs) shall be considered as HT1, UT2 or LT2 capital.

The proceeds actually received from the UnSD issues, (i.e., net of discounts, if any, and transaction costs) eligible as UT2 or LT2 capital shall be considered in the computation of loanable funds for purposes of determining compliance with the mandatory allocation of funds for agri-agra credit required under P.D. No. 717, as amended.

A UnSD eligible as HT1, UT2 or LT2 capital shall be accounted for in accordance with PAS 32 and PAS 39.

A UnSD denominated in foreign currency eligible as HT1, UT2 or LT2 may be recorded in the regular banking unit (RBU) or foreign currency deposit unit (FCDU/EFCDU) of the issuing bank: *Provided*, That if booked in the FCDU/EFCDU, the following conditions shall be strictly observed:

- a. The issuing bank shall indicate in its application that the UnSD shall be booked in its FCDU/EFCDU;
- b. The UnSD shall remain in the FCDU/EFCDU books until full settlement; and
- c. The UnSD shall be issued only to non-residents and offshore banking units (OBUs) in accordance with Section 72.2.e of CB Circular No. 1389, as amended.

(As amended by Memorandum to All Banks dated 23 March 2006)

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§ X119.13 **Sanctions.** Without prejudice to the other sanctions prescribed under Section 37 of R.A. No. 7653 and the provisions of Section 16 of R.A. No. 8791, sanctions shall be imposed on the Issuing Bank, UnSD Registry and other parties involved in the transaction for failure to perform their respective functions/responsibilities and for non-disclosure or misrepresentation of information, as follows:

- a. *On the issuing bank*
 - (1) Suspension of its authority to issue remaining tranches, if any;
 - (2) Disqualification from future issuance of UnSD;
 - (3) Disqualification of all outstanding issues as eligible Tier 2 capital; and
 - (4) Monetary penalty of P30,000 for each violation.
- b. *On the underwriter/arranger*
 - (1) Disqualification from being underwriter/arranger for three (3) years; and
 - (2) Monetary penalty of P30,000 for each violation.

- c. *On the UnSD registry*
 - (1) Disqualification from being appointed as UnSD Registry for three (3) years; and
 - (2) Monetary penalty of P30,000 for each violation.
- d. *On the selling agent/market maker*
 - (1) Disqualification from being appointed as selling agent or market maker for three (3) years; and
 - (2) Monetary penalty of P30,000 for each violation.
- e. *On the public trustee*
 - (1) Disqualification from being appointed as public trustee for three (3) years; and
 - (2) Monetary penalty of P30,000 for each violation.
- f. *On the certifying officer* - A fine of P5,000 per day from the time of required disclosure up to the time disclosure was made, or from the time misrepresentation was made up to the time the information was corrected, and a possible disqualification if warranted by the gravity of the offense committed.
- g. *On the responsible officer* - A fine of P30,000 for participating in or tolerating the non-disclosure or misrepresentation of information, and a possible disqualification if warranted by the gravity of the offense committed.

(As amended by Circular No. 585 dated 15 October 2007)

Sec. X120 Interim Tier 1 Capital for Banks Under Rehabilitation. The following are the guidelines on the issuance of capital notes that will qualify as interim Tier 1 capital for banks under rehabilitation:

- a. Banks under rehabilitation shall be allowed, upon prior BSP approval, to issue capital notes that shall qualify as interim Tier 1 capital: *Provided*, That the PDIC shall be the holder of the said capital notes: *Provided, further*, That any transfer from PDIC of said capital notes shall require prior BSP approval.

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b. The interim Tier 1 capital notes shall have the following minimum features:

(1) It must be perpetual, unsecured and subordinated;

(2) It must be issued and fully paid-up. Only the net proceeds received from the issuance shall be included as Tier 1 capital. The proceeds of the issuance must be immediately available without limitation to the bank;

(3) It must neither be secured nor covered by a guarantee of the issuer or related party or other arrangement that legally or economically enhances the priority of the claim of the PDIC as against depositors, other creditors of the bank and holders of LT2 and UT2 capital instruments;

(4) The PDIC, as holder of the interim capital notes must not have a priority claim, in respect of its principal and coupon payments of the interim Tier 1 capital notes in the event of winding up of the bank, which is higher than or equal with that of depositors, other creditors of the bank and holders of LT2 (e.g. limited life redeemable preferred stock) and UT2 (e.g. perpetual and cumulative preferred stock) capital instruments. The PDIC must waive its right to set-off any amount it owes the bank against any subordinated amount owed to it due to the interim Tier 1 capital notes;

(5) It must not be repayable without the prior approval of the BSP: *Provided*, That repayment may be allowed only in connection with a call option after a minimum of five (5) years from issue date: *Provided, however*, That a call option may be exercised within the first five (5) years from issue date upon entry of new investors: *Provided, further*, That such repayment prior to maturity shall be approved by the BSP only if it is simultaneously replaced with issues of new capital which is neither smaller in size nor of lower quality than the original issue, unless the bank's capital ratio remains more than adequate after redemption.

It must not contain any clause, which requires acceleration of payment of principal, except in the event of insolvency. The agreement governing its issuance must not contain any provision that mandates or creates an incentive for the bank to repay the outstanding principal of the interim Tier 1 capital notes, e.g., a cross-default or negative pledge or a restrictive covenant, other than a call option, which may be exercised by the bank;

(6) The PDIC, as holder of the interim Tier 1 capital notes, shall have the right to convert, upon prior notice to the BSP, the interim Tier 1 capital notes into perpetual and non-cumulative preferred shares convertible into common shares which may be sold to new investors: *Provided*, That the rate of conversion shall be fixed at the time of subscription of the interim Tier 1 capital notes;

(7) The coupons must be non-cumulative;

(8) The bank must have full discretion over the amount and timing of coupon payments and it must have full control and access to waived payments;

(9) Any coupon to be paid must be paid only to the extent that the bank has profits distributable determined in accordance with existing BSP regulations. The coupon rate, or the formulation for calculating coupon payments must be fixed at the time of issuance of the interim Tier 1 capital notes and must not be linked to the credit standing of the bank;

(10) It must not have step-up provisions in the coupon rate in conjunction with the call option;

(11) All other transactions involving the capital notes shall require prior BSP approval.

c. The bank must submit a written opinion from its external auditor that the features of the interim Tier 1 capital notes

shall be accounted for as equity instruments in accordance with PAS 32.
(Circular No. 595 dated 11 January 2008)

Secs. X121- X125 (Reserved)

G. STOCK, STOCKHOLDERS
AND DIVIDENDS

Sec. X126 Shares of Stock of Banks. The following shall govern transactions affecting shares of stock of banks and the limits on stockholdings in a single bank or in several banks.

§ X126.1 Limits of stockholdings in a single bank. The stockholdings of an individual, family, corporate or business group in any bank shall be subject to the limits prescribed in Sections 11, 12, 13 and 14 of R.A. No. 8791.

a. Foreign individuals and non-bank corporations may own or control up to forty percent (40%) of the voting stock of a domestic bank: *Provided*, That the aggregate foreign-owned voting stock owned by foreign individuals and non-bank corporations in a domestic bank shall not exceed forty percent (40%) of the outstanding voting stock of the bank. The percentage of foreign-owned voting stock in a bank shall be determined by the citizenship of the individual stockholders in that bank.

b. A Filipino individual and a domestic non-bank corporation may each own up to forty percent (40%) of the voting stock of a domestic bank. There shall be no ceiling on the aggregate ownership by such individuals and corporations in a domestic bank.

c. A natural person and a corporation or corporations which are wholly-owned, or a majority of the voting stock of which is owned, by him may own only up to a combined forty-percent (40%) of the voting stock of a domestic bank.

d. The right of Philippine corporations, however, under Section 8 of R.A. No, 7721, as implemented under Subsec. X105.12 shall continue to be in force and effect.

e. Stockholdings of family groups or related interests. Individuals related to each other within the fourth degree of consanguinity or affinity, whether legitimate, illegitimate or common-law, shall be considered family groups or related interests but may each own up to forty percent (40%) of the voting stock of a domestic bank: *Provided*, That said relationship must be fully disclosed in all transactions by such corporations or related groups or persons with the bank.

f. Two (2) or more corporations owned or controlled by the same family group of same group of persons shall be considered related interests but may each own up to forty percent (40%) of the voting stock of a domestic bank: *Provided*, That said relationship must be fully disclosed in all transactions by such corporations or related groups of persons with the bank.

g. Ceiling on stockholdings in a Coop Bank. The equity investment of any cooperative in any Coop Bank shall not exceed forty percent (40%) of the subscribed capital stock of such Coop Bank.

h. Stockholdings in excess of ceilings. Unless otherwise allowed under existing laws, rules or regulations, any or all, as the case may be, of the above-mentioned stockholders owning more than forty percent (40%) of the voting stock of a KB or a UB shall comply with said ceiling within thirty (30) days from 13 May 2002.

i. Determination of foreign-owned voting stock and citizenship of corporate stockholders in a bank as well as the relationship of stockholders of a bank.

(1) The percentage of foreign-owned voting stocks in a bank shall be determined by the citizenship of all the stockholders in that bank.

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- (2) The citizenship of the corporation, which is a stockholder of a bank shall follow the citizenship of the controlling stockholders of the corporation, irrespective of the place of incorporation. For purposes hereof, the term “controlling stockholders” shall refer to stockholders holding more than fifty percent (50%) of the voting stock of the corporate stockholders of the bank.
- (3) The relationship of individuals who are stockholders of a bank shall be determined in accordance with the provisions of Articles 963 to 966 of the Civil Code of the Philippines.

§ X126.2 *Transfer of shares.* The following regulations shall govern transfer of voting shares of stocks in banks:

- a. *Unlawful and void transactions involving voting stocks in banks.* The following transactions, to the extent of the excess over any of the prescribed ceilings are hereby declared unlawful.

(1) The sale or transfer of voting stock of a UB, a KB or an RB¹ to any individual, if such sale or transfer, in itself, or in relation with another previous sale or transfer shall result in the ownership by an individual in excess of forty percent (40%) of the voting stock of the bank.

(2) The sale or transfer of voting stock of banks to any individual or entity, if such sale or transfer, in itself, or in relation with another previous sale or transfer shall result in the ownership by foreign persons and/ or foreign non-bank corporations in excess of forty percent (40%) of the voting stock in a UB or a KB and sixty percent (60%) in case of a TB.

(3) The sale or transfer of voting stocks of UB or KB to any corporation, if such sale or transfer, in itself, or in relation with another previous sale or transfer shall result in the ownership by such corporation in excess of forty percent (40%) of the voting stock of the bank, unless allowed under R.A. No. 7721 and R.A. No. 8791.

- (4) The sale or transfer of voting shares of stocks of UBs or KBs or RBs¹ to (a) any natural person; and (b) any corporation or corporations which are wholly-owned or a majority of the voting stock of which is owned by such natural person if such sale of transfer in itself, or in relation with another previous sale or transfer, shall result in the combined ownership by such natural person and such corporations in excess of forty percent (40%) of the voting stock of the bank, unless allowed under R.A. No. 7721 and R.A. No. 8791.
- (5) Any arrangement, such as voting trust agreement or proxy, which vests in any person or corporation the right to vote or control voting stocks in banks, if such agreement in itself, or in relation with another previous similar agreement or previous sale or transfer shall result in the acquisition of control, in excess of the prescribed limitations.

b. *Duties of a corporate secretary.* In all transactions, which may lawfully come to the knowledge of the corporate secretary involving transfer of voting shares of stock or registration of voting trust agreements, or any form of agreement vesting the right to vote the voting shares of stock of the bank, the corporate secretary shall:

(1) ascertain the identity and citizenship of the transferee, voting trustee, proxy or person vested with the right to vote, and for this purpose, he should require the transferee, voting trustee, proxy or the person vested with the right to vote to submit proof of citizenship, which may consist, in case of a corporation, of a certified true copy of the articles of incorporation, accompanied by the affidavit of the corporate secretary of the corporation, certifying to the correctness and accuracy of the list of stockholders and the percentage of shares owned by them;
 (2) require the transferee, voting trustee, proxy or person vested with the right to vote, at the time of the receipt of

¹ Effective 03 April 2002

the request for transfer or registration, or at any time thereafter, to disclose all information with respect to persons related to the transferee, voting trustee, proxy or person vested with the right to vote, within the fourth degree of consanguinity or affinity, whether legitimate, illegitimate or common-law, as well as corporations, partnerships or associations where the transferee, voting trustee, proxy or person vested with the right to vote has controlling interest, and the extent thereof;

(3) require the transferee to execute an affidavit (sample format shown in Appendix 4) stating, among other things, that the transferee is a *bona fide* owner of shares of stock and that he acknowledges full awareness of the requirements of the law and the prohibitions against exceeding ownership of voting stocks beyond the prescribed limitations.

If the request for transfer or the arrangement sought to be registered will patently cause the voting stocks of a person or a corporation, to exceed the limits prescribed by law, the corporate secretary shall deny the transfer or registration and forthwith inform the parties to the transaction in writing. Simultaneous with the notice to the parties, the corporate secretary shall submit a written report to the Governor of the BSP of the attempted illegal transfer or arrangements, together with the names, addresses of parties and other pertinent data with respect to the particular stock transaction.

In the event the corporate secretary has reason to doubt the legality of the transfer or of the arrangement sought to be registered, he may commence an action before the appropriate body;

(4) promptly inform stockholders who have reached any of the ceilings imposed by law, of their ineligibility to own or control more than the applicable ceiling; and

(5) disclose the ultimate beneficial owners of bank shares held in the name of

Philippine Central Depository (PCD) Nominee Corporation in the quarterly report on Consolidated List of Stockholders and Their Stockholdings which report shall be made under oath by the authorized bank officers/signatories. Any violation of the provision of this Subsection shall be subject to a penalty of ₱30,000 per day until the correct report is submitted to the BSP.

c. *Transfers requiring prior Monetary Board approval*

(1) Prior approval of the Monetary Board shall be required on the following:

(a) Any sale or transfer or series of sales or transfers which will result in ownership or control of more than twenty percent (20%) of the voting stock of a bank by any person whether natural or juridical or which will enable such person to elect, or be elected as, a director of such bank; and

(b) Any sale or transfer or series of sales or transfers which will effect a change in the majority ownership or control of the voting stock of the bank from one (1) group of persons to another group: *Provided*, That in no case shall such sale or transfer be approved unless the bank concerned shall immediately comply with the prescribed minimum capital requirement for new banks, notwithstanding any approved capital build-up program.

(2) For purposes of these regulations, the sale or transfer of voting stock shall refer to sales or transfers of voting stock which are allowed under existing laws or BSP rules and regulations and which have not been registered/recorded in the transfer book/stock ledger or other records of banks.

(3) *Sanctions.* Any violation of the provisions under Items “c(1)(a)” and “(b)” above shall be subject to the sanctions prescribed under Sections 36 and 37 of R.A. No. 7653, without prejudice to the appropriate legal actions for the rescission and invalidation of the sale or transfer.

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d. *Requirement for newly established banks.* Entities which may hereinafter apply for a license to engage in banking business shall, before being allowed to operate, submit -

(1) An alphabetical list of stockholders with the number and percentage of voting stock owned by them; and

(2) A separate list containing the names of persons who own voting stocks in banks and who are related to each other within the fourth degree of consanguinity or affinity, whether legitimate, illegitimate or common-law, with proper indication of the combined percentage of voting stocks held by them in the particular bank, as well as corporations which are wholly-owned or a majority of the stock of which is owned by any of such persons, including their subsidiaries.

§ X126.3 Other foreign equity investment in domestic banks. Except as otherwise covered under Sec. X105 and Subsec. X126.1, the following guidelines shall be observed on equity investments of foreigners in domestic banks:

a. The prior authority of the Monetary Board shall be obtained by foreign banks, including their subsidiaries and their holding companies having majority holdings in such foreign banks, whenever acquiring more than forty percent (40%) of the voting stock of a domestic bank, including foreign-owned shares outstanding and foreign-held as of 27 April 1973 and which continued to be held by the foreign stockholder up to the date of the acquisition by the foreign banks.

b. *(Deleted by Cir. No. 256 dated 15 August 2000)*

c. The prior authority of the Monetary Board is not required if the foreign investor is (1) an individual, (2) a non-financial entity, or (3) a non-bank financial entity which is not owned or controlled by a bank, its subsidiary or holding company,

and the investor is acquiring foreign-owned shares in existing domestic banks: *Provided*, That said shares were outstanding and foreign-held as of 27 April 1973 and which continued to be foreign-held up to the date of acquisition by the foreign investor.

d. The maximum stockholdings foreigners may own in domestic banks shall continue to be governed by existing provisions of law.

e. Only foreign-owned shares directly funded by inward remittance of foreign exchange sold to the local banking system are qualified for registration with the BSP through its appropriate department for capital repatriation and remittance of profits/dividends privileges, in accordance with existing BSP rules and regulations.

§ X126.4 Convertibility of preferred stock to common stock. Out of the convertible preferred shares of stock which KBs/TBs may henceforth be authorized to issue, at least fifty percent (50%) of each such issue, shall be convertible into common stock at the option of the holders thereof after five (5) years from date of issue: *Provided, however*, That :

a. The bank concerned may allow the conversion of such preferred stock into common stock even before the lapse of five (5) years from date of issue;

b. At the time of the sale of the preferred stock, both classes thereof (one with convertibility feature and the other without convertibility feature) shall be offered to the purchasers, with the purchasers having the option to acquire either or both classes of preferred stock; and

c. Preferred shares of stock with a cumulative feature issued by banks shall automatically be convertible into common shares of stock at the option of the holders thereof whenever the right as may be acquired by the holders by

virtue of such cumulative feature are not satisfied by the bank within a period of three (3) years from date of issue.

§ X126.5 Issuance of redeemable shares: conditions; certification and report; sanctions

a. *Conditions.* Banks may issue redeemable shares subject to the following conditions:

(1) The applicant bank prior to the approval of the amendment of articles of incorporation to issue redeemable preferred shares, has complied with the requirements under Items “B1” to “B6”, *Appendix 5*.

The articles of incorporation of an applicant bank shall incorporate the conditions in Items “a (3)(a)”, “a(3)(b)”, “a(3)(c)” and “a(3)(d)” of this Subsection.

(2) The applicant bank prior to the issuance of redeemable shares shall comply with, in addition to the conditions in Item “(1)” above, the requirements under Items “B7”, “B8”, and “B12” to “B16”, *Appendix 5*.

(3) The applicant bank after the issuance of redeemable shares shall comply with the following:

(a) Redemption of shares shall be allowed at the specific dates or periods fixed for redemption only upon prior approval of the BSP and, where the conditions of the issuance specifically state, only if the shares redeemed are replaced with at least an equivalent amount of newly paid-in shares so that the total paid-in capital stock is maintained at the same level immediately prior to redemption: *Provided*, That the redemption shall not be earlier than five (5) years after the date of issuance: *Provided, further*, That such redemption may not be made where the bank is insolvent or if such redemption will cause insolvency, impairment of capital or inability of the bank to meet its debts as they mature;

(b) A sinking fund for the redemption of preferred shares is to be created upon their issuance. This is to be effected by the transfer of free surplus to a restricted surplus account. The fund shall not be available for dividends. The guidelines for the establishment and administration/management of sinking fund for the redemption of redeemable private preferred shares are shown in *Appendix 47*.

(c) The issuing bank shall not treat in any way redeemable preferred shares as time deposit, deposit substitute or other form of borrowings;

(d) No dividend shall be declared or paid on redeemable shares in the absence of sufficient undivided profits, free surplus and approval of the BSP;

(e) The issuing bank shall execute within ten (10) days after the first issuance a Deed of Undertaking (see *Appendix 42*), to be signed by its directors and principal officers, binding them to comply with the requisites and conditions set forth in Items “(a)” to “(d)” above; and

(f) The conditions in Items “(3)(a)”, “(3)(b)”, “(3)(c)” and “(3)(d)” above shall be incorporated in the certificates of stock.

(g) Shares issued with the replacement requirement upon redemption shall be eligible as Upper Tier 2 capital for purposes of computing qualifying capital as provided in Subsec. X116.2. Shares issued without such condition shall be eligible as Lower Tier 2 capital.

b. *Certification and report.* The bank shall submit within fifteen (15) days after every issuance of at least twenty percent (20%) of the redeemable shares whether issued in series or at one (1) time, a certification signed by its President/Chairman under oath, stating that the requirements under Items “a(1)” and “a(2)” above, including all other conditions that the BSP may impose, have been complied with.

The applicant bank shall, not later than ten (10) days from the end of reference

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year, submit a yearly report of issuances of preferred shares to the appropriate department of the SES indicating therein the name/s of the subscriber/s, the date the shares were issued and the number/amount of shares issued.

c. *Sanctions.* Any violation of the foregoing provisions shall be subject to the following sanctions:

(1) *On the bank:*

(a) For failure to comply with Items “a(3)(a)” to “a(3)(d)” above:

- i. Suspension of branching privilege;
- ii. Prohibition against granting of new unsecured loans to DOSRI;
- iii. Prohibition against declaration of dividends;

iv. Denial of access to BSP rediscounting facilities;

v. Revocation of authority to accept government deposits and to handle government funds as a result of agency agreements with the BIR, SSS, etc.

(b) For failure to infuse capital in an amount at least equivalent to amount of redeemed shares as required in Item “a(3)(a)”:

- i. Sanctions in Item “(a)” above;
- ii. No new loans and investments, except in government securities;
- iii. ₱1,000 fine per day until the required infusion is made.

(c) If the certification submitted by the bank required in these guidelines is found to be false, suspension of authority to issue preferred shares for one (1) year.

(d) For failure to submit report of issuance of redeemable preferred shares, a fine of ₱1,200 for UBs/KBs; ₱600 for TBs; and ₱180 for RBs/Coop Banks per day of default until the report is submitted.

(2) *On the directors and officers:*

(a) For violation of any of the terms of the Deed of Undertaking, the following shall be imposed against the officers and directors of the bank who signed the deed:

i. First offense - A fine of ₱500 per day for each violation from the time the violation was committed or up to the time the violation is corrected;

ii. Second and subsequent offenses - A fine of ₱5,000 per day from the time the violation was committed up to the time the violation is corrected.

(b) If the certification submitted by the bank as required in these guidelines is found to be false, a fine of ₱5,000 per day from the time the certification was made up to the time the certification was found to be false, shall be imposed against the certifying officer.

(As amended by Circular No. 585 dated 15 October 2007)

§ X126.6 *Stock options/warrants.* A bank may grant options/warrants to subscribe at par to its capital stock: *Provided, That:*

a. Provisions authorizing such options/warrants shall be embodied in its articles of incorporation and in its by-laws; and

b. Such options/warrants may be granted for a maximum period of three (3) years from the date such options/warrants become effective.

§§ X126.7 - X126.9 (*Reserved*)

§ X126.10 *Dealings with stockholders and their related interests.* Dealings of a bank with any of its stockholders and their related interests shall be upon terms not less favorable to the bank than those offered to others. Towards this end, every natural person acquiring shares cumulatively amounting to at least two percent (2%) of the total subscribed capital of a domestic bank must disclose all relevant information on all persons related to him within the fourth degree of consanguinity or affinity, whether legitimate, illegitimate or common law as well as corporations, partnership or

associations where he has controlling interests. A corporation acquiring shares amounting to at least two percent (2%) of the total subscribed capital of a domestic bank must disclose its controlling stockholders or group of stockholders as well as the corporations, partnerships or association where such controlling stockholders or group of stockholders have controlling interest.

The foregoing information shall also be disclosed in cases of the following transactions: availment of credit facility from the bank; purchase or sale of asset from/to the bank; leasing property from or to the bank; providing janitorial, messengerial, security and other services to the bank; and such other transactions as may be required to be disclosed by the Monetary Board. Where the stockholdings of such individual/organization together with his/its related interests amount to at least two percent (2%) of the total subscribed capital stock of the bank, the foregoing transactions shall be subject to the procedural requirements and the reportorial requirements prescribed under Secs. X334 and X335, respectively.

Sec. X127 (Reserved)

Sec. 1127 Shares of Stock of Universal/Commercial Banks. The following guidelines shall also govern shares of stock in UBs and KBs.

§ 1127.1 Limits on stockholdings in several banks. Stockholders affiliated to each other through a common interest herein termed a *business group* or any corporation or association majority or all of the equity of which is owned by a business group may not control more than one (1) KB nor more than one (1) UB or both.

Any natural person or a family group, who, together, with any corporation

majority or all of the equity of which is owned by such person or family group, owns more than forty percent (40%) of the voting stock of any UB or KB may not acquire more than forty percent (40%) of the voting stock in any other UB or KB, even if the shares of stock are being acquired from a natural person in a single transaction and the stockholding is in excess of forty percent (40%) of the bank’s voting stock.

For purposes of determining applicability of the limitations provided in this Section, stockholders shall be deemed as affiliated to each other through *common business interest* or a *business group* in cases where the holdings of such stockholders altogether constitute a majority or control in one (1) or more enterprises.

§§ 1127.2 - 1127.5 (Reserved)

Sec. 2127 Shares of Stock of Thrift Banks
The following regulations shall also govern shares of stock in TBs.

§ 2127.1 Moratorium on ownership ceilings. Stockholdings in a TB shall be exempt from the ownership ceilings prescribed under Subsec. X126.1 until 16 March 2005.

§ 2127.2 Preferred shares. Private development banks may also issue ordinary preferred shares of stock to private persons, other than the preferred stock representing government counterpart capital contribution: *Provided*, That said preferred stock sold to private persons shall be governed by the pertinent BSP regulations for preferred stock issued to private investors.

Preferred shares of stock of private development banks held by DBP/LBP and sold thereafter to private persons may, at the option of the purchasers, be retained

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with the same rights as when such shares of stock were held by DBP/LBP, or converted at not less than par to common shares or to ordinary preferred shares of the class issued to private shareholders.

§§ 2127.3 - 2127.5 (Reserved)

Sec. 3127 Shares of Stock of Rural Banks and Cooperative Banks. The following rules shall govern stockholdings in RBs and Coop Banks.

§ 3127.1 Moratorium on ownership ceiling. Individual stockholdings in RBs in excess of the forty percent (40%) ceiling as of 02 April 2002 and as provided in Section 11 of R.A. No. 8791 may be retained: *Provided*, That such excess stockholdings were approved by the Monetary Board: *Provided, further*, That such stockholdings shall not be further increased, but may be reduced and once reduced, shall not thereafter be increased beyond the forty percent (40%) ceiling prescribed under said Section 11.

Any request for exemption from the prescribed ownership ceilings of individual/non-bank/corporate stockholdings shall be submitted to the Monetary Board for approval through the appropriate department of the SES and the exemption shall be reflected in the required report on stock transactions. In cases where unsubscribed shares of stock are sold to any person other than the existing stockholders, the bank's corporate secretary shall execute a certificate under oath that all the pertinent requirements of the Corporation Code on a valid stock transfer/subscriptions have been complied with.

§ 3127.2 Government-held shares
The articles of incorporation of RBs or the articles of cooperation of Coop Banks shall provide for: (a) common stock with the

power to vote; (b) preferred stock to represent the counterpart capital of the LBP, DBP or any government-owned or controlled bank or financial institution, which shall be non-voting and preferred as to assets upon liquidation; and (c) preferred stock with such rights, voting powers, preferences and restrictions, as may be approved by the Monetary Board. Preferred and common stocks shall have a minimum par value of ten pesos (P10) per share: *Provided*, That this requirement shall not apply to existing RBs whose par value per share of stock is less than ten pesos (P10). An RB may not issue no-par value stock.

For Coop Banks, preferred and common shares shall have a minimum par value of P1,000 per share for national Coop Banks; and P100 per share for local Coop Banks: *Provided*, That a Coop Bank may not issue no-par value shares.

The LBP, the DBP, or any government-owned or controlled bank or financial institution, on representation of the said private shareholders but subject to the investment guidelines, policies and procedures of the bank or financial institution and upon approval of the Monetary Board, shall subscribe to the capital stock of any RB/Coop Bank, which shall be paid in full at the time of subscription in an amount equal to the fully paid subscribed and unimpaired capital of the private shareholders or such amount as the Monetary Board may prescribe as may be necessary to promote and expand rural economic development and/or cooperative movement.

§ 3127.3 Limits on stockholdings in several rural banks. Any individual and/or his wholly or majority-owned corporation or non-bank corporations may own up to 100% of the voting stock in three (3) RBs: *Provided*, That the individual and/or its subsidiary/ies, may thereafter

own shares in any number of other RBs only to such an extent as would not enable this group of investors to elect by virtue of its shareholdings a director of each additional RB.

§ 3127.4 Convertibility of preferred stock to common stock. RBs may convert their unissued preferred shares into common stock.

In the case of sale by the DBP, LBP or any government-owned or controlled bank or financial institution of preferred stock to private persons, such stock may be converted into common stock: *Provided*, That pending amendment of the bank's articles of incorporation, if necessary for the purpose of reflecting the conversion, the transfer shall be recorded by the bank in its stock and transfer book and such shareholders shall thereafter enjoy all the rights and privileges appurtenant to the converted stock. The certificates for the government preferred stocks so transferred shall be surrendered and cancelled and the corresponding common stock certificates shall be issued.

The corporate secretary of the bank shall submit to the appropriate department of the SES and the SEC a report of every transfer of preferred stock from the LBP, DBP or any government-owned or controlled bank or financial institution to private shareholders within five (5) banking days from the date of such transfer.

When all the preferred shares of stocks held by the LBP, DBP or any government-owned or controlled bank or financial institution have been sold to private shareholders, the bank's articles of incorporation shall be amended to reflect the conversion, if any, of the preferred shares of stock into common stock.

For this purpose, a certificate that all preferred shares have been sold and transferred to private shareholders shall be

issued, duly signed by the president, the corporate secretary, and a majority of the board of directors. The bank shall submit copies of such certificate and the amended articles of incorporation to the BSP for the issuance of a certificate of authority for the purpose of registering the amended articles with the SEC.

§ 3127.5 Equity investment by holding corporations. With the exception of shareholdings of non-bank corporations in the equities in RBs as provided for under Section 11 of R.A. No. 8791, and of Filipino-controlled domestic banks, the capital stock of any RB shall be fully owned and held directly or indirectly by citizens of the Philippines or corporations, associations or cooperatives qualified under Philippine laws to own and hold such capital stock.

The equity investment of any non-bank corporation in any RB shall not exceed forty percent (40%) of the voting stock of such RB.

A *holding corporation* for purposes of this Subsection shall refer to a corporation primarily organized to hold equities in RBs.

Secs. X128 - X135 (Reserved)

Sec. X136 Dividends. Pursuant to Section 57 of R.A. No. 8791, no bank shall declare dividends greater than its accumulated net profits then on hand, deducting therefrom its losses and bad debts. Neither shall the bank declare dividends if, at the time of declaration, it has not complied with the provisions of Subsec. X136.2.

§ X136.1 Definitions. For purposes of this Section, the following definitions shall apply:

- a. *Bad debts* - shall include any debt on which interest is past due for a period of six (6) months, unless it is well secured and in process of collection.

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A loan payable in installments with an automatic acceleration clause shall be considered a bad debt within the contemplation of this Subsection where installments or amortizations have become past due for a period of six (6) months, unless the loan is well secured and in process of collection. For a loan payable in installment without an acceleration clause, only the installments or amortizations that have become past due for a period of six (6) months and which are not well secured and in the process of collection shall be considered bad debts within the contemplation of this Section.

b. *Well secured* - A debt shall be considered *well secured* (or fully secured), if it is covered by collateral in the form of a duly constituted mortgage, pledge, or lien on real or personal properties, including securities, having a loan value sufficient to discharge the debt in full, including accrued interest and other pertinent fees and expenses.

c. *In process of collection* - A debt due to a bank shall be considered in process of collection when it is the subject of continuing extrajudicial or judicial proceedings aimed towards its full settlement or liquidation or otherwise to place it in current status.

The extrajudicial proceedings, such as the writing of collection or demand letters, must have been initiated by the bank and/or its lawyers before the interest or installments or amortizations on the debt have become past due and unpaid for a period of six (6) months.

The debt shall continue to be considered in process of collection for a period of six (6) months counted from date of the first collection or demand letter and if, within this period, the debtor fails to make a payment of at least twenty percent (20%) of the outstanding balance of the principal on his account, plus all interest which may have accrued thereon, the same shall

automatically be classified as *bad debts* unless judicial proceedings are instituted.

The debt shall continue to be considered in process of collection during the pendency of the judicial proceedings. When judgment against the debtor has been obtained, the bank must be active in enforcing the judgment for the debt to continue to be considered in process of collection.

§ X136.2 Requirements on the declaration of dividends. At the time of declaration, banks shall have complied with the following:

- a. Clearing account with the BSP is not overdrawn;
- b. Liquidity floor requirement for government funds;
- c. Minimum capitalization requirement and risk-based capital ratio;
- d. Prescribed EFCDU/FCDU cover consisting of:
 - (1) Thirty percent (30%) liquidity cover; and
 - (2) 100% asset cover.
- e. Statutory and liquidity reserves requirement;
- f. No past due loans or accommodations with the BSP or with any institution;
- g. No net losses from operations in any one (1) of the two (2) fiscal years immediately preceding the date of dividend declaration;
- h. Has not committed any of the following major violations:
 - (1) Loans and other credit accommodations and guarantees granted in excess of the single borrower's limit;
 - (2) Loans and other credit accommodations granted/extended in excess of the ceilings on accommodations to DOSRI;
 - (3) Unsafe and unsound banking practice as defined under existing BSP regulations;

(4) Equity investments in excess of the prescribed ceilings;

(5) Investments in real estate, bank premises and equipment in excess of prescribed ceilings;

(6) Major violations/exceptions cited in the previous examination not duly acted upon or not yet corrected;

(7) Transactions or activities without prior approval or necessary license from the BSP such as, but not limited to, derivatives, trust and e-banking;

(8) Refusal to permit examination into the affairs of the institution or any willful making of a false or misleading statement to the Monetary Board or to the appropriate department of the SES; and

(9) Failure to comply with the capital build-up program approved by the Monetary Board.

On the other hand, banks which have committed any of the major violations under Item “h” above may only be allowed to declare dividends by the Monetary Board upon recommendation of the appropriate department of the SES that the bank has corrected the major violation/s that it has committed.

(As amended by Circular No. 571 dated 21 June 2007)

§ X136.3 Net amount available for dividends. The net amount available for dividends shall be the amount of unrestricted or free earned surplus and undivided profits less:

a. Bad debts against which valuation reserves are not required by the BSP to be set up;

b. Unbooked valuation reserves, and other unbooked capital adjustments required by the BSP, whether or not allowed to be set up on a staggered basis;

c. Deferred income tax;

d. Accumulated profits not yet received but already recorded by a bank representing its share in profits of its subsidiaries under the equity method of accounting;

e. Accrued interest as required to be excluded pursuant to Item “d” of Subsec. X305.4, net of booked valuation reserves on accrued interest receivable or allowance for uncollectible interest on loans; and

f. Foreign exchange profit arising from revaluation of foreign exchange denominated accounts.

For purposes of this Subsec., any balance of *Paid-in Surplus* account may be included in the amount available for stock dividends.

§ X136.4 Reporting and verification

Declaration of dividends shall be reported by the bank concerned to the appropriate department of the SES in the prescribed form within ten (10) business days after date of declaration.

Pending verification of abovementioned report by the appropriate department of the SES, the bank concerned shall not make any announcement or communication on the declaration of dividends nor shall any payment be made thereon.

Banks, however, whose shares are listed with any domestic stock exchange may declare dividends and give immediate notice of such declaration to the SEC and the stock exchanges, in compliance with pertinent rules of SEC: *Provided*, That no record date is fixed for such dividend pending verification of the report on such declaration by the appropriate department of the SES.

In any case, the declaration may be announced and the dividends paid, if after thirty (30) banking days from the date the report required herein shall have been received by the BSP, no advice against such declaration has been received by the bank concerned.

§ X136.5 Recording of dividends. The liability for dividends declared shall be taken up in the books upon receipt of

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BSP approval thereof, or if no such approval is received, after thirty (30) banking/business days from the date the required report on dividend declaration was received by the appropriate department of the SES , whichever comes earlier. A memorandum entry may be made to record the dividend declaration on the date of approval by the board of directors and for full disclosure purposes, the dividends declared may be disclosed in the financial statements by means of a footnote which should include a statement to the effect that the dividend declaration is subject to review by the BSP.

Dividends of all kinds, whether on common or on preferred shares of stock, should not be treated as interest expense, considering that as a general policy, only irredeemable stock may be issued by banks.

§ X136.6 *Issuance of fractional shares*
 Whenever the declaration of stock dividend results in the issuance of fractional shares, banks may observe the following guidelines:

- The amount corresponding to the fraction should be given in the form of cash dividend; and
- The certificate of stock issued should be in whole numbers, and the fractional shares shall be issued in the form of scrip certificates. In no case shall the certificate of stock be issued including such fractional share. The scrip certificate is temporary in nature and should be redeemed in cash when the bank is in a position to do so, or stockholders holding such scrip certificates may negotiate with other stockholders for the purchase or sale of such shares to convert them into full shares, subject to the limitations on stockholdings as provided by law.

Sec. X137 (Reserved)

Sec. 1137 (Reserved)

Sec. 2137 (Reserved)

Sec. 3137 **Limitations/Amount Available on Dividends Declared by Rural Banks and Cooperative Banks.** The following rules shall also govern the declaration of dividends by RBs and Coop Banks.

a. *RBs.* In addition to the requirements prescribed in Sec. X136, an RB may declare cash dividends only if the amount of its reserve for retirement of government preferred stock is at least equal to the amount which should have been accumulated had the bank transferred annually to the reserve account from its undivided profits an amount equal to at least an average of one-tenth (1/10) of the total amount of preferred stock.

In no case shall cash dividends be declared whenever any of the following circumstances is present:

(i) Arrearages in its obligations with the BSP amount to P1.0 million or more unless covered by an approved plan of payment which is being fully complied with: *Provided, however,* That cash dividends shall not exceed ten percent (10%) per annum; or

(ii) Past due loans comprise twenty-five percent (25%) or more of the total loan portfolio at any time during the last six (6) months prior to the dividend declaration.

b. *Coop Banks*
 (1) Interest on share capital -
 (a) Interest on share capital shall be declared only upon compliance with the requirements prescribed under *Item “a”* above.

(b) Government preferred shares shall be entitled to interest as enumerated in Subsec. 3137.1: *Provided,* That no cumulative interest shall be allowed for any kind or class of share issued by the Coop Bank.

Unless otherwise provided for in the by-laws of the Coop Bank, the share capital

shall earn interest at the rate computed as follows:

$$\text{Rate of Interest} = \frac{X (\text{Net Surplus less Statutory Reserves})}{(\text{Total Average Share Month})}$$

where:

- (i) “X” shall be a percentage to be determined by the board of directors allocated for interest on share capital; and
- (ii) “Statutory Reserves” shall refer to Article 87 of R.A. No. 6938.

No allocation of interest on share capital shall be made without the approval of the general assembly which may increase or decrease any or both.

(2) Patronage refund -

(a) The amount allocated for patronage refund shall not be less than thirty percent (30%) of the net surplus after deducting the statutory reserves based on the principle of equity;

(b) The rate of patronage refund shall not be more than twice the rate of interest on share capital;

(c) The sum allocated for patronage refunds shall be made available at the same rate to all cooperative patrons of the Coop Bank in proportion to their individual patronage: *Provided, That -*

(i) In the case of a cooperative member patron with paid-up share capital contribution, its proportionate amount of patronage refund shall be paid unless it agrees to credit the amount to its account as additional share capital contribution;

(ii) In the case of a cooperative member patron with unpaid share capital contribution, its proportionate amount of patronage refund shall be credited to its share capital contribution;

(iii) In the case of a non-member patron, its proportionate amount of patronage refund shall be set aside in a general fund for such patrons and shall be

allocated to non-member patrons only upon request and presentation of evidence of the amount of its patronage. The amount so allocated shall be credited to such patron toward payment of the minimum capital contribution for membership. When a sum equal to this amount has accumulated at any time within a period specified in the by-laws, such patron shall be deemed and become a member of the Coop Bank if it so agrees or requests and complies with the provisions of the by-laws for admission to membership; and

(iv) If within any period of time specified in the by-laws, any subscriber who has not fully paid his subscribed share capital or any non-member patron which has accumulated the sum necessary for membership but does not request nor agree to become a member or fails to comply with the provision of the by-laws for admission to membership, the amount so accumulated or credited to their account together with any part of the general fund for non-member patrons shall be credited to the reserve fund or to the education and training fund of the Coop Bank.

§ 3137.1 Dividends on government shares

a. *Held prior to 09 June 1992.* Whenever dividends of not less than fourteen percent (14%) are declared on common stock, government preferred stock shall be entitled to a cash dividend not to exceed two percent (2%) of total outstanding preferred stock. Should the dividends declared on common stock be less than fourteen percent (14%), the dividend on preferred stock shall be proportionately reduced.

b. *Held on or after 09 June 1992.* Shares held by the LBP, DBP, or by any government-owned or-controlled bank or FI shall share in dividend distributions from the date of issuance in the amount of four percent (4%) on the first and

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second years; six percent (6%) on the third and fourth years; eight percent (8%) on the fifth and sixth years; ten percent (10%) on the seventh and eighth years; and twelve percent (12%) on the ninth to the fifteenth years, which shall be cumulative: *Provided*, That the RB and the government-owned or-controlled bank are not precluded from entering into an agreement providing for rates of dividends other than those prescribed by law.

Secs. X138 - X140 (Reserved)

H. DIRECTORS, OFFICERS AND EMPLOYEES

Sec. X141 Definition and Qualifications of Directors; Responsibilities and Duties of Board of Directors. For purposes of this Section, the following shall be the definition and qualifications, responsibilities and duties of directors and board of directors, respectively.

§ X141.1 *Definition/limits*

a. *Definition of directors.* Directors shall include:

- (1) directors who are named as such in the articles of incorporation;
- (2) directors duly elected in subsequent meetings of the stockholders; and
- (3) those elected to fill vacancies in the board of directors.

b. *Limits on the number of the members of the board of directors.* Pursuant to Sections 15 and 17 of R.A. No. 8791, there shall be at least five (5), and a maximum of fifteen (15) members of the board of directors of a bank at least two (2) of whom shall be independent directors: *Provided*, That in case of a bank/QB/trust entity merger or consolidation, the number of directors may be increased up to twenty-one (21).

An *independent director* shall mean a person who -

(1) Is not or has not been an officer or employee of the bank, its subsidiaries or affiliates or related interests during the past three (3) years counted from the date of his election;

(2) Is not a director or officer of the related companies of the institution’s majority stockholder;

(3) Is not a majority stockholder of the institution, any of its related companies, or of its majority shareholders;

(4) Is not a relative within the fourth degree of consanguinity or affinity, legitimate or common-law of any director, officer or majority shareholder of the bank or any of its related companies;

(5) Is not acting as a nominee or representative of any director or substantial shareholder of the bank, any of its related companies or any of its substantial shareholders; and

(6) Is not retained as professional adviser, consultant, agent or counsel of the institution, any of its related companies or any of its substantial shareholders, either in his personal capacity or through his firm; is independent of management and free from any business or other relationship, has not engaged and does not engage in any transaction with the institution or with any of its related companies or with any of its substantial shareholders, whether by himself or with other persons or through a firm of which he is a partner or a company of which he is a director or substantial shareholder, other than transactions which are conducted at arms length and could not materially interfere with or influence the exercise of his judgment.

An independent director of a bank can be elected as an independent director of its: (a) parent or holding company; (b) subsidiary or affiliate; (c) substantial shareholder; or (d) other related companies, or vice-versa: *Provided*, That he is not a substantial shareholder of the bank or any of the said concerned entities.

The foregoing terms and phrases used in Items “(1) to (6)” of this Section shall have the following meaning:

(a) *Parent* is a corporation which has control over another corporation directly or indirectly through one (1) or more intermediaries.

(b) *Subsidiary* means a corporation more than fifty percent (50%) of the voting stock of which is owned or controlled directly or indirectly through one (1) or more intermediaries by a bank.

(c) *Affiliate* is a juridical person that directly or indirectly, through one (1) or more intermediaries, is controlled by, or is under common control with the bank or its affiliates.

(d) *Related interests* as defined under Sections 12 and 13 of R.A. No. 8791 shall mean individuals related to each other within the fourth degree of consanguinity or affinity, legitimate or common law, and two (2) or more corporations owned or controlled by a single individual or by the same family group or the same group of persons.

(e) *Control* exists when the parent owns directly or indirectly through subsidiaries more than one-half of the voting power of an enterprise unless, in exceptional circumstance, it can be clearly demonstrated that such ownership does not constitute control. *Control* may also exist even when ownership is one-half or less of the voting power of an enterprise when there is:

- i. power over more than one-half of the voting rights by virtue of an agreement with other stockholders; or
- ii. power to govern the financial and operating policies of the enterprise under a statute or an agreement; or
- iii. power to appoint or remove the majority of the members of the board of directors or equivalent governing body; or
- iv. power to cast the majority votes at meetings of the board of directors or equivalent governing body; or

v. any other arrangement similar to any of the above.

(f) *Related company* means another company which is: (a) its parent or holding company; (b) its subsidiary or affiliate; or (c) a corporation where a bank or its majority stockholder own such number of shares that will allow/enable him to elect at least one (1) member of the board of directors or a partnership where such majority stockholder is a partner.

(g) *Substantial or major shareholder* shall mean a person, whether natural or juridical, owning such number of shares that will allow him to elect at least one (1) member of the board of directors of a bank or who is directly or indirectly the registered or beneficial owner of more than ten percent (10%) of any class of its equity security.

(h) *Majority stockholder or majority shareholder* means a person, whether natural or juridical, owning more than fifty percent (50%) of the voting stock of a bank.

Non-Filipino citizens may become members of the board of directors of a bank to the extent of the foreign participation in the equity of said bank: *Provided*, That pursuant to Section 23 of the Corporation Code of the Philippines (BP Blg. 68), a majority of the directors must be residents of the Philippines.

The meetings of the board of directors may be conducted through modern technologies such as, but not limited to, teleconferencing and videoconferencing as long as the director who is taking part in said meetings can actively participate in the deliberations on matters taken up therein: *Provided*, That every member of the board shall participate in at least fifty percent (50%) and shall physically attend at least twenty-five percent (25%) of all board meetings every year: *Provided, further*, That in the case of a director who is unable to physically attend or participate in board meetings via teleconferencing or

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videoconferencing, the corporate secretary shall execute a notarized certification attesting that said director was given the agenda materials prior to the meeting and that his/her comments/decisions thereon were submitted for deliberation/discussion and were taken up in the actual board meeting, and that the submission of said certification shall be considered compliance with the required fifty percent (50%) minimum attendance in board meetings.

§ X141.2 Qualifications of a director

A director shall have the following minimum qualifications:

- a. He shall be at least twenty-five (25) years of age at the time of his election or appointment;
- b. He shall be at least a college graduate or have at least five (5) years experience in business;
- c. He must have attended a special seminar on corporate governance for board of directors conducted or accredited by the BSP: *Provided*, That incumbent directors as well as those elected after 17 September 2001 must attend said seminar on or before 30 June 2003 or within a period of six (6) months from date of election for those elected after 30 June 2003, as the case may be; and
- d. He must be fit and proper for the position of a director of the bank. In determining whether a person is fit and proper for the position of a director, the following matters must be considered: integrity/probity, competence, education, diligence and experience/training.

The foregoing qualifications for directors shall be in addition to those required or prescribed under R.A. No. 8791 and other existing applicable laws and regulations.

§ X141.3 Powers/responsibilities and duties of directors

- a. *Powers of the board of directors.* The corporate powers of a bank shall be

exercised, its business conducted and all its property shall be controlled and held by its board of directors. The powers of the board of directors as conferred by law are original and cannot be revoked by the stockholders. The directors hold their office charged with the duty to act for the bank in accordance with their best judgment.

- b. *General responsibility of the board of directors.* The position of a bank director is a position of trust. A director assumes certain responsibilities to different constituencies or stakeholders, i.e., the bank itself, its stockholders, its depositors and other creditors, its management and employees, and the public at large. These constituencies or stakeholders have the right to expect that the institution is being run in a prudent and sound manner.

The board of directors is primarily responsible for the corporate governance of the bank. To ensure good governance of the bank, the board of directors should establish strategic objectives, policies and procedures that will guide and direct the activities of the bank and the means to attain the same as well as the mechanism for monitoring management’s performance. While the management of the day-to-day affairs of the institution is the responsibility of the management team, the board of directors is, however, responsible for monitoring and overseeing management action.

- c. *Specific duties and responsibilities of the board of directors*

(1) *To select and appoint officers who are qualified to administer the bank’s affairs effectively and soundly and to establish adequate selection process for all personnel.* It is the primary responsibility of the board of directors to appoint competent management team at all times. The board of directors should apply fit and proper standards on key personnel. Integrity, technical expertise and experience in the institution’s business, either current or planned, should

be the key considerations in the selection process. And because mutual trust and a close working relationship are important, the board's choice should share its general operating philosophy and vision for the institution. The board of directors shall establish an appropriate compensation package for all personnel which shall be consistent with the interest of all stakeholders.

(2) *To establish objectives and draw up a business strategy for achieving them.* Consistent with the institution's objectives, business plans should be established to direct its on-going activities. The board should ensure that performance against plan is regularly reviewed, with corrective action taken as needed.

(3) *To conduct the affairs of the institution with high degree of integrity.* Since reputation is a very valuable asset, it is in the institution's best interest that in dealings with the public, it observes a high standard of integrity. The board of directors should prescribe corporate values, codes of conduct and other standards of appropriate behaviour for itself, the senior management and other employees. Among others, activities and transactions that could result or potentially result in conflict of interest, personal gain at the expense of the institution, or unethical conduct shall be strictly prohibited. It should provide policies that will prevent the use of the facilities of the bank in furtherance of criminal and other illegal activities.

(4) *To establish and ensure compliance with sound written policies.* The board should adopt written policies on all major business activities, i.e., investments, loans, asset and liability management, business planning and budgeting. A mechanism to ensure compliance with said policies shall also be provided.

(5) *To prescribe a clear assignment of responsibilities and decision-making authorities, incorporating a hierarchy of required approvals from individuals to the board of directors.* The board should establish in writing the limits of the discretionary powers of each officer, committee, sub-committee and such other group for the purpose of lending, investing or committing the bank to any financial undertaking or exposure to risk at any time. The board should have a schedule of matters and authorities reserved to it for decision, such as: major capital expenditures, equity investments and divestments.

(6) *To effectively supervise the bank's affairs.* The board of directors should establish a system of checks and balances which applies in the first instance to the board itself. Among the members of the board, an effective system of checks and balances must exist. The system should also provide a mechanism for effective check and control by the board over the chief executive officer and key managers and by the latter over the line officers of the bank.

(7) *To monitor, assess and control the performance of management.* The board shall put in place an appropriate reporting system so that it is provided with relevant and timely information to be able to effectively assess the performance of management. For this purpose, it may constitute a governance committee.

(8) *To adopt and maintain adequate risk management policy.* The board of directors shall be responsible for the formulation and maintenance of written policies and procedures relating to the management of risks throughout the institution. The risk management policy shall include:

(a) a comprehensive risk management approach;

(b) a detailed structure of limits, guidelines and other parameters used to govern risk-taking;

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(c) a clear delineation of lines of responsibilities for managing risk;

(d) an adequate system for measuring risk; and

(e) effective internal controls and a comprehensive risk-reporting process.

The board may constitute a committee for this purpose.

(9) *To constitute the following committees:*¹

(a) Audit committee. The audit committee shall be composed of members of the board of directors, at least two (2) of whom shall be independent directors, including the chairman, preferably with accounting, auditing, or related financial management expertise or experience. The audit committee provides oversight of the institution's financial reporting and control and internal and external audit functions. It shall be responsible for the setting up of the internal audit department and for the appointment of the internal auditor as well as the independent external auditor who shall both report directly to the audit committee. It shall monitor and evaluate the adequacy and effectiveness of the internal control system.

Upon setting up the audit committee, the board of directors shall draw up a written charter or terms of reference which clearly sets out the audit committee's authority and duties, as well as the reporting relationship with the board of directors. This charter shall be approved by the board of directors and reviewed and updated periodically.

The audit committee shall have explicit authority to investigate any matter within its terms of reference, full access to and cooperation by management and full discretion to invite any director or executive officer to attend its meetings, and adequate resources to enable it to effectively discharge its functions.

The audit committee shall ensure that a review of the effectiveness of the

institution's internal controls, including financial, operational and compliance controls, and risk management, is conducted at least annually.

The audit committee shall establish and maintain mechanisms by which officers and staff may, in confidence, raise concerns about possible improprieties or malpractices in matters of financial reporting, internal control, auditing or other issues to persons or entities that have the power to take corrective action. It shall ensure that arrangements are in place for the independent investigation, appropriate follow-up action, and subsequent resolution of complaints.

(b) Corporate governance committee. The corporate governance committee shall assist the board of directors in fulfilling its corporate governance responsibilities. It shall review and evaluate the qualifications of all persons nominated to the board as well as those nominated to other positions requiring appointment by the board of directors. The committee shall be composed of at least three (3) members of the board of directors, two (2) of whom shall be independent directors.

The corporate governance committee shall have a written charter that describes the duties and responsibilities of its members. This charter shall be approved by the board of directors and reviewed and updated at least annually.

The committee shall be responsible for ensuring the board's effectiveness and due observance of corporate governance principles and guidelines. It shall oversee the periodic performance evaluation of the board and its committees and executive management; and shall also conduct an annual self-evaluation of its performance. The committee shall also decide whether or not a director is able to and has been adequately carrying out his/her duties as director bearing in mind

¹ Mandatory for all banks effective 01 January 2005 under Circular 456 dated 04 October 2004

the director’s contribution and performance (e.g., competence, candor, attendance, preparedness and participation). Internal guidelines shall be adopted that address the competing time commitments that are faced when directors serve on multiple boards.

The committee shall make recommendations to the board regarding the continuing education of directors, assignment to board committees, succession plan for the board members and senior officers, and their remuneration commensurate with corporate and individual performance.

The corporate governance committee shall decide the manner by which the board’s performance may be evaluated and propose an objective performance criteria approved by the board. Such performance indicators shall address how the board has enhanced long term shareholders’ value.

(c) Risk management committee. The risk management committee shall be responsible for the development and oversight of the institution’s risk management program. The committee shall be composed of at least three (3) members of the board of directors who shall possess a range of expertise as well as adequate knowledge of the institution’s risk exposures to be able to develop appropriate strategies for preventing losses and minimizing the impact of losses when they occur. It shall oversee the system of limits to discretionary authority that the board delegates to management, ensure that the system remains effective, that the limits are observed and that immediate corrective actions are taken whenever limits are breached.

The risk management committee shall have a written charter that defines the duties and responsibilities of its members. The charter shall be approved by the board

of directors and reviewed and refined periodically.

The core responsibility of the risk management committee are:

(i) *Identify and evaluate exposures.* The committee shall assess the probability of each risk becoming reality and shall estimate its possible effect and cost. Priority areas of concern are those risks that are the most likely to occur and are costly when they happen.

(ii) *Develop risk management strategies.* The risk management committee shall develop a written plan defining the strategies for managing and controlling the major risks. It shall identify practical strategies to reduce the chance of harm and failure or minimize losses if the risk becomes real.

(iii) *Implement the risk management plan.* The risk management committee shall communicate the risk management plan and loss control procedures to affected parties. The committee shall conduct regular discussions on the institution’s current risk exposure based on regular management reports and direct concerned units or offices on how to reduce these risks.

(iv) *Review and revise the plan as needed.* The committee shall evaluate the risk management plan to ensure its continued relevancy, comprehensiveness, and effectiveness. It shall revisit strategies, look for emerging or changing exposures, and stay abreast of developments that affect the likelihood of harm or loss. The committee shall report regularly to the board of directors the entity’s over-all risk exposure, actions taken to reduce the risks, and recommend further action or plans as necessary.

(d) *(Deleted by Cir. 456 dated 04 October 2004)*

(10) *To meet regularly.* To properly discharge its function, the board of directors shall meet regularly. Independent views

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in board meetings shall be given full consideration and all such meetings shall be duly minuted.

(11) *To keep the individual members of the board and the shareholders informed.* It is the duty of the board to present to all its members and to the shareholders a balanced and understandable assessment of the bank's performance and financial condition. It should also provide appropriate information that flows internally and to the public. All members of the board shall have reasonable access to any information about the institution.

(12) *To ensure that the bank has beneficial influence on the economy.* The board has a continuing responsibility to provide those services and facilities which will be supportive of the national economy.

(13) *To assess at least annually its performance and effectiveness as a body, as well as its various committees, the chief executive officer and the bank itself.* The composition of the board shall also be reviewed regularly with the end in view of having a balanced membership. Towards this end, a system and procedure for evaluation shall be adopted which may include, but not limited to, the setting of benchmark and peer group analysis.

(14) *To keep their authority within the powers of the institution as prescribed in the articles of incorporation, charter, by-laws and in existing laws, rules and regulations.* To conduct and maintain the affairs of the institution within the scope of its authority as prescribed in its charter and in existing laws, rules and regulations, the board shall appoint a compliance officer who shall be responsible for coordinating, monitoring and facilitating compliance with existing laws, rules and regulations. The compliance officer shall be vested with

appropriate authority and provided with appropriate support and resources. It may also constitute a compliance committee.

d. *Specific duties and responsibilities of a director*

(1) *To conduct fair business transactions with the bank and to ensure that personal interest does not bias board decisions.* Directors should, whenever possible, avoid situations that would give rise to a conflict of interest. If transactions with the institution cannot be avoided, it should be done in the regular course of business and upon terms not less favorable to the institution than those offered to others. The basic principle to be observed is that a director should not use his position to make profit or to acquire benefit or advantage for himself and/or his related interests. He should avoid situations that would compromise his impartiality.

(2) *To act honestly and in good faith, with loyalty and in the best interest of the institution, its stockholders, regardless of the amount of their stockholdings, and other stakeholders such as its depositors, investors, borrowers, other clients and the general public.* A director must always act in good faith, with the care which an ordinarily prudent man would exercise under similar circumstances. While a director should always strive to promote the interest of all stockholders, he should also give due regard to the rights and interests of other stakeholders.

(3) *To devote time and attention necessary to properly discharge their duties and responsibilities.* Directors should devote sufficient time to familiarize themselves with the institution's business. They must be constantly aware of the institution's condition and be knowledgeable enough to contribute meaningfully to the board's work. They must attend and actively participate in board and committee meetings, request

and review meeting materials, ask questions, and request explanations. If a person cannot give sufficient time and attention to the affairs of the institution, he should neither accept his nomination nor run for election as member of the board.

(4) *To act judiciously.* Before deciding on any matter brought before the board of directors, every director should thoroughly evaluate the issues, ask questions and seek clarifications when necessary.

(5) *To exercise independent judgment.* A director should view each problem/situation objectively. When a disagreement with others occurs, he should carefully evaluate the situation and state his position. He should not be afraid to take a position even though it might be unpopular. Corollarily, he should support plans and ideas that he thinks will be beneficial to the institution.

(6) *To have a working knowledge of the statutory and regulatory requirements affecting the institution, including the content of its articles of incorporation and by-laws, the requirements of the BSP and where applicable, the requirements of other regulatory agencies.* A director should also keep himself informed of the industry developments and business trends in order to safeguard the institution’s competitiveness.

(7) *To observe confidentiality.* Directors must observe the confidentiality of non-public information acquired by reason of their position as directors. They may not disclose said information to any other person without the authority of the board.

§ X141.4 Confirmation of the election/appointments of directors and officers
The election/appointment of directors and officers of banks shall be subject to confirmation by the:

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Confirming Authority	Position Level
a. Monetary Board	Directors, Senior Vice President and above of UBs and KBs, as well as the Directors, President, Chief Executive Officer, Chief Operating Officer, Senior Vice President or equivalent rank of TBs, IBs, RBs and Coop Banks with total assets of at least P1.0 billion.
b. A Committee to be composed of:	Directors, Senior Vice President and above orequivalent rank of TBs, IBs, RBs and Coop Banks whose election appointment is not subject to confirmation by the Monetary Board.
• The Deputy Governor - SES	
• Managing Directors of SE I and II	
• Directors of the concerned department of the SES	

The election/appointment of all incumbent directors and officers of all types of banks as of 17 September 2001 not previously approved/confirmed by the Monetary Board shall be submitted to the BSP through the appropriate department of the SES for confirmation.

§ X141.5 Place of board of directors' meeting. Banks shall include in their by-laws a provision that meetings of their board of directors shall be held only within the Philippines.

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§ X141.9 Reports required. Banks shall furnish all of their directors with a copy of the specific duties and responsibilities of the board of directors prescribed under Items “b” and “c” of Subsec. X141.3 within thirty (30) banking days from 17 May 2001 in cases of incumbent directors and at the time of election in cases of directors elected after such date.

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The directors concerned shall each be required to acknowledge receipt of the copies of such specific duties and responsibilities and shall certify that they fully understand the same.

Copies of the acknowledgment and certification herein required shall be submitted in accordance with *Appendix 6*.

§ X141.10 *Sanctions.* Without prejudice to the other sanctions prescribed under Section 37 of R.A. No. 7653 and to the provisions of Section 16 of R.A. No. 8791, any director of a bank who violates or fails to observe and/or perform any of the above responsibilities and duties shall for each violation or offense, be penalized as follows:

For directors of	Amount
UBs/KBs	P 30,000
TBs/IBs	15,000
RBs/Coop Banks (national)	5,000
Coop Banks (local)	1,000

Sec. X142 **Definition and Qualifications of Officers.** For purposes of this Section, the following shall be the definition and qualification of officers.

§ X142.1 *Definition of officers.* Officers shall include the president, executive vice president, senior vice-president, vice president, general manager, treasurer, secretary, trust officer and others mentioned as officers of the bank, or those whose duties as such are defined in the by-laws, or are generally known to be the officers of the bank (or any of its branches and offices other than the head office) either through announcement, representation, publication or any kind of communication made by the bank: *Provided*, That a person holding the position of chairman or vice-chairman of the board or another position in the board shall not be considered as an officer unless the duties of his position in

the board include functions of management such as those ordinarily performed by regular officers: *Provided, further*, That members of a group or committee, including sub-groups or sub-committees, whose duties include functions of management such as those ordinarily performed by regular officers, and are not purely recommendatory or advisory, shall likewise be considered as officers.

(As amended by Circular No. 562 dated 13 March 2007)

§ X142.2 *Qualifications of an officer* An officer shall have the following minimum qualifications:

- a. He shall be at least twenty-one (21) years of age; and
- b. He shall be at least a college graduate, or have at least five (5) years experience in banking or trust operations or related activities or in a field related to his position and responsibilities, or have undergone training in banking or trust operations acceptable to the appropriate department of the SES: *Provided*, however, That trust officers shall have at least two (2) years of actual experience or training in trust operations or fund management or other related fields; and
- c. He must be fit and proper for the position he is being proposed/appointed to. In determining whether a person is fit and proper for a particular position, the following matters must be considered: integrity/probity, competence, education, diligence and experience/training.

The foregoing qualifications for officers shall be in addition to those required or prescribed under R.A. No. 8791 and other existing applicable laws and regulations.

§ X142.3 *Appointment of officers* The appointment of officers of UBs/KBs/TBs with the rank of senior vice president (SVP) and above, whether incumbent or proposed, shall not be subject to Monetary Board approval but

rather to Monetary Board confirmation. Appointment of officers below the rank of SVP shall be subject neither to Monetary Board approval nor Monetary Board confirmation.

The appointment of abovementioned officers shall be deemed to have been confirmed by the BSP, if after sixty (60) banking days from receipt of the required reports, no advice against said appointment has been received by the bank concerned.

b. *(As amended by Cir. 434 dated 04 October 2004)*

Sec. X143 Disqualification of Directors and Officers. The following regulations shall govern the disqualification of bank directors and officers.

§ X143.1 Persons disqualified to become directors. Without prejudice to specific provisions of law prescribing disqualifications for directors, the following are disqualified from becoming directors:

a. *Permanently disqualified*

Directors/officers/employees permanently disqualified by the Monetary Board from holding a director position:

(1) Persons who have been convicted by final judgment of a court for offenses involving dishonesty or breach of trust such as, but not limited to, estafa, embezzlement, extortion, forgery, malversation, swindling, theft, robbery, falsification, bribery, violation of B.P. Blg. 22, violation of Anti-Graft and Corrupt Practices Act and prohibited acts and transactions under Section 7 of R.A. No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees);

(2) Persons who have been convicted by final judgment of a court sentencing them to serve a maximum term of imprisonment of more than six (6) years;

(3) Persons who have been convicted by final judgment of the court for violation of banking laws, rules and regulations;

(4) Persons who have been judicially declared insolvent, spendthrift or incapacitated to contract;

(5) Directors, officers or employees of closed banks who were found to be culpable for such institution's closure as determined by the Monetary Board;

(6) Directors and officers of banks found by the Monetary Board as administratively liable for violation of banking laws, rules and regulations where a penalty of removal from office is imposed, and which finding of the Monetary Board has become final and executory; or

(7) Directors and officers of banks or any person found by the Monetary Board to be unfit for the position of directors or officers because they were found administratively liable by another government agency for violation of banking laws, rules and regulations or any offense/violation involving dishonesty or breach of trust, and which finding of said government agency has become final and executory.

b. *Temporarily disqualified*

Directors/officers/employees disqualified by the Monetary Board from holding a director position for a specific/ indefinite period of time. Included are:

(1) Persons who refuse to fully disclose the extent of their business interest or any material information to the appropriate department of the SES when required pursuant to a provision of law or of a circular, memorandum, rule or regulation of the BSP. This disqualification shall be in effect as long as the refusal persists;

(2) Directors who have been absent or who have not participated for whatever reasons in more than fifty percent (50%) of all meetings, both regular and special, of

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the board of directors during their incumbency, and directors who failed to physically attend for whatever reasons in at least twenty-five percent (25%) of all board meetings in any year, except that when a notarized certification executed by the corporate secretary has been submitted attesting that said directors were given the agenda materials prior to the meeting and that their comments/decisions thereon were submitted for deliberation/discussion and were taken up in the actual board meeting, said directors shall be considered present in the board meeting. This disqualification applies only for purposes of the immediately succeeding election;

(3) Persons who are delinquent in the payment of their obligations as defined hereunder:

(a) Delinquency in the payment of obligations means that an obligation of a person with a bank where he/she is a director or officer, or at least two (2) obligations with other banks/FIs, under different credit lines or loan contracts, are past due pursuant to Sec. X306;

(b) Obligations shall include all borrowings from a bank obtained by:

(i) A director or officer for his own account or as the representative or agent of others or where he/she acts as a guarantor, endorser or surety for loans from such FIs;

(ii) The spouse or child under the parental authority of the director or officer;

(iii) Any person whose borrowings or loan proceeds were credited to the account of, or used for the benefit of a director or officer;

(iv) A partnership of which a director or officer, or his/her spouse is the managing partner or a general partner owning a controlling interest in the partnership; and

(v) A corporation, association or firm wholly-owned or majority of the capital of which is owned by any or a group of

persons mentioned in the foregoing Items “(i)”, “(ii)” and “(iv)”;

This disqualification shall be in effect as long as the delinquency persists.

(4) Persons who have been convicted by a court for offenses involving dishonesty or breach of trust such as, but not limited to, estafa, embezzlement, extortion, forgery, malversation, swindling, theft, robbery, falsification, bribery, violation of B.P. Blg. 22, violation of Anti-Graft and Corrupt Practices Act and prohibited acts and transactions under Section 7 of R.A. No. 6713, violation of banking laws, rules and regulations or those sentenced to serve a maximum term of imprisonment of more than six (6) years but whose conviction has not yet become final and executory;

(5) Directors and officers of closed banks pending their clearance by the Monetary Board;

(6) Directors disqualified for failure to observe/discharge their duties and responsibilities prescribed under existing regulations. This disqualification applies until the lapse of the specific period of disqualification or upon approval by the Monetary Board on recommendation by the appropriate department of the SES of such directors’ election/reelection;

(7) Directors who failed to attend the special seminar for board of directors required under Item “c” of Subsec. X141.2. This disqualification applies until the director concerned had attended such seminar;

(8) Persons dismissed/terminated from employment for cause. This disqualification shall be in effect until they have cleared themselves of involvement in the alleged irregularity or upon clearance, on their request, from the Monetary Board after showing good and justifiable reasons, or after the lapse of five (5) years from the time they were officially advised by the appropriate department of the SES of their disqualification;

(9) Those under preventive suspension;
(10) Persons with derogatory records as certified by, or on the official files of, the judiciary, NBI, Philippine National Police (PNP), quasi-judicial bodies, other government agencies, international police, monetary authorities and similar agencies or authorities of foreign countries for irregularities or violations of any law, rules and regulations that would adversely affect the integrity of the director/officer or the ability to effectively discharge his duties. This disqualification applies until they have cleared themselves of the alleged irregularities/violations or after a lapse of five (5) years from the time the complaint, which was the basis of the derogatory record, was initiated;

(11) Directors and officers of banks found by the Monetary Board as administratively liable for violation of banking laws, rules and regulations where a penalty of removal from office is imposed, and which finding of the Monetary Board is pending appeal before the appellate court, unless execution or enforcement thereof is restrained by the court;

(12) Directors and officers of banks or any person found by the Monetary Board to be unfit for the position of director or officer because they were found administratively liable by another government agency for violation of banking laws, rules and regulations or any offense/violation involving dishonesty or breach of trust, and which finding of said government agency is pending appeal before the appellate court, unless execution or enforcement thereof is restrained by the court; and

(13) Directors and officers of banks found by the Monetary Board as administratively liable for violation of banking laws, rules and regulations where a penalty of suspension from office or fine is imposed, regardless whether the finding

of the Monetary Board is final and executory or pending appeal before the appellate court, unless execution or enforcement thereof is restrained by the court. The disqualification shall be in effect during the period of suspension or so long as the fine is not fully paid.

(As amended by Circular Nos.584 dated 28 September 2007 and 513 dated 10 February 2006)

§ X143.2 *Persons disqualified to become officers*

a. The disqualifications for directors mentioned in Subsec. X143.1 shall likewise apply to officers, except those stated in Items “b(2)” and “b(7)”.

b. Except as may be authorized by the Monetary Board or the Governor, the spouse or a relative within the second degree of consanguinity or affinity of any person holding the position of chairman, president, executive vice president or any position of equivalent rank, general manager, treasurer, chief cashier or chief accountant is disqualified from holding or being elected or appointed to any of said positions in the same bank; and the spouse or relative within the second degree of consanguinity or affinity of any person holding the position of manager, cashier, or accountant of a branch or office of a bank is disqualified from holding or being appointed to any of said positions in the same branch or office.

c. In the case of UBs, KBs, and TBs, any appointive or elective official, whether full time or part time, except in cases where such service is incident to financial assistance provided by the government or government-owned or -controlled corporations (GOCCs) or in cases allowed under existing law.

d. In the case of Coop Banks, any officer or employee of CDA or any elective public official, except a barangay official.

e. Except as may otherwise be allowed under Commonwealth Act No. 108,

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otherwise known as “The Anti-Dummy Law”, as amended, foreigners cannot be officers or employees of banks.

§ X143.3 *Effect of non-possession of qualifications or possession of disqualifications.* A director/officer elected or appointed who does not possess all the qualifications mentioned under Subsecs. X141.2 and X142.2 and/or has any of the disqualifications mentioned under Subsecs. X143.1 and X143.2 shall not be confirmed by the confirming authority under Subsec. X141.4 and shall be removed from office even if he/she assumed the position to which he/she was elected or appointed. A confirmed director/officer or officer not requiring confirmation possessing any of the disqualifications, enumerated in the abovementioned subsections shall be subject to the disqualification procedures provided under Subsec. X143.4. A director/officer, prior to assuming the position to which he/she was elected/appointed, must submit to the appropriate department of the SES a verified statement that he/she has all the aforesaid qualifications and none of the disqualifications. The submission of verified statement will apply to directors/officers elected/appointed after 14 March 2006.

(As amended by Circular No. 513 dated 10 February 2006)

§ X143.4 *Disqualification procedures*

a. The board of directors and management of every institution shall be responsible for determining the existence of the ground for disqualification of the institution’s director/officer or employee and for reporting the same to the BSP. While the concerned institution may conduct its own investigation and impose appropriate sanction/s as are allowable, this shall be without prejudice to the authority of the Monetary Board to disqualify a director/officer/employee from being elected/appointed as director/officer in any FI under the supervision of the BSP.

Grounds for disqualification made known to the institution, shall be reported to the appropriate department of the SES within seventy-two (72) hours from knowledge thereof.

b. On the basis of knowledge and evidence on the existence of any of the grounds for disqualification mentioned in Subsecs. X143.1 and X143.2, the director or officer concerned shall be notified in writing either by personal service or through registered mail with registry return receipt card at his/her last known address by the appropriate department of the SES of the existence of the ground for his/her disqualification and shall be allowed to submit within fifteen (15) calendar days from receipt of such notice an explanation on why he/she should not be disqualified and included in the watchlisted file, together with the evidence in support of his/her position. The head of said department may allow an extension on meritorious ground.

c. Upon receipt of the reply explanation of the director/officer concerned, the appropriate department of the SES shall proceed to evaluate the case. The director/officer concerned shall be afforded the opportunity to defend/clear himself/herself.

d. If no reply has been received from the director/officer concerned upon the expiration of the period prescribed under Item “b” above, said failure to reply shall be deemed a waiver and the appropriate department of the SES shall proceed to evaluate the case based on available records/evidence.

e. If the ground for disqualification is delinquency in the payment of obligation, the concerned director or officer shall be given a period of thirty (30) calendar days within which to settle said obligation or, restore it to its current status or, to explain why he/she should not be disqualified and included in the watchlisted file, before the

evaluation on his disqualification and watchlisting is elevated to the Monetary Board.

f. For directors/officers of closed banks, the concerned department of the SES shall make appropriate recommendation to the Monetary Board clearing said directors/officers when there is no pending case/complaint or evidence against them. When there is evidence that a director/officer has committed irregularity, the appropriate department of the SES shall make recommendation to the Monetary Board that his/her case be referred to the Office of Special Investigation (OSI) for further investigation and that he/she be included in the masterlist of temporarily disqualified persons until the final resolution of his/her case. Directors/officers with pending cases/complaints shall also be included in said masterlist of temporarily disqualified persons upon approval by the Monetary Board until the final resolution of their cases. If the director/officer is cleared from involvement in any irregularity, the appropriate department of the SES shall recommend to the Monetary Board his/her delisting. On the other hand, if the director/officer concerned is found to be responsible for the closure of the institution, the concerned department of the SES shall recommend to the Monetary Board his/her delisting from the masterlist of temporarily disqualified persons and his/her inclusion in the masterlist of permanently disqualified persons.

g. If the disqualification is based on dismissal from employment for cause, the appropriate department of the SES shall, as much as practicable, endeavor to establish the specific acts or omissions constituting the offense or the ultimate facts which resulted in the dismissal to be able to determine if the disqualification of the director/officer concerned is warranted or not. The evaluation of the case shall be made for the purpose of determining if

disqualification would be appropriate and not for the purpose of passing judgment on the findings and decision of the entity concerned. The appropriate department of the SES may decide to recommend to the Monetary Board a penalty lower than disqualification (e.g., reprimand, suspension, etc.) if, in its judgment the act committed or omitted by the director/officer concerned does not warrant disqualification.

h. All other cases of disqualification, whether permanent or temporary shall be elevated to the Monetary Board for approval and shall be subject to the procedures provided in Items "a","b","c" and "d" above.

i. Upon approval by the Monetary Board, the concerned director/officer shall be informed by the appropriate department of the SES in writing either by personal service or through registered mail with registry return receipt card, at his/her last known address of his/her disqualification from being elected/appointed as director/officer in any FI under the supervision of BSP and/or of his/her inclusion in the masterlist of watchlisted persons so disqualified.

j. The board of directors of the concerned institution shall be immediately informed of cases of disqualification approved by the Monetary Board and shall be directed to act thereon not later than the following board meeting. Within seventy-two (72) hours thereafter, the corporate secretary shall report to the Governor of the BSP through the appropriate department of the SES the action taken by the board on the director/officer involved.

k. Persons who are elected or appointed as director or officer in any of the BSP-supervised institutions for the first time but are subject to any of the grounds for disqualification provided for under Subsecs. X143.1 and X143.2, shall be

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afforded the procedural due process prescribed above.

I. Whenever a director/officer is cleared in the process mentioned under Item “c” above or, when the ground for disqualification ceases to exist, he/she would be eligible to become director or officer of any bank, QB, trust entity or any institution under the supervision of the BSP only upon prior approval by the Monetary Board. It shall be the responsibility of the appropriate department of the SES to elevate to the Monetary Board the lifting of the disqualification of the concerned director/officer and his/her delisting from the masterlist of watchlisted persons.

(As amended by Circular No. 584 dated 28 September 2007)

§ X143.5 Watchlisting. To provide the BSP with a central information file to be used as reference in passing upon and reviewing the qualifications of persons elected or appointed as director or officer of a bank, QB or trust entity, the SES shall maintain a watchlist of persons disqualified to be a director or officer of such entities under its supervision under the following procedures:

a. *Watchlist categories.* Watchlisting shall be categorized as follows:

(1) Disqualification File “A” (Permanent) - Directors/officers/employees permanently disqualified by the Monetary Board from holding a director/officer position.

(2) Disqualification File “B” (Temporary) - Directors/officers/employees temporarily disqualified by the Monetary Board from holding a director/officer position.

b. *Inclusion of directors/officers/employees in the watchlist.* Directors/officers/employees disqualified under Subsec. X143.4 shall be included in the watchlist disqualification files “A” or “B”.

c. *Confidentiality.* Watchlist files shall be for internal use only of the BSP and may

not be accessed or queried upon by outside parties including banks, QBs and trust entities except with the authority of the person concerned and with the approval of the Deputy Governor, SES or the Governor of the Monetary Board.

BSP will disclose information on its watchlist files only upon submission of a duly accomplished and notarized authorization from the concerned person and approval of such request by the Deputy Governor, SES or the Governor or the Monetary Board. The prescribed authorization form to be submitted to the concerned department of SES is in *Appendix 76*.

Banks can gain access to information in the said watchlist for the sole purpose of screening their applicants for hiring and/or confirming their elected directors and appointed officers. Banks must obtain the said authorization on an individual basis.

d. *Delisting.* All delistings shall be approved by the Monetary Board upon recommendation of the operating departments of SES except in cases of persons known to be dead where delisting shall be automatic upon proof of death and need not be elevated to the Monetary Board. Delisting may be approved by the Monetary Board in the following cases:

(1) Watchlist - Disqualification File “B” (Temporary) -

(a) After the lapse of the specific period of disqualification;

(b) When the conviction by the court for crimes involving dishonesty, breach of trust and/or violation of banking law becomes final and executory, in which case the director/officer/employee is relisted to Watchlist - Disqualification File “A” (Permanent); and

(c) Upon favorable decision or clearance by the appropriate body, i.e., court, NBI, BSP, bank, QB, trust entity or such other agency/body where the concerned individual had derogatory record.

Directors/officers/employees delisted from the Watchlist - Disqualification File "B" other than those upgraded to Watchlist - Disqualification File "A" shall be eligible for re-employment with any bank, QB or trust entity.

(As amended by CL-2007-001 dated 04 January 2007 and CL-2006-046 dated 21 December 2006)

Sec. X144 Bio-data of Directors and Officers

a. Banks shall submit to the appropriate department of the SES a bio-data of their directors and officers after their election or appointment, in a prescribed form and within the deadline indicated in *Appendix 6*.

The bio-data shall be updated in any of the following instances:

- (1) Change in educational attainment, experience or additional qualifications in banking that will enhance the director's or officer's competence or will qualify him to his present position;
- (2) Promotion; and
- (3) Transfer to other banks.

The bio-data shall be submitted only once. For purposes of updating, only the pertinent sections and pages shall be submitted to the BSP.

b. Banks shall submit to the appropriate department of the SES for evaluation, a list of the incumbent members of the board of directors and officers (chief executive officers down the line) after the annual election of the board of directors as provided in the bank's by-laws. Any change in the composition of the board of directors shall also be reported to the BSP after the election or appointment of a member.

c. If after evaluation, the Monetary Board shall find grounds for disqualification, the director/officer so elected/appointed may be removed from office even if he/she has assumed the position to which he/she was elected/appointed pursuant to Section 9-A of R.A. No. 337, as amended.

In the case of the independent directors, the bio-data shall be accompanied by a certification under oath from the director concerned that he/she is an independent director as defined under Subsec. X141.1 that all the information thereby supplied are true and correct, and that he/she:

(1) Is not or has not been an officer or employee of the bank, its subsidiaries or affiliates or related interests during the past three (3) years counted from the date of his election;

(2) Is not a director or officer of the related companies of the institution's majority stockholder;

(3) Is not a majority stockholder of the institution, any of its related companies, or of its majority shareholders;

(4) Is not a relative within the fourth degree of consanguinity or affinity, legitimate or common-law of any director, officer or majority shareholder of the bank or any of its related companies;

(5) Is not acting as a nominee or representative of any director or substantial shareholder of the bank, any of its related companies or any of its substantial shareholders;

(6) Is not retained as professional adviser, consultant, agent or counsel of the institution, any of its related companies or any of its substantial shareholders, either in his personal capacity or through his firm; is independent of management and free from any business or other relationship, has not engaged and does not engage in any transaction with the institution or with any of its related companies or with any of its substantial shareholders, whether by himself or with other persons or through a firm of which he is a partner or a company of which he is a director or substantial shareholder, other than transactions which are conducted at arms length and could not materially interfere with or influence the exercise of his judgment; and

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(7) Complies with all the qualifications required of an independent director and does not possess any of the disqualifications therefor; and has not withheld nor suppressed any information material to his or her qualification or disqualification as an independent director.

Sec. X145 Interlocking Directorships and/or Officerships. In order to safeguard against the excessive concentration of economic power, unfair competitive advantage or conflict of interest situations to the detriment of others through the exercise by the same person or group of persons of undue influence over the policy-making and/or management functions of similar FIs while at the same time allowing banks, QBs and non-bank financial institutions (NBFIs) without quasi-banking functions to benefit from organizational synergy or economies of scale and effective sharing of managerial and technical expertise, the following regulations shall govern interlocking directorships and/or officerships within the financial system consisting of banks, QBs and NBFIs.

For purposes of this Section, QBs shall refer to investment houses, finance companies, trust entities and all other NBFIs with quasi-banking functions while NBFIs shall refer to investment houses, finance companies, trust entities, insurance companies, securities dealers/brokers, credit card companies, non-stock savings and loan associations (NSSLAs), holding companies, investment companies, government NBFIs, asset management companies, insurance agencies/brokers, venture capital corporations, FX dealers, money changers, lending investors, pawnshops, fund managers, mutual building and loan associations, remittance agents and all other NBFIs without quasi-banking functions.

a. *Interlocking directorships*

While concurrent directorship may be the least prejudicial of the various relationship cited in this Section to the interests of the FIs involved, certain measures are still necessary to safeguard against the disadvantages that could result from indiscriminate concurrent directorship.

(1) Except as may be authorized by the Monetary Board or as otherwise provided hereunder, there shall be no concurrent directorships between banks or between a bank and a QB.

(2) Without the need for prior approval of the Monetary Board, concurrent directorships between entities not involving an investment house shall be allowed in the following cases:

- (a) Banks not belonging to the same category: *Provided*, That not more than one
- (1) Bank shall have quasi-banking functions;
- (b) A bank and an NBF;
- (c) A bank without quasi-banking functions and a QB; and
- (d) A bank and one (1) or more of its subsidiary bank/s, QB/s and NBF/s.

For purposes of the foregoing, a husband and his wife shall be considered as one (1) person.

b. *Interlocking directorships and officerships*

In order to prevent any conflict of interest resulting from the exercise of directorship coupled with the reinforcing influence of an officer's decision-making and implementing powers, the following rules shall be observed:

(1) Except as may be authorized by the Monetary Board or as otherwise provided hereunder, there shall be no concurrent directorship and officership between banks or between a bank and a QB or an NBF; and

(2) Without the need for prior approval of the Monetary Board, concurrent directorship and officership between a

bank and one (1) or more of its subsidiary bank/s, QB/s and NBFI/s, other than investment house/s, shall be allowed.

c. *Interlocking officerships*

A concurrent officership in different FIs may present more serious problems of self-dealing and conflict of interest. Multiple positions may result in poor governance or unfair competitive advantage. Considering the full-time nature of officer positions, the difficulties of serving two (2) offices at the same time, and the need for effective and efficient management, the following rules shall be observed:

As a general rule, there shall be no concurrent officerships, including secondments, between banks or, between a bank and a QB or an NBFI. For this purpose, *secondment* shall refer to the transfer/detachment of a person from his regular organization for temporary assignment elsewhere where the seconded employee remains the employee of the home employer although his salaries and other remuneration may be borne by the host organization.

However, subject to prior approval of the Monetary Board, concurrent officerships, including secondments, may be allowed in the following cases:

(1) Between a bank and not more than two (2) of its subsidiary bank/s, QB/s, and NBFI/s, other than investment house/s; or

(2) Between a bank and not more than two (2) of its subsidiary QB/s and NBFI/s; or

(3) Between two (2) banks, or between a bank and a QB or an NBFI, other than an investment house: *Provided*, That at least twenty percent (20%) of the equity of each of the banks, QBs or NBFIs is owned by a holding company or a bank/QB and the interlocking arrangement is necessary for the holding company or the bank/QB to provide technical expertise or managerial assistance to its subsidiaries/affiliates.

Aforementioned concurrent officerships may be allowed, subject to the following conditions:

(a) that the positions do not involve any functional conflict of interests;

(b) that any officer holding the positions of president, chief executive officer, chief operating officer or chief financial officer or their equivalent may not be concurrently appointed to any of said positions or their equivalent;

(c) that the officer involved, or his spouse or any of his relatives within the first degree of consanguinity or affinity or by legal adoption, or a corporation, association or firm wholly- or majority-owned or controlled by such officer or his relatives enumerated above, does not own in his/its own capacity more than twenty percent (20%) of the subscribed capital stock of the entities in which the bank has equity investments; and

(d) that where any of the positions involved is held on full-time basis, adequate justification shall be submitted to the Monetary Board; or

(4) Concurrent officership positions in the same capacity which do not involve management functions, i.e., internal auditor, corporate secretary, assistant corporate secretary and security officer, between a bank and one or more of its subsidiary QB/s and NBFI/s, or between bank/s, QB/s and NBFI/s, other than investment house/s: *Provided*, That at least twenty percent (20%) of the equity of each of the banks, QBs and NBFIs is owned by a holding company or by any of the banks/QBs within the group.

For purposes of this Section, members of a group or committee, including sub-groups or sub-committees, whose duties include functions of management such as those ordinarily performed by regular officers, shall likewise be considered as officers.

It shall be the responsibility of the Corporate Governance Committee to

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conduct an annual performance evaluation of the board of directors and senior management. When a director or officer has multiple positions, the Committee should determine whether or not said director or officer is able to and has been adequately carrying out his/her duties and, if necessary, recommend changes to the board based upon said performance/ review.

(As amended by Circular No. 592 dated 28 December 2007)

§ X145.1 Representatives of government. The provisions of this Section shall apply to persons appointed to such positions as representatives of the government or government-owned or controlled entities unless otherwise provided under existing laws.

(As amended by Circular No. 592 dated 28 December 2007)

Sec. X146 Profit Sharing Programs. Profit sharing programs adopted in favor of directors, officers and employees shall be reflected in the by-laws of the bank, subject to the following guidelines:

a. The base in any profit sharing program shall be the net income for the year of the bank as shown in its Consolidated Statement of Income and Expenses for the year, net of the following:

(1) All cumulative dividends accruing to preferred stock to the extent not covered by earned surplus;

(2) Accrued interest receivable credited to income but not yet collected, net of reserves already set up for uncollected interest on loans;

(3) Unbooked valuation reserves on loans or the amount required to update valuation reserves in accordance with the schedule approved by the Monetary Board, as well as all amortizations due on deferred charges;

(4) Provisions for current year's taxes;

(5) Income tax deferred for the year.
Provided, however, That in case of reversal

of deferred income taxes which were deducted from net income in computing for profit sharing of previous years, the deferred income tax reversed to expense shall be added back to net income to arrive at the base for profit sharing for the year during which the reversal is made;

(6) Accumulated profits not yet received but already recorded by a bank representing its share in profits of its subsidiaries under the equity method of accounting; and

b. The bank may provide in its by-laws for other priorities in the computation of net profits for purposes of profit sharing: *Provided, That in no case shall profit sharing take precedence over any of the items in the preceding paragraph; and*

c. Prior approval of the Monetary Board shall be necessary before a bank which has received financial assistance from the BSP may implement its profit sharing program. *Financial assistance* shall refer to emergency loans and advances and such other forms of credit accommodations which are intended to provide banks with liquidity in times of need.

Sec. X147 Compensation and Other Benefits of Directors and Officers. To protect the funds of depositors and creditors, the Monetary Board may regulate/restrict the payment by the bank of compensation, allowances, fees, bonuses, stock options, profit sharing and fringe benefits to its directors and officers in exceptional cases and when the circumstances warrant, such as, but not limited to, the following:

a. When the bank is under controllership, conservatorship or when it has outstanding emergency loans and advances and such other forms of credit accommodation from the BSP which are intended to provide it with liquidity in times of need;

b. When the institution is found by the Monetary Board to be conducting business in an unsafe or unsound manner;

c. When it is found by the Monetary Board to be in an unsatisfactory financial condition such as, but not limited to, the following cases:

- (1) Its capital is impaired;
- (2) It has suffered continuous losses from operations for the past three (3) years;
- (3) Its composite CAMEL(S) rating in the latest examination is below “3”; and
- (4) It is under rehabilitation by the BSP/ PDIC which rehabilitation may include debt-to-equity conversion, etc.

In the presence of any one (1) or more of the circumstances mentioned above, the Monetary Board may impose the following restrictions in the compensation and other benefits of directors and officers:

a. In the case of profit sharing, the provision of Sec. X146 shall be observed except that for purposes of this Section, the total amount of unbooked valuation reserves and deferred charges shall be deducted from the net income.

b. Except for the financial assistance to meet expenses for the medical, maternity, education and other emergency needs of the directors or officers or their immediate family, the other forms of financial assistance may be suspended.

c. When the total compensation package including salaries, allowances, fees and bonuses of directors and officers are significantly excessive as compared with peer group averages, the Monetary Board may order their reduction to reasonable levels: *Provided*, That even if a bank is in financial trouble, it may nevertheless be allowed to grant relatively higher salary packages in order to attract competent officers and quality staff as part of its rehabilitation program.

The foregoing provisions founded on Section 18 of R.A. No. 8791 shall be

deemed part of the benefits and compensation programs of banks.

Sec. 1147 (Reserved)

Sec. 2147 (Reserved)

Sec. 3147 Bonding/Training of Directors, Officers and Employees. Officers and employees handling funds or securities amounting to P5,000 or more in any one (1) year shall be bonded in an amount determined by the Monetary Board.

Directors, officers and other personnel of RBs/Coop Banks shall undergo such training in banking as may be required by the BSP.

Sec. X148 (Reserved)

Sec. X149 Conducting Business in an Unsafe/Unsound Manner. Whether a particular activity may be considered as conducting business in an unsafe or unsound manner, all relevant facts must be considered. An analysis of the impact thereof on the bank’s operations and financial conditions must be undertaken, including evaluation of capital position, asset condition, management, earnings posture and liquidity position.

In determining whether a particular act or omission, which is not otherwise prohibited by any law, rule or regulation affecting banks, may be deemed as conducting business in an unsafe or unsound manner, the Monetary Board, upon report of the head of the supervising or examining department based on findings in an examination or a complaint, shall consider any of the following circumstances:

a. The act or omission has resulted or may result in material loss or damage, or abnormal risk or danger to the safety, stability, liquidity or solvency of the institution;

b. The act or omission has resulted or may result in material loss or damage

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or abnormal risk to the institution’s depositors, creditors, investors, stockholders, or to the BSP, or to the public in general;

c. The act or omission has caused any undue injury, or has given unwarranted benefits, advantage or preference to the bank or any party in the discharge by the director or officer of his duties and responsibilities through manifest partiality, evident bad faith or gross inexcusable negligence; or

d. The act or omission involves entering into any contract or transaction manifestly and grossly disadvantageous to the bank, whether or not the director or officer profited or will profit thereby.

The list of activities which may be considered unsafe and unsound is shown in *Appendix 48*.

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§ X149.9 Sanctions. The Monetary Board may, at its discretion and based on the seriousness and materiality of the acts or omissions, impose any or all of the following sanctions provided under Section 37 of R.A. No. 7653 and Section 56 of R.A. No. 8791, whenever a bank conducts business in an unsafe and unsound manner:

a. Issue an order requiring the bank to cease and desist from conducting business in an unsafe and unsound manner and may further order that immediate action be taken to correct the conditions resulting from such unsafe or unsound practice;

b. Fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed P30,000 a day on a per transaction basis taking into consideration the attendant circumstances, such as the gravity of the act or omission and the size of the bank, to be imposed on the bank, their directors and/or responsible officers;

c. Suspension of interbank clearing privileges/immediate exclusion from clearing;

d. Suspension of rediscounting privileges or access to BSP credit facilities;

e. Suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;

f. Suspension of responsible directors and/or officers;

g. Revocation of quasi-banking license; and/or

h. Receivership and liquidation under Section 30 of R.A. No. 7653.

All other provisions of Sections 30 and 37 of R.A. No. 7653, whenever appropriate, shall also be applicable on the conduct of business in an unsafe or unsound manner.

The imposition of the above sanctions is without prejudice to the filing of appropriate criminal charges against culpable persons as provided in Sections 34, 35 and 36 of R.A. No. 7653.

Sec. X150 Rules of Procedure on Administrative Cases Involving Directors and Officers of Banks. The rules of procedure on administrative cases involving directors and officers of banks are shown in *Appendix 64*.

I. BANKING OFFICES

Sec. X151 Establishment/Relocation/Voluntary Closure/Sale of Branches. The BSP shall promote healthy competition in the banking system and maximize the delivery of efficient banking services especially in underserved areas. Toward this end, the following are the rules and regulations that shall govern the establishment, relocation, voluntary closure and sale of local branches of domestic banks, including locally-

incorporated subsidiaries of foreign banks and the establishment of branches of foreign banks in the Philippines shall continue to be governed by the provisions of Secs. X105 and X153.

For purposes of this Section and its Subsections, the following definitions shall apply:

Branch shall refer to any permanent office or place of business in the Philippines other than the head office where deposits are accepted and/or withdrawals are serviced by tellers or other authorized personnel. It maintains a complete set of books of accounts.

Extension office shall refer to any permanent office or place of business in the Philippines other than the head office or a branch, where deposits are accepted and/or withdrawals are serviced by tellers or other authorized personnel. It does not maintain a complete set of books of accounts as its transactions are taken-up directly in the books of the head office or a branch to which it is attached. It shall be treated as a branch for purposes of this Section and its Subsections.

Other banking office shall refer to any office or place of business in the Philippines other than the head office, branch or extension office, which primarily engages in banking activities other than the acceptance of deposits and/or servicing of withdrawals thru tellers or other authorized personnel. It shall include loan collection and disbursement points (LCDPs) of microfinance-oriented banks and microfinance/barangay micro business enterprise (BMBE)-oriented branches of banks which may accept deposits solely from existing microfinance/BMBE borrowers: *Provided*, That account openings and other banking transactions of said microfinance/ BMBE borrowers shall be done only at the head office/ branches/ extension offices or thru

automated teller machines (ATMs), as may be applicable.

(As amended by Circular No. 624 dated 13 October 2008)

§ X151.1 Prior Monetary Board approval. No bank operating in the Philippines shall establish branches, extension offices or other banking offices or transact business outside the premises of its duly authorized principal office or head office without the prior approval of the Monetary Board.

(As amended by Circular No. 624 dated 13 October 2008)

§ X151.2 Prerequisites for the grant of authority to establish a branch. With prior approval of the Monetary Board, banks may establish branches subject to the following pre-qualification requirements:

- a. The bank has complied with the minimum capital requirement under Subsec. X111.1, but not lower than P10 million, in the case of RBs and Local Coop Banks.
- b. The bank’s risk-based CAR at the time of filing the application is not lower than twelve percent (12%);
- c. The bank’s CAMELS composite rating in the latest examination is at least “3”, with management component score not lower than “3”;
- d. The bank has established a risk management system appropriate to its operations, characterized by clear delineation of responsibility for risk management, adequate risk measurement system, appropriately structured risk limits, effective internal control system and complete, timely and efficient risk reporting system;
- e. The bank has no major supervisory concerns outstanding on safety and soundness as indicated by the following during the period immediately preceding the date of application or as of the date of application:

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- (1) No unbooked valuation reserves

as of date of application

(2) No deficiency in regular and liquidity reserve requirements on deposits and deposit substitutes

12 weeks
- (3) No deficiency in asset and liquid asset cover for EFCDU/ FCDU liabilities

3 months

(4) Compliant with ceilings on loans to DOSRI

12 weeks
- (5) No deficiency in liquidity floor on government deposits

3 months

(6) Compliant with the single borrower’s loan limit and limit on total investment in real estate and improvements including bank equipment

as of date of application
- (7) No past due obligation with the BSP or with any FI

as of date of application

(8) No float items outstanding in the “Due From/To Head Office/Branches/Offices” and “Due from BSP” accounts exceeding one percent (1%) of the total resources as of end of the month

3 months
- (9) No uncorrected findings of unsafe and unsound banking practices

as of date of application

(10) Has adequate accounting records, systems, procedures and internal control

as of date of application
- (11) Has generally complied with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management

as of date of application

(12) Member in good standing of the PDIC

as of date of application

f. For purposes of evaluating branch applications, theoretical capital shall be

assigned to each branch to be established, including approved but unopened branches, as follows:

(In millions)			
LOCATION/ TYPE OF BANK	UB/KB	TB/ NATIONAL COOP	RB/ LOCAL COOP
1) NCR and the Cities of Cebu and Davao	P 50	P 15	P 5.0
2) 1st to 3rd class cities	P 25	P 5.0	P 2.5
3) 4th to 6th class cities	P 25	P 5.0	P 1.5
4) 1st to 3rd class municipalities	P 20	P 5.0	P 1.0
5) 4th to 6th class municipalities	P 15	P 2.5	P 0.5

The assigned theoretical capital shall be deducted from existing qualifying capital as defined under Subsec. X116.2 for purposes of determining compliance with the ten percent (10%) risk-based CAR.

If the applicant bank’s risk-based CAR after deducting the assigned capital for the proposed branch from the existing qualifying capital would be less than ten percent (10%), its application shall not be processed unless it infused such amount as may be necessary to maintain its risk-based CAR to at least ten percent (10%);

g. The bank has been operating profitably for the year immediately preceding the date of application, or in the case of newly-established banks, the submitted projection showed that profitability will be attained on the third year of operations, at the latest; and

h. Additional requirements for the establishment of microfinance/BMBE-oriented branches of banks which are not microfinance/BMBE-oriented are as follows:

- (1) The branch shall have a manual of operations on microfinancing duly approved by the bank’s board of directors;

(2) The branch shall have an adequate loan tracking system that allows daily monitoring of loan releases, collections and arrearages, and any restructuring and refinancing arrangements;

(3) The proposed branch shall be managed by a person with adequate experience or training in microfinancing activities; and

(4) At least seventy percent (70%) of the deposits generated by the branch to be established shall be actually lent out to qualified microfinance/BMBE borrowers and the microfinance/BMBE loans of said branch shall at all times be at least fifty percent (50%) of its gross loan portfolio.

A microfinance-oriented branch is a branch that provides financial services and caters primarily to the credit needs of basic or disadvantaged sectors such as those specified under the second paragraph of Subsec. X102.3, so as to enable them to raise their income levels and improve their living standards. Microfinance loans are granted on the basis of the borrower's cash flow and are typically unsecured.

A BMBE-oriented branch of a bank is a branch that caters primarily to the credit needs of BMBEs duly registered under R.A. No. 9178.

(As amended by Circular No. 624 dated 13 October 2008)

§ X151.3 Application for authority to establish branches. An application for authority to establish a branch shall be signed by the president of the bank or officer of equivalent rank and shall be accompanied by the following information/documents:

a. Business plan detailing the primary banking activities/products and services to be offered; competition analysis to show that its application will not lead to over banking in the target market; and financial projections for the first three (3) years of operations showing sustained viability, as may be required by the appropriate

department of the SES: *Provided*, That normally operating UBs, KBs, and TBs with total resources of P1 billion or more shall be exempt from the foregoing requirements, a bank is not considered normally operating if it is under PCA or is non-compliant with supervisory directives duly confirmed by the Monetary Board. In the evaluation of the business plan, due consideration shall be given to banks that are able or are committed to invest or deploy branch resources in their area of operations;

b. Certified true copy of the resolution of the bank's board of directors authorizing the establishment of the branch and indicating its proposed site;

c. Organizational set up of the proposed branch showing the proposed staffing pattern; and

d. Certification/Undertaking signed by the president of the bank or officer of equivalent rank that the bank has complied or will comply, as the case maybe, with the prerequisites for the grant of authority to establish a branch under Subsec. X151.2.

(As amended by Circular No. 624 dated 13 October 2008)

§ X151.4 Branching guidelines Branches may be established, subject to the following guidelines:

a. Only one (1) branch application may be submitted at any time except for banks with at least P100.0 million combined capital accounts, as defined under Sec. X111, which may be allowed a maximum of five (5) including approved but unopened branch applications, at any time;

b. Only applications submitted with complete documentary requirements enumerated in Subsec. X151.3 shall be accepted. Processing shall be on a first come, first-served basis;

c. Industry/market notice of application for authority to establish a branch shall be posted at the BSP website upon receipt thereof;

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d. As a general rule, banks shall be allowed to establish branches anywhere in the Philippines, except in the cities of Makati, Mandaluyong, Manila, Parañaque, Pasay, Pasig, Quezon and San Juan (restricted areas): *Provided, however, That RBs/local Coop Banks shall not be allowed to establish branches in Metro Manila: Provided, further, That -*

(1) Branches of microfinance-oriented banks, microfinance/BMBE-oriented branches of banks which are not microfinance/BMBE-oriented may be established anywhere, subject to compliance with, among other requirements, the minimum capital requirement under Item “a” of Subsec. X151.2 and the following conditions:

(a) A microfinance-oriented TB or RB may be allowed to establish a branch in Metro Manila, including in the restricted areas, if it has combined capital accounts of at least P325.0 million in case of a TB, or at least P100.0 million in case of an RB; and

(b) A TB or RB/local Coop Bank may be allowed to establish a microfinance/BMBE-oriented branch in Metro Manila, including in the restricted areas, if it has combined capital accounts of at least P325.0 million in case of a TB, or at least P100.0 million in case of an RB/local Coop Bank.

(2) Subject to the submission of the specific business purpose for establishing the branch, among other justifications:

(a) A TB or RB with head office located outside the restricted areas with combined capital accounts of at least P500.0 million may be allowed to establish one (1) branch anywhere within the restricted areas if it has no existing branch/es in said areas; and

(b) An RB with head office located outside Metro Manila with combined capital accounts of at least P500.0 million may be allowed to establish one (1) branch anywhere in Metro Manila, including in

the restricted areas, if it has no existing branch/es in Metro Manila.

(3) A TB with combined capital accounts of at least P325.0 million may establish branches in Metro Manila, except in the restricted areas.

(4) Subject to the restrictions in Items “5”, “6”, “7” and “8” hereof, an RB with combined capital accounts of at least P10.0 million, may establish branches in cities/ municipalities of higher classification and with corresponding higher capitalization requirements, except in Metro Manila: *Provided, That* where the majority of the RB’s total assets and/or majority of its total deposit liabilities are regularly accounted for by branches located in such cities/ municipalities of higher classification, the RB shall comply with the capitalization requirement of that city/municipality within one (1) year from the BSP finding.

(5) An RB or a local Coop Bank shall only be allowed to establish branch/es if its combined capital accounts is at least P10.0 million;

(6) An RB or local Coop Bank with combined capital accounts of at least P10.0 million but less than P50.0 million may establish branch/es anywhere within two (2) - hour normal travel time by land/ sea public transport from the head office, except in Metro Manila; and

(7) An RB with combined capital accounts of at least P50.0 million but less than P100.0 million may establish branch/es in any island group (Luzon, Visayas or Mindanao) where the head office is located, except in Metro Manila;

(8) An RB with at least P100.0 million capital accounts may establish branch/es anywhere in the Philippines, except in Metro Manila unless qualified under Items “d(1)” and “d(2)” above.

e. A maximum of two (2) branches shall be allowed in each of the 4th, 5th or 6th class municipalities; and

f. The Monetary Board may decide to disapprove an otherwise qualified branch application if in its determination such branch application will lead to an overbanking situation in the specific market.
(As amended by Circular No. 624 dated 13 October 2008)

§ X151.5 Branch processing fee
Branch processing fee shall be as follows:

a. UBs/KBs/ Affiliated TBs	- P 200,000
b. Non-affiliated TBs/ National Coop Banks	- P 100,000
c. RBs/Local Coop Bank	- P 25,000
d. Microfinance-oriented banks or microfinance/ BMBE-oriented branches of banks	- P 5,000

Provided, That branches of TBs, RBs and local Coop Banks to be established within the region where the head office is located shall be free from assessment.
(As amended by Circular No. 624 dated 13 October 2008)

§ X151.6 Establishment of other banking offices. Other banking offices may be established with prior Monetary Board approval, and subject to compliance with the following:

- Minimum capital requirement under Subsec. X111.1 but not lower than P10.0 million in the case of RBs and local Coop Banks;
- Ten percent (10%) risk-based CAR;
- CAMELS composite rating not lower than “3”, with management component score not lower than “3” in the latest examination of the bank; and
- Ceiling on total investments of a bank in real estate and improvements thereon, including bank equipment.

The application to establish other banking offices shall be signed by the president of the bank or officer of equivalent rank and submitted to the appropriate department of the SES together with the following documents:

1. Certified true copy of the resolution of the bank’s board of directors authorizing the establishment of the other banking office and indicating its proposed site;

2. Purpose statement indicating the bank’s objective or reason for establishing the other banking office; and

3. Undertaking signed by the president of the bank or officer of equivalent rank that said other banking office shall not accept deposits and/or service withdrawals thru tellers or other authorized personnel. In the case of LCDPs of microfinance-oriented banks and microfinance/BMBE-oriented branches of banks, the undertaking shall state that the LCDP shall accept deposits thru tellers or other authorized personnel solely from existing microfinance/BMBE borrowers.

Other banking offices may be established only in areas where the bank is allowed to establish branches as provided under Subsec. X151.4.

Transitory provision. Other banking offices existing as of 01 November 2008, which are manned by less than three (3) officers/employees at any time, accepting deposits through tellers or other authorized personnel, and are located in areas where the banks concerned are allowed to establish branches under the guidelines prescribed in this Section may apply for the conversion of these other banking offices to branches or extension offices subject to compliance with the guidelines on the establishment of branches, otherwise, these other banking offices shall phase-out their deposit operations within one (1) year from 01 November 2008.

(As amended by Circular No. 624 dated 13 October 2008)

§ X151.7 Date of opening. Approved branches/other banking offices shall be opened within six (6) months from the date of approval thereof: *Provided,* That an

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applicant bank may be given a final extension of another six (6) months by the Deputy Governor, SES, subject to the presentation of justification and valid reason for the failure to open the branch/other banking office within the original six (6) - month period and proof that said branch/other banking office can be opened within the succeeding six (6) - month period.

(As amended by Circular No. 624 dated 13 October 2008)

§ X151.8 Requirements for opening a branch/other banking office. After a bank’s application to establish a branch/other banking office has been approved, it may open the same subject to its submission to the appropriate department of the SES of the following:

a. Within thirty (30) calendar days prior to the intended date of opening, personal information sheet (bio-data) of the proposed manager and other officers of the branch/other banking office; and

b. Within ten (10) banking days prior to the intended date of opening, a certification signed by the head of the Branches Department with the rank of a vice president, or its equivalent or by a higher ranking officer that the installation of the required security devices under Item “b” of Subsec. X181.4 has been complied with.

The bank shall likewise submit a written notice to the appropriate department of the SES of the actual date of opening of its branch/other banking office not later than five (5) banking days from such opening, together with a certification signed by the head of the branches department with the rank of a vice president, or its equivalent or by a higher ranking officer that the requirements enumerated under Subsecs. X151.2/X151.6 have been complied with as of the time of actual opening of the branch/other banking office.

A bank that fails to comply with any one (1) of the requirements in Subsecs. X151.2/X151.6 as of the date of the intended opening of the branch/other banking office shall refrain from opening the branch/other banking office on such date until it has complied with all of the requirements under Subsecs. X151.2/X151.6: *Provided*, That if the branch/other banking office, cannot open within six (6) months from the date of the original approval of the establishment of such branch/other banking office, the provisions of Subsec. X151.7 on the final extension to open the branch/other banking office shall be observed.

(As amended by Circular No. 624 dated 13 October 2008)

§ X151.9 Relocation of branches/other banking offices. Relocation of existing/operating branches/other banking offices shall be allowed without prior Monetary Board approval in accordance with the following procedures:

a. Notice of relocation shall be sent to depositors and other creditors, where applicable, by registered mail or proof of delivery (POD) service of the Philippine Postal Corporation (PhilPost) or other mail couriers and posters shall be displayed in conspicuous places in the premises of the branch/other banking office to be relocated at least three (3) months prior to the relocation: *Provided*, That said notification period may be reduced to forty-five (45) calendar days under any of the following circumstances:

(1) as an incentive to merger or consolidation of banks;

(2) as an incentive to the purchase or acquisition of majority or all of the outstanding shares of stock of a distressed bank for the purpose of rehabilitating the same; or

(3) the proposed relocation site is within the same barangay of the branch/other banking office to be relocated.

- b. Within five (5) banking days from the date of relocation, a notice of relocation together with a certification signed by the head of the Branches Department with the rank of vice president or its equivalent rank or by a higher ranking officer that the notification requirement under Item “a” above has been complied with shall be submitted to the appropriate department of the SES. The certification shall be accompanied by a certified true copy of the resolution of the bank’s board of directors authorizing the relocation;
 - c. Branches located in the restricted areas may be relocated anywhere;
 - d. Branches located in other areas may be relocated anywhere except in the restricted areas: *Provided*, That branches of TBs may be relocated in Metro Manila but outside the restricted areas if they have complied with the minimum capital requirement for TBs with head offices in Metro: *Provided further*, That branches of RBs and local Coop Banks may be transferred only in areas where they are allowed to establish branches: *Provided finally*, That existing branches of RBs and local Coop Banks in cities and municipalities of Metro Manila other than in the restricted areas may be relocated anywhere, except in the restricted areas; and
 - e. Other banking offices may be relocated only in areas where the bank’s branches are allowed to be relocated as indicated in Items “c” and “d” above.
- (As amended by Circular No. 624 dated 13 October 2008)

§ X151.10 Voluntary closure/sale of branches/other banking offices

- a. *Voluntary closure of branches/other banking offices.* Voluntary closure of branches/other banking offices may be effected only with prior approval of the Monetary Board in accordance with the following procedures:
 - (1) Request for Monetary Board approval of the closure of branches/other

- banking offices signed by the president of the bank or officer of equivalent rank, together with a certified true copy of the resolution of the bank’s board of directors authorizing the closure and stating the justification/reasons therefor, shall be submitted to the appropriate department of the SES;
- (2) Upon receipt of the notice of Monetary Board approval but at least three (3) months prior to the closure, notice of closure shall be sent to depositors and other creditors by registered mail or POD service of the PhilPost or other mail couriers and posters shall be displayed in conspicuous places in the premises of the branch/banking office to be closed: *Provided* that said notification period may be reduced to forty five (45) calendar days under any of the following circumstances:
 - (a) As an incentive to merger or consolidation of banks;
 - (b) As an incentive to the purchase or acquisition of majority or all of the outstanding shares of stock of a distressed bank for the purpose of rehabilitating the same; or
 - (c) The proposed relocation site is within the same barangay of the branch/other banking office to be relocated; and
 - (3) Within five (5) banking days from date of closure, a notice of closure, together with a certification signed by the president of the bank or officer of equivalent rank, that the notification requirement in Item “2” above has been complied with, shall be submitted to the appropriate department of the SES.
- Temporary closure of branches/other banking offices.* Temporary closure of branches/other banking offices for the purpose of undertaking renovations/major repairs of branch/office premises/facilities may be allowed for a period not exceeding six (6) months subject to the prior approval of the Deputy Governor, SES, and compliance with the following conditions:

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(1) Request for approval of the temporary closure of the branch/other banking office signed by the president of the bank or officer of equivalent rank shall be submitted to the appropriate department of the SES, together with a certified true copy of the resolution of the bank's board of directors authorizing said closure stating the justifications/reasons therefor. The request shall include information as to the timetable for said closure and the branch/other banking office that will handle the transactions of the branch/other banking office to be closed;

(2) Upon receipt of notice of approval by the Deputy Governor, SES, but at least three (3) months prior to the intended date of closure, notice of temporary closure shall be sent to depositors and other creditors, where applicable, by registered mail or POD service of the Philpost or other mail couriers, and posters shall be displayed in conspicuous places in the premises of the branch/other banking office to be closed. Information as to the duration of said closure and the address of the branch/other banking office that will handle the transactions of the branch/other banking office to be closed shall be indicated in the said notice/posters;

(3) The transactions of the branch/other banking office to be closed shall be handled by the branch/other banking office nearest to the branch/other banking office to be closed;

(4) Within five (5) banking days after the date of closure, a notice of such closure signed by the head of the branches department with the rank of a vice president, or its equivalent or by a higher ranking officer together with a certification that the notification requirement under Item "2" above has been complied with shall be submitted to the appropriate department of the SES.

(5) Within five (5) banking days after re-opening of the branch/other banking office,

notice of such re-opening signed by the head of the branches department with the rank of a vice president, or its equivalent or by a higher ranking officer shall be submitted to the appropriate department of the SES.

b. *Sale of branches/other banking offices.* Sale of branches/other banking offices may be allowed with prior approval of the Monetary Board in accordance with the following procedures:

(1) In the case of sale of branches, the selling and acquiring banks shall secure the prior written consent of the PDIC in the transfer of assets and assumption of liabilities as provided under Section 21 of the PDIC Charter (R.A. No. 3591), as amended by R.A. No. 9302;

(2) Request for Monetary Board approval to close the branches/other banking offices to be sold signed by the president of the bank or officer of equivalent rank, together with a certified true copy of the resolution of the bank's board of directors authorizing the sale shall be submitted by the selling bank to the appropriate department of the SES;

(3) Upon receipt of the notice of Monetary Board approval but at least three (3) months prior to the closure, notice of sale shall be sent to depositors and other creditors, where applicable, by registered mail or POD service of the Philpost or other mail couriers, and posters shall be displayed in conspicuous places in the premises of the branch/other banking office to be sold: *Provided*, That said notification period may be reduced to forty-five (45) calendar days when there is no actual closure or disruption of operations. Depositors shall likewise be informed of their option to withdraw their deposits or to maintain the same with the acquiring bank;

(4) Within five (5) banking days from the date of closure, a notice of such closure, together with a certification signed by the president of the bank or officer of

equivalent rank that the notification requirement under Item “3” above has been complied with, shall be submitted to the appropriate department of the SES;

(5) Request for Monetary Board approval to acquire the branch/other banking office signed by the president of the bank or officer of equivalent rank, together with a certified true copy of the resolution of the bank’s board of directors authorizing the acquisition shall be submitted by the acquiring bank to the appropriate department of the SES. The acquiring bank shall likewise comply with the following:

- (a) Minimum capital requirement under Subsec. X111.1 but not lower than ten (P10) million in the case of of RBs and local Coop Banks;
- (b) Ten percent (10%) risk-based CAR;
- (c) CAMELS composite rating not lower than “3” with management component score not lower than “3” in the latest examination of the bank; and
- (d) Ceiling on total investments of a bank in real estate and improvements thereon, including bank equipment.

A UB, KB or TB may purchase/acquire branches/other banking offices anywhere, including in Metro Manila and in the restricted areas: *Provided*, That a TB may purchase/acquire branches/other banking offices in Metro Manila, including in the restricted areas, if it has combined capital accounts of at least P325 million: *Provided, further*, That an RB/local Coop Bank may purchase/acquire branches/other banking offices only in areas where it is allowed to establish branches/other banking offices as provided under Subsec. X151.4;

(6) The acquiring bank shall pay a licensing fee per branch/other banking office acquired, as follows:

Type of Acquiring Bank	Location of Branch/Other Banking Office to be Acquired	
	Within Metro Manila	Outside Metro Manila
UBs and KBs	P 1.0 million	P 0.5 million
TBs	P 0.5 million	P 0.25 million

(7) Within thirty (30) calendar days prior to the intended date of opening of the acquired branch/other banking office, the personal information sheet (bio-data) of the proposed manager and other officers of the branch/other banking office shall be submitted by the acquiring bank to the appropriate department of the SES; and

(8) Within five (5) banking days from the date of opening of the acquired branch/other banking office, a written notice of such opening signed by the head of branches department with the rank of vice president or its equivalent rank or by a higher ranking officer shall be submitted by the acquiring bank to the appropriate department of the SES.

(As amended by Circular No. 624 dated 13 October 2008)

§ X151.11 Relocation/Transfer of branch licenses of closed banks. Buyers of closed banks shall be allowed to relocate/transfer acquired branches subject to the conditions stated under Items “c” and “d” of Subsec. X151.9.

(As amended by Circular No. 624 dated 13 October 2008)

§ X151.12 Sanctions

1. Any violation of the provisions of Subsecs. X151.1 - X151.11 shall be a ground for the cancellation of the franchise and closure of any branch/other banking office established hereunder without prejudice to the imposition of the applicable criminal and administrative sanctions prescribed under Sections 36 and 37, respectively, of R.A. No. 7653; and

2. If any part of any certification submitted by the bank as required in this Section is found to be false, the following sanctions shall be imposed:

- a. *On the bank.* Suspension for one (1) year of the privilege to establish and/or open approved branches/other banking offices, and/or relocate branches/ other banking offices.

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b. *On the certifying officer.* A fine of P5,000 per day (P200 per day for RBs/Coop Banks) from the time the certification was made up to the time the certification was found to be false for each branch/other banking office opened, relocated, closed or sold without prejudice to the sanctions under Section 35 of R.A. No. 7653.
(As amended by Circular No. 624 dated 13 October 2008)

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§ X151.19 (2008 - X155) Teller
Booths. The following rules shall govern the establishment of teller

- booths in BIR offices:
- a. As a general policy, the establishment of teller
 - b. A bank’s application shall be accompanied by a letter from the BIR Commissioner or Deputy Commissioner or other officer specifically authorized by the Commissioner to sign such letter, stating that the BIR has agreed to allow the applicant bank to establish a teller
 - c. The applicant bank has complied with the standard prequalification requirements prescribed in *Appendix 5*; and
 - d. Tax collections received shall be subject to rules on government deposits.

Sec. X152 Relocation of Head Offices
Relocation of a bank’s head office shall require prior approval of the Monetary Board in accordance with the following procedures:

- a. Request for Monetary Board approval of the relocation of the bank’s head office signed by the president of the bank or officer of equivalent rank shall be

- submitted to the appropriate department of the SES together with the following documentary requirements:
- (1) A certified true copy of the resolution of the bank’s board of directors authorizing the proposed relocation/transfer of the head office, and stating the justification/reasons therefor;
 - (2) A certified true copy of stockholders’ resolution authorizing the amendment of the articles of incorporation of the bank;
 - (3) Description of the building and/or place of relocation, manner of occupancy, i.e., whether lease or purchase, estimate of the total costs to be incurred in connection with the transfer, and the proposed timetable for such relocation; and
 - (4) Plan for the disposition of the original site.
- b. Upon receipt of the notice of Monetary Board approval but at least three (3) months prior to the relocation, notice of relocation shall be sent to depositors and other creditors by registered mail or POD service of the Philpost or other mail couriers, and poster shall be displayed in conspicuous places in the premises of the head office to be relocated: *Provided*, That said notification period may be reduced to forty-five (45) calendar days under any of the following circumstances:
- (1) As an incentive to merger or consolidation of banks;
 - (2) As an incentive to the purchase or acquisition of majority or all of the outstanding shares of stock of a distressed bank for the purpose of rehabilitating the same; or
 - (3) The proposed relocation site is within the same municipality/city of the head office to be relocated.
- c. Within five (5) banking days from the date of relocation, a notice of relocation, together with a certification signed by the president of the bank or officer of equivalent rank that the notification

requirement under Item “b” above has been complied with shall be submitted to the appropriate department of the SES.

A bank’s head office may be relocated only in areas where the bank may be authorized to establish branches as provide in Subsec. X151.4.

The executive offices of the bank shall not be separated from the head office, i.e., these shall be located where the bank’s head office is located.

Relocation of any other department/unit of the bank not performing front-office operation, i.e., not dealing with the banking public, shall not require prior Monetary Board approval: *Provided however*, That within five (5) banking days from date of relocation, a notice of relocation signed by a vice president or officer of equivalent rank or by a higher ranking officer, together with a certified true copy of the resolution of the bank’s board of directors authorizing the relocation, shall be submitted to the appropriate department of the SES.

(As amended by Circular No. 624 dated 13 October 2008)

§ X152.1 Sanctions. If any part of the certification submitted by the bank as required in this Section is found to be false, the sanctions under Subsec. X151.12 shall be imposed.

Sec. X153 Establishment of Additional Branches of Foreign Banks. The following guidelines shall govern the establishment of additional branches of foreign banks in the Philippines pursuant to R.A. No. 7721.

For purposes of this Section, the term *bank* shall refer to the existing branches of the applicant bank in the Philippines reckoned as a single unit.

In the case of a foreign bank which has more than one (1) branch and/or other office in the Philippines, all such branches/offices shall be treated as one (1) unit and

all references to the Philippine branches/offices of such foreign bank shall be held to refer to such unit pursuant to Section 74 of the R.A. No. 8791.

§ X153.1 Application for authority to establish additional branch. An application for authority to establish additional branch or branches shall be signed by the Country Manager or the highest ranking officer in the Philippines of the applicant foreign bank, and shall be accompanied by the following information/documents:

a. Certified true copy of the resolution of the bank’s board of directors authorizing the establishment of the additional branch/es and indicating its proposed site/s and/or authority of the bank’s Country Manager or highest ranking officer in the Philippines to apply for authority to establish additional branch/es and represent the bank in connection therewith;

b. Banking facilities and services to be offered;

c. Organizational set up of the proposed branch showing the proposed staffing pattern; and

d. Certification signed by the bank’s Country Manager that the bank’s existing branches in the Philippines reckoned as a single unit, have complied with all the requirements enumerated under Subsec. X153.2.

§ X153.2 Requirements for establishment of additional branch. In addition to the standard pre-qualification requirement for the grant of banking authorities in *Appendix 5*, the applicant bank shall comply with requirements prescribed in Subsecs. X105.4 *b* and *c*, and X105.6.

§ X153.3 Date of opening. The opening of approved branches shall be subject to the provisions of Subsec. X151.6.

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§ X153.4 Requirements for opening a branch. After a bank's application to establish a branch has been approved, it may open the same subject to the following conditions:

a. Submission by the applicant bank of a written notice at least thirty (30) days prior to the intended date of opening, accompanied by the following:

(1) Proof or evidence of inward remittance needed to meet the requirements prescribed in Subsecs. X105.4 *b* and *c*, and X105.6;

(2) List of principal and junior officers of the proposed branch/es and their respective designations and salaries;

(3) Personal information sheet (bio-data) for each of the officers to enable the BSP to evaluate their qualifications as officers; and

(4) A certification signed by the bank's Philippine Country Manager that the requirements enumerated under Subsec. X153.2 has been complied with up to the date of the aforementioned written notice.

A bank that fails to continuously comply with the requirements under Subsec. X153.2 shall be given an extension of time to open such branch after it has shown compliance for another test period of the same duration required of each requirement in Subsec. X153.2: *Provided*, That the provisions of Subsec. X153.3 shall be observed if the branch cannot open within six (6) months from the date of approval thereof: *Provided, further*, That before such branch opens for business, the bank shall submit to the BSP the requirements under Subsec. X153.4a with the certification to the effect that the bank has complied with requirements of Subsec. X153.2 up to the date of the written notice within the period prescribed therein;

b. The foreign bank branch has adequate staff, equipment, and other

facilities to meet the needs of its commercial banking operations: *Provided*, That the bank's premises, vault and office equipment, after inspection by the representatives of the SES shall have been found to be substantially in compliance with specifications on security standards and ready for use by the bank; and

c. Issuance by the Governor of the permit to open and operate the approved branch/es.

Banks shall submit a written notice to the appropriate department of the SES of the actual date of opening of their branches not later than ten (10) banking days from such opening.

§ X153.5 Choice of locations for establishment of branches

a. A foreign bank authorized to establish branches in the Philippines pursuant to the provisions of R.A. No. 7721, may open its first three (3) branches in locations of its choice.

b. The same foreign bank may open its next three (3) additional branches only in locations designated by the Monetary Board to ensure balanced economic development in all the regions.

§ X153.6 Sanctions. If a bank fails to submit any certification as required in this Section, or any part of the certification submitted by the bank as required in this Section is found to be false, the sanctions under Subsec. X151.10 shall be imposed.

Sec. X154 Establishment of Offices Abroad. The following rules shall govern the establishment by domestic banks of branches and other offices abroad.

For purposes of this Section, the term *offices* shall include branches, agencies, representative offices, remittance centers, remittance desk offices and other offices.

§ X154.1 Application for authority to establish an office abroad. An application for authority to establish an office abroad shall be signed by the president of the bank and shall be accompanied by the following information/documents:

- a. Certified true copy of the resolution of the bank's board of directors authorizing the establishment of that office indicating its proposed site;
- b. Economic justification for such establishment, indicating among other things, the services to be offered, the minimum outlay such as capital requirement of the host country, outlay for furniture, fixture and equipment, rental and other expenses;
- c. Organizational set up of the proposed office showing the proposed positions and the names, qualifications and experience of the proposed manager and other officers;
- d. Certification signed by the president or the executive vice president that the bank has complied with the standard pre-qualification requirements for the grant of banking authorities enumerated in *Appendix 5*; and
- e. Certification from the host country that the duly authorized personnel/examiners of the BSP will be authorized to examine the proposed office.

§ X154.2 Requirements for establishing an office abroad. In addition to the standard prequalification requirements of *Appendix 5*, the applicant bank shall comply with the following:

- a. The citizenship requirements, ownership ceilings and other limitations on voting stockholdings in banks under existing law and regulations;
- b. Experience and expertise in international banking operations as shown by:
 - (1) Its international banking operations for at least three (3) years prior to the date of application;

- (2) Substantial income derived from international banking operations; and
- (3) Established correspondent relationship with reputable banks.

§ X154.3 Conditions attached to the approved application. An approved application to establish a banking office abroad shall be subject to the following conditions:

- a. Without prejudice to the qualification requirements in the country where the office is to be established, the proposed officer(s), at the time of appointment must be at least:
 - (1) Twenty-five (25) years of age;
 - (2) A college graduate, preferably with training and experience abroad;
 - (3) With three (3) years experience in international banking operations; and
 - (4) Must not possess any of the disqualification of an officer as provided for under existing regulations;
- b. The applicant bank shall comply with the licensing requirements of the host country and the necessary license to operate shall be secured from the appropriate government agency of the host country;
- c. The outward investment representing initial capital outlay and other outlays shall be subject to existing regulations;
- d. The proposed office shall submit periodic reports on its financial condition and profitability and such other reports that may be required by the BSP;
- e. An office not authorized to perform banking business (e.g., representative and liaison offices) shall not carry any of the business of a bank as contemplated within the context of the Philippine banking system; and
- f. The applicant shall defray the necessary cost and expenses to be incurred by the appropriate department of the SES.

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§ X154.4 *Date of opening.* The opening of any office abroad shall be subject to the provisions of Subsec. X151.6.

§ X154.5 *Requirements for opening an office abroad.* After a bank’s application to establish a branch has been approved, it may open the same subject to the following conditions:

- a. Submission by the applicant bank of a written notice at least thirty (30) days prior to the intended date of opening, accompanied by the following:
 - (1) Proof or evidence of outward remittance needed to meet the capital requirements prescribed by the host country;
 - (2) List of principal and junior officers of the proposed branch/es and their respective designations and salaries; and
 - (3) Personal information sheet (Bio-data) for each of the officers to enable the BSP to evaluate their qualifications as officers; and
- b. A certification signed by the bank’s president or executive vice president that the standard prequalification requirements enumerated in *Appendix 5* have been complied with up to the date of the aforementioned written notice.

A bank that fails to continuously comply with the requirements shall be given an extension of time to open such office after it has shown compliance for another test period of the same duration required of each requirement: *Provided*, That the provisions of Subsec. X151.6 shall be observed if the branch cannot open within six (6) months from the date of approval thereof: *Provided, further*, That before such branch opens for business, the bank shall submit to the BSP the requirements under Subsec. X154.5a together with a certification stating that the bank has complied with the standard prequalification requirements in *Appendix 5* up to the date of the written notice within the period prescribed therein.

§ X154.6 *Sanctions.* If any part of the certification submitted by the bank as required in this Section is found to be false, the sanctions under Subsec. X151.12 shall be imposed.

§§ X154.7 - X154.8 (Reserved)

§ X154.9 *Establishment of a foreign subsidiary by a bank subsidiary.* The establishment of a foreign subsidiary by a bank subsidiary are subject to the guidelines in Subsec. X382.8.

Sec. X155 (Reserved)

J. BANKING DAYS AND HOURS

Sec. X156 *Banking Days and Hours* Banks, including their branches and offices, doing business in the Philippines, shall observe for the conduct of their business a regular banking week of five (5) days, except when such days are holidays. The regular banking week should fall on Mondays to Fridays unless otherwise authorized by the BSP in the interest of the banking public. On these days, said institution shall transact business for at least six (6) hours each day.

Subject to compliance with other relevant laws, banks, including their branches and offices, may opt to observe a banking week in excess of the five (5) days after reporting to the BSP the additional days during which such banks or their branches or offices shall transact business for at least three (3) hours each day.

Without the need for prior approval of the BSP, and even in the absence of an approved local holiday, banks and/or their branches or other offices are allowed to close on certain days in celebration of important historical and/or religious events in the locality where these banks operate: *Provided*, That said closure has the prior approval of the bankers’ association in the

locality and in the case of bank branches, their respective head offices: *Provided, further,* That said closure will only be allowed in the municipality or city where the festivities are centered.

Banks and/or their branches or other offices shall submit, either individually or through their head offices, to the appropriate department of the SES a prior notice of their intended closure on account of a specific local festivity, together with a copy of the resolution of the local bankers association approving said closure, at least two (2) working days before the intended date of closure.

The required notice shall be supported by a certification that:

a. On the date of the temporary closure, the bank and/or branch will maintain a skeletal force to handle “out-of-town” clearing items in line with the provisions of Section X205;

b. The notice of the bank’s closure and the reason thereof shall be posted conspicuously in the bank’s premises; and

c. For branches of banks, the closure has the prior approval of their respective head offices.

(As amended by Circular Nos. 634 dated 05 December 2008 and 624 dated 13 October 2008)

§ X156.1 Banking hours beyond the minimum; banking services during holidays. For purposes of servicing deposits and withdrawals, banks may, at their discretion, remain open beyond the minimum six (6) hours and for as long as they find it necessary, even before 8:00 AM or after 8:00 PM. Banks may, after prior written notice to the appropriate department of the SES, also remain open beyond the minimum six (6) hours for banking services other than the servicing of deposits and withdrawals but in no case shall such banking hours start earlier than 8:00 AM nor extend beyond 8:00 PM: *Provided, however,* That branches of banks

at any international airport or major fish port are allowed to operate on flexible banking hours within a twenty-four (24)-hour period, subject to the condition that the individual bank’s management will inform the BSP of the schedule of its banking hours which shall in no case be less than six (6) hours a day.

Banks and/or their branch/es and/or extension offices may opt to remain open during any or all of their regular banking days that were covered by holidays for the purpose of servicing deposits and withdrawals: *Provided,* That a bank opting to open its head office and/or branch/es and/or extension offices, shall submit to the appropriate department of the SES at least two (2) working days before the intended date of opening of the bank’s head office and/or branches and/or extension offices, a notice signed by its president or officer of equivalent rank, of its intention to open during the holidays, together with a copy of the board resolution approving the same: *Provided further,* That the notice shall specify which office (head office and/or branch/es and/or extension offices) will open on what dates and their schedule of banking hours.

Subject to submission of a notice signed by the bank president or officer of equivalent rank, authorized agent banks of the BIR (BIR-AABs), and/or its branch/es and/or extension offices, are allowed to open for two (2) Saturdays prior to April 15 of every year, and daily from April 1 to income tax payment deadline, to extend banking hours from 3:00 PM to 5:00 PM to receive internal revenue tax payments. The notice, which shall specify which office (head office and/or branch/es and/or extension offices) will open or extend banking hours on what dates, shall be submitted to the appropriate department of the SES on or before the last banking day of March of every year.

(As amended by Circular No. 634 dated 5 December 2008)

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§ X156.2 Report of, and changes in, banking days and hours. The banking days and hours selected for each of the offices of banks shall be reported in writing to the appropriate department of the SES. Banks may change the banking days and hours previously reported to the BSP by giving prior written notice: *Provided*, That changes in banking days or hours shall not be made oftener than once every thirty (30) days, except during emergencies. *Emergency* shall mean (a) condition of an area or locality proclaimed by the President of the Philippines as in a state of emergency; or (b) an event or occasion or a combination of circumstances equivalent to a public calamity resulting from fire, flood, or like disaster, or through some unusual occurrence or pressing necessity not reasonably subject to anticipation calling for immediate action or remedy.

The prior written notice to the BSP on changes in banking days and hours shall be given through the fastest means of communication, at least seven (7) banking days before the intended effectivity of the change in banking hours or days. In case a bank, due to an emergency, has to open outside, or close during, the banking hours or days reported to the BSP, a written report submitted within twenty-four (24) hours from opening or closing, as the case may be, will suffice. The report shall state the specific nature of the emergency and the period the bank opened or closed or shall open or close by reason of emergency.

§ X156.3 Posting of schedule of banking days and hours. The schedule of banking days and hours reported to the BSP shall be posted conspicuously at all times in the bank’s premises.

Secs. X157 - X159 (Reserved)

K. BANKING PREMISES

Sec. X160 (2008 - X606) Bank Premises and Other Fixed Assets. The following rules shall govern the premises and other fixed assets of banks.

§ X160.1 (2008 - X606.1) Appreciation or increase in book value. Bank premises, furniture, fixtures and equipment shall be accounted for using the cost model under PAS 16 “Property, Plant and Equipment.”

Outstanding appraisal increment as of 13 October 2005 arising from mergers and consolidation and other cases approved by the Monetary Board, shall be deemed part of the cost of the assets. However, appraisal increment previously allowed to be booked shall be reversed.

Accordingly, the booking of appreciation or increase in the book value of bank premises and other fixed assets in cases where the market value of the property has greatly increased since the original purchase is no longer allowed.

(As amended by Circular No. 520 dated 20 March 2006)

§ X160.2 (2008 - X606.2) Ceiling on total investments. The total investment of a bank in real estate and improvements thereon, including bank equipment, shall not exceed fifty percent (50%) of the bank’s net worth. In determining compliance with such ceiling, the following rules shall apply:

a. The investment shall include all real estate and equipment necessary for the bank’s immediate use in the transaction of its business, such as:

(1) *Bank Premises - Land and Buildings, Buildings under Construction, Leasehold Rights and Improvements and Furniture, Fixtures and Equipment* (as defined in the Manual of Accounts for All Banks), owned and used by the bank in the conduct of its business, including staff houses, recreational facilities and landscaping costs, net of accumulated

depreciation: *Provided, however,* That appraisal increment on bank premises shall not be included in the total investment in real estate and improvements for purposes of these guidelines; and

(2) Real properties, equipment or other chattels purchased by the bank in its name for the benefit of its officers and employees, net of depreciation and in the case of land or other non-depreciable property, net of payments already made to the bank by the officers and employees for whose benefits the property was bought, where such property has not yet been fully paid and ownership has not yet been transferred to them.

b. The following shall be included in the computation of a bank's total investment in bank premises:

(1) (a) The cost of real estate leased in whole or in part by the bank from a corporation, other than a corporation primarily engaged in real estate in which the bank has equity, equivalent to the amount obtained by applying the percentage of the equity of the bank in the lessor to the cost of that portion of the property being leased, or

(b) the amount of equity in the lessor, whichever is lower, plus the amount obtained by applying the percentage of the equity of the bank in the lessor to any outstanding loans of the lessor with the bank, the proceeds of which were used to purchase, construct or develop the real estate used for the bank's purposes.

(2) The lower of -

(a) the cost of real estate leased in whole or in part by the bank from a corporation in which any or a group of stockholders owning ten percent (10%) or more of the voting stock of the bank, directors and/or officers of the bank, hold or own more than fifteen percent (15%) of the subscribed capital stock of the lessor, equivalent to the amount obtained by applying the percentage of the equity of

said stockholders/directors/officers in the lessor to the cost of that portion of the property being leased by the bank, or

(b) the amount obtained by applying the percentage of the equity of the stockholders/directors/officers in the lessor to any outstanding loans of the corporation with the bank, the proceeds of which were used to purchase, construct or develop the real estate used for the bank's purposes.

The equity investment of a bank in a corporation engaged primarily in real estate shall be included in the computation of the bank's total investment in real estate, unless otherwise provided by the Monetary Board.

§ X160.3(2008-X606.3) Reclassification of real and other properties acquired as bank premises. ROPA reclassified as bank premises shall be booked at their ROPA balance, net of any valuation reserves: *Provided,* That only such acquired asset or a portion thereof that will be immediately used or earmarked for future use may be reclassified and booked as bank premises.

Banks, prior to the reclassification of their ROPA accounts to bank premises, shall first secure prior BSP approval before effecting the reclassification and shall submit, in case of future use, justification and plans for expansion/use.

**L. MANAGEMENT CONTRACTS AND
OUTSOURCING OF BANKING
FUNCTIONS**

Sec. X161 (2008 - X168) Management Contracts

a. Management contracts of banks with management firms shall be limited to consultancy and advisory services;

b. Only a natural person may be elected or appointed as an officer of a bank, without prejudice to such person being a nominee of a management corporation: *Provided,* That the responsibility and/or

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accountability of anyone elected or appointed to an officer position shall be personal in nature and cannot be delegated to a corporation; and

c. Any bank that enters into contracts contrary to this policy shall be denied the credit facilities of the BSP.

Sec. X162 (2008 - X169) Duties and Responsibilities of Banks and their Directors/Officers in All Cases of Outsourcing of Banking Functions. When outsourcing of banking functions is allowed by law, banks shall:

a. Carry out the same in accordance with proper standards, ensuring the integrity of the data, systems and controls of the banks and subject to the supervisory, regulatory and administrative authority of the BSP over the banks and their directors/officers;

b. Be responsible for the performance thereof in the same manner and to the same extent as it was before the outsourcing;

c. Comply with all laws and regulations governing the banking activities/services performed by the qualified service providers in its behalf such as, but not limited to, keeping of records and preparation of reports, signing authorities, internal control and clearing regulations; and

d. Manage, monitor and review on an ongoing basis the performance by the qualified service providers of the outsourced banking activities/services.

§ X162.1 (2008 - X169.1) Prohibition against outsourcing certain banking functions. No bank or any director, officer, employee, or agent thereof shall outsource inherent banking functions.

For purposes of this Section, *outsourcing of inherent banking functions* shall refer to any contract between the bank and a service provider

for the latter to supply, or any act whereby the latter supplies, the manpower to service the deposit transactions of the former.

Banks cannot outsource management functions except as may be authorized by the Monetary Board when circumstances justify.

§ X162.2 (2008 - X169.2) Outsourcing of information technology systems/processes. Subject to prior approval of the Monetary Board, banks may outsource all information technology systems and processes except for certain functions affecting the ability of the bank to ensure the fit of technology services deployed to meet its strategic and business objectives and to comply with all pertinent banking laws and regulations, such as, but not limited to, strategic planning for the use of information technology; determination of system functionalities; change management inclusive of quality assurance and testing; service level and contract management; and security policy and administration.

However, subject to prior approval of the Monetary Board and submission of the documentary requirements referred to in Item “a” hereof, consultants and/or service providers may be engaged to provide assistance/support to the bank personnel assigned to perform these excepted functions.

A bank intending to outsource information technology systems and processes shall submit the following documents to BSP which shall treat the same as strictly confidential:

(1) Proposed contract between the bank and the service provider which should, at a minimum, include all the following:

(a) Complete description of the work to be performed or services to be provided;

(b) Fee structure;

(c) Provisions regarding on-line communication availability, transmission line security, and transaction authentication;

- (d) Responsibilities regarding hardware, software and infrastructure upgrades;
- (e) Provisions governing amendment and pretermination of contract;
- (f) Mandatory notification by the service provider of all systems changes that will affect the bank;
- (g) Details of all security procedures and standards;
- (h) Responsibility, fines, penalties and accountability of the service provider for errors, omissions and frauds;
- (i) Confidentiality clause covering all data and information; solidary liability of service provider and bank for any violation of R.A. No. 1405 (the Bank Deposits Secrecy Law) actions that the bank may take against the service provider for breach of confidentiality or any form of disclosure of confidential information; and the applicable penalties;
- (j) Segregation of the data of the bank from that of the service provider and its other clients;
- (k) Disaster recovery/business continuity contingency plans and procedures;
- (l) Adequate insurance for fidelity and fire liability;
- (m) Ownership/maintenance of the computer hardware, software (program source code), user and system documentation, master and transaction data files;
- (n) Guarantee that the service provider will provide necessary levels of transition assistance if the bank decides to convert to other service providers or other arrangements;
- (o) Access to the financial information of the service provider;
- (p) Access of internal and external auditors to information regarding the outsourced activities/services which they need to fulfill their respective responsibilities;
- (q) Access of BSP to the operations of the service provider in order to review the same in relation to the outsourced activities/services;

- (r) Provision which requires the service provider to immediately take the necessary corrective measures to satisfy the findings and recommendations of BSP examiners and those of the internal and/or external auditors of the bank and/or the service provider; and
 - (s) Remedies for the bank in the event of change of ownership, assignment, attachment of assets, insolvency, or receivership of the service provider.
- (2) Minutes of meetings of the board of directors of the bank concerned signed by majority thereof, certified by the secretary and attested by the president documenting their discussions on the following:
- (a) The benefits and advantages of outsourcing with respect to, among others, its role and contribution to the accomplishment of the strategic and business plans of the bank as well as the economy, efficiency and quality of its over-all operations;
 - (b) The careful and diligent evaluation, prior to selecting the service provider with which it is entering into an outsourcing contract, by the bank of various service providers and their proposals, including their reputation, financial condition, cost for development, maintenance and support, internal controls, recovery processes, service level agreements, availability of competent, technically qualified and experienced personnel, strategic or convenient location of support services and such similar other considerations;
 - (c) The creation, organization and membership of a senior management oversight committee to handle and oversee the efficient implementation and monitoring of the applications/operations of the service provider to ensure that the same is in accordance with the existing information technology initiatives, policies and guidelines of the bank; the list of the

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members of such committee, its organizational chart, and a detailed description of the roles and responsibilities of its members must be included in the minutes of the meeting or submitted as attachments thereto;

(d) The creation, organization and membership of a help desk to resolve all queries, problems and other concerns arising from the applications/operations rendered by the service provider; and

(e) The systems and user acceptance tests that will be conducted by the service provider before full implementation of the outsourced systems/processes and the unsatisfactory results of which shall be valid ground to rescind the contract with the service provider.

(3) Profile of the selected service provider or the non-bank partner, in case of joint ventures and other similar arrangements, which should include:

(a) Most recent and complete financial and operational information;

(b) Track record;

(c) List of clientele, particularly banks and the services provided thereto by the service provider; and

(d) At the option of the service provider or non-bank partner, other documents demonstrative of its competence and reputation in the field of information technology as applied to banking operations.

The following are considered as extension of the banks' information technology processes and are outsourcing activities that need prior Monetary Board approval under this Subsection:

(1) *Connection of the bank's ATM host and/or CASA systems to an ATM consortium or an Affiliate Switch Network (ASN).* However, no prior Monetary Board approval shall be required for a bank connected or seeking to connect with Bancnet and/or Megalink or with ASN of either ATM consortium: *Provided, That it*

passed/es the BSP-approved accreditation process of either Bancnet or Megalink.

(2) Sponsoring bank arrangement. A sponsoring bank arrangement is one where a TB/RB or Coop Bank, which is not a member of any ATM network consortium, but wishes to provide ATM services and terminals is "sponsored" by a member-bank of any of the existing ATM consortium.

For purposes of these regulations, an *ATM network consortium* is an entity that operates and maintains an ATM switch network connecting member institutions while an *Affiliate Switch Network (ASN)* is an aggregator/service provider that connects its ATM switch with BancNet and/or Megalink and extends that connection to its subscribers and/or members. ASN has to pass its accreditation requirements of BancNet and Megalink which includes service level standards, BSP access, and minimum paid-up capital of P300 million. ASNs already interconnected with BancNet and/or Megalink are required to comply with the minimum paid-up capital on staggered basis of: P100 million by 31 December 2008; P200 million by 31 December 2009; and P300 million by 31 December 2010.

A bank that intends to outsource its internet and/or mobile banking services to BancNet and/or Megalink shall no longer require prior MB approval: *Provided, That* the applicant bank had passed the BSP-approved accreditation process for membership in BancNet and/or Megalink, which requires, among others, a "no objection" notice from the appropriate department of the SES. *Provided further, That* banks which intend to provide electronic banking services via other arrangements or service providers will still have to comply with the existing regulations on outsourcing in this Subsection and under Sec. X701 on e-banking.

To ensure that it remains effective and adaptive to the changing environment, the accreditation process of BancNet and Megalink for availment of the ATM interconnection, internet and mobile banking services, shall be subject to periodic BSP review and examination.

(As amended by M-2008-030 dated 12 September 2008)

§ X162.3 (2008 - X169.3) Outsourcing of other banking functions

a. Subject to prior approval of the Monetary Board, banks may outsource the following functions, services or activities:

- (1) data imaging, storage, retrieval and other related systems;
- (2) clearing and processing of checks not included in the Philippine Clearing House System;
- (3) printing of bank deposit statements;
- (4) credit card services;
- (5) credit investigation and collection;
- (6) processing of export, import and other trading transactions;
- (7) property appraisal;
- (8) property management services;
- (9) Internal audit, subject to the following conditions:

(a) the board of directors and senior management of the regulated entity remain responsible for maintaining an effective system of internal control and for providing active oversight of the outsourced internal audit activities/functions;

(b) the external service provider shall be an independent external auditor included in the list of BSP-selected external auditors or a parent company which owns or controls more than fifty percent (50%) of the subscribed capital stock of the outsourcing entity: *Provided*, That Item "A2" of the general requirements under *Appendix 43* shall apply to the parent company while Items "A2", "A4", "A5", and "A6" shall apply to the independent external auditor;

(c) the contract/service agreement with the external service provider shall not be entered into for a period longer than five (5) years;

(d) there shall be a contingency plan to mitigate any significant disruption, discontinuity or gap in audit coverage, particularly for high-risk areas;

(e) the written engagement contract or service agreement with the external service provider shall, as a minimum:

(i) define the rights, expectations and responsibilities of both parties;

(ii) set the scope and frequency of, and the fees to be paid for, the work to be performed by the external service provider;

(iii) state that the outsourced internal audit services are subject to regulatory review and that BSP examiners shall be granted full and timely access to internal audit reports and related working papers;

(iv) state that the external service provider will not perform management functions, make management decisions, or act or appear to act in a capacity equivalent to that of a member of management or an employee of the institution, and will comply with professional and regulatory independence guidelines;

(v) specify that the external service provider must maintain the audit reports and related working papers/files for at least five (5) years;

(vi) state that internal audit reports are the property of the institution, that the institution will be provided with copies of related working papers/files it deems necessary, and any information pertaining to the institution must be kept confidential; and

(vii) establish a protocol for changing the terms of the service contract and stipulations for default and termination of the contract;

(10) marketing loans, deposits and other bank products and services, provided it does not involve the actual opening of deposit accounts;

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(11) general bookkeeping and accounting services: *Provided*, That these activities do not include servicing bank deposits or other inherent banking functions;

(12) offsite records storage services;

(13) front/back office functions, i.e., trade support services and downstream processing activities, by parent to a subsidiary or vice-versa, subject to the following conditions:

(a) The bank intending to outsource the aforementioned functions shall certify that the front office functions to be done by its parent/subsidiary (service provider) shall be limited to trade support services;

(b) The bank shall remain a parent/subsidiary of its subsidiary/parent (service provider) and such service provider shall service only entities belonging to its business group;

(c) The bank shall certify that no inherent banking functions involving deposit transactions shall be outsourced to its parent/subsidiary (service provider);

(d) The bank shall submit a Service Level Agreement duly signed by the concerned parties and any amendments thereto, detailing the functions to be outsourced, the respective responsibilities of the bank and its parent/subsidiary (service provider), and a confidentiality clause; and

(e) Any breach in any of the above conditions shall subject the outsourcing of the aforementioned banking functions to all the requirements of this Section;

(14) Back-up and data recovery operations;

(15) Call center operations for credit card and bank services: *Provided*, That such bank services do not involve inherent banking functions; and

(16) Loans processing, credit administration and documentation services in favor of subsidiaries, affiliates and other companies related to it by at least five percent (5%) common ownership;

(17) Loan documentation services (such as mortgage registration); and

(18) Such other activities as may be determined by the Monetary Board.

The bank concerned must submit the same documentary requirements listed in Subsec. X162.2a, except where they exclusively pertain to information technology operations.

b. Without need of prior Monetary Board approval, banks may outsource the following functions, services or activities:

(1) printing of bank loan statements and other non-deposit records, bank forms and promotional materials;

(2) transfer agent services for debt and equity securities;

(3) messenger, courier and postal services;

(4) security guard services;

(5) vehicle service contracts;

(6) janitorial services;

(7) public relations services, procurement services, and temporary staffing: *Provided*, That these activities do not include servicing bank deposits or other inherent banking functions;

(8) sorting and bagging of notes and coins;

(9) maintenance of computer hardware, e.g., disk drives, printers, monitors, UPS, network cabling systems;

(10) payroll of bank employees;

(11) telephone operator/receptionist services;

(12) sale/disposal of acquired assets (ROPA);

(13) personnel training and development;

(14) buildings, ground and other facilities maintenance;

(15) legal services from local legal counsel;

(16) compliance risk assessment and testing;

(17) tax compliance services: *Provided*, That the service provider is not also the external auditor of the bank; and

(18) ATM card plastic embossing service, subject to the following conditions:

a. Only the ATM card number and the name of the depositor are printed/indicated on the plastic card and stored in the magstripe; and

b. Account/transaction validation is done at the host level,i.e., the bank's computer, as the card number stored in the magstripe is linked to the deposit account number residing at the same host computer;

(19) ATM incident management service: *Provided*, That the messages transmitted by the ATM machines to the service provider's monitoring system are purely ATM statuses and in no way shall client or transaction information be sent; and

(20) Such other activities as may be determined by the Monetary Board.

(As amended by Circular Nos.623 dated 09 October 2008, 621 dated 16 September 2008, 610 dated 26 May 2008, 596 dated 11 January 2008, 548 dated 25 September 2006 and 543 dated 08 September 2006)

§ X162.4 (2008 - X169.4) Service providers. When allowed by law, banks may enter into outsourcing contracts only with service providers with demonstrable technical and financial capability commensurate to the services to be rendered.

§ X162.5 (2008 - X169.5) Review of subsisting outsourcing contracts. Within six (6) months from 05 December 2000 -

a. Banks should submit a list of all their existing contracts with service providers, detailing the:

(1) Services/activities being outsourced;

(2) Terms of the contracts;

(3) Measures, if any, undertaken by the bank and/or service provider to ensure the secrecy of bank deposits and confidentiality of all other data and information; and

(4) Such other information as may be necessary to show compliance with the pertinent provisions of this Section or be required by the Monetary Board; and

b. For outsourcing contracts not in accordance with this Section, the following alternative courses of action are available to the bank concerned:

(1) preterminate said contracts;

(2) renegotiate or remedy the same and submit the amendments thereto or new contracts to the BSP; or

(3) submit a program of compliance to the BSP.

§§ X162.6 - X162.10 (Reserved)

§ X162.11 (2008 - X169.11) Other banking services for subsidiaries, affiliates and related companies. A bank may be authorized, upon prior Monetary Board approval, to render the following services in favor of subsidiaries, affiliates and companies related to it by at least five percent (5%) common ownership:

a. Credit card, bank and loans reconciliation;

b. Credit card billing;

c. Time deposit processing;

d. Merchant settlement;

e. Collections which may involve legal action;

f. Credit application processing;

g. Call center support;

h. Telemarketing of bank, credit card and insurance (life and non-life) products;

i. Human resource-related service;

j. Finance/accounting functions;

k. Documentation;

l. Cashiering;

m. Reports preparation;

n. Procurement;

o. Records coordination;

p. Mailroom and general services;

q. Internal audit services;

r. Credit administration services, such as, limit administration, loan

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documentation, loan administration, and credit reporting, compliance and control;
 s. Legal and compliance services;
 t. Production of credit cards and preparation of statement of accounts; and
 u. Check writing services

subject to the condition that, as service provider, the following shall be upheld by the bank:

- (a) Confidentiality of bank deposits and investment in government bonds (R.A. No. 1405);
- (b) Prohibition against outsourcing of inherent banking functions; and
- (c) Prohibition on cross-selling except as allowed under applicable regulations.

(As amended by Circular Nos. 606 dated 26 March 2008, 604 dated 03 March 2008, 597 dated 11 January 2008, 586 dated 16 October 2007, 569 dated 21 May 2007, 567 dated 04 May 2007 and 556 dated 12 January 2007)

§ X162.12 (2008 - X169.12) Other banking services to other entities. A bank may render the following services to other entities (including non-related companies):

- a. Collections and payments;
- b. Safekeeping of securities;
- c. Act as correspondent of other FIs;
- d. Payroll service;
- e. Enter into a conduit clearing arrangement with indirect clearing participants;
- f. ATM cash loading service to depositors;
- g. Enter into an arrangement with other banks to enable such other banks to avail the service of an ATM network consortium, and
- h. Subject to prior Monetary Board approval, such other services which are not incompatible with banking business as may be determined by the Monetary Board: *Provided*, That the bank shall perform said services as depositary or as an agent, subject to the following conditions:

(1) The bank (or if the counterparty is also a bank, both the bank providing the service and the outsourcing bank jointly) shall inform the appropriate department of the SES at least thirty (30) calendar days prior to undertaking the abovementioned services. The bank may undertake said activities if no objection has been received from said department within said thirty (30)-calendar day period.

(2) The proposed contract or Memorandum of Agreement (MOA) indicating, among others, the particular type of service to be rendered (and if the counterparty is also a bank, to be outsourced) by the bank/s shall be kept on file and be made available for inspection during BSP examination;

(3) As a service provider, the following shall be upheld by the bank:

- (a) Confidentiality of bank deposits and investment in government bonds (R.A. No. 1405);
- (b) Prohibition against outsourcing of inherent banking functions; and
- (c) Prohibition on cross-selling except as allowed under applicable regulations.

(Circular No. 606 dated 26 March 2008)

§§ X162.13 - X162.18 (Reserved)

§ X162.19 (2008 - X169.19) Penalties
 Violation of this Section shall be subject to Sections 34, 35, 36 and 37 of R.A. No. 7653, the New Central Bank Act. If the offender is a director or officer or a bank, the Monetary Board may also suspend or remove such director or officer.

Sec. X163 - X171 (Reserved)

M. BANK OFFICES AS OUTLET OF FINANCIAL PRODUCTS OF ALLIED UNDERTAKINGS/IH

Sec. X172 (Reserved)

Sec. 1172 (2008 - 1631) Financial Products of Allied Undertakings or Investment House Units of Banks. The following guidelines shall govern the use of the head office and/or any or all branches of UBs and KBs as outlets for the presentation and sale of financial products of their allied undertakings (subsidiaries and affiliates as defined hereafter) or of their investment house (IH) units. In case of sale of insurance products of insurance company affiliates, said affiliates must be accredited or pre-cleared by the Insurance Commission (IC) to ensure that only stable and reputable insurance companies can sell their products through banks.

a. Financial products covered by this Section are the following:

- (1) Credit cards;
- (2) Insurance products limited to:
 - (a) Life insurance products;
 - (i) Term insurance (including mortgage redemption insurance);
 - (ii) Whole life insurance;
 - (iii) Endowment;
 - (iv) Health and accident policies;
 - (v) Variable life insurance contracts; and
 - (vi) Life annuities.
 - (b) Non-life insurance;
 - (i) Fire insurance;
 - (ii) Marine cargo policies;
 - (iii) Homeowners' policies;
 - (iv) Directors/officers liability insurance;
- and
- (v) Motor vehicle insurance;
- (3) Such other products as may be authorized by the Monetary Board.

b. For purposes of this Section, a "subsidiary" means a corporation more than fifty percent (50%) of the voting stock of which is directly or indirectly owned, controlled or held with power to vote by a bank while an "affiliate" means a corporation at least five percent (5%) but not exceeding fifty percent (50%) of the voting stock of which is directly or indirectly owned, controlled or held with

the power to vote by a bank. A domestic subsidiary or affiliate is any subsidiary or affiliate domiciled in the Philippines and incorporated under the laws of the Philippines, while a foreign subsidiary or affiliate is a subsidiary or affiliate incorporated and organized under the laws of the foreign country.

§ 1172.1 (2008 - 1631.1) Statement of principles. The use of a bank's head office and/or any or all of its branches in the presentation and sale of financial products of allied undertakings or IH units could give the banking public the impression that these products are covered by the deposit insurance system or guaranteed by the parent bank. To enable the public to understand fully the attendant risks involved in these transactions, a clear and explicit distinction between financial products offered by a bank and those of its allied undertakings or IH units must be made in the presentation and sale of these products, whether through written or verbal communications.

§ 1172.2 (2008 - 1631.2) Prior Monetary Board approval. The presentation and sale of financial products shall be made by the bank in its head office and/or any or all of its branches only upon prior approval of the Monetary Board.

The bank's proposal on said presentation and sale shall provide information on the location of the office where financial products will be sold. Where possible, the office shall not be located in the main lobby of the bank's head office and/or its branches and should be clearly distinguishable by the public as a separate entity from the parent bank. The proposal shall likewise cover particulars on: (a) personnel who will be involved in the marketing of the financial products; and (b) promotional matters including

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safeguards that would ensure that the public will be able to differentiate readily the bank products from the non-bank products. The public should also be able to distinguish personnel marketing non-bank products from regular bank personnel. In case of sale of insurance products, the staff selling insurance policies must be duly licensed by the IC.

§ 1172.3 (2008 - 1631.3) Minimum documentary requirements. The following documents shall be submitted as basis for the evaluation of a bank intending to sell financial products of its allied undertakings or its IH units:

- a. Latest information on the allied undertaking or IH unit:
 - (1) Annual report;
 - (2) List of directors and senior officers; and
 - (3) Income and expense statement for the last three (3) years;
- b. Copy of the approval of the Board of Directors of both the parent bank and allied undertakings or IH units on the presentation and sale of financial products;
- c. Justification of the presentation and sale of financial products;
- d. Detailed information on the financial products to be offered, including promotional materials which will be used;
- e. Outline of the content of the training materials for bank's staff and officers who will be involved in the handling of the sale of financial products;
- f. Sample contracts; and
- g. Such other information that may be required by the BSP.

§ 1172.4 (2008 - 1631.4) Financial ratios and other related requirements

A bank intending to use its head office and any/or all its branches as outlets for the presentation and sale of financial

products of its allied undertakings or IH units must comply with the following requirements to ensure that only financially viable institutions complying with BSP rules and regulations are allowed to undertake cross-selling activities:

a. The bank during the last ninety (90) days immediately preceding the date of application has complied with the following:

- (1) Ceilings on credit accommodations to DOSRI;
- (2) Liquidity floor on government deposits;
- (3) Minimum capitalization as defined under Sec. X111;
- (4) Risk-based capital adequacy ratio under Sec. X116 or as may be required by the Monetary Board in the future;
- (5) Single borrower's limit;
- (6) Investment in bank premises and other fixed assets;
- (7) Open foreign exchange position; and
- (8) Foreign exchange asset cover on FCDU/EFCDU foreign currency liabilities.

b. It does not have float items outstanding for more than sixty (60) calendar days in the "Due from/to Head Office/Branches/Offices" accounts and the "Due from Bangko Sentral" account exceeding one percent (1%) of the total resources as of end of preceding month;

c. It has no weekly reserve deficiency against deposit liabilities, deposit substitutes and CTFs during the last twelve (12) weeks immediately preceding the date of application;

d. It maintains adequate provisions for probable losses commensurate to the quality of its asset portfolio but not lower than the required valuation reserves as determined by the BSP; and

e. It has a CAMELS Composite Rating of at least "3" in the last regular examination by the BSP.

§ 1172.5 (2008 - 1631.5) Promotional materials; stationeries and other paraphernalia

- a. The promotional materials used in the sale of these financial products, especially posters displayed in bank premises, shall contain the following:
- (1) The logo of the allied undertaking or IH unit promoting the financial product accompanied by the words “A subsidiary (or affiliate, as the case may be) of (name of parent bank)”; and
- (2) The words “financial product/s of (name of allied undertaking/investment house unit) is/are not insured by the Philippine Deposit Insurance Corporation and is/are not guaranteed by the (name of parent bank)” shall be printed in capital letters, black letters against light background/white letters against dark background with the following print size:

Size of Promotional Material	Print Size ¹
Legal/letter size	12
15"X20"	24
19"X25"	36

¹ For other measurements of promotional materials, use of print size closest to indicated size of promotional material.

- b. Stationeries and other paraphernalia used in the sale of aforementioned products shall bear the logo of the allied undertaking or IH unit promoting the financial product and the words “a subsidiary (or affiliate, as the case may be) of (name of parent bank)” should appear visibly under the logo.

§ 1172.6 (2008 - 1631.6) Contracts/ Information to be disclosed

- a. The following paragraph shall be printed at the end of the contract in the print size as the rest of the contract, or font size 12 whichever is bigger, in capital letters and in bold font:

“This contract is between (name of client) and (name of allied undertaking or investment house unit), a subsidiary (or affiliate, as the case may be) of (name of parent bank). All transactions arising out of or related to this contract shall be binding only between these two (2) contracting parties. It is understood that this transaction is neither insured by the Philippine Deposit Insurance Corporation (PDIC) nor guaranteed by the parent bank.”

b. All other limitations that may affect the interest of the client shall also be disclosed in the contract.

§ 1172.7 (2008 - 1631.7) Training. The bank shall conduct training for the officers and staff who will be involved in the handling of the sale of non-bank products to ensure that they do not unwittingly guarantee or give the impression that the financial products being offered are those of the parent bank.

§ 1172.8 (2008 - 1631.8) Other requirements

- a. Record-keeping and accounting for the financial products of the bank’s allied undertaking or IH unit shall be separate from those of the parent bank.
- b. The bank, in coordination with its allied undertaking/IH unit, shall formulate the guidelines and establish clear procedures for evaluating client suitability.

§§ 1172.9 - 1172.10 (Reserved)

§ 1172.11 (2008 - 1631.11) Sanctions

- a. Violations of the provisions of this Section shall constitute grounds for the imposition on the bank of the following:
- (1) Monetary fine - Any amount as may be authorized by the Monetary Board not to exceed ₱30,000 a day for each violation from the time the violation was committed until it is corrected;

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- (2) Non-monetary penalties
- (a) Suspension of rediscounting privileges or access to BSP credit facilities; and
- (b) Other sanctions as the Monetary Board may impose depending on the gravity of the offense.

Sec. 2172 (Reserved)

Sec. 3172 (Reserved)

N. RISK MANAGEMENT

Sec. X173 Supervision by Risks. The guidelines on supervision by risk to provide guidance on how banks should identify, measure, monitor and control risks are shown in *Appendix 72*.

The guidelines set forth the expectations of the BSP with respect to the management of risks and are intended to provide more consistency in how the risk-focused supervision function is applied to these risks. The BSP will review the risks to ensure that a bank’s internal risk management processes are integrated and comprehensive. All banks should follow the guidelines in their risk management efforts.

(Circular No. 510 dated 19 January 2006)

Sec. X174 Market Risk Management. The guidelines on market risk management in *Appendix 73* set forth the expectations of the BSP with respect to the management of market risk and are intended to provide more consistency in how the risk-focused supervision function is applied to this risk. Banks are expected to have an integrated approach to risk management to identify, measure, monitor and control risks. Market risk should be reviewed together with other risks to determine overall risk profile.

The BSP is aware of the increasing diversity of financial products and that

industry techniques for measuring and managing market risk are continuously evolving. As such, the guidelines are intended for general application; specific application will depend to some extent on the size, complexity and range of activities undertaken by individual banks.

The guidelines on risk management for derivatives are shown in *Appendix 25*.

(Circular No. 544 dated 15 September 2006)

Sec. X175 Liquidity Risk Management

The guidelines on liquidity risk management in *Appendix 74* set forth the expectations of the BSP with respect to the management of liquidity risk and are intended to provide more consistency in how the risk-focused supervision function is applied to this risk. Banks are expected to have an integrated approach to risk management to identify, measure, monitor and control risks. Liquidity risk should be reviewed together with other risks to determine overall risk profile.

The guidelines are intended for general application; specific application will depend on the size and sophistication of a particular bank and the nature and complexity of its activities.

The guidelines on risk management for derivatives are shown in *Appendix 25*.

(Circular No. 545 dated 15 September 2006)

Sec. X176 Technology Risk Management

The guidelines on technology risk management to ensure that banks have the knowledge and skills necessary to understand and effectively manage their technology-related risks are in *Appendix 75*.

The guidelines contain two (2) main parts. The first outlines the primary risk related to the bank’s use of technology and the second describes a risk management process on how banks should manage these risks. Key points include the following:

a. The use of technology-related products, services, delivery channels and processes exposes a bank to various risks, particularly Operational, Reputation, Compliance and Strategic risk.

b. Banks are expected to have an integrated approach to risk management to identify, measure, monitor, and control risks. Technology-related risks should be reviewed together with other bank risks to determine the bank's overall risk profile.

c. In using technology, bank management should engage a rigorous analytic process to identify and quantify risks, to the extent possible, and to establish risk controls to manage risk exposures.

d. Technology-related risk management process involves three (3) essential elements:

- (1) Planning
- (2) Implementing
- (3) Measuring and monitoring performance

These elements are critical to an effective technology-related risk management process of a well-managed bank, regardless of size.

The guidelines on risk management and internal control are shown in Subsec. X705.2.

(Circular No. 511 dated 03 February 2006)

Secs. X177 - X179 (Reserved)

Sec. X180 (2008 - X170) Compliance System; Compliance Officer. Banks shall develop and implement a compliance system and appoint/designate a compliance officer to oversee its implementation.

§ X180.1 (2008 - X170.1) Compliance system. The compliance system shall have the following basic elements.

a. A written compliance program approved by the board of directors:

(1) The compliance program shall enable the bank to identify the relevant Philippine laws and regulations, analyze the corresponding risks of non-compliance, and prioritize the compliance risks (e.g., low, medium, high).

(2) The program shall provide for periodic compliance testing with applicable legal and regulatory requirements. Testing frequency shall be commensurate with identified risk levels (e.g., annual testing for low-risk, quarterly testing for medium-risk, monthly testing for high-risk). It shall also provide for the reporting of compliance findings noted to appropriate levels of management.

(3) The program shall establish the responsibilities and duties of the compliance officer and other personnel (if any) involved in the compliance function.

(4) A copy of the compliance program and the written approval of the board of directors shall be submitted to the appropriate department of the SES within twenty (20) banking days from date of approval.

(5) The program shall be updated at least annually to incorporate changes in laws and regulations. Any changes in the program shall likewise be approved by the bank's board of directors and submitted to BSP within twenty (20) banking days from the date of approval.

b. A constructive working relationship with regulatory agencies.

The bank, through its compliance officer, may consult the regulatory agencies for additional clarification on specific provisions of laws and regulations and/or discuss compliance findings with the regulatory authorities. A dialogue may also be initiated with respect to borderline issues.

c. A clear and open communication process within the bank to educate and address compliance matters.

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Officers and staff shall be trained on the regulatory requirements through regular meetings, distribution of manuals and dissemination of regulatory issuance.

d. Continuous monitoring and assessment of the compliance program.

The program shall provide for the periodic review of the compliance function to measure its effectiveness. The review may be carried out by the internal audit department of the bank.

The compliance program may operate parallel to or as part of a bank's internal control and auditing program.

§ X180.2 (2008 - X170.2) Compliance officer

a. The principal function of the compliance officer is to oversee and coordinate the implementation of the compliance system. His responsibility shall include the identification, monitoring and controlling of compliance risk.

b. The appointment/designation of a compliance officer shall require prior approval of the Monetary Board. The bio-data of the proposed compliance officer shall be submitted to the appropriate department of the SES.

c. The compliance officer shall have the skills and expertise to provide appropriate guidance and direction to the bank on the development, implementation and maintenance of the compliance program.

d. All UBs/KBs, as well as TBs and RBs/Coop Banks with total resources of P500 million and above, shall appoint an independent full-time compliance officer, who shall have the rank of at least a vice president or its equivalent.

e. For TBs and RBs/Coop Banks with total resources of below P500 million, an incumbent senior officer may be designated concurrently as the bank's compliance officer: *Provided*, That such designation will not give rise to any conflict

of interest situation and that the main function of the senior officer shall be that of a compliance officer.

The internal auditor of a bank may also be designated as its compliance officer subject to the condition that his main function shall be that of a compliance officer.

Transitory Provision. Compliance officers concurrently holding the position of Head of Internal Audit or Internal Auditor shall be given one (1) year from 02 February 2008 within which to comply with this Subsection.

(As amended by Circular No. 598 dated 11 January 2008)

§ X180.3 (2008 - X170.3) Compliance risk.

Compliance risk is the risk of legal or regulatory sanctions, financial loss, or loss to reputation a bank may suffer as a result of its failure to comply with all applicable laws, regulations, codes of conduct and standards of good practice.

§ X180.4 (2008 - X170.4) Responsibilities of the board of directors and senior management on compliance.

Aside from the duties and responsibilities of the board of directors mentioned under Subsec. X141.3, the board should oversee the implementation of the compliance policy and ensure that compliance issues are resolved expeditiously. Senior management should be responsible for establishing a compliance policy, ensuring that it is observed, reporting to the board of directors on its ongoing implementation and assessing its effectiveness and appropriateness. Senior management should, at least once a year, report to the board of directors or a committee of the board on matters relevant to the compliance policy and its implementation, recommending any required changes to the policy. The report should assist the board members in making an informed assessment as to whether the institution is

managing its compliance risk effectively. However, any material breaches of laws, rules and standards shall be reported promptly.

§ X180.5 (2008 - X170.5) Status. The compliance function should have a formal status within the organization established by a charter or other formal document approved by the board of directors that defines the compliance function's standing, authority and independence, and addresses the following issues:

- (1) measures to ensure the independence of the compliance function from the business activities of the bank;
- (2) its role and responsibilities;
- (3) its relationship with other functions or units within the organization;
- (4) its right to obtain access to information necessary to carry out its responsibilities;
- (5) its right to conduct investigations of possible breaches of the compliance policy;
- (6) its formal reporting relationships to senior management and the board of directors; and
- (7) its right of direct access to the board of directors or an appropriate committee of the board.

The compliance charter or other formal document defining the status of the compliance function shall be communicated throughout the organization.

§ X180.6 (2008 - X170.6) Independence The compliance function should be independent from the business activities of the institution. It should be able to carry out its responsibilities on its own initiative in all units or departments where compliance risk exists and must be provided with sufficient resources to carry out its responsibilities effectively. It must be free to report to senior management and the board or a committee of the board

on any irregularities or breaches of laws, rules and standards discovered, without fear of retaliation or disfavor from management or other affected parties. The compliance function should have access to all operational areas as well as any records or files necessary to enable it to carry out its duties and responsibilities.

§ X180.7 (2008 - X170.7) Role and responsibilities of the compliance function. The role and responsibilities of the compliance function should be clearly defined. If there is a division of duties and responsibilities between different functions such as legal, compliance, internal audit or risk management, the allocation of duties and responsibilities to each function should be properly delineated. There should likewise be formal arrangements for cooperation between each function and for the exchange of relevant information.

§ X180.8 (2008 - X170.8) Cross-border compliance issues. The compliance function for institutions that conduct business in other jurisdictions should be structured to ensure that local compliance concerns are satisfactorily addressed within the framework of the compliance policy for the organization as a whole. As there are significant differences in legislative and regulatory frameworks across countries or from jurisdiction to jurisdiction, compliance issues specific to each jurisdiction should be coordinated within the structure of the institution's group-wide compliance policy. The organization and structure of the compliance function and its responsibilities should be in accordance with local legal and regulatory requirements.

§ X180.9 (2008 - X170.9) Outsourcing of compliance risk assessment and testing Banks should establish policies for managing the risks associated with

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outsourcing activities. Outsourcing of services/activities can reduce the institution’s risk profile by transferring activities to others with the necessary expertise to manage the risks associated with specialized business activities. However, the use of third parties does not diminish the responsibility of the board of directors and senior management to ensure that the outsourced activity is conducted in a safe and sound manner and in compliance with applicable laws and regulations.

Compliance risk assessment and testing may be outsourced, subject to appropriate oversight by the compliance officer: *Provided*, That a copy of the outsourcing agreement stating the duties and responsibilities as well as rights and obligations of the contracting parties, which agreement shall be approved by the board of directors of the institution concerned, must be submitted to the appropriate department of the SES at least thirty (30) days prior to its execution to enable review of its compliance with existing regulations on outsourcing of banking functions.

The service level agreement shall ensure a clear allocation of responsibilities between the external service providers and the bank. *Furthermore*, the outsourcing bank should manage residual risks associated with outsourcing arrangements, including default, operational failures, and possible disruption of services.

Sec. X181 (2008 - X171) Bank Protection
Each bank shall adopt an adequate security program commensurate to its operations, taking into consideration its size, location, number of offices and business operations.
(As amended by Circular No. 620 dated 03 September 2008)

§ X181.1 (2008 - X171.1) Objectives
These regulations are designed to:
a. Promote maximum protection of life and property against crimes

(e.g. robbery, hold-up, theft, etc.) and other destructive causes;

b. Prevent and discourage perpetration of crimes against bank; and

c. Assist law enforcement agencies in the identification, apprehension and prosecution of the perpetrators of crimes committed against banks.

(As amended by Circular No. 620 dated 03 September 2008)

§ X181.2 (2008 - X171.2) Designation of security officer. The board of directors of each bank or the country head in the case of a foreign bank branch, shall appoint or designate a qualified security officer who shall hold office under the direct authority and supervision of the president of the bank or the country head in the case of a foreign bank branch. Subject to prior BSP approval, banks with limited security risk exposure due to the nature of their operations such as single unit foreign bank branch operating in a highly secured environment or TBs or RBs/Coop Banks with total assets of less than P100 million may appoint one of their senior officers as security officer in a concurrent capacity: *Provided*, That if the senior officer so appointed does not possess the necessary qualifications, he shall be supported by a competent consultant/adviser until such time that he acquires the necessary competency on security matters: *Provided, further*, That such appointment shall not result to a conflict of interest situation.

The security officer must be: (a) at least thirty (30) years of age; (b) be a college graduate; (c) have at least five (5) years of supervisory experience in the field of law enforcement and/or security operations; and (d) possess all the qualifications and none of the disqualifications provided for under Sections X142 and X143.

The security officer shall be responsible for:

a. The development and administration of a security program acceptable to BSP;

b. The conduct of continuing security awareness program among all bank employees to highlight that security is a common concern;

c. Investigation of bank robberies/hold-ups, recommending the filing of appropriate charges in court as the evidence may warrant and assisting in the prosecution of the perpetrator(s) thereof;

d. The establishment of an effective working relationship with the BSP, PNP, and other law enforcement agencies in the prevention of bank crimes and other natural and man-made hazards; and

e. The conduct of continuing research and studies on new techniques, methods and equipment to enhance bank protection measures.

For purposes of the foregoing, a security management team headed by the security officer may be constituted if warranted.

(As amended by Circular No. 620 dated 03 September 2008)

§ X181.3 (2008 - X171.3) Security program. The security program of each bank shall be in writing, duly approved by its board of directors or the country head in the case of a foreign bank branch. In addition, the security program shall define measures and procedures to detect and prevent the commission of bank crimes, as well as provide contingency plans in case of calamities, terrorist attacks and other emergency situations. The security program shall include the following:

i. Installation of the prescribed minimum security devices;

ii. A schedule for the periodic inspection, testing and servicing of all security devices installed in each of the bank's offices, designation of an officer or employee responsible for ensuring that such devices are inspected, tested, serviced and kept in good working order, and requiring record of such inspections, testing and servicing;

iii. Standard operating procedures for the safekeeping of all currencies, negotiable securities and similar valuables in vaults or safes;

iv. Provision for other security measures and procedures aimed at giving added protection to the bank, e.g., procedures for the transport of funds and other cash items, and defining responsibility for their implementation;

v. Provision for the training and periodic re-training of employees in their respective areas of responsibility under the security program, including the proper use of security devices and proper employee conduct during and after an emergency situation;

vi. Contingency measures for security and rescue operations in emergency situations;

vii. Provision for the posting of adequate number of security personnel in all vital and/or critical areas in the bank's premises, and the minimum number of hours when each personnel shall be on duty; and

viii. Such other provisions/measures as the president of the bank or country head in the case of a foreign bank branch may, in consultation with its security officer, deem appropriate.

(As amended by Circular No. 620 dated 03 September 2008)

§ X181.4 (2008 - X171.4) Minimum security measures

a. *Guard system.* All banking offices shall be manned by an adequate number of security personnel to be determined by the bank, taking into consideration its size, location, costs and overall bank protection requirement: *Provided,* That cash centers shall be manned by an adequate number of security guards as may be necessary during banking hours. For this purpose *cash centers* shall refer to branches which also handle the cash requirements of other branches of the same bank.

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b. *Security devices.* Within 120 calendar days from 23 September 2008 in the case of existing offices and before opening for business in the case of offices to be opened after 23 September 2008, banks shall effect the installation, operation and maintenance, as individually appropriate, of the following security devices in each banking office;

(1) A time delay device in the cash vault/safe;

(2) A lighting system for illuminating the area around the vault, if the vault is visible from outside the banking office;

(3) Tamper-resistant locks on exterior doors and windows;

(4) A robbery alarm system or other appropriate device for promptly notifying the nearest law enforcement office either directly or through an intermediary of an attempted, ongoing or perpetrated robbery;

(5) Anti-burglary or intrusion system capable of detecting promptly an attack on the outer doors, walls, floor or ceiling of the bank premises, including the vault(s); and

(6) Such other devices like the closed circuit television (CCTV) and video recording system appropriate to deter the commission of bank crimes and assist in the identification and apprehension of the culprit/s;

Provided, That the bank security officer shall consider, among other things, the following:

(i) The incidence of crimes against the particular banking office and other business establishments in the area where the banking office is located;

(ii) The amount of currency or other valuables exposed to robbery and other man-made hazards;

(iii) The distance of the banking office from the nearest law enforcement office and the time ordinarily required for law-enforcement officers to arrive at the banking office;

(iv) The cost of the security devices;

(v) Other existing security measures in effect at the banking office; and

(vi) The physical characteristics of the banking office structure and its surroundings.

Each bank shall install, operate and maintain security devices which are expected to give a general level of bank protection equivalent, at least, to the standards prescribed herein.

c. *Vaults and safes.* Vault walls, ceilings and floors, shall be made of steel-reinforced concrete or such other equally safe materials/specifications. Vault doors shall be made of steel or other drill and torch resistant material, equipped with a dual combination lock and time-delay device, and provided with inner and outer grill doors: *Provided,* That all vaults constructed after 23 September 2008 shall be equipped with a breathing/ventilation device and emergency button capable of giving audible and visible signal in case of accidental lock-up.

A vault record book shall be maintained to record all activities relative to the opening and closing of the vault.

Safes should be sufficiently heavy or be securely anchored to the premises where located. The door shall be equipped with a combination lock with a time-delay device if used for safekeeping cash and other valuables. The body shall consist of steel with an ultimate tensile strength of 50,000 pounds per square inch or the equivalent in metric system.

Safe and vault combinations must be changed whenever the custodian is terminated or transferred to another place of assignment. A record of the names of the holder of the keys and combinations shall be maintained for each lock, safe, vault and compartment. Changing of combinations shall be documented to pinpoint responsibility and to ensure confidentiality and proper observance of this requirement.

d. *Security of the premises.* For emergency purposes and where applicable, each banking office shall be provided with a back door with a steel or grill door which shall be used as an alternative exit door for evacuation in case of fire, flood, bomb threats, wind damage, explosion, civil disturbance, earthquake, or other emergency.

Steel grills, where applicable, shall support exterior glass doors and windows of all banking offices for protection against any forcible entry. Access to the back door shall be limited to authorized bank personnel. Opening and closing thereof before and after banking hours shall be recorded in a registry.

Firearms and other deadly weapons shall not be allowed inside bank premises except when so authorized by the bank. A signage for this purpose shall be conspicuously placed near the main entrance door of the bank. Specific guidelines as to when to allow firearms and other deadly weapons inside bank premises should be incorporated in the security program.

A bank shall maintain within its premises a record of the addresses and telephone numbers of the nearest law enforcement agencies, hospitals, rescue agencies and fire departments.

The security officer of each bank shall conduct, at least annually, a security survey of bank premises and make available the inspection report to BSP examiners during regular examination.

The bank shall conduct fire, earthquake and bomb threat drill at least once a year.

e. *ATM.* ATM sites shall be provided with adequate security. Where there are no security personnel assigned to secure the ATM, an anti-tampering device shall be installed or the ATM and its immediate surroundings shall be regularly inspected to promptly detect any attempt to rob or destroy the same.

f. *Armored Car Operation.* To ensure the protection of crew members and valuables, all armored vehicles shall be built with bullet-resistant materials capable of withstanding the firepower of high-powered firearms, e.g., M16 and M14 rifles. Moreover, armored vehicles shall be equipped with a vault or safe or a partition wall with a combination lock designed to prevent retrieval of the cargo while in transit. When in use the armored vehicles shall be provided with at least two (2) armed guards and its operations must be supervised by at least two (2) officers of the bank.

All canvass bags that contain cash and other items of value shall be provided with padlocks for security and control purposes. Armored cars shall not be operated as mobile bank.

(As amended by Circular No. 620 dated 03 September 2008)

§ X181.5 (2008 - X171.5) Reports

Banks shall conduct a review and self-assessment of their security program to ensure their compliance with prescribed security requirements. Any substantive amendment thereto shall be approved by the bank's board of directors or country head in the case of branches of foreign banks. The self-assessment of compliance with prescribed security requirements together with the updated security program (if amended during the year) shall be submitted annually to the appropriate department of the SES on or before 30 January of the following year in accordance with the format shown in *Appendix 10*. The self-assessment together with the updated security program shall be considered Category A-2 reports.

(As amended by Circular No. 620 dated 03 September 2008)

§ X181.6 (2008 - X171.6) Bangko Sentral inspection. During regular examination, the BSP reserves the right to perform a compliance assessment of the adequacy of a bank's security

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arrangements. The BSP, with approval of the Governor, may also conduct at any time a targeted inspection of the bank’s implementation of its security program to determine compliance with regulations. For this purpose, the BSP may avail of the services of experts as resource persons.
(As amended by Circular No. 620 dated 03 September 2008)

§ X181.7 (2008 - X171.7) Common security service provision. A bank, with prior BSP approval, may share the services of a security officer or a security management team with its related FIs.
(As amended by Circular No. 620 dated 03 September 2008)

§ X181.8 (2008 - X171.8) Sanctions
Any violation of the provisions of this Section, as well as non-compliance with the minimum standards set forth or any directive of the Monetary Board issued pursuant hereof, shall be subject to the administrative sanctions provided under Section 37 of R.A. No. 7653 and may, depending on the materiality or seriousness of the violation, constitute a ground for considering the same as an unsafe and unsound banking practice.
(As amended by Circular No. 620 dated 03 September 2008)

Secs. X182 - X184 (Reserved)

Sec. X185 (2008 - X163) Internal Control System. The following provisions are the minimum internal control standards for banks to help promote effective control system.
For this purpose, the following records/ data shall be compiled and made available for the inspection of BSP examiners:
a. Records showing compliance with independent balancing procedures. These records should indicate the accounts and the periodic balancing procedures performed.
b. Statements of actual duties of persons assigned to handle cash and securities.

- c. All internal control audit reports or their equivalent.
- d. Information/data on the direct and/ or indirect equity holdings and/ or connection with any firm, partnership or corporation organized for profits, of all the bank directors, officers and major stockholders as defined under Subsec. X326.1 should be maintained.
- e. Information/data pertaining to the electronic data processing (EDP) department or EDP servicer of the bank particularly on organization, input controls, processing controls, output controls, software controls, program and documentation standards, logs on the operation of mainframes and peripherals, hardware controls and such other EDP internal control standards prescribed by the BSP in separate rules and regulations.

§ X185.1 (2008 - X163.1) Proper accounting records
a. All banks shall maintain proper and adequate accounting records.
b. These records should be kept up-to-date and shall contain sufficient detail so that an audit trail is established.
c. All tickets shall bear official approval and should be initiated by the person originating and another person by checking them.

§ X185.2 (2008 - X163.2) Independent balancing
a. *Independent balancing* shall mean that records posted by a person or cash held by a teller or cashier shall be balanced or counted by another person.
b. The following minimum independent balancing procedures shall be adopted:
(1) Monthly reconciliation of general ledger balances against respective subsidiary and supporting records and documentation by someone other than the bookkeeper or the person handling the records;

(2) Irregular and unannounced count of teller's cash and checks and other cash items at least twice a month and vault cash including Automated Telling Machine's (ATM) cash dispensers at least once a month by the auditor/control officer or by an officer not connected with cash department;

(3) Monthly reconciliation of *due from banks, cash in bank* accounts (domestic and foreign) and *due from/to head office/branches* by someone other than the person handling the records or posting the general ledger entries;

(4) Periodic verification of securities and collaterals by someone other than their custodian; and

(5) Periodic verification of the accuracy of the interest credits to deposit liabilities accounts.

§ X185.3 (2008 - X163.3) Division of duties and responsibilities

a. The duties of all the officers and employees shall be segregated, clearly defined, understood, documented and manualized. No individual shall have complete authority and responsibility for handling all phases of any transaction from beginning to end, without some check or balance from some other part of the organization.

b. The physical handling of a transaction shall be separated from its recording and supervision as follows:

(1) A person handling cash shall not be permitted to post the ledger records nor should posting the general ledger be performed by an employee who posts the depositor's subsidiary ledgers;

(2) A lending officer shall never be allowed to disburse proceeds of notes, accept note payment nor post loan ledgers;

(3) The functions of issuing, recording and signing of drafts/checks shall be separated;

(4) Checks and other cash items shall be maintained either by an employee not handling cash or by the Rack/Distributing Department provided that adequate control as to custody and disposition of funds are properly maintained;

(5) The receipt of statements from depository bank shall be assigned to an employee other than the one connected with the preparation, recording and signing of bank drafts;

(6) Custodians of securities shall not be allowed to handle security transactions;

(7) Collateral appraisal shall be done by an employee/officer who does not approve loans;

(8) Incoming checks and other cash items shall be recorded chronologically in a register by an employee other than the bookkeeper before they are forwarded for posting purposes;

(9) Credit reports shall be obtained by someone other than lending officers;

(10) Mailing of customers' statements and delinquent notices shall be done by an employee other than the one who granted the loan or the one handling the records; and

(11) Dispatching and delivery of current account statements shall be done by someone who is not involved in current account operations.

c. Extensive background checking of persons intended to be assigned to handle cash and securities shall be conducted. Frequent follow-up checking after their employment shall also be made.

§ X185.4 (2008 - X163.4) Joint custody

a. Joint custody shall mean the processing of transactions in the presence of and under the direct observation of a second person. Both persons shall be equally accountable for the physical protection of the items and records involved.

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b. Physical protection shall be deemed established through the use of two (2) locks or combinations on a file chest or vault compartment.

c. Two (2) or more persons shall be assigned to each half of the control so that operating efficiency is not impaired if one (1) person is not immediately available.

d. Persons who are related to each other within the third degree of consanguinity or affinity shall not be made joint custodians.

e. The following shall be under joint custody:

- (1) Cash in vault and in ATM cash dispensers;
- (2) All accountable forms;
- (3) Collaterals;
- (4) Securities;
- (5) Documents of title and/or ownership of properties or fixed assets;
- (6) Dormant or inactive deposit ledgers/EDP print-outs and corresponding signature cards including on-line posting of dormant/inactive accounts;
- (7) Import documents;
- (8) Trust receipts;
- (9) Collection items;
- (10) Duplicate keys, safe deposit spare locks and keys, and keys to unrented safe deposit boxes;
- (11) Safekeeping items;
- (12) Vault door and safe combinations;
- (13) Unissued specimen signature books;
- (14) Correspondent's and bank's own telegraphic and/or electronic fund transfer system or cable test keys currently in use;
- (15) Test key fixed numbers unissued;
- (16) Unissued and captured ATM cards and similar devices;
- (17) Access locks and keys to on-line EDP terminals and similar devices; and
- (18) Access locks and keys to EDP mainframes and peripherals.

§ X185.5 (2008 - X163.5) Signing authorities. Signing authorities for the different levels of officers to sign for and in behalf of the banks shall be approved by the board of directors and the extent of each level of authority shall be clearly defined. These signing authorities shall include but need not be limited to the following:

- a. Lending;
- b. Investment;
- c. Approval of expense;
- d. Various supervisory reports; and
- e. Bank drafts, manager's/cashier's checks, bank money orders and certificates of time deposit.

§ X185.6 (2008 - X163.6) Dual control

a. Dual control shall mean the work of one (1) person is to be verified by a second person to ensure that the transaction is properly authorized, recorded and settled.

b. The routine and completion of each transaction shall involve at least two (2) or more individuals.

c. Except as herein provided, the following accounts/transactions shall be under dual control:

(1) *Cashier's/manager's checks, telegraphic transfers (TTs) and electronic fund transfer system (EFTS)* - The signature of at least two (2) officers should be required in the issuance of cashier's/manager's checks and payment orders (incoming and outgoing) of TTs and EFTS. The board of directors may, however, prescribe a predetermined amount by which one (1) senior officer can sign checks or payment orders, subject to appropriate control measures.

(2) *Certificates of Time Deposit* - The board of directors of a bank is given the discretion to determine the number of signatories for the issuance of certificates of time deposit (CTDs).

For this purpose, all banks shall submit to the appropriate department of the SES

their respective internal control measures for the issuance of CTDs, the minimum of which shall include the following activities:

- (a) Joint custody of unissued CTD forms;
- (b) Accounting for all issued/ cancelled CTDs;
- (c) Signature requirement for the issuance of CTDs;
- (d) Counterchecking of issued CTDs against the tellers' proofsheets/validated slips; and
- (e) Recording of CTD transactions.

Any change in the internal control measures shall be submitted to the appropriate department of the SES not later than thirty (30) days prior to the implementation. For newly established banks, the requirement shall be submitted not later than a month from the start of banking operations.

(3) *Bank Drafts* - The signature of two (2) authorized officers should be required in the issuance of bank draft.

(4) *Borrowings* - The signature of at least two (2) authorized officers should be required.

(5) All transactions giving rise to *Due to* or *Due from* accounts and all instruments of remittances evidencing these transactions particularly those involving substantial amounts should be approved by two (2) authorized officers.

§ X185.7 (2008 - X163.7) Number control

a. Sequence number controls shall be incorporated in the accounting system and should be used in registering notes, in issuing official checks and in other similar situations. Bank management shall designate a person who is detached from the banking operations involved to monitor said sequence number controls.

b. The following are the forms, instruments and accounts that shall be number-controlled:

- (1) Bank drafts;
- (2) Manager's and cashier's checks;
- (3) Promissory notes;
- (4) Savings deposit accounts;
- (5) Demand deposit accounts;
- (6) CTDs;
- (7) Letters of credit;
- (8) Collection items;
- (9) Official and provisional receipts;
- (10) Certificates of stocks;
- (11) Loan accounts;
- (12) Expense vouchers;
- (13) Payment orders (incoming and outgoing) of TTs and EFTS;
- (14) Transfer requests through EFTS involving bank's accounts abroad;
- (15) EDP batch transmittal slips of documents; and
- (16) Due to/from head office/branches tickets.

§ X185.8 (2008 - X163.8) Rotation of duties

a. The duties of personnel handling cash, securities and bookkeeping records shall be rotated.

b. Rotation assignment shall be irregular, unannounced and long enough to permit disclosure of any irregularities or manipulations.

c. Tellers/cashiers shall be temporarily relieved of their duties during the actual count of their cash accountabilities by BSP examiners or by internal/external auditors.

§ X185.9 (2008- X163.9) Independence of the internal auditor

a. The by-laws shall provide for the position of internal auditor together with the duties and responsibilities, scope and objectives of internal auditing.

b. The internal auditor shall report directly to the board of directors or to an audit committee composed of directors who do not hold executive positions in the bank.

c. The internal auditor shall not install nor develop procedures, prepare records

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or engage in other activities which he normally reviews or appraises.

§ X185.10 (2008 - X163.10) Confirmation of accounts. At least once a year, the internal auditing staff shall confirm by direct verification with bank clients, the following:

- a. Balances of loans and credit accommodations of borrowers;
- b. Deposit account balances particularly new deposit accounts, inactive or dormant accounts and closed accounts;
- c. Outstanding balances of borrowings and other liabilities; and
- d. Outstanding balances of receivables/payables.

§ X185.11 (2008 - X163.11) Other internal control standards

a. *Deposit accounts*

(1) Entries to dormant account ledgers shall be verified and approved by a designated officer. His initials shall be placed next to the entry on the ledger sheet.

(2) Dormant accounts shall be segregated from active account ledgers with a separate subsidiary control.

(3) Signature cards for dormant accounts shall be removed from active files.

(4) All new current accounts shall be approved by a designated officer.

(5) Signature cards and deposit ledger sheets shall be authenticated by some form of validation. Subsequent changes shall also be validated.

(6) Signature cards and deposit ledger sheets shall be accessible only to authorized persons.

(7) Deposit tickets shall be occasionally examined at irregular intervals to determine that postings are made on the actual date deposits are received.

(8) Checks shall be cancelled as soon as they have been paid and posted.

(9) Reports on closed accounts and returned checks shall be prepared daily.

(10) All current account statements shall be mailed or sent electronically via electronic mail (e-mail), or such other electronic means direct to depositors: *Provided*, That banks using the electronic means of sending the current account statements shall have prior BSP-approved internet banking service and shall strictly observe the required retention of electronic data messages or electronic documents under Section 13 of R.A. No. 8792, otherwise known as the "Electronic Commerce Act".

Undelivered statements shall be retained by an organizational unit not responsible for demand deposit account processing.

(11) An officer shall be designated to attend to customers who report differences on their statements.

(12) Checkbooks shall be issued only against requisition forms signed by an authorized signatory to the account.

(13) Banks shall adopt a system to establish the identity of their depositors.

b. *Miscellaneous*

(1) Loan applications and related documents shall be verified to ensure their authenticity particularly the name, residence, employment and current reputation of the borrower.

(2) Tellers paying checks to strangers shall obtain positive identification of the person and the account on which the checks are drawn should be verified.

(3) No employee shall be permitted to process transaction affecting his own account.

(4) Tellers and other employees having contact with customers shall be prohibited from preparing deposit ticket, withdrawal slip or other forms for the customer.

(5) All banks shall have a sound recruitment policy.

(6) In the case of TBs, all accountable officers and employees shall be bonded.

§ X185.12 (2008 - X163.12) Internal control procedures for dormant/inactive accounts

a. *Definition of dormant or inactive accounts*

(1) Current or checking accounts showing no activity (deposit or withdrawals) for a period of one (1) year.

(2) Savings account showing no activity (deposit or withdrawals) for a period of two (2) years.

b. *Procedures for classification.* Banks shall review and segregate dormant accounts as herein defined at least once in every semester.

c. *Internal control measures*

(1) As a matter of policy, banks shall exert all efforts to prevent checking and savings accounts from becoming dormant. When it becomes apparent that an account is inactive, a short letter should be sent to the depositor encouraging him to use his account.

In case of checking accounts, the banks shall ensure that the monthly statement of accounts reach the depositors. If the depositors cannot be located, the following steps should be undertaken:

(a) Check any significant changes or fluctuations in the depositors' account balances over a period of time with emphasis on accounts with decreasing balances;

(b) Verify apparent reactivation entries, represented either by deposit or withdrawal, that appears to have prevented the account from being classified as dormant; and

(c) Investigate any obvious alteration of the ledger records.

(2) Segregated dormant accounts shall be placed under joint custody of two (2) responsible officers/employees.

(3) A separate ledger control for dormant accounts shall be maintained.

(4) Signature cards for dormant accounts shall also be segregated from active files and held under joint custody.

(5) Entries to dormant account ledgers shall be verified and approved by a designated officer. His initials shall be placed next to the entry on the ledger sheet.

(6) All inquiries on dormant accounts shall be coursed to one officer who should obtain sufficient identification from the inquirer to assure that he is entitled to the information.

(7) A trial balance of dormant account ledgers shall be taken periodically and balances with the general control account by an employee other than the bookkeeper.

(8) Dormant or inactive accounts shall be verified directly with depositors.

(9) All transactions affecting dormant accounts shall be subject to audit by the internal auditor.

(10) A semestral report on deposit accounts transferred to dormant shall be rendered to bank management.

Sec. X186 (2008 - X164) Internal Audit Function. Internal audit is an independent, objective assurance and consulting function established to examine, evaluate and improve the effectiveness of risk management, internal control, and governance processes of an organization.

§ X186.1 (2008 - X164.1) Independence of internal audit function. The internal audit function must be independent of the activities audited and from day-to-day internal control process. It must be free to report audit results, findings, opinions, appraisals and other information to the appropriate level of management. It shall have authority to directly access and communicate with any officer or employee, to examine any activity or entity of the institution, as well as to access any records, files or data whenever relevant to the exercise of its assignment.

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The Audit Committee or senior management should take all necessary measures to provide the appropriate resources and staffing that would enable internal audit to achieve its objectives.

§ X186.2 (2008 - X164.2) Scope. The scope of internal audit shall include:

- a. Examination and evaluation of the adequacy and effectiveness of the internal control systems;
- b. Review of the application and effectiveness of risk management procedures and risk assessment methodologies;
- c. Review of the management and financial information systems, including the electronic information system and electronic banking services;
- d. Assessment of the accuracy and reliability of the accounting system and of the resulting financial reports;
- e. Review of the systems and procedures of safeguarding assets;
- f. Review of the system of assessing capital in relation to the estimate of organizational risk;
- g. Transaction testing and assessment of specific internal control procedures; and
- h. Review of the compliance system and the implementation of established policies and procedures.

§ X186.3 (2008 - X164.3) Qualification standards of the internal auditor. The internal auditor of a UB or a KB must be a Certified Public Accountant (CPA) and must have at least five (5) years experience in the regular audit (internal or external) of a UB or KB as auditor-in-charge, senior auditor or audit manager. He must possess the knowledge, skills, and other competencies to examine all areas in which the institution operates. Professional competence as well as continuing training and education shall be required to face up to the increasing complexity and diversity of the institution's operations.

The internal auditor of a TB, QB, trust entity or national Coop Bank must be a CPA with at least five (5) years experience in the regular audit (internal or external) of a TB, QB, trust entity or national Coop Bank as auditor-in-charge, senior auditor or audit manager or, in lieu thereof, at least three (3) years experience in the regular audit (internal or external) of a UB or KB as auditor-in-charge, senior auditor or audit manager.

The internal auditor of an RB, NSSLA or local Coop Bank must be at least an accounting graduate with two (2) years experience in external audit or in the regular audit of an RB, NSSLA or local Coop Bank or, in lieu thereof, at least one (1) year experience in the regular audit (internal or external) of a UB, KB, TB, QB, trust entity or national Coop Bank as auditor-in-charge, senior auditor or audit manager.

A qualified internal auditor of a UB or a KB shall be qualified to audit TBs, QBs, trust entities, national Coop Banks, RBs, NSSLAs, local Coop Banks, subsidiaries and affiliates engaged in allied activities, and other FIs under BSP supervision.

A qualified internal auditor of a TB or national Coop Bank shall likewise be qualified to audit QBs, trust entities, RBs, NSSLAs, local Coop Banks, subsidiaries and affiliates engaged in allied activities, and other FIs under BSP supervision.

§ X186.4 (2008 - X164.4) Code of Ethics and Internal Auditing Standards. The internal auditor should conform with the Code of Professional Ethics for CPAs and ensure compliance with sound internal auditing standards, such as the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* (e-mail: standards@theiia.org; Web: <http://www.theiia.org>.) and other supplemental standards issued by regulatory authorities/government

agencies. The Standards address independence and objectivity, professional proficiency, scope of work, performance of audit work, management of internal audit, quality assurance reviews, communication and monitoring of results.

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Sec. X189 (2008 - X165) Selection, Appointment and Reporting Requirements for External Auditors; Sanction; Effectivity. Under Section 58, R.A. No. 8791, the Monetary Board may require a bank to engage the services of an independent auditor to be chosen by the bank concerned from a list of CPAs acceptable to the Monetary Board.

It is the policy of the BSP to promote high ethical and professional standards in public accounting practice and to encourage coordination and sharing of information between external auditors and regulatory authorities of banks, QBs, trust entities and/or NSSLAs to ensure effective audit and supervision of these institutions and to avoid unnecessary duplication of efforts. In furtherance of this policy and to ensure that reliance by regulatory authorities and the public on the opinion of external auditors is well placed, the BSP hereby prescribes the rules and regulations that shall govern the selection, appointment, reporting requirements and delisting for external auditors of banks, QBs, trust entities, NSSLAs, their subsidiaries and affiliates engaged in allied activities and other FIs which under special laws are subject to BSP supervision.

The selection of external auditors shall be valid for a period of three (3) years. BSP selected external auditors shall apply for the renewal of their selection every three (3) years. The provisions of Items “A” and “B” of *Appendix 43* shall likewise apply for each application for renewal.

The SES shall make an annual assessment of the performance of external auditors and will recommend deletion from the list even prior to the three (3)-year renewal period, if based on assessment, the external auditors’ report did not comply with BSP requirements.

External auditors who meet the requirements specified in this Section shall be included in the list of BSP selected external auditors. In case of partnership, inclusion in the list of BSP selected external auditors shall apply to the audit firm only and not to the individual signing partners or auditors under its employment.

The BSP will circularize to all banks, QBs, trust entities and NSSLAs the list of selected external auditors once a year. The BSP, however, shall not be liable for any damage or loss that may arise from its selection of the external auditors to be engaged by banks, QBs, trust entities or NSSLAs for regular audit or special engagements.

a. *Rules and regulations.* The rules and regulations to govern the selection and delisting by the BSP of external auditors of banks and their subsidiaries and affiliates engaged in allied activities are shown in *Appendix 43*.

b. *Sanctions.* The applicable sanctions/penalties prescribed under Sections 36 and 37 of R.A. No. 7653 to the extent applicable shall be imposed on the bank, its audit committee and the directors approving the hiring of external auditors who are not in the BSP list of selected auditors for banks, QBs, trust entities, NSSLAs or for hiring, and/or retaining the services of the external auditor in violation of any of the provisions of this Section and for non-compliance with the Monetary Board directive under Item “I” in *Appendix 43*. Erring external auditors may also be reported by the BSP to the PRC for appropriate disciplinary action.

(As amended by Circular No. 529 dated 11 May 2006)

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Sec. X190 (2008 - X166) Audited Financial Statements of Banks. The following rules shall govern the utilization and submission of AFS of banks.

For purposes of this Section, AFS shall include the balance sheets, income statements, statements of changes in equity, statements of cash flows and notes to financial statements which shall include among other information, disclosure of the volume of past due loans as well as loan-loss provisions. On the other hand, financial audit report shall refer to the AFS and the opinion of the auditor. The AFS of banks with subsidiaries shall be presented side by side on a solo basis (parent) and on a consolidated basis (parent and subsidiaries).

(As amended by Circular No. 540 dated 09 August 2006)

§ X190.1 (2008 - X166.1) Financial audit. Banks shall cause an annual financial audit by an external auditor acceptable to the BSP not later than thirty (30) calendar days after the close of the calendar year or the fiscal year adopted by the bank. Report of such audit shall be submitted to the board of directors or country head, in the case of foreign bank branches, and the appropriate department of the SES not later than 120 calendar days after the close of the calendar year or the fiscal year adopted by the bank. The report to the BSP shall be accompanied by the: (1) certification by the external auditor on the: (a) dates of start and termination of audit; (b) date of submission of the financial audit report and certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the bank to the board of directors or country head; and (c) the absence of any direct or indirect financial interest and other circumstances that may impair the independence of the external auditor; (2) Reconciliation Statement between the AFS and the balance sheet and income statement for

bank proper (regular and FCDU) and trust department submitted to the BSP including copies of adjusting entries on the reconciling items; and (3) other information that may be required by the BSP.

In addition, the external auditor shall be required by the bank to submit to the board of directors or country head, a LOC indicating any material weakness or breach in the institution's internal control and risk management systems within thirty (30) calendar days after submission of the financial audit report. If no material weakness or breach is noted to warrant the issuance of an LOC, a certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the bank shall be submitted in its stead, together with the financial audit report.

Material weakness shall be defined as a significant control deficiency, or combination of deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be detected or prevented by the entity's internal control. A material weakness does not mean that a material misstatement has occurred or will occur, but that it could occur. A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles. The phrase *more than remote likelihood* shall mean that future events are likely to occur or are reasonably possible to occur.

The board of directors, in a regular or special meeting, shall consider and act on the financial audit report and the certification under oath submitted in lieu of the LOC and shall submit, within thirty (30) banking days after receipt of the reports, a copy of its resolution to the appropriate department of the SES. The resolution shall show, among other things, the actions(s) taken on the reports and the names of the directors present and absent.

The board shall likewise consider and act on the LOC and shall submit, within thirty (30) banking days after receipt thereof, a copy of its resolution together with said LOC to the appropriate department of the SES. The resolution shall show the action(s) taken on the findings and recommendations and, the names of the directors present and absent, among other things.

The country head of foreign banks with branches in the Philippines shall submit a report on the action taken by management (head office, regional, or country, as the case may be) on the financial audit report and the certification under oath submitted in lieu of the LOC within thirty (30) banking days after receipt thereof.

The country head shall likewise submit a report on the action taken by management on the LOC within thirty (30) banking days after receipt thereof.

The LOC shall be accompanied by the certification of the external auditor of the date of its submission to the board of directors or country head, as the case may be.

Government-owned or-controlled banks, including their subsidiaries and affiliates, as well as other FIs under BSP supervision which are under the concurrent jurisdiction of the Commission on Audit (COA) shall be exempt from the aforementioned annual financial audit by an acceptable external auditor: *Provided*, That when warranted by supervisory

concern such as material weakness/breach in internal control and/or risk management systems, the Monetary Board may, upon recommendation of the appropriate department of the SES, require the financial audit to be conducted by an external auditor acceptable to the BSP, at the expense of the institution concerned: *Provided, further*, That when circumstances such as, but not limited to loans from multilateral FIs, privatization, or public listing warrant, the financial audit of the institution concerned by an acceptable external auditor may also be allowed.

Banks and other FIs under the concurrent jurisdiction of the BSP and COA shall, however, submit a copy of the annual audit report (AAR) of the COA to the appropriate department of the SES within thirty (30) banking days after receipt of the report by the board of directors. The AAR shall be accompanied by the: (1) certification by the institution concerned on the date of receipt of the AAR by the board of directors; (2) reconciliation statement between the AFS in the AAR and the balance sheet and income statement of bank proper (regular and FCDU) and trust department submitted to the BSP, including copies of adjusting entries on the reconciling items; and (3) other information that may be required by the BSP.

The board of directors of said institutions, in a regular or special meeting, shall consider and act on the AAR, as well as on the comments and observations and shall submit, within thirty (30) banking days after receipt of the report, a copy of its resolution to the appropriate department of the SES. The resolution shall show the action(s) taken on the report, including on the comments and observations and the names of the directors present and absent, among other things.

The financial audit report required to be submitted shall in all respect be PFRS/PAS compliant: *Provided*, That banks shall

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submit to the BSP adjusting entries reconciling the balances in the financial statements for prudential reporting with that in the audited annual financial statements.

Banks as well as external auditors shall strictly observe the requirements in the submission of the financial audit report and reports required to be submitted under Appendix 61.

The reports and certifications of institutions concerned, schedules and attachments required under this Subsec. shall be considered Category B reports, delayed submission of which shall be subject to the penalties under Subsec. X192.2b(1)b.

(As amended by Circular Nos. 554 dated 22 December 2006 and 540 dated 09 August 2006)

§ X190.2 (2008 - X166.2) *Posting of audited financial statements.* Local banks shall post in conspicuous places in their head offices, all their branches and other banking offices, as well as in their respective websites, their latest financial audit report.

The abovementioned documents shall also be posted by foreign bank branches in all their banking offices in the Philippines.

(As amended by Circular No. 540 dated 9 August 2006)

§ X190.3 (2008 - X166.3) *Disclosure of external auditor’s adverse findings to the Bangko Sentral; sanction*

a. *Findings to be disclosed.* Banks shall require their external auditors to report to the BSP any matter adversely affecting the condition or soundness of the bank, such as, but not limited to:

(1) Any serious irregularity, including those involving fraud or dishonesty, that may jeopardize the interest of depositors and creditors;

(2) Losses incurred which substantially reduce the capital funds of the bank; and

(3) Inability of the auditor to confirm that the claims of creditors are still covered by the bank’s assets.

The disclosure of information by the external auditor to the BSP shall not be a ground for civil, criminal or disciplinary proceedings against the former.

Bank management shall be present during discussions or at least be informed of the adverse findings in order to preserve the concerns of the supervisory authority and external auditors regarding the confidentiality of information.

b. *Sanction.* The auditing firm(s) shall be blacklisted by the Monetary Board for a period as the Board may deem appropriate for their failure to perform their duty of reporting to the BSP any matter adversely affecting the condition or soundness of the bank. Banks shall not be allowed to engage the services of the blacklisted auditing firm.

§ X190.4 (2008 - X166.4) *Disclosure requirement in the notes to the audited financial statements.* Banks shall require their external auditors to include the following additional information in the notes to financial statements:

a. Basic quantitative indicators of financial performance such as return on average equity, return on average assets and net interest margin;

For purposes of computing the indicators, the following formulas shall be used:

(1) **Return on Average Equity (%)** =
$$\frac{\text{Net Income (or Loss) after Income Tax} \times 100}{\text{Average Total Capital Accounts}}$$

Where:
 Average Total Capital Accounts =
$$\frac{\text{Sum of Total Capital Accounts as of the 12 month-ends in the calendar/fiscal year adopted by the Bank}}{12}$$

(2) **Return on Average Assets (%)** =
$$\frac{\text{Net Income (or Loss) after Income Tax} \times 100}{\text{Average Total Assets}}$$

Where:
 Average Total Assets =
$$\frac{\text{Sum of Total Assets as of the 12 month-ends in the calendar/fiscal year adopted by the Bank}}{12}$$

(3) **Net Interest Margin (%)** = $\frac{\text{Net Interest Income} \times 100}{\text{Average Interest Earning Assets}}$

Where:
Net Interest Income = Total Interest Income – Total Interest Expense

Average Interest Earning Assets = $\frac{\text{Sum of Total Interest Earning Assets as of the 12 month-ends in the calendar/fiscal year adopted by the Bank}}{12}$

- b. Risk-based capital adequacy ratio under Section 34 of R.A. No. 8791/Sec. X116;
- c. Concentration of credit as to industry/economic sector where concentration is said to exist when total loan exposures to a particular industry/economic sector exceeds thirty percent (30%) of total loan portfolio;
- d. Breakdown of total loans as to secured and unsecured and breakdown of secured loans as to type of security;
- e. Total outstanding loans to bank’s DOSRI, percent of DOSRI loans to total loan portfolio, percent of unsecured DOSRI loans to total DOSRI loans, percent of past due DOSRI loans to total DOSRI loans and percent of non-performing DOSRI loans to total DOSRI loans;
- f. Nature and amount of contingencies and commitments arising from off-balance sheet items [include direct credit substitutes (e.g., export LCs confirmed, underwritten accounts unsold), transaction-related contingencies (e.g., performance bonds, bid bonds, standby LCs), short-term self-liquidating trade-related contingencies arising from the movement of goods (e.g., sight/usance domestic LCs, sight/usance import LCs), sale and repurchase agreements not recognized in the balance sheet; interest and foreign exchange rate related items; and other commitments;
- g. Provisions and allowances for losses and how these are determined;
- h. Aggregate amount of secured liabilities and assets pledged as security; and

i. Accounting policies which shall include, but shall not be limited to, general accounting principles, changes in accounting policies/practices, principles of consolidation, policies and methods for determining when assets are impaired, recognizing income on impaired assets and losses on non-performing credits, income recognition, valuation policies and accounting policies on securitizations, foreign currency translations, loan fees, premiums and discounts, repurchase agreements, premises/fixed assets, income taxes and derivatives.

§ X190.5 (2008 - X166.5) Disclosure requirements in the annual report. UBs, KBs, and TBs with at least P1.0 billion resources shall prepare an annual report which shall include, in addition to the audited financial statements and other usual information contained therein, a discussion and/or analysis of the following information:

- a. Financial performance;
- b. Financial position and changes therein;
- c. Overall risk management philosophy (i.e., a general statement of the risk management policy adopted by the bank's board of directors which serves as the basis for the establishment of its risk management system), risk management system and structure;
- d. Qualitative and quantitative information on risk exposures (credit, market, liquidity, operational, legal and other risks); and
- e. Basic business management and corporate governance information such as the bank’s organizational structure, incentive structure including its remuneration policies, nature and extent of transactions with affiliates and related parties.

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§ X190.6 (2008 - X166.6) Posting and submission of annual report. A copy of the latest annual report shall be posted by the bank in a conspicuous place in its head office, all its branches and other offices.

The deadline for the submission of the annual report to the appropriate department of the SES is 180 calendar days after the close of the calendar or fiscal year adopted by the bank.

Sec. X191 (2008 - X161) Records. Banks shall have a true and accurate account, record or statement of their daily transactions, particularly those referring to their deposit liabilities. The making of any false entry or the willful omission of entries relevant to any transaction, is a ground for the imposition of administrative sanctions under Section 37 of R.A. No. 7653 and the disqualification from office of any director or officer responsible therefor under Section 9-A of R.A. No. 337, as amended. This is without prejudice to their criminal liability under Sections 35 and 36 of R.A. No. 7653 and/or the applicable provisions of the Revised Penal Code.

§ X191.1 (2008 - X161.1) Adoption of the Manual of Accounts. Banks shall strictly adopt the Manual of Accounts prescribed by the BSP for recording daily transactions including reportorial and publication requirements.

Local branches of foreign banks may continue using their parent bank’s general ledger accounts: *Provided*, That published statements and reports submitted to the BSP follow the account definitions in the BSP-prescribed Manual of Accounts: *Provided, further*, That the mathematical formulas for reconciling such published statements and submitted reports with the general ledger accounts of the bank are submitted to the appropriate department of the SES: *Provided, finally*, That said banks prepare for BSP use, reconciliations

of their ledger accounts with the BSP prescribed Manual of Accounts during regular or special bank examinations.

Any bank which fails or refuses to adopt the prescribed Manual of Accounts, or any of the applicable accounts contained therein, or adopts any general ledger account not specified in the said Manual of Accounts without prior written approval of the Governor of the BSP, shall be penalized by revocation or suspension of its authority to engage in quasi-banking function.

§ X191.2 (2008 - X162.16) Financial Reporting Package. In line with the adoption of the Philippine Financial Reporting Standards (PFRS) and Philippine Accounting Standards (PAS) effective the annual financial reporting period beginning 01 January 2005, the Manual of Accounts and the BSP reportorial requirements consisting of the Consolidated Statement of Condition (CSOC), Consolidated Statement of Income and Expense (CSIE) and their supporting schedules are amended through the issuance of the new Financial Reporting Package (FRP) for banks.

The general features as well as the implementing guidelines of the FRP is provided in *Appendix 77*.

(Circular No. 512 dated 03 February 2006, as amended by Circular No. 568 dated 08 May 2007)

§ X191.3 (2008 - X161.2) Philippine Financial Reporting Standards/Philippine Accounting Standards

Statement of policy. It is the policy of the BSP to promote fairness, transparency and accuracy in financial reporting. It is in this light that the BSP aims to adopt all PFRS and PAS issued by the ASC to the greatest extent possible.

Banks shall adopt the PFRS and PAS which are in accordance with generally accepted accounting principles in recording transactions and in the preparation of

financial statements and reports to BSP. However, in cases where there are differences between BSP regulations and PFRS/PAS as when more than one (1) option are allowed or certain maximum or minimum limits are prescribed by the PFRS/PAS, the option or limit prescribed by BSP regulations shall be adopted by banks.

For purposes hereof, the PFRS/PAS shall refer to issuances of the ASC and approved by the Professional Regulation Commission (PRC).

Accounting treatment for prudential reporting. For prudential reporting, banks shall adopt in all respect the PFRS and PAS except as follows:

a. In preparing *consolidated financial statements*, only investments in financial allied subsidiaries except insurance subsidiaries shall be consolidated on a line-by-line basis; while insurance and non-financial allied subsidiaries shall be accounted for using the equity method. Financial/non-financial allied/non-allied associates shall be accounted for using the equity method in accordance with the provisions of PAS 28 "Investments in Associates".

b. For purposes of preparing *separate financial statements*, financial/non-financial allied/non-allied subsidiaries/associates, including insurance subsidiaries/associates, shall also be accounted for using the equity method; and

c. Banks shall be required to meet the *BSP recommended valuation reserves*.

Government grants extended in the form of loans bearing nil or low interest rates shall be measured upon initial recognition at its fair value (i.e., the present value of the future cash flows of the financial instrument discounted using the market interest rate). The difference between the fair value and the net proceeds of the loan shall be recorded under "*Unearned Income-Others*", which

shall be amortized over the term of the loan using the effective interest method.

The provisions on government grants shall be applied retroactively to all outstanding government grants received. FIs that adopted an accounting treatment other than the foregoing shall consider the adjustment as a change in accounting policy, which shall be accounted for in accordance with PAS 8.

Notwithstanding the exceptions in Items "a", "b" and "c", the audited annual financial statements required to be submitted to the BSP in accordance with the provision of Subsec. X190.1 shall in all respect be PFRS/PAS compliant: *Provided*, That FIs shall submit to the BSP adjusting entries reconciling the balances in the financial statements for prudential reporting with that in the audited annual financial statements.

(As amended by Circular No. 572 dated 22 June 2007)

§§ X191.4 - X191.9 (Reserved)

§ 1191.9 (Reserved)

§ 2191.9 (Reserved)

§ 3191.9 (2008 - §3161.9) Retention and disposal of records of rural/cooperative banks. To guide RBs/Coop Banks in the disposition of their records and documents which no longer need to be retained and in determining which of the records are of permanent value and therefore should be preserved, RBs/Coop Banks shall follow the guidelines on retention and disposal of records in *Appendix 50*.

Sec. X192 (2008 - X162) Reports. Banks shall submit to the appropriate department of the SES all their statements and/or periodic reports listed in *Appendix 6* in such frequency and deadlines indicated therein. In the preparation of said statements/

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reports, banks shall use and strictly follow the forms prescribed by the BSP.

In line with the policy direction of R.A. No. 8792 (E-Commerce Act), the BSP is strongly encouraging banks to submit their regular reports to the BSP in electronic form.

However, the BSP cannot presently guarantee the security/confidentiality of data in the course of electronically transmitting reports to BSP. BSP recommends that sensitive or confidential information be provided by ordinary post or courier. The BSP will accept no responsibility for electronic messages/reports/information that may be hacked or cracked, intercepted, copied or disclosed outside BSP's information system.

§ X192.1 (2008 - X162.1) Categories and signatories of bank reports

a. *Categories of reports.* Reports required to be submitted to the BSP by banks are grouped into *Category A-1*, *Category A-2*, *Category A-3* and *Category B* reports as indicated in *Appendix 6*.

b. *Authorized signatories*

(1) *Category A-1* reports shall be signed by the bank's chief executive officer or, in his absence, by the executive vice president, and by the comptroller or, in his absence, by the chief accountant, or officers holding equivalent positions.

(2) *Category A-2* reports shall be signed by the president, executive vice president, vice president or by an officer holding equivalent position.

(3) *Category A-3* and *Category B* reports shall be signed by officers or their alternates, duly designated by the board of directors.

The designated signatories of *Categories A-1*, *A-2*, *A-3* and *B* reports including their specimen signatures shall be contained in a resolution approved by the board of directors. A copy of the board resolution covering the initial designation

and subsequent change(s) in signatories as well as specimen signatures of the signatories and alternates, shall be submitted to the appropriate department of the SES in such frequency and within the deadline indicated in *Appendix 6*.

(4) Reports in computer media that are submitted by banks shall be subject to the same requirements regarding authorized signatories.

(5) Any report submitted to the BSP that is signed by an officer who is not listed or included in any of the resolutions mentioned above, shall be considered as not having been submitted at all.

(6) All authorized agent banks shall submit to the Director, Branch Operations, BSP, the updated specimen signatures of Senior Bank Officers in their respective Head Offices who are authorized to authenticate the signatures of their provincial branch officers transacting business with the BSP Regional Offices/Branches.

The BSP Branch Operations shall be advised of any changes in authorized branch signatories, as well as authenticating Head Office Senior Officers.

c. *Deadline for submission of reports*

(1) *Regular reports.* Unless otherwise specified, the deadlines for submission of reports enumerated in *Appendix 6*, shall be reckoned on the basis of banking days. For this purpose, *banking days* shall be understood to mean Monday through Friday or banking days of the BSP.

(2) *Call Reports.* The deadline of submission of call reports shall be specified in the letter calling for the report.

§ X192.2 (2008 - X162.2) Sanctions in case of willful delay in the submission of reports/refusal to permit examination. For willful delay in the submission of reports, specific sanctions shall be imposed in accordance with the following rules.

a. *Definitions.* For purposes of this Subsection, the following definitions shall apply.

(1) *Report* shall refer to any report or statement required to be submitted by a bank to the BSP.

(2) *Willful delay in the submission of reports* shall refer to the failure of any bank to submit on time the report defined in Item “a(1)” above. Failure to submit a report on time due to fortuitous events, such as fire and other natural calamities, and public disorders including strike or lockout affecting a bank as defined in the Labor Code, or of a national emergency affecting operations of banks, shall not be considered as willful delay.

(3) *Examination* shall include, but need not be limited to, the verification, review, audit, investigation and inspection of the books and records, business affairs, administration and financial condition of any bank including the reproduction of banking records, as well as the taking possession of the books and records and keeping them under BSP’s custody after giving proper receipts therefor.

It shall also include the interview of the directors and personnel of any bank including its Electronic Data Processing (EDP) servicer. Books and records shall include, but not limited to, data and information stored in magnetic tapes, discs, diskettes printouts, logbooks and manuals kept and maintained by the bank or by the EDP servicer, that are necessary and incidental to the use of EDP systems by the bank.

(4) *Refusal to permit examination* shall mean any act or omission which impedes, delays or obstructs the duly authorized BSP officer/examiner/employee from conducting an examination, including the act of refusing to accept or honor a letter of authority to examine presented by any officer/examiner/employee of the BSP.

b. *Fines for willful delay in the submission of reports.*

(1) *Amount of fine.* Any bank which shall incur willful delay in the submission of required reports shall pay a fine in accordance with the following schedule:

(a) *For Category A-1, A-2 and A-3 reports*

(1) UBs/KBs	-	P1,200
(2) TBs	-	600
(3) RBs/Coop Banks	-	180

per day of default until the report is filed with the BSP: and

(b) *For Category B reports*

(i) UBs/KBs	-	P 240
(ii) TBs	-	120
(iii) RBs/Coop Banks	-	60

per day of default until report is filed with the BSP.

In the implementation of the foregoing rules, delay or default shall start to run on the day following the last day required for the submission of reports. However, should the last day of filing fall on a non-working day in the locality where the reporting bank is situated, delay or default shall start on the day following the next banking day. The due date/deadline for submission of reports to BSP as prescribed under Sec. X192 governing the frequency and deadlines indicated in *Appendix 6* shall be automatically moved to the next banking day whenever a half-day suspension of business operations in government offices is declared due to an emergency such as typhoon, floods, etc.

Delayed schedules/attachments and amendments shall be considered late reporting subject to the above penalties.

(2) *Manner of filing.* For the purpose of establishing delay or default, the submission of reports shall be effected by filing them with the appropriate department of the SES or with the BSP Regional Offices, or by sending them by registered mail or by special delivery through a private courier, unless

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otherwise specified in the circular or memorandum of the BSP.

In the first case, the date of acknowledgment by the appropriate department of the SES or the BSP Regional Office appearing on the copies of such reports filed or submitted, and in the second case, the date of mailing postmarked on the envelope or the date of the registry receipt or the date of special delivery receipt, shall be considered as the date of filing.

c. *Fines for refusal to permit examination.*

(1) *Amount of fine* - A bank which shall willfully refuse to permit examination shall pay a fine of ₱3,000 daily from the day of refusal and for as long as such refusal lasts.

(2) *Basis and effectivity of the imposition of fine.*

(a) The BSP officer/examiner/employee shall report the refusal of the bank to permit examination to the head of the appropriate department of the SES, who shall forthwith make a written demand upon the bank concerned for such examination. If the bank continues to refuse said examination without any satisfactory explanation thereof, the BSP officer/examiner/employee concerned shall submit a report to that effect to the said department head.

(b) The fine shall be imposed starting on the day following the receipt by the said department of the written report submitted by the BSP officer/examiner/employee concerned regarding the continued refusal of the bank to permit the desired examination.

d. *Manner of payment or collection of fines.* The regulations embodied in Subsec. X902.1 shall be observed in the collection of fines from banks for willful delay in the submission of reports or for refusal to permit examination.

e. *Other penalties.* The imposition of the foregoing penalties shall be without

prejudice to imposition of the other administrative sanctions and to the filing of a criminal case as provided for in other provisions of law.

f. *Appeal to the Monetary Board.* An aggrieved bank may appeal to the Monetary Board any fine imposed by the BSP.

(As amended by Circular 585 dated 15 October 2007)

§ X192.3 (2008 - X162.3) Submission of certain required information. Banks shall submit to the appropriate department of the SES the information on bank's profile required in *Appendix 7*. Any change in any of the required information submitted, after the initial submission, shall be reported to the said department immediately.

Banks shall likewise submit to the said department any or all of the documents/information on bank's organizational structure and operational policies enumerated in *Appendix 8*. Any subsequent change/issuance should be furnished the department within fifteen (15) banking days from such change/issuance.

§ X192.4 (2008 - X162.4) Report on crimes/losses. Banks shall report on the following matters to the appropriate department of the SES.

a. Crimes whether consummated, frustrated or attempted against property/facilities (such as robbery, theft, swindling or estafa, forgery and other deceits) and other crimes involving loss/destruction of bank property when the amount involved, in each crime is ₱20,000 or more.

Crimes involving bank personnel, regardless of whether or not such crimes involve the loss/destruction of bank property, even if the amount involved is less than ₱20,000, shall likewise be reported to the BSP.

b. Incidents involving material loss, destruction or damage to the bank's property/facilities, other than arising from

a crime, when the amount involved per incident is P100,000 or more.

c. *Definition of terms.* For the purpose of this regulation, the following definitions shall apply:

(1) *Estafa* - a crime committed by a person who defrauds another causing the latter to suffer damage by means of any of the following:

- (a) unfaithfulness or abuse of confidence;
- (b) false pretense; or

(c) fraudulent acts/means, under Articles 315 to 317 of the Revised Penal Code, as amended.

(2) *Theft* - a crime committed by a person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take personal property of another without the latter's consent pursuant to Article 308 and other pertinent provisions of Chapter III, Title X of the Revised Penal Code, as amended.

(3) *Robbery* - a crime committed by a person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person, or using force upon anything pursuant to Article 295 and other pertinent provisions of Chapter 1, Title X of the Revised Penal Code, as amended.

(4) *Falsification* - a crime committed by a person who falsifies a document by

- (a) Counterfeiting or imitating any handwriting, signature or rubric;
- (b) Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

(c) Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;

(d) Making untruthful statements in a narration of facts;

(e) Altering true dates;

(f) Making any alteration or intercalation in a genuine document which changes its meaning;

(g) Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or

(h) Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book and other acts falling under Articles 169, 171 and 172 of the Revised Penal Code, as amended.

(5) *Credit-card related crimes* - crimes arising through the use of credit cards.

(6) *Other crimes that may cause loss to the bank* - crimes committed that cannot be appropriately classified under any of the above classifications.

(7) *Negligence* - the failure to exercise the care which an ordinarily prudent person would use under the circumstances in the discharge of the duty then resting upon him (People v. Aguilar, 2899-R, 18 October 1949).

(8) *Non-crime related loss* - Incidents that may cause the bank to suffer a loss arising from fortuitous events.

(9) *Insider* - person involved include stockholders, directors, officers and employees of the bank.

(10) *Outsider* - persons involved other than an insider.

(11) *Perpetrator* - a person, whether an insider or outsider, who is responsible for the commission of crime either by direct participation, inducement or cooperation, including accomplices and accessories as defined under Articles 18 and 19 of the Revised Penal Code, as amended.

(12) *Victim* - an insider or outsider other than the perpetrator, who is the aggrieved party to the crime and may as a result of the incident, suffered the loss.

(13) *Attempted crime* - a crime is attempted when the perpetrator commences the commission of the crime directly by overt acts but does not perform

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all of the acts of execution which constitute the crime by reason of some cause or act other than his own voluntary desistance under Article 6 of the Revised Penal Code, as amended.

(14) *Frustrated crime* - a crime is classified as frustrated, when the perpetrator performs all the acts of execution which should produce the crime as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator under Article 6 of the Revised Penal Code, as amended.

(15) *Consummated crime* - a crime is consummated when all the acts of execution which constitute the crime was performed. As a result, the bank may have suffered a loss, the recoverable portion of which should be deducted to arrive at the probable loss incurred by the bank.

(16) *Termination of the investigation* - an investigation is said to be terminated when all the material facts/information which are sufficient to support a conclusion relative to the matters involved have already been gathered and a finding/conclusion may be made based on the gathered information.

d. The following guidelines shall be observed in the preparation and submission of the report:

(1) The Branch or Head Office unit's Report on Crimes and Losses shall be submitted to the BSP through the bank's head office unit and shall be certified correct by the compliance officer. The report shall be assigned a prescribed reference number by the bank using the format *mm-yyyy-xxx* with *mm* and *yyyy* as numeric code for the month and year of reporting respectively and *xxx* as sequence no. (e.g. 01-2007-001) which shall be a continuing series until the end of the year.

The report shall be prepared using the new format in two (2) copies and shall be submitted to the SDC and to the BSP

Security Coordinator, thru the Director, Security, Investigation and Transport Department (SITD) within ten (10) calendar days from knowledge of the crime/incident;

(2) Where a thorough investigation and evaluation of facts is necessary to complete the report, an initial report submitted within deadline may be accepted: *Provided*, That a complete report is submitted not later than twenty (20) calendar days from termination of investigation.

Moreover, final reports on crimes and losses with incomplete information as required under SES Form 6G shall be considered erroneous reports and the concerned bank shall be required to submit amended reports subject to penalties on late reporting for *Category B* reports under Subsec. X192.2; and

(3) Proof of submission of the report shall be determined by the date of postmark, if the report was sent by mail or by the date received, if handcarried to the SDC and SITD.

(As amended by Circular No. 587 dated 26 October 2007)

§ X192.5 (2008 - X162.5) Report on real estate/chattel transactions. Banks shall within ten (10) banking days from approval of the transaction:

a. Report to the appropriate department of the SES, any real estate/chattel transaction (such as, but not limited to, rentals or leases, purchases and sales, of foreclosed assets) between the bank and its director(s), officer(s), employee(s), or between the bank and its stockholder(s) or their related interest(s), as defined under Items "c" and "e", respectively, of Subsec. X326.1; and

b. Certify to the BSP that such transaction has been thoroughly reviewed and verified as having been entered into in the best interest of the bank.

(As amended by Circular No. 525 dated 04 April 2006)

§ X192.6 (2008-X162.6) Reconciliation of head office and branch transactions

Banks shall prepare reconciliation statements covering transactions between the head office and all its branches within thirty (30) banking days after the end of each month.

All items which are unresponded or outstanding in the reconciliation statement for more than (6) months as of reconciliation statement date shall be reported, with explanations/reasons for their being outstanding, to the appropriate department of the SES in such frequency and within the deadline set in *Appendix 6*.

The reconciliation statement shall be made available to any authorized bank examiner for inspection/examination without need of advance notice.

A copy of the year-end reconciliation statement covering transactions between the bank's head office and all its branches shall be furnished the said department not later than the end of January of the following year.

§ X192.7 (2008 - X162.7) List of stockholders and their stockholdings

a. Banks shall submit to the appropriate department of the SES annually a complete list of stockholders and their stockholdings in the prescribed form within the deadline indicated in *Appendix 6*.

b. Any change in the list shall also be reported to the said department in such frequency and within the deadline indicated in *Appendix 6*, indicating the name(s) and/or stockholdings involved which is/are to be cancelled or replaced, and the new name(s) and/or stockholdings which shall be included for that quarter. In case no change occurred during a particular quarter, the report shall provide a notation, viz *"no change(s) since last report submitted for quarter ended, _____, 20____"*.

§ X192.8 (2008 - X162.8) Bangko Sentral offices, where reports are submitted. Submission of BSP periodic or call reports shall be as follows:

a. All banking offices shall submit the required reports in accordance with *Appendix 6* to the BSP, Manila or to the nearest BSP Regional Offices: *Provided*, That the head office of a bank may submit to the SDC in electronic form the batched copy of all its banking units' *Quarterly Statement of Condition and Statement of Income and Expenses by Banking Unit* in behalf of its branches and other offices;

b. Where a particular report form calls for distribution of copies to other departments of the BSP, the bank concerned shall furnish said copies of the report direct to the respective departments of the BSP; and

c. As an exception to Item "a" above, the duplicate copy of the bio-data for directors/officers shall be submitted to the SDC of the BSP.

§ X192.9 (2008 - X162.9) Publication/ Posting of balance sheet

a. *UBs/KBs, TBs, RBs and Coop Banks with resources of P1.0 billion and above*

(1) Banks belonging to this category shall accomplish the prescribed form and publish their quarterly Balance Sheet (BS) as of the cut-off date indicated in the call letter issued by the SES.

The Consolidated Balance Sheet (CBS) of a bank and its subsidiaries and affiliates shall be published side by side with the BS of its head office and its branches/other offices.

(2) The CBS of the bank and its subsidiaries and affiliates shall be prepared in accordance with the rules of consolidation provided under the Financial Reporting Package (FRP), in which case, only financial allied

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subsidiaries, except subsidiary insurance companies, shall be consolidated on a line-by-line basis, while non-financial allied subsidiaries including subsidiary insurance companies shall be accounted for using the equity method.

(3) Such BS, and CBS where applicable, shall be published in a newspaper of general circulation in the city/province where the principal office, in the case of a domestic bank, or the principal branch/office, in the case of a foreign bank, is located, but if no newspaper is published in the same province, then in a newspaper published in Metro Manila or in the nearest city/province.

(4) The names and position/designation of the members of the board of directors, president and executive vice presidents (senior vice presidents, if there are no executive vice presidents), shall be published and shown in the right side column of the published BS as of June of every year.

(5) (a) Before publication, a soft copy of the BS shall be submitted to the SDC within twelve (12) banking days from the date of the call letter.

Further, a hard copy of the control proof list for the said report shall likewise be submitted to the SDC within the said deadline.

(b) Banks that are incapable of submitting the BS in electronic form shall submit the same in hard copy to the SDC within the said deadline.

(c) The published BS with the publisher’s certificate shall be submitted within twenty (20) banking days after the date of said call letter to the SDC.

b. *TBs/RBs/Coop Banks with resources of less than ₱1 billion*

(1) A TB, RB and Coop Bank belonging to this category shall either publish its quarterly BS as of the cut-off date indicated in the call letter issued by

the SES of the BSP, in a newspaper of general circulation as in Item “a(3)” above or post the same in the most conspicuous area of its premises, in the municipal building, municipal public market, barangay hall and barangay public market where the head office and all its branches are located. The posting shall be printed on 12”x18” white paper, preferably white buff paper (cartolina) and shall be made within twenty (20) banking days from the end of the reference quarter and for a period of thirty (30) successive calendar days.

(2) (a) A TB, RB and Coop Bank that shall publish/post its quarterly BS shall submit a soft copy of the same to the SDC within twenty (20) banking days after the end of the reference quarter.

(b) Banks that are incapable of submitting the BS in electronic form shall submit the same in hard copy to the SDC within the said deadline.

(c) In either case, an affidavit executed by the president, or in his absence, the vice-president or manager, as the case may be, shall likewise be submitted to the SDC within the said deadline.

c. *Additional information required*
Banks shall disclose the following information in the quarterly published/posted BS:

(1) Solo BS (Head Office and Branches/Other Offices)

- (a) Non-performing loans (NPLs)
- (b) Ratio of NPLs to total loan portfolio (TLP)
- (c) Classified loans and other risk assets
- (d) Specific provision for loan losses
- (e) Return on equity (ROE)
- (f) DOSRI loans and receivables
- (g) Ratio of DOSRI loans and receivables to TLP
- (h) Past due DOSRI loans and receivables
- (i) Ratio of past due DOSRI loans and receivables to TLP

- (j) Percent compliance with Magna Carta - 6% for Small Enterprise
- (k) Percent compliance with Magna Carta - 2% for Medium Enterprise
- (l) CAR on Solo Basis under *Appendix 63b* for UBs/KBs, TBs, and RBs that are subsidiaries of UBs/KBs. For stand-alone TBs, RBs and Coop Banks, Sec. X116 shall apply.

(i) Total CAR
 (ii) Tier 1 CAR
- (2) CBS (parent bank and financial allied subsidiaries excluding subsidiary insurance companies)

(a) List of financial allied subsidiaries (excluding subsidiary insurance companies)
 (b) List of subsidiary insurance companies
 (c) CAR on consolidated basis

(i) Total CAR
 (ii) Tier 1 CAR

For purposes of additional information, all amounts and ratios shall be as of the same call date. However, the basis for computing the ROE shall be the latest quarter immediately preceding the call date using the following formula:

Return on Average Equity (%) =

$$\frac{\text{Net Income (or Loss) after Income Tax}}{\text{Average Total Capital Accounts}} \times 100$$

Where net income/(loss) after tax and average total capital accounts shall be:

Net Income After Tax Quarter (loss) (NIAT)		Average Total Capital Accounts
March	Quarter end NIAT multiplied by 4.	Sum of end-month capital accounts (December - March) divided by 4.
June	Semester end NIAT multiplied by 2.	Sum of end-month capital accounts (December - June) divided by 7.
Sept.	Nine (9) mos. NIAT multiplied by 1.33333.	Sum of end-month capital accounts (December - September) divided by10.
Dec.	Year end NIAT	Sum of end-month capital accounts (December - December) divided by 13.

d. *Deferment of publication requirement.*

The abovementioned publication requirement may be deferred by the Monetary Board by at least five (5) affirmative votes upon application by the bank concerned during periods of national and/or local emergency or of imminent panic which directly threaten monetary and banking stability.

The amended prescribed form for the published BS shall be used starting with the quarter-end September 2007 reports.

(As amended by Circular No. 576 dated 08 August 2007)

§ X192.10 (2008-X162.10) Consolidated financial statements of banks and their subsidiaries engaged in financial allied undertakings. Banks shall submit after the end of the calendar year or the end of the fiscal year adopted by the bank their consolidated financial statements and supported by the individual annual financial statements of their subsidiaries engaged in financial allied undertakings.

For purposes of this Subsection, the consolidated financial statements shall conform to the guidelines of PAS 27 “Consolidated and Separate Financial Statements” except that for purposes of consolidated financial statements, the provisions of Subsec. X191.3a shall apply.

The consolidated financial statements and the supporting individual financial statements of their subsidiaries shall be submitted to the appropriate department of the SES within the deadline indicated in *Appendix 6*.

§ X192.11 (2008 - X162.11) Reports of other banking offices. Extension offices of banks which maintain separate books of accounts shall be subject to all reporting requirements of a regular branch.

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An extension office whose record of transactions/accounts is consolidated daily with its mother unit shall submit only the Selected Financial Accounts form as listed in *Appendix 6*.

Convenience Banking Centers (CBCs) are not required by BSP to submit Statement of Condition (SOC) and Statement of Income and Expenses (SIE). A CBC is not considered as a branch but as an extension office of a bank without separate books of accounts which directly reports its transactions to its mother branch.

§ X192.12 (2008 - X162.12) Reports required of foreign subsidiaries/affiliates/banking offices or non-bank entities of domestic banks. The submission of periodic reports of a foreign subsidiary/affiliate/banking offices or non-bank entities of domestic banks shall be governed by the following rules:

a. For foreign subsidiaries/affiliates of domestic banks, the local investor-bank(s) concerned shall regularly submit to the appropriate department of the SES a quarterly statement of condition and quarterly/annual report of income and expenses concerning the operations of the foreign subsidiaries/affiliates, including such other periodic reports which may be required from time to time in the forms prescribed by the BSP for domestic financial intermediaries to the extent that their operations are applicable;

b. For foreign subsidiaries/affiliates of domestic banks, the appropriate department of the SES shall be furnished by said domestic banks copies of the annual report prescribed by any of the supervisory/regulatory authorities in the country of operations;

c. When material changes noted in the annual financial statements warrant an interim comprehensive evaluation, the foreign affiliate concerned shall be

requested to submit to the appropriate department of the SES, through its domestic investor-bank, copies of its quarter/interim reports to stockholders or the call reports in the case of U.S. banks;

d. Audited financial statements (AFS) of the foreign banking offices and subsidiaries; and

e. Examination reports done by the foreign bank supervisory authority.

The submission of the documents in Items “d” and “e” to BSP shall not be later than thirty (30) banking days from date of submission/release of said reports to the foreign banking offices and subsidiaries of Philippine banks. Material findings, if any, contained in said reports should be highlighted.

f. For purposes of this Subsection, *affiliate* shall refer to an entity linked directly or indirectly to a bank by means of:

(1) Ownership, control or power to vote, of ten percent (10%) or more of the outstanding voting stock of the entity, or vice-versa;

(2) Interlocking directorship or officership, except in cases involving independent directors as defined under existing regulations;

(3) Common stockholders owning ten percent (10%) or more of the outstanding voting stock of each financial intermediary and the entity;

(4) Management contract or any arrangement granting power to the bank to direct or cause the direction of management and policies of the entity, or vice-versa; and

(5) Permanent proxy or voting trusts in favor of the bank constituting ten percent (10%) or more of the outstanding voting stock of the entity, or vice-versa.

For purposes of this Manual, the above definition of *affiliate* shall be adopted except where the provision of the regulation expressly states otherwise.

§ X192.13 (Reserved)

§ 1192.13 (2008 - §1162.13) Additional reports from UBs/KBs

- a. *Volume and weighted average interest rates of deposits and loans.* Data on the volume of transactions and weighted average interest rates of certificates of time deposits and secured/unsecured loans granted, classified by maturity, and outstanding savings deposits classified by interest rates, shall be prepared daily (except data on savings deposits which shall be prepared weekly) and submitted weekly by all head offices of UBs/KBs to the Department of Economic Research of the BSP not later than 4:00 PM on Thursday after end of reference week.
- b. *Short-term prime rates.* All UBs and KBs shall submit in the prescribed form a report on the volume and interest rates on credit line availments under short-term prime rates in such frequency and within the deadline indicated in *Appendix 6*.
- c. *(Deleted by Cir. No. 405 dated 28 August 2003).*
- d. *Foreign Exchange Position Report* Banks may be allowed to submit on a weekly basis the notarized certification signed by the bank’s president/CEO/ country manager and the treasurer to cover the daily hard copies of *Schedule 13, FX Form I* and *CFXPR* pertaining to each day of the week. Delayed submission of the notarized certification shall be subject to monetary penalty, as follows:

	Daily Penalty
1 st banking day of delay	P6,000.00 (equivalent P1,200.00 per day for five (5) report dates covered by the certification on the assumption that the five (5) weekdays of the reference week are all banking days)
2 nd banking day of delay and onwards	–P1,200.00/day

§ 2192.13 (Reserved)

§ 3192.13 (Reserved)

- § X192.14 (2008 - X162.14) *Reports of strikes and lockouts.* Banks through their president or chief executive officer shall immediately apprise the Deputy Governor of the SES of the BSP on the status of strikes/lockouts involving their banks, if unsettled after seven (7) calendar days. The bank shall disclose the following pertinent information on the strike/lockout:
 - a. Cause of the strike/lockout and bank management’s position on its legality; and
 - b. Bank operations affected.

- § X192.15 (2008 - X162.15) *Report on the Sworn Statement on Real Estate/ Chattel Transactions.* The Report on the Sworn Statement on Real Estate/ Chattel Transactions submitted under BSP Form Nos. NP06-KB, NP06-TB and RB/COB 20 need not be under the signature of all the members of the bank’s board of directors: *Provided, That:*
 - (a) transactions reported are being availed of strictly in accordance with the terms and conditions of a fringe benefit program approved by the bank’s board of directors and by the BSP; and
 - (b) the signatory to the certification is an officer duly authorized by the bank’s board of directors.
 Transactions not covered under the bank’s fringe benefit plan shall still be reported under the signatures of all the members of the bank’s board of directors.

§§ X192.16 - X192.20 (Reserved)

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O. PROMPT CORRECTIVE ACTION
FRAMEWORK

§ X193 (2008 - X106.4) Prompt corrective action framework. A bank may be subject to Prompt Corrective Action (PCA) whenever any or all of the following conditions obtain:

(1) When either of the Total Risk-Based Ratio [otherwise known as Capital Adequacy Ratio (CAR)], Tier 1 Risk-Based Ratio, or Leverage Ratio (total capital/total assets) falls below ten percent (10%), six percent (6%) and five percent (5%), respectively, or such other minimum levels that may be prescribed for the said ratios under relevant regulations, and/or the combined capital account falls below the minimum capital requirement prescribed under Subsec. X111.1;

(2) The Capital Adequacy, Asset Quality, Management, Earnings, Liquidity and Sensitivity to Market Risk (“CAMELS”) composite rating is less than three “3” or a Management component rating of less than three “3”; and

(3) A serious supervisory concern has been identified that places a bank at more-than-normal risk of failure in the opinion of the Director of the examination department concerned, which opinion is confirmed by the Monetary Board. Such concerns could include, but are not limited, to any one (1) or a combination of the following;

(a) Finding of unsafe and unsound activities that could adversely affect the interest of depositors and/or creditors;

(b) A finding of repeat violations of law or continuing failure to comply with Monetary Board directives; and

(c) Significant reporting errors that materially misrepresent the bank’s financial condition.

The framework for the enforcement of PCA on banks and other financial

institutions under its jurisdiction is in Appendix 69.

(Circular No. 523 dated 23 March 2006)

Secs. X194 - X195 (Reserved)

P. LIQUIDATION AND RECEIVERSHIP

Sec. X196 Voluntary Liquidation. The following guidelines shall be observed when a bank decides to undertake voluntary liquidation as a consequence of voluntary dissolution, such as (i) by vote of the board of directors and stockholders, where no creditors are affected; (ii) judgment of the SEC after hearing the petition for voluntary dissolution; (iii) amending the articles of incorporation to shorten the corporate term.

§ X196.1 Prior Monetary Board approval. Upon voluntary dissolution of a bank pursuant to the provisions of the Corporation Code, voluntary liquidation may be undertaken by the bank itself through its board of directors, by a trustee appointed by the bank, or by a receiver appointed to the bank: *Provided, however,* That no voluntary dissolution shall be undertaken by a bank without prior approval of the Monetary Board: *Provided, further,* That requests for approval of a voluntary dissolution shall be accompanied by a liquidation plan which lays down the procedure to be adopted by the bank in the event of liquidation: *Provided, finally,* That written notice shall be sent to the Monetary Board before actual liquidation is undertaken in accordance with the liquidation plan previously approved by the Monetary Board.

§ X196.2 Liquidation plan. The minimum requirements to be set forth in a liquidation plan are the following:

a. *Inventory/Appraisal of assets and liabilities.* Submission to the Monetary Board within thirty (30) days from written notice of liquidation, a schedule/inventory and status/appraisal reports on assets and liabilities of the bank.

b. *Notice to creditors requirement.* Notice by registered mail to all recorded claimants of the bank, and notice by publication in a newspaper of general circulation at least once a week for two (2) consecutive weeks, to be made within thirty (30) days from submission of aforesaid inventory of assets and liabilities.

c. *Conversion of assets into money.* Projected timetable in the conversion, manner of sale (public auction, sealed bidding, or on negotiated basis), notice by publication requirement, and report on liquidation to be submitted to the Monetary Board.

d. *Final notice to claimants/creditors.* Undertaking of the board of directors/trustee/receiver to cause, within thirty (30) days from conversion into money of all or substantially all of the assets of the bank, the publication in a newspaper of general circulation at least once a week for two (2) consecutive weeks of a notice giving claimants/creditors fifteen (15) days within which to file their claims.

e. *Inventory of remaining claims against the bank.* Submission to the Monetary Board of a complete list of all remaining claims against the bank, within thirty (30) days from the deadline given in the final notice to claimants/creditors.

f. *Plan for distribution of proceeds of sales and distribution of liquidating dividends.* Submission to the Monetary Board of a distribution plan of assets within thirty (30) days from conversion of all or substantially all of the assets of the bank.

§§ X196.3 - X196.7 (Reserved)

§ X196.8 Final liquidation report. The board of directors/trustee/receiver shall submit to the Monetary Board a final liquidation report after winding up the affairs of the bank.

Sec. X197 (Reserved)

Sec. X198 Insolvency or Receivership of Banks. The rules and regulations governing insolvency and receivership are as follows:

§ X198.1 Definition of term. A “bank declared insolvent or placed under receivership by the Monetary Board” shall refer to a banking institution that has been forbidden from doing business in the Philippines by the Monetary Board under the applicable grounds provided for under Section 30 of R.A. No. 7653 and placed under receivership of the PDIC.

§ X198.2 Prohibited acts. Any director or officer of a bank declared insolvent or placed under receivership by the Monetary Board shall not commit any of the following acts:

- a. refusing to turn over the bank’s records and assets to the designated receivers;
- b. tampering with bank records;
- c. appropriating for himself or another party, or destroying or causing misappropriation and destruction of the bank’s assets;
- d. receiving or permitting or causing to be received in said bank any deposit, collection of loans and/or receivables;
- e. paying out or permitting or causing to be paid out any funds of said bank; and
- f. transferring or permitting or causing to be transferred any securities or property of said bank.

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§§ X198.3 - X198.8 (Reserved)

§ X198.9 *Penalties and sanctions.* Any director or officer of a bank declared insolvent or placed under receivership by the Monetary Board who commits any of the foregoing acts shall be subject to the sanctions under Sections 36 and 37 of R.A. No. 7653, in correlation with Section 66 of R.A. No. 8791. Moreover, any such director or officer thereby sanctioned shall be included in the watchlist files of directors/officers disqualified by the Monetary Board from holding any position in any bank or FI.

Q. GENERAL PROVISION ON
SANCTIONS

Sec. X199 General Provision on Sanctions. Except as otherwise provided, any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R.A. No. 7653 on banks, their directors and/or officers are shown in *Appendix 67*.

PART TWO

DEPOSIT AND BORROWING OPERATIONS

A. DEMAND DEPOSITS

Section X201 Authority to Accept or Create Demand Deposits. Banks may accept or create demand deposits subject to withdrawal by check.

A UB/KB may accept or create demand deposits subject to withdrawal by check, without prior authority from the BSP.

A TB/RB/Coop Bank may accept or create demand deposits upon prior authority of the BSP.

§ X201.1 Prerequisites to accept or create demand deposits for Thrift Banks/ Rural Banks/Cooperative Banks. In addition to the *Standard Pre-qualification Requirements for the Grant of Banking Authorities* enumerated in *Appendix 5*, a TB/RB/Coop Bank applying for authority to accept or create demand deposits shall also comply with the following requirements:

a. The applicant TB must have complied with the minimum capital required under Subsecs. X111.1 and X111.2.

In the case of RB/Coop Bank, it must have net assets of at least P5.0 million: *Provided*, That RBs which have been authorized to accept or create demand deposits prior to the approval of R.A. No. 7353 (Rural Banks Act of 1992) shall be allowed to continue servicing such deposits.

The terms *capital* and *net assets* shall have the same meaning as in Sec. X111.

b. It must be a member of the Philippine Deposit Insurance Corporation (PDIC) in good standing.

§ X201.2 Requirements for accepting demand deposits. After a TB’s/RB’s/Coop Bank’s application to accept demand deposits has been approved, it may

actually accept such deposits, subject to the following conditions:

- a. Submission of a certification signed by the President/Chairman of the Board of the bank stating that the requirements enumerated under Subsec. X201.1 have been complied with up to the day before the checking account services are actually offered/extended to the public;
- b. That if it is not a member of the Philippine Clearing House Corporation (PCHC), it has appointed a commercial bank, or a normally operating thrift bank which is a direct participant in clearing with the PCHC/BSP and has complied with the minimum capital required for commercial banks, thru which it shall participate in the check clearing system; and
- c. That it has complied with all other conditions that the BSP may impose.

The applicant bank shall submit a written notice to the appropriate supervising and examining department of the BSP of the actual date when the demand deposit service is offered to the public not later than ten (10) banking days from such offering of the service.

§ X201.3 Sanctions. If any part of the certification submitted by the bank as required in these guidelines is found to be false, the following sanctions shall be imposed, without prejudice to the sanctions under Section 35 of R.A. No. 7653.

- a. *On the Bank*
Suspension of its authority to accept or create demand deposits for one (1) year.
- b. *On the Certifying Officer*
A fine of P5,000 per day from the time the certification was made up to the time the certification was found to be false.

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Sec. X202 Temporary Overdrawings;
 Drawings Against Uncollected Deposits

The following regulations shall govern temporary overdrawings and drawings against uncollected deposits (DAUDs).

a. *Temporary overdrawings.* Temporary overdrawings against current account shall not be allowed, unless caused by normal bank charges and other fees incidental to handling such accounts. Banks which violate these regulations shall be subject to a fine of one-tenth of one percent (1/10 of 1%) per day of violation, computed on the basis of the amount of overdrawing or fines in amounts as may be determined by the Monetary Board, but not to exceed P30,000 a day for each violation, whichever is lower.

Technical overdrawings arising from “force posting” in-clearing checks shall be debited by banks under “Returned Checks and Other Cash Items Not in Process of Collection” which is part of “Other Assets” in the Statement of Condition. Items to be lodged under this account shall consist only of in-clearing checks which may result in “technical overdrawn” accounts and shall be immediately reversed the following day.

The checks lodged under “Returned Checks, etc.” shall either be returned or honored the following day before clearing. The items to be used as cover for the honored checks should only consist of any of the following:

- (1) Cash
- (2) Cashier’s, Manager’s or Certified Checks
- (3) Bank Drafts
- (4) Postal Money Orders
- (5) Treasury Warrants
- (6) Duly funded “On us” Checks
- (7) Fund transfers/credit memos within the same bank representing proceeds of loans granted under existing regulations.

Peso demand deposit accounts maintained by foreign correspondent banks

with commercial banks shall not be subject to the above-mentioned regulations: *Provided, That:*

(a) The maintenance of non-resident correspondent bank’s peso checking accounts and overdrawings therefrom are covered by reciprocal arrangement;

(b) Temporary overdrawings are covered within fifteen (15) days from the date overdrawings are incurred; and

(c) Such accounts are credited only through foreign exchange inward remittance.

b. *Drawings against uncollected deposits.* DAUDs shall be prohibited except when the drawings are made against uncollected deposits representing manager’s/cashier’s/treasurer’s checks, treasury warrants, postal money orders and duly funded “on us” checks which may be permitted at the discretion of each bank.

Sec. X203 Checks Without Sufficient Funds.

To complement the provisions of Batas Pambansa Blg. 22, (An Act Penalizing the Making or Drawing and Issuance of a Check Without Sufficient Funds or Credit), the following regulations shall govern:

a. The drawee bank shall stamp, write or print on a dishonored check or on a paper attached thereto the date the check is presented for payment and the reason for the refusal to pay the same to the holder thereof.

b. Where the reason for the dishonor of a check is stamped, written or printed on a paper attached to the checks, the drawee bank shall indicate the pertinent details, such as the names of the drawer, the payee and the drawee bank, the date and amount of the check, the check number and the date of dishonor.

c. The drawee bank shall use only the remark or notation “*Drawn Against Insufficient Funds*”, “*No Funds*”, or “*Insufficient Funds*” stamped, written, or printed on, or attached to the check

dishonored or returned by reason of insufficiency of funds or credit.

d. Notwithstanding receipt of an order to stop payment, the drawee bank shall likewise stamp, write, or print on, or attach to the check any of the remarks or notations mentioned in Item “c” hereof indicating that there were no sufficient funds in or credit with such bank for the payment in full of such check, if such be the fact. The bank shall also indicate receipt of a stop payment order.

e. A check and other clearing item (COCI) dishonored by reason of insufficiency of funds or credit shall be returned by the drawee bank to the negotiating bank not later than the next clearing for returned COCI.

(1) For Local Exchanges

There shall be two (2) separate clearing windows for COCIs returned due to insufficient funds or credit in the local exchanges in the integrated Metro Manila area served by the PCHC and the BSP Regional Clearing Centers (RCCs). (The settlement of interbank transactions vis-à-vis covering reserve requirement/deficiency of banks’ demand deposit account (DDA) is shown in *Appendix 39*.)

(a) *AM Returned COCI Clearing* - The AM returned COCI clearing in the integrated Metro Manila local exchange shall be conducted from 7:30 AM to 10:00 AM on the banking day immediately following the original date of presentation of the COCI to PCHC.

The AM returned COCI clearing window for local exchanges in the BSP RCCs shall be conducted from 8:00 AM to 9:30 AM on the banking day immediately following the original date of presentation of the COCI to the RCC.

Returned COCI in the AM clearing windows shall be given value on the same date as the date of original presentation of the COCI to PCHC and RCC. The amount of debits and credits on the date of original

presentation shall be reversed to the extent of the amount of credits and debits arising from the returned COCI. The process restores the balances of the demand deposits of banks with the BSP to their position prior to the settlement of the clearing results affected by the COCI later returned due to insufficient funds or credit.

(b) *PM Returned COCI Clearing* - The PM returned COCI clearing window shall coincide with the afternoon regular clearing. Other dishonored COCI not returned in the morning clearing session shall be presented by the drawee bank to the negotiating bank in the afternoon regular clearing. Such returned COCI shall be given value on the date the returned COCI was presented to PCHC for the integrated Metro Manila area and to BSP RCCs.

Return of Dishonored COCI - A COCI dishonored by reason of insufficiency of funds or credit shall be returned by the drawee bank to the negotiating bank not later than the next clearing for returned COCI.

(2) For Out-of-town Exchanges

For out-of-town exchanges, a COCI so dishonored shall be returned by the drawee bank to the negotiating bank within the period specified in the clearing Circular Letters issued by BSP.

(3) COCI not coursed through the Clearing System

A COCI dishonored by reason of insufficiency of funds or credit which was not coursed through the clearing system shall be returned by the drawee bank to the holder or the negotiating bank, as the case may be, not later than the business day following the date the COCI is presented for payment with the drawee bank.

The negotiating bank shall, in turn, return a COCI dishonored by reason of insufficiency of funds or credit to the holder not later than the business day following

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its receipt of the dishonored COCI from the drawee bank.

Sec. X204 Current Accounts of Bank Officers and Employees. As a general rule, officers and employees of banks, their spouses and relatives within the second degree of consanguinity and affinity, including partnerships, associations or corporations in which such officers and employees, their spouses and relatives within the second degree of consanguinity and affinity, individually or as a group, own or control at least a majority of the capital are prohibited from maintaining demand deposits or current accounts with the banking office in which they are assigned. However, officers and employees without direct access and involvement in the handling of transactions and/or records pertaining to demand deposit operations may be allowed to maintain demand deposits or current accounts in the banking office where they are assigned subject to the following conditions:

- a. It shall be the responsibility of the bank concerned to identify the officers, employees, departments or units with direct involvement in its demand deposit operations and/or deposit records;
- b. The opening of current accounts of officers and employees shall be subject to approval of the head of the branches department or any designated higher ranking officer; and
- c. The following minimum operating control measures shall be implemented to ensure systems integrity and mitigate technology-related risks:

(1) *Tagging of accounts.* Savings and demand deposits of officers and employees, their spouses and relatives within the second degree of consanguinity and affinity, including partnerships, associations or corporations in which such officers and employees, their spouses and relatives within the second degree of

consanguinity and affinity, individually or as a group, own or control at least a majority of the capital shall be tagged in the bank’s current accounts/savings accounts (CA/SA) system;

(2) *Monitoring of accounts.* All accounts maintained by officers, employees and said relatives including their business interests shall be monitored by a designated officer who shall be responsible for ensuring that accounts of officers and staff are properly maintained. Any irregularity in the account activity shall be promptly investigated and reported to the appropriate management level;

(3) *Access controls.* Access to all data, application software, operating systems and utilities must be restricted to authorized persons through appropriate identification mechanisms and access codes and such authentication and authorization controls must be fully documented and auditable. No officer or employee, regardless of rank or position, shall be allowed to process any transaction from initiation to final authorization;

(4) *Data capture.* Operating procedures for data capture, update and retrieval must be strictly adhered to. The operating system shall maintain a permanent record of each authenticated user session including every user input; and

(5) *Audit trails.* Detailed records and audit trails shall be maintained to substantiate the processing of all transactions. Audit trails must be reviewed periodically by a designated officer commensurate with the risk level of the information system. The review process must ensure that the reviewer does not review his/her own activity.

(As amended by Circular No. 508 dated 24 January 2006)

Sec. X205 (2008 - X603) Check Clearing Operations. Banks shall observe the clearing procedures outlined in *Appendix 28* for the clearing of checks and settlement

of interbank balances through the clearing facilities.

Secs. 1205 (Reserved)

Sec. 2205 Check Clearing Rules for Thrift Banks Authorized to Accept Demand Deposits. The following are the check clearing rules for TBs authorized to accept demand deposits:

a. TBs authorized to accept demand deposits may participate in the clearing process conducted by the PCHC in the integrated Metro Manila clearing area and by the BSP in regional clearing centers through either of the following modes: (i) maintenance of NOW accounts with KBs; (ii) conduit arrangements with KBs; and (iii) direct participation in clearing operations, at the option of the TB concerned.

b. In conduit arrangements, caps shall be set on the net clearing losses to be passed on to the conduit KB by the conduit TB.

To address the settlement risks, the pro-forma conduit arrangement should include provisions setting aforementioned cap on the net clearing losses. The cap is defined as the combined value of the following amounts:

(1) the TB's reserve deposit with BSP; and

(2) the value of collateralized overdraft line that may be extended by the conduit KB to the conduit TB.

Parties to existing conduit arrangements shall have thirty (30) days from 08 April 1998 to comply with the above requirement.

c. For TBs authorized to participate in the PCHC and BSP check clearing operations, ceilings for clearing losses not covered by interbank borrowings shall be established and unwinding of the clearing transactions shall be authorized when the ceilings are breached.

(1) The proposed ceiling is defined as the collateralized overnight clearing line that will be extended by BSP. Every TB authorized to participate directly in the clearing operations of PCHC should apply for this line with the appropriate department of the SES. The availments against the approved loan line shall bear interest at the ninety-one (91)-day Treasury Bill rate of the last auction immediately preceding the availments.

(2) Procedures for unwinding shall apply to all inward items, other than *Returned Items* and to local exchanges only.

(3) The aggregate value of all inward items of all clearing centers, including *On Manila* clearing demands presented to PCHC, shall be ranked from highest to lowest. The unsettled net clearing losses shall be eliminated by unwinding the inward items starting from the clearing centers, including PCHC, with highest aggregate value.

(4) In case the aggregate value of the inward items for a given clearing center, except PCHC, exceeds the unsettled net clearing losses, the total inward items for that clearing center shall be the subject of unwinding.

(5) In the case of checks cleared through PCHC, the inward clearing items shall be unwound to the extent of the unsettled net clearing loss. The selection of the specific demand items to be covered by unwinding shall be based on PCHC rules.

(6) Checks which are the subject of the unwound clearing transactions shall be returned to the presenting banks not later than 9:00 A.M. of the following clearing day.

d. TBs authorized to participate directly in the clearing in PCHC and BSP regional clearing centers shall be subject to the following measures to manage the settlement risks:

(1) Settlement of Outward items shall be value dated on the day the checks are cleared, net of returns. For this purpose,

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the *value date* or *settlement date* referred to herein shall be defined uniformly as the next clearing day when dishonored checks are returned within the reglementary period, reckoned after the date of presentation for local clearing in the integrated Manila Clearing area for PCHC and in all BSP regional clearing centers. For inter-regional clearing items, outward Manila clearing items and to Manila clearing items, the *value or settlement date* shall be defined in clearing circulars to be issued by BSP.

(2) A ceiling shall be set on the amount of overdraft a TB authorized to accept demand deposits may incur due to failure to cover clearing losses through interbank borrowings. The ceiling is defined as the collateralized overnight clearing line that will be extended by BSP DLC. The availments against the approved loan line shall bear interest at the *ninety-one (91)-day Treasury Bill (T-Bill)* rate of the last auction immediately preceding the availments.

(3) Should the overdraft exceed the ceiling, the BSP Accounting Department is authorized to instruct the PCHC and the BSP regional clearing centers to unwind the clearing transactions following the procedures defined in Item “c” of this Section.

The operating guidelines implementing Items “c” and “d” of this Section are in *Appendix 31*.

e. Any overdraft incurred under Section 102 of R.A. No. 7653 may be converted into an emergency loan or advance provided it complies with the guidelines governing the grant of emergency loans under Subsec. X272.2.
(As amended by Circular No. 516 dated 06 March 2006)

Sec. 3205 Check Clearing Rules for Rural Banks Who Are Members of the Philippine Clearing House Corporation. The provisions of Items “c” and “d” of Sec. 2205 and the implementing operating guidelines

in *Appendix 31* shall also apply to RBs which are members of the PCHC.
(As amended by Circular No. 516 dated 06 March 2006)

Sec. X206 (Reserved)

Sec. X207 Check Clearing Operations During Public Sector Holidays. The guidelines on check clearing operations during public sector holidays are shown in *Appendix 84*.
(M-2008-025 dated 13 August 2008)

Secs. X208 - X212 (Reserved)

B. SAVINGS DEPOSITS

Sec. X213 Servicing Deposits Outside Bank Premises. Banks may be authorized by the BSP to solicit and accept deposits outside their bank premises, subject to the following conditions:

- a. Minimum capital requirement is met;
- b. No major supervisory concerns affecting safety and soundness;
- c. The area of operations shall be within one (1)-hour normal travel time by land/sea from any head office or branch, except in remote areas where more than one (1)- hour normal travel time may be allowed; and
- d. Applicant bank shall institute and maintain the following minimum safeguards:

(1) All deposit solicitors shall be initially bonded for at least P1,000 subject to the increase thereof to approximate their daily collections;

(2) Deposit solicitors shall be provided with proper identification cards with photograph and signature of each respective solicitor, certified to by the appropriate officer of the bank. Said identification cards shall be worn by each solicitor at all times at the upper breast of his outer garment when soliciting deposits; and

(3) Adequate insurance coverage for funds in transit (representing deposits collected outside banking premises) shall be secured by applicant bank from insurance companies not included in the list of companies blacklisted by the Insurance Commissioner;

(4) Deposit slips shall be in booklet form, prenumbered, in triplicate copies and in three (3) colors - the original to be issued to the depositor, the second copy to be used for posting reference, and the third copy to be retained in the booklet;

(5) All collections shall be turned over to the cashier at the end of each day accompanied by a *Collection Summary Report* to be accomplished in duplicate which shall contain the following minimum information:

- (a) Date of the report
- (b) Names and addresses of the depositors
- (c) Deposit slip numbers
- (d) Amounts of deposit
- (e) Savings account and passbook numbers
- (f) Name and signature of solicitor rendering the report

(6) Depositors shall always be required to accomplish a *Signature Card* when opening an account, which card shall be used always as reference in checking the genuineness/authenticity of signatures affixed on withdrawal slips or authorizations for withdrawal;

(7) Deposits/withdrawals shall be recorded by the bookkeeper or any ledger clerk, except any bank solicitor, in the depositor's ledger cards and passbooks on the same day that such deposits/withdrawals are accepted. Passbooks shall be returned to the depositors not later than the following business day;

(8) At the end of each month, depositors shall be advised in writing of the balances of their deposits with the bank, the advise slips of which shall never be handcarried by the solicitors themselves;

(9) Places of assignments of bank solicitors shall be rotated at least quarterly.

Sec. X214 Withdrawals. Banks are prohibited from issuing/accepting withdrawal slips or any other similar instruments designed to effect withdrawals of savings deposits without requiring the depositors concerned to present their passbooks and accomplishing the necessary withdrawal slips, except for banks authorized by the BSP to adopt the no passbook withdrawal system: *Provided*, That banks which are already adopting the no passbook withdrawal system shall be given six (6) months from effectivity of this Manual to seek approval from the BSP.

The provisions of Sec. X202b shall also apply to withdrawals from savings deposits.

Sec. X215 Rental Deposits of Lessees
The following guidelines shall govern the opening and handling by banks of deposits made by lessees under Section 5(b) of Batas Pambansa Blg. 25, otherwise known as the Rent Control Law:

a. The deposit made by the lessee shall only be accepted by the bank under a special savings account in the name of the lessor;

b. The bank shall require the lessee to submit a copy of the written notice sent to the lessor for the deposit made, stating among other things, the date and amount of the deposit and the name and address of the lessor;

c. The bank, at its option, may require the lessee to submit any supporting document, such as the lease contract or official receipts of previous rentals paid, which will show the specimen signature of the lessor, or other papers to identify the lessor;

d. The bank shall segregate from its regular savings deposit accounts and maintain a separate subsidiary control ledger for deposits made under Section 5(b) of Batas Pambansa Blg. 25;

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- e. Any withdrawal against these special savings deposit accounts may only be allowed in favor of the lessee concerned before the amount deposited under consignment has been accepted by the lessor, or when authorized by the lessor;
- f. The expenses which may be incurred by the bank with respect to such rental deposits shall be charged against the lessor;
- g. All the minimum internal control standards applicable to savings deposit accounts prescribed in Sec. X185 shall be complied with; and
- h. The acceptance of such rental deposits, however, shall be optional or discretionary only upon the bank concerned.

Secs. X216 - X220 (Reserved)

Sec. X221 Peso Savings Deposit Accounts of Embassy Officials. Embassy officials are allowed to open peso savings deposit accounts with Philippine banks: *Provided*, That they submit proof of conversion of foreign currency to peso with Philippine banks.

(M-2007-021 dated 15 September 2007)

Sec. X222 (Reserved)

C. NEGOTIABLE ORDER OF
WITHDRAWAL ACCOUNTS

Sec. X223 Authority to Accept Negotiable Order of Withdrawal Accounts Negotiable Order of Withdrawal (NOW) accounts are interest-bearing deposit accounts that combine the payable on demand feature of checks and investment feature of savings accounts.

A UB/KB may offer NOW accounts without prior authority of the Monetary Board.

A TB/RB/Coop Bank may accept NOW accounts upon prior approval of the Monetary Board.

§ X223.1 Prerequisites to accept negotiable order of withdrawal accounts for thrift banks/rural banks/cooperative banks. In addition to the *Standard Pre-qualification Requirements for the Grant of Banking Authorities* enumerated in Appendix 5, a TB/RB/Coop Bank applying for authority to accept NOW accounts shall also comply with the following requirements:

- a. The applicant TB must have complied with the minimum capital required under Subsecs. X111.1 and X111.2.

In the case of RB/Coop Bank, it must have net assets of at least P5.0 million: *Provided*, That RBs which have been authorized to accept or create NOW accounts prior to the approval of R.A. No. 7353 (Rural Banks Act of 1992) shall be allowed to continue servicing such deposits.

The terms *capital* and *net assets* shall have the same meaning as in Sec. X111.

- b. It must be a member of the PDIC in good standing.

§ X223.2 Requirements for accepting negotiable order of withdrawal accounts After a TB's/RB's/Coop Bank's application to accept NOW account has been approved, it may actually accept the same subject to the following conditions:

- a. Submission of a certification signed by the president/chairman of the board of the bank stating that the requirements enumerated under Subsec. X223.1 have been complied with up to the day before the NOW account services are actually offered/extended to the public; and
- b. That it has complied with all other conditions that the BSP may impose.

The applicant bank shall submit a written notice to the appropriate department of the SES of the actual date when the NOW account deposit service

is offered to the public not later than ten (10) banking days from such offering of the service.

§ X223.3 Sanctions. If any part of the certification submitted by the bank as required in these guidelines is found to be false, the following sanctions shall be imposed, without prejudice to the sanctions under Section 35 of R.A. No. 7653:

- a. *On the bank*
Suspension of its authority to accept or create NOW accounts for one (1) year.
- b. *On the certifying officer*
A fine of P5,000 per day from the time the certification was made up to the time the certification was found to be false.

Sec. X224 Rules on Servicing Negotiable Order of Withdrawal Accounts. The following rules shall be observed in servicing NOW accounts:

- a. Prior to or simultaneous with the opening of a NOW account, the bank shall inform the depositor of its terms and conditions;
- b. The bank shall be responsible for the proper identification of its depositors; it shall require, among other things, two (2) specimen signatures and such other pertinent information;
- c. Deposits shall be covered by deposit slips in duplicate duly validated and initialed by the teller receiving the deposit. A copy of the deposit slip shall be furnished the depositor;
- d. NOW accounts shall be kept and maintained separately from the regular savings deposits;
- e. Blank NOW forms shall be prenumbered and shall be controlled as in the case of unissued blank checks;
- f. A bank statement shall be sent to each depositor at the end of each month for confirmation of balances; and
- g. Banks must use the form prescribed by present rules for NOW accounts.

Nothing herein shall be construed as precluding a TB, RB or Coop Bank from applying for authority to accept both demand deposits and NOW accounts.

Sec. X225 Minimum Features. The order of withdrawal form shall have a size of three (3) inches by seven (7) inches, and shall be printed on security/check paper. It shall contain, as a minimum, the features of the pro-forma order of withdrawal shown in *Appendix 11*.

Sec. X226 Clearing of Negotiable Order of Withdrawal Accounts. Any NOW account which may be deposited with a bank other than the drawee bank may be cleared through the PCHC in Manila and the Regional Clearing Units in regional clearing centers designated by the BSP in accordance with the clearing procedures. Nothing in this Section shall prevent direct settlement between the parties concerned.

The provision of Sec. X202 shall also apply for withdrawals on NOW accounts.

Secs. X227 - X230 (Reserved)

D. TIME DEPOSITS

Sec. X231 Term of Time Deposits. Time deposits shall be issued for a specific period of term.

Sec. X232 Special Time Deposits Authority shall be automatically granted to any accredited banking institution which may participate in the supervised credit program to accept special time deposits from the Agrarian Reform Fund Commission with interest lower than the rate allowed on time deposits accepted from the general public. Such deposits shall be exempt from the legal reserve requirements, as an exception to the existing policies on the matter.

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Sec. X233 Certificates of Time Deposit

a. *Negotiable Certificates of Time Deposit (NCTDs)*

(1) UBs/KBs may issue NCTDs without approval of the BSP.

(2) TBs/RBs/Coop Banks may issue NCTDs upon the prior approval of the BSP.

b. *Non-Negotiable Certificates of Time Deposit*

Banks may issue long-term non-negotiable tax-exempt certificates of time deposit without approval of the BSP.

§ X233.1 Prerequisites to issue negotiable certificates of time deposits for thrift banks/rural banks/cooperative banks. In addition to the *Standard Pre-qualification Requirements for the Grant of Banking Authorities* enumerated in *Appendix 5*, a TB/RB/Coop Bank applying for authority to issue NCTDs shall also comply with the following requirements:

a. Applicant’s capital must be at least P150.0 million. For this purpose, capital shall have the same meaning as in Sec. X111; and

b. It must be a member of the PDIC in good standing.

§ X233.2 Requirements for issuing negotiable certificates of time deposits After a TB’s/RB’s/Coop Bank’s application to issue NCTDs has been approved, it may actually issue the same subject to the following conditions:

a. Submission of a certification signed by the president/chairman of the board of the bank stating that the requirements enumerated under Subsec. X233.1 have been complied with up to the day before the NCTDs are actually issued to the public; and

b. That it has complied with all other conditions that the BSP may impose.

The applicant bank shall submit a written notice to the appropriate department of the SES of the actual date

when the NCTDs are actually issued to the public not later than ten (10) banking days from such issuance.

§ X233.3 Minimum features

a. *Form; denomination* - NCTDs may be issued in bearer or other form denoting negotiability and shall have a standard format to be prescribed by the BSP which shall be prenumbered serially and predenominated. The minimum denomination shall be at the discretion of the issuing bank. No certificate payable to bearer shall contain words prohibiting its negotiation.

b. *Term* - The minimum maturity of the certificates shall be 731 days.

c. *Manner of issuance* - The certificates shall be issued only upon receipt of funds equivalent to their face value.

d. *Manner of printing* - NCTDs shall be printed on security paper by the Security Printing Plant (SPP) of the BSP.

Orders for the printing of the desired forms shall not exceed a total value equivalent to twenty percent (20%) of the issuing bank’s capital accounts (based on the quarter immediately preceding the request for printing) at any one time. Additional orders for printing which shall result in an excess over the prescribed benchmark shall require prior BSP approval.

§ X233.4 Insurance coverage. The NCTDs shall be insured with the PDIC. Banks issuing bearer certificates shall imprint on the instrument the following:

“For purposes of deposit insurance by the PDIC, the holder shall have his name registered in the books of the issuing bank.”

§ X233.5 Desistance from issuing new negotiable certificates of time deposits Unless authorized by the BSP, TBs/RBs/Coop Banks with outstanding NCTDs shall immediately desist from issuing new NCTDs.

All outstanding NCTDs shall be valid and negotiable up to their maturity dates and shall not be subject to renewal.

§ X233.6 Sanctions. If any part of the certification submitted by the bank as required in these guidelines is found to be false, the following sanctions shall be imposed, without prejudice to the sanctions under Section 35 of R.A. No. 7653.

a. *On the bank*

Suspension of its authority to issue NCTDs for one (1) year.

b. *On the certifying officer*

A fine of P5,000 per day from the time the certification was made up to the time the certification was found to be false.

§§ X233.7 - X233.8 (Reserved)

§ X233.9 Long-term negotiable certificates of time deposit. The following guidelines shall govern the issuance of long-term negotiable certificates of time deposit (LTNCTD) with a minimum maturity of five (5) years:

a. *Prior BSP approval.* No LTNCTD shall be issued without the prior approval of the BSP.

b. *Application for authority of the issuing bank.* An application for authority on each issue/issue program of LTNCTD shall be filed with the appropriate department of the SES: *Provided*, That the issue period of an issue program of two (2) or more tranches shall not exceed one (1) year from approval.

The application shall be signed by the president/country manager (branch of a foreign bank) of the bank. It shall be accompanied by a certified true copy of the resolution of the bank's board of directors authorizing the issuance of LTNCTD indicating, among others, the issue size, offering period, purpose or intended use of proceeds thereof, registry bank, underwriter/arranger, selling agent(s) and market maker(s).

c. *Pre-qualification requirements*

(1) *Issuing bank*

A bank applying for authority to issue an LTNCTD shall comply with the following requirements:

(a) It has complied with the following capital adequacy requirements:

(i) Minimum capitalization as defined under Sec. X111; and

(ii) Risk-based capital adequacy ratio under Sec. X115 within the sixty (60) days immediately preceding the date of application;

(b) It has not incurred net weekly reserve deficiencies within eight (8) weeks immediately preceding the date of application;

(c) It has generally complied with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management in the last two (2) preceding examinations prior to the date of application, more particularly:

(i) The ceilings on credit accommodations to DOSRI;

(ii) Liquidity floor requirements for government deposits;

(iii) Single borrower's loan limit; and

(iv) Investment in bank premises and other fixed assets;

(d) It maintains adequate provisions for probable losses commensurate to the quality of its asset portfolio but not lower than the required valuation reserves as determined by the BSP;

(e) It does not have float items outstanding for more than sixty (60) calendar days in the "Due From/To Head Office/Branches/Offices" accounts and the "Due From Bangko Sentral" account exceeding one percent (1%) of the total resources as of date of application;

(f) It has no past due obligations with the BSP or with any government FI;

(g) It has established a risk management system appropriate to its operations characterized by clear delineation of responsibility for risk management, adequate

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risk measurement systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system;

(h) It has a CAMELS Composite Rating of at least “3” in the last regular examination; and

(i) It is a member of PDIC in good standing.

(2) *Registry bank*

(a) It may be a UB, a KB, or such other specialized entity that may be qualified by the Monetary Board;

(b) In the case of a UB or a KB:

(i) It must be a third party:

(aa) with no subsidiary/affiliate relationship with the issuing bank; and

(bb) which is not related to the issuing bank in any manner that would undermine its independence.

(ii) It must have adequate facilities and the organization to do the following:

(aa) Maintain the Electronic Registry Book (ERB);

(bb) Deliver transactions within the agreed trading period; and

(cc) Issue registry confirmations to holders of LTNCTDs.

(iii) It must have a CAMELS Composite Rating of at least “3” in the last regular examination.

(3) *Underwriter/Arranger*

(a) It is either a UB or an IH: *Provided*, That if an offering is on a best-efforts basis, such arranger may also be a KB;

(b) It must be a third party, such that:

(i) it has no subsidiary/affiliate relationship with the issuing bank; and

(ii) it is not related in any manner that would undermine the objective conduct of due diligence.

(c) Underwriters must be well-capitalized and must have adequate risk management as evidenced by compliance with Items “c(1)(a), (d), (g) and (h)” as may be applicable.

(4) *Selling agent*

It may be any FI, with dealership or brokering license, under the regulatory supervision of the BSP.

(5) *Market maker*

(a) It must not be the issuing bank;

(b) It must be a third party which is not related to the issuing bank in any manner that would undermine its independence;

(c) It must be a FI, with dealership or brokering license, under the regulatory supervision of the BSP; and

(d) It must be well-capitalized and must have adequate risk management as evidenced by compliance with Items “c(1)(a), (d), (g) and (h)” as may be applicable.

d. *Additional requirements for the issuance of LTNCTD*. After a bank’s application to issue an LTNCTD has been approved, it may issue the same, subject to the submission of the following additional requirements:

(1) At least fifteen (15) days before the date of offering:

(a) Written waiver of the secrecy of deposits on said LTNCTD by the issuing bank, its subsidiaries, affiliates and wholly or majority-owned or -controlled entities of such subsidiaries and affiliates;

(b) Information disclosure and the terms and conditions of the LTNCTD issuance;

(c) Promotional materials; and

(d) Specimen of the proposed registry confirmation and purchase advice from each selling agent/market maker which will evidence sale of the LTNCTD.

(2) Within ten (10) days after issuance of the initial and subsequent tranches:

Written notice to the appropriate department of the SES of the actual date of initial/tranche offering accompanied by a certification by the president/country manager that the pre-qualification requirements under Item “c(1)” have been complied with up to the time of offering.

e. *Functions/responsibilities of the parties involved.* The respective parties shall have, among others, the following functions/responsibilities:

(1) *Registry bank*

(a) Generates and maintains the ERB;

(b) Records any transfer of ownership;

(c) Issues and sends registry confirmation to holders;

(d) Functions as paying agent for periodic interest and principal payments; and

(e) Monitors compliance with the prohibition on holdings of LTNCTD, as prescribed under Item “h” hereof.

(2) *Underwriter/Arranger*

(a) Conducts due diligence on the issuing bank and determines the valuation/pricing of the primary issue;

(b) Prepares the prospectus/information disclosure/updates for multi-tranche issues;

(c) Formulates the distribution/allocation plan for the initial offering and ensures proper and orderly distribution of the primary sale/issue of the LTNCTDs;

(d) Disseminates information to prospective depositors/investors of LTNCTDs on the terms and conditions of the issue (including information of non-pretermination by the depositor prior to original maturity and the liquidity mechanism in secondary trades) and the rights and obligations of the holder, issuer, market maker/selling agent, underwriter/arranger and registry bank; and

(e) When selling to its clients, it must perform the functions/responsibilities of the selling agent under Items “e(3)(a) and (b)”.

(3) *Selling agent*

(a) Verifies identity of each investor and applies other standards to combat money laundering as required under Sec. X801; and

(b) Issues the purchase advice for the primary offering of the LTNCTDs.

(4) *Market maker*

(a) Sets independent pricing for the secondary trading of LTNCTDs;

(b) Posts daily the bid and offer prices for the LTNCTDs on the screen of at least one (1) of the information providers until the operation of a fixed income exchange for LTNCTDs;

(c) Verifies identity of each investor and applies other standards to combat money laundering as required under Sec. X801;

(d) Issues the purchase advice for the secondary sale of the LTNCTDs; and

(e) Ensures secondary market transfers and registration in coordination with the registry bank.

f. *Change of Underwriter/Arranger, registry bank, selling agent(s)/market maker(s).* After an application for authority to issue LTNCTDs has been approved by the BSP, the issuing bank cannot change its underwriter/arranger, registry bank, selling agent(s) and market maker(s) without the prior approval of the BSP.

g. *Waiver of the secrecy of deposits for market makers.* A market maker who holds an LTNCTD for its own account must issue a waiver of the secrecy of deposits in favor of the BSP for examination purposes. Any information obtained from an examination of said LTNCTD shall be held strictly confidential.

h. *Prohibition on holdings of LTNCTDs.* The issuing bank including its related companies (subsidiaries and affiliates and wholly or majority-owned or -controlled entities of such subsidiaries and affiliates) cannot be a holder of the LTNCTDs of the issuing bank.

The issuing bank shall provide the registry bank with an updated list of all related companies. This report shall be a “Category B” report.

For purposes of this Subsection, an affiliate is an entity, at least twenty percent (20%) but not exceeding fifty percent (50%)

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of the outstanding voting stock of which is, owned by the issuing bank.

i. *Agreements between issuing bank and registry bank/selling agent(s)/market maker(s).* The agreements between the issuing bank and the registry bank/market makers/selling agents shall comply with the provisions of Sec. X162 on bank service contracts. The issuing bank shall be liable for any damages to investors/depositors caused by actions of said registry bank, selling agent(s)/market maker(s) contrary to the agreements entered into.

j. *Minimum features*

(1) *Form; denomination* - An LTNCTD shall be in scripless form with a third party registry bank maintaining the ERB. To have legal effect, it shall comply with the provisions of R.A. No. 8792 (Electronic Commerce Act) particularly on the existence of an assurance on the integrity, reliability and authenticity of the LTNCTD in electronic form. LTNCTDs shall be registered in the name of individuals or corporations, negotiable and prenumbered serially. The minimum denomination shall be at the discretion of the issuing bank.

(2) *Currency* - Denomination shall be in Philippine pesos.

(3) *Term* - The minimum maturity of the LTNCTDs shall be five (5) years.

(4) *Primary Offering/Secondary Trading* - The initial offering shall be executed through an underwriter or an arranger. Subsequent negotiations in secondary trading must be executed through authorized market maker(s).

k. *Purchase Advice and Registry Confirmation*

(1) The Purchase Advice and Registry Confirmation shall conspicuously contain the following caveat:

(a) *"This LTNCTD cannot be terminated by the holder nor the Issuing Bank before (maturity date). However, negotiations/transfers from one (1) holder to another do not constitute pretermination."*

The caveat shall apply if the issuing bank commits no pretermination. Otherwise, it shall read as follows:

"This LTNCTD cannot be terminated by the holder before (maturity date). However, it may be preterminated at the instance of the Issuing Bank upon prior notice to the holder on record. Negotiations/transfers from one (1) holder to another do not constitute pretermination"; and

(b) *"All negotiations/transfers of this LTNCTD prior to maturity must be coursed through a Market Maker".*

(2) The selling agent/market maker shall issue a Purchase Advice to evidence initial purchase/secondary trading of LTNCTD with the original copy given to the holder.

(3) The registry bank shall issue a Registry Confirmation to evidence ownership of the LTNCTD, with the original copy given to the holder.

l. *Issue size and aggregate ceiling.* An issuing bank can issue LTNCTDs up to 300% of its total capital accounts as defined under Subsec. X111/X105.5: *Provided*, That each issue/issue program size does not exceed P5.0 billion pesos. This ceiling shall be subject to a regular review by the BSP.

m. *Deposit insurance coverage.* The LTNCTDs shall be insured with the PDIC, subject to applicable rules and regulations, among others, on maximum insurance coverage.

n. *Pretermination by the issuer.* LTNCTDs may be preterminated by the issuing bank, subject to the following conditions:

(1) The Information Disclosure, Purchase Advice and Registry Confirmation shall include the information that the LTNCTD may be preterminated by the issuing bank;

(2) Thirty (30)-day prior notification must be given to the appropriate department of the SES together with the justification for the pretermination;

(3) Thirty (30)-day prior notification to holders of record;

(4) Notwithstanding any agreement to the contrary, the issuer shall shoulder the tax due on the interest income already earned by the holders; and

(5) The issuing bank's reserve positions shall be recomputed retroactively based on the applicable reserve rate(s) for regular time deposits during the affected periods.

If the recomputed amounts result in a reserve deficiency, the issuing bank shall be fined with the corresponding monetary penalties. The preceding monetary penalty, however, shall not be imposed if pretermination by the issuer is due to a change in law or regulation that will increase the cost of maintaining the LTNCTDs.

o. *Non-pretermination by the holder.* Presentation of the LTNCTD to the issuing bank for payment before the maturity date is not allowed. However, negotiation or transfer from one (1) holder to another shall not constitute pretermination of the LTNCTD.

p. *Sanctions.* Without prejudice to the other sanctions prescribed under Section 37 of R.A. No. 7653 and the provisions of Section 16 of R.A. No. 8791, the following sanctions will be imposed on any issuing bank, registry bank and other parties for failure to perform their respective functions/responsibilities and for non-disclosure or misrepresentation of information:

(1) *On the issuing bank* - Suspension of its authority to issue LTNCTDs, disqualification from future issuance of LTNCTDs and a monetary penalty of P30,000 for each violation.

(2) *On the registry bank* - Disqualification to be a registry bank for one (1)-year and a monetary penalty of P30,000 for each violation.

(3) *On all authorized selling agents/ market makers* - Disqualification to be appointed as selling agent/market maker for one (1) year and a monetary penalty of P30,000 for each violation.

(4) *On the certifying officer* - A fine of P5,000 per day from the time of required disclosure up to the time disclosure was made; or from the time misrepresentation was made up to the time the information was corrected.

(5) *On the responsible officer* - A fine of P30,000 for participating or confirming in the non-disclosure or misrepresentation of information.

(As amended by Circular No. 585 dated 15 October 2007)

§ X233.10 (Reserved)

§ X233.11 *Long-term non-negotiable tax-exempt certificates of time deposit*

The issuance of long-term non-negotiable tax-exempt certificates of time deposit shall be governed by the following rules:

a. *Minimum features*

(1) *Form; denomination* - The certificate shall contain words denoting its non-negotiability and shall be issued by banks only in the name of individuals with denominations in increments of P1,000.00.

(2) *Term* - The minimum maturity of the certificate shall be five (5) years.

(3) *Manner of issuance* - The certificate shall be issued only upon receipt of funds equivalent to their face value.

(4) *Manner of printing* - The certificate shall be printed on security paper.

(5) *Pre-termination* - In case of pre-termination, the deposit shall be subject to income tax as provided under Section 24(B)(1) of the Tax Reform Act of 1997 which states that "xxx a final tax shall be imposed on the entire income and shall be deducted and withheld by the depository bank from the proceeds of the

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long-term deposit or investment certificate based on the remaining maturity thereof:

- (a) Four (4) years to less than five (5) years 5 %
 - (b) Three (3) years to less than four (4) years 12 %
 - (c) Less than three (3) years 20 %
- b. *Insurance coverage.* The deposits shall be insured with the PDIC, subject to applicable rules and regulations, among others, on maximum insurance coverage.

c. *Reserves against long-term non-negotiable certificates of time deposit.* The rate and form of required reserves on regular time deposit shall also apply to the required reserves on long-term non-negotiable tax-exempt certificates of time deposit.

E. DEPOSIT SUBSTITUTE
 OPERATIONS
 (QUASI-BANKING FUNCTIONS)

Sec. X234 Scope of Quasi-Banking Functions. The following rules and regulations shall govern the quasi-banking operations of banks.

§ X234.1 Elements of quasi-banking

The essential elements of quasi-banking are:

- a. Borrowing funds for the borrower’s own account;
- b. Twenty (20) or more lenders at any one (1) time;
- c. Methods of borrowing are issuance, endorsement, or acceptance of debt instruments of any kind, other than deposits, such as acceptances, promissory notes, participations, certificates of assignments or similar instruments with recourse, trust certificates, repurchase agreements, and such other instruments as the Monetary Board may determine; and
- d. The purpose of which is (1) relending, or (2) purchasing receivables or other obligations.

§ X234.2 Definition of terms and phrases. The following terms and phrases shall be understood as follows:

- a. *Borrowing* shall refer to all forms of obtaining or raising funds through any of the methods and for any of the purposes provided in Subsec. X234.1 whether the borrower’s liability thereby is treated as real or contingent.
- b. *For the borrower’s own account* shall refer to the assumption of liability in one’s own capacity and not in representation, or as an agent or trustee, of another.
- c. *Purchasing of receivables or other obligations* shall refer to the acquisition of claims collectible in money, including interbank borrowings or borrowings between financial institutions, or of acquisition of securities, of any amount and maturity, from domestic or foreign sources.
- d. *Relending* shall refer to the extension of loans by an institution with antecedent borrowing transactions. Relending shall be presumed, in the absence of express stipulations, when the institution is regularly engaged in lending.
- e. *Regularly engaged in lending* shall refer to the practice of extending loans, advances, discounts or rediscounts as a matter of business, as distinguished from isolated lending transactions.

§ X234.3 Transactions not considered quasi-banking. The following shall not constitute quasi-banking:

- a. Borrowing by commercial, industrial and other non-financial companies through any of the means listed in Subsec. X234.1 hereof, for the limited purpose of financing their own needs or the needs of their agents or dealers; and
- b. The mere buying and selling without recourse of instruments mentioned in Subsec. X234.1: *Provided, That:*
 - (1) The institution buying and selling without recourse shall indicate in conspicuous print on its instrument the

phrase *without recourse*, *sans recourse* or words of similar import that will convey the absence of liability or guarantee by said institution; and

(2) In the absence of the phrase “*without recourse*”, “*sans recourse*” or words of similar import, the instrument so issued, endorsed or accepted, shall automatically be considered as falling within the purview of these regulations: *Provided, further*, That any of the following practices or practices similar and/or tantamount thereto in connection with a without recourse transaction is hereby prohibited:

(a) Issuance of postdated checks by a financial intermediary, whether for its own account or as an agent of the debt instrument issuer, in payment of the debt instrument, sold, assigned or transferred without recourse; or

(b) Issuance by a financial intermediary of any form of guaranty on sale transactions or on negotiations or assignment of debt instruments without recourse; and

(c) Payment with its own funds by a financial intermediary which assigned, sold or transferred the debt instrument without recourse, unless the financial intermediary can show that the issuer has with the said financial intermediary funds corresponding to the amount of the obligation.

§ X234.4 Pre-conditions for the exercise of quasi-banking functions. No bank shall engage in quasi-banking functions without authority from the BSP: *Provided, however*, That banks authorized by the BSP to perform universal or commercial banking functions shall automatically have the authority to engage in quasi-banking functions: *Provided, further*, That the authority to obtain funds from the public, which shall mean twenty (20) or more persons under Section 8.2 of R.A. 8791, is not a condition but an authorization for the bank or quasi-bank,

once the Monetary Board has granted the quasi-banking license.

In addition to the Standard Pre-qualification Requirements for the Grant of Bank Authorities enumerated in *Appendix 5*, a TB securing BSP authority to engage in quasi-banking functions must meet the following requirements:

a. The bank must have a networth or combined capital of at least P650.0 million computed in accordance with Sec. X111;

b. The bank is well capitalized with risk-based capital adequacy ratio of not lower than twelve percent (12%) at the time of filing the application;

c. The bank’s operation during the preceding calendar year and for the period immediately preceding the date of application has been profitable;

d. The bank has elected at least two (2) independent directors and all its directors have attended the required seminar for directors of banks conducted or accredited by the BSP;

e. The bank has established a risk management system appropriate to its operations characterized by clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal controls, and complete, timely and efficient risk reporting system; and

f. The bank has a CAMELS Composite Rating of at least “3” in the last regular examination with management rating of not lower than “3”.

§ X234.5 Certificate of Authority from the Bangko Sentral. A bank securing BSP’s Certificate of Authority to engage in quasi-banking functions shall file an application with the appropriate department of the SES. The application shall be signed by the bank president or officer of equivalent rank and shall be accompanied by the following documents:

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a. Certified true copy of the resolution of the bank's board of directors authorizing the application;

b. A certification signed by the president or the officer of equivalent rank that the institution has complied with all conditions/prerequisites for the grant of authority to engage in quasi-banking functions;

c. An information sheet;

d. Bio-data signed under oath, of the members of the managerial staff who will undertake quasi-banking operations;

e. Borrowing-investment program for one (1) year which should include at the minimum:

(1) planned distribution of portfolios as to -

(a) underwriting;

(b) commercial paper markets;

(c) stocks and bonds;

(d) government securities;

(e) receivables financing, discounting and factoring;

(f) leasing; and

(g) direct loans;

(2) expected sources of funds to support investment program classified as to -

(a) maturity: short, medium and long-term;

(b) interest rates; and

(c) domestic or foreign sources whether institutional or personal.

TBs authorized to engage and are actually performing quasi-banking functions but do not meet the new capital requirement are hereby given a period of two (2) years reckoned from 11 November 2004 within which to comply with the minimum capital requirement in Subsec. X234.4 (a): *Provided*, That in case the TB has an approved capital build-up program under Subsec. X501.2, for its FDCU license, the approved capital build-up program, may be considered compliance with this requirement: *Provided, further*,

That in case, the TB has no approved capital build-up program, the minimum capital requirement may be substituted by a capital build-up program for a period of not more than five (5) years from 11 November 2004 and which must be approved by the Monetary Board. Such capital build-up program shall be in equal annual or diminishing amounts and shall be submitted to the appropriate department of the SES within three (3) months from 11 November 2004.

TBs which fail to comply with the required capitalization upon expiration of said two (2) year period given them or those which fail to comply with approved capital build-up program shall liquidate their quasi-banking operations within one (1) year and shall be considered revoked/cancelled. The license of a TB with authority to engage in quasi-banking functions but has not actually engaged in quasi-banking functions and has not complied with the above minimum capital requirements as of 11 November 2004, shall automatically be revoked.

§ X234.6 Sale, discounting, assignment or negotiation by banks of their credit rights arising from claims against the BSP. Pursuant to the policy of the BSP to promote investor protection and transparency in securities transactions as important components of capital markets development, credit rights in Special Deposit Account (SDA) placements and reverse repo agreements with the BSP, shall not be subject of sale, discounting, assignment or negotiation on a *with or without recourse basis*.

Any violation of the provisions of this Subsection shall be considered a *less serious offense* and shall subject the bank and the director/s and/or officer/s concerned to the sanctions provided under Section X299.

(Circular No. 636 dated 17 December 2008)

Sec. X235 Deposit Substitute Instruments

Any deposit substitute transaction by a bank performing quasi-banking functions shall be limited to its own promissory notes, repurchase agreements, and certificates of assignment/participation with recourse.

§ X235.1 Prohibition against use of acceptances, bills of exchange and trust certificates. Acceptances, bills of exchange, and trust certificates shall not be used by banks as evidence of deposit substitute liabilities in connection with their quasi-banking functions. This prohibition shall not apply to the acceptance or negotiation of bills of exchange in connection with trade transactions, or to the issuance of trust certificates creating trust relationships.

§ X235.2 Negotiation of promissory notes. Negotiable promissory notes acquired by banks in connection with their quasi-banking functions shall not be negotiated by mere indorsements and/or delivery, if they do not conform with the minimum features prescribed under Subsec. X235.3. If these notes do not contain the features, their negotiation shall be covered by any of the appropriate deposit substitute instruments above-mentioned.

§ X235.3 Minimum features. Deposit substitute instruments issued by entities performing quasi-banking functions shall have the following minimum features:

a. The present value and maturity value and/or the principal amount and interest rate and such other information as may be necessary to enable the parties to determine the cost or yield of the borrowing or placement shall be specified.

b. The date of issuance shall be indicated at the upper right corner of the

instrument, and directly below which shall be the maturity period or the word "demand", if it is a demand instrument.

c. The payee may be identified by his trust account/deposit account number in both negotiable and non-negotiable instruments.

d. Securities which are the subject of a repurchase agreement or a certificate of assignment/participation with recourse, shall be particularly described on the face of said instruments or on a separate instrument attached and specifically referred to therein and made an integral part thereof as to the maker, value, maturity, serial number, and such other particulars as shall clearly identify the securities.

e. The instrument shall provide for the payment of liquidated damages, in addition to stipulated interest, in case of default by the maker or issuer, as well as attorney's fees and costs of collection in case of suit.

f. A conspicuous notice at the lower center margin of the face of the instrument that the transaction is not insured by the PDIC shall be indicated.

g. The corporate name of the issuer shall be printed at the upper center margin of the instrument and directly below which shall be a designation of the instrument, such as "*Promissory Note*" or "*Repurchase Agreement*".

h. The words "*duly authorized officer*" shall be placed directly below the signature of the person signing for the maker or issuer.

i. Each instrument shall be serially pre -numbered.

j. The copy delivered to the payee shall bear the word "*Original*" and the copies retained by the issuer shall be identified as "*Duplicate*", "*File Copy*" or words of similar import.

k. Only security paper with adequate safeguards against alteration or falsification shall be used.

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Borrowings of banks from the loans and discounts window of other banks or non-bank financial intermediaries shall be exempted from the documentation requirements prescribed in this Subsection: *Provided*, That the exemption from the documentation requirements prescribed in this Subsection shall not be construed or interpreted as exempting said borrowings from other regulations standardizing deposit substitute instruments and from other BSP regulations on deposit substitutes.

Deposit substitute instruments shall conform to the language prescribed by the BSP. Any substantial deviation therefrom or any additional stipulation therein shall be referred to the BSP for prior approval. The size and appearance of these instruments, shall not be similar to the size and appearance of checks. Rubber stamping, typewriting or handwriting some provisions shall not be considered compliance with said regulations. (Shown in *Appendix 12* are the samples of standardized instruments as evidence of deposit substitute liabilities.)

§ X235.4 Interbank loan transactions
Except for interbank loan transactions evidenced by interbank loan advice or repayment transfer tickets settled thru the DDAs with the BSP, all interbank loan transactions shall be evidenced by a promissory note containing the minimum features prescribed in Subsec. X235.3.

§ X235.5 Delivery of securities ¹
a. Securities, warehouse receipts, quedans and other documents of title which are the subject of quasi-banking functions, such as repurchase agreements, shall be physically delivered, if certificated, to a BSP accredited custodian that is mutually acceptable to the lender/purchaser and borrower/seller, or by means of book-entry transfer to the appropriate

securities account of the BSP-accredited custodian in a registry for said securities, if immobilized or dematerialized while the overlying principal borrowing instrument shall be physically delivered to the lender/purchaser. The custodian shall hold the securities in the name of the borrower/seller, but shall keep said securities segregated from the regular securities account of the borrower/seller if the borrower/seller has an existing securities account with the custodian: *Provided*, That a bank/other entity authorized by the BSP to perform custodianship function may not be allowed to be custodian of securities issued or owned by said bank/entity, its subsidiaries or affiliates, or of securities in bearer form.

The delivery shall be effected upon payment and shall be evidenced by a securities delivery receipt duly signed by authorized officers of the custodian and delivered to both the lender/purchaser and seller/borrower.

Sanctions. Violation of any provision of Item “a” shall be subject to the following sanctions/penalties:

- (1) *Monetary penalties*
First Offense - Fine of P10,000 a day for each violation reckoned from the date the violation was committed up to the date it was corrected.
Subsequent offenses - Fine of P20,000 a day for each violation reckoned from the date the violation was committed up to the date it was corrected.
- (2) *Other sanctions*
First offense - Reprimand for the directors/officers responsible for the violation.
Subsequent offense -
 - (a) Suspension for ninety (90) days without pay of directors/officers responsible for the violation;
 - (b) Suspension or revocation of the accreditation to perform custodianship function;

¹ Amendments under Circular 392 dated 23 July 2003 shall take effect on 01 January 2005 for all securities transactions, regardless of the date of their execution under Circular 460 dated 12 November 2004.

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(c) Suspension or revocation of the authority to engage in quasi-banking function; and/or

(d) Suspension or revocation of the authority to engage in trust and other fiduciary business.

b. The guidelines to implement the delivery by the seller of securities to the buyer or to his designated third party custodian are shown in *Appendix 68*.

The disposition of compliance issues of *Appendix 68* is shown in *Appendix 68a*.

The guidelines on the delivery of government securities to the investor's principal securities account with the Registry of Scripless Securities (RoSS) are in *Appendix 68b*.

Sanctions. Without prejudice to the penal and administrative sanctions provided for under Sections 36 and 37, respectively of R.A. No. 7653 (The New Central Bank Act), violation of any provision of the guidelines in *Appendix 68* shall be subject to the following sanctions/penalties depending on the gravity of the offense:

(a) *First offense* -

(1) Fine of up to P10,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and

(2) Reprimand for the directors/officers responsible for the violation.

(b) *Second offense* -

(1) Fine of up to P20,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and

(2) Suspension for ninety (90) days without pay of directors/officers responsible for the violation.

(c) *Subsequent offenses* -

(1) Fine of up to P30,000 a day for the institution for each violation from the date the violation was committed up to the date it was corrected;

(2) Suspension or revocation of the authority to act as securities custodian and/or registry; and

(3) Suspension for 120 days without pay of the directors/officers responsible for the violation.

(As amended by M-2007-002 dated 23 January 2007, M-2006-009 dated 06 July 2006, M-2006-002 dated 05 June 2006 and Circular No. 524 dated 31 March 2006)

§ X235.6 Other rules and regulations governing the issuance and treatment of deposit substitute instruments

a. If there is any stipulation that payment of the deposit substitute shall be chargeable against a particular deposit account, it shall further provide that the liability of the maker or issuer of the instrument shall not be limited to the outstanding balance of said account.

b. Any agreement allowing the issuer or maker to substitute the underlying securities shall further provide that the actual substitution shall be with the prior written consent of the payee.

c. Automatic renewal upon maturity of the instrument may be effected only under terms and conditions previously stipulated by the parties.

d. Stipulations between the maker or issuer and the payee which are embodied in separate instruments shall be specifically referred to in the deposit substitute instruments and made an integral part thereof.

e. In the case of repurchase agreements and certificates of assignment/participation with recourse, the stipulation shall clearly state either (1) that the underlying securities are being delivered to the buyer or assignee as collaterals or (2) that the ownership thereof is being transferred to the buyer or assignee.

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§ X235.12 Repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments. The following regulations shall govern repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments of banks as well as sale on a without recourse basis of said securities by banks.

a. *Proper recording and documentation of repurchase agreements.*

Banks shall have a true and accurate account, record or statement of their daily transactions. As such, repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments must be properly recorded and documented in accordance with existing BSP regulations.

The absence of proper documentation for repurchase agreements is tantamount to willful omission of entries relevant to any transaction, which shall be a ground for the imposition of administrative sanctions and the disqualification from office of any director or officer responsible therefor under existing laws and regulations.

b. *Responsibilities of the chief executive officer (CEO) or officer of equivalent rank.*

It shall be the responsibility of the CEO or the officer of equivalent rank in a bank to:

(1) Institute policies and procedures to prevent undocumented or improperly documented repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments;

(2) Submit a notarized certification at the end of every semester that the bank did not enter into any repurchase agreement covering government

securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing BSP regulations and that the bank has strictly complied with the pertinent rules of the SEC and the BSP on the proper sale of securities to the public and performed the necessary representations and disclosures on the securities particularly the following:

(a) Informed the clients that such securities are not deposits and as such, do not benefit from any insurance otherwise applicable to deposits such as, but not limited to, R.A. No. 3591, as amended, otherwise known as the PDIC law;

(b) Informed and explained to the client all the basic features of the security being sold on a without recourse basis, such as but not limited to:

(i) issuer and its financial conditions;

(ii) term and maturity date;

(iii) applicable interest rate and its computation;

(iv) tax features (whether taxable, tax paid or tax-exempt);

(v) risk factors and investment considerations;

(vi) liquidity feature of the instrument:

(aa) procedures for selling the security in the secondary market (e.g., OTC or exchange);

(bb) authorized selling agents; and

(cc) minimum selling lots.

(vii) disposition of the security:

(aa) registry (address and contact numbers);

(bb) functions of the registry; and

(cc) pertinent registry rules and procedures.

(viii) collecting and paying agent of the interest and principal; and

(ix) other pertinent terms and conditions of the security and if possible, a copy of the prospectus or information sheet of the security.

(c) Informed the client that pursuant to Subsecs. X235.5 and X238.1:

(i) Securities sold under repurchase agreements shall be physically delivered, if certificated, to a BSP-accredited custodian that is mutually acceptable to the client and the bank, or by means of book-entry transfer to the appropriate securities account of the BSP-accredited custodian in a registry for said securities, if immobilized or dematerialized; and

(ii) Securities sold on a without recourse basis are required to be delivered physically to the purchaser, or to his designated custodian duly accredited by the BSP, if certificated, or by means of book-entry transfer to the appropriate securities account of the purchaser or his designated custodian in a registry for said securities if immobilized or dematerialized.

(d) Clearly stated to the client that:

(i) The bank does not guarantee the payment of the security sold on a “without recourse basis” and in the event of default by the issuer, the sole credit risk shall be borne by the client; and

(ii) The bank is not performing any advisory or fiduciary function.

(3) Report to the appropriate department of the SES any undocumented repurchase agreement within seventy-two (72) hours from knowledge of such transactions.

c. *Treatment as Deposit Substitutes.* All sales of government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing BSP regulations shall be deemed to be deposit substitutes subject to regular reserves.

d. *Certification.* The submission deadline for the required certification from the CEO/officer of equivalent rank of the bank shall initially be 01 February 2005 using the format attached as Annex A of *Appendix 65*. Thereafter, the required

succeeding certification shall be submitted within five (5) banking days from end of reference semester using the format attached as *Appendix 65*.

e. *Sanctions.* The Monetary Board may, at its evaluation and discretion, impose any or all of the following sanctions to a bank or the director/s or officer/s found to be responsible for repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing BSP regulations:

(1) Fine of up to P30,000 a day to the concerned entity for each violation from the date the violation was committed up to the date it was corrected;

(2) Suspension of interbank clearing privileges/immediate exclusion from clearing;

(3) Suspension of access to BSP rediscounting facilities;

(4) Suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;

(5) Revocation of quasi-banking license;

(6) Revocation of authority to perform trust operations; and

(7) Suspension for one hundred twenty (120) days without pay of the directors/officers responsible for the violation.

Sec. X236 Minimum Trading Lot and Minimum Term of Deposit Substitute

a. The minimum size of any single deposit substitute transaction shall be P50,000.

No bank performing quasi-banking functions shall issue deposit substitute instruments in the name of two (2) or more persons or accounts except those falling under the following relationships in which cases, commingling may be allowed: (a) husband and wife; (b) persons related to

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each other within the second degree of consanguinity; and (c) “in trust for” (ITF) arrangements.

b. The minimum term of any single deposit substitute transaction shall be fifteen (15) days except interbank borrowings, which shall not be subject to this limitation.

Sec. X237 Money Market Placements of Rural Banks. Banks shall not accept money market placements from any RB unless the latter presents a certification under oath stating: (a) that it has no overdue special time deposits; (b) that it has no past due obligations with the BSP or other government financial institutions; (c) the amount of its current obligations, if any, with said government financial institutions; and (d) the amount of its total outstanding money market placements. However, in no case shall such banks sell receivables to RBs without recourse.

§ X237.1 Definition of terms. As used in this Section, the following terms shall have the following meanings:

a. *Money market placements* shall include investments in debt instruments, including purchase of receivables with recourse to the lending institution, except purchase of government securities on an outright basis.

b. *Government securities* shall include evidences of indebtedness of the Republic of the Philippines, the BSP and other evidences of indebtedness or obligations of government entities the servicing and repayment of which are fully guaranteed by the Republic of the Philippines.

c. *Persistent violation* shall mean the violation of any of the provisions of these rules by the director or officer concerned for four (4) or more times within a twelve (12)-month period from the date the first offense was committed.

§ X237.2 Conditions required on accepted placements not covered by prohibition. Placements accepted which are otherwise not covered by the above prohibition must comply with the following conditions:

a. That total money market placements of an RB as stated in the certification, including the placement being accepted by the entity concerned, shall not exceed the RB’s combined capital accounts or net worth less current obligations with the BSP or other government financial entities;

b. The maturity of the money market placement shall not exceed sixty (60) days; and

c. That placements shall be evidenced in all cases by promissory notes of accepting entities/repurchase agreements and/or certificates of participation/assignment with recourse and that underlying instruments shall be certificates of indebtedness issued by the BSP or other government securities the servicing and repayment of which are guaranteed by the Republic of the Philippines.

§ X237.3 Sanctions. Violations of the provisions of this Section shall be subject to the following sanctions/penalties:

a. *Monetary penalties*
First offense - Fines of P3,000 a day, reckoned from the date placement started up to the date when said placement was withdrawn, for each violation shall be assessed on the bank.

Subsequent offenses - Fines of P5,000 a day, reckoned from the date placement started up to the date placement was withdrawn, for each violation shall be assessed on the bank.

b. *Other sanctions*
First offense - Reprimand for the directors/officers who approved the acceptance/placement with a warning that subsequent violations will be subject to more severe sanctions.

Subsequent offenses -

(1) Suspension for ninety (90) days without pay for directors/officers who approved the placement.

(2) Suspension or revocation of the authority to engage in quasi-banking functions.

Sec. X238 Without Recourse Transactions

No bank shall sell, discount, assign, or negotiate, in whole or in part, such as thru syndications, participations and other similar arrangements, any notes, receivables, loans, debt instruments and any type of financial asset or claim, except government securities, or be a party in any capacity in any of the above transactions, on a without recourse basis unless such receivables, notes, loans, debt instruments and financial assets or claims are registered with the SEC. This prohibition includes transactions between a bank and its trust department.

Unregistered commercial papers may be sold, discounted, assigned, or negotiated by banks to the following:

- a. other banks;
- b. QBs;
- c. IHs;
- d. insurance companies;
- e. finance companies;
- f. investment companies;
- g. pension or retirement plan maintained by the government of the Philippines or any political subdivision thereof or managed by a bank or other persons authorized by the Bangko Sentral to engage in trust functions;
- h. funds managed by another bank or other entities duly authorized to engage in trust or other fiduciary business; and
- i. such other person as the SEC may by rule determine as qualified buyers, on the basis of such factors as financial sophistication, net worth, knowledge, and experience in financial and business matters, or amount of assets under management.

§ X238.1 Delivery of securities¹

a. Securities sold *on a without recourse basis* allowed under Sec. X238 shall be delivered physically to the purchaser, or to his designated custodian duly accredited by the BSP, if certificated, or by means of book-entry transfer to the appropriate securities account of the purchaser or his designated custodian in a registry for said securities, if immobilized or dematerialized, while the confirmation of sale or document of conveyance by the seller shall be physically delivered to the purchaser. The custodian shall hold the securities in the name of the buyer: *Provided, That* a bank/other entity authorized by the BSP to perform custodianship function may not be allowed to be custodian of securities issued or sold on a without recourse basis by said bank/entity, its subsidiaries or affiliates, or of securities in bearer form.

The delivery shall be effected upon payment and shall be evidenced by a securities delivery receipt duly signed by the authorized officer of the custodian and delivered to the purchaser.

Sanctions. Violation of any provisions of Item “a” shall be subject to the following sanctions/penalties:

(1) *Monetary penalties*

First offense - Fine of P10,000 a day for each violation reckoned from the date the violation was committed up to the date it was corrected.

Subsequent offenses - Fine of P20,000 a day for each violation reckoned from the date the violation was committed up to the date it was corrected.

(2) *Other sanctions*

First offense - Reprimand for the directors/officers responsible for the violation.

Subsequent offense -

(a) Suspension for ninety (90) days without pay of directors/officers responsible for the violation;

¹ Effective 01 January 2005 under Circular 460 dated 12 November 2004.

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(b) Suspension or revocation of the accreditation to perform custodianship function;

(c) Suspension or revocation of the authority to engage in quasi-banking function; and/or

(d) Suspension or revocation of the authority to engage in trust and other fiduciary business.

b. The guidelines to implement the delivery by the seller of securities to the buyer or to his designated third party custodian are shown in *Appendix 68*.

Sanctions. Violation of any provision of the guidelines in *Appendix 68* shall be subject to the sanctions/penalties under Item “b” of Subsec. X235.5.

(As amended by M-2007-002 dated 23 January 2007, M-2006-009 dated 06 July 2006 and M-2006-002 dated 05 June 2006, Circular No. 524 dated 31 March 2006)

§ X238.2 *Sanctions.* Unless specific sanctions are prescribed under these rules, any violation of the provisions of this Section shall be subject to any or all of the following sanctions:

a. Suspension of quasi-banking authority for a period of six (6) months; and

b. Monetary penalty of P500 per day per transaction for each officer of the bank involved in any capacity in any transaction violative of these regulations.

§ X238.3 *Securities custodianship operations*

a. Securities sold on a without recourse basis shall be delivered to the purchaser, or to his designated custodian duly accredited by the BSP: *Provided*, That a bank/other entity authorized by the BSP to perform custodianship function may not be allowed to be custodian of securities issued or sold on a without recourse basis by said bank/ entity, its subsidiaries or affiliates, or of securities in bearer form. Existing securities being held under custodianship

by banks/other entities under BSP supervision, which are not in accordance with said regulation, must therefore, be delivered to a BSP-accredited third party custodian. However, banks and other FIs under BSP supervision may maintain custody of existing securities of their clients who are unable or unwilling to take delivery pursuant to the provisions of Subsec. X235.5 but who declined to deliver their existing securities to a BSP accredited third party custodian subject to the following conditions:

(1) the custody arrangements with clients have been in existence prior to 05 November 2004 (effectivity of Circular 457 dated 14 October 2004);

(2) the dealing bank/NBFI under BSP supervision had been informed in writing by the client that he is not willing to have his existing securities delivered to a third party custodian;

(3) any BSP regulated institution shall not enter into securities transactions with a client who has outstanding securities not delivered to a BSP-accredited third party custodian; and

(4) it shall be the responsibility of any BSP regulated institution to satisfy itself that the person purchasing securities from it has no outstanding securities holdings which were not delivered to a BSP-accredited third party custodian.

Sanctions. Without prejudice to the penal and administrative sanctions provided for under Sections 36 and 37, respectively, of the R.A. No. 7653, violation of any provision of this Subsection shall be subject to the following sanctions/ penalties:

(1) *First offense* -

(a) Fine of up to P10,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and

(b) Reprimand for the directors/officers responsible for the violation.

- (2) *Second offense* -
 - (a) Fine of up to P20,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and
 - (b) Suspension for ninety (90) days without pay of directors/officers responsible for the violation.
- (3) *Subsequent offenses* -
 - (a) Fine of up to P30,000 a day for the institution for each violation from the date the violation was committed up to the date it was corrected;
 - (b) Suspension or revocation of the authority to act as securities custodian and/or registry; and
 - (c) Suspension for 120 days without pay of the directors/officers responsible for the violation.
- b. Sec. X441 shall also govern the securities custodianship and securities registries of banks.

(As amended by M-2006-009 dated 06 July 2006, M-2006-002 dated 05 June 2006 and Circular No. 524 dated 31 March 2006)

Sec. X239 Issuance of Bonds. The following guidelines shall govern the issuance of bonds by banks with quasi-banking authority.

- § X239.1 Definition of terms.** For purposes of this Section, unless the context clearly indicates otherwise, the following shall have the meaning as indicated:
- a. *Government securities* shall refer to evidences of indebtedness of the Republic of the Philippines or its instrumentalities, or of the BSP, and must be freely negotiable and regularly serviced.
 - b. *Net book value* shall refer to the acquisition cost of property or accounts plus additions and improvements thereon less valuation reserves, if any.
 - c. *Current market value* shall refer to the value of the property as established by a duly licensed and independent appraiser.

§ X239.2 Compliance with Securities and Exchange Commission rules on registration of bond issues. All banks with quasi-banking authority issuing or intending to issue bonds shall comply with the New Rules on Registration of Long-Term Commercial Papers promulgated by the SEC (Appendix 13).

§ X239.3 Notice to Bangko Sentral ng Pilipinas. Within three (3) days from approval by SEC of its bond issue, the bank concerned shall notify the appropriate department of the SES of the approval attaching thereto the documents required by the SEC for the issuance and registration of the bond issue.

- § X239.4 Minimum features.** Bonds issued by banks shall have the following minimum features:
- a. *Form; issue price; denomination* - The trust indenture and the name of the indenture trustee shall be indicated on the face of the bond certificate.
The SEC-assigned bond registration number and expiry date, if any, shall likewise be indicated, stamped on the face of each bond certificate issued.
 - Bonds may be issued at face value, at a discount or at a premium. Minimum denomination shall be P20,000.
 - b. *Term* - The minimum term of the bonds shall be four (4) years. No optional redemption before the fourth year shall be allowed.
 - c. *Interest; manner; form of payment* - The bonds shall not be subject to interest rate ceilings prescribed by the Monetary Board or Act No. 2655, as amended.
 - d. *Trust indenture; collaterals; sinking fund* - A trust indenture shall be executed between the issuer and a qualified trust corporation as trustee, which shall neither be an affiliate nor a subsidiary of the issuer.
- The following shall be deemed as eligible collateral and shall be maintained

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at respective values indicated in relation to the face value of the bond issue:

(1) Government securities	-	Aggregate current market value of 100%
(2) Readily marketable private securities listed in the big board of stock exchanges	-	Aggregate current market value of 150%
(3) Real estate	-	Net book value of 100%
(4) Unmatured receivables acquired with recourse	-	Net book value of 150%
(5) Unmatured receivables acquired without recourse	-	Net book value of 200%

Government and private securities, certificates of title and documents evidencing receivables offered as security shall be physically delivered to the indenture trustee. Substitution of collaterals shall be allowed: *Provided*, That in no case shall the collateral fall below the herein required ratios.

The issuer may, at his option, provide for the retirement at maturity of the bond issue through the sinking fund to be deposited with and managed by the indenture trustee.

e. *Bond registry* - The bonds shall be fully registered as to principal and interest. The issuer, its trustee, agent or underwriter must maintain a bond registry duly approved by the SEC for recording initial and subsequent transfers the names of transferees, date of transfer, purchase price and serial numbers of bonds transferred.

§ X239.5 *Issuance of commercial papers.* The issuance of other forms of commercial papers by banks with quasi-banking authority shall be subject to the new rules on registration of short-term and long-term commercial papers appended hereto as *Appendices 13 and 14*.

F. GOVERNMENT DEPOSITS

Sec. X240 Statement of Policy. As a general policy, cash balances of the Government, its political subdivisions and instrumentalities as well as of government-owned or controlled corporations shall be deposited with the BSP, with only minimum working balances to be held by government-owned banks and such other banks incorporated in the Philippines as the Monetary Board may designate: *Provided*, That such banks may be authorized by the Monetary Board to hold deposits of the political subdivisions and instrumentalities of the Government beyond their minimum working balances whenever such subdivisions and instrumentalities have outstanding loans with said banks.

For purposes of this Section:

a. The term *government-owned or controlled corporations* shall refer to government-owned or-controlled corporations which are created by special laws. It shall exclude government FIs such as DBP, LBP and Al-Amanah Islamic Investment Bank of the Philippines, corporations which are created under the provisions of the Corporation Law (Act No. 1459, as amended) or the Corporation Code (BP Blg. 68) and private corporations which are taken over by government-owned or-controlled corporations.

b. *Minimum working balances* shall represent the minimum amounts necessary to enable the government instrumentality/political subdivision making the deposit to transact business efficiently and effectively as determined by the Department of Finance.

§ X240.1 *Prior Monetary Board approval.* No private bank shall, without prior approval of the Monetary Board, accept, as depository, any fund or money from the Government, its political

subdivisions and instrumentalities, and government-owned or-controlled corporations; nor shall a private bank borrow any fund or money therefrom, through the issuance or sale of its acceptances, notes or other evidences of indebtedness.

§ X240.2 Banks which may accept government funds

a. Banks, the majority of the capital of which is owned by the Government, may act as depository of funds of the Government, its political subdivisions and instrumentalities, and government-owned or-controlled corporations.

b. Private banks incorporated in the Philippines may act as depository of government funds only with the prior approval of the BSP. Local government units may maintain depository accounts preferably in government banks and, in exceptional cases and with the prior approval of the Monetary Board, in the name of their respective government units, in private banks located in or nearest to their respective areas of jurisdiction but the depository bank(s) must also seek the prior approval of the BSP: *Provided, That* a TB/RB/Coop Bank may only act as official depository of government funds pursuant to R.A. Nos. 7906, 7353 and 6938, as follows:

(1) a TB may only act as official depository of national agencies, and of municipal, city or provincial funds in the municipality, city or province where the TB is located;

(2) an RB may only act as official depository of municipal, city or provincial funds in the municipality, city or province where the RB is located; and

(3) a Coop Bank may accept deposits of all government departments, agencies and units of the national and local governments including government-owned or-controlled corporations.

c. Where there is no government bank or BSP office in the province and the nearest government bank or BSP office is inaccessible by ordinary transportation, or transporting/withdrawing the government deposits to and from the said office is impractical or risky, the province, as well as cities and municipalities located therein, may seek approval of the Monetary Board to consider all their funds eligible for deposits with a qualified private depository bank within the province, city or municipality, as the case may be.

d. Banks acting as official depository of government funds may accept demand, savings or time deposits.

e. The authority of a bank to accept government deposits does not obligate the Government, its subdivisions and instrumentalities and government-owned or-controlled corporations to deposit with that bank. Thus, even if a TB or RB is authorized by the Monetary Board to accept government deposits, a municipality is not obligated to deposit with that TB or RB. Similarly, a bank which is authorized to accept deposits of the Government or a government corporation because of outstanding loans granted by the bank cannot demand as a matter of right that the Government or government corporation make deposits unless there is a stipulation in the loan agreement.

§ X240.3 Prerequisites for the grant of authority to accept deposits from the Government and government entities. In addition to the *Standard Pre-qualification Requirements for the Grant of Banking Authorities* enumerated in *Appendix 5*, private banks applying for authority to accept deposits from the Government, its subdivisions and instrumentalities and government-owned or-controlled corporations and government banks applying for authority to accept government deposits in excess of

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minimum working balances shall also comply with the following conditions:

- a. The applicant bank must have complied with the minimum capital required under Subsecs. X111.1 and X111.2; and
- b. It must be a member of the PDIC in good standing.
- c. The bank’s CAMELS composite rating in its latest examination is not lower than three (3) with Management component score of not lower than three (3).

(As amended by Circular No. 526 dated 10 April 2006)

§ X240.4 Application for authority. An application for authority to accept government deposits shall be signed by the president of the bank and shall be filed with the appropriate department of the SES. The application shall be accompanied by a certification by the bank president or executive vice-president that the bank has complied with all the requirements enumerated under Subsec. X240.3.

Banks authorized to accept government funds as depository shall continuously comply with the conditions enumerated under Subsec. X240.3 even after the authority to accept government deposits has been granted and during the period while the banks actually hold government deposits, otherwise, any violation may be a basis for the imposition of sanctions against the bank, its directors and officers, or revocation of the authority to accept government deposits.

Deposits maintained by the Government, its subdivisions and instrumentalities and government-owned or-controlled corporations shall be supported by the following documents whenever applicable:

- a. A copy of the resolution of the barangay, municipal or city council (Sangguniang Bayan/Panglunsod) or the provincial board (Sangguniang Panlalawigan) authorizing the deposit of municipal, city or provincial funds;

- b. A copy of the resolution of the board of directors of the government-owned or-controlled corporations authorizing the deposit of funds of said corporations; or

- c. In case of the National Government, its unincorporated branches, agencies and instrumentalities, a written authority to deposit government funds signed by the duly authorized official of the department, agency, office or unit making the deposit.

The resolution or authority should state the name and location of the depository bank, type and terms of the deposit, and that the amount to be deposited represents working balances.

§ X240.5 Limits on funds of the Government and government entities that may be deposited with banks

- a. Funds of the Government, its subdivisions and instrumentalities and government-owned or-controlled corporation, deposited with banks authorized to receive deposits shall be limited to the minimum working balance of the depositor.

With prior Monetary Board approval, government or private banks may be authorized to accept amounts in excess of minimum working balances if the Government or government entity making the deposit has outstanding loan obligations to the depository bank but such amounts shall not exceed the amount of its outstanding loan obligations to the depository bank. The amount of non-transferable and non-negotiable government securities with market or below market interest rate at the time of issue, issued by the National Government to the depository bank shall be considered as “outstanding loans” of the National Government to said bank within the meaning of Section 113 of R.A. No. 7653.

- b. The aggregate amount of government funds which a private bank can hold at any given time shall not exceed 200% of the bank’s net worth.

c. Where any director, officer or stockholder of a private bank, as defined under Subsec. X326.1, is also an elective or appointive official of a municipality, city or province, said bank is prohibited from accepting deposits from said municipality, city or province unless it is the only bank existing therein: *Provided*, That this provision shall not be construed as a grant of authority to such elective or appointive public official to act as director or officer of a private bank.

§ X240.6 Liquidity floor. Unless otherwise prescribed by the Monetary Board, authorized government depository banks other than the BSP, and authorized private banks shall, inclusive of the required reserves against deposits and/or deposit substitutes, maintain a fifty percent (50%) liquidity floor with respect to deposits of, borrowings from, and all other liabilities to, the Government and government entities, in the form of transferable government securities which represent direct obligations of the National Government.

Government securities representing direct obligations of the National Government regardless of maturity, issued pursuant to the provisions of R.A. No. 245, as amended by P.D. No. 142, which are not otherwise earmarked or used as part of other reserve requirements of the BSP, shall be eligible as liquidity reserves.

Securities received pursuant to the Domestic Debt Exchange Offer of the Republic of the Philippines in exchange for securities that are eligible reserves for liquidity floor requirement shall, likewise be eligible as liquidity reserves.

Eligible securities being used as such reserve shall not in any way be encumbered or be subject to any transaction without prior approval of the BSP.

Also eligible for liquidity floor are the following:

a. The free portion of the *“Due from Bangko Sentral - Local Currency”* after satisfying the legal and other reserve requirements;

b. NDC Agri-Agra ERAP Bonds, which are not being used as alternative compliance with PD 717. Such bonds shall not in any way be encumbered or be subject to any transaction without prior approval of the BSP;

c. Securities backed by the unreleased Internal Revenue Allotments (IRA) of local government units (issued by a Special Purpose Trust administered by the DBP under the IRA Monetization Program of the Union of Local Authorities of the Philippines) the release of which IRA on scheduled date of payment has been certified by the Department of Budget Management (DBM) as not being subject to any conditionalities: *Provided*, That such securities shall be eligible only to the extent of the present value of the bond computed using the original yield to maturity (as of auction/issue date);

d. Tobacco Excise Tax Receivables Monetization Program Investment Certificates (TEXTR Certificates) backed by receivables representing the unreleased portion of the obligation of the National Government to its LGU for their share of the Tobacco Excise Taxes under R.A. No. 7171 amounting to P1.85 billion and covering the years 2001 and 2002: *Provided*, That such securities shall be eligible only to the extent of the present value of the securities computed using the original yield to maturity as of auction/issue date; and

e. Placement of banks in their SDA with the BSP, effective 10 May 2007.

For purposes of computing the fifty percent (50%) liquidity floor requirement on all government funds held by authorized banks, banks shall adopt a one (1)-week lag system, effective 04 May 2001.

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Banks authorized to accept government deposits shall specify in the prescribed reports submitted to the SDC of the BSP the balance of government deposits subject to liquidity floor requirement and, if any, the corresponding GS earmarked for subject purpose.

(As amended by Circular Nos. 566 dated 03 May 2007 and 509 dated 01 February 2006)

§ X240.7 Exempt transactions. The following deposits of, borrowings from and/or liabilities to, the Government and government entities shall be exempt from the liquidity floor:

a. Obligations to the BSP arising from rediscounting facilities and sale of government securities under repo agreements made in connection with the provisions of Sec. X269 and Subsec. X601.1;

b. Special time deposits (STDs) and deposit substitutes under the special financing program of the Government and/or international FIs;

c. Obligations to the BSP consisting of emergency advances, overdraft facilities, and those arising from peso swap differentials and supervision and examination fees;

d. Marginal deposits on importations;

e. Due to the Treasurer of the Philippines (unclaimed deposit balances);

f. Funds held by participating financial institutions (PFIs) under the GSIS Housing Loan Programs: *Provided*, That the agreement between GSIS and the conduit banks specify that such funds may be held by the conduit banks for a period of not more than seven (7) calendar days prior to their release to the borrower and prior to the remittance by the conduit banks of payment to the GSIS;

g. Deposits of the BIR and BOC; and

h. Any other form of deposits, borrowings and/or liabilities specifically authorized by law or exempted by the Monetary Board.

§ X240.8 Reports. Banks shall submit to the appropriate department of the SES a report of their government deposits from all sources in the aggregate in the prescribed form.

§ X240.9 Sanctions. Any violation of this Section shall be a ground for the imposition of the following sanctions:

a. The deposit account with the BSP of the bank concerned shall be debited by the Accounting Department of the BSP in the amount of the unauthorized deposit or borrowing upon receipt of a report or notice from the appropriate department of the SES and the deposit account of the government institutions with the BSP shall be credited for the same amount. A copy of said report or notice of the SES shall be furnished each to the bank concerned and the government institutions.

b. The withdrawal of previously granted authority to accept government funds;

c. Without prejudice to the sanctions under Section 35 of R.A. No. 7653, the following administrative sanctions shall be imposed if any part of the certification as required in this Section is found to be false or misleading:

On the bank - Cancellation of the authority to accept government deposits if one has already been granted and/or disqualification to act as a government depository for not more than one (1) year.

On the certifying officer - A fine of P5,000 per day from the time the certification was found to be false, for each application filed with the BSP.

d. Any bank with deficiency in the required liquidity floor against deposits of, and/or borrowings from, the Government and government entities or with excess holdings of such deposits shall: (1) be denied the credit facilities of the BSP; and (2) if the deficiency lasts for four (4) consecutive weeks, the bank shall be

prohibited from declaring cash dividends and making new loans and investments, except investments in government securities. The prohibition shall be lifted by the Governor of the BSP, upon certification by the appropriate department of the SES that the bank has had no deficiency in its liquidity floor and no excess holdings of government deposits for at least four (4) consecutive weeks.

§§ X240.10 - X240.14 (Reserved)

§ X240.15 Acceptance by banks with internet banking facility of payment of fees for account of government entities
Domestic private banks with BSP-approved internet banking facility are allowed to accept payment of fees/other charges of similar nature for the account of the departments, bureaus, offices and agencies of the government as well as all GOCCs: *Provided*, That the funds so accepted/collected shall be treated as deposit liabilities subject to existing regulations on government deposits and shall not exceed the minimum working balance of the said government entities.

These banks are required to notify the appropriate department of the SES that supervises the bank, copy furnished the Head of the Technical Working Group on E-Banking, SDC, of the names of the government institutions that will interface with their systems and any changes that may subsequently be made on the arrangements.

Sec. X241 (Reserved)

G. INTEREST

Sec. X242 Interest on Deposits/Deposit Substitutes. Demand, savings, NOW accounts, time deposits and deposit substitutes shall not be subject to interest ceilings.

§ X242.1 Time of payment of interest on time deposits/deposit substitutes
Interest or yield on time deposit/deposit substitute may be paid at maturity or upon withdrawal or in advance: *Provided, however*, That interest or yield paid in advance shall not exceed the interest for one (1) year.

§ X242.2 Treatment of matured time deposits/deposit substitutes
a. A time deposit not withdrawn or renewed on its due date shall be treated as a savings deposit and shall earn interest from maturity to the date of actual withdrawal or renewal at a rate applicable to savings deposits.

b. A deposit substitute instrument not withdrawn or renewed on its maturity date shall from said date become payable on demand and shall earn an interest or yield from maturity to actual withdrawal or renewal at a rate applicable to a deposit substitute with a maturity of fifteen (15) days.

Banks performing quasi-banking functions shall continue to consider matured and unwithdrawn deposit substitutes as such and subject to reserves.

Sec. X243 Disclosure of Effective Rates of Interest. Banks are required to disclose to depositors the following information on interest computation and payments:

- a. Type/kind of deposit;
- b. Nominal rate of interest and period covered;
- c. Manner of interest payment, i.e., whether credited in advance or otherwise;
- d. Basis of interest payment, i.e., whether based on average daily balance compounded quarterly or otherwise;
- e. Effective rate of interest expressed as a simple annual rate, on the basis of the information above given and indicating the formula used to arrive at the effective rate of interest; and

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f. Illustration of basis of computing interest on a hypothetical deposit account. Copies of the abovementioned information shall be made available to each and every depositor by attaching these copies to savings deposit passbooks and time deposit certificates. Posters disclosing the above information and aggregate deposit rates shall also be displayed conspicuously within the bank premises.

Secs. X244 - X252 (Reserved)

H. RESERVES AGAINST DEPOSIT AND DEPOSIT SUBSTITUTE LIABILITIES

Sec. X253 **Accounts Subject to Reserves; Amounts Required.** The following rules and regulations shall govern the reserves against deposit and deposit substitute liabilities.

§ X253.1 *Regular reserves against deposit and deposit substitute liabilities*
 The rates of regular reserves against deposit and deposit substitute liabilities in local currency of banks shall be as follows:

	UBs/KBs	TBs	RBs/ Coop Banks
a. Demand Deposits	8% ¹	4%	4%
b. NOW Accounts	8%	4%	4%
c. Savings Deposits	8% ¹	4%	1%
d. Time Deposits, Negotiable CTDs, Long-Term Non-Negotiable Tax-Exempt CTDs	8% ¹	4%	1%
Long-term NCTDs	2%	2%	2%
e. Deposit Substitutes	8%	4%	NA
f. IBCL (Sec. X343)	0%	0%	0%
g. Bonds	5%	5%	NA
h. Mortgage/CHM cert.	NA	5%	NA

¹ Under Circular 632 dated 19 November 2008, the reduction in regular reserves shall be effective the reserve week starting 14 November 2008.
² The statutory reserve of two percent (2%) may not yet be availed of pending:
 (a) the issuance of the pertinent market convention acceptable to BSP that shall govern deposit substitutes transactions evidenced by repo agreements covering government securities; and
 (b) the opening for the purpose of a separate RoSS account with the Bureau of the Treasury by the BSP- accredited third party custodian.

Provided, That deposit substitutes evidenced by repo agreements covering government securities up to the amount equivalent to the adjusted Tier 1 capital of the bank shall be subject to the statutory reserve of two percent (2%)²: *Provided, further,* That such rate shall apply only to repo agreements, the documentation of which conforms with, and were delivered to a BSP accredited third party custodian as required under existing BSP regulations.
 (As amended by Circular No. 632 dated 19 November 2008)

§ X253.2 *Liquidity reserves.* On top of the regular reserve requirements, liquidity reserves against peso demand, “NOW”, savings, time deposit and deposit substitute liabilities shall be maintained, as follows:

Category of Banks	Liquidity Reserves
a. UBs/KBs	11% ¹
b. TBs	2%
c. RBs/Coop Banks	0%

The liquidity reserves for LTNCTDs shall be 0%.

The required liquidity reserves shall be maintained in the Reserve Deposit Account (RDA) with the BSP, or may be in the form of the following: *Provided,* That it complies with the guidelines shown in *Appendix 71.*

- a. Short-term market-yielding government securities purchased directly from the BSP-Treasury Department;
- b. NDC Agri-Agra ERAP Bonds which are not being used as alternative compliance with P.D. No. 717. Such bonds shall not in any way be encumbered or be subject to any transaction without prior approval of the BSP; and
- c. Poverty Eradication and Alleviation Certificates (PEACe) bonds only to the

extent of the original gross issue proceeds determined at the time of the auction, plus capitalized interest on the underlying zero-coupon Treasury Notes as and when the corresponding interest is earned over the life of the bonds.

Any deficiency in the liquidity reserves shall continue to be in the forms or modes prescribed under existing regulations for the composition of required reserves.

(As amended by Circular Nos. 632 dated 19 November 2008, 551 dated 17 November 2006 and 539 dated 09 August 2006)

Sec. X254 Composition of Reserves. The composition of the required reserves shall be as follows:

a. *Deposits with the BSP.* At least twenty-five percent (25%) shall be in the form of deposits with the BSP.

b. *Government securities and cash in vault.* The remaining portion of the required reserves may be held by all banks in the form of cash in vault and/or government securities or evidences of indebtedness of the Republic of the Philippines.

To support the implementation of the provisions of Subsecs. X343.3 and X601.3, the cash-in-vault (CIV) component of available reserves shall be based on the actual CIV balance outstanding one (1) banking day lag, for purposes of computing the reserve position of the current day.

For purposes of this Section, *government securities which may form part of the reserves against deposits/ deposit substitute liabilities of banks* shall refer to bonds or other evidences of indebtedness representing direct obligations of the Government of the Republic of the Philippines: *Provided*, That such securities shall have the following minimum features/conditions:

(1) The securities must bear an interest rate of not more than four percent (4%) per annum, must be non-negotiable and shall carry BSP support; and

(2) The amount, maturity date and rate of interest must be definite and stated in the certificate itself.

Other government securities being used for reserve purposes shall continue to be eligible as such: *Provided*, That whenever said securities shall have matured, they shall be replaced by securities carrying the above features.

The securities held as reserves under Item “b” and last paragraph of Sec. X253 shall be valued at cost of acquisition and the bank may freely alter its composition: *Provided*, That any substitution or acquisition satisfies the eligibility requirements prescribed above: *Provided, further*, That the bank notifies the BSP of any such change in the prescribed forms not later than the reporting day following the change. Securities counted as reserves may not be hypothecated or encumbered in any way or earmarked for any other purpose without automatically losing their eligibility as reserves.

Only the buying/lending bank in an agreement covering eligible government securities may use such securities as reserves against deposits/deposit substitutes. Conversely, the selling/borrowing bank in a resale agreement covering eligible government securities may not use such securities as reserves against deposits/deposit substitutes.

The list of reserve-eligible and non-eligible securities may be found in *Appendix 15*.

The reserve eligibility of government securities under the reverse repo operations of the BSP shall be suspended during the term of the reverse repo agreement.

The phrase *non-reserve eligible* shall be stamped on the face of the custodian receipt being issued by the BSP to buyer FIs.

§ X254.1 Allowable drawings against reserves. Deposit with the BSP to comply with reserve requirements are not regular current accounts. The use, therefore, of

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BSP checks for drawings against reserve deposits shall be limited to (a) settlement of obligations with the BSP, and (b) withdrawals to meet cash requirements.

§ X254.2 Exclusion of uncleared checks and other cash items. COCIs which have not been cleared yet through the Clearing Office should not be debited to the account *Due from the BSP* and should not be considered as available reserves against deposit/deposit substitute liabilities. Such items shall be debited to the *COCIs* account.

Only after the COCIs have been cleared through the Clearing Office can the bank debit the *Due from the BSP* account for said items.

§ X254.3 Interest income on reserve deposits. Deposits maintained by banks with the BSP up to forty percent (40%) of the reserve requirement (excluding the liquidity reserve mentioned in Subsec. X253.2 against the combined deposit and deposit substitute liabilities of banks allowed to be maintained in the form of short-term market yielding government securities purchased directly from the BSP Treasury Department) shall be paid interest at four percent (4%) per annum based on the average daily balance of said deposits to be credited quarterly.

The computation of quarterly interest payments credited to the DDAs of banks' legal reserve deposits with BSP are shown in *Appendix 54*.

Effective 01 July 2003, published interest rates that will be applied on BSP's Regular DDAs of banks shall be inclusive of the ten percent (10%) Value Added Tax (VAT).

§ X254.4 Book entry method for reserve securities. In the implementation of the book entry system for transactions in government securities eligible for reserves, transactions concerning reserve-

eligible securities shall be entered in the respective securities account of each bank with the BSP and shall be evidenced by securities account debit or credit advices to be promptly furnished the institution/s concerned. No certificate shall be issued for any purpose. Transactions with third parties other than the BSP shall not be recognized.

Sec. X255 Exemptions from Reserve Requirements. The following shall be exempt from reserve requirements:

- a. All collections credited to the special account *"Due to BSP - Internal Revenue Account (Other Cities and Municipalities)"*;
- b. STDs from the Agrarian Reform Fund Commission and special savings deposits from farmer-borrowers; and
- c. Unclaimed balances of deposit liabilities already reported to the Treasurer of the Philippines in accordance with the Unclaimed Balances Act (Act No. 3936, as amended) and transferred/reclassified from the deposit liability/other credit accounts to the liability account *"Due to the Treasurer of the Philippines"*.

Local banks may deduct from the amount of their gross demand deposits, the total of their *Due from Local Banks - Demand* and *Due from PNB - Clearing* in an amount not exceeding the total of their *Demand Deposits-Banks* and *Due to Local Banks*. As used herein, the term *gross demand deposits* shall mean the sum of all individual deposits, including deposits made by other local banks, the Philippine Government, its political subdivisions and instrumentalities, and GOCCs.

Sec. X256 Computation of Reserve Position. The reserve position of any bank and the penalty on reserve deficiency shall be computed based on a seven (7)-day week, starting Friday and ending Thursday, including Saturdays, Sundays, public special/legal holidays, non-banking

days, unexpected declared non-banking days or declared half-day holidays and days when there is no clearing: *Provided*, That with reference to public special/legal holidays, non-banking days, unexpected declared non-banking days, declared half-day holidays and days when there is no clearing, the reserve position as calculated at the close of the business day immediately preceding such public special/legal holidays, non-banking days and unexpected declared non-banking days and declared half-day holidays and days when there is no clearing, shall apply thereon. For this purpose, the principal office in the Philippines and all other banking offices located therein shall be treated as a single unit.

The guidelines on the computation of a banks' reserve position during public sector holidays are shown in *Appendix 84*.
(As amended by M-2008-025 dated 13 August 2008)

§ X256.1 Measurement of reserve requirement. The required reserves in the current period (reference reserve week) shall be computed based on the corresponding levels of deposit and deposit substitute liabilities of the prior week.

§§ X256.2 – X256.4 (Reserved)

§ X256.5 Guidelines in calculating and reporting to the Bangko Sentral the required reserves on deposit substitutes evidenced by repurchase agreements covering government securities

a. The SDC shall determine the maximum allowable amount of repo agreements covering government securities that will qualify for the reduced statutory reserve requirements of two percent (2%). It shall be based on the amount reported by banks in their weekly Consolidated Daily Report of Condition. The adjusted Tier 1 capital reported daily should approximate the quarterly adjusted

Tier 1 capital as submitted by banks in compliance with the provisions of Sec. X115 or X116, as applicable.

b. Any material differences that may be noted by the SDC between the daily and the quarterly report shall be considered as erroneous reporting and shall be subject to the penalties under existing regulations. The SDC shall also make a re-run of its computation of the bank's reserve position and in the event that the reserve position resulted to a reserve deficiency/ies, the corresponding penalties on reserve deficiencies shall also apply.

c. The lagged system in the measurement of a bank's reserve requirement, as provided in Subsec. X256.1, shall also be adopted in the calculation of the two percent (2%) statutory reserve requirements for repo agreements covering government securities.

d. Deposit substitutes evidenced by repo agreements covering government securities in excess of the adjusted Tier 1 capital shall be treated as regular deposit substitutes and shall be subject to the regular statutory and liquidity reserve requirements under existing regulations.

Sec. X257 Reserve Deficiencies; Sanctions. Whenever the reserve position of any bank computed in the manner specified in Sec. X256 is below the required minimum, it shall pay the BSP one-tenth of one percent (1/10 of 1%) per day on the amount of the deficiency or the prevailing ninety-one (91) day T-Bill rate plus three (3) percentage points, whichever is higher: *Provided, however*, That a bank shall be permitted to offset any reserve deficiency occurring one (1) or more days of the week covered by the report against excess reserves which it may hold on other days of the same week, and shall be required to pay the penalty only on the average daily net deficiency during the week.

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In case of abuse, a bank shall automatically lose the privilege of offsetting reserve deficiency in the aforesaid manner until such time that it maintains its daily reserve position at the required minimum for at least two (2) consecutive weeks.

As used in this Section, “*abuse*”* in the privilege of offsetting reserve deficiencies against excess reserves shall mean having reserve deficiencies occurring four (4) or more times during any given week for two (2) consecutive weeks, whether or not resulting in net weekly deficiencies.

§ X257.1 Chronic reserve deficiency; penalties. In cases where the bank has chronic reserve deficiency in deposit/ deposit substitute liabilities, the bank shall be denied the credit facilities of the BSP; and the Monetary Board may:

- (a) limit or prohibit the making of new loans or investments by the bank; and
- (b) prohibit the declaration of cash dividends. The board of directors of said bank shall be notified of such chronic reserve deficiency and the penalties therefor, and be required to immediately correct the reserve position of the bank.

As used in this Subsection, “*chronic reserve deficiency*” shall mean having net reserve deficiencies for two (2) consecutive weeks.

§ X257.2 Failure to cover overdrawings with the Bangko Sentral. Any bank which incurs an overdrawing in its deposit account with the BSP shall fully cover said overdraft not later than the next clearing day including interest thereon equivalent to one-tenth of one percent (1/10 of 1%) per day or the prevailing ninety-one (91) day T-Bill plus three (3) percentage points, whichever is higher. In case a bank fails to cover its overdrawings, it shall be excluded from clearing on such day and it shall also

be denied the credit facilities of the BSP. Such exclusion from clearing shall continue for as long as it has not maintained credit balances with the BSP for at least five (5) consecutive banking days. If its clearing account is overdrawn for five (5) consecutive banking days, it shall be prohibited from (a) making new loans or investments, except investment in government securities with BSP support; (b) declaring cash dividends until it has maintained credit balances in its BSP clearing account for at least fifteen (15) consecutive banking days; and (c) establishing branches. The denial from avilment of credit facilities of the BSP shall continue for as long as the bank maintained credit balances with the BSP for at least fifteen (15) consecutive banking days.

For purposes of computing the total available reserves against deposit/deposit substitute liabilities, the total amount of overdrawing in the clearing account with the BSP shall be deducted from available reserves after the required reserves against deposit/deposit substitute liabilities shall have been satisfied.

§ X257.3 Payment of penalties on reserve deficiencies. Penalties if unpaid within fifteen (15) days from receipt of the assessment, shall be charged against the demand deposits of banks with the BSP: *Provided,* That where the bank’s credit balance is insufficient and it fails to settle the assessment, the Monetary Board may limit or prohibit the making of new loans or investments by the bank.

Sec. X258 Report on Compliance. Every bank shall make a weekly report to the BSP of its daily required and available reserves on deposit/deposit substitute liabilities in the prescribed forms.

Secs. X259 - X260 (Reserved)

* The reserve weeks, 20 to 26 December 2002 and 27 December 2002 to 2 January 2003, shall be considered as a single reserve week for the purpose of determining “abuse” of the privilege of offsetting reserve deficiencies against excess reserves during the reserve week.

I. SUNDRY PROVISIONS
ON DEPOSIT OPERATIONS

Sec. X261 Booking of Deposits and Withdrawals. The following regulations shall govern the booking of deposits and withdrawals of banks.

§ X261.1 Clearing cut-off time. As a general rule, all deposits and withdrawals during regular banking hours shall be credited or debited to deposit liability accounts on the date of receipt or payment thereof: *Provided, however,* That a bank may set a clearing cut-off time for its head office not earlier than two (2) hours before the start of clearing at the BSP, and not earlier than three and one-half (3-1/2) hours before the start of clearing for all its branches, agencies and extension offices doing business in the Philippines, after which time, deposits received shall be booked as hereinafter provided: *Provided, further,* That banks which are located in areas where there are no BSP regional/clearing arrangements may set a clearing cut-off time not earlier than two (2) hours before the start of their local clearing after which time, deposits received shall be booked likewise as hereinafter provided.

§ X261.2 Definitions. As used in this Section, the following terms shall have the following meanings:

- a. *Regular banking hours* shall refer to the banking hours reported to the BSP pursuant to Sec. X156, including the extended banking hours reported for servicing deposits and withdrawals; and
- b. *Clearing cut-off time* shall mean the bank's closing time for the acceptance of deposits in the form of checks, bills and other demand items for clearing on the day of their receipt.

§ X261.3 Booking of cash deposits
Cash deposits received after the selected clearing cut-off time until the close of the regular banking hours shall be booked as deposits on the day of receipt.

§ X261.4 Booking of non-cash deposits
Deposits of checks including *"on us"* checks, *manager's/cashier's/ treasurer's checks* and *demand drafts*, which are drawn against the depository bank and all its offices, as well as treasury warrants and postal money orders, received after the selected clearing cut-off time until the close of the regular banking hours, may, at the option of the bank, be booked as deposits on the day of receipt.

Other non-cash deposits received after the selected clearing cut-off time shall be treated as contingent accounts on the day of receipt and shall be booked as deposits the following banking day.

§ X261.5 Booking of deposits after regular banking hours. Deposits, whether cash or non-cash, received after the close of the regular banking hours shall be treated as contingent accounts on the day of receipt and shall be booked as deposits the following banking day.

§ X261.6 Other records required
For record and control purposes, banks shall prepare a daily abstract of deposit transactions treated as contingent accounts.

§ X261.7 Notice required. Banks shall post at a conspicuous place near each teller's window a notice to depositors indicating their selected clearing cut-off time and a statement to the effect that non-cash items deposited after said cut-off time shall be treated as transactions for the next banking day.

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Sec. X262 Miscellaneous Rules on Deposits. Banks shall also be governed by the following miscellaneous rules on deposits.

§ X262.1 Specimen signatures, identification photos. All banking institutions are required to set a minimum of three (3) specimen signatures to be simultaneously required from each of their depositors and to update the specimen signatures of their depositors every five (5) years or sooner, at the discretion of the bank. Banks may, at their option, require their depositors to submit ID photos together with the specimen signatures.

§ X262.2 Insurance on deposits. All banks shall indicate the coverage of the PDIC in each passbook, certificate of time deposit and/or cover of checkbook for demand deposit/NOW accounts stating, among other things, the maximum amount of insurance.

§ X262.3 Certification of compliance with Subsection 55.4 of R.A. No. 8791 Banks shall submit to the appropriate supervising and examining department of the BSP, through the Deputy Governor of SES, a statement within seven (7) banking days after end of June and December, signed solely by the Vice-President for Administration or Human Resource or Personnel, or by any officer assuming equivalent responsibility, certifying their institution’s compliance with Subsection 55.4 of R.A. No. 8791, which prohibits banks from employing casual, nonregular personnel or too lengthy probationary personnel in the conduct of its business involving bank deposits. A format for the certification of compliance is shown in *Appendix 49*.

The definition contained in Articles 280-281 of the Labor Code of the Philippines for private banks and Section 2

of the Civil Service Commission Memorandum Circular No. 40 and Rule VII of Civil Service: Laws and Rules for government banks shall apply in classifying employee/personnel as casual, regular or probationary. Personnel with too lengthy probationary status are employees who are allowed to work after a probationary period of six (6) months without being considered a regular/permanent employee.

Sec. X263 Service and Maintenance Fees Banks may impose and collect service charges and/or maintenance fees on savings and demand deposit accounts, whether active or dormant, that fall below the required minimum monthly average daily balance (ADB), subject to the following conditions:

- a. the imposition of such charges or fees is clearly stated among the terms and conditions of the deposit;
- b. the rate or amount of such charges or fees is properly disclosed among the terms and conditions of the deposit;
- c. the deposit account balances have fallen below the required minimum monthly ADB for dormant accounts and for at least two (2) consecutive months for active accounts;
- d. the required minimum monthly ADB of deposits are properly disclosed among the terms and conditions of the deposit; and
- e. in the case of charges and fees for dormant accounts or dormancy fee, the period of dormancy as prescribed under Subsec. X185.12 shall be properly disclosed among the terms and conditions of the deposit, and that the depositors shall be informed by registered mail with return card or Proof of Delivery (POD) service of the Philippine Postal Corporation and other mail couriers on his last known address at least sixty (60) days prior to the imposition of dormancy fee.

Said Proof of Delivery Receipt will be accomplished upon the addressee-depositor's receipt of the letter, with the postal personnel or courier required to obtain and safekeep a copy of the signed POD, for submission to the sender/bank.

The PhilPost system likewise employs a Delivery/Monitoring Report that tallies the number of mails with POD received, delivered and returned per client/bank, indicating the name of the letter carrier, his signature and date signed. Said POD and Delivery/Monitoring Report may be system generated by the bank so as not to rely on the manual inscription of the required information by the PhilPost and/or other mail courier personnel.

Regardless of the forms adopted by the PhilPost and/or other mail couriers, the proper implementation of the POD service requires as a minimum, that the following information be stated clearly: (1) name and address of the addressee/depositor; (2) actual date of delivery/receipt; (3) name and address of sender/bank; and (4) name of recipient and relationship to the addressee/depositor.

§ X263.1 Amendments to terms and conditions for the imposition of service charges/fees. Any change in the terms and conditions for the imposition of service charges and/or maintenance fees, e.g., increase in the amount of such charges and fees or increase in the required minimum monthly average daily balance of deposits, shall take effect only after due notice to the depositor: *Provided*, That information by regular mail, statement of account messages, electronic mail, courier delivery and/or other alternative modes of communication on the depositor's last known address at least sixty (60) days prior to implementation shall be considered sufficient notice: *Provided, further*, That failure of the depositor to manifest or register his objection to the new service

charges and maintenance fees or any change in their terms and conditions in writing within thirty (30) days from receipt of written notice of amendment shall be deemed to constitute acceptance of such changes, for purposes of this Subsection.

Banks shall likewise post said information on their respective websites, Automated Time Machine on-screen messages, and in conspicuous places within the bank premises and other places near the bank's own Automated Time Machine at least sixty (60) days prior to implementation.

Sec. X264 Unclaimed Balances. All unclaimed balances, which include credits or deposits of money, bullion, securities or other evidences of indebtedness of any kind, and interest thereon already reported to the Treasurer of the Philippines in accordance with the Unclaimed Balances Act (Act No. 3936, as amended) shall be transferred/reclassified from the deposit liability/other credit accounts to the liability account, "*Due to the Treasurer of the Philippines,*" until they are deposited with or turned over to the Treasurer of the Philippines upon order of the court that the same have been escheated in favor of the Government of the Republic of the Philippines and as such, the unclaimed deposit liabilities shall no longer be covered by reserves required of deposit liabilities.

Sec. X265 Acceptance, Encashment or Negotiation of Checks Drawn in Favor of Commissioner/Collector of Customs
All checks payable to the Commissioner/Collector of Customs shall be accepted for deposit only to the account of the Commissioner/Collector of Customs. Banks where the Commissioner/Collector of Customs has no account shall not encash, accept nor negotiate checks payable to the Commissioner/Collector of Customs.

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Any attempt to defraud the government or the bank through the irregular or unauthorized encashment or deposit of these checks to accounts other than that of the Commissioner/Collector of Customs shall be reported immediately by the head of the banking office to the BOC, copy furnished the BSP.

Sec. X266 Deposit Pick-up/Cash Delivery Services. The following are the guidelines on the deposit pick-up/cash delivery services of banks;

a. As a general rule, deposit pick-up/cash delivery services shall be limited to the following:

(1) To service the need of valued clients whose daily average deposit amounts to:

P500 thousand – for Metro Manila and Metro Cebu clients/depositors

P300 thousand – for outside Metro Manila and Metro Cebu clients/depositors

(2) To be serviced during regular banking hours and days only, unless the nature of the business and the volume of the deposits/cash would warrant servicing beyond regular banking hours and days, in which case justification therefore should be submitted to the satisfaction of the appropriate department of the SES (Central Point of Contact Department (CPCD) I, CPCD II, Integrated Supervision Department (ISD) I, and ISD II).

b. Prior BSP authority is not required before banks can engage in deposit pick-up/cash delivery services: *Provided*, That the following conditions are complied with:

(1) Pick-up of deposits/cash delivery shall be made with the use of armored cars, which shall not be operated as a mobile bank used in soliciting deposits from the general public, or in any manner in carrying out banking transactions/services other than to afford security of deposit/cash items in transit;

(2) Pick-up of deposits/cash delivery may be made with the use of non-armored

vehicles in the following cases/circumstances:

(a) On an unscheduled request; *Provided*, That:

(i) all armored vehicles have already been fielded and the request has to be served immediately; and

(ii) it is within a five (5) kilometer radius of a servicing banking office.

(b) In rugged terrain/mountainous roads or roads not suitable for heavy armored vehicles;

(c) In critical or rebel-infested areas where there are peace and order problems as certified by the local police authorities; and

(d) In island provinces where the transport of cash to a branch or office may be made only with the use of a ferry boat:

Provided, That the non-armored vehicles are equipped with dual control safe and supported with adequate security back-up. Their movements may be coordinated with law enforcement authorities.

(3) The risk of loss involved in the pick-up of deposits/cash delivery shall be adequately covered by insurance, and the armored car/non-armored car to be used shall be provided, with at least two (2) armed guards and supervised by at least two (2) officers of the bank;

(4) The deposit/cash delivery transactions shall be booked in accordance with existing regulation;

(5) The strictest measure of safeguards, control and confidentiality will be adopted in implementing the services;

(6) A separate record/log book for each armored car/non-armored car shall be maintained by the bank which shall contain the information on the deposit pick-up/cash delivery activities of the armored car/non-armored car to be supported by “trip tickets” signed by a responsible officer of the bank; and

(7) Records and/or such other reports that may be required of the bank from time

to time shall be made available for examination/inspection by the authorized representative(s) of the appropriate department of the SES during on-site examination;

c. If the use of the non-armored car under Item “b(2)(a)” becomes regular, the bank shall engage an armored car to take its place. Regularity shall mean daily (i.e., regular banking days) or periodic (e.g., every 15th or end of the month) servicing of a valued client within a three (3) month period.

d. Pick-up of deposits/cash delivery services to be made on days other than the bank’s regular banking days shall be allowed without prior BSP authority: *Provided*, That a notarized certification (using the format shown in *Appendix 82*) stating that the bank complies with all the conditions set forth in Sec. X266, jointly signed by the bank’s executive vice president or officer of equivalent rank and by the bank’s compliance officer, shall be submitted to the appropriate department of the SES (CPCD I, CPCD II, ISD I and ISD II) at least five (5) banking days before bank’s intended starting date of its deposit pick-up/cash delivery services beyond regular banking hours and days to clients.

e. If any of the above conditions is not met, the BSP may suspend the deposit pick up/cash delivery operations of the bank without prejudice to the imposition of sanctions under Section 37 of R.A. No. 7653.

(As amended by Circular No. 614 dated 14 July 2008)

§ X266.1 Operation of armored cars

Except for Item “b(2)” of this Section, banks shall use armored cars to afford security in collection and/or delivering cash or securities and other valuables from or to their clients, branch or extension offices or the BSP, provided such armored cars are not operated as mobile banks.

Sec. 1266 (Reserved)

Sec. 2266 (Reserved)

Sec. 3266 Qualifying Criteria Before a Rural/Cooperative Bank Engages in Deposit Pick-up Services

a. An RB/Coop Bank desiring to undertake deposit pick-up service must meet the following criteria:

(1) Its total resources should not be less than P100.0 million and its net assets should be at least P10.0 million or the minimum capital required under Subsec. X111.1, whichever is higher;

(2) It should not be deficient in its network-to-risk assets ratio;

(3) Its past due loan ratio should not be more than fifteen percent (15%);

(4) It has no past due obligations with the BSP or with any government FI;

(5) It should have continuous profitable operations; and

(6) It must show adherence to law, and BSP rules and regulations.

b. An RB/Coop Bank that meets the above criteria shall submit for evaluation, the following justifications on the need for the RB/Coop Bank and its branches to undertake such service which should contain, among other things, the following:

(1) the names of clients/companies to be serviced, estimated daily average deposit and distance/proximity of client from applicant bank;

(2) the names and number of banks, branches, if any, in the area where depositor is situated;

(3) the arrangement in writing between the bank and the client desiring to avail of the service, which arrangement shall define and specify the respective responsibilities of the parties; and

(4) such other information pertinent to the application.

Sec. X267 Automated Teller Machines

a. *Off-site ATMs.* Banks may establish off-site ATMs, subject to the following conditions:

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- (1) Banks shall submit a report to the appropriate department of the SES on ATMs which they establish;
- (2) The off-site ATMs shall be installed only in centers of activity like shopping centers, supermarkets, hospitals, university campuses: *Provided*, That adequate internal control and security measures shall be adopted and submitted to the BSP; and
- (3) Only banks which have shown general compliance with laws, rules and regulations shall be allowed to open off-site ATMs.
 - b. *Mobile ATMs*. Banks may also establish mobile ATMs, subject to the following conditions:
 - (1) The mobile ATMs should be allowed to visit only centers of activity as mentioned in Item a(2) above and should confine their itinerary to Metro Manila until further notice;
 - (2) The bank shall secure insurance coverage or adopt a self-insurance scheme to protect itself against losses of whatever nature in its mobile ATM operations; and
 - (3) The bank shall notify the appropriate department of the SES of the actual date a mobile ATM becomes operational and when no longer in operation.

J. BORROWINGS FROM THE
 BANGKO SENTRAL

Sec. X268 Rediscounting Line. The following guidelines shall govern the operations of the BSP’s rediscounting line by banking institutions.

(Circular No. 515 dated 06 March 2006)

§ X268.1 Credit Information System
 The rediscounting availments of all eligible banks shall be drawn against their rediscounting line which is based on their total credit score under the Credit Information System (CRIS). The scoring system under the CRIS shall consider the following factors:

- a. Management and risk management system;
 - (1) Management; and
 - (2) Risk management system;
- b. Financial indicators;
 - (1) Capital adequacy;
 - (2) Asset quality;
 - (3) Profitability; and
 - (4) Liquidity;
- c. Credit experience;
 - (1) Compliance with the terms and conditions of the loan and other BSP regulations; and
 - (2) Credit experience with other FIs.

The CRIS guidelines shall be reviewed on a regular basis by a Credit Committee created under MB Resolution No. 832 dated 02 July 2008, to maximize its effectiveness in managing the credit risk of the BSP.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X268.2 Application procedure
 Banks applying for a rediscounting line shall submit their application in the prescribed form (RL Form No. 1) to the DLC, BSP- Manila or the appropriate Regional Loans and Credit Division (RLCD), BSP Regional Offices in Cebu, Davao and La Union, together with the following documents:

- a. Board resolution duly signed by the board of directors of the applicant bank, authorizing the bank to apply for a rediscounting line with the BSP and designating the officer/s of the bank to sign and endorse documents pertaining thereto, together with their specimen signature/s;
- b. Articles of incorporation (for new applicants only) and amendments, if any;
- c. Organizational chart (for new applicants only);
- d. List of board of directors and principal officers (top three (3) executive officers) and their education/training and work experience;

e. Annual report/AFS for the immediately preceding year; and

f. For banks applying for microfinance facility, a copy of the Manual of Operations pertaining to microfinance operations.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X268.3 Approval/Renewal of the line

The approval/renewal of the line shall be subject to the bank's full compliance with the following requirements:

a. Minimum capital prescribed under Subsecs. X111.1 and X111.2 based on the latest available report of the SDC;

b. CAR as required under Sec. X115 or X116, as applicable based on the latest available report of the SDC except those with capital build-up program approved by the Monetary Board;

c. Required reserves against deposit liabilities/deposit substitutes for two (2) consecutive weeks based on the latest available report of the SDC;

d. NPL ratio lower or equal to the industry average adjusted upward by two percent (2%) based on the latest available report of the SDC, or the allowable NPL ratio approved by the Monetary Board;

e. Positive DDA balance with the BSP as of date of application;

f. No past due obligations or collateral deficiencies on account of matured notes/unremitted collections/missing collaterals or ineligible papers with the BSP as of date of application;

g. A CAMELS composite rating of "3" or higher based on the latest general examination of the appropriate department of the SES; and

h. The ratio of past due direct and indirect loans to DOSRI to the aggregate past due loans should not be more than five percent (5%) based on latest available report of the SDC.

Banks applying for the microfinance facility shall also comply with the following

requirements based on the latest available report of the SES:

a. At least one (1) year track record in microfinance;

b. At least 500 active microfinance borrowers;

c. A portfolio at risk ratio (PAR) of not more than five percent (5%);

d. The ratio of total collections (excluding prepayments) during the preceding twelve (12)-month period to total collectibles (past due microfinance loans beginning, plus matured loans/principal amortizations due for the period) should not be less than ninety-five percent (95%); and

e. Officers and staff responsible for microcredit operations shall have completed: (1) a training course on microfinance; and (2) at least one (1) year experience in microlending activities.

The approval, disapproval, extension, amendment, cancellation, suspension and restoration of the rediscounting line shall be delegated to a Credit Committee composed of the Assistant Governor/Managing Director (MD) of the Monetary Operations Sub-Sector, MD of the Regional Monetary Affairs Sub-Sector, and the Director of the DLC.

Banks with approved rediscounting line shall, thereafter, submit the following:

a. Rediscounting line agreement (RL Form No. 3);

b. Surety agreement executed by the controlling interest [single stockholder, natural or juridical owning more than fifty percent (50%) of the voting stocks] obligating himself/itself jointly and severally with the bank to pay promptly on maturity, or when due, the BSP, its successors or assigns, the bank's outstanding obligations with the BSP (RL Form No. 4); and

c. For new applicant RBs/Coop Banks with designated custodian bank, a tripartite depository agreement (RLF Form No. 2) by and among the applicant

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bank, designated depository bank (duly concurred by its Head Office) and the DLC or RLCD.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X268.4 **Amount of line.** The amount of rediscounting line shall be based on the total credit score obtained by the applicant bank computed under the CRIS guidelines which ranges from fifty percent (50%) to 200% of adjusted net worth.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X268.5 **Term of the line.** The term of the line shall be for one (1) year unless sooner cancelled, suspended, amended or extended by the Credit Committee. The line is renewable annually upon submission of application one (1) month before the expiry of said line. Should there be special circumstances or information from the SES that may adversely affect the credit worthiness of a bank in the intervening period, the rediscounting line of the bank concerned will be reviewed immediately and acted upon accordingly.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§§ X268.6 - X268.9 (Reserved)

§ X268.10 **Constitutional prohibition**
 The following regulations shall govern the implementation of Section 16, Article XI of the Constitution, which reads as follows:
 “Sec. 16. No loan, guaranty, or other form of financial accommodation for any business purpose may be granted, directly or indirectly, by any government-owned or controlled corporation or financial institution to the President, the Vice-President, the Members of the Cabinet, the Congress, the Supreme Court, and the Constitutional Commissions, the

Ombudsman, or to any firm or entity in which they have controlling interest, during their tenure.”

a. Definition
 (1) The terms “loan”, “guaranty” or “other form of financial accommodation” as used in these regulations shall refer to transactions which involve the grant, renewal or extension to a bank by the BSP of any loan, advance, discount, rediscount or credit in any form whatsoever.

(2) *Controlling interest in a bank.* Any of the government officials mentioned in Section 16, Article XI of the Constitution (the “Official”) shall be deemed to have a controlling interest in a bank if he owns more than fifty percent (50%) of the voting stock of such bank. For the purpose of this Subsection, the stockholdings of the spouse or minor child of the Official shall be included in determining if he has such controlling interest.

b. *Certification required.* A bank applying for a loan or financial accommodation with the BSP shall submit, together with the application, a certification under oath of the President of the bank that the bank and/or any of its stockholders do not fall within the prohibition under Section 16, Article XI of the Constitution.

Sec. X269 **Rediscounting Availments**
 Banks shall enroll in the Electronic Rediscounting System (eRS) by executing and submitting to the DLC or the RLCD a Notarized Electronic Rediscounting System Participation Agreement before availing of the rediscounting facility of the BSP.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.1 **Eligibility requirements at the time of availment.** Banks availing of the BSP rediscounting facility must have at the time of availment :

- a. A positive DDA balance;
- b. No past due obligations; and
- c. No collateral deficiencies on account of matured notes, unremitted collections, missing collaterals or ineligible papers.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.2 Eligible papers and collaterals. The BSP shall accept credit instruments covering all economic activities except the following:

- a. Interbank loans;
- b. Extended/Restructured loans;
- c. Past due loans;
- d. Unsecured loans;
- e. Personal consumption loans;
- f. Loans to NBFIs; and
- g. Loans funded from other borrowings, e.g. government FIs or multi-lateral agencies.

Credit instruments offered as collateral shall be subject to the eligibility requirements provided under Section 82 of R.A. No. 7653.

a. *Commercial credits* - Bills, acceptances, promissory notes (PNs) and other credit instruments with maturities of not more than 180 days from the date of their rediscount, discount or acquisition by the BSP and resulting from transactions related to:

(1) the importation, exportation, purchase or sale of readily saleable goods and products, or their transportation within the Philippines; or

(2) the storing of non-perishable goods and products which are duly insured and deposited, under conditions assuring their preservation, in authorized bonded warehouses or in other places approved by the Monetary Board.

Credit instruments acquired under commercial credits shall be secured either by:

	Type of Collateral	Collateral Value
(1)	Duly notarized assignment of export or domestic letters of credit confirmed purchase order sales contract, quedans	Shall equal or exceed the outstanding balance of the credit instrument
(2)	Trust Receipts	Shall equal or exceed the outstanding balance of the credit instrument
(3)	Duly registered mortgage on real property	70% of the appraised value shall equal or exceed the outstanding balance of the PN
(4)	Credit guarantees/ sureties issued by the IGLF, the Small Business Corporation (SBC) and the national government	Shall equal or exceed the outstanding balance of the PN
(5)	Credit guarantees/ sureties issued by the Credit Surety Fund (CSF) jointly established by cooperatives and local government units	Shall equal or exceed 80% of the outstanding balance of the PN

b. *Production credits* - Bills, acceptances, PNs and other credit instruments having maturities of not more than 360 days from the date of their rediscount, discount or acquisition by the BSP and resulting from transactions related to the production or processing of agricultural, animal, mineral, industrial and other products.

Credit instruments acquired under production credits shall be secured by a duly registered mortgage on real property seventy percent (70%) of the appraised value of which equals or exceeds the outstanding balance of the PN.

c. *Other credits* - Special credit instruments not otherwise rediscountable under the immediately preceding Items “a” and “b” such as, but not limited to,

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microfinance, housing, services, agricultural loans with long gestation period and other eligible economic activities with maturity of not more than ten (10) years from date of their rediscount, discount or acquisition of the BSP.

Credit instruments acquired under other credits shall be secured by:

	Type of Collateral	Collateral Value
(1)	Duly registered mortgage on real property	70% of the appraised value shall equal or exceed the outstanding balance of the PN
(2)	Duly notarized assignment of receivables from service contract	Shall equal or exceed the outstanding balance of the PN
(3)	Credit guarantees/sureties issued by the IGLF the SBC and the national government	Shall equal or exceed the outstanding balance of the PN
(4)	Credit guarantees/sureties issued by the CSF jointly established by cooperatives and LGUs	Shall equal or exceed 80% of the outstanding balance of the PN
(5)	Other collaterals acceptable to the BSP e.g., government securities	Current market value shall equal or exceed the outstanding balance of the PN

For housing loans, the lien or mortgage shall cover the property being financed.

Unsecured loans may be accepted for rediscounting provided they are:

- a. Microfinance loans; or
- b. Loans secured by a duly registered mortgage on real property of the bank, seventy percent (70%) of the appraised value of which equals or exceeds the outstanding balance of the unsecured PN and other collaterals acceptable to the BSP, e.g., government securities.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.3 *Loan availment procedure*

Banks availing of the rediscounting facility shall submit their loan applications electronically to the BSP using their eRS registered computers.

Upon receipt of the confirmation of loan approval:

a. Banks shall execute the PNs with Trust Receipt Agreement and Deed of Assignment (PNTRADA) in favor of the BSP (RL Form No. 7 for peso and RL Form No. 8 for dollar and yen), signed by the authorized officer/s of the bank.

b. Banks authorized to hold-in trust the rediscounted credit instruments and underlying collaterals shall segregate and keep the same together with the PNTRADA at a secured place within their premises under the custody of the accountable officer.

c. Banks with custodianship agreements shall deposit with their respective depositary/custodian bank the rediscounted credit instruments, underlying collaterals and the PNTRADA not later than the next banking day from date of loan grant, receipt of which shall be acknowledged by the depositary bank in the List of Rediscounted Loans.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.4 *Loan value.* The loan value of all eligible papers shall be eighty percent (80%) of the outstanding balance of the borrower’s credit instrument.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.5 *Maturities.* The maturities of BSP rediscounts are as follows:

Type of Credit	Maturity Date
a. Commercial Credits	
(1) Export Packing	180 days from date of rediscount but shall not go beyond the maturity date of the credit instrument
(2) Trading	
(3) Transport	
(4) Quedan	

Type of Credit	Maturity Date
(5) Export Bills (EBs)	
At sight	fifteen (15) days from purchase date
Usance EB	term of draft but not to exceed sixty (60) days from shipment date
b. Production Credits	360 days from date of rediscount but shall not go beyond the maturity date of the PN
c. Other Credits	maximum term of ten (10) years but shall not go beyond the maturity date of the credit instrument

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.6 Rediscount/Lending rates and liquidated damages. The rediscount rates for peso, dollar and yen loans shall be as follows:

	Based on the applicable T-Bill rates from the last auction of the preceding week as follows:	
a. Peso Rediscount	Loan Maturity	Applicable T-Bill Rates
	90 days or less	91 days
	91-180 days	182 days
	181-360 days	364 day
	> 360 days	364-day subject to re-pricing every year
b. Dollar/ Yen Rediscounts	Based on their respective London Inter-Bank Offered Rate (LIBOR) for the last working day of the immediately preceding month	

The lending rates of banks on their rediscounted papers shall not be subject to any ceiling but the spreads of the banks on these papers shall be closely monitored by the BSP to ensure that these are consistent with the prevailing market rates.

Past due BSP loans and unpaid matured notes shall be levied liquidated damages equivalent to five percent (5%) per annum.
 (Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.7 Release of proceeds. The proceeds of the rediscounting availment shall be released as follows:

a. *Peso rediscounts* - automatically credited to the borrowing bank’s DDA or its depository bank’s DDA with the BSP on the same day for loan application submitted to the BSP before 4:30 pm during banking days.

b. *Dollar/Yen rediscounts* - released through the Treasury Department, BSP, for credit to the designated foreign correspondent bank of the borrowing bank as follows:

(1) Same banking day credit for dollar loan application submitted to the BSP before 11:00 am, during banking days; and

(2) Following banking day credit for yen loan application submitted to the BSP before 11:00 am, during banking days.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.8 Repayments/Remittance of collections/arrearages. The following shall govern repayments, remittance of collections, and arrearages:

a. Repayments -

(1) Peso rediscounts

(a) The loan value of the rediscounted credit instruments or the amortization plus interest due thereon shall automatically be debited against the borrower bank’s DDA with the BSP at maturity/amortization due date.

(b) For microfinance loans, the DDA of the borrower bank shall automatically be debited on the amortization due date for the loan value of the amortization plus interest due thereon. For loans with daily, weekly or semi-monthly amortizations, the borrower bank’s DDA shall automatically be debited on the last amortization due date of said month for the total loan value of the amortizations for the month plus interest due thereon.

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(c) The loan value of unremitted collections and of the rediscounted credit instruments and/or underlying collaterals found to be missing, ineligible or with exceptions not corrected within fifteen (15) days from receipt of notice plus interest due thereon shall automatically be debited against the borrowers bank’s DDA with the BSP.

(2) Dollar/Yen rediscounts
 Dollar and yen loans shall be repaid in the same currency under which they were released. For this purpose, the bank shall submit online to the BSP its payment instruction one (1) day before the payment date or the maturity date of the loan corresponding to the remittance instruction to its designated correspondent bank. The payment shall cover total collections or payment of maturing loans plus interest due thereon. In case of short payment, the bank’s DDA with the BSP shall automatically be debited for the peso equivalent of the shortage.

If the foreign currency denominated loans are not settled on maturity date, the borrowing bank’s DDA with the BSP shall automatically be debited for the peso equivalent of the matured obligation plus accrued interest due thereon, using the applicable BSP selling rate for dollar or yen at the date of debit.

b. Remittance of collections -
 (1) Total collections received by the borrowing bank before the maturity date of the rediscounted credit instruments shall be remitted not later than five (5) banking days following the date of receipt of collections to the following:

Peso Rediscounts	BSP
Dollar Rediscounts	Federal Reserve Bank of New York for the account of BSP
Yen Rediscounts	Bank of Tokyo for the account of BSP

(i) *Total collections* shall refer to the loan value of the principal amount collected from rediscounted credit instruments plus accrued interest due on the outstanding balance of subject credit instruments.

(ii) For banks with BSP loans under past due status, total collections shall include all collections on principal, interest and penalty.

(iii) In the case of negotiated EBs, the receipt by the borrowing bank of payment from its correspondent bank either through actual remittance or credit advice; or through book entries made by the borrowing bank charging its correspondent bank before receipt of advice shall constitute receipt of collection.

(2) The bank shall ensure that adequate records are maintained in its Head Office on the collections made by the branches.

c. Arrearages. The BSP shall undertake all necessary collection measures allowed by law, such as foreclosure proceedings against banks with past due loans.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.9 Prohibited transactions
 The following shall not be allowed without prior approval of the BSP:

a. Substitution of rediscounted credit instruments and underlying collateral real properties on outstanding loans with the BSP;

b. Renewal of rediscounted credit instruments without remitting payment while the loan released against the rediscounted credit instrument is still outstanding with the BSP; and

c. Acceptance of properties as payment (*dacion en pago*).

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.10 Monitoring and credit examination of borrowing banks. The DLC and the RLCD shall conduct an off-site analysis of the BSP’s credit exposure to borrowing banks and a risk-based on-site examination that will focus primarily on determining whether there is a “high”, “moderate” or “low” probability of default on the settlement of the banks’ rediscounting obligations with the BSP.
(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.11 Penalties/sanctions. The following penalties and sanctions shall be imposed on the erring bank and/or the bank’s authorized/certifying officers.

a. For serious offense

Aggregate Amount/ Penalty Range	Minimum	Maximum
P50K or less	P83	P250
Above P50K to 100K	250	750
Above P100K to P500K	1,000	3,000
Above P500K to 1M	2,500	7,500
Above P1M	5,000	15,000

b. For less serious offense

P50K or less	P63	P188
Above P50K to 100K	188	563
Above P100K to P500K	750	2,250
Above P500K to 1M	1,875	5,625
Above P1M	3,750	11,250

c. Minor offense

P50K or less	P42	P125
Above P50K to 100K	125	375
Above P100K to P500K	500	1,500
Above P500K to 1M	1,250	3,750
Above P1M	2,500	7,500

The following definition of terms shall apply:

(1) *Offense* shall refer to a violation that connotes infraction of the terms and conditions of the loans granted by the BSP and of the applicable laws, rules and regulations, BSP credit policies and non-compliance with the BSP/Monetary Board directives.

(2) *Serious offense* – This refers to acts or omissions constituting violation of the terms and conditions of the loans granted to the bank and of the applicable laws, rules and regulations that constitute unsafe and unsound banking practices; and the misrepresentation of facts and warranties committed by the bank/individual(s) that influenced the approval and amount of the rediscounting loan/line granted, such as:

(a) Rediscounting of ineligible papers, fictitious borrowers/loans/titles or submission of spurious documents;

(b) Absence of or failure to execute vital loan documents;

(c) Failure or delay in the deposit of rediscounted loan documents with the custodian bank, except those caused by fortuitous events; and

(d) Failure to remit to the BSP collections on principal of the rediscounted loans within the prescribed period of five (5) banking days from date of actual receipt of collections except collections from microfinance loans.

(3) *Less serious offense* – This refers to acts or omissions constituting violation of the terms and conditions of the loans granted to the bank and of the applicable laws, rules and regulations that constitute unsafe and unsound banking practices but not falling under the serious offense category; however, the deficiencies noted should be addressed immediately to mitigate the credit risk of the BSP.

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(4) *Minor offense* – This includes acts or omissions which are procedural in nature, not intentional, may not result in any loss or damage to or any significant increase in the risk of the creditor BSP and can be resolved immediately during the normal course of business. For purposes of classifying the nature of the offense, this includes all other acts or omissions which cannot be classified under serious or less serious offenses.

(5) *Aggregate amount* - shall refer to the aggregate amount of the following under the current examination:

(a) *Under serious offense:*

Total loan value of the following:

(i) Rediscounted ineligible papers with serious offense, fictitious loans or spurious loan documents as determined by the BSP or OSI;

(ii) Undeposited vital loan documents and underlying collaterals as of examination date; and

(iii) Collections on principal of rediscounted loans which were not remitted to the BSP within the prescribed period of five (5) banking days from date of receipt of collections.

(b) *Under less serious offense:*

Total loan value of rediscounted ineligible papers with less serious offense as determined by the BSP.

(c) *Under minor offense:*

Total loan value of rediscounted ineligible papers with minor offense as determined by the BSP.

(6) *Minimum penalty* – refers to the range of penalties to be imposed if the mitigating factor(s) outweigh the aggravating circumstances, to wit:

(a) The act or omission is not intentional or the bank acted in “good faith” when the error, deficiency, violation or the absence/lack of the required action were committed.

(b) The bank is willing to take immediate action or has started to rectify

the deficiencies/violations noted or undertakes to correct the deficiencies within fifteen (15) days from receipt of notice.

(c) The bank has voluntarily disclosed the offense/violation committed before it is discovered by the BSP or has remitted to the BSP the total amount due plus accrued interest.

(7) *Maximum penalty* – refers to the range of penalties to be imposed if the aggravating circumstances outweigh the mitigating factor(s), to wit:

(a) The act or omission carries with it the intention to commit or cover up a violation or to defraud the BSP.

(b) Commission or omission of a specific offense corrected in the past but found repeated in another transaction in subsequent examination.

(c). Additional interest charges on unpaid penalty.

An additional interest of twelve percent (12%) per annum shall be assessed on non-payment of the penalties, from date of demand until full settlement thereof.

The foregoing monetary penalties shall be without prejudice to the cancellation of the bank’s rediscounting line with the BSP and/or administrative and criminal sanctions that may be charged against its culpable officers.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

§ X269.12 Interlocking directorship/officership. Banks owned or managed by the same owners, stockholders, directors, officers or family/business group may also be suspended from availment of the rediscounting facility by the Credit Committee once the rediscounting line of any of the banks belonging to the same group is suspended, until such time that the suspension of the erring bank is lifted.

(Circular No. 515 dated 06 March 2006 as amended by Circular No. 630 dated 11 November 2008)

Sec. X270 Repurchase Agreements with the Bangko Sentral. Repo agreements with the BSP shall be governed by Sec. X601.

Sec. X271 Bangko Sentral Liquidity Window. The following guidelines shall govern the grant by the BSP of credit accommodations through a liquidity window to banks.

§ X271.1 Nature of liquidity window
The window shall meet the liquidity needs of the financial system under normal conditions and shall be distinct from overdrafts and emergency advances.

§ X271.2 Terms of credit
a. *Interest rate.* The rate of interest chargeable on availments under the liquidity window shall be the rate equivalent to the reference rate for ninety (90) days determined and announced by the BSP for floating rate loans, plus or minus a rate to be determined by the BSP on the basis of the prevailing monetary situation.

The additional or discount rate established for any given time shall be made public by the BSP and applied uniformly to all borrowers during that period.

The additional rate to be imposed over and above the reference rate shall not be less than two (2) percentage points, with the applicable additional rate to be determined by the BSP on the basis of the prevailing monetary situation.

b. *Security.* Any paper, irrespective of maturity, eligible under Section 82 of R.A. No. 7653.

c. *Loan values.* The loan values of the paper offered as collateral should be eighty percent (80%) of the amount still due outstanding on the paper offered as collateral.

d. *Repayment period.* The term of the credit accommodation shall not exceed seven (7) days.

§ X271.3 Limit. Availment by any bank under this facility shall not exceed ten percent (10%) of its net worth, as defined under Sec. X111 as of the end of the quarter preceding the date of application. In the case of branches of foreign banks, the quota shall be ten percent (10%) of the assigned capital as of the date of application. Additionally, a bank or a branch of a foreign bank may avail itself of this facility to the extent equivalent to a further five percent (5%) of its net worth, as defined under Sec. X111 or assigned capital, as the case may be, as of the end of the quarter preceding the date of availment. Any availment of the liquidity window shall fall within the unavailed basic rediscount ceiling of the bank or the branch of a foreign bank as the case may be.

Sec. X272 Emergency Loans or Advances to Banking Institutions. The emergency loan or advance to banking institutions is governed by the provisions of Sections 84 to 88 of R.A. No. 7653, otherwise known as The New Central Bank Act. The following guidelines shall govern the BSP's emergency loans and advances.

(Circular No. 517 dated 06 March 2006)

§ X272.1 Nature of emergency loans or advances. An emergency loan or advance is a credit facility that is intended to assist a bank experiencing serious liquidity problems arising from causes not attributable to, or beyond the control of, the bank management. The grant of such facility is discretionary upon the Monetary Board, and is intended only as a temporary remedial measure to help a solvent bank overcome serious liquidity problems. As provided under Sections 84 to 88 of R.A. No. 7653, no emergency loan or advance may be granted except on a fully secured basis and the Monetary Board may prescribe additional conditions, which the borrowing banks

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must satisfy in order to have access to the credit facility of the BSP.

(Circular No. 517 dated 06 March 2006)

§ X272.2 When an emergency loan or advance may be availed of. An emergency loan or advance may be granted:

a. In periods of national and/or local emergency or of imminent financial panic which directly threaten monetary and banking stability, i.e., situations involving bank runs, massive movements by depositors of their funds from certain banks to other banks, bank holidays and voluntary cessation of business, or when there are movements which endanger the economy, or when the international stability of the peso is threatened, or when there is an exchange crisis.

b. During normal periods for the purpose of assisting a bank in a precarious financial condition or under serious financial pressures brought about by unforeseen events or events which though foreseeable, cannot be prevented by the bank concerned.

Provided, That there is a concurrent vote of at least five (5) members of the Monetary Board and the latter has ascertained that the bank is not insolvent: *Provided, further*, That banks with positive CAR of not more than six percent (6%) based on adjusted books of accounts shall submit a Business Improvement Plan (BIP) acceptable to the BSP within six (6) months from date of advice by the appropriate department of the SES. For this purpose, the appropriate department of the SES shall warn the concerned banks that failure to submit the required BIP in accordance with the criteria of the appropriate department of the SES shall disqualify the bank from access to the BSP's emergency loan facility. Banks with zero to negative CAR should have an existing BSP-approved rehabilitation plan and on track with the Plan to be eligible to avail itself of emergency loan.

(Circular No. 517 dated 06 March 2006)

§ X272.3 Allowable amount of emergency loan or advance. The maximum amount of an emergency loan or advance shall be limited to the amount needed by the applicant bank to overcome the emergency or financial predicament but not to exceed the sum of fifty percent (50%) of its total deposits and deposit substitutes as of the last banking day of the month preceding the date of emergency loan application: *Provided*, That, in no case shall such maximum amount exceed the loan values of the collaterals submitted, as determined by the BSP.

The amount approved by the Monetary Board shall be released in tranches. The first tranche shall not exceed twenty-five percent (25%) of the total deposits and deposit substitutes of the bank as of the last banking day of the month preceding the date of emergency loan application and shall be released only after the submission of the collaterals and required documents under Subsecs. X272.4 and X272.5: *Provided, however*, That upon request of the applicant bank, the Monetary Board may authorize a first tranche in an amount greater than twenty-five percent (25%) of the bank's total deposits and deposit substitutes if the circumstances surrounding the emergency or financial predicament warrant the release of such greater amount and the same is adequately secured by first class collaterals.

Except as provided in Subsec. X272.7(d) hereof, the proceeds of the emergency loan or advance shall be utilized exclusively to service net withdrawals of deposits and deposit substitutes, i.e., amount of the bank's total withdrawals less total deposits.

The principal amount of the emergency loan or advance shall not exceed the difference between the highest level of the bank's deposit and deposit substitutes of the immediately preceding thirty (30)-day period from date of emergency loan application and the current level of deposits

and deposit substitutes as determined by the appropriate department of the SES.

(Circular No. 517 dated 06 March 2006)

§ X272.4 Application procedures

Banks applying for an emergency loan or advance shall submit an application (EL Form No. 1) with the appropriate department of the SES, copy furnished the DLC. During normal periods, the applicant-bank shall state the reasons for the proposed loan availment and other details showing the precarious financial condition or the serious financial pressures being experienced by the bank.

The bank shall submit together with the application, the following documents:

a. Certified Statement of Condition (under oath) as of the last banking day of the month preceding the date of emergency loan application.

b. A duly notarized secretary's certificate (EL Form No. 2) together with a resolution of the board of directors of the bank:

(1) Authorizing the availment by the bank of an emergency loan or advance from the BSP.

(2) Signifying the bank's commitment to comply with the guidelines set forth herein and the terms and conditions that may be imposed by the Monetary Board.

(3) Designating the chairman and the president or in their absence, any of the next two (2) highest officers, as duly authorized signatories for the emergency loan or advance application, promissory notes, and all undertakings. Designated authorized officers not lower than senior vice president, or equivalent position, may be authorized to execute all accessory documents for the emergency loan or advance.

(4) Authorizing the Bangko Sentral to evaluate other assets of the bank certified by its auditors to be good and available for collateral purposes should the grant of subsequent tranches be applied for.

After determining the eligibility of the applicant bank to avail of the emergency

loan or advance under Subsec. X272.2, the appropriate department of the SES shall prepare a memorandum to the Monetary Board stating among others, the following:

a. Validation of the eligibility of applicant bank.

b. Financial condition of applicant bank.

c. Volume of deposits and expected withdrawals of deposits.

d. Amount and terms of the loan.

e. Whenever applicable, circumstances that warrant the grant of the first tranche greater than twenty-five percent (25%) of the total deposits and deposit substitutes as provided by law.

The applicant bank shall submit to the DLC, prior to the release of the first tranche, the following documents together with the copy of the application:

a. Listing of assets that are good and available for collateral purposes as certified by the bank's duly appointed external auditor (EL Form No. 3).

b. Listing of collaterals in the prescribed formats (EL Form Nos. 4/4a/4b) as well as a 3.5" diskette containing the database, (in MS Excel format), together with the documents of title and/or evidences of ownership of the collaterals offered including the following documents:

(1) Appraisal reports of not more than one (1) year conducted by an independent appraiser acceptable to the BSP in accordance with BSP's terms of reference.

(2) Latest tax declarations.

(3) Current tax receipts, tax clearances and other documents needed for registration of mortgages and deeds of assignment.

(4) Current insurance policies covering improvements and official receipts of premium payments.

(5) Department of Agrarian Reform (DAR) certification that agricultural properties offered as collaterals are not covered by the Comprehensive Agrarian Reform Program (CARP).

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(6) Current original promissory notes of bank's borrowers duly endorsed in favor of the BSP.

(7) Special power of attorney or stockholder's resolution, when appropriate.

c. Notarized Deed of Undertaking executed by the above-mentioned officers of the bank to: (1) register with the Registry of Deeds all the covering legal documents before loan release at the expense of the bank and that, in the event the BSP agrees to release the proceeds of the loan before said documents are registered, the same shall be registered by the bank at its own expense; and (2) submit the documents needed to complete the requirements of the tranche not later than fifteen (15) days from release of the emergency loan or advance. (EL Form No. 5).

In case of failure by the bank to register the covering legal documents within fifteen (15) days from date of release of loan proceeds, the BSP shall register said documents for the account of the applicant bank, and all costs and expenses shall, at the option of BSP, be deducted from any subsequent availments of the bank or from its DDA or be added to its liability account with the BSP.

d. Notarized Joint and Several Undertaking executed by all the controlling stockholders [owning more than fifty percent (50%) of the voting stocks] of the bank and every person or a group of persons whose stockholdings are sufficient to elect at least one (1) director to indemnify and hold harmless from suit the BSP, its Monetary Board members, Governor, officers and personnel, and the conservator whose appointment the Monetary Board may find necessary at any time. The Department of Finance or stockholder of record will sign the joint and several undertaking if the government is a stockholder (EL Form No. 6).

e. Notarized Deed of Undertaking with waiver of secrecy of deposits and

commitment by the directors, principal officers with the equivalent rank of vice-president and up, all the controlling stockholders, and every person or group of persons and their respective spouses, whose stockholdings are sufficient to elect at least one (1) director not to withdraw any portion of their deposits and deposit substitutes as of date of release of the first tranche while the emergency loan remains outstanding. In the event of a compelling reason to withdraw, payment of the emergency loan or advance in an amount equivalent to the deposits to be withdrawn shall be made (EL Form No. 7).

f. Notarized Surety Agreement executed by the controlling stockholders and every person or group of persons whose stockholdings are sufficient to elect at least one (1) director obligating themselves jointly and severally with the bank to pay promptly on maturity, or when due, the Bangko Sentral, its successors or assigns, all promissory notes covering the emergency loan or advance. (The Government, its subdivisions, instrumentalities and agencies, and government entities are exempted from this requirement.) (EL Form No. 8)

g. Notarized Deed of Negative Pledge executed by the controlling stockholders and every person or group of persons whose stockholdings are sufficient to elect at least one (1) director, together with their respective certificates of stock. (The Government, its subdivisions, instrumentalities and agencies, and government entities are exempted from this requirement.) (EL Form No. 9).

h. Certification under oath executed by the chairman and president of the bank that the bank or any of its stockholders does not fall within the prohibition under Section 16, Article XI of the Constitution (EL Form No. 10).

Prior to the release of the subsequent tranches, the bank shall submit to DLC the

documents of title and/or evidences of ownership of the collaterals, together with the other documents referred to in Item “b” of the immediately preceding paragraph of this Subsection for the amount being applied for release and, where necessary, such other acceptable security which, in the judgment of the Monetary Board, would be adequate to supplement the assets tendered to collateralize the subsequent tranche.

Banks availing of emergency loan or advance may decline to submit either item “f” or “g” or both, but the loan values specified in Items “b” and “d” of Subsec. X272.6 shall be reduced.

(Circular No. 517 dated 06 March 2006)

§ X272.5 Other documentary requirements. Before release of any emergency loan or advance, the applicant bank shall, aside from the documentary requirements already mentioned above, submit such other requirements/ documentation as may be required by the DLC, e.g., duly Notarized Promissory Note

in Favor of the BSP (EL Form No. 11/11a), Notarized Deed of Real Estate Mortgage (EL Form No. 12-Bank Assets/12a-Stockholder/ Third Party Assets), Notarized Deed of Pledge (EL Form No.13- Individual/Corporation/13a-Stockholders’/Third Party Assets), Notarized Deed of Assignment of Mortgages (EL Form No. 14), Hold-out on Foreign Currency Deposits with BSP (EL Form No. 15) and Joint Affidavit executed by the bank’s chairman and president and the Individual Mortgagor (EL Form No. 16- Individual) or the Corporate-Mortgagor’s chairman and president (EL Form 16a- Corporation).

(Circular No. 517 dated 06 March 2006)

§ X272.6 Acceptable collaterals and their corresponding loan values. All availments of the emergency loan or advance shall be secured by first class collaterals, i.e., assets and securities which have relatively stable and clearly definable value and/or greater liquidity and free from lien and encumbrances, to the extent of their applicable loan values, as follows:

ACCEPTABLE COLLATERALS	With Surety Agreement and Negative Pledge	With Surety Pledge but no Negative Pledge	With Negative Pledge but no Surety Agreement	No Surety Agreement and no Negative Pledge
a. Government securities - based on the current market value of the securities	80%	80%	80%	80%
b. Unencumbered real estate properties in the name of the bank 1. Initial rate - based on the appraised value (AV) of the land and insured improvements 2. Final rate - based on the AV of the land and insured improvements determined by a licensed and independent appraiser acceptable to the BSP in accordance with BSP's terms of reference	40% 70%	35% 65%	30% 60%	25% 55%
c. Hold-outs on foreign currency deposits with the BSP - based on current market value	80%	80%	80%	80%
d. Mortgage credits (with remaining maturities of not more than 360 days) 1. Initial rate - based on the AV of the property securing the loan evidenced by negotiable instruments or the outstanding balance of such loan whichever is lower 2. Final rate - based on the AV of the property securing the loan evidenced by negotiable instruments as determined by a licensed and independent appraiser acceptable to the BSP in accordance with BSP's terms of reference or the outstanding balanceof such loan whichever is lower.	40% of AV or 50% of the outstanding balance 70% of AV or 80% of the outstanding balance	35% of AV or 40% of the outstanding balance 65% of AV or 75% of the outstanding balance	30% of AV or 40% of the outstanding balance 60% of AV or 70% of the outstanding balance	25% of AV or 40% of the outstanding balance 55% of AV or 65% of the outstanding balance
e. Commercial papers ("AAA")	80%	80%	80%	80%

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Assets of stockholders and of other third parties, the latter acceptable only in instances provided under the last paragraph of Subsec. X272.8, are acceptable as collaterals for emergency loan with corresponding loan values, as follows:

ACCEPTABLE COLLATERALS	With Surety Agreement and Negative Pledge	With Surety Pledge but no Negative Pledge	With Negative Pledge but no Surety Agreement	No Surety Agreement and no Negative Pledge
I. Asset of stockholders to secure new loan releases if the bank has no available first class collaterals:				
a. Unencumbered real estate				
1. Initial rate - based on the AV of the land and insured improvements	35%	30%	25%	20%
2. Final rate - based on the AV of the land and insured improvements determined by a licensed and independent appraiser acceptable to the BSP in accordance with BSP's terms of reference	60%	55%	50%	45%
b. Government Securities	80%	80%	80%	80%
c. Commercial papers ("AAA")	80%	80%	80%	80%
II. Assets of other third parties to cover deficiency arising from unpaid interest and liquidated damages, reduction in loan value of existing colaterals and conversion of overdrafts into emergency loan:				
a. Unencumbered real estate				
1. Initial rate - based on the AV of the land and insured improvements	30%	25%	20%	15%
2. Final rate - based on the AV of the land and insured improvements determined by a licensed and independent appraiser acceptable to the BSP in accordance with BSP's terms of reference	50%	45%	40%	35%
b. Government securities	80%	80%	80%	80%
c. Commercial papers ("AAA")	80%	80%	80%	80%

Other types of assets may be acceptable as collateral for emergency loan as the Monetary Board may approve.

The initial valuation rate shall apply in case the appraisal reports of independent appraiser acceptable to the BSP for real estate collaterals are not available or not in accordance with BSP’s terms of reference or the collaterals themselves are with rectifiable minor deficiencies as determined by DLC, but will be adjusted upon compliance with the foregoing requirements.

All collateralization expenses, such as registration fees, documentary stamps, etc., shall be borne by the applicant bank.

(Circular No. 517 dated 06 March 2006)

§ X272.7 **Manner and conditions of release.** The manner and conditions of release of emergency loan or advance shall be as follows:

a. The grant of emergency loan or advance shall bear the concurrent vote of at least five (5) members of the Monetary Board.

b. The emergency loan or advance shall have a ninety (90)-day availability period from date of Monetary Board approval, non-renewable, non-extensible. Request for extension or renewal shall be treated as new loan application to be evaluated by the appropriate department of the SES if qualified under Subsec. X272.2.

c. The amount approved by the Monetary Board may be disbursed in one (1) or more releases as dictated by the needs of the bank and availability of first class collateral.

d. The proceeds of the emergency loan or advance shall be applied first to the advance interest, and then to any outstanding overdrawings that may have

been incurred by the bank in its demand deposit with the BSP.

e. The bank shall submit to the DLC a board resolution confirming every receipt of proceeds of emergency loan or advance. Likewise, the bank shall submit a board resolution confirming the undertakings executed by the officers under Subsec. X272.4.

(Circular No. 517 dated 06 March 2006)

§ X272.8 Interest rates, liquidated damages, and penalties. The interest rate that shall be charged on emergency loan or advance shall be based on the BSP lending rate plus two percent (2%) per annum. Interest shall be collected in advance from the borrowing bank.

An additional five percent (5%) per annum shall be imposed as liquidated damages on the past due emergency loan or advance.

A penalty of one-tenth of one percent (1/10th of 1%) per day of delay on unremitted/delayed remittance of collections received by the bank from promissory notes covering the assigned mortgage credits or the proceeds of sale from assigned/mortgaged real estate properties commencing on the day following the deadline prescribed in Subsec. X272.11 shall be imposed on the erring bank.

Any shortfall in collateral due to unpaid accrued interest, liquidated damages, reduction in loan value of existing collaterals and conversion of overdraft into emergency loan may be covered by third party assets after the assets of the bank have been exhausted.

A Joint Affidavit (EL Form No. 16/16a) between the bank's chairman and president and the corporate-mortgagor's chairman and president or the individual mortgagor to be signed and notarized in the BSP shall be submitted in support of the mortgage documents. The signing

shall be photographed as well as recorded in video tape.

(Circular No. 517 dated 06 March 2006)

§ X272.9 General terms and conditions. A bank with an outstanding emergency loan or advance shall comply with the following conditions:

a. The bank shall not, without the prior authorization of the Monetary Board, expand its outstanding loans or investments as of the date of application for emergency loan, except for investment in government securities.

b. The bank shall not declare cash dividends.

c. The bank shall not grant new loans to DOSRI or to affiliates and subsidiaries.

d. The bank shall accept the BSP designated Comptroller to be assisted by examiners recommended by the appropriate department of the SES and the DLC to monitor the operations of the bank under the Terms of Reference as determined by the Monetary Board.

e. The bank shall not be allowed to avail of the BSP rediscounting facility.

f. The bank shall comply with any other terms and conditions that may be imposed by the Monetary Board.

(Circular No. 517 dated 06 March 2006)

§ X272.10 Maturity/Conditions for renewals. The term of any emergency loan or advance shall not exceed 180 days including renewals.

Any request for renewal of an emergency loan or advance shall be treated as a new loan and shall be considered only upon the bank's compliance with the following:

a. All the requirements of the previous tranche/s;

b. Remittance of collections/proceeds of sales under Subsec. X272.11;

c. Payment of advance interest;

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d. Submission of a duly notarized promissory note in favor of the Bangko Sentral; and

e. Other requirements that may be imposed by the Monetary Board on the borrowing bank.

The Director of the DLC shall approve the renewal of an emergency loan or advance.

(Circular No. 517 dated 06 March 2006)

§ X272.11 Remittance of collections/ repayments/arrearages. The following shall govern remittance of collections, sale proceeds, repayments and arrearages:

a. Total collections received on loan accounts assigned to the BSP shall be held in trust for, and remitted to the BSP not later than five (5) banking days following the date of receipt in payment of the bank’s outstanding emergency loan or advance, net of refund of interests, if any.

b. Proceeds from the sale of properties assigned/mortgaged to the BSP shall be held in trust for, and remitted to the BSP not later than five (5) banking days following the date of receipt in payment of the bank’s outstanding emergency loan or advance, net of refund of interests, if any.

For banks with emergency loan or advance under current status, “total collections” and “proceeds from the sale” shall pertain to the loan value of the mortgaged credits and properties.

For banks with emergency loan or advance under past due status:

(1) Total collections shall pertain to total collections from the mortgaged credits, i.e. principal plus interest and penalty.

(2) Proceeds from the sale shall pertain to net proceeds from the sale of assigned/ mortgaged properties or the total BSP claims pertaining to the sold properties, i.e., loan value plus interest and penalty, whichever is higher.

The bank shall ensure that adequate records on the collections and sale made by the branches are maintained in its Head Office.

c. Increases in the deposit level of the borrowing bank equivalent to the recovery of the net withdrawal of deposits, shall be remitted to the BSP or debited against the bank’s demand deposit account in payment of the emergency loan or advance, net of refund of interest.

d. The loan value of the collaterals of the emergency loan or advance, i.e., mortgaged credits and properties, discovered by the BSP falling short of its criteria of first class collaterals, shall be debited against the bank’s DDA with the BSP, net of refund of interest.

e. The BSP shall undertake all necessary collection measures allowed by law, such as foreclosure proceedings against banks, whether operating or closed, with past due loans.

In the event the bank fails to comply with any of the foregoing, the DLC shall notify, copy furnished the bank, the borrowers of the assignment of their outstanding loans to the BSP and advise them to remit payment directly to the BSP (EL Form 17).

(Circular No. 517 dated 06 March 2006)

§ X272.12 Default. The following shall constitute events of default which shall render the emergency loan or advance due and demandable and shall be sufficient cause for the BSP to stop further releases of funds, without prejudice to any action the BSP may decide to take in accordance with R.A. No. 7653:

a. Insolvency or bankruptcy of the bank.

b. Appointment of a receiver for the bank.

c. The bank’s property and business is taken possession of or its business suspended or closed by the lawfully

authorized governmental agency or authority.

d. Violation of any of the terms and conditions of all loan and collateral documents.

e. Non-compliance with the undertakings executed by the borrowing bank.

(Circular No. 517 dated 06 March 2006)

Sec. X273 Facility to Committed Credit Line Issuers. The following guidelines shall govern the grant by the BSP of special credit accommodations to banks which establish committed credit line in favor of corporations proposing to issue commercial paper.

§ X273.1 Nature of special credit accommodations. The BSP may extend a loan to any bank which on its own or as a member of a group of banks, provides a committed credit line facility to a corporation proposing to issue commercial paper.

§ X273.2 Conditions to access. A bank applying for a loan pursuant to the provisions of this Section shall submit to the BSP documents showing that it has extended a committed credit line to a commercial paper issuer and that such issuer has availed itself of said credit line.

§ X273.3 Terms of credit

a. *Interest rate.* The rate of interest chargeable on the availment of this credit facility shall be that which is equivalent to eighty percent (80%) of the total of interest and fees received by the bank from the issuer, net of provision for gross receipts tax paid by the bank on such income.

b. *Security.* The promissory note executed by the commercial paper issuer in favor of the bank for the amount drawn against the committed credit line shall be the security for this credit facility.

c. *Loan values.* The loan value of paper offered as collateral shall be eighty percent (80%) of the amount still due and outstanding on the paper offered as collateral.

d. *Repayment period.* The term of the credit accommodation may not exceed ninety (90) days and shall be non-renewable.

§ X273.4 Ceiling. If availment of this credit facility is outside the other rediscount ceiling of the bank, it shall be limited to the extent of fifteen percent (15%) of the net worth of the bank.

Sec. X274 (Reserved)

Sec. 1274 (Reserved)

Sec. 2274 Countryside Financial Institutions Enhancement Program (CFIEP) for Thrift Banks. The CFIEP shall be implemented under the terms of reference indicated in *Appendix 16*.

Sec. 3274 Countryside Financial Institutions Enhancement Program for Rural and Cooperative Banks. The CFIEP shall be implemented under the terms of reference indicated in *Appendix 16*.

Sec. X275 Recording and Reporting of Borrowings. The bank’s liability for papers discounted and/or rediscounted “with recourse” with the BSP and/or other financial institutions shall be recorded and shown as “*Bills Payable*” in all reports submitted to the BSP.

The loans and discounts, bills purchased, acceptances and other accounts affected by such discounting and/or rediscounting transactions shall remain as part of the bank’s loan portfolio. A footnote in the financial statement shall indicate the outstanding balances of the discounted and/or rediscounted loans.

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Sec. X276 Rediscounting Window for Low-Cost Housing as Defined by the Housing and Urban Development Coordinating Council (HUDCC). The rules and regulations governing the rediscounting of housing loan papers of qualified banks under the low-cost housing program of the HUDCC are shown in *Appendix 40*.

Sec. X277 (Reserved)

Sec. 1277 Rediscounting Window Available to All Universal and Commercial Banks for the Purpose of Providing Liquidity Assistance to Investment Houses. The following implementing guidelines shall govern the new rediscount window available to all UBs and KBs under Section 82(c) of R.A. No. 7653, for the purpose of providing liquidity assistance to IH:

- a. Criteria for eligibility
 - (1) Eligible papers

Promissory note of the UB/KB executed in favor of the BSP and secured by a Deed of Pledge or Assignment of unencumbered/unhypothecated commercial papers with a rating of triple “A” and double “A”.
 - (2) Loan limit

Availments against this facility shall be charged against the rediscount ceiling of the borrowing bank (100% of net worth) as of the end of the quarter immediately preceding the date of application.
- b. Terms and conditions
 - (1) The loan shall be assessed an annual interest rate equivalent to one percent (1%) below the weighted average of the ninety-one (91)-day Treasury Bill rate for the last auction of the immediately preceding month.
 - (2) The loan shall have a term of 180 days from date of availment.
 - (3) The loan value shall be ninety percent (90%) of the face value of the commercial paper.

- (4) The BSP will automatically debit the demand deposit account of the UB/KB upon maturity of the rediscounting loan.
- (5) The chief executive officer of the bank or his equivalent must certify that the rediscounted commercial paper is still outstanding as of the time of assignment.
- (6) The UBs/KBs shall comply with the documentary requirements of the DLC.
 - c. Duration

Qualified UBs/KBs may avail of this facility until December 2000.

Sec. 2277 Rediscounting Window Available to TBs for the Purpose of Providing Liquidity Assistance to Support and Promote Microfinance Programs. TBs availing of rediscounting facility for purposes of providing liquidity assistance to support and promote microfinance programs shall comply with the guidelines under Sec. 3277, except for the requirement of a custodian bank under Subsec. 3277.4a(6).

Sec. 3277 Rediscounting Window Available to Rural and Cooperative Banks for the Purpose of Providing Liquidity Assistance to Support and Promote Microfinance Programs. The following guidelines shall govern the rediscounting facility available to RBs and Coop Banks for the purpose of providing liquidity assistance to support and promote microfinance programs.

- § 3277.1 *Eligibility requirements*
 - a. *Eligible borrowers* . RBs and Coop Banks with at least one (1) year track record in microfinance and at least 500 active borrowers, ratio of past due microfinance loans to total outstanding microfinance loans of not more than five percent (5%) as of end of the month preceding loan application and collection ratio of not less than ninety-five percent (95%) based on ratio of total collections (excluding prepayments) during the preceding twelve

(12)-month period to the sum of past due microfinance loans at the beginning of said period and amount of matured loans including principal amortizations during the same twelve (12) - month period.

b. *Eligible papers.* Promissory Note (PN) of the RB or Coop Bank executed in favor of the BSP and secured by duly endorsed PN of microcredit borrowers.

c. *Manual of operations.* Written policies on microfinance operations must be set forth and documented in a policy manual duly approved by the bank's board of directors. The manual should include the following minimum features:

(1) Scope of microfinance activities and the types of services or products offered to clients;

(2) Authorities and responsibilities of:

(a) Board of directors;

(b) Management;

(c) Chief executive officer or its equivalent;

(d) Credit officers; and

(e) Other officers involved in the microfinance operations;

(3) Policies and procedures covering microfinance program/project;

(4) Client evaluation process which should involve at least: client orientation, pre-application, credit investigation, and loan application process;

(5) Loan processing, documentation and release of proceeds;

(6) Accounts monitoring system;

(7) Accounts delinquency management;

(8) Management Information System;

(9) Accounting policies, systems and procedures; and

(10) Internal controls and audit policies, systems and procedures.

d. A copy of System of Reviewing Asset Accounts and Setting Up of Adequate Valuation Reserves submitted.

e. *Staff training and experience.* Key officers and staff responsible for microcredit operations must have a minimum

experience of one (1) year and have completed a training course in microlending activities.

f. *Prescribed financial ratios and regulations.* Applicant bank must comply with the following financial ratios and regulations:

(1) Minimum capital prescribed under Subsec. X111.1;

(2) Risk-based capital ratio of not less than ten percent (10%);

(3) Reserves against deposit liabilities prescribed under existing regulations;

(4) Ratio of past due direct and indirect loans to DOSRI to the bank's aggregate past due loans of not more than ten percent (10%);

(5) Loans-to-deposits ratio of at least seventy-five percent (75%);

(6) Reports required to be submitted to the various departments and/or offices of the BSP;

(7) CAMELS rating of "3" or better; and

(8) Ratio of past due loans to total loan portfolio of not more than the industry average for RBs as of the preceding quarter.

§ 3277. 2 Microcredit line

a. Application for MCR Line shall be filed with the DLC, BSP at its head office in Manila or the appropriate BSP Regional Loans and Credit Unit (BSPRLCU). The term of the MCR line shall not exceed one (1) year from the date it is granted. The line may be renewed for another year upon submission of an application at least two (2) months before expiry, subject to full compliance with the prescribed eligibility requirements and the credit review by the DLC.

b. Total availments against the facility, which shall be charged against the approved MCR line, shall form part of the total authorized rediscount ceiling of the borrowing bank. The rediscount ceiling for microfinance shall be equivalent to one hundred percent (100%) of the bank's net

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worth, net of valuation reserves and other capital adjustments as recommended by the appropriate department of the SES as of the last regular examination of the bank.

c. The proceeds of availment or drawdown against the approved MCR line shall be credited to the account of the RB or Coop Bank maintained with the depository bank or with BSP. The RB or Coop Bank shall be notified in writing/electronically of the credit of such account on the same banking day that the proceeds are released.

§ 3277. 3 Terms and conditions

a. The loan value shall be equivalent to eighty percent (80%) of the outstanding balance of the microfinance borrower's PN.

b. The RB or Coop Bank's loan from the BSP shall have a term of not more than 360 days. The maturity date of the microfinance borrower's PN shall in no case be beyond the maturity date of the RB or Coop Bank's PN.

c. The loan shall be assessed an annual interest rate equivalent to the 91-day Treasury Bill rate for the last auction date of the preceding month.

d. The demand deposit account of the RB or Coop Bank will be automatically debited at the maturity date of the BSP loan for the full amount due excluding collections from microfinance borrowers which were credited to the Special Savings Account of the BSP with the borrowing bank.

e. Any responsible officer who is holding a position that is not lower than manager or equivalent rank must, upon approval by the bank's Board, endorse the rediscounted PNs and certify that the same are still outstanding as of the time of application.

f. Collections made on amortizations due and maturing PNs shall be remitted to the DLC not later than two (2) banking days following the date of receipt of collections by the Head Office/branches located

within Metro Manila and not later than four (4) banking days following the date of receipt of collections by the Head Office/branches located outside Metro Manila as provided under Subsec. 3277.5.

g. A penalty of five percent (5%) per annum shall be imposed on matured and unpaid bank PNs in favor of the BSP.

Full compliance at all times with the eligibility requirements as prescribed under Subsec. 3277.1.

§ 3277.4 Documentary requirements

a. *Application for MCR Line.* RBs or Coop Banks applying for an MCR line shall submit a letter of application to DLC or the appropriate BSPRLCU accompanied by the following documents:

(1) Certificate of the Secretary (original) and copy of the resolution duly signed by the board of directors of the applicant bank, authorizing the bank to apply for an MCR line with the BSP and designating the officer authorized under Subsec. 3277.3(e) to endorse the PNs and sign all papers pertaining to the rediscounting line in the prescribed format.

(2) Certification of the applicant bank that it has complied with the financial and regulatory ratios, conditions, and reportorial requirements prescribed under the eligibility requirements for rediscounting as provided under Subsec. 3277.1.

(3) *Consolidated Financial Statements.* Statement of Condition as of the end of the month immediately preceding the date of application together with the corresponding Statement of Income and Expenses covering the results of operations for the last three (3) years.

(4) Report on required and available reserves covering the past two (2) consecutive weeks immediately preceding the date of application.

(5) Rediscounting Line Agreement executed by the CEO of the RB or Coop Bank.

(6) Notarized custodian agreement executed among the CEO of the RB or Coop Bank, the third party custodian and the BSP.

b. *Availment of MCR Line.* For availment of MCR line, the RB or Coop Bank shall submit the following documents:

- (1) Application for MCR Line Availment - original and one (1) copy in prescribed form duly accomplished and signed by the CEO of the applicant bank;
- (2) Rediscount Schedule (RS); and
- (3) Notarized PNs in favor of the BSP - original and two (2) copies.

§ 3277.5 Remittance of collections/payments/repayments. Collections made on amortizations due and maturing PNs shall be remitted to the DLC not later than two (2) banking days following the date of receipt of collections by the Head Office/branches located within Metro Manila and not later than four (4) banking days following the date of receipt of collections by the Head Office/branches located outside Metro Manila. As an alternative, collections may be deposited in a Special Savings Deposit Account (SSDA) which shall be maintained by the BSP with the borrower-bank and remitted to DLC or the appropriate BSPRLCU on the last banking day of every month. The SSDA shall earn interest of one percent (1%) lower than the 91-day Treasury Bill rate for the last auction date of the preceding month.

On due date of the PN, the RB or Coop Bank shall remit to the BSP the unpaid balance of such PN: *Provided*, That any amount credited to the SSDA shall be applied as payment of the PN in favor of BSP. The remittance shall be reported under DLC Form No. 5. The remittance to BSP shall be in the form of cash, demand draft, manager's check or based on authority issued by the bank to debit its

demand deposit account with BSP. Check payments and demand drafts shall be given value when cleared.

§ 3277.6 Reports required. A monthly report on microfinance transactions shall be submitted to DLC or the appropriate BSPRLCU within the deadline set in Appendix 6.

§ 3277.7 Accounts verification. The microcredit accounts rediscounted shall be subject to verification and confirmation by authorized DLC or the appropriate BSPRLCU representatives to determine their eligibility and acceptability for rediscounting.

§ 3277.8 Sanctions. Any misrepresentation and/or violation of the provisions of this Section shall subject the RB or Coop Bank and/or the erring directors/officers to any of the following sanctions:

a. *Erring RB or Coop Bank*

(1) Fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed Thirty thousand pesos (P30,000) a day for each violation;

(2) Suspension of rediscounting privileges or access to BSP credit facilities; and/or

(3) Reduction of rediscounting line.

b. *Erring directors/officers*

For violation of any of the provisions of this Section the following shall be imposed against the directors and officers of the bank:

(1) *1st offense* - a warning that a repetition of the same or similar offense shall subject the erring director/officer to monetary penalties and/or sanctions;

(2) *2nd offense* - a fine of P500 per day for each violation from the time the violation was committed up to the time it is corrected without prejudice, however, to the imposition of higher penalties; and

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(3) *3rd and subsequent offenses* - a fine of P5,000 per day from the time the violation was committed up to the time it is corrected without prejudice, however, to the imposition of higher penalties.

If any of the documentary requirements submitted by the bank as required under Subsec. 3277.4 is found to be false, a fine of P5,000 per day, from the time the certification was made up to the time the certification was found to be false, shall be imposed against the certifying officer.

Sec. X278 Enhanced Intraday Liquidity Facility. The ILF is a smoothening mechanism which is available to eligible participant banks in the Philippine Payments and Settlements System (PhilPaSS) to support their liquidity requirements and avoid payment gridlocks in PhilPaSS. The revised features of the enhanced intraday liquidity facility are in *Appendix 21-B*.

(As superseded by the MOA between the BSP, BTr, BAP and Money Market Association of the Philippines dated 25 March 2008)

Secs. X279 - X280 (Reserved)

K. OTHER BORROWINGS

Sec. X281 Borrowings from the Government. Except as may be authorized by existing statutes, no private bank shall, whether or not performing quasi-banking functions, borrow any fund or money from the Government and government entities, through the issuance or sale of its acceptances, notes or other evidences of debt.

§ X281.1 Exemption from reserve requirement. The following borrowings shall not be subject to the reserve requirements:

a. STDs and deposit substitutes of specialized government banks and

private banks arising from their lending operations under the special financing programs of the Government and/or international FIs; and

b. Funds held by participating financial institutions (PFIs) under the GSIS Housing Loan Programs: *Provided*, That the agreement between the GSIS and the conduit banks specify that such funds may be held by the conduit banks for a period of not more than seven (7) calendar days prior to their release to the borrower and prior to the remittance by the conduit banks of payments to the GSIS.

c. Borrowings by accredited FIs under the Wholesale Lending Program for SMEs of the SBGFC.

Sec. X282 Borrowings from Trust Departments or Investment Houses Funds borrowed by banks or non-bank financial intermediaries performing quasi-banking functions from trust departments or managed funds of banks or IHs are not considered as interbank borrowings and therefore are subject to the:

a. Reserve requirement on deposit substitutes;

b. Minimum fifteen (15)-day maturity period; and

c. Minimum trading lot rule.

Sec. X283 (Reserved)

Sec. 1283 (Reserved)

Sec. 2283 Mortgage/CHM Certificates of Thrift Banks. With prior approval of the Monetary Board, TBs may issue and deal in mortgage and CHM certificates. The rules and regulations governing the issuance of said certificates is shown in *Appendix 17*.

Sec. 3283 (Reserved)

Sec. X284 (Reserved)

Sec. 1284 (Reserved)

Sec. 2284 (Reserved)

Sec. 3284 Borrowings of Rural Banks/ Cooperative Banks. RBs and Coop Banks may rediscount papers with any bank.

The obligations of RBs arising from availments of rediscounting facilities and other borrowings from the BSP, will be considered as deposit substitutes. However, with the qualification in the Tax Code of 1997 that the term *public* means borrowing from twenty (20) or more individual or corporate lenders at any one (1) time, it is clear that the obligations of

the RBs to BSP, which are entered in their books as “*Bills Payable-BSP*,” do not presently fall under the category of deposit substitutes.

Secs. X285 - X298 (Reserved)

Sec. X299 General Provision on Sanctions. Any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R.A. No. 7653 on banks, their directors and/or officers are shown in *Appendix 67*.

PART THREE

LOANS, INVESTMENTS AND SPECIAL CREDITS

Section X301 Lending Policies. It shall be the responsibility of the board of directors of a bank to formulate written policies on the extension of credit and risk diversification and to set the guidelines for evaluation of risk assets. Well-defined lending policies and sound lending practices are essential if a bank is to perform its lending function effectively and minimize the risk inherent in any extension of credit. The responsibility should be approached in a way that will provide assurance to the public, the stockholders and supervisory authorities that timely and adequate action will be taken to maintain the quality of the loan portfolio and other risk assets.

§ X301.1 (Reserved)

§ 1301.1 Rules and regulations to govern the development and implementation of banks’ internal credit risk rating systems

a. *Statement of policy.* It is the policy of the BSP to ensure that banks’ credit risk management processes are sound and effective. Towards this end, the following rules and regulations that shall govern the use of banks’ internal credit risk rating systems are hereby prescribed.

b. *Scope.* UBs and KBs must have in place a formal internal credit risk rating system for the underwriting and ongoing administration, initially, of corporate credit exposures. The internal credit risk rating system must be appropriate to a bank’s nature, complexity and scale of activities.

Initially and until such time that the Monetary Board prescribes otherwise, corporate credit exposure shall be defined as exposures to companies with assets of more than P15.0 million.

c. *Minimum operational requirements*

(1) A bank’s internal credit risk rating system must be duly approved by the board of directors (or equivalent management committee in the case of Philippine branches of foreign banks). The board should exercise appropriate oversight over the system in a consistent manner.

(2) A bank’s internal credit risk rating system must be operationally integrated into its internal credit risk management process. Its output should accordingly be an integral part of the process of evaluation and review of prospective and existing exposures, respectively. Credit underwriting criteria should become progressively more conservative as credit rating declines. All credit decisions must be supported by a written assessment. In the context of ongoing review, provisioning standards must be rationally tied to the internal credit rating system.

(3) Banks must have an independent credit risk control function that is responsible for the design, implementation and performance of their credit risk rating systems. The credit risk control function must be independent from the business functions responsible for originating exposures.

(4) Internal ratings must be an essential part of annual or more frequent reporting of banks’ changing portfolio quality over time to the board of directors (or equivalent management committee in the case of Philippine branches of foreign banks). Reporting must include portfolio breakdown by credit grade, major portfolio segments breakdown by credit grade, and analysis of realized default rates against expectations.

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(5) Internal and external audit must also review at least annually the bank's internal rating system and its operations, including the operations of the credit risk control function.

d. *Minimum technical standards*

(1) Banks must fully document their internal credit risk rating systems. The documentation must address topics such as coverage, rating criteria, responsibilities of parties involved in the ratings process, definition of what constitutes a rating exception, parties that have authority to approve exceptions, frequency of rating reviews, and management oversight of the rating process. A bank must document the rationale for its choice of rating criteria and must be able to provide analyses demonstrating that the rating criteria and procedures are likely to result in ratings that meaningfully differentiate risk.

(2) The rating criteria should reflect an established blend of qualitative and quantitative factors. Transparent ranges need to be set for the quantitative standards based on experience. The quantitative criteria must include leverage and cash flow standards.

(3) Banks must maintain rating histories on individual accounts, which shall include the ratings of the account, the dates the ratings were assigned, the methodology and key data used to derive the ratings and the analyst who gave the ratings. The identity of borrowers and facilities that default, and the timing and circumstances of such defaults, must be retained. Banks must also retain data on the realized default rates associated with rating grades and ratings migration in order to eventually track the predictive power of the risk rating system.

(4) A bank's internal credit risk rating system must have a minimum of 6 rating grades for unclassified accounts and 4 rating grades for classified accounts, which must be assigned in a consistent manner over time. Moreover, the rating system must

result in a meaningful distribution of exposures across grades with no excessive concentrations on a single rating grade.

(5) The ratings output of banks' internal credit risk rating systems must contain both a borrower and a facility dimension. The borrower dimension should focus on factors that affect the inherent credit quality of each borrower. The facility dimension, on the other hand, should focus on security/collateral arrangements and other similar risk influencing factors of each transaction.

(6) In rating corporate borrowers with total assets of more than P15.0 million, only financial statements audited by external auditors that are accredited/selected by the SEC, the BSP or the Insurance Commission (IC) shall be used starting with the annual financial statements ending 31 December 2006.

e. *Definition of default and loss.* In connection with the data collection exercise prescribed under this Subsection, banks shall be guided by the following standard definitions of default and loss:

(1) *Definition of default*

A default is considered to have occurred in the following cases:

(a) If a credit obligation is considered non-performing under existing rules and regulations;

(b) If a borrower/obligor has sought or has been placed in bankruptcy, has been found insolvent, or has ceased operations in the case of businesses;

(c) If the bank sells a credit obligation at a material credit-related loss, i.e., excluding gains and losses due to interest rate movements. Banks' board-approved internal policies that govern the use of their internal rating systems must specifically define when a material credit-related loss occurs; and

(d) If a credit obligation of a borrower/obligor is considered to be in default, all credit obligations of the borrower/obligor with the same bank shall also be considered to be in default.

(2) *Definition of loss*

Loss, for purposes of accumulating data on loss in the event of default, refers to economic loss. It must therefore include discount effects, as well as direct and indirect costs associated with collecting on the credit obligation. Banks' board-approved internal policies that govern the use of their internal rating systems must include specific policies and procedures that should be followed in the determination of economic loss.

f. *Timetable for implementation*

(1) Banks must submit an implementation plan to the appropriate department of the SES no later than 31 July 2004. A monetary penalty of P10,000 per day shall be imposed for delay until such plan is submitted.

(2) A fully documented internal credit risk rating system, duly approved by the board of directors, must be submitted to the BSP not later than 31 December 2004. Upon submission of the system, all prospective and existing corporate accounts must immediately be evaluated and monitored according to such system. A monetary penalty of P10,000 per day shall be imposed for delay until this requirement is complied with.

(As amended by Circular No. 585 dated 15 October 2007 and 531 dated 17 May 2006)

§ 2301.1 (Reserved)

§ 3301.1 (Reserved)

§§ X301.2 – X301.5 (Reserved)

§ X301.6 Large exposures and credit risk concentrations. The following guidelines shall govern managing large exposures and credit risk concentrations in line with the objective of strengthening risk management in the banking system.

a. *General principles*

(1) A bank can be exposed to various forms of credit risk concentration which if

not properly managed may cause significant losses that could threaten its financial strength and undermine public confidence in the bank.

(2) Credit risk concentrations may arise from excessive exposures to individual counterparties, groups of related counterparties and groups of counterparties with similar characteristics (e.g., counterparties in specific geographical locations, economic or industry sectors).

(3) Diversification of risk is essential in banking. Many past bank failures have been due to credit risk concentrations of some kind. It is essential for banks to prevent undue credit risk concentrations from excessive exposures to particular counterparties, industries, economic sectors, regions or countries.

(4) While concentration of credit risks are inherent in banking and cannot be totally eliminated, they can be limited and reduced by adopting proper risk control and diversification strategies. Safeguarding against credit risk concentrations should form an important component of a bank's risk management system.

(5) The board of directors of a bank shall be responsible for establishing and monitoring compliance with policies governing large exposures and credit risk concentrations of the bank. The board should review these policies regularly (at least annually) to ensure that they remain adequate and appropriate for the bank. Subsequent changes to the established policies must be approved by the board.

(6) The policy on large exposures and credit risk concentrations shall, at a minimum, cover the following:

(a) Exposure limits that are reasonable in relation to capital and resources for –

(i) Various types of borrowers/ counterparties (e.g., government, banks and other FIs, corporate and individual borrowers);

(ii) A group of related borrowers/ counterparties;

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- (iii) Individual industry sectors;
- (iv) Individual countries; and
- (v) Various types of investments.

(b) The circumstances in which the above limits can be exceeded and the party authorized to approve such excesses, e.g., the bank's board of directors or credit committee with delegated authority from the board.

(c) The delegation of credit authority within the bank for approving large exposures;

(d) The procedures for identifying, reviewing, managing and reporting large exposures of the bank;

(e) The definition of exposure. Banks should take into account the nature of their business and the complexity of their products. In any case, a bank's exposures to a counterparty should include its on and off-balance sheet exposures and indirect exposures; and

(f) The criteria to be used for identifying a group of related persons;

(7) The board and senior management of a bank should ensure that:

(a) Adequate systems and controls are in place to identify, measure, monitor and report large exposures and credit risk concentrations of the bank in a timely manner; and

(b) Large exposures of the bank are kept under regular review. "*Large exposures*" shall refer to exposures to a counterparty or a group of related counterparties equal or greater than five percent (5%) of bank's qualifying capital as defined under Section X116.

(8) A bank should, where appropriate, conduct stress testing and scenario analysis of its large exposures to assess the impact of changes in market conditions or key risk factors (e.g. economic cycles, interest rate, liquidity conditions or other market movements) on its profile and earnings.

(9) It is expected that banks would generally observe a lower internal single borrower's limit than the prescribed limit

of twenty-five percent (25%) as a matter of sound practice.

b. Monitoring of large exposures/ credit risk concentrations

(1) Banks should have a central liability record (preferably based on automated system) for each loan exposure. Banks should be able to monitor such exposures against prescribed and internal limits on a daily basis.

(2) Every bank should have adequate management information and reporting systems that enable management to identify credit risk concentrations within the asset portfolio of the bank or of the group (including subsidiaries and overseas branches) on a timely basis. If a concentration does exist, banks should reduce it in accordance with their prescribed policies. Large exposures shall be subject to more intensive monitoring.

(3) Banks should ensure that their internal or external auditors conduct at least an annual review of the quality of large exposures and controls to safeguard against credit risk concentrations. Their review should ascertain whether:

(a) The bank's relevant policies, limits and procedures are complied with; and

(b) The existing policies and controls remain adequate and appropriate for the bank's business.

(4) Management should take prompt corrective action to address concerns and exceptions raised.

(5) There should also be an independent compliance function to ensure that all relevant internal and prescribed requirements and limits are complied with. Breaches of prescribed requirements and deviations from established policies and limits should be reported to senior management in a timely manner.

c. Unsafe and unsound practice

Non-observance of the principles and the requirements of Items "a" and "b" above may be a ground for a finding of unsafe

and unsound practice under Section 56 of the General Banking Law of 2000 (*Appendix 48*) and may be subject to appropriate sanction as may be determined by the Monetary Board.

d. *Notification requirements*

A bank must inform BSP immediately when it has concerns that its large exposures or credit risk concentrations have the potential to impact materially upon its capital adequacy, along with proposed measures to address these concerns.

e. *Reporting*

Bank's records on monitoring of large exposures shall be made available to the BSP examiners for verification at any given time. When warranted, the BSP may impose additional reporting requirements on bank in relation to its large exposures and credit risk concentrations.

f. *Sanction*

Any failure or delay in complying with the requirements under Items "d" and "e" of this Subsection shall be subject to penalty applicable to those involving major reports.

Sec. X302 Loan Portfolio and Other Risk Assets Review System. To ensure that timely and adequate management action is taken to maintain the quality of the loan portfolio and other risk assets and that adequate loss reserves are set up and maintained at a level sufficient to absorb the loss inherent in the loan portfolio and other risk assets, each bank shall establish a system of identifying and monitoring existing or potential problem loans and other risk assets and of evaluating credit policies vis-à-vis prevailing circumstances and emerging portfolio trends. Management must also recognize that loss reserve is a stabilizing factor and that failure to account appropriately for losses or make adequate provisions for estimated future losses may result in misrepresentation of the bank's financial condition.

The system of identifying and monitoring problem loans and other risk assets and setting up of allowances for probable losses shall include, but is not limited to, the guidelines mentioned in *Appendix 18*.

(As amended by Circular Nos. 622 dated 16 September 2008, 603 dated 03 March 2008 and 520 dated 20 March 2006)

§ X302.1 Provisions for losses; booking

The board of directors of banks are responsible for ensuring that their institutions have controls in place to determine the allowance for probable losses on loans, other credit accommodations, advances and other assets consistent with the institutions' stated policies and procedures, generally accepted accounting principles (GAAP), the BSP rules and regulations and the safe and sound banking practices. The board of directors, in fulfilling this responsibility, shall require management to develop and maintain an appropriate, systematic and uniformly applied process consistent and in compliance with existing BSP rules and regulations to determine the amount of reserves for bad debts or doubtful accounts or other contingencies.

The specific allowance for probable losses for classified loans and other risk assets and the general loan loss provision as required in *Appendix 18* shall be set up immediately.

§ X302.2 Sanctions. Non-compliance with the requirement to book valuation reserves required under the preceding Subsection shall be a ground for the imposition of any or all of the following sanctions:

a. Denial of the request for authority to establish new banking offices regardless of type or category;

b. Denial of access to BSP credit facilities except as may be allowed under Section 84 of R. A. No. 7653; and

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c. Fine of P10,000 a day for UBs and KBs, P5,000 for TBs and P500 for RBs/Coop Banks, counted as follows:

(1) from the date the bank has been informed that the recommendation of the appropriate department of the SES has been confirmed by the Monetary Board up to the date that said recommended valuation reserves had been actually booked, in the case of allowance for probable losses for loans and other risk assets classified as substandard unsecured, doubtful and loss as required by the BSP; and

(2) from the dates prescribed under this Section up to the date of the actual booking in cases of the two percent (2%) general provision for probable losses, the twenty-five percent (25%) allowance for probable losses on secured loans classified as substandard, and the five percent (5%) allowance for probable losses on loans especially mentioned.

A. LOANS IN GENERAL

Sec. X303 Credit Exposure Limits to a Single Borrower

a. Consistent with national interest, the total amount of loans, credit accommodations and guarantees that may be extended by a bank to any person, partnership, association, corporation or other entity shall at no time exceed twenty five percent (25%) of the net worth of such bank. The basis for determining compliance with the single borrower’s limit (SBL) is the total credit commitment of the bank to or on behalf of the borrower.

b. The total amount of loans, credit accommodations and guarantees prescribed in the first paragraph may be increased by an additional ten percent (10%) of the net worth of such bank: *Provided*, That the additional liabilities are adequately secured by trust receipts, shipping documents, warehouse receipts or other similar documents transferring or

securing title covering readily marketable, non-perishable goods which must be fully covered by insurance.

c. The above prescribed ceilings shall include: (1) the direct liability of the maker or acceptor of paper discounted with or sold to such bank and the liability of a general endorser, drawer or guarantor who obtains a loan or other credit accommodation from or discounts paper with or sells papers to such bank; (2) in the case of an individual who owns or controls a majority interest in a corporation, partnership, association or any other entity, the liabilities of said entities to such bank; (3) in the case of a corporation, all liabilities to such bank of all subsidiaries in which such corporation owns or controls a majority interest; and (4) in the case of a partnership, association or other entity, the liabilities of the members thereof to such bank.

d. Even if a parent corporation, partnership, association, entity or an individual who owns or controls a majority interest in such entities has no liability to the bank, the liabilities of subsidiary corporations or members of the partnership, association, entity or such individual shall be combined under certain circumstances, including but not limited to any of the following situations: (1) the parent corporation, partnership, association, entity or individual guarantees the repayment of the liabilities; (2) the liabilities were incurred for the accommodation of the parent corporation or another subsidiary or of the partnership or association or entity or such individual; or (3) the subsidiaries though separate entities operate merely as departments or divisions of a single entity.

e. For purposes of this Section, loans, other credit accommodations and guarantees shall exclude: (1) loans and other credit accommodations secured by obligations of the BSP or of the Philippine Government; (2) loans and other credit

accommodations fully guaranteed by the government as to the payment of principal and interest; (3) loans and other credit accommodations secured by U.S. Treasury Notes and other securities issued by central governments and central banks of foreign countries with the highest credit quality given by any two (2) internationally accepted rating agencies; (4) loans and other credit accommodations to the extent covered by the hold-out on or assignment of, deposits maintained in the lending bank and held in the Philippines; (5) loans, credit accommodations and acceptances under letters of credit to the extent covered by margin deposits; and (6) other loans or credit accommodations which the Monetary Board may from time to time specify as non-risk items.

f. The wholesale lending activities of government banks to participating financial institutions (PFIs) for relending to end-user borrowers shall at no time exceed a separate limit of thirty-five percent (35%) of net worth, subject to the following guidelines: (1) it shall apply only to loans granted to PFIs on a wholesale basis for on-lending to end-user borrowers; (2) it shall apply only to loan programs funded by multilateral, international or local development agencies, organizations or institutions especially designed for wholesale lending activities of government banks; (3) the end-user borrowers of the PFIs shall be subject to the twenty-five percent (25%) SBL, not the increased ceiling of thirty-five percent (35%); and (4) government banks shall observe appropriate criteria for accrediting PFIs and for the grant/renewal of credit lines to accredited PFIs.

g. Loans and other credit accommodations as well as deposits maintained with, and usual guarantees by a bank to any other bank or non-bank entity, whether locally or abroad, shall be subject to the limits as herein prescribed.

Deposits of RBs/Coop Banks with government-owned or controlled financial institutions like the LBP and the DBP shall not be covered by the SBL imposed under R.A. No. 8791.

In municipalities and cities where there are no government banks, the deposits of RBs/Coop Banks in private banks in said areas shall not be subject to the SBL. Deposits in private banks located in other municipalities/cities shall be covered by the SBL.

The outstanding balance of the deposit in a private depository bank being used by the TBs/RBs/Coop Banks with authority to accept/create demand or current deposits, to fund checks cleared through the said private depository bank shall also be exempt from the SBL even if there is a government-owned or controlled financial institution in the area.

§ X303.1 Definition of terms. For purposes of this Section, the following definitions shall apply:

a. *Total credit commitment* shall include outstanding loans and other credit accommodations, deferred letters of credit less margin deposits, and guarantees. Except as specifically provided, total credit commitment shall be reckoned on credit risk-weighted basis consistent with existing regulations.

b. *Loans* shall refer to all the accounts under the loan portfolio of a bank as enumerated in the Manual of Accounts for Banks.

c. *Other credit accommodations* shall refer to credit and specific market risk exposures of banks arising from accommodations other than loans such as receivables (sales contract receivables, accounts receivables and other receivables), and debt securities booked as investments.

d. *Bank guarantee.* A bank guarantee is an irrevocable commitment of a bank binding itself to pay a sum of money in the

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event of non-performance of a contract by a third party. The guarantee is a commitment separate and distinct from the principal debt or contract.

e. *Net worth* shall mean the total of the unimpaired paid-in capital including paid-in surplus, retained earnings and undivided profit, net of unbooked valuation reserves and other adjustments as may be required by the BSP.

f. *Qualifying capital* shall mean capital under Sec. X116.

g. The term “*control of majority interest*” shall be synonymous to “controlling interest” and exists when the parent owns directly or indirectly through subsidiaries more than one half of the voting power of an enterprise unless, in exceptional circumstance, it can be clearly demonstrated that such ownership does not constitute control. Control of majority interest may also exist even when the parent owns one-half or less of the voting power of an enterprise when there is:

(1) Power over more than one-half of the voting rights by virtue of an agreement with other investors; or

(2) Power to govern the financial and operating policies of the enterprise under a statute or an agreement; or

(3) Power to appoint or remove the majority members of the board of directors or equivalent governing body; or

(4) Power to cast the majority votes at meetings of the board of directors or equivalent governing body; or

(5) Any other arrangement similar to any of the above.

h. *Subsidiary* shall refer to a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by its parent corporation.

i. *Credit risk transfer* shall refer to any arrangement that allows the bank to transfer the credit risk associated with its

loan or other credit accommodation to a third party.

j. *Readily marketable goods* shall mean articles of commerce, agriculture or industry of such uses as to make them the subject of constant dealings in ready markets with such frequent quotations as to make their prices easily and definitely ascertainable, or which lend themselves easily to disposal by sale at any time to pay the obligations secured by the said goods.

k. *Bill of exchange drawn in good faith against actually existing values* shall mean one (1) which is drawn by a seller on the purchaser for the purchase price of commodities sold. A bill of exchange, whether drawn against goods for exports or against goods to be sold locally, which is discounted or purchased by a bank is a bill drawn against existing values only when it is accompanied by shipping documents, warehouse receipts or other papers, securing title to the goods sold. However, bills of exchange drawn in good faith against actually existing values as defined in this paragraph, which are past due or the maturities of which have been extended, shall be considered as additional loans authorized under the second paragraph of this section and shall be subject to the ten percent (10%) limitation provided therein.

l. *Commercial or business paper actually owned by the person negotiating the same* shall mean a paper arising from an actual business transaction. A trade acceptance or promissory note actually owned by the person negotiating the same is a commercial or a business paper. However, if a bill is drawn against an agent or fictitious drawee, or if a promissory note is executed by an agent or fictitious drawee, neither is a commercial nor a business paper. Commercial or business papers actually owned and discounted by the person negotiating the same, which are

past due or the maturity of which have been extended, shall be considered as money borrowed and shall be subject to the limitation of twenty-five percent (25%) provided in the first paragraph of this Section: *Provided*, That commercial or business papers purchased by banks from SMEs which became past due or the maturities of which have been extended, shall be considered additional loan by the bank to the purchaser of goods or services from the SME and shall be entitled to an increased SBL equivalent to ten percent (10%) of the net worth of the concerned bank if the purchasers are companies with credit ratings of at least “AA-” or equivalent from a BSP-recognized rating agency.

§ X303.2 *Rediscounted papers included in loan limit.* The liabilities to the bank of borrowers whose papers were rediscounted by banks with the BSP shall not be deemed as having been extinguished by the rediscount, but shall be considered as still existing and shall be included in determining the SBL until such papers are paid by the borrowers.

§ X303.3 *Credit risk transfer.* Subject to prior approval of the BSP, loans and other credit accommodations covered by a legally effective credit risk transfer arrangement such as guarantee, letter of indemnity, standby letter of credit or credit derivative, may be excluded from the total credit commitment of the bank to a borrower in reckoning compliance with the SBL.

§ X303.4 *Exclusions from loan limit*
a. The discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper which are actually owned by the person, company, corporation or association negotiating the same;
b. Credit accommodations to finance the importation of rice and corn to the

extent of 100% of the net worth of the bank concerned shall be excluded in determining the SBL prescribed herein, subject to the following conditions:

(1) The importation shall be made in pursuance of a national policy duly enunciated by the National Government;

(2) The importation shall have been approved by the National Economic Development Authority (NEDA);

(3) The letter of credit shall specify that importation shall be made with certification from the National Food Authority (NFA), or the consular establishment of the Philippine government at the source of any such establishment of the Philippine government at the source of any such shipment to the effect that the commodity being imported is either rice or corn; and

(4) The related bills of lading shall specify in addition to the name of the importer concerned, that the NFA shall be the consignee of the shipment;

c. The portion of loans and other credit accommodations covered by the guarantee of IGLF;

d. The total liabilities of a commercial paper issuer for commercial paper held by a UB as a firm underwriter shall not be counted in determining compliance with the SBL within a period of 180 days from the acquisition of the commercial paper by the UB: *Provided*, That in no case shall such liabilities exceed five percent (5%) of the net worth of the UB beyond the normal applicable SBL;

e. The portion of loans and other credit accommodations covered by guarantees of international/regional institutions/multi-lateral FIs where the Philippine Government is a member/shareholder, such as the IFC and the ADB;

f. Loans and other credit accommodations or portion thereof, specifically provided for with valuation reserve: *Provided*, That the bank has no unbooked valuation reserves;

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g. Loans and other credit accommodations as a result of an underwriting or sub-underwriting agreement of debt securities outstanding for a period not exceeding thirty (30) calendar days;

h. Loans granted to foreign embassies. These loans are considered as loans to their respective central governments and as such shall be considered non-risk; and

i. Foreign securities lending under Sec. X531 and other domestic securities lending programs duly recognized by the BSP containing safeguards consistent with best international practices, to protect securities lenders' risk exposures.

(As amended by Circular Nos. 578 dated 17 August 2007 and 550 dated 17 November 2006)

§ X303.5 Sanctions. Violations of the provisions of this Section shall be subject to the following:

a. *Monetary penalties* - Fines of one-tenth of one percent (1/10 of 1%) of the excess over the ceiling but not to exceed P30,000.00 a day for each SBL violation shall be assessed on the bank to be reckoned from the date the excess started up to the date when such excess was eliminated: *Provided*, That a maximum fine of P500.00 a day for each violation shall be imposed against banks with total resources of less than P50.0 million at the time of granting of loan/credit accommodation.

b. *Other sanctions*

First Offense – Reprimand for the directors/officers who approved the credit availment which resulted in the excess with a warning that subsequent violations will be subject to more severe sanctions.

Subsequent offenses –

(1) Fine of P1,000.00 for directors/officers who approved the credit availment which resulted in the excess.

(2) Suspension of the bank's branching privileges and access to BSP rediscounting facilities until the excess is eliminated.

(3) Other penalties as the Monetary Board may impose depending on the gravity of the offense.

Transitory provision. Outstanding credit commitments of a bank as of 02 May 2004 which are within the ceiling prescribed under the regulations existing prior to said date but will exceed the limitations prescribed in this Section shall not be subject to penalty for a period of one (1) year or until said credit commitments become past due or are extended, renewed or restructured whichever comes later. Said credit commitments shall, however, be reported to the BSP within fifteen (15) banking days from 02 May 2004.

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§ X303.8 Limit for wholesale lending activities of government banks. There shall be a separate SBL of thirty-five percent (35%) of unimpaired capital and surplus for the wholesale lending activities of government banks to PFIs for relending to end-user borrowers, subject to the following guidelines:

a. Government banks' SBL of thirty-five percent (35%) of unimpaired capital and surplus shall apply only to loans granted to PFIs on a wholesale basis for on-lending to end-user borrowers;

b. The thirty-five percent (35%) SBL shall apply only to loan programs funded by multilateral, international or local developmental agencies, organizations or institutions specially designed for wholesale lending activities of government banks;

c. The end-user borrowers of the PFIs shall be subject to the twenty-five percent (25%) SBL, not to the increased ceiling of thirty-five percent (35%); and

d. Government banks shall observe the minimum criteria for accrediting PFIs and for the grant/renewal of credit lines to accredited PFIs as set forth in *Appendix 41*.

Sec. X304 Grant of Loans and Other Credit Accommodations. The following regulations shall be observed in the grant of loans and other credit accommodations.

§ X304.1 General guidelines. Consistent with safe and sound banking practices, a bank shall grant loans or other credit accommodations only in amounts and for the periods of time essential for the effective completion of the operation to be financed.

Before granting loans or other credit accommodations, a bank must ascertain that the borrower, co-maker, endorser, surety and/or guarantor, if applicable, is/are financially capable of fulfilling his/their commitments to the bank. For this purpose, a bank shall obtain adequate information on his/their credit standing and financial capacities.

In addition to the usual information sheet about the borrower, a bank shall require from the credit applicant the following:

- a. A copy of the latest ITR of the borrower and his co-maker, if applicable, duly stamped as received by the BIR;
- b. Except as otherwise provided by law and in other regulations, if the borrower is engaged in business, a copy of the borrower's latest financial statements as submitted for taxation purposes to the BIR; and
- c. A waiver of confidentiality of client information and/or an authority of the bank to conduct random verification with the BIR in order to establish authenticity of the ITR and accompanying financial statements submitted by the client.

The documents under Items "a" and "b" above shall be required to be submitted annually for as long as the loan and/or credit accommodation is outstanding. The consistency of the data/figures in said ITRs and financial statements shall also be checked and considered in the evaluation

of the financial capacity and creditworthiness of credit applicants. The waiver of confidentiality of client information and/or an authority of the bank to conduct random verification with the BIR need not be submitted annually since once submitted these documents remain valid unless revoked.

Should the document(s) submitted prove to be spurious or incorrect in any material detail, the bank may terminate any loan or other credit accommodation granted on the basis of said document(s) and shall have the right to demand immediate repayment or liquidation of the obligation. Moreover, the bank may seek redress from the court for any harm done by the borrower's submission of spurious documents.

The required submission of additional documents shall cover loans, other credit accommodations, and credit lines granted, restructured, renewed or extended after 02 November 2006 including any availment and/or re-availment against existing credit lines, except:

(1) Microfinance loans. This represents small loans granted to the basic sectors such as farmer-peasant, artisanal fisherfolk, workers in the formal and informal sector, migrant workers, indigenous peoples and cultural communities, women, differently-abled persons, senior citizens, victims of calamities and disasters, youth and students, children, and urban poor, as defined in the Social Reform and Poverty Alleviation Act of 1997 (R.A. No. 8425), and other loans granted to poor and low-income households for their microenterprises and small businesses. The maximum principal amount of microfinance loans shall not exceed P150,000 and may be amortized on a daily, weekly, semi-monthly or monthly basis, depending on the cash flow conditions of the borrowers. Said loans are usually unsecured, for relatively short

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periods of time (180 days) and often featuring joint and several guarantees of one (1) or more persons;

(2) Loans to registered Barangay Micro-Business Enterprises (BMBEs);

(3) Interbank loans;

(4) Loans secured by hold-outs on or assignment of deposits or other assets considered non-risk by the Monetary Board;

(5) Loans to individuals who are not required to file ITRs under BIR regulations, as follows:

(a) Individuals whose gross compensation income does not exceed their total personal and additional exemptions, or whose compensation income derived from one (1) employer does not exceed P60,000 and the income tax on which has been correctly withheld;

(b) Those whose income has been subjected to final withholding tax;

(c) Senior citizens not required to file a return pursuant to R.A. No. 7432, as amended by R.A. No. 9257, in relation to the provisions of the National Internal Revenue Code (NIRC) or the Tax Reform Act of 1997; and

(d) An individual who is exempt from income tax pursuant to the provisions of the NIRC and other laws, general or special; and

(6) Loans to borrowers, whose only source of income is compensation and the corresponding taxes on which has been withheld at source: *Provided*, That the borrowers submitted, in lieu of the ITR, a copy of their Employer's Certificate of Compensation Payment/Tax Withheld (BIR Form 2316) or their payslips for at least three (3) months immediately preceding the date of loan application.

Loans to micro and small enterprises which are not specifically exempted from the additional documentary requirements specified under the third paragraph of this Subsection shall be exempted from said

additional documentary requirement up to 31 December 2011.

Consumer loans, with original amounts not exceeding P2.0 million, are exempted from updating requirements or the required annual submission of the same requirements forwarded during the initial submission under this Subsection but not in their restructuring, renewal, or extensions or availment/re-availment against existing credit lines: *Provided*, That these loans are supported by ITRs or by BIR Form 2316 or payslips for at least three (3) months immediately preceding the date of loan application, and financial statements submitted for taxation purposes to the BIR, as may be applicable, at the time the loans were granted, restructured, renewed, or extended.

For purposes of this Subsection, the following definitions shall apply:

1. *Micro and small enterprises* shall be defined as any business activity or enterprise engaged in industry, agribusiness and/or services whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have a value of up to P3.0 million and P15.0 million, respectively, or as may be defined by the SMED Council or other competent government agency.

2. *Consumer loans* is defined to include housing loans, loans for purchase of car, household appliance(s), furniture and fixtures, loans for payment of educational and hospital bills, salary loans and loans for personal consumption, including credit card loans.

(As amended by Circular Nos. 622 dated 16 September 2008 and 549 dated 09 October 2006)

§ X304.2 Purpose of loans and other credit accommodations. Before granting a loan or other credit accommodation, banks shall ascertain the purpose of the loan

or other credit accommodation which shall be clearly stated in the application and in the contract between the bank and borrower. The proceeds of a loan or other credit accommodation shall be utilized only for the purpose(s) stated in the application and contract; otherwise, the bank may terminate the loan or other credit accommodation and demand immediate repayment of the obligation. Notwithstanding the preceding sentence, the proceeds of a loan or other credit accommodation may be utilized by the borrower for a purpose(s) other than that originally stated in the application and contract: *Provided*, That such other purpose(s) is/are among those for which the lending bank may grant loans and other credit accommodations under existing laws and regulations: *Provided, further*, That such utilization shall be with prior written approval of duly authorized officer(s)/committee/board of directors of the lending bank and such written approval shall form part of the contract between the bank and the borrower.

§ X304.3 Prohibited use of loan proceeds. Banks are prohibited from requiring their borrowers to acquire shares of stock of the lending bank out of the loan or other credit accommodation proceeds from the same bank.

§ X304.4 Signatories. Banks shall require that loans and other credit accommodations be made under the signature of the principal borrower and, in the case of unsecured loans and other credit accommodations to an individual borrower, at least one (1) co-maker, except that a co-maker is not required when the principal borrower has the financial capacity and a good track record of paying his obligations.

(As amended by Circular No. 622 dated 16 September 2008)

§ X304.5 - X304.8 (Reserved)

§ X304.9 Policies on loans to non-immigrants and embassy officials. Banks are allowed to extend peso loans to the following:

a. Non-immigrants holding visas issued under Secs. 9(d) and 9(g) of the Immigration Act of 1940, Special Investor’s Resident Visa (SIRV) and visas issued by the Philippine Economic Zone Authority: *Provided*, That such loans shall be limited to peso consumer loans including credit cards, auto loans and appliance loans, but excluding real estate or housing loans: *Provided, further*, That the lending bank institutes measures to mitigate credit risk such as requiring the submission of a Comfort Letter from the visa holder’s employer, limiting the term of the loan to the period of the visa’s validity, submission of SIRV identification card, as well as subjecting the visa holder to the usual credit processes/requirements; and

b. Embassy officials [foreign diplomats and career consular officials and employees who are physically residing in the Philippines for a term of one (1) year or more]: *Provided*, That such loans shall be limited to consumer loans, including credit cards, auto loans, appliance loans and others that may henceforth be allowed by the Monetary Board: *Provided, further*, That the lending bank institutes measures to mitigate credit risk such as requiring the submission of a Comfort Letter from the Embassy employing said officials.

(M-2007-021 dated 15 August 2007)

Sec. X305 Interest and Other Charges
The rate of interest, including commissions, premiums, fees and other charges, on any loan, or forbearance of any money, goods or credits regardless of maturity and whether secured or unsecured shall not be subject to any regulatory ceiling.

§ X305.1 Rate of interest in the absence of stipulation. The rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in

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judgments, in the absence of expressed contract as to such rate of interest, shall be twelve percent (12%) per annum.

§ X305.2 Escalation clause; when allowable. Parties to an agreement pertaining to a loan or forbearance of money, goods or credits may stipulate that the rate of interest agreed upon may be increased in the event that the applicable maximum rate of interest is increased by the Monetary Board: *Provided*, That such stipulation shall be valid only if there is also a stipulation in the agreement that the rate of interest agreed upon shall be reduced in the event that the applicable maximum rate of interest is reduced by law or by the Monetary Board: *Provided, further*, That the adjustment in the rate of interest agreed upon shall take effect on or after the effectivity of the increase or decrease in the maximum rate of interest.

§ X305.3 Floating rates of interest. The rate of interest on a floating rate loan during each interest period shall be stated on the basis of Manila Reference Rates (MRRs), T-Bill Rates or other market based reference rates plus a margin as may be agreed upon by the parties.

The MRRs for various interest periods shall be determined and announced by the BSP every week and shall be based on the weighted average of the interest rates paid during the immediately preceding week by the ten (10) KBs with the highest combined levels of outstanding deposit substitutes and time deposits, on promissory notes issued and time deposits received by such banks, of P100,000 and over per transaction account, with maturities corresponding to the interest periods for which such MRRs are being determined. Such rates and the composition of the sample KBs shall be reviewed and determined at the beginning of every calendar semester on the basis of the banks' combined levels of outstanding deposit

substitutes and time deposits as of 31 May or 30 November, as the case may be.

The rate of interest on floating rate loans existing and outstanding as of 23 December 1995 shall continue to be determined on the basis of the MRRs obtained in accordance with the provisions of the rules existing as of 01 January 1989: *Provided, however*, That the parties to such existing floating rate loan agreements are not precluded from amending or modifying their loan agreements by adopting a floating rate of interest determined on the basis of the TBR or other market based reference rates.

Where the loan agreement provides for a floating interest rate, the interest period, which shall be such period of time for which the rate of interest is fixed, shall be such period as may be agreed upon by the parties.

For the purpose of computing the MRRs, banks shall accomplish the report forms, RS Form 2D and Form 2E (BSP 5-17-34A).

§ X305.4 Accrual of interest earned on loans. Banks are allowed to accrue interest earned on loans, subject to the following guidelines and/or procedures.

a. No accrual of interest income is allowed if a loan has become non-performing as defined under Sec. X309. Likewise, interest income shall not be accrued for unmatured loans/receivables with indications that collectibility thereof has become doubtful. These indications shall include declaration of bankruptcy, insolvency, cessation of operations, or such other conditions of financial difficulties or inability to meet financial obligations as they mature. Separate appropriate records shall be maintained for these non-accruing unmatured loans.

Interest income on past due loans arising from discount amortization (and not from the contractual interest of the accounts) shall be accrued as provided in PAS 39.

b. Interest earned on extended or renewed loans may be accrued: *Provided*, That there is no previously accrued but uncollected interest thereon.

Interest income on restructured loans (principal plus capitalized interest thereon) may be accrued: *Provided*, That these are:

- (1) In current status; and
- (2) Fully secured by real estate with loan value of up to sixty percent (60%) of the appraised value of the real estate security and the insured improvements thereon, and such other first class collaterals as may be deemed appropriate by the Monetary Board.

c. Interest on non-performing loan accounts shall be taken up as income only when actual payments thereon are received.

d. Accrued interest earned but not yet collected/received shall not be considered as profits and/or earnings eligible for dividend declaration and/or profit sharing.

e. A contra account to be designated *Allowance for Uncollected Interest on Loans* shall be set up in accordance with *Appendix 18* if accrued interest receivable on loans and loan installments is still uncollected after three (3) months from the date such loans and loan installments have become non-performing.

f. The amount representing *Allowance for Uncollected Interest on Loans* may be chargeable against the excess of outstanding valuation reserves for loans and other risk assets as appearing in the bank’s books, over those recommended by the appropriate department of the SES. The balance thereof, if any, shall be chargeable against operations.

g. For all purposes, the *Allowance for Uncollected Interest on Loans* shall be considered a valuation reserve/allowance against the *Accrued Interest Receivable account*.

Sec. X306 Past Due Accounts. Past due accounts of a bank shall, as a general rule, refer to all accounts in its loan portfolio,

all receivable components of trading account securities and other receivables, as defined in the Manual of Accounts for Banks, which are not paid at maturity.

§ X306.1 Accounts considered past due. The following shall be considered as past due:

a. *Loans or receivables payable on demand* - If not paid on the date indicated on the demand letter, or within three (3) months from date of grant, whichever comes earlier;

b. *Bills discounted and time loans, whether or not representing availments against a credit line* - If not paid on the respective maturity dates of the promissory notes;

c. *Customers’ liability on drafts under letters of credit/trust receipts*:

(1) *Sight Bills* - If dishonored upon presentment for payment or not paid within thirty (30) days from date of original entry, whichever comes earlier;

(2) *Usance Bills* - If dishonored upon presentment for acceptance or not paid on due date, whichever comes earlier; and

(3) *Trust receipts* - If not paid on due date.

d. *Bills and other negotiable instruments purchased* - If dishonored upon presentment for acceptance/payment or not paid on maturity date, whichever comes earlier: *Provided, however*, That an out-of-town check and a foreign check shall be considered as past due if outstanding for thirty (30) days and forty-five (45) days, respectively, unless earlier dishonored;

e. *Loans/receivables payable in installments* - The total outstanding balance thereof shall be considered past due in accordance with the following schedule:

<u>Mode of Payment</u>	<u>Minimum No. of Installments In Arrears</u>
Monthly	3
Quarterly	1
Semestral	1
Annual	1

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Provided, however, That when the total amount of arrearages reaches twenty percent (20%) of the total outstanding balance of the loan/receivable, the total outstanding balance of the loan/receivable shall be considered as past due, regardless of the number of installments in arrears: *Provided, further,* That for modes of payment other than those listed above (e.g., daily, weekly or semi-monthly), the entire outstanding balance of the loan/receivable shall be considered as past due when the total amount of arrearages reaches ten percent (10%) of the total loan/receivable balance;

For this purpose, the term “*installments*” shall refer to principal and/or interest amortizations that are due on several dates as indicated/specified in the loan documents.

f. *Credit card receivables* - If the minimum amount due or minimum payment required is not paid within two (2) cycle dates, the total amount due stated in the monthly billing statement: *Provided, however,* That the total outstanding balance which includes amortization/s of any fixed monthly installment plan or deferred payment scheme shall be considered and reported past due when the number of monthly installments in arrears is three (3) or more: *Provided, further,* That the bank shall have the right to demand the obligation in full in case of default in any installment thereon if the contract between the bank and the cardholder contains an “*acceleration clause*”; and

g. *(Deleted by Circular No. 202 dated 27 May 1999)*

h. *Microfinance loans* - If a payment has fallen due and remained unpaid. Loan payments are applied first to any interest due, then to any installment of principal that is due but unpaid, beginning with the earliest such installment. The number of days of lateness/delinquency is based on the due date of the earliest loan installment that has not been fully paid.

For the purpose of determining delinquency in the payment of obligations as defined in Subsec. X143.1e, any due and unpaid loan installment or portion thereof, from the time the obligor defaults, shall be considered past due.

§ X306.2 Demand loans. Banks shall, in case of non-payment of a demand loan, make a written demand within three (3) months following the grant of such loan. The demand shall indicate a period of payment which shall not be later than three (3) months from date of said demand.

§ X306.3 Renewals/extensions. No loan shall be renewed or its maturity date extended unless the corresponding accrued interest receivable shall have been paid.

§ X306.4 Restructured loans Restructured loans whose terms of payment have not been complied with and which have become past due shall be governed by the provisions of Sec. X322.

§ X306.5 Write-off of loans as bad debts

a. *Approval by board of directors* Banks, upon approval by their board of directors may write-off loans, other credit accommodations, advances, and other assets, regardless of amount, against allowance for probable losses (valuation reserves) or current operations as soon as they are satisfied that such loans, other credit accommodations, advances and other assets are worthless as follows:

(1) In the case of secured loans, banks may write-off loans, other credit accommodations and other assets in an amount corresponding to the booked valuation reserves: *Provided,* That the balance of the secured loans, other credit accommodations, advances and other assets shall remain in the books.

(2) In the case of unsecured loans, other credit accommodations, advances

and other assets, banks shall write-off said loans, other credit accommodations, advances and other assets in full amount outstanding.

However, write-off of loans, other credit accommodations, advances and other assets considered transactions with DOSRI shall be with prior approval of the Monetary Board.

b. *Definitions.* For purposes of this Section, the following terms are hereby defined as follows:

(1) *Loans.* The term *loans* shall refer to all the accounts under the loan portfolio of a bank as enumerated in the Manual of Accounts for Banks.

(2) *Other credit accommodations.* The term *other credit accommodations* shall refer to exposures of banks other than loans such as sales contract receivables, accounts receivables, accrued interest receivables, lease receivables, and rental receivables.

(3) *Advances.* The term *advances* shall refer to any advance by means of an incidental or temporary overdraft, cash “vale”, any advance by means of DAUD and any advances of unearned salary or unearned compensation.

(4) *Other assets.* The term *other assets* shall refer to investments, placements, ROPAs and all other asset accounts that will not fall under loans and other credit accommodations.

(5) *Bad debts.* The term *bad debts* shall refer to the definition under Subsec. X136.1.

c. *Reporting requirements.* Notice of write-off of loans, other credit accommodations, advances, and other assets shall be submitted in the prescribed form to the appropriate department of SES concerned within thirty (30) days after every write-off with (i) a sworn statement signed by the President of the bank or officer of equivalent rank that write-off did not include transactions with DOSRI and (ii) a copy of board resolution approving the write-off.

The income tax expense deferred corresponding to the amount of loan, other credit accommodation, advances and other asset written-off considered deductible for income tax purposes shall be recognized and reversed in bank’s books.

d. *Verification of write-offs.* Write-offs of loans shall be subject to verification during examination.

§ X306.6 Writing-off microfinance loans as bad debts. Microfinance loans, regardless of amount that have become past due in accordance with Subsec. X306.1h may be written-off, in conformity with the provisions of Subsec. X306.5: *Provided,* That the notice of write-off and attachments required under Item “c” of Subsec. X306.5 are filed within thirty (30) days after every write-off of loans.

§ X306.7 Updating of information provided to credit information bureaus Banks which have provided adverse information, such as the past due or litigation status of loan accounts, to credit information bureaus, or any organization performing similar functions, shall submit monthly reports to these bureaus or organizations on the full payment or settlement of the previously reported accounts within five (5) banking days from the end of the month when such full payment was received. For this purpose, it shall be the responsibility of the reporting banks to ensure that their disclosure of any information about their borrowers/clients is with the consent of borrowers/clients concerned.
(Circular No. 589 dated 18 December 2007)

Sec. X307 “Truth in Lending Act” Disclosure Requirement. Banks are required to strictly adhere to the provisions of R.A. No. 3765, otherwise known as the “Truth in Lending Act”, and shall make the true and effective cost of borrowing an integral part of every loan contract.

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The following regulations shall apply to all banks engaged in the following types of credit transactions:

- a. Any loan, mortgage, deed of trust, advance and discount;
- b. Any conditional sales contract, any contract to sell, or sale or contract of sale of property or services, either for present or future delivery, under which part or all of the price is payable subsequent to the making of such sale or contract;
- c. Any rental-purchase contract;
- d. Any contract or arrangement for the hire, bailment, or leasing of property;
- e. Any option, demand, lien, pledge, or other claim against, or for delivery of, property or money;
- f. Any purchase, or other acquisition of, or any credit upon security of any obligation or claim arising out of any of the foregoing; and
- g. Any transaction or series of transactions having a similar purpose or effect.

The following categories of credit transactions are outside the scope of these regulations:

- (1) Credit transactions which do not involve the payment of any finance charge by the debtor; and
- (2) Credit transactions in which the debtor is the one specifying a definite and fixed set of credit terms such as bank deposits, insurance contracts, sale of bonds, etc.

§ X307.1 Definition of terms

a. *Person* means any individual, partnership, corporation, association or other organized group of persons, or the legal successor or representative of the foregoing, and includes the Philippine Government or any agency thereof or any other government, or any of its political subdivisions, or any agency of the foregoing.

b. *Cash price or delivered price*, in case of trade transactions, is the amount of money which would constitute full

payment upon delivery of property (except money) or service purchased at the bank's place of business. In the case of financial transactions, cash price represents the amount of money received by the debtor upon consummation of the credit transaction, net of finance charges collected at the time the credit is extended (if any).

c. *Down Payment* represents the amount paid by the debtor at the time of the transaction in partial payment for the property or service purchased.

d. *Trade-in* represents the value of an asset agreed upon by the bank and debtor, given at the time of the transaction in partial payment for the property or service purchased.

e. *Non-finance charges* correspond to the amounts advanced by the bank for items normally associated with the ownership of the property or of the availment of the service purchased which are not incident to the extension of credit. For example, in the case of the purchase of an automobile on credit, the creditor may advance the insurance premium as well as the registration fee for the account of the debtor.

f. *Amounts to be financed* consist of the cash price plus non-finance charges less the amount of the down payment and value of the trade-in.

g. *Finance charge* represents the amount to be paid by the debtor incident to the extension of credit such as interest or discounts, collection fees, credit investigation fees, attorney's fees and other service charges. The total finance charge represents the difference between (a) the aggregate consideration (downpayment plus installments) on the part of the debtor and (b) the sum of the cash price and non-finance charges.

h. *Simple annual rate* is the uniform percentage which represents the ratio, on an annual basis, between the finance charges and the amount to be financed.

In the case of a single payment upon maturity, the simple annual rate (R) in percent is determined by the following method:

$$R = \frac{\text{(finance charge)}}{\text{(amount to be financed)}} \times \frac{12}{\text{(maturity period in months)}} \times 100$$

In the case of the normal installment type of credit of at least one (1) year in duration, where installment payments of equal amount are made in regular time periods spaced not more than one (1) year apart, the R in percent is computed by the following method:

$$R = 2 \times \frac{\text{(finance charge)}}{\text{(amount to be financed)}} \times \frac{\text{(no. of payment in a year)}}{\text{(total no. of payments plus one)}} \times 100$$

In case where the credit matures in less than one (1) year (e.g., installment payments are required every month for six (6) months) the same formula will apply except that the number of payments in a year would refer to the number of installment periods, as defined in the credit contract if the credit matures in one (1) year. For example, the number of payments a year would be twelve (12) for this purpose in case where six (6) monthly installment payments are called for in the credit transaction.¹

§ X307.2 Information to be disclosed

Banks shall furnish each person to whom credit is extended, prior to the consummation of the transaction, a clear statement in writing setting forth the following information:

- a. The cash price or delivered price of the property or service to be acquired;
 b. The amounts, if any, to be credited as downpayment and/or trade-in;

- c. The difference between the amounts set forth under Items “a” and “b”;
 d. The charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit;
 e. The total amount to be financed;
 f. The finance charges expressed in terms of pesos and centavos; and
 g. The percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the outstanding unpaid balance of the obligation.

The contract covering the credit transaction or any other document to be acknowledged and signed by the debtor, shall indicate the above seven (7) items of information. In addition, the contract or document shall specify additional charges, if any, which will be collected in case certain stipulations in the contract are not met by the debtor.

In case any of the seven (7) items of information mentioned is not disclosed in the contract covering the credit transaction, all of the seven (7) items, to the extent applicable, shall be disclosed in another document in a form (*Appendix 19*) prescribed by the Monetary Board, to be signed by the debtor and appended to the main contract. A copy of the disclosure statement shall be furnished the borrower.

§ X307.3 Inspection of contracts covering credit transactions. Banks shall keep in their offices or places of business copies of contracts which involve the extension of credit by the bank and the payment of finance charges therefor. Such copies shall be available for inspection or examination by the appropriate department of the SES.

§ X307.4 Posters. Banks shall post in conspicuous places in their principal place of business and branches, if any, the following:

¹ This can be determined by dividing twelve, the number of months in a year, by the number or fraction of months between installment payments.

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- a. An abstract of the provisions of R.A. No. 3765 in the form prescribed by the Monetary Board (*Appendix 20*) which shall be reproduced in a format sixty (60) c.m. wide and seventy-five (75) c.m. long; and
- b. Information regarding interest and other charges on loans:
 - (1) Type of loan;
 - (2) Simple annual rate of interest;
 - (3) Manner of interest payment; i.e. whether collected in advance or otherwise; and
 - (4) Other fees and charges imposed by the bank in connection with the loan.

Sec. X308 Amortization on Loans and Other Credit Accommodations. The amortization schedule of bank loans and other credit accommodations shall be adapted to the nature of the operations to be financed.

In case of loans and other credit accommodations with maturities of more than five (5) years, provisions must be made for periodic amortization payments, but such payments must be made at least annually: *Provided, however,* That when the borrowed funds are to be used for purposes which do not initially produce revenues adequate for regular amortization payments, the bank may permit the initial amortization payment to be deferred until such time as said revenues are sufficient for such purpose, but in no case shall the initial amortization date be later than five (5) years from the date on which the loan or other credit accommodation is granted: *Provided, further,* That in the case of agriculture and fisheries projects with long gestation periods, the initial amortization payment may be deferred for a longer period based on the economic life of the project as provided under Section 24 of R.A. No. 8435 and implemented under Sec. X349.

Sec. X309 Non-Performing Loans

§ X309.1 *Accounts considered non-performing; definitions*

- a. Non-performing loans shall, as a general rule, refer to loan accounts whose principal and/or interest is unpaid for thirty (30) days or more after due date or after they have become past due in accordance with existing rules and regulations. This shall apply to loans payable in lump sum and loans payable in quarterly, semi-annual or annual installments, in which case, the total outstanding balance thereof shall be considered non-performing.
 - b. In the case of loans payable in monthly installments, the total outstanding balance thereof shall be considered non-performing when three (3) or more installments are in arrears.
 - c. In the case of loans payable in daily, weekly or semi-monthly installments, the total outstanding balance thereof shall be considered non-performing at the same time that they become past due in accordance with Sec. X306, i.e., the entire outstanding balance of the loan/receivable shall be considered as past due when the total amount of arrearages reaches ten percent (10%) of the total loan/receivable balance.
 - d. Restructured loans shall be considered non-performing in accordance with Subsec. X322.1.
 - e. All items in litigation as defined in the Manual of Accounts for Banks shall be considered non-performing.
- Only the following accounts are qualified to be excluded from the non-performing classification:
- (1) Loans previously classified as “*Loss*” by the BSP fully covered by allowance for probable losses; and
 - (2) Outstanding credit card receivables classified as “*Loss*” in the latest BSP examination plus credit card receivables

classified as “Loss” by the bank but not to exceed the total amount classified as “Loss” in the latest BSP examination: *Provided*, That information on the outstanding credit card receivables classified as “Loss” as of the reporting month shall be reported in a separate item in the Additional Information of the CSOC. Only banks with no unbooked valuation reserves and capital adjustments, even if approved for booking on a staggered basis, are qualified to exclude loans classified as “Loss” by the BSP from the non-performing classification: *Provided*, That interest on said loans shall not be accrued and that such loans shall also be deducted from total loan portfolio for purposes of computation.

§ X309.2 - X309.3 (Reserved)

§ X309.4 *Reporting requirement*

Banks shall report the following data, at the end of each month, as additional information (under Item 7) of the monthly CSOC:

“7. Total Non-Performing Loans	
a. Non-performing regular loans	xxx
b. Non-performing restructured loans	xxx
“7a. Loans classified as “Loss” in the latest examination by the BSP which are fully covered by Allowance for Probable Losses, net of write-offs and recoveries	
	xxx
“7b. Outstanding credit card receivables classified as “Loss” in the latest BSP examination, net of write-offs, recoveries and collections	
	xxx
“7c. Credit card receivables classified as “Loss” by the bank as of this month	
	xxx

Banks which are not qualified under Subsec. X309.1 to exclude loans classified as “Loss” by the BSP from the non-performing classification may opt not to fill up Item “7a” of the Additional Information of the monthly CSOC.

Sec. X310 (Reserved)

B. SECURED LOANS

Sec. X311 Loans Secured by Real Estate Mortgages. Loans against real estate security shall not exceed seventy percent (70%) of the appraised value of the respective real estate security plus seventy percent (70%) of the appraised value of insured improvements, and such loans shall not be made unless title to the real estate is in the mortgagor.

In the case of UBs/KBs, the loan values of real estate given as security for any loan granted shall be reduced from seventy percent (70%) to not more than sixty percent (60%) of the appraised value of the real estate security and the insured improvements, except the following which shall be allowed a maximum value of seventy percent (70%) of the appraised value:

- a. Any loan not exceeding P3.5 million to finance the acquisition or improvement of residential units; and
- b. Housing loans extended or guaranteed under the government’s National Shelter Program (NSP) such as the Expanded Housing Loans Program (EHLP) of the Home Development Mutual Fund (HDMF or Pag-IBIG Fund) and the mortgage and guaranty and credit insurance program of the Home Insurance and Guaranty Corporation (HIGC).

§ X311.1 Loans secured by junior mortgage on real estate. Banks may also grant loans on the security of junior mortgages on real estate: *Provided*, That

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for such loans to be considered as adequately secured under Sections 37 and 38 of R.A. No. 8791, the sum total of the loans to be granted and the outstanding balance of the loan granted on the senior mortgage shall not, at any time, exceed the loan value of subject real estate security based on the appraisal of the real estate by the junior mortgagee.

A certified latest statement of account showing the outstanding balance of the loan including interest and arrearages, from the senior mortgagee shall be presented to the bank.

In case several loans are granted on the security of the same property, the total amount of the loans shall not, at any time, exceed the total loan value of the said property.

§ X311.2 (Reserved)

§ 1311.2 (Reserved)

§ 2311.2 (Reserved)

§ 3311.2 Eligible real estate collaterals on rural/cooperative bank loans. Loans may be granted by RBs/Coop Banks on the security of lands without Torrens Title where the owner of private property can show five (5) years or more of peaceful, continuous and uninterrupted possession in the concept of an owner; or of portions of friar land estates or other lands administered by the Bureau of Lands that are covered by sales contracts and the purchasers have paid at least five (5) years installment thereon, without the necessity of prior approval and consent by the Director of Lands, or of portions of other estates under the administration of the Department of Agrarian Reform (DAR) or other governmental agency which are likewise covered by sales contracts and the purchasers have paid at least five (5) years installments thereon, without the necessity of prior approval and consent of the DAR or corresponding governmental agency; or

of homesteads or free patent lands pending the issuance of titles but already approved, the provisions of any law or regulations to the contrary notwithstanding: *Provided*, That when the corresponding titles are issued, the same shall be delivered to the Register of Deeds of the province where such lands are situated for the annotation of the encumbrance: *Provided, further*, That in the case of lands pending homestead or free patent titles, copies or notices for the presentation of the final proof shall also be furnished the creditor RB/Coop Bank and, if the borrower applicants fail to present the final proof within thirty (30) days from date of notice, the creditor RB/Coop Bank may do so for them at their expense: *Provided, furthermore*, That the applicant for homestead or free patent has already made improvements on the land and the loan applied for is to be used for further development of the same or for other productive economic activities: *Provided, finally*, That the appraisal and verification of the status of a land is a full responsibility of the RB/Coop Bank and any loan granted on any land which shall be found later to be within the forest zones shall be for the sole account of the RB/Coop Bank.

§ X311.3 Insurance on real estate improvements. The required insurance on improvements used as collateral for loan should be such as shall be sufficient to secure seventy percent (70%) of the appraised value of such improvements or if inadequately insured, the loan value shall correspond to the extent of insurance taken on such improvements.

§ X311.4 (Reserved)

§ 1311.4 (Reserved)

§ 2311.4 Foreclosure by thrift banks The foreclosure of mortgages covering loans granted by TBs and executions of judgment thereon involving real properties

levied upon by a sheriff shall be exempt from the publications in newspapers now required by law where the total amount of loan, excluding interests due and unpaid, does not exceed P100,000 or such amount as the Monetary Board may prescribe as may be warranted by prevailing economic conditions and by the nature of service of customers served by each category of the TB. It shall be sufficient publication in such cases if the notices of foreclosure and execution of judgment are posted in the conspicuous area of the TB's premises, municipal building, municipal public market, the barangay hall, and the barangay public market, if there be any, where the land mortgaged is situated within a period of sixty (60) days immediately preceding the public auction of execution of judgment. Proof of publication as required herein shall be accomplished by an affidavit of the sheriff or officer conducting the foreclosure sale or execution of judgment and shall be attached with the records of the case.

A TB shall be allowed to foreclose lands mortgaged to it: *Provided*, That said lands shall be covered under R.A. No. 6657.

§ 3311.4 Foreclosure by rural/cooperative banks. The foreclosure of mortgages covering loans granted by RBs/Coop Banks and executions of judgment thereon involving real properties levied upon by a sheriff shall be exempt from the publications in newspapers now required by law where the total amount of loan, excluding interests due and unpaid, does not exceed P100,000 or such amount as the Monetary Board may prescribe as may be warranted by prevailing economic conditions. It shall be sufficient publication in such cases if the notices of foreclosure and execution of judgment are posted in the conspicuous area of the municipal building, the municipal public market, the barangay hall, and the barangay public market, if any, where the land mortgaged

is situated during the period of sixty (60) days immediately preceding the public auction of execution of judgment. Proof of publication as required herein shall be accomplished by an affidavit of the sheriff or officer conducting the foreclosure sale or execution of judgment and shall be attached with the records of the case: *Provided*, That when a homestead or free patent is foreclosed, the homesteader or free patent holder, as well as his heirs shall have the right to redeem the same within one (1) year from the date of foreclosure in the case of land not covered by a Torrens Title or one (1) year from the date of the registration of the foreclosure in the case of land covered by a Torrens Title.

An RB/Coop Bank shall be allowed to foreclose lands mortgaged to it: *Provided*, That said lands shall be covered under R.A. No. 6657.

§ X311.5 Redemption of foreclosed real estate mortgage. In the event of foreclosure, whether judicially or extrajudicially, of any mortgage on real estate, the mortgagor or debtor shall have the right within one (1) year after the sale of the real estate, to redeem the property by paying the amount due under the mortgage deed, with interest thereon at the rate specified in the mortgage, and all costs and expenses incurred by the bank or institution from the sale and custody of said property less the income derived therefrom. However, the purchaser at the auction sale concerned shall have the right to enter upon and take possession of such property immediately after the date of the confirmation of the auction sale and administer the same in accordance with the law.

Juridical persons whose property is being sold pursuant to an extra-judicial foreclosure, shall have the right to redeem the property in accordance with this provision until, but not after, the registration of the certificate of foreclosure sale with

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the applicable Register of Deeds which in no case shall be more than three (3) months after foreclosure, whichever is earlier.

Sec. X312 Loans and Other Credit Accommodations Secured By Chattels and Intangible Properties. Loans and other credit accommodations on the security of chattels and intangible properties, such as, but not limited to, patents, trademarks, trade names, and copyrights shall not exceed seventy-five percent (75%) of the appraised value of the security, and such loans and other credit accommodations may be made to the title-holder of the unencumbered chattels and intangible properties or his assignees: *Provided*, That in the case of intangible properties, appraisal thereof shall be conducted by an independent appraiser acceptable to the BSP.

Sec. X313 Loans and Other Credit Accommodations Secured By Personal Properties. Loans and other credit accommodations may be secured by unencumbered personal property which may consist of:

- a. Bonds and securities issued by the Government. Such bonds and securities may be given loan values equivalent to their face value or cash value, as the case may be;
- b. Readily marketable bonds and other high-grade debt securities and “blue chip” stocks, except those issued by the lending entity or by its parent company, which owns more than fifty percent (50%) of its outstanding shares of stocks: *Provided*, That (1) the issuer corporation must be a listed corporation with a net worth of at least P1.0 billion and with annual net earnings during the immediately preceding five (5) years; and (2) the loan value shall be equivalent to fifty percent (50%) of their market value.
- c. Expected harvest from the project to be financed or growing crops, up to forty percent (40%) of the calculated market

value of the crop for which the loan or other credit accommodation is sought, based on previous production records or, in the absence thereof, on production in the locality of similar plantations;

- d. Quedans or warehouse receipts issued by bonded warehouses covering stock deposited in said warehouses up to eighty percent (80%) of the calculated market value of the crop for which the loan or other credit accommodation is sought; and
- e. Any other personal property, up to fifty percent (50%) of the fair market value. If the property is newly purchased and the purchase price thereof appears in a bill of sale, then the above percentage shall be based on the price of the said bill of sale.

Sec. X314 Increased Loan Values and Terms of Loans for Home-Building. Loans for home-building and subdivision development for low and middle-income families against real estate security and *housing loans* defined as loans granted for the purpose of constructing, improving or acquiring a residential property which is rented or is occupied or intended to be occupied by the borrower may be granted up to eighty percent (80%) of the appraised value of the real estate security: *Provided*, That:

- a. Such loans shall not be made unless the title to the real estate security is in the name of the borrower or mortgagor; and
- b. In case of subdivision/housing project, the same or its plan has been approved by the proper authorities;
Provided, further, That the loans may be increased to ninety percent (90%) of the appraised value of the real estate security if such loans are fully guaranteed by the appropriate government agency, in addition to the foregoing conditions.

Sec. X315 Loans Secured by Certificates of Time Deposit. The following rules shall govern the grant of loans secured by hold-out on and/or assignment of CTDs issued

by the lending bank, as well as its branches or subsidiaries abroad:

- a. The original copy of the CTDs subject to hold-out or assignment shall be surrendered to the lending bank;
- b. The depository bank, other than the lending bank, shall be furnished a copy of the Deed of Assignment or hold-out agreement on the deposit used as collateral;
- c. If the term of the CTDs subject to hold-out or assignment is shorter than the term of the loan, there shall be an agreement in writing that renewal of the time deposit upon maturity shall be made at least co-terminus with the term of the loan;
- d. There shall be no pre-termination of the time deposit without the consent of the lending bank and unless an acceptable substitute collateral for the loan has been made;
- e. The lending bank shall keep a complete record of all pertinent loan documents, such as, but not limited to, the original copy of the CTDs subject to assignment or hold-out agreement; deed of assignment or hold-out agreement; and written waiver of the depositor required in Item “f” below, which shall be made available for inspection and/or examination by the appropriate department of the SES; and
- f. The loan documents shall include a waiver on the part of the depositor of his rights under existing law to the confidentiality of his deposits.

Secs. X316 - X318 (Reserved)

C. UNSECURED LOANS

Sec. X319 Loans Against Personal Security. The grant, renewal, restructuring or extension of unsecured loans shall, in addition to the requirements of Sec. X304, be made under the signature of the principal borrower and at least one (1)

co-maker, except that a co-maker is not required when the principal borrower has the financial capacity and a good track record of paying his obligations.

(As amended by Circular No. 622 dated 16 September 2008)

§ X319.1 *General guidelines*

(Deleted by Circular No. 622 dated 16 September 2008)

§ X319.2 *Proof of financial capacity of borrower*

(Deleted by Circular No. 622 dated 16 September 2008)

§ X319.3 *Signatories*

(Deleted by Circular No. 622 dated 16 September 2008)

Sec. X320 Credit Card Operations; General Policy. The BSP shall foster the development of consumer credit through innovative products such as credit cards under conditions of fair and sound consumer credit practices. The BSP likewise encourages competition and transparency to ensure more efficient delivery of services and fair dealings with customers.

Towards this end, the following rules and regulations shall govern the credit card operations of banks and subsidiary/affiliate credit card companies, aligned with global best practices.

§ X320.1 *Definition of terms*

- a. *Credit card.* Means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor or services on credit.
- b. *Credit card receivables.* Represents the total outstanding balance of credit cardholders arising from purchases of goods and services, cash advances, annual membership/renewal fees as well as interest, penalties, insurance fees, processing/service fees and other charges.

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c. *Minimum amount due or minimum payment required.* Means the minimum amount that the credit cardholder needs to pay on or before the payment due date for a particular billing period/cycle as defined under the terms and conditions or reminders stated in the statement of account/billing statement which may include: (1) total outstanding balance multiplied by the required payment percentage or a fixed amount whichever is higher; (2) any amount which is part of any fixed monthly installment that is charged to the card; (3) any amount in excess of the credit line; and (4) all past due amounts, if any.

d. *Default or delinquency.* Shall mean non-payment of, or payment of any amount less than, the “*Minimum Amount Due*” or “*Minimum Payment Required*” within two (2) cycle dates, in which case, the “*Total Amount Due*” for the particular billing period as reflected in the monthly statement of account may be considered in default or delinquent.

e. *Acceleration clause.* Shall mean any provision in the contract between the bank and the cardholder that gives the bank the right to demand the obligation in full in case of default or non-payment of any amount due or for whatever valid reason.

f. *Subsidiary* refers to a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with the power to vote by a bank or other FI.

g. *Affiliate* refers to an entity linked directly or indirectly to a bank or other FI through any one or a combination of any of the following:

(1) Ownership, control or power to vote, whether by permanent or temporary proxy or voting trust, or other similar contracts, by a bank or other financial institution of at least ten percent (10%) or more of the outstanding voting stock of the entity, or vice-versa;

(2) Interlocking directorship or officership, except in cases involving independent directors as defined under existing regulations;

(3) Common stockholders owning at least ten percent (10%) of the outstanding voting stock of each FI and the entity; or

(4) Management contract or any arrangement granting power to the bank or other FI to direct or cause the direction of management and policies of the entity, or vice-versa.

§ X320.2 Risk management system

To safeguard their interests, banks and subsidiary/affiliate credit card companies are required to establish an appropriate system for managing risk exposures from credit card operations which shall be documented in a complete and concise manner. The risk management system shall cover the organizational set-up, records and reports, accounting, policies and procedures and internal control.

Written policies, procedures and internal control guidelines shall be established on the following aspects of credit card operations:

- a. Requirements for application;
- b. Solicitation and application processing;
- c. Determination and approval of credit limits;
- d. Pre-approved cards;
- e. Issuance, distribution and activation of cards;
- f. Supplementary or extension cards;
- g. Cash advances;
- h. Billing and payments;
- i. Deferred payment program or special installment plans;
- j. Collection of past due accounts;
- k. Handling of accounts for write-off;
- l. Suspension, cancellation and withdrawal or termination of card;
- m. Renewal of cards, upgrade or downgrade of credit limit;

- n. Lost or stolen cards and their replacement;
- o. Accounts of DOSRI and employees;
- p. Disposition of errors and/or questions about the billing statement/ statement of account and other customers' complaints; and
- q. Dealings with marketing agents/ collection agents.

§ X320.3 Minimum requirements

Before issuing credit cards, banks and/or their subsidiary/affiliate credit card companies must exercise proper diligence by ascertaining that applicants possess good credit standing and are financially capable of fulfilling their credit commitments. The net take home pay of applicants who are employed, the net monthly receipts of those engaged in trade or business, or the net worth or cash flow inferred from deposits of those who are neither employed nor engaged in trade or business or the credit behavior exhibited by the applicant from his other existing credit cards, or other lifestyle indicators such as, but not limited to, club memberships, ownership and location of residence and motor vehicle ownership shall be determined and used as basis for setting credit limits. The gross monthly income may also be used provided reasonable deductions are estimated for income taxes, premium contributions, loan amortizations and other deductions.

All credit card applications, especially those solicited by third party representatives/agents, shall undergo a strict credit risk assessment process and the information stated thereon validated and verified by persons other than those handling marketing.

§ X320.4 Information to be disclosed

Banks or their subsidiary/affiliate credit card companies shall disclose to each person to whom the credit card privilege

is extended in the agreement, contract or any equivalent document governing the issuance or use of the credit card or any amendment thereto or in such other statement furnished the cardholder from time to time, prior to the imposition of the charges and to the extent applicable, the following information:

- a. non-finance charges, individually itemized, which are paid or to be paid by the cardholder in connection with the transaction but which are not incident to the extension of credit;
- b. the percentage that the interest bears to the total amount to be financed expressed as a simple monthly or annual rate, as the case may be, on the outstanding balance of the obligation;
- c. the effective interest rate per annum;
- d. for installment loans, the number of installments, amount and due dates or periods of payment schedules to repay the indebtedness;
- e. the default, late payment/penalty fees or similar delinquency-related charges payable in the event of late payments;
- f. the conditions under which interest may be imposed, including the time period, within which any credit extended may be repaid without interest;
- g. the method of determining the balance upon which interest and/or delinquency charges may be imposed;
- h. the method of determining the amount of interest and/or delinquency charges, including any minimum or fixed amount imposed as interest and/or delinquency charge;
- i. where one (1) or more periodic rates may be used to compute interest, each such rate, the range of balances to which it is applicable, and the corresponding simple annual rate;
- j. other fees, such as membership/ renewal fees, processing fees, collection fees, credit investigation fees and attorney's fees; and

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k. for transactions made in foreign currencies and/or outside the Philippines, for dual currency accounts (peso and dollar billings), as well as payments made by credit cardholders in any currency other than the billing currency: the application of payments; the manner of conversion from the transaction currency and payment currency to Philippine pesos or billing currency; definition or general description of verifiable blended exchange/conversion rates (e.g., MASTERCARD and/or VISA International rates on the day the item was processed/posted to the billing statement, plus mark-up, if any) including conversion commission; and/or other currency conversion charges and costs arising from the purchase by the card company of foreign currency to settle the customer's transactions shall also be disclosed.

§ X320.5 Interest accrual on past due loans. Interest income on past due loans arising from discount amortization (and not from the contractual interest of the accounts) shall be accrued as provided in PAS 39.

§ X320.6 Finance charges. The amount of finance charges in connection with any credit card transaction shall refer to interest charged to the cardholder.

§ X320.7 Deferral charges. The bank and the cardholder may, prior to the consummation of the transaction, agree in writing to a deferral of all or part of one (1) or more unpaid installments and the bank may collect a deferral charge which shall not exceed the rate previously disclosed pursuant to the provisions on disclosure.

§ X320.8 Late payment/penalty fees
No late payment or penalty fee shall be collected from cardholders unless the collection thereof is fully disclosed in the contract between the issuer and the

cardholder: *Provided*, That late payment or penalty fees shall be based on the unpaid minimum amount due or a prescribed minimum fixed amount: *Provided, further*, That said late payment or penalty fees may be based on the total outstanding balance of the credit card obligation, including amounts payable under installment terms or deferred payment schemes, if the contract between the issuer and the cardholder contains an “*acceleration clause*” and the total outstanding balance of the credit card is classified and reported as past due.

§ X320.9 Confidentiality of information. Banks and subsidiary/affiliate credit card companies shall keep strictly confidential the data on the cardholder or consumer, except under the following circumstances:

- a. disclosure of information is with the consent of the cardholder or consumer;
- b. release, submission or exchange of customer information with other financial institutions, credit information bureaus, credit card issuers, their subsidiaries and affiliates;
- c. upon orders of court of competent jurisdiction or any government office or agency authorized by law, or under such conditions as may be prescribed by the Monetary Board;
- d. disclosure to collection agencies, counsels and other agents of the bank or card company to enforce its rights against the cardholder;
- e. disclosure to third party service providers solely for the purpose of assisting or rendering services to the bank or card company in the administration of its credit card business; and
- f. disclosure to third parties such as insurance companies, solely for the purpose of insuring the bank from cardholder default or other credit loss, and the cardholder from fraud or unauthorized charges.

§ X320.10 *Suspension, termination of effectivity and reactivation.* Banks or their subsidiary/affiliate credit card companies shall formulate criteria or parameters for suspension, revocation and reactivation of the right to use the card and shall include in their contract with cardholders a provision authorizing the issuer to suspend or terminate its effectivity, if circumstances warrant.

§ X320.11 *Inspection of records covering credit card transactions.* Banks or their subsidiary/affiliate credit card companies shall make available for inspection or examination by the appropriate department of the SES complete and accurate files on card applicant/cardholder to support the consideration for approval of the application and determination of the credit limit which shall be in accordance with the verified debt repayment ability and/or net worth of the card applicant/cardholder.

§ X320.12 *Offsets.* For purposes of transparency and adequate disclosure, the credit card issuer shall inform/notify the credit cardholder in the agreement, contract or any equivalent document governing the issuance or use of the credit card that, pursuant to the provisions of Articles 1278 to 1290 of the New Civil Code of the Philippines, as amended, the use of his credit card will subject his deposit/s with the bank to offset against any amount/s due and payable on his credit card which have not been paid in accordance with the terms of the agreement/contract.

§ X320.13 *Handling of complaints* Banks or subsidiary/affiliate credit card companies shall give cardholders at least twenty (20) calendar days from statement date to examine charges posted in his/her statement of account and inform the bank/subsidiary credit card companies in writing

of any billing error or discrepancy. Within ten (10) calendar days from receipt of such written notice, the bank/subsidiary credit card company shall send a written acknowledgment to the cardholder unless the action required is taken within such ten (10)-day period.

Not later than two (2) billing cycles or two (2) months which in no case shall exceed ninety (90) days after receipt of the notice and prior to taking any action to collect the contested amount, or any part thereof, banks/subsidiary credit card companies shall make appropriate corrections in their records and/or send a written explanation or clarification to the cardholder after conducting an investigation. Nothing in this Subsection shall be construed to prohibit any action by the bank/subsidiary credit card company to collect any amount which has not been indicated by the cardholder to contain a billing error or apply against the credit limit of the cardholder the amount indicated to be in error.

§ X320.14 *Unfair collection practices* Banks, subsidiary/affiliate credit card companies, collection agencies, counsels and other agents may resort to all reasonable and legally permissible means to collect amounts due them under the credit card agreement: *Provided*, That in the exercise of their rights and performance of duties, they must observe good faith and reasonable conduct and refrain from engaging in unscrupulous or untoward acts. Without limiting the general application of the foregoing, the following conduct is a violation of this Subsection:

- a. the use or threat of violence or other criminal means to harm the physical person, reputation, or property of any person;
- b. the use of obscenities, insults, or profane language which amount to a criminal act or offense under applicable laws;

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- c. disclosure of the names of credit cardholders who allegedly refuse to pay debts, except as allowed under Subsec. X320.9;
- d. threat to take any action that cannot legally be taken;
- e. communicating or threat to communicate to any person credit information which is known to be false, including failure to communicate that a debt is being disputed;
- f. any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a cardholder; and
- g. making contact at unreasonable/inconvenient times or hours which shall be defined as contact before 6:00 A.M. or after 10:00 P.M., unless the account is past due for more than sixty (60) days or the cardholder has given express permission or said times are the only reasonable or convenient opportunities for contact.

§ X320.15 Sanctions. Violations of the provisions of this Section shall be subject to any or all of the following sanctions depending upon their severity:

- a. Disqualification of the bank concerned from the credit facilities of the BSP except as may be allowed under Section 84 of R.A. No. 7653;
- b. Prohibition of the bank concerned from the extension of additional credit accommodation against personal security; and
- c. Penalties and sanctions provided under Sections 36 and 37 of R.A. No. 7653.

Sec. X321 (Reserved)

D. RESTRUCTURED LOANS

Sec. X322 Restructured Loans; General Policy. Banks shall have full discretion in the restructuring of loans in order to provide flexibility in arranging the repayment of such loans without impairing or

endangering the lending bank’s financial interest, except in special cases approved by the Monetary Board such as loans funded by foreign currency obligations. However, the restructuring of loans granted to DOSRI should be upon terms not less favorable to the bank than those offered to others. While agreements on loan restructuring should be considered as management tools to maintain or improve the soundness of the bank’s lending operations, these should be drawn mainly to assist borrowers towards the settlement of their obligations, taking into account their capacity to pay.

§ X322.1 Definition; when to consider performing/non-performing. *Restructured loans* are loans the principal terms and conditions of which have been modified in accordance with a restructuring agreement setting forth a new plan of payment or a schedule of payment on a periodic basis. The modification may include, but is not limited to, change in maturity, interest rate, collateral or increase in the face amount of the debt resulting from the capitalization of accrued interest/accumulated charges. Items in litigation and loans subject of judicially approved compromise, as well as those covered by petitions for suspension or for new plans of payment approved by the court or the SEC, shall not be classified as restructured loans.

A loan which is restructured shall be considered non-performing except when as of restructuring date -

- (1) with updated principal and interest payments; and
- (2) fully secured by real estate with loan value of up to sixty percent (60%) of the appraised value of the real estate security and the insured improvements thereon, and such other first class collaterals as may be deemed appropriate by the Monetary Board: *Provided*, That a restructured loan, with or without

capitalized interest, must be yielding a rate of interest equal to or greater than the bank's average cost of funds at the date of restructuring, otherwise, it shall be considered non-performing.

The restoration to a performing loan shall only be effective after a *satisfactory track record* of payments of the required amortizations of principal and/or interest has been established.

For this purpose, a *satisfactory track record* of payments of principal and/or interest shall mean three (3) consecutive payments of the required amortizations of principal and/or interest have been made. However, in the case of a restructured loan with capitalized interest but not fully secured by real estate with loan value of up to sixty percent (60%) of the appraised value of the real estate security and the insured improvements thereon or other first class collaterals, six (6) consecutive payments of the required amortizations of principal and/or interest must have been made.

A restructured loan which has been restored to a performing loan status shall be immediately considered non-performing in case of default of any principal or interest payment.

§ X322.2 Procedural requirements

a. A loan may be restructured, subject to the approval of the bank's board of directors in a resolution which shall embody, among other things:

(1) the basis of or justification for the approval;

(2) determination of the borrower's capacity to pay, such as viability of the business; and

(3) the nature and extent of protection of the bank's exposure.

The authority to approve the restructuring of loans may be delegated by the bank's board of directors to a committee or officer(s): *Provided*, That there are board prescribed guidelines

specifically on restructuring of loans: *Provided, further*, That said guidelines shall be submitted to the appropriate department of the SES within thirty (30) days following the date of approval thereof. However, loans previously approved by the executive committee as well as those granted to DOSRI shall be subject to approval by the board as provided under existing rules and regulations. Loans restructured other than those approved by the board shall be reported to it for confirmation.

b. A second restructuring of a loan shall be allowed only if there are reasonable justifications: *Provided*, That it shall be considered a non-performing loan and classified, at least, "*Substandard*". The restoration to a performing loan status and/or upgrading of loan classification, e.g., from "*Substandard*" to "*Loans Especially Mentioned*", if circumstances warrant an upgrading in accordance with the criteria under *Appendix 18*, shall only be allowed after a satisfactory track record of at least six (6) consecutive payments of the required amortization of principal and/or interest has been established.

c. In the restructuring process, the bank shall encourage the borrower to improve the quality of the loan either by strengthening financial capacity or providing additional collateral.

The real estate security and/or other first class collaterals offered shall be appraised at the time of restructuring to ensure that current market values are being used. Real estate security shall be appraised by an independent appraisal company acceptable to the BSP and shall be reappraised every year thereafter.

(1) For UBs/KBs – a loan benchmark is set at P5.0 million, such that loans beyond this amount will require an independent appraisal company: *Provided*, That the appraisal company contracted to do the appraisal is not a subsidiary or an affiliate of the UB/KB.

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(2) For TBs – a loan benchmark is set at P1.0 million such that loans beyond this amount will require an independent appraisal company: *Provided*, That the appraisal company contracted to do the appraisal is not a subsidiary or an affiliate of the TB.

A TB may be allowed to use a UB/KB or another TB acceptable to the BSP to do the appraisal for it: *Provided*, That the TB requesting the appraisal is not a subsidiary or affiliate of the UB/KB/other TB contracted to do the appraisal.

(3) For RBs/Coop Banks – the benchmark is set at P500 thousand such that loans beyond this amount will require an independent appraisal company: *Provided*, That the appraisal company contracted to do the appraisal is not a subsidiary or an affiliate of the RB/Coop Bank.

An RB/Coop Bank may be allowed to use a UB/KB or a TB acceptable to the BSP to do the appraisal for it: *Provided*, That the RB requesting the appraisal is not a subsidiary or affiliate of the UB/KB/TB contracted to do the appraisal.

The term “*first class collaterals*” refers to assets and securities which have relatively stable and clearly definable value and/or greater liquidity and are free from lien/encumbrance, such as:

- (a) Real estate;
- (b) Evidences of indebtedness of the Republic of the Philippines and of the BSP, and other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines;
- (c) Hold-out on and/or assignment of deposits/deposit substitutes maintained in the lending institutions;
- (d) “Blue chip” shares of stocks, except those issued by the lending entity or by its parent company which owns more than fifty percent (50%) of its outstanding shares of stocks. For this purpose, the issuer corporation must be a listed corporation with a net worth of at least P1.0 billion and

with annual net earnings during the immediately preceding five (5) years; and

(e) Such other collaterals that the Monetary Board may declare as first class collaterals from time to time.

It is understood that the loan value to be assigned the collateral shall be as prescribed under existing regulations.

§ X322.3 Restructured loans considered past due. Restructured loans shall be considered past due in case of default of any principal or interest and shall be subject to classification in accordance with Sec. X322.4.

§ X322.4 Classification. The classification of a loan prior to restructuring, e.g., “*Loans Especially Mentioned*”, “*Substandard*” or “*Doubtful*” shall be retained: *Provided*, That a loan that is not classified but which is non-performing prior to restructuring shall be classified, at least, “*Loans Especially Mentioned*”: *Provided, further*, That restructured loans with capitalized interest shall be classified, at least, “*Substandard*” and the required valuation reserves shall be set up accordingly: *Provided, finally*, That a more adverse classification may be given, i.e., “*Substandard*”, “*Doubtful*” or “*Loss*”, if the circumstances warrant it as provided under *Appendix 18*.

The upgrading of loan classification, e.g., from “*Substandard*” to “*Loans Especially Mentioned*”, if circumstances warrant an upgrading in accordance with the criteria under *Appendix 18*, shall only be effective after a satisfactory track record of payments of the required amortizations of principal and/or interest has been established.

For this purpose, a *satisfactory track record* of payments of principal and/or interest shall mean three (3) consecutive payments of the required amortizations of principal and/or interest have been made. However, in the case of a restructured loan with capitalized interest but not fully

secured by real estate with loan value of up to sixty percent (60%) of the appraised value of the real estate security and the insured improvements thereon or other first class collaterals, six (6) consecutive payments of the required amortizations of principal and/or interest must have been made.

Secs. X323 - X325 (Reserved)

**E. LOANS AND OTHER CREDIT
ACCOMMODATIONS TO DIRECTORS,
OFFICERS, STOCKHOLDERS AND
THEIR RELATED INTERESTS**

Sec. X326 General Policy. Dealings of a bank with any of its DOSRI should be in the regular course of business and upon terms not less favorable to the bank than those offered to others.

§ X326.1 Definitions. For purposes of these regulations, the following definitions shall apply:

- a. *Directors* shall refer to bank directors as defined in Subsec. X141.1.
- b. *Officers* shall refer to bank officers as defined in Subsec. X142.1.
- c. *Stockholder* shall refer to any stockholder of record in the books of the bank, acting personally, or through an attorney-in-fact; or any other person duly authorized by him or through a trustee designated pursuant to a proxy or voting trust or other similar contracts, whose stockholdings in the lending bank, individual and/or collectively with the stockholdings of: (i) his spouse and/or relative within the first degree by consanguinity or affinity or legal adoption; (ii) a partnership in which the stockholder and/or the spouse and/or any of the aforementioned relatives is a general partner; and (iii) corporation, association or firm of which the stockholder and/or his spouse and/or the aforementioned relatives own more than fifty percent (50%) of the

total subscribed capital stock of such corporation, association or firm, amount to one percent (1%) or more of the total subscribed capital stock of the bank.

d. *Substantial stockholder* shall mean a person, or group of persons whether natural or juridical, owning such number of shares that will allow such person or group to elect at least one (1) member of the board of directors of a bank or who is directly or indirectly the registered or beneficial owner of more than ten percent (10%) of any class of its equity security.

e. *Related interest* shall refer to any of the following:

- (1) Spouse or relative within the first degree of consanguinity or affinity, or relative by legal adoption, of a director, officer or stockholder of the bank;
- (2) Partnership of which a director, officer, or stockholder of a bank or his spouse or relative within the first degree of consanguinity or affinity, or relative by legal adoption, is a general partner;
- (3) Co-owner with the director, officer, stockholder or his spouse or relative within the first degree of consanguinity or affinity, or relative by legal adoption, of the property or interest or right mortgaged, pledged or assigned to secure the loans or other credit accommodations, except when the mortgage, pledge or assignment covers only said co-owner's undivided interest;
- (4) Corporation, association, or firm of which a director or officer of the bank, or his spouse is also a director or officer of such corporation, association or firm, except (a) where the securities of such corporation, association or firm are listed and traded in the big board or commercial and industrial board of domestic stock exchanges and less than fifty percent (50%) of the voting stock thereof is owned by any one (1) person or by persons related to each other within the first degree of consanguinity or affinity; or (b) where the director, officer or stockholder of the bank

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sits as a representative of the bank in the board of directors of such corporation: *Provided*, That the bank representative shall not have any equity interest in the borrower corporation except for the minimum shares required by law, rules and regulations, or by the by-laws of the corporation: *Provided, further*, That the borrowing corporation is not among those mentioned in Items “e(5)”, “e(6)”, “e(7)” and “e(8)” of this Section;

(5) Corporation, association or firm of which any or a group of directors, officers, stockholders of the lending bank and/or their spouses or relatives within the first degree of consanguinity or affinity, or relative by legal adoption, hold or own at least twenty percent (20%) of the subscribed capital of such corporation, or of the equity of such association or firm;

(6) Corporation, association or firm wholly or majority-owned or controlled by any related entity or a group of related entities mentioned in Items “e(2)”, “e(4)” and “e(5)” of this Section;

(7) Corporation, association or firm which owns or controls directly or indirectly whether singly or as part of a group of related interest at least twenty percent (20%) of the subscribed capital of a substantial stockholder of the lending bank or which controls majority interest of the bank pursuant to Subsec. X303.1; and

(8) Corporation, association or firm which has an existing management contract or any similar arrangement with the parent of the lending bank.

f. *Subsidiary* shall refer to a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by its parent corporation.

g. *Unencumbered deposits* shall refer to savings, time and demand deposits, which are not subject to an assignment or hold-out agreement or any other encumbrance.

h. *Book value of the paid-in capital contribution* shall mean the proportional amount of the bank’s total capital accounts (net of such unbooked valuation reserves and other capital adjustments as may be required by the BSP) as the corresponding paid-in capital contribution of each of the bank’s directors, officers, stockholders and their related interests bear to the total paid-in capital of the bank: *Provided*, That as a basis for determining the individual ceiling referred to in Sec. X330, the corresponding book value of the shares of stock of said directors, officers, stockholders and their related interests which are the subject of pledge, assignment or any other encumbrance shall be deducted therefrom.

i. *Net worth* shall mean the total of the unimpaired paid-in capital including paid-in surplus, retained earnings and undivided profit, net of valuation reserves and other adjustments as may be required by the BSP.

j. *Total loan portfolio* shall refer to the sum of all loan accounts outstanding, gross of valuation reserves, as reflected in the bank’s consolidated statement of condition, excluding outstanding loans financed by special/specific funds from the government FIs.

k. *Secured loan, borrowing or other credit accommodation* shall refer to any loan, or credit accommodation or portion thereof referred to in Sec. X327 which is secured by:

(1) Real estate mortgage, chattel mortgage on tangible assets, and pledge of jewelry, precious stones and other valuable articles;

(2) Assignment of intangible assets such as patents, trademarks, trade names and copyrights;

(3) Unconditional payment guarantees such as standby letters of credit and letter of indemnity issued by banks/multilateral FIs;

(4) Assignment of, or hold-out on, deposits or deposit substitutes maintained in the lending bank;

- (5) Cash margin deposits; or assignment or pledge of government securities or readily marketable bonds and other high-grade debt securities and “blue-chip” stocks, except those issued by the lending entity, or by its parent company which owns more than fifty percent (50%) of its outstanding shares of stocks, subject to the additional provision that the issuer corporation has a net worth of at least P1.0 billion and with annual net earnings during the immediately preceding five (5) years;
- (6) Customer’s liability under import bills outstanding for not more than thirty (30) days from date of original entry;
- (7) Sales contract receivables arising from sale of real property on credit where title to the property is retained by the bank; and
- (8) Customer’s liability-import bills under trust receipts outstanding for not more than thirty (30) days from date of booking; *Provided*, That the booking under trust receipts shall have been made not later than the thirty-first day from the date of original entry referred to in Item “(6)” above.
- l. *Unsecured loan, borrowing or other credit accommodation* shall refer to any loan, or other credit accommodation or portion thereof referred in Sec. X327 which is not secured in accordance with Item “k” above.

(As amended by Circular No. 560 dated 31 January 2007)

Sec. X327 Transactions Covered. The terms *loans, other credit accommodations and guarantees* as used herein shall refer to transactions of the bank which involve the grant of any loan, advance or other credit accommodation in any form whatsoever, whether renewal, extension or increase, and shall include:

- a. Any advance by means of an incidental or temporary overdraft, cash item, “vale”, etc.;
- b. Any advance of unearned salary or other unearned compensation for periods in excess of thirty (30) days;

- c. Any advance by means of DAUDs;
- d. Outstanding availments under an established credit line;
- e. Drawings against an existing letter of credit;
- f. The acquisition of any note, draft, bill of exchange or other evidence of indebtedness upon which the bank’s DOSRIs may be liable as makers, drawers, acceptors, endorsers, guarantors or sureties;
- g. Indirect lending such as loans or other credit accommodations granted by another financial intermediary to said DOSRIs from funds of the bank invested in the other institution’s trust or other department when there is a clear relationship between the transactions;
- h. The increase of an existing indebtedness, as well as additional availments under a credit line or additional drawings against a letter of credit;
- i. The sale of assets, such as shares of stock, on credit; and
- j. Any other transactions as a result of which the bank’s DOSRIs become obligated or may become obligated to the lending bank, by any means whatsoever to pay money or its equivalent.

Sec. X328 Transactions Not Covered. The terms *loans, other credit accommodations and guarantees* as used herein shall not refer to the following:

- a. Advances against accrued compensation, or for the purpose of providing payment of authorized travel, legitimate expenses or other transactions for the account of the bank or for utilization of maternity and other leave credits;
- b. The increase in the amount of outstanding credit accommodations as a result of additional charges or advances made by the bank to protect its interest such as taxes, insurance, etc.;
- c. The discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or

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business paper actually owned by the person negotiating the same, including, but not limited to, the acquisition by a domestic bank of export bills from any of its DOSRI which are drawn in accordance with the terms and conditions of the covering letters of credit: *Provided*, That the transaction shall automatically be subject to the ceilings as herein provided once the DOSRI who is a party to the transaction becomes directly liable to the bank;

d. Transactions with a foreign bank which has stockholdings in the local bank where the foreign bank acts as guarantor through the issuance of letters of credit or assignment of a deposit in a currency eligible as part of the international reserves and held in a bank in the Philippines to secure other credit accommodations granted to another person or entity: *Provided*, That the foreign bank stockholder shall automatically be subject to the ceilings as herein provided in the event that its contingent liability as guarantor becomes a real liability; and

e. Interbank call loan transactions.

§ X328.1 *Applicability to credit card operations.* The credit card operations of banks shall not be subject to these regulations where the credit cardholders are bank's DOSRI: *Provided*, That (a) the privilege of becoming a credit cardholder is open to all qualified persons on the basis of selective criteria which are applied by the bank to all applicants thereof; and (b) the bank's DOSRIs reimburse/pay the bank for the billed amount in full on or before the payment due date in the billing or statement of account, as set by the bank for all other qualified credit card holders on availments made for the same period on their credit cards. However, the transaction shall be subject to applicable DOSRI regulations if the bank's DOSRIs:

a. fail to reimburse/pay the bank within the period mentioned herein; or

b. on the outset, opt for deferred payment scheme, and the availment is booked by the bank.

For purposes of this Section, *stockholders and related interests* refer to individual credit card holders.

§ X328.2-X328.4 (Reserved)

§ X328.5 *Loans, other credit accommodations and guarantees granted to subsidiaries and/or affiliates*

a. *Statement of policy.* Dealings of a bank with its subsidiaries and/or affiliates shall be in the regular course of business and upon terms not less favorable to the bank than those offered to others.

b. *Ceilings.* The total outstanding loans, other credit accommodations and guarantees to each of the bank's subsidiaries and affiliates shall not exceed ten percent (10%) of the net worth of the lending bank: *Provided*, That the unsecured loans, other credit accommodations and guarantees to each of said subsidiaries and affiliates shall not exceed five percent (5%) of such net worth: *Provided, further*, That the total outstanding loans, other credit accommodations and guarantees to all subsidiaries and affiliates shall not exceed twenty percent (20%) of the net worth of the lending bank: *Provided, finally*, That these subsidiaries and affiliates are not related interest of any of the director, officer, and/or stockholder of the lending bank, except where such director, officer or stockholder sits in the board of directors or is appointed officer of such corporation as representative of the bank.

c. *Exclusions from the ceilings.* Loans, other credit accommodations and guarantees secured by assets considered as non-risk under existing BSP regulations as well as interbank call loans shall be excluded in determining compliance with the ceilings prescribed under Item "b" above.

d. *Procedural requirements.* The following provisions shall apply if a bank grants a loan, other credit accommodation or guarantee to any of its subsidiaries and affiliates.

(1) *Approval of the board, when to obtain.* Except with prior written approval of the majority of all the members of the board of directors, no loan, other credit accommodation and guarantee shall be granted to a subsidiary or affiliate.

(2) *Approval by the board, how manifested.* The approval shall be manifested in a resolution passed by the board of directors during a meeting and made of record.

(3) *Determination of majority of all the members of the board of directors.* The determination of the majority of all the members of the board of directors shall be based on the total number of directors of the bank as provided in its articles of incorporation and by-laws.

(4) *Contents of the resolution.* The resolution of the board of directors shall contain the following information:

(a) Name of the subsidiary or affiliate;
(b) Nature of the loan or other credit accommodation or guarantee, purpose, amount, credit basis for such loan or other credit accommodation or guarantee, security and appraisal thereof, maturity, interest rate, schedule of repayment and other terms;

(c) Date of resolution;

(d) Names of the directors who participated in the deliberation of the meeting; and

(e) Names in print and signatures of the directors approving the resolution: *Provided*, That in instances where a director who participated in the board meeting and who approved such resolution failed to sign, the corporate secretary may issue a certification to this effect indicating the reason for the failure of the said director to sign the resolution.

(5) *Transmittal of copy of board approval; contents thereof.* A copy of the written approval of the board of directors, as herein required, shall be submitted to the appropriate department of the SES within twenty (20) banking days from the date of approval. The copy may be a duplicate of the original, or a reproduction copy showing clearly the signatures of the approving directors: *Provided*, That if a reproduction copy is to be submitted, it shall be duly certified by the corporate secretary that it is a reproduction of the original written approval.

e. *Reportorial requirements.* Each bank shall maintain a record of loans, other credit accommodations and guarantees covered by these regulations in a manner and form that will facilitate verification of such transactions by BSP examiners.

The appropriate department of the SES may require banks to furnish such data or information as may be necessary for purposes of implementing the provisions of the foregoing rules.

f. *Sanctions.* Without prejudice to the criminal sanctions under Sec. 36 of R.A. No. 7653 (The New Central Bank Act), any violation of the provisions of the foregoing rules shall be subject to any or all of the following sanctions:

(1) Restriction or prohibition on the bank from declaring dividends for non-compliance with the herein prescribed ceilings until the outstanding loans, other credit accommodations and guarantees have been reduced to within the herein prescribed ceilings;

(2) For the duration of each violation, imposition of a fine of one tenth (1/10) of one percent (1%) of the excess over the ceilings per day but not to exceed P30,000 a day on the following:

(a) The lending bank;

(b) Each of the directors voting for the approval of the loan, other credit accommodation or guarantee in excess of any of the ceilings prescribed above.

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g. *Transitory provisions.* Outstanding loans, other credit accommodation and guarantees to subsidiaries/affiliates that will exceed the ceilings mentioned above shall not be subject to penalty until 09 April 2007 or until said accommodations become past due, or are extended, renewed or restructured, whichever comes later.

(Circular No. 560 dated 31 January 2007)

Sec. X329 Direct or Indirect Borrowings

Loans, other credit accommodations and guarantees to DOSRI shall be considered direct or indirect borrowings in accordance with the following criteria:

a. *Direct borrowing.* If the director, officer or stockholder of the lending bank is a party to any of the transactions enumerated in Sec. X327 for himself, or as the representative or agent of others, or if he acts as a guarantor, endorser or surety for loans from the bank, or if the loan or other credit accommodation to another party is secured by a property interest or right of the director, officer or stockholder.

b. *Indirect Borrowing.* If in any of the transactions in Sec. X327 the borrower, guarantor, endorser or surety is a related interest as defined in Item “e”, Subsec. X326.1.

Other cases of direct/indirect borrowing shall be resolved on a case-to-case basis.

It shall be the responsibility of the bank concerned to ascertain whether the borrower, guarantor, endorser or surety is related or connected with the bank or with any of the directors, officers or stockholders of the bank in any of the capacities mentioned in Item “e” of Subsec. X326.1.

In determining indirect borrowings, as enumerated above, only those cases involving living relatives shall be considered.

Sec. X330 Individual Ceilings. The total outstanding loans, other credit accommodations and guarantees to each of the bank’s DOSRI shall be limited to an amount equivalent to their respective unencumbered deposits and book value of their paid-in capital contribution in the bank: *Provided, however,* That unsecured loans, other credit accommodations and guarantees to each of the bank’s DOSRI shall not exceed thirty percent (30%) of their respective total loans, other credit accommodations and guarantees.

§ X330.1 Exclusions from individual ceiling. The following loans, other credit accommodations and guarantees shall be excluded in determining compliance with the individual ceiling.

a. Loans, other credit accommodations and guarantees secured by assets considered as non-risk by the Monetary Board;

Assets considered as non-risk shall refer to the following:

- (1) Cash;
- (2) Debt securities issued by the BSP or the Philippine government;
- (3) Deposits maintained in the lending bank and held in the Philippines;
- (4) Debt securities issued by the U.S. government;
- (5) Debt securities issued by central governments, central banks of foreign countries and multilateral financial institutions such as International Finance Corporation, Asian Development Bank and World Bank, with the highest credit quality given by any two (2) internationally accepted rating agencies; and
- (6) Such other assets considered as non-risk by the Monetary Board.

b. Loans, other credit accommodations and advances to officers in the form of fringe benefits granted in accordance with existing regulations; and

c. Loans, other credit accommodations and guarantees extended by a Coop Bank to its cooperative shareholders.

Sec. X331 Aggregate Ceiling; Ceiling on Unsecured Loans, Other Credit Accommodations and Guarantees
Except with the prior approval of the Monetary Board, the total outstanding loans, other credit accommodations and guarantees to DOSRI shall not exceed fifteen percent (15%) of the total loan portfolio of the bank or 100% of net worth whichever is lower: *Provided*, That in no case shall the total unsecured loans, other credit accommodations and guarantees to said DOSRI exceed thirty percent (30%) of the aggregate ceiling or the outstanding loans, other credit accommodations and guarantees, whichever is lower. For the purpose of determining compliance with the ceiling on unsecured loans, other credit accommodations and guarantees, banks shall be allowed to average their ceiling on unsecured loans, other credit accommodations and guarantees every week.

In evaluating requests for extension of loans in excess of the aggregate ceiling, the BSP shall consider the credit standing of the borrower, viability of the projects financed by such other credit accommodations in relation to national objectives, collateral or security and other pertinent considerations.

Sec. X332 Exclusions from Aggregate Ceiling. The following loans, other credit accommodations and guarantees shall be excluded in determining compliance with the aggregate ceiling:

- a. Credit accommodations or portions thereof to the extent secured by assets considered as non-risk by the Monetary Board;
- b. Credit accommodations to a corporate stockholder which meets all the following conditions:

- (1) The corporation is a non-financial institution;
 - (2) Its shares are listed and traded in the domestic stock exchanges; and
 - (3) No person or group of persons related within the first degree of consanguinity or affinity holds/owns more than twenty percent (20%) of the subscribed capital of the corporation.
- c. Credit accommodations to government-owned or controlled corporations, in cases where a director, officer or stockholder of the lending bank is a representative of the government in the borrowing corporation and does not hold any proprietary interest in such corporation: *Provided*, That other rules on loans to DOSRI, such as procedural and reportorial requirements under Sections X334 and X335 are followed.
- d. Exclusions from individual ceiling mentioned under Items “(b)” and “(c)” of Subsec. X330.1.

Sec. X333 Applicability to Branches and Subsidiaries of Foreign Banks. The individual and aggregate ceilings as well as ceilings on unsecured credit accommodations prescribed herein shall also apply to branches and subsidiaries of foreign banks in the Philippines.

Sec. X334 Procedural Requirements. The following provisions shall apply if the bank’s DOSRI are parties to, or act as representatives or agents of others in, any of the transactions enumerated under Sec. X327:

- a. *Approval of the board, when to obtain.* Except with prior written approval of the majority of the directors, excluding the director concerned, no loan, other credit accommodation and guarantee shall be granted nor shall any of the transactions enumerated under Sec. X327 be entered into.
- b. *Approval by the board, how manifested.* The approval shall be manifested in a resolution passed by the board of directors during a meeting and made of record.

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c. *Determination of majority of the directors.* The determination of the majority of the directors, excluding the director concerned, shall be based on the total number of directors of the bank as provided in its articles of incorporation and by-laws.

d. *Contents of the resolution.* The resolution of the board of directors shall contain the following information:

(1) Name of the director or officer concerned and his involvement as regards the credit accommodation, such as principal, endorser, spouse of borrower, etc.;

(2) Nature of the loan or other credit accommodation, purpose, amount, credit basis for such loan or other credit accommodation, security and appraisal thereof, maturity, interest rate, schedule of repayment and other terms of the loan or other credit accommodation;

(3) Date of resolution;

(4) Names of the directors who participated in the deliberations of the meeting; and

(5) Names in print and signatures of the directors approving the resolution: *Provided*, That in instances where a director who participated in the board meeting and who approved such resolution failed to sign, the corporate secretary may issue a certification to this effect indicating the reason for the failure of the said director to sign the resolution.

e. *Transmittal of copy of board approval; contents thereof.* A copy of the written approval of the board of directors, as herein required, shall be submitted to the appropriate department of the SES within twenty (20) banking days from the date of approval. The copy may be a duplicate of the original, or a reproduction copy showing clearly the signatures of the approving directors: *Provided*, That if a reproduction copy is to be submitted, it shall contain on its face or reverse side a signed certification by the secretary that it is a reproduction of the original written

approval: *Provided, further*, That such written approval shall not be required for loans, other credit accommodations and advances granted to officers under a fringe benefit plan approved by the BSP.

Sec. X335 Reportorial Requirements. Each bank shall maintain a record of loans, other credit accommodations and guarantees covered by these regulations in a manner and form that will facilitate verification of such transactions by BSP examiners.

The appropriate department of the SES may require banks to furnish such data or information as may be necessary for purposes of implementing the provisions of the foregoing rules.

Sec. X336 Sanctions. Any violation of the provisions of the foregoing rules shall be subject to any or all of the following sanctions:

a. Restriction or prohibition on the bank from declaring dividends for non-compliance with the prescribed ceiling on DOSRI until the outstanding loans and other credit accommodations have been reduced to within the herein prescribed ceilings;

b. After due notice to the board of directors of the bank, the office of any bank director or officer who violates the provisions of this Section may be declared vacant and the director or officer shall be subject to the penal provisions of the New Central Bank Act;

c. Application of (1) the borrowing director's or officer's share in the bank's profit sharing program; and (2) the share of the director voting for the approval of the loan or other credit accommodation, against the excess of such loan or other credit accommodation over any of the herein prescribed ceilings; and

d. For the duration of each violation, imposition of a fine of one-tenth of one percent (1/10 of 1%) of the excess over the ceilings per day but not to exceed P30,000 a day on the following:

- (1) The lending bank;
- (2) The director, officer or stockholder whose borrowing exceeds his individual ceiling; and
- (3) Each of the directors voting for the approval of the loan or other credit accommodation in excess of any of the ceilings prescribed in Secs. X330 and X331.

The penalty for exceeding the individual ceiling, aggregate ceiling and ceiling on unsecured loans shall be computed on the average amount of loans in excess of said ceilings during the same week.

Sec. X337 Waiver of Secrecy of Deposit

Any director, officer or stockholder who, together with his related interest, contracts a loan or any form of financial accommodation from:

- a. his bank; or
 - b. from a bank
- (1) which is a subsidiary of a bank holding company of which both his bank and the lending bank are subsidiaries; or
- (2) in which a controlling proportion of the shares is owned by the same interest that owns a controlling proportion of the shares of his bank, in excess of five percent (5%) of the capital and surplus of the bank, or in the maximum amount permitted by law, whichever is lower, shall be required by the lending bank to waive the secrecy of his deposits of whatever nature in all banks in the Philippines. Any information obtained from an examination of his deposits shall be held strictly confidential and may be used by the examiners only in connection with their supervisory and examination responsibility or by the BSP in an appropriate legal action it has initiated involving the deposit account.

Sec. X338 Financial Assistance to Officers and Employees.

Banks may provide financial assistance to their officers and employees, as part of their fringe benefits program, to meet the housing,

transportation, household and personal needs of their officers and employees. Financing plans and amendments thereto, shall be with prior approval of the BSP.

§ X338.1 Mechanics. The mechanics of such financing plan shall have the following minimum features:

a. Participation shall be limited to fulltime and permanent officers and employees of the bank;

b. Financial assistance shall only be for the following purposes:

(1) The acquisition of a residential house and lot, or the construction, renovation or repair of a residential house on a lot owned and to be occupied by the officer or employee;

(2) The acquisition of vehicles, household equipment and appliances for the personal use of the officer or employee or his immediate family; or

(3) To meet expenses for the medical, maternity, education, emergency and other personal needs of the officer or employee or his immediate family;

c. Financial assistance for purposes mentioned in Items “b(1)” and “b(2)” of this Subsection shall be granted in the form of a loan, advance or other credit accommodation, installment sale, lease with option to purchase or lease-purchase arrangement where the lessee is obliged to purchase the real estate or equipment;

d. The amount and maturity of financial assistance for each purpose shall be determined by the bank in consonance with the normal requirements thereof: *Provided*, That the maximum amount shall be stated as percentage or multiple of the total monthly compensation of the officer or employee and shall be within the paying capacity of the borrowing officer or employee.

Total monthly compensation shall include the basic salary and all fixed and regular monthly allowances of the officer or employee. Payments for sickness

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benefits and other special emoluments which are not fixed or regular in nature, or the commutation into cash of unused leave credits shall not be included in the computation of total monthly compensation;

e. The amortization payment shall include amounts necessary to cover mortgage redemption insurance and fire insurance premiums, taxes, special assessments, and other related fees and charges;

f. Availment of the financing plan to construct or acquire a residential house and lot shall be allowed only once during the officer's or employee's tenure with the bank, except where the right over the real estate previously acquired or constructed under the financing plan is absolutely transferred or assigned to another officer or employee of the bank or to a third party: *Provided*, That the bank must be fully paid or reimbursed for the outstanding availment on the financing plan before the officer/ employee is allowed to re-avail himself of the same financing plan.

An officer or employee (or his spouse) who already owns a residential house and lot shall not be qualified to avail himself of financial assistance for purposes of acquiring a residential house and/or lot.

These prohibitions notwithstanding, financial assistance for the repair or renovation of a residential house may be allowed subject to such limitation as may be prescribed by the bank pursuant to Item "d " of this Subsection;

g. Availment of the financing plan for the acquisition of a specific type of equipment or appliance shall be allowed not oftener than once every three (3) years: *Provided*, That re-availment shall be allowed only after previous obligations in connection with the acquisition of the same type of equipment or appliances have been fully liquidated; and

h. The bank shall adopt measures to protect itself from losses such as by incorporating in the plan or contract

provisions requiring co-makers or co-signor, chattel, or real estate mortgages, fire insurance, mortgage redemption insurance, assignment of money value of leave credits, pension or retirement benefits.

§ X338.2 (Reserved)

§ 1338.2 *Funding by foreign banks.* In the case of local branches of foreign banks, financial assistance for their officers and employees may be funded, through any of the following means:

a. Through a local affiliate by special arrangement with the head office abroad in any of the following forms:

(1) Inward remittance from the head office of the affiliate;

(2) Assignment to the affiliate of equivalent amounts of profits otherwise remittable abroad under existing regulations; or

(3) Direct loans by the foreign bank to the affiliate; or

b. Through the local branch itself by:

(1) Segregation or transfer of undivided profits normally remitted to the head office abroad equivalent to the loans to officers and employees which shall be lodged under "*Other Liabilities-Head Office Accounts*". This account shall at all times have a balance equivalent to the outstanding loans to officers/employees financed under this scheme; or

(2) Inward remittance; or

c. Through the local branch from local sources without earmarking an equivalent amount of undivided profits: *Provided*, That the aggregate ceilings on such loans as provided under existing regulations shall apply.

Loans under Items "*b(1)*" and "*b(2)*" of this Subsection shall be treated in the branch books as loans granted by its head office. The documentation and collection of such loans shall be handled by the branch for the account of the head office.

Loans financed under Items “a” and “b” shall be excluded from the computation of the capital to risk assets ratio.

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§ X338.3 Other conditions/limitations

a. The investment by a bank in equipment and other chattels under its fringe benefits program for officers and employees shall be included in determining the extent of the investment of the bank in real estate and equipment for purposes of Section 51 of R.A. No. 8791.

b. The investment by a bank in equipment and other chattels contemplated under these guidelines shall not be for the purpose of profits in the course of business for the bank.

c. The aggregate outstanding loans and other credit accommodations granted under the bank’s fringe benefits program, inclusive of those granted to officers in the nature of lease with option to purchase, shall not exceed five percent (5%) of the bank’s total loan portfolio.

Banks providing financial assistance to their officers/employees shall submit a regular report on “availments of financial assistance to officers and employees” to the BSP within fifteen (15) banking days after end of reference semester.

The appropriate department of the SES may further require banks to submit such data or information as may be necessary to facilitate verification of such transactions by BSP examiners.

Sec. X339 Transitory Provisions

a. The sanctions contained under Sec. X336 shall not apply to outstanding loans, other credit accommodations and guarantees, as well as availments of previously approved loans and committed credit lines not considered as DOSRI accounts prior to 10 April 2004, for a period

of up to 09 April 2007 or until said loans, other credit accommodations and guarantees become past due, or are extended, renewed or restructured, whichever comes later.

b. Unsecured outstanding loans, other credit accommodations and guarantees, as well as availments of previously approved loans and committed credit lines not considered as DOSRI accounts prior to 10 April 2004, shall not be deducted from capital accounts for a period of up to 09 April 2007 or until such time that said loans, other credit accommodations and guarantees become past due, or are extended, renewed or restructured, whichever comes later.

c. Banks shall, however, disclose the following information in their financial statements, annual report and the reports being submitted to BSP:

(1) DOSRI;

(i) Loans, other credit accommodations and guarantees classified as DOSRI accounts under regulations existing prior to 10 April 2004; and

(ii) New DOSRI loans, other credit accommodations and guarantees granted starting 10 April 2004.

(2) Non-DOSRI prior to 10 April 2004 Loans, other credit accommodations and guarantees, as well as availments of previously approved loans and committed credit lines not considered DOSRI accounts prior to 10 April 2004 but are allowed a transition period as provided above.

(As amended by Circular No. 532 dated 19 May 2006)

§§ X339.1 - X339.3 (Reserved)

§ X339.4 Reportorial requirements

Financing plans and amendments thereto shall be submitted to BSP within thirty (30) calendar days from approval thereof by the bank’s board of directors. The appropriate department of the SES may require the banks concerned to submit a regular report monitoring the various transactions under

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the bank's financing plans for officers/employees.

All banks providing financial assistance to bank officers/employees shall submit a report on *"Availments of Financial Assistance to Officers and Employees"* to the BSP within fifteen (15) banking days after end of reference semester.

Sec. X340 Applicability of DOSRI Rules and Regulations to Government Borrowings in Government-Owned or -Controlled Banks. The provisions of Secs. X326 to X337 shall also apply to loans, other credit accommodations, and/or guarantees granted to the National Government or Republic of the Philippines, its political subdivisions and instrumentalities as well as GOCCs, subject to the following clarifications:

a. Loans, other credit accommodations, and/or guarantees to the Republic of the Philippines and/or its agencies/departments/bureaus shall be considered: (1) non-risk; and (2) not subject to any ceiling;

b. Loans, other credit accommodations, and/or guarantees to: (1) GOCCs; and (2) corporations where the Republic of the Philippines, its agencies/departments/bureaus, and/or GOCCs own at least twenty percent (20%) of the subscribed capital stock shall be considered indirect borrowings of the Republic of the Philippines and shall form part of the individual ceiling as well as the aggregate ceiling: *Provided*, That the following loans, other credit accommodations, and/or guarantees to GOCCs and corporations where the Republic of the Philippines, its agencies/departments/bureaus, and/or GOCCs own at least twenty percent (20%) of the subscribed capital stock, shall be excluded from the thirty percent (30%) ceiling on unsecured loans under Secs. X330 and X331:

(1) Loans, other credit accommodations, and/or guarantees for the purpose of

undertaking priority infrastructure projects consistent with the Medium-Term Development Plan/Medium-Term Public Investment Program of the National Government, duly certified as such by the Secretary of Socio-Economic Planning;

(2) Loans, other credit accommodations, and/or guarantees granted to PFIs in the lending programs of the government wherein the funds borrowed are intended for relending to other PFIs or end-user borrowers; and

(3) Loans, other credit accommodations, and/or guarantees granted for the purpose of providing (i) wholesale and retail loans to the agricultural sector and micro, small and medium enterprises (MSMEs); and/or (ii) rediscounting and guarantee facilities for loans granted to the said sector or enterprises;

c. Loans, other credit accommodations, and/or guarantees granted to state universities and colleges (SUCs) shall be excluded from the thirty percent (30%) ceiling on unsecured loans under Secs. X330 and X331.

d. In view of the fiscal autonomy granted under R.A. No. 7653 and the independence prescribed under the Constitution, the BSP shall be considered an independent entity, hence, not a related interest of the Republic of the Philippines and/or its agencies/departments/bureaus. Loans, other credit accommodations and guarantees of the BSP shall be considered: (1) non-risk; and (2) not subject to any ceiling;

e. LGUs shall be considered separate from the Republic of the Philippines, other government entities, and from one another due to the full autonomy in the exercise of their proprietary functions and in the management of their economic enterprises granted to them under the Local Government Code of the Philippines, subject to certain limitations provided by law, hence, not a related interest of the

Republic of the Philippines and/or its agencies/departments/bureaus;

f. Local Water Districts (LWDs), although GOCCs, shall be considered separate from the Republic of the Philippines, other government entities, and from one another due to their fiscal independence from the national government, hence, not a related interest of the Republic of the Philippines and/or its agencies/department/bureaus, for purposes of these regulations;

g. A director who acts as a government representative in the lending institution shall not be excluded in the deliberation as well as in the determination of majority of the directors in cases of loans, other credit accommodations, and guarantees to the Republic of the Philippines and/or its agencies/departments/bureaus; and

h. A director of the lending institution shall be excluded in the deliberation as well as in the determination of majority of the directors in cases of loans, other credit accommodations, and guarantees to the borrowing government entity other than the Republic of the Philippines, its agencies, departments or bureaus where said director is also a director, officer or stockholder under existing DOSRI regulations.

(Circular No. 514 dated 06 March 2006 as amended by Circular Nos. 635 dated 10 November 2008, 616 dated 30 July 2008, 580 dated 09 September 2007, and 547 dated 21 September 2006)

F. MANDATORY CREDITS

Sec. X341 Agrarian Reform and Agricultural Credit. Pursuant to P.D. No. 717, the following guidelines shall govern the grant of agrarian reform credit and agricultural credit by banks, government or private.

§ X341.1 Definition of terms. For purposes of this Section, the following definitions shall apply:

a. *Loanable funds* shall refer to total funds generated after the effectivity of P.D. No. 717, the computation of which is described in Subsec. X341.4.

b. *Agrarian reform credit* shall refer to production and other types of loans granted to beneficiaries of agrarian reform for the following purposes: acquisition of work animals, farm equipment and machinery, seeds, fertilizers, poultry, livestock, feeds and other similar items; acquisition of lands authorized under existing laws; construction and/or acquisition of facilities for production, processing, storage and marketing; and efficient and effective merchandising of agricultural commodities stored and/or processed by the facilities aforesaid in domestic and foreign commerce.

c. *Agricultural credit* in general shall include all loans and/or advances granted to borrowers, whether beneficiaries of agrarian reform or not, to finance activities relating to agriculture, and for processing, marketing, storage, and distribution of products resulting from these activities.

d. *Agrarian reform beneficiaries* shall include tillers, tenant-farmers, settlers, agricultural lessees, amortizing owners, owner-cultivators, farmers’ cooperatives and compact farms, as determined by the DAR.

The term shall likewise include agricultural enterprises registered under P.D. No. 1159 as well as projects undertaken pursuant to the Corporate Farming Program under General Order (G.O) No. 47: *Provided*, That the borrower submits the following documents to the lending bank:

(1) A certification from the Board of Investments to the effect that the borrower is an agricultural enterprise duly registered under P.D. No. 1159 ; and

(2) An endorsement of the DAR stating that land reform beneficiaries shall benefit from the agricultural enterprises’ projects.

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§ X341.2 Who may borrow; purposes

a. All beneficiaries of agrarian reform credit mentioned under P.D. No. 717 and its implementing regulations which credit shall be used for agricultural production or for other purposes mentioned therein shall be qualified borrowers under agrarian reform credit.

b. Qualified borrowers under agricultural credit in general are corporations, entities, or private individuals engaged in agricultural production, processing, storage, marketing, or exportation of agricultural products, and importation/manufacture/distribution of farm machineries and equipment, fertilizers, etc. used for agricultural production.

§ X341.3 Required allocation for agrarian reform and agricultural credit in general. Banks shall set aside an amount equivalent to at least twenty-five percent (25%) of their loanable funds for agricultural credit in general, of which an amount equivalent to at least ten percent (10%) of the loanable funds shall be made available for agrarian reform credit.

a. *Marketing credits* considered as agrarian reform credits.

(1) Agrarian reform beneficiaries as defined by P.D. No. 717;

(2) Registered agricultural enterprises duly endorsed by the nearest office of the DAR per P.D. No. 1159;

(3) G.O. No. 47 corporations or agro-service corporations employed by G.O. No. 47 corporation which are certified by the DAR as engaged in grains production through linkage arrangements with agrarian reform beneficiaries;

(4) Area marketing cooperatives or Samahang Nayon duly registered with the Cooperatives Development Authority (CDA);

(5) Registered agrarian reform beneficiaries' associations/other farm groups respectively endorsed as agrarian

reform beneficiaries by the nearest office of the DAR; CDA; or the Farm Systems Development Corporation (FSDC), National Irrigation Administration (NIA); or

(6) NFA-registered warehousemen/millers/wholesalers whose grains inventory, subject to a chattel mortgage, trust receipts or pledged quedan, are duly sworn to under oath by grains businessmen-borrowers concurred by the President of the Agrarian Reform Beneficiaries Association in the area as having been produced by agrarian reform beneficiaries; and

(7) The NFA: *Provided*, That it certifies that its palay procurements are obtained through direct/indirect linkage arrangements with agrarian reform beneficiaries, subject to such ceilings as may be imposed by the BSP/Department of Finance (DOF) on the loans/advances to the NFA by banks:

Lendings to NFA are considered as lending to the agricultural and agrarian sector: *Provided*, That such lendings shall be given credit only once for purposes of determining compliance with the required allocation of fund for agrarian reform and agricultural credit in general.

b. Development loan incentives. *[Transferred to Subsec. X341.5, Item "c(1)".]*

c. Loans for high-value crops projects. *[Transferred to Subsec. X341.5, Item "c(2)".]*

§ X341.4 Computation of loanable funds. Loanable funds shall be:

a. The net increase from 29 May 1975 to date of the report of the individual accounts which represent the following:

(1) The total deposits (demand, savings, time and NOW accounts) excluding foreign currency deposits under Circular No. 1389 and deposits of the BTr representing revenue collections of the BIR and BOC;

(2) Deposits of banks, net of due from other banks;

(3) Bills payable (including borrowings from banks) net of:

- (a) Repo agreement by accredited government securities dealers if relent to banks;
 - (b) Interbank call loans with maturities not exceeding fifteen (15) days;
 - (c) Proceeds from special on-lending programs like the APEX;
 - (d) Proceeds from BSP rediscounting (except special time deposits); and
 - (e) Proceeds from special BSP credit accommodations in the form of emergency advances, overnight repo agreements and availment of overdraft facilities.
- (4) Total capital accounts.
- b. Total collections from the loan portfolio outstanding as of 31 May 1975 to date of the report; and
- c. The sum of Items “a” and “b” above, less the net increase of the following:
- (1) Bank premises, furniture and equipment (net book value);
 - (2) Real and other property owned or acquired (representing properties acquired in satisfaction of debts);
 - (3) Other assets;
 - (4) Required reserves against:
 - (a) deposit liabilities;
 - (b) deposit substitutes;
 - (c) others (excluding reserves for margin deposits);
 - (5) Provisions for liquidity (fifteen percent (15%) of total deposits and demand liabilities); and
 - (6) Loans to export-oriented small and medium-scale industries involving accounts not exceeding P1.0 million.

§ X341.5 Allowable alternative compliance. In the absence of qualified borrowers, the following shall apply:

a. Agrarian reform credit -

(1) *Eligibility of government securities; conditions.* The amount set aside for agrarian reform credit not actually loaned out may be invested temporarily in government securities expressly declared eligible for the purpose by the BSP, subject to the following conditions:

- (a) Such securities shall be held to maturity without prejudice to the right of the holder bank to require the issuing government entity to monetize, encash or repurchase such securities whenever funds are needed by the bank for lending to the beneficiaries of agrarian reform;
 - (b) Such securities shall not be hypothecated or encumbered in any way or earmarked for any other purposes;
 - (c) Such securities shall be marked “for agrarian reform credit” and shall be segregated from the bank’s investment portfolio; and
 - (d) Only the buying/lending bank may use, during the holding period, eligible government securities subject of a resale/ repo agreement between private entities for purposes of compliance with this Subsection, subject to the following:
 - (i) The resale/repurchase should be for terms not less than thirty (30) days without pretermination during the first successive thirty (30) days, which condition shall be embodied in the resale/repo agreement; and
 - (ii) The buying/lending bank, with the consent of the selling/borrowing entity, shall register with the BSP its holdings of government securities under repo/resale agreement.
- (2) *Eligible securities/bonds*
- (a) NDC Agri-Agra ERAP Bonds. Investment by banks in NDC Agri-Agra ERAP Bonds as well as the firm underwriting of said bonds by banks or by the subsidiary IH of a UB.
 - (b) LGU Bonds.
 - (c) Pag-IBIG P4.0 billion Bond issue (2000 Series).
 - (d) Five (5)- and Ten (10)-year Special Purpose Treasury Bonds (SPTBs) to finance the CARP-related expenditures, provided the proceeds of the bonds will be exclusively used for the agrarian reform sector.
 - (e) Zero Coupon Bond Issue by the HGC of up to P7.0 billion 5-year regular series and up to P3.0 billion 7-year special

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series to finance its guaranty servicing of socialized and low-cost housing projects only to the extent of the present value of the bond computed using the original yield to maturity (as of auction/issue date).

The eligibility of securities under Items “(2)(a)”, “(2)(b)”, “(2)(d)” and “(2)(e)” shall be subject to the conditions in Items “a(1)(b)” and “a(1)(d)”; Item “(2)(c)” to the conditions in Items “a(1)(b)” and “a(1)(d)(i)”.

b. Agricultural credit in general - The amount set aside for agricultural credit in general not actually loaned out may be invested in commercial papers issued by entities engaged in agricultural production, processing, storage, marketing, or exportation of agricultural products; and importation, manufacture, distribution of farm machineries and equipment, fertilizers, etc. used for agricultural production: *Provided*, That for purposes of compliance with this Subsection, only the buying/lending bank may use commercial papers acquired in a resale/repo agreement during the holding period thereof subject to the conditions in Item “a(1)(d)” of this Subsection.

c. Alternative compliance for both agri-agra credit

(1) *Development loans*. Pursuant to Sections 8 and 9 of R.A. No. 7721 (An Act Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines and for Other Purposes), loans extended by banks incorporated under the laws of the Philippines, whether Philippine or foreign-owned, to finance educational institutions, cooperatives, hospitals and other medical services, socialized or low-cost housing, and to local government units, without national government guarantee, shall be included for purposes of determining compliance with the provisions of P.D. No. 717, as amended. This provision shall, however, not apply to branches of foreign banks.

For this purpose, the following definitions shall apply:

(a) *Educational institutions* shall refer to all educational establishments duly authorized by or with permit to operate from the Department of Education, Culture and Sports (DECS), or created by special laws or charters.

(b) *Cooperatives* shall refer to duly registered associations of persons with a common bond of interest who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles, as defined in R.A. No. 6938 (Cooperative Code of the Philippines).

(c) *Hospital* shall refer to a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment and care of individuals suffering from illness, disease, injury or deformity, or in need of obstetrical or other medical and nursing care.

It also refers to an institution, building or place where there are installed beds, or cribs, or bassinets for twenty-four (24)-hour use or longer by patients in the treatment of diseases, injuries, deformities or abnormal physical and mental state, maternity cases, and all institutions such as those for convalescence, sanitorial or sanitarial care, infirmaries, nurseries, dispensaries and such other names by which they may be designated.

(d) *Medical services* shall refer to various services like general treatment, physical examination, consultation, medication, dressing, suturing and surgical operation, all pertaining to or dealing with the healing art or the science of medicine, with license to operate from the Department of Health (DOH).

(e) *Socialized housing* refers to housing programs and projects covering houses and lots or home lots only undertaken by the Government or the private sector for the underprivileged and homeless citizens which shall include sites and services development, long-term financing, liberalized terms on interest payments, and such other benefits in accordance with the provisions of R.A. No. 7279 (Urban Development and Housing Act).

(f) *Economic and socialized housing* refers to housing units which are within the affordability level of the average and low-income earners which is thirty percent (30%) of the gross family income as determined by the NEDA from time to time. It also refers to the government-initiated sites and services development and construction of economic and socialized housing projects in depressed areas.

Socialized housing packages shall refer to housing loans not exceeding P225,000 and low-cost housing packages shall consist of *Level 1* which shall refer to housing loans in excess of P225,000 but not more than P500,000 and *Level 2* which shall refer to housing loans in excess of P500,000 but not more than P2.0 million, as prescribed under existing guidelines of the HUDCC for the implementation of various government housing programs, or in such other amounts which HUDCC may prescribe in the future for said housing loans.

(g) *LGU* refers to provinces, cities, municipalities and any other political subdivision created by law enacted by Congress and to barangays created by ordinance passed by the Sanggunian Panlalawigan or the Sanggunian Panglunsod that are located within its territorial jurisdiction, subject to such limitations and requirements prescribed in R.A. No. 7160 (Local Government Code of 1991).

(2) *Loans for high-value crops projects*
Pursuant to Section 8 of R.A. No. 7900, a bank participating in the High-Value Crops Development Program that shall lend a minimum of five percent (5%) of its loanable funds, without alternative compliance directly to farmers' associations or cooperatives for high-value crops projects shall be exempted from, or shall be deemed to have complied with the requirement of P.D. No. 717.

For purposes of this item, *high-value crops* shall refer to crops that can be optimally and sustainably produced in key commercial crop production areas identified by the Department of Agriculture (DA) and which can generate revenue higher than that of traditional crops (which refer to rice, corn, coconut and sugar). Such high-value crops include, but are not limited to: coffee and cacao, fruit crops (citrus, cashew, guyabano, papaya, mango, pineapple, strawberry, jackfruit, rambutan, durian, mangosteen, guava, lanzones, and watermelon), root crops (potato and ubi), vegetable crops (asparagus, broccoli, cabbage, celery, carrots, cauliflower, radish, tomato, bell pepper, patola) legume, pole sitao (snap beans and garden pea), spices and condiments (black pepper, garlic, ginger and onion), and cutflower and ornamental foliage plants (chrysanthemum, gladiolus, anthuriums, orchids and statice).

Farmers' associations/organizations shall refer to farmers' cooperatives, associations or corporations duly registered with appropriate government agencies and which are composed primarily of small agricultural producers, farmers, farm workers and other agrarian reform beneficiaries who voluntarily join together to form business enterprises which they themselves, own, control and patronize.

A bank participating in the high-value crop development program shall refer to the LBP, the DBP and any qualified lending institution which has been accredited/

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selected as provided in the Implementing Rules and Regulations of R.A. No. 7900 (Joint Administrative Order No. 1, series of 1996 of the DA dated 23 April 1996).

(3) *(Transferred to Item “a(2)a” above by CL dated 22 June 2000).*

(4) *Ten (10)-Year Agrarian Reform Bond* issued by the Philippine Government thru the LBP, subject to the conditions prescribed in Subsec. X341.5(a) above;

(5) Investments by banks in the authorized capital stock of Quedan and Rural Credit Guarantee Corporation (Quedancor);

(6) Loans extended by banks to farmers, fishermen, cooperatives, rural workers and rural enterprises covered by the guarantees of Quedancor;

(7) Rediscounting by secondary banks of originating banks’ loan receivables having the guarantee of Quedancor, subject to the condition that the originating bank may not use such loans as compliance with P.D. No. 717 and only the secondary (rediscounting) bank may claim such loans as compliance with P.D. No. 717;

(8) Loans secured by the NFAs Palay Negotiable Warehouse Receipts (PNWRs): *Provided*, That the PNWRs shall be printed on security paper by the BSP;

(9) All loans granted to Barangay Micro Business Enterprises (BMBEs) as provided under Subsec. X365.5;

(10) Housing microfinance loans, as provided under Subsec. X361.5; and

(11) Business transactions of larger banks (i.e., securitization, outright purchases, etc.) involving housing microfinance loans, as provided under Subsec. X361.5: *Provided*, That the volume of these banks’ housing microfinance loans have already achieved a desirable level.

(As amended by M-2008-015 dated 19 March 2008)

§ X341.6 Syndicated type of agrarian reform credit/agricultural credit. Banks may grant a syndicated type of loan for agrarian reform credit/agricultural credit

in general, either between or among themselves. The mechanics, including the recording of such syndicated type of loan transactions, shall follow existing practices and regulations applicable both to the lead bank and other participating bank(s). Accordingly, the booking of loans shall only be for the amount of actual participation of each syndicate bank concerned. Memorandum entries, references or notations shall be made for the other participating bank(s).

§ X341.7 Interest and other charges

Interest, service fees and other charges shall be governed by existing rules and regulations.

§ X341.8 Unused agri-agra funds to be utilized for socialized and low-cost housing

As a source of non-budgetary funding to augment the Comprehensive and Integrated Shelter and Urban Development Financing Program under R.A. No. 7835, all unused agri-agra allocation funds of banks in the preceding year shall be invested in socialized and low-cost housing if the utilized portion of the agri-agra funds of said banks was solely devoted to agricultural and agrarian reform credits.

§ X341.9 Submission of reports.

A quarterly report on the following shall be submitted to the appropriate department of the SES within the period prescribed in *Appendix 6*.

a. Utilization of loanable funds set aside for agrarian reform credit and agricultural credit in general;

b. Any change in the composition of government securities and commercial papers held as temporary investments for agrarian reform credit and agricultural credit in general, respectively; and

c. A certification under oath by the duly designated officer of the bank of the absence of qualified borrowers for agrarian reform credit or agricultural credit in

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general shall be submitted to the appropriate department of the SES together with the report as required in this Subsection.

on the total assets of the banks as of the reporting period:

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§ X341.12 Consolidated compliance

The compliance with agri-agra mandatory allocation of funds under P. D. No. 717 shall be allowed on a groupwide basis (based on consolidated financial statements of investor-FI or parent bank and its subsidiaries/affiliates): *Provided*, That the subsidiary banks are at least seventy five percent (75%) owned/controlled by the parent bank, subject to the following conditions:

a. The consolidated report shall be submitted by the bank in the prescribed form and shall be supported by the individual reports of the bank and its subsidiaries duly signed by each bank’s authorized signatory. The subsidiaries shall continue with their respective submission of the subject report to the appropriate department of the SES within the prescribed period;

b. Either the parent bank or the subsidiary bank can exercise the right to avail itself of/use the excess of its subsidiary bank/parent bank for its own compliance; and

c. In the event of a deficiency in compliance of any parent or subsidiary or all of these banks, the members of the board of directors and its president and the other officers of the parent bank shall be responsible for the group’s compliance.

Total Assets	Maximum Daily Fine
P100.0 million and below	P 100
Above P100.0 million to P200.0 million	- 200
Above P200.0 million to P500.0 million	- 300
Above P500.0 million to P1.0 billion	- 500
Above P1.0 billion to P5.0 billion	- 1,000
Above P5.0 billion to P10.0 billion	- 3,000
Above P10.0 billion to P25.0 billion	- 5,000
Above P25.0 billion to P50.0 billion	- 10,000
Above P50.0 billion to P100.0 billion	- 15,000
Over P100.0 billion	- 30,000

Excess compliance in the ten percent (10%) agrarian reform credit may be used to offset a deficiency, if any, in the fifteen percent (15%) agricultural credit in general, but not vice versa. The daily fine shall be counted from the end of reference quarter until the date the bank has complied with the credit allocation requirements and files an amended report. In case of a violation noted during examination or verification, monetary penalty shall run from the date of findings until the violation is corrected; and

- (2) Non-monetary fines
- In addition to the above daily monetary fines, any or all of the administrative sanctions as provided under Section 37 of R.A. No. 7653, may be imposed upon any bank for non-compliance/undercompliance, willful delay or refusal to submit reports without prejudice to criminal sanctions against culpable persons provided under Sections 34, 35 and 36 of R. A. No. 7653, as follows:
- (a) Suspension of rediscounting privileges or access to BSP facilities;

(b) Suspension of lending or FX operations or authority to accept new deposits or make new investments;

(c) Suspension of interbank clearing privileges; and/or

(d) Revocation of QB license.

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b. *For non-submission and delayed/amended reports*

The following fines shall be impose for non-submission and delayed/amended reports on compliance with the mandated credit allocations for agri-agra credit under P.D. No. 717, to be reckoned on the following day after due date of submission or until the proper report is filed with the BSP:

(1) UBs/KBs/FXBs	P1,200 per day
(2) TBs	600 per day
(3) RBs/Coop Banks	180 per day

Non-submission or delayed submission of reports for two (2) or more times in any four (4)-quarter period shall be subject to twice the prescribed monetary penalty for willful delay or refusal to submit reports.
(As amended by Circular No. 585 dated 15 October 2007)

Sec. X342 Mandatory Allocation of Credit Resources to Micro, Small and Medium Enterprises. The following rules shall govern the mandatory allocation of credit resources to Micro, Small and Medium Enterprises (MSMEs).
(As amended by Circular No. 625 dated 14 October 2008)

§ X342.1 Definition of terms. For purposes of this Section, the following definitions shall apply:

a. *Lending institutions* shall refer to all banks, namely: UBs, KBs, TBs and RBs/Coop Banks, including government-owned banks.

b. *Total loan portfolio* shall include all loans and receivables, other than those booked in the FCDU/EFCDU as defined in the Manual of Accounts Section of the FRP under Subsec. X191.2 (gross of allowance for credit losses) excluding the following:

(1) Interbank loans receivable, other than (a) wholesale lending of a bank to conduit banks/QBs for on-lending to MSMEs, and (b) rediscounting facility granted to another bank for loans to MSMEs;

(2) Wholesale lending of a bank to conduit non-bank FIs without quasi-banking authority, other than those for on-lending to MSMEs;

(3) Loans granted under special financing programs, other than those for MSMEs;

(4) Loans granted to MSMEs, other than to BMBEs, to the extent funded by wholesale lending of, or rediscounted with, another bank;

(5) Agrarian reform credits/other agricultural loans granted under P.D. No. 717, other than those eligible for compliance with the mandatory allocation of credit for MSMEs, as well as development loans incentives under R.A. No. 7721 granted by banks other than branches of foreign banks; and

(6) Loans and receivables arising from repo agreements, certificates of assignment/participation with recourse and securities lending and borrowing transactions.

c. *MSMEs* shall refer to any business activity within the major sectors of the economy, namely: industry, trade, services, including the practice of one’s profession, the operation of tourism-related establishments, and agri-business, which for this purpose refers to any business activity involving the manufacturing, processing, and/or production of agricultural produce, whether single proprietorship, cooperative, partnership or corporation:

(1) whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity’s office, plant and equipment are situated, must have a value falling under the following categories:

Micro	: not more than P 3,000,000
Small	: more than P 3,000,000 to P 15,000,000
Medium	: more than P 15,000,000 to P 100,000,000

and

(2) duly registered with the appropriate agencies as presently provided by law except in the case of microenterprises as defined above.

(As amended by Circular No. 625 dated 14 October 2008)

§ X342.2 Period covered; prescribed portions of loan portfolio to be allocated

Banks shall for a period of ten (10) years from 17 June 2008 to 16 June 2018, allocate at least eight percent (8%) for micro and small enterprises (MSEs) and at least two percent (2%) for medium enterprises (MEs) of their total loan portfolio based on their balance sheet as of the end of previous quarter, and make it available for MSME credit.

Banks may be allowed to report compliance on a groupwide (i.e., consolidation of parent and subsidiary bank/s) basis so that excess compliance of any bank in the group can be used as compliance for any deficient bank in the group: *Provided*, That the subsidiary bank/s is/are at least majority owned by the parent bank: *Provided, further*, That the parent bank shall be held responsible for the compliance of the group.

The consolidated report shall be submitted by the parent bank in the prescribed form and shall be supported by the individual reports of the bank and its subsidiaries duly signed by each bank's authorized signatory.

For purposes of determining compliance with the mandated allocation of credit resources to MSMEs, only eligible credit exposures as enumerated in Subsec. X342.3, other than those booked in the FCDU/EFCDU shall be considered.

(As amended by Circular No. 625 dated 14 October 2008)

§ X342.3 Eligible credit exposures

Funds set aside in accordance with the foregoing requirement shall be made available for any of the following:

a. *For MSEs*

(1) Actual extension of loans to eligible MSEs, other than to BMBEs which are covered in Item "c(3)" hereof: *Provided, however*, That loans granted to MSEs other than BMBEs, to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be eligible as compliance with the mandatory credit allocation; or

(2) Loans granted to export, import, and domestic micro and small scale traders, other than to BMBEs which are covered in Item "c(3)" hereof: *Provided, however*, That loans granted to MSEs other than BMBEs, to the extent funded by wholesale lending of, or rediscounted with another bank shall not be eligible as compliance with the mandatory credit allocation; or

(3) Purchase of eligible MSE loans listed in Items "(1)" and "(2)" above on a "without recourse" basis from other banks and FIs; or

(4) Purchase/discount on a "with or without recourse" basis of MSE receivables, other than BMBE receivables which are covered in Item "c(3)" hereof; or

(5) Wholesale lending or rediscounting facility granted to PFIs for on-lending to MSEs, other than to BMBEs which are covered in Item "c(3)" hereof; or

(6) Wholesale lending or rediscounting facility granted to PFIs for on-lending to export, import, and domestic micro and small scale traders, other than to BMBEs which are covered in Item "c(3)" hereof; or

(7) Commercial letters of credit outstanding, net of margin deposits, issued for the account of MSEs.

b. *For MEs*

(1) Actual extension of loans to eligible MEs: *Provided, however*, That loans granted to MEs to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be eligible as compliance with the mandatory credit allocation; or

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(2) Loans granted to export, import, and domestic medium scale traders: *Provided, however,* That loans granted to MEs to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be eligible as compliance with the mandatory credit allocation; or

(3) Purchase of eligible ME loans listed in Items “(1)” and “(2)” above on a “without recourse” basis from other banks and FIs; or

(4) Purchase/discount on a “with or without recourse” basis of ME receivables; or

(5) Wholesale lending or rediscounting facility granted to PFIs for on-lending to MEs; or

(6) Wholesale lending or rediscounting facility granted to PFIs for on-lending to export, import, and domestic medium scale traders; or

(7) Commercial letters of credit outstanding, net of margin deposits, issued for the account of MEs.

c. *Alternative compliance for either or both MSEs or/and MEs*

(1) Paid subscription/purchase of liability instruments as may be offered by the SB Corporation; or

(2) Paid subscription of preferred shares of stock of the SB Corporation; or

(3) Loans from whatever sources granted to BMBEs as provided under Subsec. X365.5.

(As amended by Circular Nos. 625 dated 14 October 2008 and 570 dated 24 May 2007)

§ X342.4 Ineligible credit instruments

The purchase of government notes, securities and negotiable instruments other than the instruments offered by SB Corporation, and the granting of loans to MSMEs, other than to BMBEs, to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be deemed compliance with the foregoing requirement.

(As amended by Circular No. 625 dated 14 October 2008)

§ X342.5 Rights/remedies available to lending institutions not qualified to acquire or hold lands of public domain

Lending institutions which are not qualified to acquire or hold lands of the public domain in the Philippines shall be permitted to bid and take part in sales of mortgaged real property in case of judicial or extra-judicial foreclosure, as well as avail of receivership, enforcement and other proceedings, solely upon default of a borrower, and for a period not exceeding five (5) years from actual possession: *Provided,* That in no event shall title to the property be transferred to such lending institution. If the lending institution is the winning bidder, it may, during said five (5) year period, transfer its rights to a qualified Philippine national, without prejudice to a borrower’s rights under applicable laws.

(As amended by Circular No. 625 dated 14 October 2008)

§ X342.6 Submission of reports. Banks shall submit reports on compliance with the mandatory credit allocation on a quarterly basis within fifteen (15) banking days from the end of reference quarter to SDC of the BSP. Said report shall be considered *Category A-3* report. It shall become effective starting with the reporting period ending 31 December 2008.

Banks shall maintain appropriate records/details of the reported loans to MSMEs and shall make these available to BSP.

(As amended by Circular No. 625 dated 14 October 2008)

§ X342.7 Sanctions. The following administrative sanctions shall be imposed on banks:

a. For non-compliance/under compliance with the prescribed portions of loan portfolio to be allocated to MSEs and MEs:

(1) For zero compliance for both MSEs and MEs – P500,000;

(2) For under compliance:

(a) For MSEs – percentage of under-compliance multiplied by P400,000

(b) For MEs – percentage of under-compliance multiplied by P100,000 to be computed as of end of each quarter.

(3) For willful making of a false or misleading statement to the BSP - P500,000 per quarter-end report without prejudice to the sanctions under Section 35 of R.A. No. 7653.

The imposition of the fines in Items “(1)” to “(2)” shall be without prejudice to the other administrative sanctions under Section 37 of R.A. No. 7653.

(b) For non-submission/delayed submission of reports on compliance with both the prescribed portions of loan portfolio to be allocated to MSEs and MEs, respectively:

- (1) UBs/KBs - P1,200
- (2) TBs - 600
- (3) RBs/Coop Banks - 180

per calendar day of delay.

(As amended by Circular No. 625 dated 14 October 2008 and 585 dated 15 October 2007)

§ X342.8 Disposition of penalties collected. Ninety percent (90%) of penalties collected under Subsec. X342.7 above shall be remitted by the BSP to the MSME Development Council Fund, while the remaining ten percent (10%) shall be retained by the BSP to cover its administrative expenses.

(Circular No. 625 dated 14 October 2008)

§§ X342.9 - X342.14 (Reserved)

§ X342.15 Accreditation guidelines for Rural and Thrift Banks under the SME Unified Lending Opportunities for National Growth (SULONG). Without prejudice to the refinements as may be suggested by DTI and DOF, the Twelve (12)-Point Accreditation Guidelines for RBs and TBs, and the lending features of short and long term loans for direct or retail lending by participating government FIs under the SULONG, are shown in *Appendix 55*.

G. SPECIAL TYPES OF LOANS

Sec. X343 Interbank Loans. Interbank loan transactions shall include, among other things, (a) interbank call loan (IBCL) transactions; (b) borrowings evidenced by deposit substitute instruments; and (c) purchases of receivables with recourse: *Provided, however,* That only IBCL transactions which are evidenced by interbank loan advice or repayment transfer tickets and settled through the banks’ respective DDAs with BSP shall be subject to the reserve requirement prescribed for IBCL in Subsec. X253.1: *Provided, further,* That funds borrowed by banks from trust departments of banks or IHS shall be excluded from the herein definition of interbank loan transactions.

Interbank loan transactions not submitted to the BSP Comptrollership Department by means of interbank loan advice or repayment transfer tickets shall be reported to the BSP in the prescribed form.

§ X343.1 Systems and procedures for interbank call loan transactions. IBCL transactions of banks shall be governed by the Agreement for the PhilPaSS executed on 12 December 2002 between the BSP and the Bankers Association of the Philippines (BAP)/Chamber of Thrift Banks (CTB)/Rural Bankers Association of the Philippines (RBAP) and any subsequent amendments thereto.

(As superseded by the agreement between the BSP and BAP/CTB/RBAP dated 12 December 2002)

§ X343.2 Accounting procedures

a. Both lending and borrowing banks shall immediately pass the corresponding entries in their books and, upon receipt of a copy of the transfer instruction reported as matched in the Multi-Transaction Interbank Payment System (MIPS), the borrowing bank shall attach the same to

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the corresponding ticket debiting its *Due from BSP* account in its books and, in the case of the lending bank, to the same ticket passed in its books on the day payment is made.

b. IBCL transactions shall be recorded by the borrowing bank as *Bills Payable Interbank Call Loans*.

c. Banks shall reconcile their demand deposit accounts with the BSP against monthly statements of account to be furnished by the BSP Comptrollership Department.

§ X343.3 Settlement procedures for interbank loan transactions. Interbank loan transactions (call and term) among banks shall be settled gross with finality subject to the availability of balances in the deposit reserves maintained by banks in the BSP in accordance with the provisions of the Agreement for the PhilPaSS executed on 12 December 2002 between the BSP and the BAP/CTB/RBAP and any subsequent amendments thereto.

(As superseded by the agreement between the BSP and the BAP/CTB/RBAP dated 12 December 2002)

Sec. X344 Loans to Thrift/Rural/Cooperative Banks

§ X344.1 Loans under Section 12 of R.A. No. 7353, Section 10 of R.A. No. 7906 and Article 108, R.A. No. 6938. Banks may rediscount papers of TBs/RBs/Coop Banks. Banks shall specify the nature of papers acceptable for rediscounting as well as the rediscount rate.

§ X344.2 Loans under Section 14 of R.A. No. 7353. The following are the guidelines in the grant by the LBP, DBP or any government-owned or controlled bank or FI of a loan to an RB under Section 14 of R.A. No. 7353.

a. *Issuance of certification.* Subject to the qualifications of the RBs prescribed in Item “b” hereof, the Monetary Board shall

issue the certification required under Section 14 of R.A. No. 7353, which shall be final, after the Monetary Board has determined that:

(1) The resources of the RB are inadequate to meet the legitimate credit needs of the locality wherein the RB is established;

(2) There is dearth of private capital in said locality; and

(3) It is not possible for the stockholders of the RB to increase the paid-up capital thereof.

The appropriate department or office of the BSP may prescribe and require the submission by the RB of papers and documents necessary for such determination.

b. *Qualifications for loan.* In order to qualify for the financial assistance under said provision of law, the RB shall first meet the following requirements:

(1) Its capital-to-risk assets ratio during the last six (6) months immediately preceding the loan application should be at least ten percent (10%);

(2) Its past due loans are not more than twenty-five percent (25%);

(3) It has no deficiency in allowance for probable losses on loans and other risk assets;

(4) It must not have incurred deficiency in its reserves against deposit liabilities for the last six (6) months preceding the filing of the application;

(5) It must have been operating profitably for the last three (3) years;

(6) Its arrearages with the BSP or other government FIs, if any, are being liquidated through an approved plan of payment, the conditions of which are being complied with; and

(7) It is operating substantially in accordance with applicable laws and BSP rules and regulations.

c. *Extension of loan.* The LBP, the DBP or any government-owned or controlled bank or FI shall, within sixty (60) days from

issuance by the Monetary Board of the certification, and subject to their loan and investment policies, extend to an RB a loan or loans from time to time, repayable in ten (10) years, with concessional rates of interest, against security/ies which the stockholder or stockholders of the RB may offer.

Secs. X345 - X346 (Reserved)

Sec. X347 Standby Letters of Credit. The following shall govern the issuance of standby letters of credit.

§ X347.1 Domestic standby letters of credit. Domestic standby letters of credit may be issued or used in transactions other than those involving movement of goods under the following guidelines:

- a. The bank's obligation to pay shall be either unconditional (as against presentation of a clean draft) or conditional only upon the presentation of documents and not upon actual existence or non-existence of facts, i.e., the bank must not be called upon to determine disputed questions of facts or law;
- b. The bank's obligation shall be limited to a fixed maximum amount;
- c. The bank's obligation shall have an expressed expiration date;
- d. The standby letters of credit accommodation shall not violate any law or existing BSP directives, rules and regulations, such as the SBL and DOSRI ceilings;
- e. The party who opened the standby letters of credit or the ultimate borrower shall not have any past due obligation with the issuing bank for the ninety (90)-day period preceding the date of issuance of the letter of credit; and
- f. The party who opened the letter of credit (borrower or principal obligor) must have an unqualified obligation to reimburse the bank on the same condition as the bank has paid.

(As amended by Circular No. 536 dated 18 July 2006)

§ X347.2 Ceiling. The total guarantees or similar arrangements, the nature of which requires the guarantor to assume the liabilities/obligations of third parties in case of their inability to pay, that may be issued by a bank and outstanding at any given time, shall not exceed one hundred percent (100%) of the bank's qualifying capital.

Transitory provision. This Subsection is also covered by the last paragraph of Subsec. X303.5.

§ X347.3 Reports. Banks shall submit a monthly report of domestic standby letter of credit opened and outstanding in the prescribed form within fifteen (15) banking days after end of reference month to the appropriate department of the SES. The report shall contain the following minimum information:

- (1) Date the letter of credit was opened;
- (2) Amount, purpose and accountee thereof;
- (3) Beneficiary;
- (4) Security and value of security;
- (5) Expiry date of the letter of credit; and
- (6) Certification as to the correctness of the report by an authorized officer of the bank.

Sec. X348 Committed Credit Line for Commercial Paper Issues. The following guidelines shall govern committed credit line agreements as a prerequisite for corporations proposing to issue commercial paper, pursuant to the New Rules on the Registration of Short-Term Commercial Papers (*Appendix 14*).

§ X348.1 Who may grant line facility
A bank with a net worth of at least P1.0 billion as defined in Sec. X111, may provide a committed credit line facility to a commercial paper issuer.

The bank shall exercise proper caution in ascertaining that the party, in whose favor the credit line shall be granted, is

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capable of fulfilling his commitments to the bank under the credit line agreement.

A bank or a group of banks may enter into a committed credit line agreement with any corporation proposing to issue commercial paper. Where a group of banks is involved, a lead bank shall be designated from among themselves.

§ X348.2 *Ceilings.* The aggregate commitments under committed credit line agreements entered into by each bank pursuant to this Section shall not exceed an amount equivalent to thirty percent (30%) of its net worth, reckoned as of the date of execution of the latest agreement: *Provided*, That in no case shall a bank extend commitments to a single issuer for more than twenty-five percent (25%) of its net worth exclusive of other exposures to the said issuer.

§ X348.3 *Terms; conditions; restrictions.* The committed credit line agreement shall incorporate the following terms, conditions and restrictions:

a. That the credit line agreement is executed pursuant to the provisions of this Section;

b. That the bank or banks are committed to make available to the issuer funds equivalent to at least twenty percent (20%) of the aggregate of the commercial paper issued and outstanding at any time;

c. That the commitment of the bank or banks shall be firm and irrevocable and effective for as long as the issues under a particular permit are outstanding, subject to renewal by the bank;

d. That availments pursuant to the credit line agreement shall be for the exclusive purpose of meeting obligations arising from commercial paper issues in accordance with the provisions of the Rules on Registration of Commercial Papers, which availments shall be honored not earlier than three (3) banking days prior to

the date of payment of obligation arising from outstanding commercial paper;

e. That the request to avail of the credit line agreement shall be addressed to the bank or to the lead bank acting for a group of banks, which request shall be duly signed by a member of the board of directors and a senior ranking officer of the commercial paper issuer duly authorized for the purpose through an appropriate board resolution, which resolution shall also provide for the designation of the alternate signatories who shall likewise be a member of the board of directors and a senior financial officer of the corporation;

f. That the extent of the commitment of each participant in a group of banks under a credit line agreement shall be stipulated in the agreement; and

g. That the commitment of the bank under the credit line agreement shall be a net risk to the bank and the practice of requiring the commercial paper issuer to maintain a compensating deposit with the bank shall be prohibited.

§ X348.4 *Reports to the Bangko Sentral.* The bank or the lead bank, as the case may be, shall report to the BSP:

a. All commitments entered into with commercial paper issuers within ten (10) banking days after the issuer shall have been authorized by the SEC; and

b. Any availment under the committed credit line agreement within three (3) banking days from date of drawdown.

§ X348.5 *Loan limit.* The liabilities of a commercial paper issuer to a bank arising from the availment by the issuer of the credit line agreement shall not be counted in determining compliance by the bank with the SBL: *Provided*, That in no case shall they exceed five percent (5%) of the net worth of the bank beyond the normal applicable SBL for a period of 180 days from each availment of the credit line.

Sec. X349 Agriculture and Fisheries Projects with Long Gestation Periods Pursuant to Section 24 of R.A. No. 8435 (Agriculture and Fisheries Modernization Act of 1997), agriculture and fisheries projects with long gestation periods shall be entitled to longer grace periods in repaying the loan based on the economic life of the project. For purposes of this Section, the following definitions and guidelines shall govern the grant of loans for long-gestating agriculture and fisheries projects.

§ X349.1 Definition of terms

- a. *Gestation period* shall refer to the span of time from the commencement of the project to the time that it is economically productive and producing revenues; and
- b. *Grace period* under this Section shall refer to the period that the initial amortization payment on the loan is deferred. All payments, however, must be made on or before the maturity of the loan.

§ X349.2 Grace period. Banks are allowed to extend loans/guarantees with a grace period of up to seven (7) years to viable long-gestating agriculture and fisheries projects.
Suggested gestation and grace periods for some of the long-gestating projects are in *Appendix 36*.

§ X349.3 Responsibility of lending banks. Lending banks shall institute the necessary safeguards and precautions to ascertain the viability of the projects financed and the capability of the borrower in fulfilling his commitments.

§ X349.4 Past due loans. The rule on past due accounts under Sec. X306 shall apply except that the reckoning date shall be the grace period and not the original maturity of the loan.

§ X349.5 Non-performing loans. The rule on non-performing loans under Sec. X309 shall apply except that the reckoning date shall be the grace period and not the original maturity of the loan.

Secs. X350 - X360 (Reserved)

Sec. X361 Microfinancing Loans. Pursuant to Sections 40, 43 and 44 of R.A. No. 8791 the following rules, regulations and standards shall govern microfinancing operations of banks.
In the implementation of this Section, banks should be guided by the Notes on Microfinance in *Appendix 45*.

§ X361.1 Definition

- a. *Microfinancing loans* are small loans granted to the basic sectors, as defined in the Social Reform and Poverty Alleviation Act of 1997 (R.A. No. 8425), and other loans granted to the poor and low-income households for their microenterprises and small businesses so as to enable them to raise their income levels and improve their living standards. These loans are granted on the basis of the borrowers' cash flow and are typically unsecured.
- b. *Portfolio-at-Risk (PAR)* is the outstanding principal amount of all loans that have at least one (1) installment past due for one (1) or more days. The amount includes the unpaid principal balance but excludes accrued interest. Under PAR, loans are considered past due if a payment has fallen due and remained unpaid. Loan payments are applied first to any interest due, then to any installment of principal that is due but unpaid, beginning with the earliest installment. The number of days of lateness is based on the due date of the earliest loan installment that has not been fully paid.
- c. *Restructured loans* are loans that have been renegotiated or modified to either lengthen or postpone the original

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scheduled installment payments or substantially alter the original terms of the loans. Any increase in the face amount of the debt resulting from accrued interest and accumulated charges which have been capitalized or made part of the principal of restructured loans shall be recorded in the unearned income/deferred credit account “*Capitalized Interest and Other Charges - Restructured Loans*”. Upon receipt of payment, the realized portion shall be amortized/credited to income.

d. *Refinanced loans* are loans that have been disbursed to enable repayment of prior loans that would not have been paid in accordance with the original installment schedule. Loans granted within a week or less from the date an original loan with more than thirty percent (30%) of the original principal still outstanding had been paid in advance shall be considered as refinanced loans. Refinanced loans shall be classified and reported as restructured loans.

§ X361.2 *Loan limit; amortization; interest*

a. The maximum principal amount of microfinance loans shall not exceed P150,000. This is equivalent to the maximum capitalization of a microenterprise under R.A. No. 8425.

b. The schedule of loan amortization shall take into consideration the projected cash flow of the borrowers which is adopted into the terms and conditions formulated. Hence, microfinance loans may be amortized on a daily, weekly, bi-monthly or monthly basis, depending on the cash flow conditions of the borrowers.

c. Interest on such microfinancing loans shall be reasonable and just as may be determined by management to be consistent with its credit policies. The interest rate shall not be lower than the prevailing market rates to enable the lending institution to recover the financial and operational costs incidental to this type of microfinance lending.

d. Interest accrued and/or booked shall be reversed and no accrual of interest shall be allowed after the microfinance loan has become past due as defined in Subsec. X306.1.h.

§ X361.3 *Credit information exemption*

In cases of microfinancing loans which meet the criteria in Subsec X361.2, a bank may not require from its credit applicants, a statement of assets and liabilities, and of their income and expenditures and such information as may be prescribed by law or by rules and regulations of the Monetary Board to enable the bank to properly evaluate the credit application which includes the corresponding financial statements submitted for taxation purposes to the BIR, as prescribed under Section 40 of R.A. No. 8791.

§ X361.4 *Exemptions from rules on unsecured loans.* In view of the unique characteristics of microfinance loans, i.e., small unsecured and based on cash flow of borrowers, these loans may be exempted from rules and regulations which may be issued by the Monetary Board with respect to unsecured loans under Section 41 of the General Banking Law of 2000: *Provided*, That the bank has:

a. well-defined standards, credit policies and procedures for microfinance loans which are in conformity with microfinance international best practices;

b. specific measures to be undertaken to ensure collection such as close supervision of borrowers’ projects and operations; and

c. Loan Portfolio and Other Risk Assets Review System required under Sec. X302 which would serve as:

(1) An adequate loan tracking system that allows daily monitoring of the status of loan releases, collection and arrearages, any restructuring or refinancing; and

(2) A regular monitoring of past due loans and portfolio at risk.

§ X361.5 *Housing microfinance loan*

The following provisions govern the grant of housing microfinance loans:

a. Banks that intend to provide the housing microfinance loans must first be accredited by the HUDCC in accordance with the accreditation criteria and conditions provided under the MOA between the BSP and the HUDCC. The loans must likewise be provided pursuant to the terms of the Housing Microfinance Product Manual jointly approved by the BSP and HUDCC.

The approved product has the following salient features:

(1) It has the following basic characteristics:

Subject	Particulars
Purpose	·House construction ·House and/or lot acquisition ·Home improvement/repairs
Eligibility	·Existing microfinance clients ·New clients without access to formal housing finance institutions (but with verifiable proof of income)
Loan Amount	·Up to P300,000 for house construction and/or lot acquisition (must show tenure security) ·Up to P150,000 for home improvement/repairs
Loan Value	·Up to ninety percent (90%) of the appraised value in case of REM ·Acceptable valuation in cases of usufruct, leases, etc. ·Capacity to pay based on cash flow analysis
Payment	·Frequent amortization ·With savings component ·Loan payments should not exceed 60% of clients income as determined by cash flow analysis
Terms	·Up to 10 years for house construction and house and/or lot acquisition ·Up to 5 years for home improvement/repairs

(2) The loan shares the characteristics of the microfinance loan except for the following:

(a) The maximum loan amount is P 300,000 (microfinance loans have a maximum of P150,000).

(b) The loans have longer terms with a maximum of five (5) years for home improvement/repairs and ten (10) years for house construction and house/lot acquisition.

(c) While most clients for housing microfinance loans are existing microfinance clients who have demonstrated a good track record with the bank, new clients may also be accepted subject to certain requirements.

(d) For house construction and house/lot acquisition loans, secure tenure instruments will be used as collateral.

(3) Due to the features that are different from the typical microfinance loan, the following additional risk management features are embedded in the product:

(a) Clients’ ability to repay based on cash flow analysis and affordability (loan payment < 60% of income) especially the new clients. In addition, new clients have to demonstrate that they cannot access any other formal housing finance facility;

(b) Savings typically a requirement;

(c) Secure tenure instruments as collateral/collateral substitutes;

(d) Additional risk cover may be availed from HGC cash flow guarantee program;

(e) Adequate loan monitoring, collection, control, provisioning;

(f) Accreditation from the HUDCC with standards approved by the BSP and formalized by a MOA between HUDCC and BSP; and

(g) Mortgage redemption insurance provided in case of death and permanent disability.

b. Banks intending to provide housing microfinance loans not under Item “a” hereof shall present the relevant product manual for BSP consideration and approval.

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The following are the incentives for housing microfinance loans in addition to existing incentives available for microfinance:

- (a) Housing microfinance loans shall be eligible as alternative compliance to the mandatory credit allocation requirement to agrarian reform and other agricultural credit.
- (b) The loans shall have an assigned risk-weight of fifty percent (50%) when not guaranteed and zero percent (0%) when guaranteed by the HGC.
- (c) When the volume of large banks' housing microfinance loans have reached a desirable level, their business transactions (i.e. securitization, outright purchase, etc.) shall be considered as an alternative compliance with the mandatory credit allocation requirement to agrarian reform and other agricultural credit.
- (d) If secured by REM, a ninety percent (90%) loan valuation may be allowed considering the guarantee component.
- (e) Secure tenure instruments such as freehold, usufruct, leasehold and right to occupy and/or build shall be recognized as collateral/collateral substitute subject to approved loan valuations (*Appendix 81*).
- (f) Housing microfinance loans shall not exceed thirty percent (30%) of the total loan portfolio.
- (g) Recording of portfolio at risk (PAR) and the provisioning requirement for microfinance loans under *Appendix 18* for home improvement/repair loans. Provisioning for house construction and house/lot acquisition shall follow those of regular loans under *Appendix 18*.

Banks which will grant housing microfinance loans must:

- (1) include the loan in the bank's microfinance manual as one (1) of the types of services or products offered to prospective clients; and
- (2) maintain a sub-control ledger for the loan.

(M-2008-015 dated 19 March 2008)

§§ X361.6 - X361.9 (*Reserved*)

§ X361.10 *Sanctions*. Violations of the provisions of this Section shall be subject to any or all of the following sanctions:

- a. Disqualification of the bank concerned from the credit facilities of the BSP except as may be allowed under Section 84 of R.A. No. 7653;
- b. Prohibition of the bank concerned from the extension of additional microfinance loans; and
- c. Penalties and sanctions provided under Sections 36 and 37 of R.A. No. 7653.

Secs. X362 - X364 (*Reserved*)

Sec. X365 **Loans to Barangay Micro Business Enterprises**. The following are the rules and regulations to implement Section 9 and the second paragraph of Section 13 of R.A. No. 9178, otherwise known as the "Barangay Micro Business Enterprises (BMBEs) Act of 2002".

§ X365.1 *Credit delivery*. The LBP, the DBP, the SBGFC, and the Peoples Credit and Finance Corporation (PCFC) shall set up a special credit window that will service the financing needs of duly registered BMBEs consistent with BSP policies, rules and regulations. Said special credit window shall service the credit needs of BMBEs either through retail or wholesale lending, or both, as the concerned FIs may deem consistent with their corporate policies and objectives. The GSIS and the SSS shall likewise set up special credit window that will serve the financing needs of their respective members who may wish to establish a BMBE.

Said FIs are encouraged to wholesale funds to accredited private FIs including community based organizations such as cooperatives, NGOs and people's organizations engaged in granting credit, for relending to BMBEs.

Private banking and other FIs are encouraged to lend to BMBEs.

§ X365.2 Interest on loans to Barangay Micro Business Enterprises. Interest on BMBE loans shall be just and reasonable as may be determined by management of the concerned entity to be consistent with its credit policies.

§ X365.3 Amortization of loans to Barangay Micro Business Enterprises. The schedule of loan amortization shall take into consideration the projected cash flow of the borrowers. Thus, loans granted to BMBEs may, at the discretion of the lender, be amortized daily, weekly, monthly or at such interval as the conditions of the business of the BMBEs may warrant.

§ X365.4 Waiver of documentary requirements. Banks and other FIs shall not require from duly registered BMBE borrowers the submission of ITR as a condition to the grant of loans considering that BMBEs are exempted from income tax for income arising from their operations. They may, at their discretion, also waive the requirement of submission of financial statements from BMBEs: *Provided*, That before granting any loan, banks shall undertake reasonable measures to determine that the borrower is capable of fulfilling his/its commitments.

§ X365.5 Incentives to participating financial institutions. To encourage BMBE lendings, the following incentives shall be granted to banks and other FIs as may be applicable:

a. All loans from whatever sources granted to BMBEs under R.A. No. 9178 (BMBEs Act) shall be considered as part of alternative compliance to P.D. No. 717 or to R.A. No. 6977, as amended. For purposes of compliance with P.D. No. 717 and R. A. No. 6977, as amended, loans

granted to BMBEs under the BMBEs Act shall be computed at twice the amount of the outstanding balance of the loans: *Provided*, That loans used as alternative compliance with P.D. No. 717 which were computed at twice their outstanding balance shall no longer be eligible as compliance with R.A. No. 6977, as amended during the same period and vice versa: *Provided, further*, That said loans may be used as alternative compliance with both P.D. No. 717 and R.A. No. 6977, as amended at the same time at the maximum amount of 100% of their outstanding balance each: *Provided, furthermore*, That funds loaned by or rediscounted with government-owned banks and other government FIs to accredited private banking and other FIs for on-lending to BMBEs shall be eligible as part of alternative compliance for P.D. No. 717 or for R.A. No. 6977, as amended, of the government-owned banks and the accredited private banks at the maximum amount of 100% of their outstanding balance each: *Provided, finally*, That loans used as alternative compliance with R.A. No. 6977, as amended, computed at either twice their outstanding balance or their maximum amount of 100% may be used as alternative compliance for either or both the prescribed portions of loan portfolio to be allocated to MSEs and MEs, respectively, as long as the aggregate amount used does not exceed twice their outstanding balance or their maximum amount of 100%, as the case may be.

b. Any existing laws to the contrary notwithstanding, interests, commissions and discounts derived from the loans by the LBP, DBP, PCFC, SBGFC granted to BMBEs as well as loans extended by the GSIS and SSS to their respective member-employees under BMBEs Act and this Section shall be exempt from gross receipt tax (GRT).

(As amended by Circular No. 625 dated 14 October 2008)

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§ X365.6 *Credit guarantee.* The SBGFC and the Quedancor under the DA, in case of agri-business activities, shall set up a special guarantee window to provide credit guarantee to BMBEs under their respective guarantee programs.

§ X365.7 *Record.* The LBP, DBP, PCFC and SBGFC shall maintain separate records of loans granted to BMBEs and the GSIS and SSS shall maintain records of loans extended to their respective members who wish to establish BMBEs.

§ X365.8 *Reports to Congress.* The LBP, DBP, PCFC, SBGFC, SSS, GSIS and Quedancor shall report annually to the appropriate Committees of both Houses of Congress, the status of their implementation of the provisions of Section 9 of R.A. No. 9178.

§ X365.9 *Administrative sanctions* Any violation by the concerned government FI of the provisions of Section 9 of R.A. No. 9178 shall be subject to a fine of not less than P500 thousand to be imposed by the BSP and which shall be payable to the BMBE Development Fund. In case of a banking institution, the foregoing fine shall be without prejudice to the administrative sanctions provided for under Section 37 of R.A. No. 7653.

Secs. X366 - X375 (Reserved)

H. EQUITY INVESTMENTS

Sec. X376 *Scope of Authority.* The following rules shall govern the investment of banks in the equities of allied undertakings, whether financial or non-financial, and non-allied undertakings,as well as the establishment/acquisition of subsidiaries and affiliates abroad.

§ X376.1 *Conditions for investment in equities.* A bank shall not invest in the equity of any enterprise, if the investing bank is in any of the following situations:

- a. Its capital is impaired, whether by actual losses or unbooked valuation reserves required by the BSP;
- b. Its lending operations had been suspended on account of reserve or capital deficiency, until such suspension shall have been lifted for at least one (1) year and sufficient reserves or capital shall have been maintained;
- c. It incurred losses from its operations during the preceding year;
- d. It has not fully booked the valuation reserves and other capital adjustments required by the BSP;
- e. It has exceeded the individual and aggregate ceilings as well as the ceiling on unsecured credit accommodations to DOSRI; and
- f. Its ratio of past due loans to total loan portfolio exceeds twenty percent (20%).

§§ X376.2 - X376.4 (Reserved)

§ X376.5 *Guidelines for major investments.* The following are the guidelines for major acquisitions or investments by a bank including corporate affiliations or structures to implement Section 50 of R.A. No. 8791.

- a. *Definition.* Major investments are those investments in allied or non-allied undertakings including corporate affiliations or structures that give the bank significant interest and/or control, such as stockholdings sufficient to elect one (1) member to the acquired entity’s board of directors.
- b. *Criteria for major investments.* Any major investment by a bank should be approved by the bank’s board of directors. In acting on such investments the Board shall consider the following:

(1) Such investment must be in accordance with the bank's business plan and management objectives, taking into consideration the economic developments and future prospects. The interests of the different stakeholders of the bank - shareholders, depositors and creditors - should always be considered before any investment is made.

(2) Such investments will complement/support the main business of the banks. Extra caution should be taken when investing in activities where the bank has no managerial or technical expertise, or businesses/industries, which are high-risk.

(3) Bank management shall provide for an efficient and effective "exit mechanism" or contingency plan in case the investee's operations fail or do not prosper.

c. *Prior BSP approval; information/documents required.* Subject to prior approval of the BSP, banks may invest in allied or non-allied undertakings, including corporate affiliations or structures. A bank intending to make such investment shall submit the following information/documents to the appropriate department of the SES for evaluation:

- (1) Name of the company;
- (2) Type of business activities;
- (3) Board of directors' approval on such investments;
- (4) Certification from the bank's board of directors that the criteria enumerated in Item "b" are complied with;
- (5) Management contract;
- (6) Financial information and other information about financial strengths, e.g., projected balance sheet and income statements for the first three (3) years;
- (7) Members of the board and senior management;
- (8) Interest to be held by the bank and the manner in which such interest will be held; and

(9) Conformity of the investee company for BSP to examine its books.

The BSP may impose conditions on any approval, including conditions to address financial, managerial, safety and soundness, compliance, or other concerns. Further, the BSP may disapprove a proposed investment if it finds that the proposal would constitute an unsafe and unsound practice, or would violate any law, regulation, Monetary Board directive, or any condition imposed by, or written agreement with, the BSP.

The BSP may prescribe other guidelines/regulations as it may consider necessary to ensure that banks' major investments do not expose the banks to undue risks or hinder effective supervision.

Within six (6) months from 07 September 2001, banks shall provide the BSP reliable information on companies in which they have significant interest or control, such as but not limited to:

- (i) Name of the companies;
- (ii) Type of business activities; and
- (iii) Interest held by the bank and the manner in which such interest is held.

d. *Examination and inspection.* Whenever deemed necessary, BSP shall have the authority to examine investee companies or to verify information provided by other supervisory authorities such as the SEC.

The BSP shall have the authority to seek corrective action, to issue orders to terminate activities with or divest an interest in an investee company, if it believes that such action is necessary to prevent or redress unsafe or unsound practice by such company that poses a material risk to the financial safety, soundness or stability of a bank.

Sec. X377 Financial Allied Undertakings

With prior BSP approval, banks may invest in equities of the following financial allied

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undertakings, subject to the limits prescribed under Sec. X378:

- a. Leasing companies including leasing of stalls and spaces in a commercial establishment: *Provided*, That bank investment in/acquisition of shares of such leasing company shall be limited/applicable only in cases of conversion of outstanding loan obligations into equity;
- b. Banks;
- c. IHs;
- d. Financing companies;
- e. Credit card companies;
- f. FIs catering to small and medium scale industries including venture capital corporation (VCC), subject to the provisions of Sec. X379 and its subsections;
- g. Companies engaged in stock brokerage/securities dealership; and
- h. Companies engaged in foreign exchange dealership/brokerage.

In addition, UBs may invest in the following as financial allied undertakings:

- (1) Insurance companies; and
- (2) Holding company: *Provided*, That the investments of such holding company are confined to the equities of allied undertakings and/or non-allied undertakings of UBs allowed under BSP regulations.

The Monetary Board may declare such other activities as financial allied undertakings of banks.

The determination of whether the corporation is engaged in a financial allied undertaking shall be based on its primary purpose as stated in its articles of incorporation and the volume of its principal business.

Sec. X378 Limits on Investment in the Equities of Financial Allied Undertakings

The equity investment of a bank in a single financial allied undertaking shall be within the following ratios in relation to the total subscribed capital stock and to the total voting stock of the allied undertaking:

ACTIVITIES	INVESTOR			
	UB		KB	
	Publicly-listed	Not listed	Publicly-listed	Not listed
Allied Enterprises				
Financial Allied Undertaking				
UBs	100%	49%	100%	49%
KBs	100	49	100	49
TBs	100		100	
RBs	100		100	
Coop Banks	NA		NA	
Insurance Companies	100		NA	
VCCs	60		60	
Others	100		49	

	TB	RB	Coop Banks
Financial Allied Undertaking			
UBs	49%	49%	49%
KBs	49	49	49
TBs	49	49	49
RBs	49	49	100
Coop Banks	NA	NA	30
Insurance Companies	NA	NA	NA
VCCs	60	49	49
Others	40	40	40

To promote competitive conditions, the Monetary Board may further limit the equity investments in QBs of UBs and KBs to forty percent (40%).

A publicly-listed UB or KB may own up to 100% of the voting stock of only one (1) other UB or KB. Otherwise, it shall be limited to a minority holding.

The existing investment of a bank in another bank under R.A. No. 7721 shall be governed by Sec. X105 insofar as it is consistent with R.A. No. 8791.

The guidelines in determining compliance with ceilings on equity investments in financial allied undertakings are shown in *Appendix 79*.

(As amended by Circular Nos. 581 dated 14 September 2007 and 530 dated 19 May 2006)

Sec. X379 Investments in Venture Capital Corporations. The following rules and regulations shall implement Presidential Decree No. 1688 entitled “Authorizing Banks to Invest in the Equity of Venture

Capital Corporations to Assist Small and Medium- Scale Enterprises”.

For purposes of this Section, a VCC shall refer to an entity organized jointly by private banks, the National Development Corporation and the Technology Livelihood and Resource Center and/or such other government agency as may be authorized by the appropriate authority, the primary purpose of which is to develop, promote and assist, thru debt or equity financing or any other means, any small and medium-scale enterprise in the country.

§ X379.1 Requirements for investors

Banks may invest in a VCC organized to assist small and medium-scale enterprises, subject to the following conditions:

a. The bank shall have a minimum capital of P100.0 million as defined in Sec. X111;

b. Two (2) or more banks may own up to sixty percent (60%) of the total voting equity and of the total equity of a VCC. A bank shall not be allowed to invest in the equity of more than one VCC;

c. The initial paid-in capital of VCC shall not exceed P5.0 million. Any subsequent increase in paid-in capital of the VCC in which a bank owns equity shall be subject to prior approval of the Monetary Board;

d. Loans which the investor-bank may grant to a VCC shall be limited to such amounts as would enable the VCC to promote equity financing to viable small and medium scale enterprise: *Provided, however, That unless otherwise authorized by the Monetary Board, the aggregate outstanding loans of such bank to a VCC shall not exceed twice the amount of its equity investment in the VCC: Provided, further, That loans to the VCC, or the small and medium-scale enterprises shall not be subject to the ceilings on DOSRI, except where bank DOSRI are likewise stockholders in the VCC or in the small and medium-scale enterprise;*

e. The combined equity investments in, and loans of, the bank to its VCC shall not exceed fifteen percent (15%) of the bank’s net worth; and

f. The aggregate investments in equities by a bank, including equity investments in a VCC, shall not exceed the prescribed ceilings under Sec. X383 on other limitations and restrictions.

The guidelines in determining compliance with ceilings on equity investments in a VCC are shown in *Appendix 79*.

(As amended by Circular No. 581 dated 14 September 2007)

§ X379.2 Equity investments of venture capital corporations. Equity investment of a VCC in small and medium-scale enterprises shall be subject to the following conditions:

a. Equity financing by a VCC may be extended to a small and medium-scale enterprise engaged in an industry certified as desirable by the Department of Trade and Industry; and

b. The total assets of the enterprises shall not exceed P4.0 million, including the VCC’s equity investment. Should the total assets of the small and medium-scale enterprise subsequently exceed the prescribed P4.0 million maximum, the VCC equity investment therein made before the total assets of the enterprise exceeded P4.0 million, may be maintained but shall not be increased.

§ X379.3 Business name of venture capital corporations. A VCC shall be known by any name not otherwise appropriated: *Provided, however, That the words “venture capital corporation” are made a part thereof.*

§ X379.4 Reportorial requirements; examination by Bangko Sentral. A VCC in which a bank owns equity shall be subject to BSP reportorial requirements prescribed for non-bank financial

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intermediaries and may be subject to examination by the BSP.

§ X379.5 *Interlocking directorships and/or officerships.* Subject to prior approval of the Monetary Board, a person may concurrently hold the position of a director or officer in a bank and a VCC.

Sec. X380 **Non-Financial Allied Undertakings.** A bank may acquire up to 100% of the equity of a non-financial allied undertaking: *Provided,* That the equity investment of a TB/RB in any single enterprise shall remain less than fifty percent (50%) of the voting shares in that enterprise: *Provided, further,* That prior Monetary Board approval is required if the investment is in excess of forty percent (40%) of the total voting stock of such allied undertaking.

The determination of whether the corporation is engaged in a non-financial allied undertaking shall be based on the primary purpose as stated in its articles of incorporation and the volume of its principal business.

- a. *UBs/KBs/TBs*
 UBs/KBs and TBs may invest in equities of the following non-financial allied undertakings:
 - (1) Warehousing companies;
 - (2) Storage companies;
 - (3) Safe deposit box companies;
 - (4) Companies primarily engaged in the management of mutual funds but not in the mutual funds themselves;
 - (5) Management corporations engaged or to be engaged in an activity similar to the management of mutual funds;
 - (6) Companies engaged in providing computer services;
 - (7) Insurance agencies/brokerages;
 - (8) Companies engaged in home building and home development;

(9) Companies providing drying and/or milling facilities for agricultural crops such as rice and corn;

(10) Service bureaus, organized to perform for and in behalf of banks and NBFIs the services allowed to be outsourced enumerated in Sec. X162: *Provided,* That data processing companies may be allowed to invest up to forty percent (40%) in the equity of service bureaus;

(11) Philippine Clearing House Corporation (PCHC), Philippine Central Depository, Inc. and Fixed Income Exchange; and

(12) Such other similar activities as the Monetary Board may declare as non-financial allied undertakings of banks.

UBs may further invest in health maintenance organizations (HMOs).

In addition, TBs may also invest in the equities of companies enumerated in Item “b” of this Section.

- b. *RBs/Coop Banks*
 RBs/Coop Banks may invest, as a non-financial undertaking, in the equities of companies engaged in the following:
 - (1) Warehousing and other postharvest facilities;
 - (2) Fertilizer and agricultural chemical and pesticides distribution;
 - (3) Farm equipment distribution;
 - (4) Trucking and transportation of agricultural products;
 - (5) Marketing of agricultural products;
 - (6) Leasing;
 - (7) Automated Teller Machine (ATM) networks; and
 - (8) Other undertakings as may be determined by the Monetary Board.

The guidelines in determining compliance with ceilings on equity investments in non-financial allied undertakings are shown in *Appendix 79.*

(As amended by Circular Nos.581 dated 14 September 2007 and 563 dated 16 March 2007)

Sec. X381 (Reserved)

Sec. 1381 Investments in Non-Allied or Non-Related Undertakings. Only UBs may invest in the equity of an enterprise engaged in non-allied or non-related activities.

The guidelines in determining compliance with ceilings on equity investments in non-allied or non-related undertakings are shown in *Appendix 79*.

(As amended by Circular No. 581 dated 14 September 2007)

§ 1381.1 Non-allied undertakings eligible for investment by universal banks

The broad category of non-allied undertakings in which a UB may invest directly or through its subsidiary shall require prior approval of the Monetary Board: *Provided*, That individual equity investments in the following broad categories shall not require prior Monetary Board approval, except as may be required in Subsec. X376.5:

a. Enterprises engaged in physically productive activities in agriculture, mining and quarrying, manufacturing, public utilities, construction, wholesale trade and community and social services following the industrial groupings in the Philippine Standard Industrial Classification (PSIC) as enumerated in *Appendix 22*;

b. Industrial park projects and/or industrial estate developments;

c. Financial and commercial complex projects (including land development and buildings constructed thereon) arising from or in connection with the Government's privatization program; and

d. Such other broad categories as the Monetary Board may declare as appropriate: *Provided, further*, That the bank shall submit within thirty (30) banking days after the investment, the following information/documents to the appropriate department of the SES:

(1) The amount of investment;

(2) The name of investee company; and
(3) The nature of business, accompanied by such pertinent documents as articles of incorporation, articles of partnership or registration certificate, whichever may be applicable.

§ 1381.2 Limits on investments in non-allied enterprises

a. The equity investment of a UB, or of its wholly or majority-owned subsidiaries, in a single non-allied enterprise shall not exceed thirty-five percent (35%) of the total equity in that enterprise nor shall it exceed thirty-five percent (35%) of the voting stock in that enterprise.

For the purpose of determining compliance with the ceiling prescribed in the preceding paragraph, (i) the equity investment of the bank; and (ii) the equity investment of the bank's subsidiaries, shall be combined.

b. In no case shall the total equity investments in a single non-allied enterprise of UBs, NBFIs performing QB functions and their subsidiaries, whether or not the parent financial intermediaries have equity investments in the enterprise, amount to fifty percent (50%) or more of the voting stock of that enterprise: *Provided, however*, That equity investments in excess of the ceilings prescribed herein as of 01 April 1980 may be maintained but may not be increased and if reduced, shall not be increased thereafter beyond the ceiling prescribed herein.

§ 1381.3 Report on outstanding equity investments in and outstanding loans to non-allied enterprises.

UBs shall submit to the appropriate department of the SES within fifteen (15) banking days, a report as of June 30 and December 31 of each year showing the following:

a. Their outstanding equity investments in non-allied enterprises;

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b. Outstanding equity investments of their wholly or majority-owned subsidiaries in non-allied enterprises;

c. Their outstanding loans to non-allied enterprises in which they have equity investments;

d. Outstanding loans of their wholly or majority-owned subsidiaries to non-allied enterprises in which these wholly or majority-owned subsidiaries have equity investments; and

e. Their outstanding loans to non-allied enterprises in which their wholly or majority-owned subsidiaries have equity investments.

For purposes of this Subsection, a wholly-owned subsidiary is a corporation 100% of the voting stock of which is owned by the reporting bank while a majority-owned subsidiary is a corporation more than fifty percent (50%) but less than 100% of the voting stock of which is owned by the reporting bank.

Sec. X382 Investments in Subsidiaries and Affiliates Abroad. The establishment or acquisition of subsidiaries or affiliates abroad shall require prior approval of the BSP.

§ X382.1 Application for authority to establish or acquire subsidiaries and affiliates abroad. The application for such authority shall be signed by the president of the bank and shall be accompanied, as a minimum, by the following information/documents:

a. Certified true copy of the resolution of the bank's board of directors authorizing the establishment or acquisition of a subsidiary or an affiliate abroad;

b. Economic justification for such establishment, indicating the services to be offered, the minimum outlay for furniture, fixture and equipment, rental and other expenses;

c. A certification that an application for such establishment has been filed with the

appropriate government agency of the host country;

d. Organizational set-up of the proposed banking office showing the proposed positions and the names, qualifications and experience of the proposed manager and other officers; and

e. Certification signed by the president or the executive vice-president that the bank has complied with all the requirements enumerated under Subsec. X382.2.

§ X382.2 Requirements for establishing subsidiaries or affiliates abroad. In addition to the standard pre-qualification requirements for the grant of banking authorities in *Appendix 5*, the applicant bank shall comply with the following:

a. The citizenship, ownership ceilings and other limitations on voting stockholdings in banks under existing law and regulations; and

b. The experience and expertise in international banking operations with proof to the effect that:

(1) It must have conducted international banking for at least three (3) years prior to the date of application; and

(2) Its international banking operations must have contributed a substantial portion to its total earnings.

§ X382.3 Conditions for approval of application. The approval of the application to establish or acquire a subsidiary of an affiliate abroad shall be subject to the following conditions:

a. Without prejudice to the qualification requirements of the country where the subsidiary or the affiliate is to be established, the proposed officer(s), at the time of appointment, must be at least:

(1) Twenty-five (25) years of age;

(2) A college graduate, preferably with training and experience abroad;

(3) With three (3) years experience in international banking; and

(4) Must not be disqualified as an officer under existing regulations.

b. The applicant shall also comply with the licensing requirements of the host country and the necessary license to operate shall be secured from the appropriate government agency of the host country;

c. The outward investment representing initial capital outlay and other outlays shall be subject to existing regulations;

d. All dividends earned shall be inwardly remitted to the Philippines within reasonable period after the date of payment;

e. The proposed subsidiary or affiliate shall submit the reports required by the BSP;

f. The proposed subsidiary or affiliate shall not carry any of the business of a bank contemplated within the context of the Philippine banking system;

g. The proposed subsidiary or affiliate shall not engage in stock trading activity;

h. The applicant shall submit a certification from the host country that the duly authorized personnel/examiners of the BSP will be authorized to examine the proposed subsidiary or affiliate; and

i. The applicant shall defray the necessary cost and expenses to be incurred by the appropriate department of the SES in the examination of the foreign subsidiary.

§§ X382.4 - X382.7 (Reserved)

§ X382.8 *Investment of a bank subsidiary in a foreign subsidiary.* The following guidelines shall govern the investment in a foreign subsidiary by a bank subsidiary:

a. The investment of a bank subsidiary in the equity of a subsidiary located abroad shall be subject to prior BSP approval;

b. The bank subsidiary may invest in a subsidiary if it meets the following pre-qualification requirements:

(1) It has complied with the minimum capital requirement of the host country;

(2) It has booked the required valuation reserves and other capital adjustments, if any; and

(3) Its operations in the preceding three (3) years were profitable; otherwise, the feasibility study on the proposed subsidiary should show profits in the first two (2) years of operations.

c. The application for authority of a bank subsidiary shall be accompanied by the following:

(1) Certified true copy of the resolution authorizing the investment by the board of directors of the parent bank and the bank subsidiary;

(2) Feasibility studies on the proposed subsidiary indicating, among others, the economic justification, the type of industry and organizational expenses to be incurred, including the capital expenditures; and

(3) Proposed organizational structures, including the proposed officers and their qualifications.

d. The applicant parent subsidiary shall comply with the licensing requirements of the host country and the necessary license to operate shall be secured from the appropriate government agency of the host country;

e. The proposed subsidiary may invest in another subsidiary with prior approval of the BSP;

f. Any outward investment representing initial capital and other outlays shall be subject to existing regulations;

g. At least fifty percent (50%) of the yearly net profits of the proposed subsidiary shall be declared and paid as cash dividends to the parent subsidiary;

h. The proposed subsidiary shall be subject to -

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- (1) the applicable reportorial requirements such as the submission of quarterly SOC and SIE; and
- (2) the supervision and examination by the BSP and the cost of such examination shall be charged against the grandparent bank; and
 - i. Any additional funding or advances of the parent bank in the Philippines to its subsidiaries abroad or the subsidiary will require prior BSP approval.

Sec. X383 Other Limitations and Restrictions. The following limitations and restrictions shall also apply regarding equity investments of banks.

- a. *In any single enterprise.* The equity investments of UBs and KBs in any single enterprise shall not exceed at any time twenty-five percent (25%) of the net worth of the investing banks as defined in Sec. X111 and Subsec. X105.5.
- b. *Aggregate limits.* The total amount of investments in equities in all enterprises shall not exceed the following ratios in relation to the net worth of the investing bank:

	<u>UB</u>	<u>KB</u>	<u>TB</u>	<u>RB</u>	<u>Coop Bank</u>
LIMIT:	50%	35%	25%	25%	25%

- c. *Exclusion of underwriting exposure from ceiling.* The exposure of a bank with UB authority arising from the firm underwriting of equity securities of enterprises shall not be counted in determining compliance with the ceilings prescribed in this Section and Subsec. 1381.2 for a period of two (2) years from the acquisition of such equity securities.
- d. The guidelines in determining compliance with the other limitations and restrictions on equity investments of banks are shown in *Appendix 79*.
 (As amended by Circular No. 581 dated 14 September 2007)

Sec. X384 (Reserved)

Sec. X385 Sanctions. The following sanctions shall be imposed for equity investments made without prior Monetary Board approval:

- a. *First Offense* - If the investment is not allowable under existing regulations, divestment of the investment and reprimand on officer/director who recommended/approved the investment.
- b. *Subsequent Offense* -
On the Bank. If the investment is not allowable under existing regulations, divestment of the investment.

On the Director/Officer. Fine of P20,000 for each investment to be imposed on the members of the board and the executive officers who recommended/approved the investment per investment and to be shouldered personally by the officer/director: *Provided,* That if the subsequent offense is an investment in a non-allied enterprise, the fine shall be P40,000.

I. (RESERVED)

Secs. X386 - X387 (Reserved)

J . OTHER OPERATIONS

Sec. X388 Purchase of Receivables and Other Obligations. The following regulations shall govern the purchase of receivables and other obligations.

§ X388.1 Yield on purchase of receivables. The rate of yield, including commissions, premiums, fees and other charges, from the purchase of receivables and other obligations, regardless of maturity, that may be charged or received by banks shall not be subject to any regulatory ceiling.

§ X388.2 Purchase of receivables on a “without recourse” basis. The total exposure of a bank to a maker of promissory notes resulting from the purchase of receivables on a *without recourse* basis

shall be subject to the SBL of the bank: *Provided*, That the bank shall evaluate the credit worthiness of the maker of such promissory notes.

§ X388.3 Purchase of commercial paper. Before purchasing registered commercial paper, banks authorized to engage in quasi-banking functions shall -

a. Require the issuing entity to submit a duly certified true copy of its Certificate of Registration and Authority to Issue Commercial Paper; and

b. Ascertain that the registration number and expiry date indicated in the commercial paper are the same as those in the certificate of registration submitted.

Any violation or failure to comply with the provisions of this Subsection shall subject the erring bank to suspension or revocation of its authority to engage in quasi-banking functions.

§ X388.4 Reverse repurchase agreements with Bangko Sentral Reverse repo agreements with the BSP shall be governed by Subsec. X601.2.

§ X388.5 Investment in debt and readily marketable equity securities. The following rules and regulations shall govern investment in debt securities and marketable equity securities.

a. Banks may invest in the following:

(1) Readily marketable bonds and other debt securities which are of such use or demand as to make them the subject of constant dealings in securities markets, with such frequent quotations of price as to make the price easily and definitely ascertainable, and the security easy to realize upon sale at any time: *Provided*, That the bonds and other debt securities have complied with the new rules on registration of commercial papers: *Provided, further*, That in the case of RBs/Coop Banks, the bonds and other securities have been approved by the BSP.

TBs may invest in evidences of indebtedness which are registered with the SEC but are not readily marketable securities: *Provided*, That these evidences of indebtedness shall be acquired with recourse against a bank or a QB.

It shall be the responsibility of the investing bank to undertake the necessary investigation to satisfy itself with regard to the particular security.

(2) Evidences of indebtedness of the Republic of the Philippines or the BSP, and any other evidences of indebtedness or obligations the servicing and repayment of which are guaranteed by the Republic of the Philippines.

b. The classification, accounting procedures, valuation and sales and transfers of investments in all debt securities and marketable equity securities shall be in accordance with the guidelines in *Appendices 33 and 33a*.

c. *Penalties and sanctions.* The following penalties and sanctions shall be imposed on FIs and concerned officers found to violate the provisions of these regulations:

(1) Fines to be imposed on FIs for each violation, reckoned from the date the violation was committed up to the date it was corrected:

- (i) P20,000/day for UBs;
- (ii) P10,000/day for KBs;
- (iii) P2,000/day for TBs; and
- (iv) P1,000/day for RBs/Coop Banks.

(2) Sanctions to be imposed on concerned officers:

(i) First offense - reprimand the officers responsible for the violation; and

(ii) Subsequent offenses - suspension of ninety (90) days without pay for officers responsible for the violation.

(As amended by Circular Nos. 628 dated 31 October 2008, 626 dated 23 October 2008 and 585 dated 15 October 2007, M-2007-006 dated 28 February 2007; Circular Nos. 558 dated 22 January 2007, 546 dated 17 November 2006 and 509 dated 01 February 2006)

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Sec. X389 (Reserved)

Sec. 1389 Guidelines on the Investment of UBs and KBs in Credit-Linked Notes, Structured Products and Securities Overlying Securitization Structures. In line with the policy of encouraging banks to diversify their investment portfolios and to foster the development of a market for new financial products, the BSP has issued guidelines on the investment of UBs and KBs in (1) CLNs and similar products (Sec. 1628), (2) foreign currency denominated structured products (Secs. 1635 and 1636) and (3) securities overlying securitization structures (Sec. 1648).

No prior BSP approval is required to enter into authorized transactions. However, it shall be the responsibility of UBs/KBs to fully comply with appropriate risk management standards including, as a minimum, those prescribed under relevant Sections. The regulatory requirements enumerated in *Appendix 66* shall be fully complied with by UBs/KBs investing in products allowed under Secs./Subsecs. 1628, 1635 and X115.3.

The guidelines on the accounting for investments in CLNs and other SPs, in addition to those prescribed under PAS 39, is provided in *Appendix 66a*.

(As amended by M-2008-010 dated 07 March 2008)

Sec. 2389 (Reserved)

Sec. 3389 (Reserved)

Secs. X390 - X392 (Reserved)

K. MISCELLANEOUS PROVISIONS

Sec. X393 Loans-to-Deposits Ratio. The following policies and guidelines shall govern the loans-to-deposits ratio (LDR) of head offices and branches.

(As amended by Circular No. 613 dated 18 June 2008)

§ X393.1 Statement of policy. It is the policy of the BSP to promote healthy competition within the banking system as well as provide enhanced banking statistics necessary for informed decision-making.

(As amended by Circular No. 613 dated 18 June 2008)

§ X393.2 Regional loans-to-deposits ratio. An individual bank’s regional LDR is a measure of the extent of its lending activity vis-à-vis deposits generated in a region. On an aggregate basis, the regional LDR for the banking system is an indicator of the level of bank deposits which have been transformed into investments in a region. The latter may be used by banks as a benchmark in assessing their regional lending and deposit operations as against that of the industry and their peer group.

(As amended by Circular No. 613 dated 18 June 2008)

§ X393.3 Computation of the regional loans-to-deposits ratio. The individual bank’s regional LDR shall be computed by dividing a bank’s aggregate loans by its aggregate deposit liabilities on a per region basis as of the same reporting cut-off date. A bank, in computing its regional LDR, shall be guided by the following:

a. Loans shall be reported by a bank in the region where the loan proceeds were utilized or channeled to, i.e., location of the end-users.

b. Deposits, on the other hand, shall be reported by a bank in the region wherein these were generated.

For purposes of this Section, *loans* shall refer to the amortized cost of a bank’s total loan portfolio, excluding “Loans to BSP”, “Interbank Loans Receivable” and loans granted by a bank’s FCDU/EFCDU. *Deposits*, on the other hand, shall refer to a bank’s total deposit liabilities, excluding FCDU/EFCDU deposits.

(As amended by Circular No. 613 dated 18 June 2008)

Sec. X394 Acquired Assets in Settlement of Loans. The following rules shall govern assets acquired in settlement of loans.

§ X394.1 Posting. Banks shall post at all times in a conspicuous place in the premises of their head office and each of their branches and other banking offices a list of acquired assets together with the corresponding lowest price at which the bank is willing to sell such property. However, this requirement shall not relieve the bank from the requirement under Section 52 of R.A. No. 8791 to dispose of such acquired assets.

§ X394.2 Booking

a. ROPA in settlement of loans through foreclosure or dation in payment shall be booked under the ROPA account as follows:

(1) Upon entry of judgment in case of judicial foreclosure;

(2) Upon execution of the Sheriff's Certificate of Sale in case of extrajudicial foreclosure; and

(3) Upon notarization of the Deed of Dacion in case of dation in payment (*dacion en pago*).

ROPA shall be booked initially at the carrying amount of the loan (i.e., outstanding loan balance adjusted for any unamortized premium or discount less allowance for credit losses computed based on PAS 39 provisioning requirements, which take into account the fair value of the collateral) plus booked accrued interest less allowance for credit losses (computed based on PAS 39 provisioning requirements) plus transaction costs incurred upon acquisition (such as non-refundable capital gains tax and documentary stamp tax paid in connection with the foreclosure/purchase of the acquired real estate property): *Provided*, That if the carrying amount of ROPA exceeds P5.0 million, the appraisal

of the foreclosed/purchased asset shall be conducted by an independent appraiser acceptable to the BSP.

b. The carrying amount of ROPA shall be allocated to land, building, other non-financial assets and financial assets (e.g., receivables from third party or equity interest in an entity) based on their fair values, which allocated carrying amounts shall become their initial costs.

c. The non-financial assets portion of ROPA shall remain in ROPA and shall be accounted for as follows:

(1) Land and buildings shall be accounted for using the cost model under PAS 40 "Investment Property";

(2) Other non-financial assets shall be accounted for using the cost model under PAS 16 "Property Plant and Equipment";

(3) Buildings and other non-financial assets shall be depreciated over the remaining useful life of the assets, which shall not exceed ten (10) years and three (3) years from the date of acquisition, respectively; and

(4) Land, buildings and other non-financial assets shall be subject to the impairment provisions of PAS 36 "Impairment".

d. Financial assets, shall be reclassified and booked according to intention under HFT, DFVPL, AFS, HTM, INMES, Unquoted Debt Securities Classified as Loans or Loans and Receivable and accounted for in accordance with the provisions of PAS 39, except interests in subsidiaries, associates and joint ventures, which shall be booked under Equity Investments in Subsidiaries, Associates and Joint Ventures and accounted for in accordance with the provisions of PAS 27, 28 and 31, respectively.

e. ROPAs that comply with the provisions of PFRS 5 "Non-Current Assets Held for Sale" shall be reclassified and accounted for as such.

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f. Claims arising from deficiency judgments rendered in connection with the foreclosure of mortgaged properties shall be lodged under the real account “Deficiency Judgment Receivable”; while probable claims against the borrower arising from the foreclosure of mortgaged properties shall be lodged under the contingent account “Deficiency Claims Receivable”.

g. *Appraisal of properties.* Before foreclosing or acquiring any property in settlement of loans, it must be properly appraised to determine its true economic value. If the amount of ROPA to be booked exceeds P5.0 million, the appraisal must be conducted by an independent appraiser acceptable to the BSP. An in-house appraisal of all ROPAs shall be made at least every other year: *Provided*, That immediate re-appraisal shall be conducted on ROPAs which materially decline in value.

h. *Non-cash payment for interest.* FIs that accept non-cash payments for interest on their borrowers’ loans shall book the acquired assets as ROPA. The amount to be booked as ROPA shall be the booked accrued interest less allowance for credit losses (computed based on PAS 39 provisioning requirements): *Provided*, That if the carrying amount of ROPA exceeds P5.0 million, the appraisal of the foreclosed/purchased asset shall be conducted by an independent appraiser acceptable to the BSP. The carrying amount of ROPA shall be allocated in accordance with Item “b” and shall be subsequently accounted for in accordance with Item “c” of this Subsection.

The provisions of this Subsection shall be applied retroactively to all outstanding ROPAs and sales contract receivables: *Provided*: That for properties acquired before 01 January 2005, the carrying amount of the acquired properties when initially booked under ROPA shall be the

cost subject to depreciation and impairment testing, which shall be reckoned from the time of acquisition.

(As amended by Circular Nos. 555 dated 12 January 2007 and 520 dated 20 March 2006)

§ X394.3 Sales contract receivable

a. Sales Contract Receivable (SCR) shall be recorded based on the present value of the installments receivables discounted at the imputed rate of interest. Discount shall be accreted over the life of the SCR by crediting interest income using the effective interest method. Any difference between the present value of the SCR and the derecognized assets shall be recognized in profit or loss at the date of sale in accordance with the provisions of PAS 18 “Revenue”: *Provided*, *furthermore*, That SCR shall be subject to impairment provision of PAS 39.

The provisions of this Subsection shall be applied retroactively to all outstanding ROPAs and SCRs: *Provided*: That for properties acquired before 01 January 2005, the carrying amount of the acquired properties when initially booked under ROPA shall be the cost subject to depreciation and impairment testing, which shall be reckoned from the time of acquisition.

b. SCRs which meet all the requirements/conditions enumerated below are hereby considered performing assets and therefore, not subject to classification:

(1) That there has been a downpayment of at least twenty percent (20%) of the agreed selling price or in the absence thereof, the installment payments on the principal had already amounted to at least twenty percent (20%) of the agreed selling price;

(2) That payment of the principal must be in equal installments or in diminishing amounts and with maximum intervals of one (1) year;

(3) That any grace period in the payment of principal shall not be more than two (2) years; and

(4) That there is no installment payment in arrear either on principal or interest: *Provided*, That an SCR account shall be automatically classified “Substandard” and considered non-performing in case of non-payment of any amortization due: *Provided, further*, That an SCR which has been classified “Substandard” and considered non-performing due to non-payment of any amortization due may only be upgraded restored to unclassified and/or performing status after a satisfactory track record of at least three (3) consecutive payments of the required amortization of principal and/or interest has been established.

(As amended by Circular No. 520 dated 20 March 2006)

§§ X394.4 - X394.9 (Reserved)

§ X394.10 *Transfer/sale of non-performing assets to a special purpose vehicle or to an individual.* The procedures governing the transfer/sale of non-performing assets (NPAs) to a Special Purpose Vehicle (SPV) or to an individual that involves a single family residential unit, or transactions involving *dacion en pago* by the borrower or third party of an NPL, for the purpose of obtaining the Certificate of Eligibility (COE) which is required to avail of the incentives provided under R.A. No. 9182 are presented in *Appendix 56*.

The accounting guidelines on the sale of NPAs to SPVs and to qualified individuals for housing under the SPV Act of 2002 are presented in *Appendix 56a*.

The significant timelines related to the implementation of R.A. No. 9182, also known as the “Special Purpose Vehicle Act” as amended by R.A. No. 9343 are presented in *Appendix 56b*.

(As amended by M-2008-014 dated 17 March 2008, M-2008-005 dated 04 February 2008, M-2007-013 dated 11 May 2007 and M-2006-001 dated 11 May 2006)

§§ X394.11 - X394.14 (Reserved)

§§ X394.15 *Joint venture of banks with real estate development companies*

a. Statement of policy. It is the policy of the BSP to encourage banks to dispose of their ROPAs in settlement of loans and other advances either through foreclosure or *dacion en pago* as well as other properties acquired as a consequence of a merger/consolidation which are no longer necessary for their banking operations. Towards this end, banks are hereby authorized to enter into Joint Venture Agreements (JVA) with real estate development companies for the development of said properties, subject to the requirements prescribed under this Subsection.

b. For purposes of this Subsection, *joint venture* shall refer to a contractual arrangement/undertaking between a bank and a duly registered real estate development company (developer) for the purpose of developing the abovementioned properties of the bank. The bank contributes said properties to the undertaking while the developer contributes all the development funds, resources, technical expertise, equipment, personnel and all other requirements desired or needed for the implementation and completion of the undertaking including marketing, where applicable. The bank and the developer shall be bound by the contract that establishes joint control of the undertaking. Although the developer may be designated as operator or manager of the undertaking, it does not, however, absolutely control the undertaking but only acts in accordance with the authorities granted to him under the JVA.

c. Forms of a joint venture. A bank and a developer may undertake a joint venture under the following forms:

(1) A jointly-controlled operation/undertaking, which does not involve the

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establishment of a corporation, partnership or other entity, or a financial structure that is separate from the bank and the developer themselves. Under this form of joint venture, the rights and obligations of the bank and the developer shall be governed primarily by their contract that must clearly specify the following:

- (a) authority of the developer to develop/subdivide the property and subsequently, to sell the individual lots under a special power of attorney;
- (b) sharing in the sales proceeds of the developed ROPAs or in the developed lots;
- (c) sharing in taxes;
- (d) sharing in the assets of the joint venture particularly in the developed/subdivided lots should there still be unsold lots at the time of termination of the joint venture; and
- (e) name under which the subdivided lots shall be registered pending their sale.

(2) A jointly-controlled entity, which involves the establishment of a new juridical entity, preferably a corporation that is separate and distinct from the bank and the developer. A jointly controlled corporation may be established either for the purpose of developing properties of banks for immediate sale or converting them into earning assets such as hotels and shopping malls.

d. *Requirements and limitations in a joint venture.* A bank desiring to enter into a JVA with a developer for the purpose of developing its ROPAs and/or other properties acquired as a consequence of merger/consolidation shall comply with the following:

- (1) The JVA shall be approved by the board of directors of the bank.
- (2) The bank's contribution to the joint venture, in whatever form undertaken, shall be limited to ROPAs and properties acquired as a consequence of the bank's merger/consolidation with another bank/financial institution.

(3) The bank shall not recognize income out of its contribution to the joint venture, regardless of the agreed valuation of said properties.

(4) The bank shall not provide funds to the joint venture either as a loan or capital contribution.

(5) The JVA or contractual arrangement shall clearly stipulate the rights and obligations of the bank and the developer.

(6) The bank shall secure prior Monetary Board approval of the JVA.

e. *Application for authority to enter into JVA.* A bank desiring to enter into a JVA with a developer for the purpose of developing its ROPAs and other properties acquired as a consequence of its merger/consolidation with another bank/FI shall secure prior Monetary Board approval of said agreement. For that purpose, the concerned bank shall submit an application for Monetary Board approval to the appropriate department of the SES. The application shall be signed by the bank's president or officer of equivalent rank and shall be accompanied by the following documents/information:

- (1) The name of the developer;
- (2) Name of the principal stockholders and officers as well as members of the board of directors of said company;
- (3) Relationship of the bank with the developer, if any;
- (4) List and brief description of the properties to be contributed by the bank including their market values, book values and the valuation agreed upon under the proposed JVA;
- (5) Certification by the bank's president or officer of equivalent rank that the JVA is strictly in compliance or will strictly comply with the requirements of this Subsection; and
- (6) Such other documents/information that the concerned department of the SES may require.

f. *Non-financial allied undertaking.* All types of banks are hereby authorized to invest in the equities of companies engaged in real estate development as a non-financial allied undertaking, subject to the following conditions:

(1) Investments shall be limited to ROPAs and other properties acquired as a consequence of a bank's merger/consolidation with another bank/FI;

(2) Investments shall be subject to existing BSP requirements applicable to investments in non-financial allied undertakings; and

(3) If there is already an existing subsidiary or affiliate relationship between the bank and the investee corporation prior to the investment, the bank shall not recognize income out of its invested properties. The excess of the value of the capital stock received by the bank over the book value of its invested properties shall be booked as "Deferred Credits".

g. *Accounting treatment.* Accounting treatment of the properties contributed by a bank to a joint venture or invested in the equities of developers.

(1) In a joint venture in the form of a jointly controlled operations/undertaking, which does not involve the establishment of a corporation or other entity, the bank shall continue to recognize in its books the properties contributed to the undertaking. However, the regular provisioning against probable losses required under existing regulations may be discontinued upon execution and implementation of the JVA.

(2) In a joint venture in which a corporation is created, the bank shall book the properties contributed to the undertaking as investment pursuant to the provisions of PAS 31. It shall also recognize its interest in the corporation using the proportionate consolidation method or the equity method as long as it continues to have joint control over the corporation: *Provided*, That the bank shall not recognize

income out of its contribution to the joint venture. The excess of the value of the capital stock received by the bank over the book value of the contributed properties shall be credited to the account "Deferred Credits".

(3) Properties invested in equities of developers shall be booked in accordance with the PAS: *Provided*, That the bank shall not recognize income out of the properties invested if there is already an existing subsidiary or affiliate relationship between the bank and the investee corporation prior to the investment, regardless of the agreed valuation of said properties. The excess of the agreed valuation of said properties over their book value shall be booked as "Deferred Credits".

h. *Coverage.* The provisions of this Subsection shall apply to ROPAs existing, as well as those which may be acquired by banks in settlement of non-performing or past due loans and advances outstanding, as of 09 March 2006 and to properties acquired as a consequence of merger or consolidation which are outstanding in the books of banks as of said date.

i. *Sanctions.* Any violation of the provisions of this Subsection and/or any misrepresentation in the certification and information required to be submitted to the BSP under this Subsection shall subject the bank and the officer or officers responsible therefore, to the penalties provided under Sections 35, 36 and 37 of R. A. No. 7653. *(Circular No. 518 dated 09 March 2006)*

Sec. X395 Credit Policies of Government-Owned Corporations Government-owned corporations which perform banking or credit functions shall coordinate their general credit policies with the Schedule of Credit Priorities embodied in *Appendix 23*. Within the provision of their respective charters, these corporations shall limit their credits to the economic activities falling

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under Priority II of said schedule to fifty percent (50%) of their outstanding loans at any time.

Sec. X396 Parcellary Plans on Crop Loans. Banks shall require the submission of parcellary plans a requisite for granting crop loans to sugarcane planters.

Sec. X397 (Reserved)

Sec. 1397 Limits on Real Estate Loans of UBs/KBs. Total real estate loans of UB/KBs, excluding:

- a. Loans extended to individual households for purposes of financing the acquisition, construction, and/or improvement of housing units and acquisition of any associated land that is or will be occupied by the borrower, regardless of amount;
- b. Loans extended to land developers/construction companies for the purpose of development and/or construction of socialized and low-cost residential properties as defined under existing guidelines of the HUDCC for the implementation of government housing programs, which are intended for sale to individual households;
- c. Loans to the extent guaranteed by the HGC; and
- d. Loans to the extent collateralized by non-risk assets under existing regulations shall not exceed twenty percent (20%) of the total loan portfolio, net of interbank loans.

For this purpose, real estate loans shall refer to loans granted to:

- (1) individual households for the acquisition, construction and/or improvement of housing units and acquisition of any associated land that is or will be occupied by the borrower, including loans granted to bank officers and

employees for the same purpose which are covered by bank’s fringe benefit plan and which plan was approved by the Monetary Board; and

- (2) land developers/construction companies and other borrowers for the acquisition and development of land and/or construction of buildings and structures, including housing units for sale/lease and/or for use in retail/wholesale, manufacturing or other income-generating purposes, including loans for the land development and construction of residential properties.

It shall not include loans for construction of highways, streets, bridges, tunnels, railways, and other infrastructure for public use.

Purchase by banks of receivables under Contract to Sell (CTS) executed between the real estate developers and home buyers on a with recourse basis shall be considered loans to real estate developers and shall be classified as commercial real estate loans.

Trust departments of UBs/KBs shall be exempted from the prescribed limit on real estate loans.

Under existing HUDCC guidelines, socialized and low-cost housing loans are defined as follows:

Housing Package	Loan Ceiling
Low-cost	
Level 1-A (Socialized)	P300,000 and below
Level 1-B	Above P300,000 to P500,000
Level 2	Above P500,000 to P1,250,000
Level 3	Above P1,250,000 to P3,000,000

(As amended by Circular No. 600 dated 04 February 2008)

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Sec. 2397 (Reserved)	the Bureau of Local Government Finance – Department of Finance (BLGF-DOF).
Sec. 3397 (Reserved)	
Sec. X398 Debt Service Limit on Local Government Borrowings. To ensure the effective implementation of the debt service limit on local government borrowings as stipulated in Section 324 (b) of the Local Government Code of 1991, all banks shall require each borrowing LGU to present a certificate of its debt service and borrowing capacity, duly certified by	Sec. X399 General Provision on Sanctions. Any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653. The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R. A. No. 7653 on banks, their directors and/or officers are shown in <i>Appendix 67</i> .

PART FOUR

TRUST, OTHER FIDUCIARY BUSINESS AND INVESTMENT
MANAGEMENT ACTIVITIES

Section X401 Statement of Principles

The cardinal principle common to all trust and other fiduciary relationships is fidelity. Policies predicated upon this principle are directed towards confidentiality, scrupulous care, safety and prudent management of property including reasonable probability of income with proper accounting and appropriate reporting thereon. Practices are designed in accordance with the basic standards for trust, other fiduciary and investment management accounts in *Appendix 83* to promote efficiency in administration and operation; to adhere and conform to the terms of the instrument or contract; and to maintain absolute separation of property free from any intrusion of conflict of interest.

A bank authorized to engage in trust and fiduciary business is under no obligation, either legal or moral, to accept any such business being offered nor has it the right to accept if the same is contrary to law, rules, regulations, public order and public policy. It shall advertise its services in a dignified manner and enter such business only when demand for such service is evident, when specially equipped to render such service and upon full appreciation of the responsibilities involved. It shall be ready and willing to give full disclosure of the services being offered and shall conduct its dealing with transparency. Harmonious relationship shall likewise be pursued with other professions to achieve the common goal of mutual service to the public and protection of its interest.

Banks may not receive or hold as trustee, agent, administrator, financial manager, or other similar capacity, any fund or money from the Government and

government entities: *Provided, however,* That government-owned banks may receive or hold as trustee, agent, administrator, financial manager, or other similar capacity, the following:

a. Funds of local government units (LGUs) which are expected to be available for investment purposes for a relatively long period of time: *Provided, further,* That the amounts held in trust or otherwise managed/ advised for and in behalf of the LGUs shall be invested only in government securities, specifically, evidences of indebtedness of the National Government, the BSP and other evidences of indebtedness or obligations of government entities, the servicing and repayment of which are fully guaranteed by the National Government; and

b. Funds of government and government entities which are authorized by special laws to be placed in trust.

(As amended by Circular No. 618 dated 20 August 2008)

Sec. X402 Scope of Regulations. These regulations shall govern the grant of authority to and the management, administration and conduct of *trust, other fiduciary business and investment management activities* (as these terms are defined in Sec. X403) of banks.

The regulations are divided into three (3) Sub-Parts where:

A. *Trust and Other Fiduciary Business* shall apply to banks authorized to engage in trust and other fiduciary business including investment management activities;

B. *Investment Management Activities* shall apply to banks without trust authority but with authority to engage in investment management activities; and

C. *General Provisions* shall apply to both.

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Sec. X403 Definitions. For purposes of regulating the operations of trust and other fiduciary business and investment management activities, unless the context clearly connotes otherwise, the following shall have the meaning indicated.

a. *Trust business* shall refer to any activity resulting from a trustor-trustee relationship (trusteeship) involving the appointment of a trustee by a trustor for the administration, holding, management of funds and/or properties of the trustor by the trustee for the use, benefit or advantage of the trustor or of others called beneficiaries.

b. *Other fiduciary business* shall refer to any activity of a trust-licensed bank resulting from a contract or agreement whereby the bank binds itself to render services or to act in a representative capacity such as in an agency, guardianship, administratorship of wills, properties and estates, executorship, receivership, and other similar services which do not create or result in a trusteeship. It shall exclude collecting or paying agency arrangements and similar fiduciary services which are inherent in the use of the facilities of the other operating departments of said bank. Investment management activities, which are considered as among other fiduciary business, shall be separately defined in the succeeding item to highlight its being a major source of fiduciary business.

c. *Investment management activity* shall refer to any activity resulting from a contract or agreement primarily for financial return whereby the bank (the investment manager) binds itself to handle or manage investible funds or any investment portfolio in a representative capacity as financial or managing agent, adviser, consultant or administrator of financial or investment management, advisory, consultancy or any similar arrangement which does not create or result in a trusteeship.

d. *Trust* is a relationship or an arrangement whereby a person called a trustee is appointed by a person called a trustor to administer, hold and manage funds and/or property of the trust or for the benefit of a beneficiary.

e. *Trust agreement* is an instrument in writing covering the terms and conditions of the trust.

f. *Trustee* is any person who holds legal title to the funds and/or property of a trust.

g. *Trustor* is any person who creates a trust.

h. *Beneficiary* is any person for whose benefit a trust is created.

i. *Fiduciary* shall refer to any person or entity engaged in any of the other fiduciary business as herein defined where no trustor-trustee relation exists.

j. *Agency* shall refer to a contract whereby a person binds himself to render some service or to do something in representation or on behalf of another, with the consent or authority of the latter.

k. *Principal* shall refer to the person who grants authority to another person called an agent, under a contract to enter into transactions in his behalf.

l. *Agent* shall refer to a person who acts in representation or on behalf of another with the latter's authority.

m. *Trust department* shall refer to the department, office, unit, group, division or any aggrupation which carries out the trust and other fiduciary business of a bank.

n. *Trust officer* shall refer to the designated head or officer-in-charge of the trust department.

o. *Trust account* shall refer to an account where transactions arising from a trusteeship are kept and recorded.

p. *Common trust fund (CTF)* shall refer to a fund maintained by a bank authorized to perform trust functions under a written and formally established plan, exclusively for the collective investment and reinvestment of certain money

representing participation in the plan received by it in its capacity as the trustee.

q. *Fiduciary account* shall refer to an account where transactions arising from any of the other fiduciary businesses are kept and recorded.

r. *Investment Manager* shall refer to any person or entity engaged in investment management activities as herein defined.

s. *Investment Management Department* shall refer to the department, unit, group, division or any aggrupation which carries out the investment management activities of a bank that does not have an authority to engage in trust and other fiduciary business.

t. *Investment Management Officer* shall refer to the designated head or officer-in-charge of the investment management department of a bank which does not have the authority to engage in trust and other fiduciary business.

u. *Investment management account* shall refer to an account where transactions arising from investment management activities are kept and recorded.

A. TRUST AND OTHER FIDUCIARY BUSINESS

Sec. X404 Authority to Perform Trust and Other Fiduciary Business. With prior approval of the Monetary Board, banks may engage in trust and other fiduciary business under Chapter VII of R.A. No. 337, as amended.

If a bank is found to engage in unauthorized trust and other fiduciary business and/or investment management activities, whether as its primary, secondary or incidental business, the Monetary Board may impose administrative sanctions against such bank or its principal officers and/or majority stockholders or proceed against them in accordance with law.

The Monetary Board may take such action as it may deem proper such as, but may not be limited to, requiring the transfer

or turnover of any trust and other fiduciary and/or investment management account to duly incorporated and licensed entities of the choice of the trustor, beneficiary or client, as the case may be.

No bank shall advertise or represent itself as being engaged in trust and other fiduciary business or in investment management activities or represent itself as trustee or investment manager or use words of similar import; and/or use in connection with its business title the words *trust*, *trust corporation*, *trust company*, *trust plan* or words of similar import, without having obtained the required authority to do so.

§ X404.1 *Application for authority to perform trust and other fiduciary business*

Banks desiring to perform trust and other fiduciary business shall file an application with the appropriate supervising and examining department. The application shall be signed by the bank's president or officer of equivalent rank and shall be accompanied by the following documents:

a. Certified true copy of the resolution of the institution's board of directors authorizing the application; and

b. A certification signed by the president or the officer of equivalent rank that the institution has complied with all conditions/prerequisites for the grant of authority to perform trust and other fiduciary business.

§ X404.2 *Required capital.* Banks applying for authority to perform trust and other fiduciary business must have minimum capital accounts as follows:

UBs/KBs. The amount required under Sec. X111 or such amount as may be required by the Monetary Board in the future.

Branches of foreign banks. The amount required under Sec. X105 or such amount as may be required by the Monetary Board in the future.

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TBs. P650.0 million or such amounts as may be required by the Monetary Board in the future.

Banks authorized to perform and are actually performing trust and other fiduciary business prior to 20 August 2002 whose capital accounts are lower than the above-prescribed minimum capital accounts shall, before declaring any dividend, carry to surplus at least fifty percent (50%) of their net income from all operations since the last preceding dividend until such time that their capital accounts meet the above requirement.

§ X404.3 Prerequisites for engaging in trust and other fiduciary business. Before it may engage in trust and other fiduciary business, a bank shall comply with the following requirements:

a. The applicant has been duly licensed or incorporated as a bank or created as such by special law or charter;

b. The articles of incorporation or governing charter of the institution shall include among its powers or purposes, acting as trustee or administering any trust or holding property in trust or on deposit for the use, or in behalf of others;

c. The by-laws of the institution shall include among other things, provisions on the following;

(1) The organization plan or structure of the department, office or unit which shall conduct the trust and other fiduciary business of the institution;

(2) The creation of a trust committee, the appointment of a trust officer and subordinate officers of the trust department; and

(3) A clear definition of the duties and responsibilities as well as the line and staff functional relationships of the various units, officers and staff within the organization;

d. The bank's operation during the preceding calendar year and for the period immediately preceding the date of application has been profitable;

e. The bank is well capitalized whose risk-based capital adequacy ratio is not lower than twelve percent (12%) at the time of filing the application;

f. It has not incurred net weekly reserve deficiencies during the eight (8)-week period immediately preceding the date of application;

g. It has generally complied with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management in the last two (2) preceding examinations prior to the date of application, particularly on the following:

(1) election of at least two (2) independent directors;

(2) attendance by every member of the board of directors in a special seminar for board of directors conducted or accredited by the BSP;

(3) the ceilings on credit accommodations to DOSRI;

(4) liquidity floor requirements for government deposits;

(5) single borrower's limit; and

(6) investment in bank premises and other fixed assets;

h. It maintains adequate provisions for probable losses commensurate to the quality of its asset portfolio but not lower than the required valuation reserves as determined by the BSP;

i. It does not have float items outstanding for more than sixty (60) calendar days in the "Due From/To Head Office/Branches/Other Offices" accounts and the "Due from Bangko Sentral" account exceeding one percent (1%) of the total resources as of date of application;

j. It has no past due obligations with the BSP or with any government financial institution;

k. It has established a risk management system appropriate to its operations characterized by clear delineation of responsibility for risk management, adequate risk measurement

systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system;

l. It has a CAMELS composite rating of at least “3” in the last regular examination with management rating of not lower than “3”; and

m. It is a member of the PDIC in good standing.

Compliance with the foregoing as well as with other requirements under existing regulations shall be maintained up to the time the trust license is granted. A bank that fails in this respect shall be required to show compliance for another test period of the same duration.

§ X404.4 Pre-operating requirements

A bank authorized to engage in trust and other fiduciary business shall, before engaging in actual operations, submit to the BSP the following:

a. Government securities acceptable to the BSP amounting to P500,000 as minimum basic security deposit for the faithful performance of trust and other fiduciary duties required under Subsec. X405.1;

b. Organization chart of the trust department which shall carry out the trust and other fiduciary business of the bank; and

c. Names and positions of individuals designated as chairman and members of the trust committee, trust officer and other subordinate officers of the trust department with their respective bio-data and statement of duties and responsibilities.

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Sec. 2404 Grant of Authority to Engage in Limited Trust Business to Thrift Banks

a. *Statement of policy.* It is hereby declared the policy of the BSP to promote healthy competition in order to improve the delivery of banking services especially

in the countryside. Towards this end, authority to engage in limited trust business shall be granted to qualified TBs which meet the minimum capital required for the grant of such authority, among others.

b. *Scope of limited trust business* Limited trust business shall be confined to:

(1) court trusts or trusts under orders of court of competent jurisdiction, such as acting as:

(a) executor or administrator of a will; and

(b) guardian of the estate of a minor or incompetent; and

(2) administration of properties.

c. *Application for authority to engage in limited trust business.* A TB desiring to engage in a limited trust business shall file an application with the Centralized Application and Licensing Group (CALG) of the SES. The application shall be signed by the bank president or officer of equivalent rank and shall be accompanied by the following documents:

(1) Certified true copy of the resolution of the bank’s board of directors authorizing the application; and

(2) Certification signed by the bank president or officer of equivalent rank that the bank has complied with all the conditions/pre-requisites for the grant of authority to engage in a limited trust business.

d. *Required capital.* A TB applying for authority to engage in limited trust business must have minimum capital accounts under existing regulations or P100.0 million, whichever is higher, or such amounts as may be required by the Monetary Board in the future.

e. *Pre-requisites for the grant of authority to engage in limited trust business.* A TB applying for authority to engage in limited trust business must comply with the following requirements:

(1) The bank’s operation during the preceding calendar year and for the period

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immediately preceding the date of application has been profitable;

(2) The bank is well capitalized whose risk-based CAR is not lower than twelve percent (12%) at the time of filing the application;

(3) It has not incurred net weekly reserve deficiencies within eight (8) weeks immediately preceding the date of application;

(4) It has generally complied with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management in the last two (2) preceding examinations prior to the date of application, more particularly:

(a) election of at least two (2) independent directors;

(b) attendance by every member of the board of directors in a special seminar for board of directors conducted or accredited by the BSP;

(c) the ceilings on credit accommodations to DOSRI;

(d) liquidity floor requirements for government deposits;

(e) SBL; and

(f) investment in bank premises and other fixed assets;

(5) It maintains adequate provisions for probable losses commensurate to the quality of its asset portfolio but not lower than the required valuation reserves as determined by the BSP;

(6) It does not have float items outstanding for more than sixty (60) calendar days in the "Due From/To Head Office/Branches/Offices" accounts and the "Due From Bangko Sentral" account exceeding one percent (1%) of the total resources as of date of application;

(7) It has no past due obligations with the BSP or with any government FI;

(8) It has established a risk management system appropriate to its operations characterized by clear delineation of responsibility for risk

management, adequate risk measurement systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system;

(9) It has a CAMELS composite rating of at least "3" in the last regular examination with Management rating not lower than "3"; and

(10) It is a member of the PDIC in good standing;

f. *Requirements for engaging in limited trust business.* A TB authorized to engage in limited trust business shall comply with the following requirements:

(1) The articles of incorporation of the bank shall include among its powers or purposes, acting as trustee or administering trust or holding property in trust or on deposit for the use, or in behalf of others;

(2) The by-laws of the bank shall include among others, provisions on the following:

(a) The organization plan or structure of the department, office or unit which shall conduct the trust and other fiduciary business of the bank;

(b) The creation of a trust committee, to be composed of at least three (3) members who are all members of the board of directors and who are not operating officers of the bank, and at least two (2) of whom are independent directors: *Provided*, That if the bank decides to have a trust committee composed of at least five (5) members, the provisions of Subsec. X406.2 shall apply;

(c) The appointment of a trust officer and subordinate officers of the trust department, office or unit: *Provided*, That the trust officer shall have the following:

(i) At least two (2) years of actual experience in trust operations; or

(ii) At least one (1) year of actual experience in trust operations and completion of a training program in trust operations acceptable to the BSP; or

(iii) At least two (2) years of actual experience as officer of a bank and completion of a training program in trust operations acceptable to the BSP; and

(d) A clear definition of the duties and responsibilities as well as the line and staff functional relationships of the various units, officers and staff within the organization.

g. *Administration of properties held in trust.* The properties held in trust or other fiduciary capacity shall be administered in accordance with the terms of the instrument creating the trust and/or order of the court. Unless otherwise directed in writing by the court, investments of fiduciary funds shall be limited to:

(1) Bank deposits; and

(2) Evidences of indebtedness of the Republic of the Philippines or of the BSP, and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines;

h. *Applicability of the rules and regulations on trust, other fiduciary business and investment management activities.* The provision of this Part which are not inconsistent with the provisions of this Section shall apply to TBs authorized to engage in limited trust business.

(Circular No. 583 dated 24 September 2007)

Sec. 3404 Grant of Authority to Engage in Limited Trust Business to Rural Banks

a. *Statement of policy.* It is hereby declared the policy of the BSP to promote healthy competition in order to improve the delivery of banking services especially in the countryside. Towards this end, authority to engage in limited trust business shall be granted to qualified RBs which meet the minimum capital required for the grant of such authority, among others.

b. *Scope of limited trust business* Limited trust business shall be confined to:

(1) court trusts or trusts under orders of court of competent jurisdiction, such as acting as:

(a) executor or administrator of a will; and

(b) guardian of the estate of a minor or incompetent; and

(2) administration of properties.

c. *Application for authority to engage in limited trust business.* An RB desiring to engage in a limited trust business shall file an application with the CALG of the SES. The application shall be signed by the bank president or officer of equivalent rank and shall be accompanied by the following documents:

(1) Certified true copy of the resolution of the bank's board of directors authorizing the application; and

(2) Certification signed by the bank president or officer of equivalent rank that the bank has complied with all the conditions/pre-requisites for the grant of authority to engage in a limited trust business.

d. *Required capital.* An RB applying for authority to engage in limited trust business must have minimum capital accounts of P100.0 million, or such amounts as may be required by the Monetary Board in the future.

e. *Pre-requisites for the grant of authority to engage in limited trust business.* An RB applying for authority to engage in limited trust business must comply with the following requirements;

(1) The bank's operation during the preceding calendar year and for the period immediately preceding the date of application has been profitable;

(2) The bank is well capitalized whose risk-based CAR is not lower than twelve percent (12%) at the time of filing the application;

(3) It has not incurred net weekly reserve deficiencies within eight (8) weeks immediately preceding the date of application;

(4) It has generally complied with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management in the last two (2)

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preceding examinations prior to the date of application, more particularly;

(a) election of at least two (2) independent directors;

(b) attendance by every member of the board of directors in a special seminar for board of directors conducted or accredited by the BSP;

(c) the ceilings on credit accommodations to DOSRI;

(d) liquidity floor requirements for government deposits;

(e) SBL; and

(f) investment in bank premises and other fixed assets;

(5) It maintains adequate provisions for probable losses commensurate to the quality of its asset portfolio but not lower than the required valuation reserves as determined by the BSP;

(6) It does not have float items outstanding for more than sixty (60) calendar days in the "Due From/To Head Office/Branches/Offices" accounts and the "Due From Bangko Sentral" account exceeding one percent (1%) of the total resources as of date of application;

(7) It has no past due obligations with the BSP or with any government FI;

(8) It has established a risk management system appropriate to its operations characterized by clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system;

(9) It has a CAMELS composite rating of at least "3" in the last regular examination with Management rating not lower than "3"; and

(10) It is a member of the PDIC in good standing.

f. *Requirements for engaging in limited trust business.* An RB authorized to engage in limited trust business shall comply with the following requirements:

(1) The articles of incorporation of the bank shall include among its powers or purposes, acting as trustee or administering trust or holding property in trust or on deposit for the use, or in behalf of others;

(2) The by-laws of the bank shall include among others, provisions on the following:

(a) The organization plan or structure of the department, office or unit which shall conduct the trust and other fiduciary business of the bank;

(b) The creation of a trust committee, to be composed of at least three (3) members who are all members of the board of directors and who are not operating officers of the bank, and at least two (2) of whom are independent directors: *Provided*, That if the bank decides to have a trust committee composed of at least five (5) members, the provisions of Subsec. X406.2 shall apply;

(c) The appointment of a trust officer and subordinate officers of the trust department, office or unit: *Provided*, That the trust officer shall have the following:

(i) At least two (2) years of actual experience in trust operations; or

(ii) At least one (1) year of actual experience in trust operations and completion of a training program in trust operations acceptable to the BSP; or

(iii) At least two (2) years of actual experience as officer of a bank and completion of a training program in trust operations acceptable to the BSP; and

(d) A clear definition of the duties and responsibilities as well as the line and staff functional relationships of the various units, officers and staff within the organization.

g. *Administration of properties held in trust.* The properties held in trust or other fiduciary capacity shall be administered in accordance with the terms of the instrument creating the trust and/or order of the court. Unless otherwise directed in writing by the court, investments of fiduciary funds shall be limited to:

- (1) Bank deposits; and
- (2) Evidences of indebtedness of the Republic of the Philippines or of the BSP, and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines;
- h. *Applicability of the rules and regulations on trust, other fiduciary business and investment management activities.* The provision of this Part which are not inconsistent with the provision of this Section shall apply to RBs authorized to engage in limited trust business.

(Circular No. 583 dated 24 September 2007)

Sec. X405 Security for the Faithful Performance of Trust and Other Fiduciary Business

§ X405.1 Basic security deposit. A bank authorized to engage in trust and other fiduciary business shall deposit with the BSP eligible government 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 volume of trust, other fiduciary and investment management assets: *Provided*, That at no time shall such deposit be less than P500,000.

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 34* of this Manual.

§ X405.2 Eligible securities. Government securities which shall be deposited in compliance with the above basic security deposit shall consist of:

- a. Evidences of indebtedness of the Republic of the Philippines and of the BSP and any other evidences of indebtedness or obligations the servicing and repayment

of which are fully guaranteed by the Republic of the Philippines; and 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 securities shall have remaining maturity of not more than three (3) years from the date of deposit with the BSP; and

- b. NDC Agri-Agra ERAP Bonds which are not being used as alternative compliance with P.D. No. 717. The requirement that the securities used shall have a remaining maturity of not more than three (3) years shall not apply.

- c. Five (5)- and Ten (10)-year SPTBs to finance the CARP-related expenditures, provided such bonds shall not be hypothecated in any way or earmarked for any other purpose and they meet the three (3)-year remaining maturity requirement to ensure that such bonds are liquid.

- d. Securities backed by the unreleased IRAs of LGUs (issued by a Special Purpose Trust administered by the DBP under the IRA Monetization Program of the Union of Local Authorities of the Philippines) the release of which IRA on scheduled date of payment has been certified by the DBM as not being subject to any conditionalities: *Provided*, That such securities shall be eligible only to the extent of the present value of the bond computed using the original yield to maturity (as of auction/issue date): *Provided, further*, That for reserve for trust and other fiduciary duties, the remaining maturities of the securities shall not exceed three (3) years; and

- e. Zero Coupon Bond Issue by the HGC of up to P7.0 billion five (5)-year regular series and up to P3.0 billion seven (7)-year special series to finance its guaranty servicing of socialized and low-cost housing projects: *Provided*, That they meet the three (3)-year remaining maturity

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requirement to ensure that such bonds are liquid: *Provided, further,* That such bonds shall qualify as eligible reserve for trust and other fiduciary duties only to the extent of the present value of the bond computed using the original yield to maturity (as of auction/issue date).

f. Tobacco Excise Tax Receivable Monetization Program Investment Certificates (TEXTR Certificates) backed by receivables representing the unreleased portion of the obligation of the National Government to its LGUs for their share of the Tobacco Excise Taxes under R.A. No. 7171 amounting to ₱1.85 billion and covering the years 2001 and 2002: *Provided,* That such securities shall be eligible only to the extent of the present value of the securities computed using the original yield to maturity as of auction/issue date.

g. Securities received, pursuant to the Domestic Debt Exchange Offer of the Republic of the Philippines, in exchange for securities that are eligible reserves for trust duties.

(As amended by Circular No. 509 dated 01 February 2006)

§ X405.3 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, 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.

The base amount for the basic security deposit shall be the average of the month-end balances of total trust, investment management and other fiduciary assets of the immediately preceding calendar quarter.

§ X405.4 Compliance period; sanctions
 The trustee or fiduciary shall have thirty (30) calendar days after the end of every calendar

quarter within which to deposit with the BSP the securities required under this Section.

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:*
 i. Monetary penalty/ies:

Offense		First	Second	Third and subsequent offense(s)
Trust	Asset Size			
Penalty per Calendar Day	TBs/RBs with Limited Trust Authority	P300.00	P400.00	P500.00
	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

ii. 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.

(As amended by Circular Nos. 617 dated 30 July 2008 and 585 dated 15 October 2007)

§ X405.5 Reserves against peso-denominated common trust funds and trust and other fiduciary accounts - others

- a. *Reserves against peso-denominated CTFs*. In addition to the basic security deposit, a bank authorized to engage in trust and other fiduciary business shall maintain reserves on:
 - (1) peso-denominated CTF; and

- (2) such other managed peso funds which partake the nature of collective investment of a peso-denominated CTF as may be indicated by the presence of the following features:
 - (a) The funds are composed of contributions from two (2) or more investors;
 - (b) The funds are managed/ administered as a vehicle for collective investment and reinvestment;
 - (c) The trustee/administrator/agent has the exclusive management and control over the funds and the sole right at any time to sell, convert, invest, exchange, transfer or otherwise change or dispose of the assets comprising the funds; and
 - (d) Investments/contributions to, or withdrawals from, the funds are being allowed at anytime or as of a fixed date in the future, and/or the income, net of all expenses incurred in the management of the fund plus the fee of the trustee/ administrator/agent, are being distributed among the participants of the funds, without the need to liquidate all assets of the funds.

The required reserves against peso-denominated CTFs and such other managed peso funds which partake the nature of collective investment of peso-denominated CTFs shall be as follows:

UBs/KBs	-	10% ¹
TBs	-	5% ²
RBs	-	4%

In addition to the regular reserve requirement, the liquidity reserves against peso-denominated CTFs and such other peso funds which partake the nature of collective investment of peso-denominated CTFs shall be as follows:

UBs/KBs	-	11% ¹
TBs	-	4% ²

The liquidity reserve shall be maintained in the Reserve Deposit

¹ Under Circular 491 dated 12 July 2005, regular reserve and liquidity reserve rates shall be 10% and 11%, respectively, effective the reserve week starting 15 July 2005.
² Under MAB dated 29 December 2004, regular reserve and liquidity reserve rates shall be 6% and 2%, respectively, effective the reserve week starting 07 January 2005.

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Account (RDA) with the BSP, or may be in the form of the following: *Provided*, That it complies with the guidelines shown in Appendix 71.

(i) *Short-term market-yielding government securities* purchased directly from the BSP-Treasury Department (TD);

(ii) *NDC Agri-Agra ERAP Bonds* which are not being used as alternative compliance with P.D. No. 717. The requirement that the securities used shall have a term of not more than one (1) year shall not apply; and

(iii) PEACe bonds only to the extent of the original gross issue proceeds determined at the time of the auction, plus capitalized interest on the underlying zero-coupon Treasury Notes as and when the corresponding interest is earned over the life of the bonds;

Any deficiency in the liquidity reserves shall continue to be in the forms or modes prescribed under existing regulations for the composition of required reserves.

The reserves on peso-denominated CTFs and such other managed peso funds shall be provided out of such funds.

b. *Reserves against TOFA - Others.* In addition to the basic security deposit, banks shall maintain reserves on TOFA-Others, except accounts held under (1) *Administratorship*; (2) *Bond Issues/Other Obligations Under Deed of Trust or Mortgage*; (3) *Custodianship and Safekeeping*; (4) *Depository and Reorganization*; (5) *Employee Benefit Plans Under Trust*; (6) *Escrow*; (7) *Personal Trust* (testamentary or living trust); (8) *Executorship*; (9) *Guardianship*; (10) *Life Insurance Trust*; and (11) *Pre-need Plans* (institutional/individual).

The required reserves against TOFA Others shall be as follows:

UBs/KBs	-	6%
TBs	-	5%
RBs	-	4%

The liquidity reserve, which is in addition to the regular reserve, shall be as follows:

UBs/KBs	-	11% ¹
TBs	-	4%
RBs	-	0%

The liquidity reserve shall be maintained in the RDA with the BSP, or may be in the form of the following: *Provided*, That it complies with the guidelines shown in Appendix 71.

(1) *Short-term market-yielding government securities* purchased directly from the BSP-TD: *Provided*, That the reserves on TOFA-Others shall be provided out of such funds;

(2) *NDC Agri-Agra ERAP Bonds* which are not being used as alternative compliance with P.D. No. 717. The requirement that the securities used shall have a term of not more than one (1) year shall not apply; and

(3) PEACe bonds only to the extent of the original gross issue proceeds determined at the time of the auction, plus capitalized interest on the underlying zero-coupon Treasury Notes as and when the corresponding interest is earned over the life of the bonds.

Any deficiency in the liquidity reserves shall continue to be in the forms or modes prescribed under existing regulations for the composition of required reserves.

The reserves on TOFA-Others shall be provided by the institution out of said funds. *(As amended by Circular Nos. 551 dated 17 November 2006 and 539 dated 09 August 2006)*

§ X405.6 *Composition of reserves*

a. The provisions of Sec. X254 shall govern the composition of reserves against peso-denominated CTFs and such other managed peso funds, as well as TOFA-Others, of banks authorized to engage in trust and other fiduciary business.

¹ Under Circular 491 dated 12 July 2005, regular reserve and liquidity reserve rates shall be 10% and 11%, respectively, effective the reserve week starting 15 July 2005.

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For purposes of this Subsection, a special deposit account shall be maintained by banks with the BSP exclusively for trust reserves. Deposits maintained by banks authorized to engage in trust and other fiduciary business with the BSP up to forty percent (40%) of the required reserves against peso-denominated CTFs (less the percentage allowed to be maintained in the form of short-term market-yielding government securities), as well as the required reserves on TOFA-Others (less the percentage allowed to be maintained in the form of short-term market-yielding government securities), shall be paid interest at four and one-half percent (4½%) (for UBs/KBs and TBs) and four percent (4%) (for RBs) per annum effective 09 October 1998 based on the average daily balance of said deposits to be credited quarterly.

Effective 01 July 2003, published interest rates that will be applied on BSP's SDAs of banks shall be inclusive of the ten percent (10%) VAT.

b. The required reserves which may be in the form of short-term market-yielding government securities shall be purchased directly from the BSP Treasury Department at one-half percent (½%) below the prevailing market rate for an equivalent term and volume and subject to BSP's firm commitment to buy back at any time at prevailing market rates. Such reserves in the form of government securities shall be in addition to other forms of eligible reserves such as cash in vault or on deposit with BSP.

All purchases of said government securities shall be under the RoSS system of the BTr. Transactions covering said securities shall be recorded in accordance with the guidelines in *Appendix 34*.

§ X405.7 Computation of reserve position. A bank authorized to engage in trust and other fiduciary business shall calculate daily the required and available

reserves on the value per books of its peso-denominated CTFs and such other managed peso funds, as well as on TOFA-Others, based on the seven-day week, starting Friday and ending Thursday including Saturdays, Sundays, holidays, non-banking days or days when there is no clearing: *Provided*, That with reference to holidays, non-banking days and days where there is no clearing, the reserve position at the close of banking day immediately preceding such holidays, non-banking days or days where there is no clearing, shall apply. For the purpose of computing reserve position, the principal office in the Philippines and all branches and agencies located therein shall be treated as a single unit.

The required reserves in the current period (reference reserve week) shall be computed based on the corresponding levels of peso-denominated CTFs and such other managed peso funds, as well as on TOFA-Others of the prior week.

For purposes of computing the required and available statutory and liquidity reserves for peso-denominated CTFs and such other managed peso funds, as well as TOFA-Others, the term *value per books* shall refer to the total volume of CTFs, other managed peso funds, as well as TOFA-Others less booked "Allowance for Probable Losses".

(As amended by Circular No. 535 dated 04 July 2006)

§ X405.8 Reserve deficiencies; sanctions. The provisions of Sec. X257 shall govern the computation of reserve deficiencies for peso-denominated CTFs and such other managed peso funds, as well as TOFA-Others, of banks authorized to engage in trust and other fiduciary business, including the sanctions provided in said Section.

§ X405.9 Report of compliance. Every bank shall submit a report to the BSP of its daily required and available reserves on

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peso-denominated CTFs and such other managed peso funds, as well as TOFA- Others, in such frequency and within the deadline stated in *Appendix 6*.

Sec. X406 Organization and Management

§ X406.1 Organization. A bank authorized to engage in trust and other fiduciary business shall, pursuant to Subsec. X404.1, include in its by-laws, provisions on the organization plan or structure of the department, office or unit which shall conduct such business. The by-laws shall also include provisions on the creation of a trust committee, the appointment of a trust officer and other subordinate officers and a clear definition of their duties and responsibilities as well as their line and staff functional relationships within the organization which shall be in accordance with the following guidelines.

a. Trust and other fiduciary business of a bank shall be carried out through a trust department which shall be organizationally, operationally, administratively and functionally separate and distinct from the other departments and/or businesses of the institution.

A bank which is also engaged in investment management activities, shall conduct the same only through its trust department and the responsibilities of the board of directors, trust committee and trust officer shall be construed to include the proper administration and management of investment management activities.

No bank shall undertake any of the trust and other fiduciary business and, whenever applicable, investment management activities outside the direct control, authority and management of the trust department or through any department or office which is involved in the other businesses of the bank, such as the Treasury, Funds Management or any similar department, otherwise, any such

business shall be considered part of the bank's real liabilities.

The bank proper and the trust department may share the following activities: (1) electronic data processing; (2) credit investigation; (3) collateral appraisal; and (4) messengerial, janitorial and security services.

b. The trust department, trust officer and other subordinate officers of the trust department shall only be directly responsible to the bank's trust committee which shall, in turn, be only directly responsible to the bank's board of directors.

No director, officer or employee taking part in the management of trust and other fiduciary accounts shall perform duties in other departments or the audit committee of the bank and vice versa. However, branch managers duly authorized by the board of directors may, for or on behalf of the trust officer, sign predrawn trust instruments such as CTFs.

c. The organization structure and definition of duties and responsibilities of the trust committee, officers and employees of the trust department shall reflect adherence to the minimum internal control standards prescribed by the BSP.

d. Provisions shall be made by the bank to have legal assistance readily available in the review of proposed and/or existing trust and fiduciary agreements and documents and in the handling of legal and tax matters related thereto.

§ X406.2 Composition of trust committee. The trust committee shall be composed of at least five (5) members including the president, the trust officer and directors who are appointed by the board of directors on a regular rotation basis and who are not officers of the bank proper. No member of the audit committee, if the bank has any, shall be concurrently designated as a member of the trust committee: *Provided*, That in the case of a

trust committee composed of more than five (5) members, the appointment therein of an operating officer may be allowed only if the required balance in the membership of at least three (3) members of the board for every operating officer shall be maintained: *Provided, further,* That the Philippine branch of a foreign bank may appoint its resident manager or chief executive officer in lieu of the president while the positions allotted for members of the board may be filled up by the area manager and/or officers/representatives from the Head Office who are not involved in audit-related activities.

For purposes of this Subsection, the term *officer* shall include the president, executive vice-president, general manager, corporate secretary, treasurer and others mentioned as officers of the bank, or those whose duties as such are defined in the by-laws, or are generally known to be officers of the bank (or any of its branches and offices other than the Head Office) either through announcement, representation, publication or any kind of communication made by the bank.

The board of directors shall duly note in the minutes the committee members and designate the chairman who shall be one of the directors referred to above.

§ X406.3 *Qualifications of committee members, officers and staff.* The bank's trust department shall be staffed by persons of competence, integrity and honesty. Directors, committee members and officers charged with the administration of trust and other fiduciary activities shall, in addition to meeting the qualification standards prescribed for directors and officers of banks, possess the necessary technical expertise in such business: *Provided,* That trust officers who shall be appointed shall have at least two (2) years of actual experience or training in trust operations.

§ X406.4 *Responsibilities of administration*

a. *Board of Directors.* The board of directors is responsible for the proper administration and management of trust and other fiduciary business. Funds and properties held in trust or in any fiduciary capacity shall be administered with the skill, care, prudence and diligence necessary under the circumstances then prevailing that a prudent man, acting in like capacity and familiar with such matters, would exercise in the conduct of an enterprise of like character and with similar aims.

The responsibilities of the board of directors shall include, but need not be limited to, the following:

(1) It shall determine and formulate general policies and guidelines on the: (a) acceptance, termination, or closure of trust and other fiduciary accounts; (b) proper administration and management of each trust and other fiduciary account; and (c) investment, reinvestment and disposition of funds or property held in its capacity as trustee or fiduciary;

(2) It shall direct and review the actions of the trust committee and all officers and employees designated to manage the trust and other fiduciary accounts, especially accounts without specific agreements on investments or discretionary accounts;

(3) It shall approve or confirm the acceptance, termination or closure of all trust and other fiduciary accounts and shall record such in its minutes;

(4) Upon the acceptance of an account, it shall immediately review all non-cash assets received for management. Likewise, it shall make a review of the trust and/or fiduciary assets at least once every twelve (12) months to determine the advisability of retaining or disposing of such assets;

(5) It shall be responsible for taking appropriate action on the examination reports of supervisory agencies, internal and/or external auditors on the bank's trust

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and other fiduciary business and recording such actions thereon in the minutes;

(6) It shall designate the members of the trust committee, the trust officer and subordinate officers of the trust department and shall be responsible for requiring reports from said committee and officers and recording its actions thereon in the minutes; and

(7) It shall establish an appropriate staffing pattern and adopt operating budgets that shall enable the trust department to effectively carry out its functions. It shall likewise be responsible for providing the officers and staff of the bank with appropriate training programs in the administration and operation of all phases of trust and other fiduciary business.

The board of directors may, by action duly entered in the minutes, delegate its authority for the acceptance, termination, closure or management of trust and other fiduciary accounts to the trust committee or to the trust officer, subject to certain guidelines approved by the board.

b. *Trust Committee.* The trust committee duly constituted and authorized by the board of directors shall act within the sphere of authority which may be provided in the by-laws and/or as may be delegated by the board, such as, but not limited to, the following:

- (1) The acceptance and closing of trust and other fiduciary accounts;
- (2) The initial review of assets placed under the trustee's or fiduciary's custody;
- (3) The investment, reinvestment and disposition of funds or property;
- (4) The review and approval of transactions between trust and/or fiduciary accounts; and
- (5) The review of trust and other fiduciary accounts at least once every twelve (12) months to determine the advisability of retaining or disposing of the trust or fiduciary assets, and/or whether the account is being managed in accordance

with the instrument creating the trust or other fiduciary relationship.

For this purpose, the trust committee shall meet whenever necessary and keep minutes of its actions and make periodic reports thereon to the board.

c. *Trust Officer.* The trust officer designated by the board of directors as head of the Trust Department shall act and represent the bank in all trust and other fiduciary matters within the sphere of his authority as may be provided in the by-laws or as may be delegated by the board. His responsibilities shall include, but need not be limited to the following:

- (1) The administration of trust and other fiduciary accounts;
- (2) The implementation of policies and instructions of the board of directors and the trust committee;
- (3) The submission of reports on matters which require the attention of the trust committee and the board of directors;
- (4) The maintenance of adequate books, records and files for each trust or other fiduciary account; and
- (5) The maintenance of necessary controls and measures to protect assets under his custody and held in trust or other fiduciary capacity.

§ X406.5 – X406.8 (Reserved)

§ X406.9 Outsourcing services in trust departments. Trust departments of banks performing trust and other fiduciary business and investment management activities are covered by the requirement of prior BSP approval for outsourcing services under Subsec. X162.3.

(M-2007-009 dated 22 March 2007)

Sec. X407 Non-Trust, Non-Fiduciary and/or Non-Investment Management Activities. The basic characteristic of trust, other fiduciary and investment management relationship is the absolute non-existence of

a debtor-creditor relationship, thus, there is no obligation on the part of the trustee, fiduciary or investment manager to guarantee returns on the funds or properties regardless of the results of the investment. The trustee, fiduciary or investment manager is entitled to fees/commissions which shall be stipulated and fixed in the contract or indenture and the trustor or principal is entitled to all the funds or properties and earnings less fees/commissions, losses and other charges. Any agreement/arrangement that does not conform to these shall not be considered as trust, other fiduciary and/or investment management relationship.

The following shall not constitute a trust, other fiduciary and/or investment management relationship:

a. When there is a preponderance of purpose or of intent that the arrangement creates or establishes a relationship other than a trust, fiduciary and/or investment management;

b. When the agreement or contract is itself used as a certificate of indebtedness in exchange for money placement from clients and/or as the medium for confirming placements and investment thereof;

c. When the agreement or contract of an account is accepted under the signature(s) of those other than the trust officer or subordinate officer of the trust department or those authorized by the board of directors to represent the trust officer;

d. Where there is a fixed rate or guaranty of interest, income or return in favor of its client or beneficiary: *Provided, however,* That where funds are placed in fixed income-generating investments, a quotation of *income expectation* or like terms, shall neither be considered as arrangements with a fixed rate nor a guaranty of interest, income or return when the agreement or indenture categorically

states in bold letters that the quoted *income expectation* or like terms is neither assured nor guaranteed by the trustee or fiduciary and it does not, therefore, entitle the client to a fixed interest or return on his investments: *Provided, further,* That any of the following practices or practices similar and/or tantamount thereto shall be construed as fixing or guaranteeing the rate of interest, income or return:

(1) Issuance of certificates, side agreements, letters of undertaking or other similar documents providing for fixed rates or guaranteeing interest, income or return;

(2) Paying trust earnings based on indicated or expected yield regardless of the actual investment results;

(3) Increasing or reducing fees in order to meet a quoted or expected yield;

(4) Entering into any arrangement, scheme or practice which results in the payment of fixed rates or yield on trust investments or in the payment of the indicated or expected yield regardless of the actual investment results; and

e. Where the risk or responsibility is exclusively with the trustee, fiduciary or investment manager in case of loss in the investment of trust, fiduciary or investment management funds, when such loss is not due to the failure of the trustee or fiduciary to exercise the skill, care, prudence and diligence required by law.

Trust, other fiduciary and investment management activities involving any of the foregoing which are accepted, renewed or extended after 16 October 1990 shall be reported as deposit substitutes and shall be subject to the reserve requirement for deposit substitutes from the time of inception, without prejudice to the imposition of the applicable sanctions provided for in Sections 36 and 37 of R.A. No. 7653.

Sec. X408 Unsafe and Unsound Practices

Whether a particular activity may be considered as conducting business in an

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unsafe or unsound manner all relevant facts must be considered. An analysis of the impact thereof on the bank’s operations and financial conditions must be undertaken, including evaluation of capital position, asset condition, management, earnings posture and liquidity position.

In determining whether a particular act or omission, which is not otherwise prohibited by any law, rule or regulation affecting banks, may be deemed as conducting business in an unsafe or unsound manner, the Monetary Board, upon report of the head of the supervising or examining department based on findings in an examination or a complaint, shall consider any of the following circumstances:

- a. The act or omission has resulted or may result in material loss or damage, or abnormal risk or danger to the safety, stability, liquidity or solvency of the bank;
- b. The act or omission has resulted or may result in material loss or damage or abnormal risk to the bank’s depositors, creditors, investors, stockholders or to the BSP or to the public in general;
- c. The act or omission has caused any undue injury, or has given unwarranted benefits, advantage or preference to the bank or any party in the discharge by the director or officer of his duties and responsibilities through manifest partiality, evident bad faith or gross inexcusable negligence; or
- d. The act or omission involves entering into any contract or transaction manifestly and grossly disadvantageous to the bank, whether or not the director or officer profited or will profit thereby.

The list of activities which may be considered unsafe and unsound is shown in *Appendix 48*.

In line with the statement of principles governing trust and other fiduciary business under Sec. X401, the trustee, fiduciary or

investment manager shall desist from the following unsound practices:

- a. Entering in an arrangement whereby the client is at the same time the borrower of his own fund placement, or whereby the trustor or principal is a borrower of other trust, fiduciary or investment management funds belonging to the same family or business group of such trustor or principal;
- b. Granting loans or accommodations to any trust committee member, officer and employee of the trust department except where such loans are obtained by said persons as members of an employee benefit fund of the trustee’s own institution;
- c. Borrowing from, or selling trust, other fiduciary and/or investment management assets to, the bank proper to cover portfolio losses and/or to guarantee the return of principal or income;
- d. Granting new loans to any borrower who has a past due and/or classified loan account with the bank proper or the trust department; and
- e. Requiring clients to sign documents in blank.

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§ X408.9 *Sanctions*. The Monetary Board may, at its discretion and based on the seriousness and materiality of the acts or omissions, impose any or all of the following sanctions provided under Section 37 of R.A. No. 7653 and Section 56 of R.A. No. 8791, whenever a bank conducts business in an unsafe and unsound manner:

- a. Issue an order requiring the bank to cease and desist from conducting business in an unsafe and unsound manner and may further order that immediate action be taken to correct the conditions resulting from such unsafe or unsound practice;
- b. Fines in amounts as may be determined by the Monetary Board to be

appropriate, but in no case to exceed P30,000 a day on a per transaction basis taking into consideration the attendant circumstances, such as the gravity of the act or omission and the size of the bank, to be imposed on the bank, their directors and/or responsible officers;

c. Suspension of interbank clearing privileges/immediate exclusion from clearing;

d. Suspension of rediscounting privileges or access to BSP credit facilities;

e. Suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;

f. Suspension of responsible directors and/or officers;

g. Revocation of quasi-banking license; and/or

h. Receivership and liquidation under Section 30 of R.A. No. 7653.

All other provisions of Sections 30 and 37 of R.A. No. 7653, whenever appropriate, shall also be applicable on the conduct of business in an unsafe or unsound manner.

The imposition of the above sanctions is without prejudice to the filing of appropriate criminal charges against culpable persons as provided in Sections 34, 35 and 36 of R.A. No. 7653.

Sec. X409 Trust and Other Fiduciary Business. The conduct of trust and other fiduciary business shall be subject to the following regulations.

§ X409.1 *Minimum documentary requirements.* Each trust or fiduciary account shall be covered by a written document establishing such account, as follows:

a. In the case of accounts created by an order of the court or other competent authority, the written order of said court or authority.

b. In the case of accounts created by corporations, business firms, organizations

or institutions, the voluntary written agreement or indenture entered into by the parties, accompanied by a copy of the board resolution or other evidence authorizing the establishment of, and designating the signatories to, the trust or other fiduciary account.

c. In the case of accounts created by individuals, the voluntary written agreement or indenture entered into by the parties.

The voluntary written agreement or indenture shall include the following minimum provisions:

(1) Title or nature of contractual agreement in noticeable print;

(2) Legal capacities, in noticeable print, of parties sought to be covered;

(3) Purposes and objectives;

(4) Funds and/or properties subject of the arrangement;

(5) Distribution of the funds and/or properties;

(6) Duties and powers of trustee or fiduciary;

(7) Liabilities of the trustee or fiduciary;

(8) Reports to the client;

(9) Termination of contractual arrangement and, in appropriate cases, provision for successor-trustee or fiduciary;

(10) The amount or rate of the compensation of trustee or fiduciary;

(11) A statement in noticeable print to the effect that trust and other fiduciary business are not covered by the PDIC and that losses, if any, shall be for the account of the client; and

(12) Disclosure requirements for transactions requiring prior authority and/or specific written investment directive from the client, court of competent jurisdiction or other competent authority.

§ X409.2 *Lending and investment disposition.* Assets received in trust or in other fiduciary capacity shall be administered in accordance with the terms

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of the instrument creating the trust or other fiduciary relationship.

When a trustee or fiduciary is granted discretionary powers in the investment disposition of trust or other fiduciary funds and unless otherwise specifically enumerated in the agreement or indenture and directed in writing by the client, court of competent jurisdiction or other competent authority, loans and investments of the fund shall be limited to:

- a. Evidences of indebtedness of the Republic of the Philippines and of the BSP, and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines or loans against such government securities;
- b. Loans fully guaranteed by the Republic of the Philippines as to the payment of principal and interest;
- c. Loans fully secured by a hold-out on, assignment or pledge of deposits maintained either with the bank proper or other banks, or of deposit substitutes of the bank, or of mortgage and chattel mortgage bonds issued by the trustee or fiduciary;
- d. Loans fully secured by real estate or chattels in accordance with Section 78 of R.A. No. 337, as amended, and subject to the requirements of Sections 75, 76, and 77 of R.A. No. 337, as amended; and
- e. Investment in the BSP special deposit account (SDA) facility made in accordance with the guidelines in *Appendix 78*.

The specific directives required under this Subsection shall consist of the following information:

- (1) The transaction to be entered into;
- (2) The borrower’s name;
- (3) Amount involved; and
- (4) Collateral security(ies), if any.

(As amended by M-2007-038 dated 29 November 2007 and M-2007-011 dated 08 May 2007)

§ X409.3 Transactions requiring prior authority. A trustee or fiduciary shall not undertake any of the following transactions for the account of a client,

unless prior to its execution, such transaction has been fully disclosed and specifically authorized in writing by the client, beneficiary, other party-in-interest, court of competent jurisdiction or other competent authority:

- a. Lend, sell, transfer or assign money or property to any of the departments, directors, officers, stockholders or employees of the trustee or fiduciary, or relatives within the first degree of consanguinity or affinity, or the related interest of such directors, officers and stockholders; or to any corporation where the trustee or fiduciary owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity;
- b. Purchase or acquire property or debt instruments from any of the departments, directors, officers, stockholders, or employees of the trustee or fiduciary, or relatives within the first degree of consanguinity or affinity, or the related interest of such directors, officers and stockholders; or from any corporation where the trustee or fiduciary owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity;
- c. Invest in equities of, or in securities underwritten by, the trustee or fiduciary or a corporation in which the trustee or fiduciary owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity; and
- d. Sell, transfer, assign, or lend money or property from one trust or fiduciary account to another trust or fiduciary account except where the investment is in any of those enumerated in Items “a” to “d” of Subsec. X409.2.

DOSRIs covered by this Subsection shall be those considered as such under existing regulations on loans to DOSRI in

Part III - E of this Manual. The procedural and reportorial requirements in said regulations shall also apply.

The disclosure required under this Subsection shall consist of the following minimum information:

- (1) The transactions to be entered into;
- (2) Identities of the parties involved in the transactions and their relationships (shall not apply to Item “d” of this Subsection);
- (3) Amount involved; and
- (4) Collateral security(ies), if any.

The above information shall be made known to clients in a separate instrument or in the very instrument creating the trust or fiduciary relationship.

§ X409.4 Ceilings on loans. Loans funded by trust accounts shall be subject to the SBL and DOSRI ceilings imposed on banks under Secs. X303, X330 and X331. For purposes of determining compliance with said ceilings, the total amount of said loans granted by the trust department and the bank to the same person, firm or corporation shall be combined.

§ X409.5 Funds awaiting investment or distribution. Funds held by the trustee or fiduciary awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account.

§ X409.6 Other applicable regulations on loans and investments. The loans and investments of trust and other fiduciary accounts shall be subject to pertinent laws, rules and regulations for banks that shall include but need not be limited to the following:

- a. Requirements of Sections 76 and 77 of R.A. No. 337, as amended;
- b. Provisions of Section 4(e) of the New Rules on Registration of Short-Term

Commercial Papers and Section 7(f) of the New Rules on Registration of Long-Term Commercial Papers issued by the SEC (*Appendices 13 and 14*).

- c. Criteria for past due accounts; and
- d. Qualitative appraisal of loans, investments and other assets that may require provision for probable losses which shall be booked in accordance with the Manual of Accounts for Trust and Other Fiduciary Business and Investment Management Activities.

§ X409.7 Operating and accounting methodology. Trust and other fiduciary accounts shall be operated and accounted for in accordance with the following:

- a. The trustee or fiduciary shall administer, hold or manage the fund or property in accordance with the instrument creating the trust or other fiduciary relationship; and
- b. Funds or property of each client shall be accounted separately and distinctly from those of other clients herein referred to as *individual account accounting*.

§ X409.8 Tax-exempt individual trust accounts. The following shall be the features/requirements of individual trust accounts which may be exempted from the twenty percent (20%) final tax under Section 24(B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997):

- a. The tax exemption shall apply to trust indentures/agreements contracted on or after 03 January 2000;
- b. The trust indenture/agreement shall only be between individuals who are Filipino citizens or resident aliens and banks acting as trustee. The trust indenture/agreement shall be non-negotiable and non-transferable;
- c. The trust indenture/agreement shall indicate that pursuant to Section 24(B)(1) of R.A. No. 8424, interest income of the trust fund derived from investments in interest-

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bearing instruments (e.g., time deposits, government securities, loans and other debt instruments) which are otherwise subject to the twenty percent (20%) final tax shall be exempt from said final tax provided the fund was held by the trustee-bank for at least five (5) years. If said fund was held for a period less than five (5) years, interest income shall be subject to a final tax based on the following schedule –

Holding Period	Rate of Tax
Four (4) years to less than five (5) years	5%
Three (3) years to less than four (4) years	12%
Less than three (3) years	20%

Necessarily, the trust indenture/agreement shall clearly indicate the date when the trustee-bank actually received the trust funds which shall serve as basis for determining the holding period of the funds.

d. A trustee may accept additional funds for inclusion in trust accounts which have been established as tax-exempt under R.A. No. 8424. However, the receipt of additional funds shall be properly documented by indicating that they are part of existing tax-exempt trust accounts and that the interest income of the additional funds derived from investments in interest-bearing instruments shall be exempt from the twenty percent (20%) final tax under the same conditions mentioned in the preceding item. The document shall also indicate the date when the funds were received by the trustee-bank to serve as basis for determining the minimum five (5)-year holding period for tax exemption purposes of the additional funds; and

e. Tax-exempt individual trust accounts established under this Subsection shall be subject to the provisions of Subsecs. X409.1(c) and X409.2 up to X409.7.

§ X409.9 *Living trust accounts.* The guidelines on living trust accounts are as follows:

a. *Definition.* *Living trust* is defined under the Manual of Accounts for Trust, as a personal trust created by agreement.It becomes operational during the lifetime of the trustor as soon as the agreement is accomplished.

Under a living trust, the trustor (also known as settlor) conveys property or a sum of money to be managed by the trustee, as the agreement dictates, for the benefit of the trustor and third person(s) or third person(s) only. However, the trustor/s cannot create a trust with himself/themselves as the sole beneficiary/(ies). The functions and authorities of the trustee as defined in the agreement shall include:

- (1) the purpose or intention of the trust;
- (2) the nature and value of the property or sum of money that comprise the trust;
- (3) the trustee’s investment powers;
- (4) the name(s) of the beneficiaries; and
- (5) the terms and conditions under which the income and/or principal of the trust is to be paid or to be disposed of during the lifetime and ultimately, upon the death of the trustor or upon the occurrence of a specified event(s).

A living trust may either be revocable or irrevocable.

b. *Minimum criteria.* In line with such definition, transactions considered as living trust accounts should meet the following minimum criteria:

- (1) Minimum entry amount and maintaining balance shall at least be P100,000: *Provided,* That living trust accounts with balances of up to P500,000 shall only be invested in deposits and government securities;
- (2) Living trust accounts shall be maintained for a minimum period of six (6) months. The termination of the living trust agreement, for any cause, within the minimum holding period shall render the trustor ineligible from opening a new living trust account within a period of one (1) year from termination date;
- (3) Reversion of any part of the principal to the trustor, except in cases

provided under the dispositive portion, shall be allowed only upon termination of the living trust agreement: *Provided*, That in no case can there be a complete or substantial reversion of the principal pursuant to the dispositive portion within the minimum holding period nor can the principal fall below P100,000;

(4) Any living trust account that does not meet the requirement on the minimum entry and minimum maintaining balance or is not invested in qualified outlets shall be considered as other fiduciary accounts subject to applicable reserve and other requirements;

(5) Pre-printed living trust agreements may be allowed for expediency: *Provided*, That the sections for the trust purpose and the dispositive provision are left blank and shall only be filled-up upon the client's signing thereof. The purpose shall categorically state the real intention of the trustor, which may include, but need not be limited to:

(a) providing his/her and beneficiary/(ies) present and/or future financial support;

(b) protecting his/her beneficiary/(ies) against his/her inexperience in business matters;

(c) preventing him/her from making imprudent expenditures;

(d) prevent the beneficiary/(ies) from living beyond their means in case of outright disposition of assets in their favor;

(e) protecting the beneficiary/(ies) against unforeseen contingencies such as incompetency, incapacity, physical disability or similar misfortune; and

(f) setting aside and segregating particular assets, proceeds or payments for administration and distribution pursuant to a court decree or by agreement.

The dispositive provision should clearly and specifically define the terms and conditions under which the principal and/or income shall be distributed in order to accomplish such purpose/(s), by taking into

consideration the frequency of redemption; the respective interests of each beneficiary; and to whom the proceeds shall be payable. Redemption of funds shall strictly be in accordance with the said terms and conditions; and

(6) A living trust account may be opened jointly under one (1) living trust agreement by related individuals up to the second degree of consanguinity or affinity; *Provided*, That the requirements under Item "5" above are fully complied with. Unrelated individuals or those beyond the second degree of consanguinity or affinity may likewise open a joint living trust account under one (1) living trust agreement: *Provided*, That the minimum contribution of each individual is at least P100,000: *Provided further*, That the trust is for a common purpose and: *Provided finally*, That the requirements under Item "5" are fully complied with.

c. *Marketing*. Officers and personnel of the bank proper, including branch managers, shall not be allowed to market living trust products and sign pre-printed living trust agreements. However, branch managers/officers may be allowed to refer clients to the Trust Department and give short introduction on the living trust products to prospective clients.

d. *Transitory provision*. Outstanding living trust accounts that do not meet the foregoing additional requirements shall be given twelve (12)¹ months from 11 April 2006 to comply with the aforesated requirements; otherwise, such accounts shall be considered as Other Fiduciary Accounts subject to applicable reserve requirements.

e. *Sanctions*. Any violation of the provisions of this Subsection shall be subject to the sanctions provided under Section 37 of R.A. No. 7653 (The New Central Bank Act).

(Circular Nos. 553 dated 22 December 2006 and 521 dated 21 March 2006)

¹ Original 6 months transitory period under Cir. 521 extended by another 6 months under Cir. 553

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§§ X409.10 - X409.15 (Reserved)

§ X409.16 *Qualification and accreditation of private banks acting as trustee on any mortgage or bond issuance by any municipality, government-owned or controlled corporation, or any body politic*

a. *Applicability.* Private banks duly accredited by the BSP may act as trustee on any mortgage or bond issued by any municipality, GOCC, or any body politic.

b. *Application for accreditation.* A private bank desiring to act as trustee on any mortgage or bond issued by any municipality, GOCC, or any body politic shall file an application for accreditation with the appropriate supervising and examining department of SES. The application shall be signed by the president or officer of equivalent rank of the bank and shall be accompanied by the following documents:

(1) certified true copy of the resolution of the institution’s board of directors authorizing the application;

(2) a certification signed by the president or officer of equivalent rank that the institution has complied with all the qualification requirements for accreditation.

c. *Qualification requirements.* A bank applying for accreditation to act as trustee on any mortgage or bond issued by any municipality, government-owned or controlled corporation, or any body politic must comply with the requirements in *Appendix 5b*.

d. *Independence of the trustee.* A bank is prohibited from acting as trustee of a mortgage or bond issuance if any elective or appointive official of the LGU, GOCC, or body politic which issued said mortgage or bond and/or his related interests own such number of shares of the bank that will allow him or his related interests to elect at least one (1) member of the board of directors of such bank or is directly or indirectly the registered or beneficial owner

of more than ten percent (10%) of any class of its equity security.

e. *Investment and management of the funds.* A domestic bank designated as trustee of a mortgage or bond issuance may hold and manage, in accordance with the provisions of the trust indenture or agreement, the proceeds of the mortgage or bond issuance and such assets and funds of the issuing municipality, corporation, or body politic as may be required to be delivered to the trustee under the trust indenture/agreement, subject to the following conditions/restrictions:

(1) Pending the utilization of such funds pursuant to the provisions of the trust indenture/agreement, the same shall only be deposited in any bank, other than the trustee/bank proper, its subsidiary or affiliate authorized to accept deposits from the Government or government entities, or invested in peso-denominated treasury bills acquired/purchased from any securities dealer/entity, other than the trustee or any of its unit/department, its subsidiary or affiliate.

(2) Investments of funds constituting or forming part of the sinking fund created as the primary source for the payment of the principal and interests due the mortgage or bonds shall also be limited to deposits in any bank, other than the trustee/bank proper, its subsidiary or affiliate, authorized to accept deposits from the Government or government entities and investments in government securities that are consistent with such purpose which must be acquired/purchased from any securities dealer/entity, other than the trustee or any of its unit/department, its subsidiary or affiliate.

f. *Waiver of confidentiality.* A bank designated as trustee of any mortgage or bond issued by any municipality, GOCC, or any body politic shall submit to the appropriate supervising and examining department of SES a waiver of the confidentiality of information under Sections 2 and 3 of R.A. No. 1405, as

amended, duly executed by the issuer of the mortgage or bond in favor of the BSP.

g. *Reportorial requirements.* A bank authorized by the BSP to act as trustee of the proceeds of mortgage or bond issuance of a municipality, GOCC or controlled corporation, or body politic shall comply with reportorial requirements that may be prescribed by the BSP.

h. *Applicability of the rules and Regulations on Trust, Other Fiduciary Business and Investment Management Activities.* The provisions of the Rules and Regulations on Trust, Other Fiduciary Business and Investment Management Activities not inconsistent with the provisions of this Subsection shall form part of these rules.

i. *Sanctions.* Without prejudice to the penal and administrative sanctions provided for under Sections 36 and 37, respectively, of the R.A. No. 7653, violation of any provision of this Subsection shall be subject to the following sanctions/penalties depending on the gravity of the offense:

(1) *First offense* –

(a) Fine of up to P10,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and

(b) Reprimand for the directors/officers responsible for the violation.

(2) *Second offense* –

(a) Fine of up to P20,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected;

(b) Suspension for ninety (90) days without pay for directors/officers responsible for the violation; and

(c) Revocation of the authority to act as trustees on any mortgage or bond issuance by any municipality, GOCCs, or body politic.

(3) *Subsequent offense* –

(a) Fine of up to P30,000 a day for the institution for each violation reckoned from

the date the violation was committed up to the date it was corrected;

(b) Suspension or revocation of the trust license;

(c) Suspension for one hundred twenty (120) days without pay of the directors/officers responsible for the violation.

§ X409.17 Trust fund of pre-need companies. The following rules and regulations shall govern the acceptance, management and administration of the trust funds of pre-need companies by banks and other entities authorized to perform trust and other fiduciary functions.

a. *Administration of trust fund.* In line with the policy of providing greater protection to pre-need planholders, prudential measures are hereby laid out in the administration of trust funds of preneed companies. The trust fund, inclusive of earnings, shall be administered and managed by the trustee with the skill, care, prudence and diligence necessary under the circumstances then prevailing that a prudent man, acting in the same capacity and familiar with such matters, would exercise in the conduct of an enterprise of a like character and similar aims.

The trustee shall have exclusive management and control over the trust fund and the right at any time to sell, convert, invest, change, transfer or otherwise dispose of the assets comprising the funds.

b. *Trustee.* No trust entity shall act as a trustee or administer or hold a trust fund established by a pre-need company, which is a subsidiary or affiliate, as defined under existing BSP regulations, of such trust entity. Trust entities currently holding or administering trust funds of an affiliate pre-need company may continue to act as trustee of such funds after the transition period provided under Item “g” only upon prior approval of the Monetary Board on the basis of a clear showing that no potential

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conflict of interest will arise. An absence of any exception or finding on conflicts of interest during an examination of the trust entity shall be deemed as *prima facie* evidence that no potential conflict of interest will arise.

c. *Investment of the trust fund.* Unless otherwise allowed under existing laws or regulations issued by the agency having jurisdiction and supervision over pre-need companies, or with prior written approval by said agency, loans and investments of the trust funds shall be limited to:

(1) Evidences of indebtedness of the Republic of the Philippines and of the BSP, and any other evidences of indebtedness or obligations wherein the servicing and repayment of which are fully guaranteed by the Republic of the Philippines or loans against such government securities;

(2) Commercial papers duly registered with the SEC with a credit rating of one (1) for short term and “AAA” for long-term or their equivalent;

(3) Loans fully guaranteed by the Republic of the Philippines, as to the payment of principal and interest;

(4) Loans fully secured by a hold-out on, assignment or pledge of deposits maintained either with the bank proper or other banks, and/or of deposit substitutes or of mortgage and chattel mortgage bonds issued by the trustee/fiduciary or by other banks;

(5) Loans fully secured by real estate in accordance with Section 37 and subject to the requirements of Sections 39 and 40 of R.A. No. 8791 and their implementing regulations; and

(6) Loans fully secured by unconditional payment guarantees (such as standby letters of credit and letter of indemnity) issued by banks/multilateral financial institutions.

d. *Transactions with DOSRI.* The trustee shall not, for the account of the trustor or the beneficiary of the trust,

purchase or acquire property from, or sell, transfer, assign or lend money or property to, or purchase debt instruments of, any of the departments, directors, officers, stockholders, employees, subsidiaries and affiliates of the trustee and/or the trustor, and relatives within the first degree of consanguinity or affinity, or the related interests, of such directors, officers and stockholders, without prejudice to any rule that may be issued by the agency having jurisdiction and supervision over such preneed company allowing such transaction with the prior written approval of such agency. Such written approval shall clearly specify the amount of the loan and/or investment including the name of the concerned director, officer, stockholder and their related interests.

e. *Applicability of the Rules and Regulations on Trust, Other Fiduciary Business and Investment Management Activities (Trust Rules).* The provisions of the Trust Rules consistent with the provisions of this Subsection shall supplementarily apply to trust funds of pre-need companies.

f. *Penalties and sanctions.* Any violation of the provisions of this Subsection shall be a ground for prohibiting the concerned entity from accepting, managing and administering trust funds of pre-need companies without prejudice to the imposition of the applicable sanctions prescribed or allowed under the Trust Rules.

g. *Transitory provisions.* Banks which are presently administering and managing trust funds of pre-need companies are hereby given a period of one (1) year from 25 April 2006 to comply with the requirements hereof.

(Memorandum to All Banks and NBFIs dated 28 March 2006)

Sec. X410 Unit Investment Trust Funds/ Common Trust Funds.¹ The following rules and regulations shall govern the creation, administration and investment/s of Unit Investment Trust (UIT) Funds.

¹ The regulations on common trust funds (CTFs) were relocated to *Appendix 60*. UIT Funds regulations took effect on 01 October 2004 (effectivity of Circular 447 dated 03 September 2004).

The rules and regulations on Common Trust Funds (CTFs) are in *Appendix 60*.

§ X410.1 Definitions

a. *Unit Investment Trust Funds*. Unit Investment Trust Funds are open-ended pooled trust funds denominated in pesos or any acceptable currency, which are operated and administered by a trust entity and made available by participation. The term Unit Investment Trust Funds is synonymous to CTFs. As an open-ended fund, participation or redemption is allowed as often as stated in its plan rules.

UIT Funds shall not include long term funds designed for the primary purpose of availing the tax incentives/exemption under Section 24(B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997).

b. *Trust entity*. Any bank, IH or a stock corporation duly authorized by the Monetary Board to engage in trust, investment management and fiduciary business.

c. *Board of directors*. For this purpose, the term shall include a trust entity's duly constituted board of directors or its functional oversight equivalent which shall include the country head in the case of foreign banks.

§ X410.2 Establishment of a Unit Investment Trust Fund. Any trust entity authorized to perform trust functions may establish, administer and maintain one (1) or more UIT Funds subject to applicable provisions under this Section.

§ X410.3 Administration of a Unit Investment Trust Fund. The trustee shall have exclusive management and control of each UIT Fund under its administration, and the sole right at any time to sell, convert, reinvest, exchange, transfer or otherwise change or dispose of the assets comprising the fund: *Provided*, That no participant in a UIT Fund shall have or be

deemed to have any ownership or interest in any particular account or investment in the UIT Fund but shall have only its proportionate beneficial interest in the fund as a whole.

§ X410.4 Relationship of trustee with Unit Investment Trust Fund. A trustee administering a UIT Fund shall not have any other relationship with such fund other than its capacity as trustee of the UIT Fund: *Provided, however*, That a trustee which simultaneously administers other trust, fiduciary or investment management funds may invest such funds in the trustee's UIT Fund, if allowed under a policy approved by the board of directors.

§ X410.5 Operating and accounting methodology. A UIT Fund shall be operated and accounted for in accordance with the following:

a. The total assets and liabilities of each fund shall be accounted for as a single account referred to as pooled-fund accounting method.

b. Contributions to each fund by clients shall always be through participation in units of the fund and each unit shall have uniform rights or privileges, as any other unit.

c. All such participations shall be pooled and invested as one (1) account (referred to as collective investments).

d. The beneficial interest of each participation unit shall be determined under a unitized net asset value per unit (NAVPU) valuation methodology defined in the written plan of the UIT Fund, and no participation shall be admitted to, or redeemed from, the fund except on the basis of such valuation. To arrive at a fund's NAVPU, the fund's total Net Assets is divided by the total outstanding units. *Total Net Assets* is a summation of the market value of each investment less fees, taxes, and other qualified expenses, as defined under the plan rules.

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§ X410.6 Plan rules. Each UIT Fund shall be established, administered and maintained in accordance with a written trust agreement drawn by the trustee, referred to as the “Plan” which shall be approved by the board of directors of the trustee and a copy of which shall be submitted to the BSP for processing and approval prior to its implementation. Each new UIT Fund Plan filed for approval shall be charged a processing fee of P10,000.00.

The Plan shall contain the following minimum elements:

a. *Title of the Plan.* This shall correspond to the product/brand name by which the UIT Fund is proposed to be known and made available to its clients. The Plan rules shall state the classification of the UIT Fund (e. g., money market fund, bond fund, balanced fund and equity fund).

b. *Manner by which the fund is to be operated.* A statement of the fund’s investment objectives and policies including limitations, if any.

c. *Risk disclosure.* The Plan rules shall state both the general risks and risks specific to the type of fund.

d. *Investment powers of the trustee with respect to the fund, including the character and kind of investments, which may be purchased, by the fund.* There must be an unequivocal statement of the full discretionary powers of the trustee as far as the fund’s investments are concerned. These powers shall be limited only by the duly stated investment objective and policies of the fund.

e. The unitized NAVPu valuation methodology as prescribed under Subsec. X410.5.d shall be employed.

f. *Terms and conditions governing the admission or redemption of units of participation in the fund.* The Plan rules shall state that the trustee, prior to admission of a client’s initial participation in the UIT Fund, shall conduct a client

suitability assessment to profile the risk-return orientation and suitability of the client to the specific type of fund. If the frequency of admission or redemption is other than daily; that is, any business day, the same should be explicitly stated in the Plan rules: *Provided*, That the admission and redemption prices shall be based on the end of day NAVPu of the fund computed after the cut-off time for fund participation and redemption for that reference day, in accordance with existing BSP regulations on mark to market valuation of investment securities.

g. *Aside from the regular audit requirement applicable to all trust accounts, an external audit of each UIT Fund shall be conducted annually by an independent auditor acceptable to the BSP and the results thereof made available to participants.* The external audit shall be conducted by the same external auditor engaged for the audit of the trust entity.

h. *Basis upon which the fund may be terminated.* The Plan rules shall state the rights of participants in case of termination of the fund. Termination of the fund shall be duly approved by the trustee’s board of directors and a copy of the resolution submitted to the appropriate department of the BSP.

i. *Liability clause of the trustee.* There must be a clear and prominent statement adjacent to where a client is required to sign the participating trust agreement that (1) the UIT Fund is a trust product and not a deposit account or an obligation of, or guaranteed, or insured by the trust entity or its affiliates or subsidiaries; (2) the UIT Fund is not insured or governed by the PDIC; (3) due to the nature of the investment, yields and potential yields cannot be guaranteed; (4) any loss/income arising from market fluctuations and price volatility of the securities held by the UIT Fund, even if invested in government

securities, is for the account of the client/participant; (5) as such, the units of participation of the investor in the UIT Fund, when redeemed, may be worth more or be worth less than his/her initial investment/contributions; (6) historical performance, when presented, is purely for reference purposes and is not a guarantee of similar future result; and (7) the trustee is not liable for losses unless upon willful default, bad faith or gross negligence.

j. *Amount of fees/commission and other charges to be deducted from the fund.* The amount of fees that shall be charged to a fund shall cover the fund's fair and equitable share of the routine administrative expenses of the trustee such as salaries and wages, stationery and supplies, credit investigation, collateral appraisal, security, messengerial and janitorial services, EDP expenses, BSP supervision fees and internal audit fees. However, the trustee may charge a UIT Fund for special expenses in case such expenses are (1) necessary to preserve or enhance the value of the fund, (2) payable to a third party covered by a separate contract, and (3) disclosed to participants. The trustee shall secure prior BSP approval for outsourcing services provided under existing regulations. No other fees shall be charged to the fund.

Marketing or other promotional related expenses shall be for the account of the trustee and shall be presumed covered by the trust fee.

k. Such other matters as may be necessary or proper to define clearly the rights of participants in the UIT Fund. The provisions of the Plan shall govern participation in the fund including the rights and benefits of persons having interest in such participation, as beneficiaries or otherwise. The Plan may be amended by a resolution of the board of directors of the trustee: *Provided, however, That participants in the*

fund shall be immediately notified of such amendments and shall be allowed to withdraw their participations within a reasonable time but in no case less than thirty (30) calendar days after the amendments are approved, if they are not in conformity with the amendments made thereto: *Provided further, That* amendments to the Plan shall be submitted to the BSP within ten (10) business days from approval of the amendments by the board of directors. For purposes of imposing monetary penalties provided under Subsec. X192.2 for delayed submission of reports, the amendments to the Plan shall be considered as "Category A-3" report. The amendments shall be deemed approved after thirty (30) business days from date of completion of requirements.

A copy of the Plan shall be available at the principal office of the trustee during regular office hours, for inspection by any person having an interest in the fund or by his authorized representative. Upon request, a copy of the Plan shall be furnished such interested person.

(As amended by Circular No. 593 dated 08 January 2008)

§ X410.7 Minimum disclosure requirements

a. *Disclosure of UIT Fund investments.* A list of prospective and outstanding investment outlets shall be made available by the trustee for the review of all UIT Fund clients. Such disclosure shall be substantially in the form as shown in Appendix 62. The list of investment outlets shall be updated quarterly.

b. *Distribution of investment units.* The trustee may issue such conditions or rules, as may affect the distribution of investment units subject to the minimum conditions enumerated hereunder.

(1) *Marketing materials.* All printed marketing materials related to the sale of a UIT Fund shall clearly state:

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(a) The designated name and classification of the fund and the fund's trustee.

(b) Minimum information regarding:

(i) The general investment policy and applicable risk profile. There shall be a clear description/explanation of the general risks attendant with investing in a UIT Fund, including risk specific to a type of fund. Technical terms should likewise be defined in laymen's terms¹.

(ii) Particulars or administrative and marketing details like pricing and cut-off time.

(iii) All charges made/to be made against the fund, including trust fees, other related charges.

(iv) The availability of the Plan Rules governing the fund, upon the client's request.

(v) Client and Product Suitability Standards. Prior to admission, the trustee shall perform a client profiling process for all UIT Fund participants under the general principles on client suitability assessment to guide the client in choosing investment outlets that are best suited to his objectives, risk tolerance, preferences and experience. The profiling process shall, at the minimum, require the trustee to obtain client information through the Client Suitability Assessment (CSA) form, classify the client according to his financial sophistication and communicate the CSA results to the subject client. The general principles on CSA shall also require the trustee to adopt a notice mechanism whereby clients are advised and/or reminded of the explicit requirement to notify the trustee or its UIT Fund marketing personnel of any change in their characteristics, preferences or circumstances to enable the trustee to update client's profile at least every three (3) years.

(c) The participation is not a "deposit account" but a trust product; and that any loss/income is for the account of the participant; that the trustee is not liable for

losses unless upon willful default, bad faith or gross negligence.

(d) A balanced assessment of the possible gains and losses of the UIT Fund and that the participation does not carry any guaranteed rate of return, and is not insured by the PDIC.

(e) An advisory that the investor must read the complete details of the fund in the Plan Rules, make his/her own risk assessment, and when necessary, he/she must seek independent/professional opinion, before making an investment.

(2) Evidence of participation. Every UIT Fund participant shall be given -

(a) A participating trust agreement. Such agreement shall clearly indicate that (1) the UIT Fund is a trust product and not a deposit account or an obligation of, or guaranteed, or insured by the trust entity or its affiliates or subsidiaries; (2) the UIT Fund is not insured or governed by the PDIC; (3) due to the nature of the investment, yields and potential yields cannot be guaranteed; (4) any loss/income arising from market fluctuations and price volatility of the securities held by the UIT Fund, even if invested in government securities, is for the account of the client/participant; (5) as such, the units of participation of the investor in the UIT Fund, when redeemed, may be worth more or be worth less than his/her initial investment/contributions; (6) historical performance, when presented, is purely for reference purposes and is not a guarantee of similar future result; and (7) the trustee is not liable for losses unless upon willful default, bad faith or gross negligence.

In addition to the agreement, every UIT Fund participant shall be provided with -

(1) CSA form to be accomplished during the profiling process required under the general principles on CSA. This is designed to ensure that based on relevant information about the client, his investment

¹ Example: "Fixed income securities" does not really mean a guarantee of fixed earnings on the investor's participation; "Risk-free" government securities which may be sovereign "risk-free" but not interest rate "risk-free"

profile is matched against the investment parameters of the UIT Fund. At the minimum, client information shall include personal or institutional data, investment objective, investment horizon, investment experience, and risk tolerance; and

(2) Risk disclosure statement, which in reference to Subsec. X410.6c, shall describe the attendant general and specific risks that may arise from investing in the UIT Fund. Such statement shall be substantially similar to the form in *Annex A of Appendix 62a*.

Both documents shall be signed by the client/participant and the UIT marketing personnel who assessed and explained to the concerned client his/her ability to bear the risks and potential losses.

(b) A confirmation of participation and redemption made to/from the fund that shall contain the following information:

(i) NAVPu of the fund on day of purchase/redemption;

(ii) Number of units purchased/redeemed; and

(iii) Absolute peso or foreign currency value.

No indicative rates of return shall be provided in the trust participating agreement. Marketing materials may present relevant historical performance purely for reference and with clear indication that past results do not guarantee similar future results.

(3) A participating trust agreement or confirmation of contribution/redemption need not be manually signed by the trustee or his authorized representative if the same is in the form of an electronic document that conforms with the implementing rules and regulations of R.A. No. 8792, otherwise known as the E-Commerce Act.

c. *Regular publication/computation/availability of the fund's NAVPu.* Trust entities managing a UIT Fund shall cause at least the weekly publication of the

NAVPu of such fund in one (1) or more newspaper of national circulation: *Provided, That* a pooled weekly publication of such NAVPu shall be considered as substantial compliance with this requirement. The said publication, at the minimum, shall clearly state the name of the fund, its general classification, the fund's NAVPu and the moving return on investment (ROI) of the fund on a year-to-date (YTD) and year-on-year (YOY) basis.

NAVPu shall be computed daily and shall be made available to participants and prospective participants upon request.

d. *Marketing personnel.* To ensure the competence and integrity of all duly designated UIT marketing personnel, all personnel involved in the sales of these funds shall be required to undergo standardized training program in accordance with the guidelines of this Subsection. This training program may be conducted by their respective trust entities in accordance with the minimum training program guidelines provided by the Trust Officers Association of the Philippines (TOAP). Such training program shall however be regularly validated by TOAP.

(As amended by Circular No. 593 dated 08 January 2008)

§ X410.8 Exposure limit to single person/entity. The combined exposure of the UIT Fund to any entity and its related parties shall not exceed fifteen percent (15%) of the market value of the UIT Fund: *Provided, That*, a UIT Fund invested, partially or substantially, in exchange traded equity securities shall be subject to the fifteen percent (15%) exposure limit to a single entity/issuer: *Provided, further, That*, in the case of an exchange traded equity security which is included in an index and tracked by the UIT Fund, the exposure of the UIT Fund to a single entity shall be the actual benchmark weighting of the issuer or fifteen percent (15%), whichever is higher.

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This limitation shall not apply to non-risk assets as defined by the BSP.

In case the limit is breached due to the marking-to-market of certain investment/s or any extraordinary circumstances, e.g., abnormal redemptions which are beyond the control of the trustee, the trustee shall be given thirty (30) days from the time the limit is breached to correct the same.

(As amended by Circular No. 577 dated 17 August 2007).

§ X410.9 Allowable investments and valuation. UIT Fund investments shall be limited to bank deposits and the following financial instruments:

- (a) Securities issued by or guaranteed by the Philippine government, or the BSP;
- (b) Tradable securities issued by the government of a foreign country, any political subdivision of a foreign country or any supranational entity;
- (c) Exchange-listed securities;
- (d) Marketable instruments that are traded in an organized exchange;
- (e) Loans traded in an organized market; and
- (f) Such other tradable investments outlets/categories as the BSP may allow:

Provided, That a financial instrument is regarded as tradable if quoted two-way prices are readily and regularly available from an exchange, dealer, broker, industry group, pricing service or regulatory agency, and those prices represent actual and regularly occurring market transactions on an arm's length basis.

The UIT Fund may avail itself of financial derivatives instruments solely for the purpose of hedging risk exposures of the existing investments of the Fund, provided these are accounted for in accordance with existing BSP hedging guidelines as well as the trust entity's risk management and hedging policies duly approved by the Trust Committee and disclosed to participants.

The use of hedging instruments shall also be disclosed in the "Plan" as provided in Item "c" of Subsec. X410.6 and specified in the quarterly "list of investment outlets" as provided in Item "a" of Subsec. X410.7.

§ X410.10 Other related guidelines on valuation of allowable investments

a. In pricing debt securities, interpolated yields shall be used for securities with odd or off-the-run tenors using the straight-line basis and generally accepted market convention.

b. In case outstanding UIT Fund investments may deteriorate in quality, i.e., no longer tradable as defined under Subsec. X410.9, the trustee shall immediately provision to reflect fair value in accordance with generally accepted accounting principles or as may be prescribed by the BSP. If no fair value is available, the instrument shall be assumed to be of no market value.

§ X410.11 Unit Investment Trust Fund administration support

a. *Backroom operations.* Administrative rules on backroom under Sec. X421 shall be applicable to UIT Fund. Adequate systems to support the daily marking-to-market of the fund's financial instruments shall be in place at all times. In this respect, a daily reconciliation of the fund's resultant marked-to-market value with the unrealized market losses and gains (respective contra asset balance) versus the book value of the fund for investments in financial instruments shall be done and all differences resolved within the day.

b. *Custody of securities.* Investments in securities of a UIT Fund shall be held for safekeeping by BSP accredited third party custodians which shall perform independent marking-to-market of such securities.

§ X410.12 Counterparties

a. *Dealings with related interests/bank proper/holding company/subsidiaries/affiliates and related companies.* A trustee of a UIT Fund shall be transparent at all times and maintain an audit trail for all transactions with related parties or entities. The trustee shall observe the principle of best execution and no purchase/sale shall be made with related counterparties without considering at least two (2) competitive quotes from other sources.

b. *Accreditation of counterparties.* The Fund shall only invest with approved counterparties qualified in accordance with the policy duly approved by the Trust Committee. Counterparties shall be subject to appropriate limits in accordance with sound risk management principles.

§ X410.13 Foreign currency-denominated unit investment trust funds UIT Fund denominated in any acceptable foreign currency provided under existing BSP rules and regulations may be established. Such fund may only be invested in allowable investments denominated in pesos or any acceptable foreign currency as expressly allowed under the fund's plan rules and properly disclosed to fund participants.

§ X410.14 Exemptions from statutory and liquidity reserves, single borrower's limit, director, officers, stockholders and their related interests. The provisions on reserves, single borrower's limit and DOSRI ceilings under Subsec. X405.5, and Secs. X303, X330 and X331, respectively, applicable to trust funds in general shall not be made applicable to UIT Funds.

Sec. X411 Investment Management Activities. The conduct of investment management activities shall be subject to the following regulations.

§ X411.1 Minimum documentary requirements. An investment management account shall be covered by a written document establishing such account, as follows:

a. In the case of accounts created by corporations, business firms, organizations or institutions, the voluntary written agreement or indenture entered into by the parties, accompanied by a copy of the board resolution or other evidence authorizing the establishment of and designating the signatories to, the investment management account.

b. In the case of accounts created by individuals, the voluntary written agreement or indenture entered into by the parties.

The voluntary written agreement or contract shall include the following minimum provisions:

- (1) Pre-numbered contractual agreement form;
- (2) Title or nature of contractual agreement in noticeable print;
- (3) Legal capacities, in noticeable print, of parties sought to be covered;
- (4) Purposes and objectives;
- (5) The initial amount of funds and/or value of securities subject of the arrangement delivered to the investment manager;
- (6) Statement in underlined noticeable print that:

(a) The agreement is an agency and not a trust agreement. As such, the client shall at all times retain legal title to funds and properties subject of the arrangement;

(b) The arrangement does not guaranty a yield, return or income by the investment manager. As such, past performance of the account is not a guaranty of future performance and the income of investments can fall as well as rise depending on prevailing market conditions; and

(c) The investment management agreement is not covered by the PDIC and

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that losses, if any, shall be for the account of the client;

(7) Duties and powers of the investment manager;

(8) Liabilities of the investment manager;

(9) Reports to the client;

(10) The amount or rate of the compensation of the investment manager;

(11) Terms and conditions governing withdrawals from the account;

(12) Termination of contractual arrangement; and

(13) Disclosure requirements for transactions requiring prior authority and/or specific written investment directives from the client.

A sample investment management agreement which conforms to the foregoing requirements is shown as *Appendix 24*.

§ X411.2 *Minimum size of each investment management account.* No investment management account shall be accepted or maintained for an amount less than P1.0 million. An investment management account reduced to less than P1.0 million due to investment losses shall be exempt from this requirement.

§ X411.3 *Commingling of funds.* Two (2) or more individual investment management accounts shall not be commingled except for the purpose of investing in government securities or in duly registered commercial papers: *Provided*, That the participation of each of the aforementioned accounts in the commingled account shall not be less than P1.0 million: *Provided, further*, That such commingling has been duly disclosed and specifically agreed in writing by the clients.

§ X411.4 *Lending and investment disposition.* Assets received in investment management capacity shall be administered in accordance with the terms

of the instrument creating the investment management relationship.

When an investment manager is granted discretionary powers in the investment disposition of investment management funds and unless otherwise specifically enumerated in the agreement or indenture and directed in writing by the client, loans and investments of the fund shall be limited to:

a. Evidences of indebtedness of the Republic of the Philippines and of the BSP, and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines or loans against such government securities;

b. Loans fully guaranteed by the Republic of the Philippines as to the payment of principal and interest;

c. Loans fully secured by a hold-out on, assignment or pledge of deposits maintained either with the bank proper or other banks, or of deposit substitutes of the bank, or mortgage and chattel mortgage bonds issued by the investment manager; and

d. Loans fully secured by real estate or chattels in accordance with Sections 37 and 38 of R.A. No. 8791, and subject to the requirements of Sections 39 and 40 of R.A. No. 8791.

The specific directives required under this Subsection shall consist of the following information:

- (1) The transaction to be entered into;
- (2) Borrower’s name;
- (3) Amount involved; and
- (4) Collateral security(ies), if any.

§ X411.5 *Transactions requiring prior authority.* An investment manager shall not undertake any of the following transactions for the account of a client, unless prior to its execution, such transaction has been fully disclosed and specifically authorized in writing by the client:

a. Lend, sell, transfer or assign money or property to any of the departments, directors, officers, stockholders, or employees of the investment manager, or relatives within the first degree of consanguinity or affinity, or the related interests of such directors, officers and stockholders; or to any corporation where the investment manager owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity;

b. Purchase or acquire property or debt instruments from any of the departments, directors, officers, stockholders, or employees of the investment manager, or relatives within the first degree of consanguinity or affinity, or the related interests of such directors, officers and stockholders; or from any corporation where the investment manager owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity;

c. Invest in equities of, or in securities underwritten by, the investment manager or a corporation in which the investment manager owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity; and

d. Sell, transfer, assign or lend money or property from one trust, fiduciary or investment management account to another trust, fiduciary or investment management account except where the investment is in any of those enumerated in Items “a” to “d” of Subsec. X411.4.

Directors, officers, stockholders, and their related interests covered by this Subsection shall be those considered as such under existing regulations on loans to DOSRI in Part III-E of this Manual. The procedural and reportorial requirements in said regulations shall also apply.

The disclosure required under this Subsection shall consist of the following minimum information:

(1) The transaction to be entered into;
(2) Identities of the parties involved in the transaction and their relationships (shall not apply to Item “d” of this Subsection);

(3) Amount involved; and

(4) Collateral security(ies), if any.

The above information shall be made known to clients in a separate instrument or in the very instrument creating the investment management relationship.

§ X411.6 Title to securities and other properties. Securities such as promissory notes, shares of stocks, bonds and other properties of the portfolio shall be issued or registered in the name of the principal or of the investment manager: *Provided*, That in case of the latter, the instrument shall indicate that the investment manager is acting in a representative capacity and that the principal’s name is disclosed thereat.

§ X411.7 Ceilings on loans. Loans funded by investment management accounts shall be subject to the DOSRI ceilings imposed on banks and IHs under Secs. X330 and X331. For purposes of determining compliance with said ceilings, the total amount of said loans granted by the trust department and the bank proper to the same person, firm or corporation shall be combined.

§ X411.8 Operating and accounting methodology. Investment management accounts shall be operated and accounted for in accordance with the following:

a. The investment manager shall administer, hold, or manage the fund or property in accordance with the instrument creating the investment management relationship; and

b. Funds or property of each client shall be accounted separately and distinctly from those of other clients herein referred to as individual account accounting.

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§ X411.9 *Tax-exempt individual investment management accounts.* The following shall be the features/requirements of investment management accounts of individuals which may be exempted from the twenty percent (20%) final tax under Section 24(B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997):

- a. The tax exemption shall apply to investment management agreements contracted on or after 03 January 2000;
- b. The investment management agreement shall only be between individuals who are Filipino citizens or resident aliens and investment manager-banks. The agreement shall be non-negotiable and non-transferable;
- c. The minimum amount of investment for an investment management account shall be P1.0 million;
- d. The investment management agreement shall indicate that pursuant to Section 24(B)(1) of R.A. No. 8424, interest income of the investment management funds derived from investments in interest-bearing instruments (e.g., time deposits, government securities, loans and other debt instruments) which are otherwise subject to the twenty percent (20%) final tax, shall be exempt from said final tax provided the funds are held under investment management by the investment manager for at least five (5) years. If said funds are held by the investment manager for a period less than five (5) years, interest income shall be subject to a final tax which shall be deducted and withheld from the proceeds of the investment management account based on the following schedule—

Holding Period	Rate of Tax
Four (4) years to less than five (5) years	5%
Three (3) years to less than four (4) years	12%
Less than three (3) years	20%

Necessarily, the investment management agreement shall clearly indicate the date when the investment

manager actually received the funds which shall serve as basis for determining the holding period of the funds;

- e. The investment manager may accept additional funds for inclusion in investment management accounts which have been established as tax-exempt under R.A. No. 8424. However, the receipt of additional funds shall be properly documented by indicating that they are part of existing tax-exempt investment management accounts and that the interest income of the additional funds derived from investments in interest-bearing instruments shall be exempt from the twenty percent (20%) final tax under the same conditions mentioned in the preceding item. The document shall also indicate the date when the additional funds were received by the investment manager-bank to serve as basis for determining the minimum five (5)-year holding period for tax exemption purposes of the additional funds; and
- f. Tax-exempt individual investment management accounts established under this Subsection shall be subject to the provisions of Subsecs. X411.1(b) and X411.2 up to X411.8.

Sec. X412 Foreign Currency Deposit Unit/Expanded Foreign Currency Deposit Unit Trust Accounts. Only a bank with authority to operate a foreign currency deposit unit (FCDU) or an expanded foreign currency deposit unit (EFCDU) under R.A. No. 6426, as amended, may accept foreign currency-denominated trust accounts.

§ X412.1 *Banks with trust authority*
 A bank authorized to engage in trust business under Section 79 of R.A. No. 8791, which is also authorized to operate an FCDU or EFCDU under R.A. No. 6426, as amended, shall include FCDU/EFCDU trust accounts among those managed or administered by its trust department under the responsibility of the board of directors, the trust committee and the trust officer.

§ X412.2 Banks without trust authority

A bank not authorized to engage in the trust business under Section 79 of R.A. No. 8791, which accepts FCDU/EFCDU trust accounts under R.A. No. 6426, as amended, shall manage such trust accounts in its FCDU/EFCDU as an exception to Item “a” of Subsec. X406.1. Pursuant to the provisions of Subsec. X406.4, the board of directors shall be responsible for the proper administration and management of FCDU/EFCDU trust accounts: *Provided*, That the board of directors may, by action duly entered in the minutes, constitute an FCDU or EFCDU trust committee to which the administration and management of such accounts may be delegated.

The FCDU or EFCDU trust committee shall be composed of three (3) directors, who shall be appointed on a regular rotation basis, one of whom shall be designated as chairman. The three (3) directors shall meet the qualification requirements under Subsec. X406.3 and shall not be operating officers or members of the audit committee of the bank.

§ X412.3 Additional deposit for the faithful performance of trust duties.

A bank authorized to engage in trust business that accepts FCDU/EFCDU trust accounts shall deposit with the BSP additional eligible government securities under Subsec. X405.2 as security for the faithful performance of trust duties equivalent to at least one percent (1%) of the value of the FCDU/EFCDU trust assets based on the average of the month-end balances of such assets during the immediately preceding quarter as converted in the local currency at the prevailing foreign exchange rate. Such securities shall be deposited within thirty (30) banking days after the end of every calendar quarter.

§ X412.4 Liquidity requirement for foreign currency deposit unit/expanded foreign currency deposit unit common trust funds.

In addition to the basic security deposit, each FCDU/EFCDU CTF shall be required to set up at least ten percent (10%) of the book value of the fund for liquidity purposes: *Provided*, That such liquidity requirement shall be in any or a combination of the following: (a) readily marketable foreign currency securities with maturity of not more than three (3) years; and (b) foreign currency deposits with foreign banks: *Provided, further*, That the liquidity requirement of EFCDUs may, in addition to the foregoing, also be in the form of foreign currency deposits with other EFCDUs or resident offshore banking units. The base amount of the liquidity requirement shall be the average of the month-end balances of the CTFs within a given quarter.

§ X412.5 Applicability of rules and regulations.

Unless otherwise revised by the provisions of this Section, the rules and regulations governing the administration of trust accounts, including CTFs, shall be observed, whether the FCDU/EFCDU trust accounts are administered by the bank’s trust department or by its FCDU/EFCDU. Also applicable are rules and regulations on the operations of FCDUs/EFCDUs that include, among other things, regulations on acceptable foreign currencies, eligible and ineligible foreign currency sources; foreign currency cover requirements; and allowable loans and investments.

Sec. X413 Required Surplus. A bank authorized to engage in trust and other fiduciary business shall, before the declaration of dividends, carry to surplus at least ten percent (10%) of its net profits realized out of its trust, investment management and other fiduciary business since the last preceding dividend declaration until the surplus shall amount to twenty percent (20%) of its authorized

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capital stock and no part of such surplus shall at any time be paid out in dividends but losses accruing in the course of its business may be charged against surplus.

B. INVESTMENT
 MANAGEMENT ACTIVITIES

Sec. X414 Authority to Perform Investment Management. Banks may be authorized by the Monetary Board to act as managing agent, adviser, consultant or administrator of investment management/ advisory/consultancy account under Section 53.4 of R.A. No. 8791. However, such authority shall not be construed to include the authority to engage in trust and other fiduciary business under Chapter IX of R.A. No. 8791.

If a bank is found to engage in unauthorized investment management activities, the Monetary Board may impose administrative sanctions against such bank or its principal officers and/or majority stockholders or proceed against them in accordance with law.

The Monetary Board may take such action as it may deem proper such as, but may not be limited to, requiring the transfer or turnover of any investment management account to duly incorporated and licensed entities of the choice of the client.

A bank not authorized to engage in investment management activities shall not advertise or represent itself as being engaged in investment management activities or represent itself as investment manager or use words of similar import.

§ X414.1 Prerequisites for engaging in investment management activities. A bank before it may engage in investment management activities shall comply with the following requirements:

- a. The bank has been duly licensed by the BSP or created by special law or charter.
- b. The articles of incorporation or charter of the bank shall include among its

powers or purposes the authority to engage in investment management activities.

c. The by-laws of the bank shall include, among other things:

(1) The organization plan or structure of the department, office or unit which shall conduct the investment management activities of the institution;

(2) The creation of an investment management committee, the appointment of an investment management officer and subordinate officers of the investment management department; and

(3) A clear definition of the duties and responsibilities as well as the line and staff functional relationships of the various units, officers and staff within the organization.

d. The applicant shall also meet the following additional requirements:

(1) It has continuously complied with its net worth-to-risk assets ratio, liquidity floor, and ceilings on DOSRI loans for the last sixty (60) days immediately preceding the date of application;

(2) It has not incurred net weekly reserve deficiency against deposit liabilities and deposit substitutes during the last eight (8) weeks immediately preceding the date of application; and

(3) It has shown substantial compliance with other pertinent laws, rules and regulations, policies and instructions of the BSP; and has not been cited for serious violations or exceptions affecting its solvency, liquidity and profitability.

Compliance with the foregoing as well as with other requirements under existing regulations, shall be maintained up to the time the trust license is granted. A bank that fails in this respect shall be required to show compliance for another test period of the same duration.

§ X414.2 Pre-operating requirements
 A bank authorized to engage in investment management activities shall, before engaging in actual operations, submit to the BSP the following:

- a. Government securities acceptable to the BSP amounting to P500,000 as minimum basic security deposit for the faithful performance of investment management duties required under Subsec. X415.1;
- b. Organization chart of the investment management department which shall carry out the investment management activities of the bank; and
- c. Names and positions of individuals designated as chairman and members of the investment management committee, investment management officer and other subordinate officers of the investment management department.

Sec. X415 Security for the Faithful Performance of Investment Management Activities

§ X415.1 *Basic security deposit.* A bank authorized to engage in investment management activities shall deposit with the BSP eligible government securities as security for the faithful performance of its investment management activities equivalent to at least one percent (1%) of the book value of the total investment management assets: *Provided*, That at no time shall such deposit be less than P500,000.

Scripless securities under the RoSS system of the BTr may be used as basic security deposit for the faithful performance of investment management activities using the guidelines enumerated in *Appendix 33*.

§ X415.2 *Eligible securities.* Securities enumerated in Subsec. X405.2 shall be eligible as security deposit for faithful performance of investment management activities.

§ X415.3 *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, 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.

The base amount for the basic security deposit shall be the average of the month-end balances of the total assets of investment management funds of the immediately preceding calendar quarter.

§ X415.4 *Compliance period; sanctions*
The investment manager shall have thirty (30) calendar days after the end of every calendar quarter within which to deposit with the BSP securities required under this Section.

The following sanctions shall be imposed for any deficiency in the basic security deposit for the faithful performance of investment management activity:

- a. On the bank:
- i. Monetary penalty/ies:

Penalty per Calendar Day	Offense		First	Second	Third and subsequent offense(s)
	Trust	Asset Size			
	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

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ii. Non-monetary penalty beginning with the third offense (all banks) - Prohibition against the acceptance of new investment management accounts and from renewing expiring investment management contracts up to the time the violation is corrected.

b. On the Head of the Investment Management Department and/or other officers 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 head of the Investment Management Department 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 the head of the Investment Management Department, all offenses committed by him in the past as the head of the Investment Management Department 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 head of the Investment Management Department shall be automatically held responsible since the ultimate responsibility for ensuring compliance with the regulation rests upon him, as evidence may warrant.

(As amended by Circular Nos. 617 dated 30 July 2008 and 585 dated 15 October 2007)

Sec. X416 Organization and Management

The provisions of Sec. X406 up to Subsec. X406.9 shall govern the organization and management of banks without trust license which are engaged in investment management activities only. The following terms shall, however, be used:

a. *Investment management activities*, in lieu of trust and other fiduciary business;

b. *Investment management accounts*, in lieu of trust and other fiduciary accounts;

c. *Investment management committee*, in lieu of trust committee;

d. *Investment management officer*, in lieu of trust officer; and

e. *Investment management department*, in lieu of trust department.

(As amended by M-2007-009 dated 22 March 2007)

Sec. X417 Non-Investment Management Activities.

The provisions of Sec. X407 shall apply in determining non-investment management activities except that the terms *trust, other fiduciary, trustee* and *fiduciary* shall be disregarded.

Sec. X418 Unsound Practices.

The provisions of Sec. X408 shall govern the unsound practices for investment management accounts.

Sec. X419 Conduct of Investment Management Activities.

The provisions of Sec. X411 shall govern the conduct of investment management activities of a bank without a trust license.

Sec. X420 Required Surplus.

A bank authorized to engage in investment management activities shall, before the declaration of dividends, carry to surplus at least ten percent (10%) of its net profits realized out of its investment management activities since the last preceding dividend declaration until the surplus shall amount to twenty percent (20%) of its authorized capital stock and no part of such surplus shall at any time be paid out in dividends,

but losses accruing in the course of its business may be charged against surplus.

C. GENERAL PROVISIONS

Sec. X421 Books and Records. The bank's trust department or investment management department shall keep books and records on trust, other fiduciary and investment management accounts separate and distinct from the books and records of its other businesses and shall follow the Manual of Accounts for Trust and Other Fiduciary Business and Investment Management Activities prescribed by the BSP.

Each trust, other fiduciary or investment management account shall have a record separate from all other accounts except only in the case of CTFs where the trustee can maintain common records utilizing *pooled fund accounting* method for each fund: *Provided*, That the trustee shall clearly indicate in the records the trustors owning participation in the CTF and the extent of the interest of such trustors.

Books and records shall contain full information relative to each trust, other fiduciary or investment management account and shall be supported by duplicate signed copies of related documents. Said records and duplicate signed copies of related documents shall be compiled and kept as to allow inspection by BSP examiners and submission of information or reports as may be required by competent authorities.

The bank's trust department or investment management department shall maintain separate general ledger accounts and other relevant sub-accounts for tax-exempt individual trust accounts, CTFs and individual management accounts established under Section 24(B)(1) of R.A. No. 8424 and Subsecs. X409.8, X411.9, and Item "8" of *Appendix 60*. The bank's trust department or investment management department shall also adopt

appropriate systems, internal control procedures and audit trail mechanisms to ensure that the correct amount of final tax is withheld or exempted from such accounts.

Sec. X422 Custody of Assets. All moneys, properties or securities received by a bank in its capacity as trustee, fiduciary, or investment manager shall be kept physically separate and distinct from the assets of its other businesses and shall be under the joint custody of at least two (2) persons, one of whom shall be an officer of the trust or investment management department, designated for that purpose by the board of directors.

The investment of each trust, other fiduciary or investment management account shall be kept physically separated from those of other trust, other fiduciary or investment management accounts, and adequately identified as the assets or property of the relevant account.

Sec. X423 Fees and Commissions. A bank acting as trustee, fiduciary or investment manager shall be entitled to reasonable fees and commissions which shall be determined on the basis of the cost of services rendered and the responsibilities assumed: *Provided*, That where the trustee, fiduciary or investment manager is acting as such under appointment by a court, the compensation shall be that allowed or approved by the court: *Provided, further*, That in the case of CTFs, the fee which a trustee may charge each participant shall be fully disclosed by the trustee in the CTF plan, prospectus, flyers, posters and in all forms of advertising materials to market the funds and in the documents given to clients as proof of participation in the fund. In no case shall such fees and commissions be based on the excess of the income of the trust, other fiduciary or investment management funds over a certain amount or percentage.

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No trustee, fiduciary or investment manager shall solicit or receive rebates on commissions, fees and other payments for the services rendered to the trust, other fiduciary or investment management account or beneficiaries of the trust, other fiduciary or investment management account by stockbrokers, real estate brokers, insurance agents and similar persons or entities unless the rebates, fees and other payments shall accrue to the benefit of the trust, other fiduciary or investment management account or the beneficiaries thereof.

Officers and employees of the trust department or investment management department of banks, while serving as such, shall be prohibited from retaining any compensation for acting as co-trustee or fiduciary in the administration of a trust, other fiduciary or investment management account.

No bank shall collect, for its own account, referral and/or arrangement fees, or any other fees that take the nature of payment to the bank from whatever source, in connection with loans sourced from trust funds managed by its trust department: *Provided*, That if such fees are collected, the same shall be properly disclosed to the trustor, and shall accrue to the benefit of the trust, in accordance with the provisions of Secs. X401 and X407.

(As amended by Circular No. 541 dated 30 August 2006)

Sec. X424 Taxes. The terms and conditions of trust, other fiduciary or investment management agreements including CTF plans shall contain provisions regarding the applicability of regulations governing taxation on the income of trust, other fiduciary or investment management accounts. For this purpose, the trustee, fiduciary or investment manager shall maintain adequate records and shall include information such as the amount of final

income tax withheld at source and the amount withheld by the trustee, fiduciary or investment manager in the periodic reports submitted to trustors, beneficiaries, principals and other parties in interest.

With respect to tax-exempt CTFs, individual trust and investment management accounts established under Section 24(B)(1) of R.A. No. 8424, the bank’s trust department or investment management department shall be responsible for obtaining the tax-exemption certifications which may be required by the BIR for the interest-bearing instruments where the CTFs, individual trust funds and investment management funds will be invested. Likewise, the banks shall ensure that the correct amount of final tax on the interest income on the interest-bearing instruments is withheld/deducted from the proceeds from the CTF participation, trust or investment management account and remitted to the BIR in the event said tax becomes due such as when funds are withdrawn before the required five (5)-year holding period or when corporations happen to invest in the tax-exempt trust instruments created within the purview of R.A. No. 8424.

Sec. X425 Reports Required

§ X425.1 To trustor, beneficiary, principal. A bank acting as trustee, fiduciary or investment manager shall render reports on the trust, other fiduciary or investment management accounts to the trustor, beneficiary, principal or other party in interest or the court concerned or any party duly designated by the court order, as the case may be, under the following guidelines:

a. The reports shall be in such forms as to apprise the party concerned of the significant developments in the administration of the account and shall consist of:

- (1) A balance sheet;
 - (2) An income statement;
 - (3) A schedule of earning assets of the account; and
 - (4) An investment activity report.
- b. Items (3) and (4) above shall include at least the following:
- (1) Name of issuer or borrower;
 - (2) Type of instrument;
 - (3) Collateral, if any;
 - (4) Amount invested;
 - (5) Earning rate or yield;
 - (6) Amount of earnings;
 - (7) Transaction date; and
 - (8) Maturity date;
- c. The reports shall be prepared in such frequency as required under the agreement but shall not in any case be longer than once every quarter; and
- d. The reports shall be made available to clients not later than twenty (20) calendar days from the end of the reference date/period in Item “c” above.

§ X425.2 To the Bangko Sentral. A bank acting as trustee, fiduciary or investment manager shall submit periodic reports prescribed by the appropriate department of the SES on the bank’s trust and other fiduciary business and investment management activities within the deadlines indicated in *Appendix 6*.

§ X425.3 Post-Bond Flotation Report
The LGU or its representative or its trustee bank, as the case may be, shall submit to the BSP the post-bond flotation report required in the Revised Guidelines on the Flotation of Bonds by LGUs (Without National Government Guarantee) (*Appendix 57*) that will indicate the actual amount of the issue as well as the final terms and conditions of the issue within the deadline indicated in *Appendix 6*; and such other reports as may be required by the BSP.

Sec. X426 Audits

§ X426.1 Internal audit. The bank’s internal auditor shall include among his functions, the conduct of periodic audits of the trust department or investment management department at least once every twelve (12) months. The board of directors, in a resolution entered in its minutes, may also require the internal auditor to adopt a suitable continuous audit system to supplement and/or to replace the periodic audit. In any case, the audit shall ascertain whether the institution’s trust and other fiduciary business and investment management activities have been administered in accordance with laws, BSP rules and regulations, and sound trust or fiduciary principles.

§ X426.2 External audit. The trust and other fiduciary business and investment management activities of a bank shall be included in the annual financial audit by independent external auditors required under Sec. X165.

The audit of the assets and accountabilities of the trust department/ investment management department of a bank authorized to engage in trust and other fiduciary business, investment management activities, which shall cover at the minimum a review of the trust investment management operations, practices and policies, including audit and internal control system, shall be subject to auditing standards to the extent necessary to express an opinion on the financial statements.

The audit of the trust/investment management department of a bank authorized to engage in trust and other fiduciary business/investment management activities shall be covered by a separate supplemental audit report to be submitted to the bank’s board of directors and to the

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BSP within the prescribed period containing, among others things, the statements of condition of trust funds and managed funds and the related statements of earnings of both funds presented separately.

§ X426.3 **Board action.** A report of the foregoing audits, together with the actions thereon, shall be noted in the minutes of the board of directors of the bank.

Sec. X427 Authority Resulting from Merger or Consolidation. In merger of FIs, the authority to engage in trust and other fiduciary business and in investment management activities shall continue to be in effect if the surviving institution has such authority and the same has not been withdrawn by the BSP. In case the surviving institution does not have previous authority but desires to engage in trust and other fiduciary business and in investment management activities, it shall secure the prior approval of the Monetary Board to engage in such business as part of its application for merger to enable it to incorporate such among its powers or purpose clause in its articles of incorporation, articles of merger, by-laws and such other pertinent documents.

In the consolidation of FIs where the resulting entity is an entirely new one, it shall secure from the Monetary Board an authority to engage in trust and other fiduciary business or in investment management activities before it may engage in such business.

Sec. X428 Receivership. Whenever a receiver is appointed by the Monetary Board for a bank which is authorized to engage in trust and other fiduciary business or in investment management activities, the receiver shall, pursuant to the instructions of the Monetary Board, proceed to close the trust, other fiduciary and investment management accounts

promptly and/or transfer all other accounts to substitute trustees, fiduciaries or investment managers acceptable to the trustors, beneficiaries, principals or other parties in interest: *Provided*, That where the trustee, fiduciary or investment manager is acting as such under appointment by a court, the receiver shall proceed pursuant to the instructions of said court.

Sec. X429 Surrender of Trust or Investment Management License. Any bank which has been authorized to engage in trust and other fiduciary business or in investment management activities and which intends to surrender said authority shall file with the BSP a certified copy of the resolution of its board of directors manifesting such intention. The appropriate department of the SES shall then conduct an examination of the bank’s trust, other fiduciary business and investment management activities. If the bank is found to have satisfactorily discharged its duties and responsibilities as trustee, fiduciary or investment manager, and has provided for the orderly closure or transfer of its trust, fiduciary or investment management accounts, the Monetary Board, on the basis of the recommendation of the examining department, shall order the withdrawal of the bank’s authority to engage in trust and other fiduciary management activities.

Secs. X430 – X440 (Reserved)

Sec. X441 Securities Custodianship and Securities Registry Operations. The following rules and regulations shall govern securities custodianship and securities registry operations of banks.

The guidelines to implement the delivery by the seller of securities to the buyer or to his designated third party custodian are shown in *Appendix 68*.

Violation of any provision of the guidelines in *Appendix 68* shall be subject to the sanctions/penalties under Subsec. X441.29.

(As amended by M-2007-002 dated 23 January 2007, M-2006-009 dated 06 July 2006, M-2006-002 dated 05 June 2006 and Circular No. 524 dated 31 March 2006)

§ X441.1 *Statement of policy.* It is the policy of the BSP to promote the protection of investors in order to gain their confidence and encourage their participation in the development of the domestic capital market. Therefore, the following rules and regulations are promulgated to enhance transparency of securities transactions with the end in view of protecting investors.

§ X441.2 *Applicability of this regulation*
This regulation shall govern securities custodianship and securities registry operations of banks and NBFIs under BSP supervision. It shall cover all their transactions in securities as defined in Section 3 of the Securities Regulation Code (SRC), whether exempt or required to be registered with the SEC, that are sold, borrowed, purchased, traded, held under custody or otherwise transacted in the Philippines where at least one (1) of the parties is a bank or an NBFIs under BSP supervision. However, this regulation shall not cover the operations of stock and transfer agents duly registered with the SEC pursuant to the provisions of SRC Rule 36-4.1 and whose only function is to maintain the stock and transfer book for shares of stock.

§ X441.3 *Prior Bangko Sentral approval.* Banks may act as securities custodian and/or registry only upon prior Monetary Board approval.

§ X441.4 *Application for authority*
A bank desiring to act as securities custodian and/or registry shall file an

application with the appropriate supervising and examining department of the BSP. The application shall be signed by the highest ranking officer of the bank and shall be accompanied by a certified true copy of the resolution of the bank's board of directors authorizing the bank to engage in securities custodianship and/or registry and, in the case of a branch of a foreign bank, approval by its highest ranking regional officer with proof of delegated authority from the bank's board of directors.

§ X441.5 *Pre-qualification requirements for a securities custodian/registry*

- a. It must be a bank;
- b. It must have complied with the minimum capital accounts required under existing regulations, as follows:
 - (1) *Domestic banks.* Its adjusted capital account is at least equal to the amount required under Subsec. X111.1 or the amount required for TBs operating in Metro Manila, whichever is higher.
 - (2) *Branches of foreign banks.* The minimum capital required under Subsec. X105.4.
- c. Its risk-based capital adequacy ratio is not lower than twelve percent (12%) at the time of filing the application;
- d. It must have a CAMELS composite rating of at least "4" (as rounded off) in the last regular examination;
- e. It must have in place a comprehensive risk management system approved by its board of directors (or equivalent management committee in the case of foreign bank branches) appropriate to its operations characterized by a clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal control and complete, timely and efficient risk reporting systems. In this connection, a manual of operations (which includes custody and/or registry operations) and other related documents

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embodying the risk management system must be submitted to the appropriate supervising and examining department at the time of application for authority and within thirty (30) days from updates;

f. It must have adequate technological capabilities and the necessary technical expertise to ensure the protection, safety and integrity of client assets, such as:

(1) It can maintain an electronic registry dedicated to recording of accountabilities to its clients; and

(2) It has an updated and comprehensive computer security system covering system, network and telecommunication facilities that will:

(a) limit access only to authorized users;

(b) preserve data integrity; and

(c) provide for audit trail of transactions.

g. It has complied, during the period immediately preceding the date of application, with the following:

(1) ceilings on credit accommodation to DOSRI; and

(2) single borrower’s limit.

h. It has no reserve deficiencies during the eight (8) weeks immediately preceding the date of application;

i. It has set up the prescribed allowances for probable losses, both general and specific, as of date of application;

j. It has not been found engaging in unsafe and unsound practices during the last six (6) months preceding the date of application;

k. It has generally complied with laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management;

l. It has submitted additional documents/information which may be requested by the appropriate supervision and examination department, such as, but not limited to:

(1) Standard custody/registry agreement and other standard documents;

(2) Organizational structure of the custody/registry business;

(3) Transaction flow; and

(4) For those already in the custody or registry business, a historical background for the past three (3) years;

m. It shall be conducted in a separate unit headed by a qualified person with at least two (2) years experience in custody/registry operations; and

n. It can interface with the clearing and settlement system of any recognized exchange in the country capable of achieving a real time gross settlement of trades.

§ X441.6 *Functions and responsibilities of a securities custodian.* A securities custodian shall have the following basic functions and responsibilities:

a. Safekeeps the securities of the client;

b. Holds title to the securities in a nominee capacity;

c. Executes purchase, sale and other instructions;

d. Performs at least a monthly reconciliation to ensure that all positions are properly recorded and accounted for;

e. Confirms tax withheld;

f. Represents clients in corporate actions in accordance with the direction provided by the securities owner;

g. Conducts mark-to-market valuation and statement rendition;

h. Does earmarking of encumbrances or liens such as, but not limited to, Deeds of Assignment and court orders;

In addition to the above basic functions, it may perform the following value-added service to clients:

i. Acts as a collecting and paying agent: *Provided,* That the management of funds that may be collected shall be clearly defined in the custody contract or in a separate document or agreement attached

thereto: *Provided, further*, That the custodian shall immediately make known to the securities owner all payments made and collections received with respect to the securities under custody; and

j. Securities borrowing and lending operations as agent.

§ X441.7 Functions and responsibilities of a securities registry

a. Maintains an electronic registry book;

b. Delivers confirmation of transactions and other documents within agreed trading periods;

c. Issues registry confirmations for transfers of ownership as it occurs;

d. Prepares regular statement of securities balances at such frequency as may be required by the owner on record but not less frequent than every quarter; and

e. Follows appropriate legal documentation to govern its relationship with the Issuer.

§ X441.8 Protection of securities of the customer. A custodian must incorporate the following procedures in the discharge of its functions in order to protect the securities of the customer:

a. *Accounting and recording for securities.* Custodians must employ accounting and safekeeping procedures that fully protect customer securities. It is essential that custodians segregate customer securities from one another and from its proprietary holdings to protect the same from the claims of its general creditors.

All securities held under custodianship shall be recorded in the books of the custodian at the face value of said securities in a separate subsidiary ledger account “*Securities Held Under Custodianship*” if booked in the Bank Proper or the subsidiary ledger account “*Safekeeping and Custodianship – Securities Held Under*

Custodianship”, if booked in the Trust Department: *Provided*, That securities held under custodianship where the custodian also performs securities borrowing and lending as agent shall be booked in the Trust Department.

b. *Documentation.* The appropriate documentation for custodianship shall be made and it shall clearly define, among others, the authority, role, responsibilities, fees and provision for succession in the event the custodian can no longer discharge its functions. It shall be accepted in writing by the counterparties.

The governing custodianship agreement shall be pre-numbered and this number shall be referred to in all amendments and supplements thereto.

c. *Confirmation of custody.* The custodian shall issue a custody confirmation to the purchaser or borrower of securities to evidence receipt or transfer of securities as they occur. It shall contain, as a minimum, the following information on the securities under custody:

- (1) Owner of securities;
- (2) Issuer;
- (3) Securities type;
- (4) Identification or serial numbers;
- (5) Quantity;
- (6) Face value; and
- (7) Other information, which may be requested by the parties.

d. *Periodic reporting.* The custodian shall prepare at least quarterly (or as frequent as the owner of securities will require) securities statements delivered to the registered owner’s address on record. Said statement shall present detailed information such as, but not limited to, inventory of securities, outstanding balances, and market values.

§ X441.9 Independence of the registry and custodian. A BSP-accredited securities registry must be a third party with no subsidiary/affiliate relationship with the

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issuer of securities while a BSP-accredited custodian must be a third party with no subsidiary/affiliate relationship with the issuer or seller of securities. A bank accredited by BSP as securities custodian may, however, continue holding securities it sold under the following cases:

- a. where the purchaser is a related entity acting in its own behalf and not as agent or representative of another;
- b. where the purchaser is a non-resident with existing global custody agreement governed by foreign laws and conventions wherein the bank is designated as custodian or sub-custodian; and
- c. upon approval by the BSP, where the purchaser is an insurance company whose custody arrangement is either governed by a global custody agreement where the bank is designated as custodian or sub-custodian or by a direct custody agreement with features at par with the standards set under this Subsection drawn or prepared by the parent company owning more than fifty percent (50%) of the capital stock of the purchaser and executed by the purchaser itself and its custodian.

Purchases by non-residents and insurance companies that are exempted from the independence requirement of this Section shall, however, be subject to all other provisions of this Subsection.

§ X441.10 Registry of scripless securities of the Bureau of the Treasury
The Registry of Scripless Securities (RoSS), operated by the Bureau of the Treasury, which is acting as a registry for government securities is deemed to be automatically accredited for purposes of this Section and is likewise exempted from the independence requirement under Subsec. X441.9. However, securities registered under the RoSS shall only be considered delivered if said securities were transferred by means of book entry to the appropriate securities account of the purchaser or

his designated custodian. Book entry transfer to a sub-account for clients under the primary account of the seller shall not constitute delivery for purposes of this Section and of Subsecs. X235.5 and X238.1.

§ X441.11 Confidentiality. A BSP-accredited securities custodian/registry shall not disclose to any unauthorized person any information relative to the securities under its custodianship/registry. The Management shall likewise ensure the confidentiality of client accounts of the custody or registry unit from other units within the same organization.

§ X441.12 Compliance with anti-money laundering laws/regulations. For purposes of compliance with the requirements of R.A. No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001," as amended, particularly the provisions regarding customer identification, record keeping and reporting of suspicious transactions, a BSP-accredited custodian may rely on referral by the seller issuer of securities: *Provided*, That it maintains a record of such referral together with the minimum identification, information/documents required under the law and its implementing rules and regulations.

A BSP accredited custodian must maintain accounts only in the true and full name of the owners of the security. However, said securities owners may be identified by number or code in reports and correspondences to keep his identity confidential.

Securities subject of pledge and/or deed of assignment as of 14 October 2004 (date of Circular 457), may be held by a lending bank up to the original maturity of the loan or full payment thereof, whichever comes earlier.

§ X441.13 *Basic security deposit*

Securities held under custodianship whether booked in the Trust Department or carried in the regular books of the bank shall be subject to a security deposit for faithful performance of duties at the rate of 1/25 of one percent (1%) of the total face value or P500,000 whichever is higher.

However, securities held under custodianship where the custodian also performs securities borrowing and lending as agent shall be subject to a higher basic security deposit of one percent (1%) of the total face value. For this purpose, the following subsidiary ledger account shall be created in the Trust Department Books:

“Safekeeping and Custodianship - Securities Held Under Custodianship with Securities Borrowing and Lending As Agent”

Compliance shall be in the form of government securities deposited with the BSP eligible pursuant to existing regulations governing security for the faithful performance of trust and other fiduciary business.

§ X441.14 *Reportorial requirements*

An accredited securities custodian shall comply with reportorial requirements that may be prescribed by the BSP, which shall include as a minimum, the face and market value of securities held under custodianship.

§§ X441.15 – X441.28 (Reserved)

§ X441.29 *Sanctions.*

Without prejudice to the penal and administrative sanctions provided for under Sections 36 and 37, respectively, of the R.A. No. 7653, violation of any provision of this Section shall be subject to the following sanctions/penalties:

a. *First offense –*

(1) Fine of up to P10,000 a day for the institution for each violation reckoned from

the date the violation was committed up to the date it was corrected; and

(2) Reprimand for the directors/officers responsible for the violation.

b. *Second offense –*

(1) Fine of up to P20,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and

(2) Suspension for ninety (90) days without pay of directors/officers responsible for the violation.

c. *Subsequent offenses –*

(1) Fine of up to P30,000 a day for the institution for each violation from the date the violation was committed up to the date it was corrected;

(2) Suspension or revocation of the authority to act as securities custodian and/or registry; and

(3) Suspension for one hundred twenty (120) days without pay of the directors/officers responsible for the violation.

Secs. X442 – X498 (Reserved)

D. GENERAL PROVISION ON
SANCTIONS

Sec. X499 Sanctions. Any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653 without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted under the circumstances that may include the suspension or revocation of a bank’s authority to engage in trust and other fiduciary business or in investment management activities, and such other sanctions as may be provided by law.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R.A. No. 7653 on banks, their directors and or officers are shown in *Appendix 67*.

PART FIVE

FOREIGN CURRENCY DEPOSIT SYSTEM AND OTHER OPERATIONS IN
FOREIGN CURRENCY

Section X501 Foreign Currency Deposit System. The foreign currency deposit operations of banks under R.A. No. 6426, as amended, shall be governed by the following rules and regulations.

§ X501.1 Definition of terms. The following terms and phrases shall mean as follows:

- a. *FCDU* and *EFCDU* shall refer to a unit of a local bank or of a local branch of a foreign bank authorized by the BSP to engage in foreign currency-denominated transactions, pursuant to the provisions of R.A. No. 6426, as amended.
- b. *Local bank* shall refer to a KB, UB or TB organized under the laws of the Republic of the Philippines.
- c. *Local branch of a foreign bank* shall refer to a branch of a foreign bank doing business in the Philippines.
- d. *Short-term loans and securities* shall refer to those with maturities of one (1) year or less.
- e. *Medium-term loans and securities* shall refer to those with maturities of more than one (1) year but not more than five (5) years.
- f. *Long-term loans and securities* shall refer to those with maturities of more than five (5) years.

- § X501.2 Qualification requirements**
- a. KBs/UBs may be authorized to operate an FCDU or EFCDU: *Provided*, That they meet the minimum capital requirements as prescribed under Sec. X111 and Subsecs. X111.1 and X111.2, and in the case of branches of foreign banks, Subsecs. X105.4 and X105.5.
 - b. TBs with net worth or combined capital accounts of at least ₱325.0 million

if located in Metro Manila or ₱52.0 million if located outside Metro Manila may, subject to prior Monetary Board approval, operate an FCDU. A TB desiring to operate an FCDU shall file an application with the appropriate department of the SES. The application shall be signed by the bank president or officer of equivalent rank and shall be accompanied by the following documents:

- (1) Certified true copy of the resolution of the bank’s board of directors authorizing the application.
- (2) A certification signed by the president or the officer of equivalent rank that the bank has complied with all conditions/prerequisites for the grant of authority to operate an FCDU in *Appendix 5a*.

Transitory provisions. TBs authorized to operate and are actually operating an FCDU are hereby given a period of two (2) years reckoned from 07 March 2002 within which to comply with the minimum capital requirements for FCDU: *Provided*, That this requirement may be substituted by a capital build-up program for a period of not more than five (5) years or only up to 31 December 2007 and which must be approved by the Monetary Board: *Provided, further*, That annual cash infusion shall be included in the capital build-up program adopted for this purpose. The amount of cash infusion shall be evenly distributed over the capital build-up program period. Banks which failed to comply with the required capitalization upon expiration of said two (2)-year period given them or those which failed to comply with approved capital build-up program shall liquidate their FCDU business within one (1) year and shall surrender to the BSP their

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corresponding FCDU licenses. The license of TBs already authorized to operate FCDU but not yet operating the same shall be automatically revoked if they do not comply with the above minimum capital requirements as of 07 May 2002.

In addition, the standard pre-qualification requirements prescribed under *Appendix 5* shall be complied with by a bank applying for an FCDU/EFCDU license.

c. RBs/Coop Banks may, subject to prior Monetary Board approval, be authorized to operate an FCDU: *Provided*, That they meet the minimum capital under Subsec. X151.3 or P20.0 million, whichever is higher. An RB/Coop Bank desiring to operate an FCDU shall file an application with the appropriate department of the SES. The application shall be signed by the bank president or officer of equivalent rank and shall be accompanied by the following documents:

(1) Certified true copy of the resolution of the bank's board of directors authorizing the application.

(2) Certification signed by the president or the officer of equivalent rank that the bank has complied with all the conditions/prerequisites for the grant of authority to operate an FCDU in *Appendix 5a*.

In addition to requirements under existing regulations, an RB/Coop Bank authorized to operate an FCDU shall:

(a) Have the capacity to operate an FCDU. An RB/Coop Bank may, however, upgrade its capacity by appointing as officer who will be in-charge of the FCDU operations either, (i) an individual with actual experience in another bank as in-charge or assistant in-charge of the same operations for at least one (1) year, or (ii) an individual who has attended a specialized training course on FCDU transactions or operations conducted by the BSP Institute or an institution or bank duly accredited by the BSP; and

(b) Establish a risk management system appropriate to its operations, characterized by clear delineation of responsibility for risk management, adequate risk measurement system, appropriately structured risk limits, effective internal control system and complete, timely and efficient risk reporting system.

(As amended by Circular Nos. 582 dated 17 September 2007, 579 dated 23 August 2007, and 522 dated 23 March 2006)

§ X501.3 Authorized transactions

a. Banks which are granted a certificate of authority to operate an FCDU are authorized to engage in the following transactions in any acceptable foreign currency:

(1) Accept deposits and trust accounts from residents and non-residents;

(2) Deposit, regardless of maturity, with foreign banks abroad, OBUs and other FCDUs/EFCDUs;

(3) Invest in readily marketable foreign currency denominated debt instruments. For this purpose, *readily marketable debt instruments* shall refer to debt instruments that are quoted in an active market and the quoted prices are readily and regularly available from an exchange, dealer, broker, industry group, pricing service or regulatory agency, and those prices represent actual and regularly occurring market transactions on an arm's length basis;

(4) Grant short-term foreign currency loans as may be allowed by BSP regulations;

(5) Borrow, (a) regardless of maturity, from EFCDUs, foreign banks abroad and OBUs, subject to existing rules on foreign/foreign currency borrowings; and (b) on short-term maturity, from other FCDUs;

(6) Engage in foreign currency-foreign currency swap with the BSP, OBUs and other FCDUs/EFCDUs;

(7) Engage in securities lending activities as lender subject to the provisions in Sec. X531;

(8) Engage in repo agreements involving foreign currency denominated government securities subject to the provisions in Sec. X532;

(9) Purchase foreign currency denominated government securities under resale agreements from other banks' EFCDU/FCDU, non-resident FIs and OBUs, subject to the following conditions:

(a) That the government securities purchased shall be limited to those issued by central governments and/or central banks of foreign countries with the highest credit quality given by any two (2) internationally accepted rating agencies (i.e., currently the equivalent of Standard and Poor's AA- or Moody's Aa3 or better);

(b) That for TBs which are granted a certificate of authority to operate an FCDU, the maximum term of the resale agreements shall be one (1) year; and

(c) That such government securities purchased under resale agreements shall be classified as "Trading Account Securities - Loans" and booked under the sub-account "Government Securities Purchased under Resale Agreements – EFCDU/FCDU";

(10) Issue HT1 capital instruments; and

(11) Engage in US dollar denominated repo agreements with the BSP, as provided under Subsec. X601.1.

RBs/Coop Banks which are authorized to operate FCDUs shall be governed by the provisions of Circular 1389 dated 13 April 1993, as amended, and by all existing regulations applicable to FCDUs. They may undertake all transactions which TBs with FCDUs are authorized to enter into, except the granting of loans to producers/manufacturers, including oil companies and public utility concerns.

b. UBs/KBs which are authorized to operate under the expanded foreign currency deposit system may engage in the following transactions in any acceptable foreign currency:

(1) Accept deposits and trust accounts from residents and non-residents;

(2) Deposit with foreign banks abroad, OBUs and other FCDUs/EFCDUs;

(3) Invest in foreign currency-denominated debt instruments;

(4) Grant foreign currency loans as may be allowed by the BSP;

(5) Borrow from other FCDUs/EFCDUs and from non-residents and OBUs, subject to existing rules on foreign borrowings;

(6) Engage in foreign currency-foreign currency swap;

(7) Engage in foreign exchange trading and, with prior BSP approval, engage in financial futures and options trading;

(8) On request/instructions of its foreign correspondent bank:

(a) issue letters of credit for a non-resident importer in favor of a non-resident exporter;

(b) pay, accept or negotiate drafts/bills of exchange drawn under the letter of credit; and

(c) make payment to the order of the non-resident exporter:

Provided, That the foreign correspondent bank shall deposit sufficient foreign exchange with the EFCDU issuing the letter of credit to cover all drawings;

(9) Engage in direct purchase of export bills of resident exporters, subject to the following conditions:

(a) Export transactions covered by usance or sight letters of credit shall be allowed to be purchased by EFCDUs; and

(b) Export bills negotiated/purchased by the bank's Regular Unit and outstanding in its books shall not be allowed to be purchased by its EFCDU;

(10) Engage in securities lending activities as lender subject to the provisions in Sec. X531;

(11) Engage in repo agreements involving foreign currency denominated

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government securities subject to the provisions in Sec. X532;

(12) Invest in foreign currency denominated structured products issued by banks and SPVs of high credit quality subject to the provisions in Sec. 1636;

(13) Purchase foreign currency denominated government securities under resale agreements from other banks' EFCDU/FCDU, non-resident FIs and OBUs, subject to the following conditions:

(a) That the government securities purchased shall be limited to those issued by central governments and/or central banks of foreign countries with the highest credit quality given by any two (2) internationally accepted rating agencies (i.e., currently the equivalent of Standard and Poor's AA - or Moody's Aa3 or better); and

(b) That such government securities purchased under resale agreements shall be classified as "Trading Account Securities-Loans" and booked under the sub-account "Government Securities Purchased under Resale Agreements – EFCDU/FCDU";

(14) Issue HT1 capital instruments; and

(15) Engage in US dollar denominated repo agreements with the BSP, as provided under Subsec. X601.1.

c. Excess FCDU/EFCDU funds of UBs and KBs may be lent to RBU to fund the latter's on-balance sheet foreign exchange trade transactions, subject to the following conditions –

(1) FCDU/EFCDU may lend funds to RBU only after it has fully complied with the prescribed 100% asset cover/thirty percent (30%) liquid asset cover on FCDU/EFCDU liabilities.

(2) FCDU/EFCDU lending to RBU shall be -

(a) Capped at the lower of total outstanding balance on RBU's on-balance sheet foreign currency trade assets¹ or thirty percent (30%) of the level of FCDU/EFCDU deposit liabilities, computed at the

average daily balance (using 2-month rolling data) as of end of the second week prior to the reference week (refer to *Appendix 51a* for sample computation). Total outstanding balance of FCDU/EFCDU lending to RBU shall, at all times, be within the prescribed cap. Any breach thereon shall be subject to the imposition of a monetary penalty of ₱30,000 per day, commencing on the day the cap was breached until the same is corrected.

(b) Charged interest at prevailing market rates, computed monthly at the average daily balance of the receivable from RBU.

(c) On short-term maturity, or for a period of one (1) year or less. Balances shall be settled, within a year from avilment, by way of actual transfer of foreign currency assets from the RBU books to the FCDU/EFCDU books.

(3) The lending transaction shall be booked as "Lending-RBU" in the FCDU/EFCDU books and "Borrowing-FCDU/EFCDU" in the RBU books.

(4) The "Lending-RBU" account balance [net of transactions outstanding for more than one (1) year] shall qualify as eligible asset cover, but not as liquid asset cover, for FCDU/EFCDU liabilities.

(5) Banks shall establish and maintain systems to -

(a) monitor the foreign currency funds flow of RBU and the average daily balances of foreign currency trade assets, with minimum database covering a two (2) - month rolling period; and

(b) account for the utilization of funds borrowed from FCDU/EFCDU.

The systems as well as periodic reports generated therefrom shall be made available to the BSP examiners for verification.

(6) Banks shall submit to the appropriate department of the SES, within five (5) banking days from end of reference month,

¹ i.e., Customers' Liability on Import Bills-Foreign, Customers' Liability under Trust Receipts-Foreign, Customers' Liability for this Bank's Acceptances Outstanding-Foreign, Export Bills Purchased and Foreign Bills Purchased-Documentary, excluding past due accounts and Items in Litigation.

a certification under oath (prescribed format shown in *Appendix 51*), signed by the bank's president or country manager, in case of local branch/subsidiary of foreign banks, compliance officer and head of treasury, to the effect that, at any day of the reference month, the outstanding balance on funds borrowed from FCDU/EFCDU did not exceed the prescribed cap [i.e., lower of total outstanding balance on RBU's on-balance sheet foreign currency trade assets or thirty percent (30%) of the level of FCDU/EFCDU deposit liabilities] and were utilized by RBU solely for foreign currency trade transactions.

The foregoing rule shall be subject to quarterly review by BSP.

(As amended by Circular Nos. 627 dated 23 October 2008, 590 dated 27 December 2007, 565 dated 03 May 2007, 522 dated 23 March 2006 and 519 dated 16 March 2006)

§ X501.4 Foreign currency cover requirements. Depository banks under the foreign currency deposit and expanded foreign currency deposit systems shall maintain at all times a 100% cover for their foreign currency liabilities, except US dollar denominated repo agreements with the BSP: *Provided*, That violation of the terms and conditions of the US dollar denominated repo agreements facility shall subject the borrowings of the bank to the FCDU/EFCDU asset and liquid asset cover requirements. For purposes of complying with this requirement, the principal offices in the Philippines of the authorized banks and all its branches located therein shall be considered as a single unit. The foreign currency cover shall consist of the net carrying amount of the following:

- a. For banks authorized to operate an FCDU -
 - (1) Foreign currency cash on hand;
 - (2) Foreign currency checks and other cash items;
 - (3) Due from BSP – Foreign Currency;
 - (4) Due from other banks (other FCDUs/EFCDUs, OBUs, and non-resident banks);

(5) Derivatives with Positive Fair Value Held for Trading and/or Hedging (Derivatives with Negative Fair Value Held for Trading and/or Hedging shall require corresponding asset/liquid asset cover);

(6) Investments in readily marketable foreign currency-denominated debt instruments, booked under the following control accounts:

- (a) Held for Trading (HFT);
- (b) Designated at Fair Value through Profit or Loss (DFVPL);
- (c) Available for Sale (ASS); and
- (d) Held to Maturity (HTM).

Foreign currency-denominated debt securities sold/lent in repo agreements/securities lending and borrowing transactions shall be considered as eligible asset cover for the 100% asset cover requirement. The same treatment shall likewise apply to foreign currency denominated debt securities used as additional collateral in repo agreements or as collateral by borrowing bank in securities lending and borrowing transactions;

(7) Foreign currency loans and receivables maturing within one (1) year authorized by the BSP, booked under the following:

- (a) Loans to BSP;
- (b) Interbank loans receivable; and
- (c) Loans and receivables – others.

Loans and receivables authorized by the BSP shall refer to those granted pursuant to Circular No. 1389 dated 13 April 1993, as amended, and shall include the following:

(a) those with specific approval by the BSP under Section 23 of Circular No. 1389, as amended (Loans Requiring Prior BSP Approval);

(b) those short term loans to resident private and public sector borrowers which under existing regulations require no prior BSP approval but allowed to be serviced using foreign exchange purchased from the banking system (i.e., loans to commodity and service exporters, indirect exporters,

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producers/manufacturers, including oil companies and public utility concerns) under Section 24.4 of Circular No. 1389, as amended, (Loans Not Requiring Prior BSP Approval); and

(c) those loans to resident private sector borrowers to be serviced using foreign exchange purchased from outside of the banking system under Section 24.1.a of Circular No. 1389, as amended:

Provided, That all applicable banking rules and regulations are complied with including single borrower's limit as provided in Sec. X303;

(8) Loans and receivables arising from repo agreements, certificates of assignment/participation with recourse, and securities lending and borrowing transactions, maturing within one (1) year;

(9) Foreign currency accrued interest income from financial assets;

(10) Accounts receivable arising from sale of financial assets under the trade date accounting pending actual settlement/delivery of the underlying securities; (Accounts payable arising from the purchase of financial assets under the trade date accounting pending actual settlement/receipt of the underlying securities shall require corresponding asset/liquid asset cover);

(11) Loans to RBU [net of transactions outstanding for more than one (1) year]: *Provided*, That the conditions under Item "(c)" of Subsec. X501.3 are complied with;

(12) Receivable from the RBU book arising from the exercise of warrants paired with ROP Global Bond Holdings in the FCDU/EFCDU book: *Provided*, That it shall be settled by the RBU book to the FCDU/EFCDU book within six (6) months from the date of receipt of the Exchange Securities; and

(13) Such other assets as may be determined by the Monetary Board as eligible asset cover.

b. For banks authorized to operate an EFCDU - The foregoing accounts, regardless

of maturity, and in the case of investment in foreign currency denominated debt instruments (including debt instruments booked under Unquoted Debt Securities Classified as Loans and investments in structured products), regardless of maturity and marketability, shall all be considered as eligible asset cover. Loans to resident private and public sector borrowers which under Section 24.4 of Circular No. 1389, as amended, require no prior BSP approval and allowed to be serviced using foreign exchange purchased from the banking system (i.e., loans to commodity and service exporters, indirect exporters, producers/manufacturers, including oil companies and public utility concerns) shall however have short-term maturity.

In addition, the following shall also be considered as eligible asset cover:

(1) Loans and receivables granted by EFCDU pursuant to Section 24 of Circular No. 1389 dated 13 April 1993, as amended, i.e., those loans of non-residents from EFCDUs, to be serviced using foreign exchange purchased from outside the banking system under Section 24.1.b of Circular No. 1389, as amended: *Provided*, That all applicable banking rules and regulations are complied with including single borrower's limit as provided in Sec. X303;

(2) Outstanding export bills purchased in the EFCDU books, booked under the following control accounts:

(a) Interbank loans receivable - if without recourse; and

(b) Loans and receivables – others - if with recourse.

For this purpose, *net carrying amount* shall refer to the gross amount of financial asset, plus or minus, as the case may be, the following: (i) unamortized premium/ (discount) determined using the effective interest method; (ii) any accumulated market gains/(losses) in the case of ASS financial assets; and (iii) any allowance for credit losses determined based on existing regulations.

c. Further, at least thirty percent (30%) of the cover requirement for foreign currency liabilities in the FCDU/EFCDU shall be in the form of liquid assets as follows:

- (1) Foreign currency cash on hand;
- (2) Foreign currency checks and other cash items;
- (3) Due from BSP – Foreign currency with remaining maturity of one (1) year or less regardless of funding: *Provided*, That such deposit/placement is not encumbered or is not being utilized for any other purposes;
- (4) Due from other banks (other FCDUs/EFCDUs, OBUs and non-resident banks);
- (5) Investments in readily marketable foreign currency denominated debt instruments, booked under the following control accounts:
 - (a) HFT;
 - (b) DFVPL;
 - (c) ASS; and
 - (d) HTM;

except for the following:

- (a) those which are sold/lent in repo agreements/securities lending and borrowing transactions and those used as additional collateral in repo agreements or as collateral by borrowing bank in securities lending and borrowing transactions; and
- (b) those investments in structured products;
- (6) Loans and receivables authorized by the BSP booked under the following:
 - (a) Loans to BSP maturing within one (1) year;
 - (b) Interbank loans receivable maturing within one (1) year;
 - (c) Loans and receivables – Others that is any of the following:
 - (i) Outstanding export bills purchased in the EFCDU books; and
 - (ii) Short-term EFCDU loans to exporters in the form of export packing credits, whether rediscounted or not under

BSP's Export Dollar Facility, up to the extent guaranteed by TIDCORP or SBGFC: *Provided*, That these credits are not overdue;

(7) Loans and receivables arising from repo agreements, certificates of assignment/participation with recourse and securities lending and borrowing transactions, maturing within one (1) year;

(8) Accounts receivable arising from sale of financial assets under the trade date accounting pending actual settlement/delivery of the underlying securities pertaining to readily marketable foreign currency denominated debt instruments; and

(9) Receivable from the RBU book arising from the exercise of warrants paired with ROP Global Bond Holdings in the FCDU/EFCDU book: *Provided*, That it shall be settled by the RBU book to the FCDU/EFCDU book within six (6) months from the date of receipt of the Exchange Securities.

The 100% asset cover and thirty percent (30%) to be held in the form of liquid assets enumerated above, shall be unencumbered, except as otherwise provided in second paragraph of Item "a(6)" hereof.

d. The Due from Other Banks - Non-Resident (DFOB-Non-Resident) account representing cover for foreign currency liabilities of FCDU/EFCDU shall be kept separate and distinct from the DFOB - Non-Resident account for the RBU.

(As amended by Circular Nos. 627 dated 23 October 2008, 602 dated 13 February 2008, 601 dated 13 February 2008, 575 dated 17 July 2007 and 559 dated 26 January 2007)

§ X501.5 Foreign currency deposit with the Bangko Sentral. Foreign currency deposit with the BSP equivalent to at least fifteen percent (15%) as a form of foreign currency cover referred to in Section 4 of R.A. No. 6426, as amended, shall be optional on FCDUs of KBs/UBs and TBs. The BSP may pay interest on the foreign currency deposit and if requested, shall exchange the foreign currency notes and

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coins into foreign currency instruments drawn on its depository banks.

§ X501.6 Currency composition of the cover. FCDUs of TBs shall maintain the foreign currency cover in the same currency as that of the corresponding foreign currency deposit liability.

FCDUs/EFCDUs of KBs/UBs shall maintain not less than seventy percent (70%) of the foreign currency cover in the same currency as that of the liability and thirty percent (30%) or less, at the option of the FCDU/EFCDU, may be denominated in other acceptable foreign currencies.

§ X501.7 Secrecy of deposits. All foreign currency deposits are absolutely confidential. Except upon the written permission of the depositor, in no instance shall such foreign currency deposits be examined, inquired or looked into by any person, government official, bureau or office, whether judicial, administrative or legislative, or any other entity, whether public or private.

§ X501.8 Numbered accounts. FCDUs/EFCDUs may adopt a numbered account system.

§ X501.9 Withdrawability and transferability of deposits. There shall be no restrictions on the withdrawal by the depositor of his deposit or on the transfer of the same abroad, except those arising from the contract between the depositor and the bank.

§ X501.10 Insurance coverage Foreign currency deposits shall be insured under the provisions of R.A. No. 3591, as amended. Depositors are entitled to receive payment in the same currency in which the insured deposits are denominated.

§ X501.11 Rates of interest. Foreign currency deposits shall not be subject to interest ceilings.

§ X501.12 Eligibility as collateral Deposits under the Foreign Currency Deposit System are eligible as collateral for peso loans or for foreign currency loans to residents and non-residents.

§ X501.13 Taxes. All foreign currency deposits, including interest and all other income or earnings of such deposits, are exempt from any and all taxes whatsoever, irrespective of whether or not these deposits are made by residents or non-residents, so long as the deposits are eligible or allowed under these rules, and in the case of non-residents, irrespective of whether or not they are engaged in trade or business in the Philippines.

§ X501.14 Exemption from court order or process. Foreign currency deposits shall be exempt from attachment, garnishment or any other order or process of any court, legislative body, government agency or any administrative body whatsoever.

§ X501.15 Inapplicability of the Usury Law. The provisions of R.A. No. 2655, as amended (Usury Law), shall not apply to banks in respect to their foreign currency transactions under this Section.

§ X501.16 Accounting. The foreign currency deposits and their corresponding cover shall be considered as funds separate and distinct from the regular assets and liabilities of the authorized banks. Authorized banks shall maintain a separate accounting for transactions covered by these rules that will enable preparation of the Balance Sheet and Profit and Loss Statement covering said funds.

For purposes of preparing the FCDU/EFCDU financial statements, the bank shall use the US dollar (USD) as its

functional currency. However, for purposes of consolidating the FCDU/EFCDU financial statements with the RBU financial statements, these shall be translated into the presentation currency, i.e., Philippine Peso (Php).

(As amended by Circular No. 601 dated 13 February 2008)

§ X501.17 Supervision. The Governor and the head of the appropriate department of the BSP, personally or by deputies, are authorized to verify the books of account and transactions of each authorized bank, to verify the eligible cover, as well as review all other requirements under these regulations and the bank’s compliance with the provisions of law and these regulations.

§ X501.18 Sanctions

a. Any willful violation of R.A. No. 6426, as amended, or any regulation duly promulgated by the Monetary Board pursuant thereto, shall subject the offender upon conviction to an imprisonment of not less than one (1) year nor more than five (5) years or a fine of not less than P5,000 nor more than P25,000 or both such fine and imprisonment, at the discretion of the court.

The BSP may revoke or suspend the authority of a bank to accept new foreign currency deposits for violation of R.A. No. 6426, as amended, or these regulations, or if such bank ceases to possess the minimum qualifications required.

b. Violation on the monthly reportorial requirement required under Subsec. X501.3c shall be subject to:

(1) Maximum monetary penalty of P30,000 per day (reckoned from due date until date corrected) for any false/erroneous certification issued, without prejudice to the imposition, on the erring bank and/or the concerned bank officers, of the penal sanctions provided under Sections 35 and 36 of R.A. No. 7653.

(2) Monetary penalty of P1,200 per day for delayed and/or incomplete certifications.

c. Any deficiency in the 100% FCDU/EFCDU cover and/or thirty percent (30%) liquid asset cover that may be incurred due to violation of the conditions in Subsec. X501.3c shall be subject to the imposition of a monetary penalty of one-tenth of one percent (1/10 of 1%) of the deficiency, converted to its peso equivalent at the exchange rate prevailing on the date the deficiency was incurred but not to exceed P30,000 per deficiency, per day.

Sec. X502 Other Transactions in Foreign Currency. All categories of banks duly licensed by the BSP (including RBs/Coop Banks) are considered authorized agent banks (AABs) and therefore, can, subject to compliance with the provisions of Circular No. 1389 dated 13 April 1993, as amended, buy and sell foreign exchange (FX) from the public even without an FCDU license and prior BSP approval. They are likewise required to comply with the requirements under Sec. X801, particularly on the “Know Your Customer” (KYC) rules, record keeping and reporting of covered and suspicious transactions.

The operation of mobile foreign currency booths and off-site automatic multi-currency money changers (OAMMC) shall be governed by this Section.

(As amended by Circular No. 522 dated 22 March 2006)

§ X502.1 Mobile foreign exchange booths. Without prior authority from the BSP, banks may operate mobile foreign currency booths, subject to the following guidelines:

a. The bank shall advise the BSP of the number of mobile foreign currency booths it will operate, the date it will start operations, the areas of operation and the branch where the foreign exchange acquisition will be turned over and booked;

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- b. The services of the mobile foreign currency booths shall be solely for changing foreign exchange currency into peso notes and coins, and not pesos to other foreign currency;
- c. The mobile foreign currency booths shall not accept deposit or perform other banking functions other than purchase of foreign currencies;
- d. The internal control system of the proposed mobile foreign currency booths shall be submitted to the appropriate department of the SES, as well as other security measures adopted therein; and
- e. The mobile foreign currency booths shall be covered by insurance to protect adequately the bank against losses of whatever nature arising from its operations.

§ X502.2 Off-site automatic multi-currency money changers. With prior approval of the BSP, banks which have shown general compliance with banking laws, rules and regulations may install an OAMMC, subject to the following conditions:

- a. The OAMMC shall be installed only in centers of activities like shopping centers, supermarkets, hotels and airports: *Provided*, That the site is within the area where the applicant bank has a regular branch to service the money changers;
- b. The applicant bank shall maintain adequate internal control and security measures, which shall include immediate rejection and detection of fake currencies by the machines;
- c. The transactions of the money changers shall be booked in specific branches which must be identified at the time of application for the putting up of an OAMMC; and
- d. The services of the OAMMC shall be solely for changing foreign exchange currency into peso notes and coins, and not pesos to other foreign currencies.

Sec. X503 Recognition of Positions Arising from Banks’ Foreign Currency Options in the Computation of Net Open FX Position

The following are the guidelines for the recognition of positions arising from banks’ foreign currency options in the computation of the net open FX position:

- a. *Scope.* For purposes of complying with Circular No. 1327 dated 30 January 1992, as amended, UBs and KBs with expanded derivatives authority shall include the net delta weighted positions of foreign currency options in their computation of the net FX position. UBs and KBs without expanded derivatives authority shall include the notional amounts of purchased options that are in or at the money and exclude those that are out of the money in their computation of the net FX position.
- b. *Reporting.* The USD equivalent of the positions arising from foreign currency options shall be reported as a manual adjustment to the net FX position amount reported in the bank’s Consolidated Foreign Exchange Position Report (CFXPR). For banks with expanded derivatives authority, the USD equivalent of the foreign currency options position is equal to the sum of long delta-weighted positions minus the sum of short delta-weighted positions arising from FX options contracts. The breakdown of the options positions by currency and a listing of outstanding contracts shall be annexed to the CFXPR.

Secs. X504 – X530 (Reserved)

Sec. X531 Securities Lending. Banks with EFCDU/FCDU license may engage in securities lending activities as lender subject to the following conditions:

- a. The securities to be lent shall be limited to securities lodged under the account “*Trading Account Securities (TAS) - Investments*” (for UBs and KBs only) and “*ASS - Foreign*”.

The use of IBODI holdings shall also be allowed in securities lending, subject to the following conditions:

(1) The lending bank had the positive intention and ability to maintain or recover control of the same or substantially similar securities as those lent.

(2) The counterparty’s failure to redeliver the securities lent at maturity or at the date agreed upon could not have been reasonably anticipated by the lender at the time of the transaction.

(3) In case of failure or default of the counterparty to redeliver the securities lent, the same shall be immediately replaced by identical or substantially similar securities. For this purpose, a replacement security may only be considered substantially similar to the securities lent if all of the following circumstances are present:

(a) the security must have the same primary obligor and must have the same guarantor under the same terms and conditions, if guaranteed;

(b) the security must be identical in form and type so as to give the same risks and rights to the holder; and

(c) the debt instrument must have the same maturity and interest rate.

Sanctions. Without prejudice to the criminal and administrative sanctions provided for under Sections 36 and 37, respectively, of R. A. No. 7653, violation of any provision of Item “a” of this Section shall be a ground for considering all IBODI of the concerned entity as TAS subject to mark-to-market requirements and shall disqualify said entity from carrying in its books the account “*Investment in Bonds and Other Debt Instruments*” for a period of two (2) years reckoned from the date the violation was committed or discovered, whichever comes later.

b. The lending activity shall have prior approval of the bank’s board of directors and shall be governed by adequate written

policies and procedures duly approved by the board of directors;

c. The securities lending shall be done through reputable internationally - recognized and experienced third-party lending agent/intermediary which must be a regulated entity in its country of operation;

d. The securities lending transaction shall be subject to a written legal agreement between the lending bank and the lending agent which must clearly specify the -

(1) relationship as well as the respective duties and responsibilities of each counterparty;

(2) obligation of the borrower to redeliver a like quantity of the same issue or series as the loaned securities;

(3) guidelines for selecting investments for cash collateral, which shall include a provision that cash collateral will not be reinvested in liabilities of the lender, its subsidiaries or affiliates; and

(4) lending fee or compensation;

e. The loaned securities must be fully secured by debt securities of countries or entities with highest credit quality, cash in currencies acceptable as part of international reserves, letters of credit and certificates of deposits issued by banks with highest credit quality. For this purpose, a foreign country and a bank with highest credit quality refer to a foreign country and a bank given the highest credit rating by any two (2) of the following internationally accepted rating agencies:

<u>Rating Agencies</u>	<u>Highest Rating</u>
• Moody’s	“Aa3”
• Standard and Poors’s	“AA”
• Fitch IBCA	“AA”
• Others as may be approved by the Monetary Board	

Collateral value shall initially be at least 102% of the current market value of the loaned securities and maintained at 100% of the value of the loaned securities plus

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accrued interest thereon during the course of the loan;

f. The lender shall do daily mark-to-market on the loaned securities and on the securities where cash collateral is invested/reinvested;

g. The lender shall require from the lending agent/intermediary timely and comprehensive reports on the lending activity;

h. For proper identification and monitoring, the outstanding book balance on the loaned securities shall be reclassified to "Government Securities Lent under Securities Lending Agreements";

i. The bank has in place a risk management system commensurate to the nature, volume and complexity of its operations and characterized by clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system: *Provided*, That this requirement shall be automatically considered complied with by banks with derivatives license;

j. The bank's CAMELS composite rating in the last BSP regular examination is at least "3", with a minimum score of "3" on management; and

k. The foreign currency-denominated debt securities lent or used as collateral by the borrowing bank in securities lending and borrowing transactions shall be considered as eligible asset cover for the 100% cover requirement. However, these shall not be eligible for the thirty percent (30%) liquid asset cover.

(As amended by Circular No. 601 dated 13 February 2008)

Sec. X532 Repurchase Agreements Involving Foreign Currency-Denominated Government Securities. Banks may engage in repo agreements involving foreign

currency-denominated government securities, subject to the following conditions:

a. Such repo agreements shall be limited to:

(1) Trading Account Securities (TAS) held under the FCDU/EFCDU books. The government securities subject of repo agreements are to be booked under the account "Government Securities Sold under Repo Agreements-FCDU/EFCDU".

(2) IBODI holdings, subject to the following conditions:

(a) The selling bank had the positive intention and ability to maintain or recover control of the same or substantially similar securities as those sold.

(b) The counterparty's failure to redeliver the securities sold at maturity or at the date agreed upon could not have been reasonably anticipated by the seller at the time of the transaction.

(c) In case of failure or default of the counterparty to redeliver the securities sold, the same shall be immediately replaced by identical or substantially similar securities. For this purpose, a replacement security may only be considered substantially similar to the securities sold if all of the following circumstances are present:

(i) the security must have the same primary obligor and must have the same guarantor under the same terms and conditions, if guaranteed;

(ii) the security must be identical in form and type so as to give the same risks and rights to the holder; and

(iii) the debt instrument must have the same maturity and interest rate.

The provisions/requirements under Sec. X531 which are not inconsistent with the foregoing shall be strictly observed by the bank concerned.

(3) ASS held under the FCDU/EFCDU books. HFT and ASS under the RBU of UBs and KBs are also allowed to be used in repo agreements.

(4) Securities booked as HFT and ASS Debt Securities under the RBU of UBs and KBs are also allowed to be used in repo agreements.

Sanctions. Without prejudice to the criminal and administrative sanctions provided for under Sections 36 and 37, respectively, of R.A. No. 7653, violation of any provision of Item “a(2)” of this Section shall be a ground for considering all IBODI of the concerned entity as TAS subject to mark-to-market requirements and shall disqualify said entity from carrying in its books the account “*Investment in Bonds and Other Debt Instruments*” for a period of two (2) years reckoned from the date the violation was committed or discovered, whichever comes later.

b. The borrowings shall only be from FCDUs/EFCDUs, non-resident FIs and OBUs;

c. For TBs which are granted a certificate of authority to operate an FCDU, the maximum term of the repo agreements shall be one (1) year;

d. The borrowings shall be booked under “*Bills Payable*” and included in the computation of the total FCDU/EFCDU liabilities subject to the mandatory 100% asset cover and thirty percent (30%) liquid asset cover;

e. The foreign currency-denominated debt securities sold or used as additional collateral in repo agreements shall be considered as eligible asset cover for the 100% cover requirement. However, these shall not be eligible for the thirty percent (30%) liquid asset cover;

f. Banks shall, at all times, comply with the 100% FCDU/EFCDU asset cover and thirty percent (30%) liquid asset cover; and

g. Banks shall monitor and assess the risks inherent in these repo transactions.

(As amended by Circular No. 601 dated 13 February 2008)

Secs. X533 – X563 (Reserved)

Sec. X564 Transfer of Undivided Profits/(Losses) from Foreign Currency Deposit Unit/Expanded Foreign Currency Deposit Unit to Regular Banking Unit Books. The transfer of *Undivided Profits/(Losses) – FCDU/EFCDU* to the *Retained Earnings – Free* (and in the case of Philippine branches of foreign banks, *Net Due to H. O./ Branches/Agencies Abroad*) account in the RBU book shall refer to realized FCDU/EFCDU profits/(losses) only and shall exclude the following:

1. Unrealized Gains/(Losses) from Marking to Market of Financial Assets and Liabilities HFT;

2. Unrealized Gains/(Losses) from Marking to Market of Financial Assets and Liabilities DFVPL;

3. Foreign Exchange Profit/(Loss);

4. Unrealized Gains/(Losses) from Remeasurement of Hedging Instruments; and

5. Unrealized Gains/(Losses) from Remeasurement of Hedged Items

(collectively referred to as Net Unrealized Gains/(Losses) from Operations in this Section): *Provided*, That prior to the transfer of realized Undivided Profits/(Losses) - FCDU/EFCDU to the Retained Earnings - Free in the RBU book, the FCDU/EFCDU shall fully provide for its classified accounts.

a. The transfer of realized FCDU/EFCDU profits to the RBU book shall be made initially by a debit to Undivided Profits/(Losses) – FCDU/EFCDU and a credit to Retained Earnings – Free - FCDU/EFCDU at the end of the calendar year or fiscal year adopted by the bank, and subsequently by a corresponding transfer of eligible foreign currency assets from the FCDU/EFCDU to the RBU books within a period of one month from the end of the calendar year or fiscal year adopted by the bank. The foreign currency assets shall be in the form of:

(1) Due from BSP – Foreign Currency;

(2) Due from other banks (other FCDUs/EFCDUs, OBUs and non-resident banks);

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(3) Investments in readily marketable foreign currency denominated debt instruments, except for the following:

(a) those which are sold/lent in repo agreements/securities lending and borrowing transactions and those used as additional collateral in repo agreements or as collateral of the borrowing bank in securities lending and borrowing transactions;

(b) those investments in structured products; and

(c) those Philippine debt papers which were restructured during the period of moratorium in the payment of external debt. *Provided*, That these shall likewise be booked under the same category in the RBU book as they were before the transfer from FCDU/EFCDU.

The transfer of the abovementioned eligible foreign currency assets representing realized FCDU/EFCDU profits to RBU book shall be made by a debit to Retained Earnings – Free - FCDU/EFCDU.

b. The transfer of realized FCDU/EFCDU losses to the RBU book shall be made immediately and shall be accompanied by a corresponding transfer of the abovementioned eligible foreign currency assets from the RBU book to the FCDU/EFCDU: *Provided*, That investments in readily marketable foreign currency denominated debt instruments shall likewise be booked under the same category in the FCDU/EFCDU as they were before the transfer from RBU book.

The transfer of the abovementioned eligible foreign currency assets representing realized FCDU/EFCDU losses during the interim period from the RBU book shall be made by a credit to Due to RBU – FCDU/EFCDU Realized Losses from Operations, which account shall not be subject to asset and liquid asset cover requirements, and which account shall be credited to the Undivided Profits/(Losses) – FCDU/EFCDU

at the end of the calendar year or fiscal year adopted by the bank.

The amount of eligible foreign currency assets to be transferred from the RBU book to the FCDU/EFCDU shall be that which will bring the balance of Due to RBU - FCDU/EFCDU Realized Losses from Operations, equal to the cumulative net realized losses incurred from the beginning of the calendar year or fiscal year adopted by the bank.

Whenever the balance of Due to RBU - FCDU/EFCDU Realized Losses from Operations exceeds the cumulative net realized losses incurred from the beginning of the calendar year or fiscal year adopted by the bank, the excess shall be settled by the FCDU/EFCDU to the RBU by a credit to the abovementioned eligible foreign currency assets at the end of the reference month.

c. The items comprising the Net Unrealized Gains/(Losses) from Operations in the FCDU/EFCDU, on the other hand, shall be credited/debited to Undivided Profits/(Losses) - FCDU/EFCDU at the end of each month, which account shall be credited/debited to Retained Earnings - Free - FCDU/EFCDU at the end of the calendar year or fiscal year adopted by the bank.

Whenever the total of the following FCDU/EFCDU book accounts:

(1) Retained Earnings - Free - FCDU/EFCDU, representing cumulative unrealized gains/(losses) from operations from prior years;

(2) Items comprising the Net Unrealized Gains/(Losses) from Operations credited/debited to Undivided Profits/(Losses), as well as those not yet credited/debited to Undivided Profits/(Losses);

(3) Net Unrealized Gains/(Losses) on ASS Financial Assets recognized directly in equity; and

(4) Gains/(Losses) on Fair Value Adjustments of Hedging Instruments recognized directly in equity;

results to a net debit balance, the bank shall transfer from the RBU book to the FCDU/EFCDU immediately the abovementioned eligible foreign currency assets by a credit to the Due to RBU - FCDU/EFCDU Unrealized Losses Recognized in Profit or Loss and in Equity, which account shall not be subject to asset and liquid asset cover requirements.¹

The amount of eligible foreign currency assets to be transferred from the RBU book to the FCDU/EFCDU shall be that which will bring the balance of Due to RBU - FCDU/EFCDU Unrealized Losses Recognized in Profit or Loss and in Equity equal to the net debit balance of the immediately preceding Items "1" to "4" above.

Whenever the Due to RBU - FCDU/EFCDU Unrealized Losses Recognized in Profit and Loss and in Equity exceeds the net debit balance of the immediately preceding Items "1" to "4" above, the excess shall be settled by the FCDU/EFCDU to the RBU book by a credit to the abovementioned eligible foreign currency assets at the end of the reference month.

The illustrative accounting entries are shown in *Appendix 85*.

(Circular No. 601 dated 13 February 2008 as amended by Circular No. 629 dated 31 October 2008)

Sec. X565 Conversion to Peso Loans/Real and other Properties Acquired and Transfer to Regular Banking Unit of Foreign Currency Deposit Unit/Expanded Foreign Currency Deposit Unit Loans/Real and other Properties Acquired. The following are the policy guidelines on the conversion and transfer of foreign currency-denominated loans, and ROPA in the books of the FCDU/EFCDU to peso loans and ROPA in the books of the RBU:

a. FCDU/EFCDU loans may be transferred to the RBU without prior BSP approval, subject to the following conditions:

(1) the FCDU/EFCDU loan to be transferred must meet the following criteria: (a) current and performing; and (b) eligible to be serviced by the banking system: *Provided*, That a past due FCDU/EFCDU loan may be transferred to the RBU if it meets the following criteria: (a) eligible to be serviced by the banking system; (b) fully secured by real estate mortgage; (c) foreclosure of the collateral shall be effected within six (6) months from the date of transfer to the RBU if the loan remains to be past due; and (d) they are not eligible to be serviced by the banking system but loan is already outstanding as of 27 October 2000: *Provided, further*, That a past due partially secured or unsecured FCDU/EFCDU loan shall only be eligible for conversion/transfer to RBU if part of a multi-creditor rehabilitation or work-out plan acceptable to all creditors where the said plan requires the conversion of FCDU/EFCDU loans to peso;

(2) there shall be actual settlement in foreign currency, simultaneous with the transfer, by the RBU to the FCDU/EFCDU of the total amount of foreign currency-denominated loans being transferred to the RBU using the prevailing foreign exchange/conversion rate at the time of transfer;

(3) the transfer and conversion of foreign currency-denominated loans from the FCDU/EFCDU books to the RBU books including the prevailing foreign exchange/conversion rate to be used shall have the prior approval of the bank's board of directors, or the Country Head, in case of branches of foreign banks, and the prior written consent of the borrower whose account will be transferred/converted, except for loans covered by credit/loan agreement allowing the bank to unilaterally convert and transfer the FCDU/EFCDU loan in which case the prior written consent requirement may be dispensed with;

(4) the converted/transferred FCDU/EFCDU loans are properly documented/

¹ From 31 October 2008 to 31 March 2009, banks may add back the resulting net debit balance in the total of Item Nos. "1" to "4" above to total assets in the FCDU/EFCDU book for purposes of determining compliance with the 100% asset cover requirement instead of transferring eligible foreign currency assets from the RBU book to FCDU/EFCDU book.

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covered by a written agreement/contract: *Provided*, That if the original loan agreement allows the bank to unilaterally convert/transfer the FCDU/EFCDU loan to peso, the said loan agreement should indicate the general terms and conditions of the converted/ transferred peso loan: *Provided, further*, That upon conversion/transfer, the borrower must be informed in writing of the peso loan’s new terms and conditions: *Provided, finally*, That once converted/ transferred to a peso loan, the same loan should not be converted back to an FCDU/ EFCDU loan;

(5) no income shall be recognized by the FCDU/EFCDU or RBU on the transfer of FCDU/EFCDU loans to RBU;

(6) the status of the FCDU/EFCDU loan prior to the transfer, i.e., current or past due, performing or non-performing, and the loan classification, i.e., especially mentioned, substandard, doubtful or loss, shall be retained once the loan is transferred to the RBU books, which transfer shall also include the corresponding booked allowance for probable losses;

b. FCDU/EFCDU ROPAs may also be transferred to the RBU without prior BSP approval, subject to Items “(2)” to “(6)” above;

c. Conversions and transfers of FCDU/EFCDU loans and ROPA to RBU books that do not meet the above guidelines shall be subject to prior Monetary Board approval; and

d. All foreign currency-denominated loans and ROPA in the FCDU/EFCDU converted to peso and transferred to the books of the RBU shall be reported monthly to the appropriate department of the SES within ten (10) banking days from end of reference month. The report, classified as *Category B*, shall include name of borrower, date transferred/ converted, outstanding balance in foreign currency in the FCDU/EFCDU, peso amount booked in the RBU, prevailing foreign exchange rate used, status and classification on date of transfer, collateral (if any) and date approved by bank’s board/Country Head. A report is not required if no transfers were effected during the month.

The prescribed accounting entries on the conversion and transfer of FCDU/ EFCDU loans and ROPA to RBU books are shown in *Appendix 59*.

Secs. X566 – X598 (Reserved)

Sec. X599 General Provision on Sanctions Any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R.A. No. 7653 on banks, their directors and/or officers are shown in *Appendix 67*.

PART SIX

TREASURY AND MONEY MARKET OPERATIONS

A. OTHER OPERATIONS

Section X601 Open Market Operations

The following rules and regulations shall govern the buying and selling of government securities in the open market, pursuant to Section 91 of R.A. No. 7653.

a. The BSP may buy and sell in the open market for its own account:

(1) Evidences of indebtedness issued directly by the Government of the Philippines or its political subdivisions; and

(2) Evidences of indebtedness issued by government instrumentalities and fully guaranteed by the Government.

The above evidences of indebtedness must be freely negotiable and regularly serviced. Purchases and sales in the open market shall be made through banks, QBs and accredited government securities dealers.

b. Outright purchases and sales of government securities shall be effected at prevailing market prices.

c. Repo agreements shall be open to banks (except RBs), QBs, and accredited government securities dealers and shall be made under the terms provided for in Subsec. X601.1 and the following:

(1) The repo agreement may be paid at any time before maturity, subject to mutual agreement of both parties;

(2) In the event the securities covered by the repo agreement are not repurchased by the issuer of such agreement, the same may be sold in the open market or transferred to the BSP portfolio; and

(3) Should an issuer of a repo agreement become no longer qualified as such, its outstanding repo agreement shall immediately become due and payable. If settlement of the amount due is not made within three (3) days from the date of its

disqualification, the BSP shall proceed to collect said amount in accordance with the preceding paragraph.

d. Reverse repo agreements covering the sale of portion of the security holdings of the BSP portfolio may be made under the terms provided for in Subsec. X601.2.

e. The purchase and sale of government securities by the National Treasury and government-owned or controlled corporations shall be made only with (a) the BSP; (b) the DBP, the LBP, the SSS, the GSIS, the Al-Amanah Islamic Investment Bank of the Philippines and banks that are wholly-owned or controlled by these institutions; and (c) the Philippine Veterans Bank. Transactions shall be done with the bank proper and not through its trust department.

§ X601.1 Repurchase agreements with Bangko Sentral

a. Repo agreements may be effected with the BSP subject to the following terms and conditions:

(1) *Rate.* The rates on the repo agreement facility shall be set by the Treasury Department, with the concurrence of the Governor, taking into account prevailing liquidity/market conditions.

(2) *Term.* At the option of the Treasury Department, availments may be for a minimum of one (1) day (overnight) and a maximum of ninety-one (91) days.

(3) *Security.* Only obligations of the National Government and its instrumentalities and political subdivisions, which are fully guaranteed by the Government, with a remaining maturity of not more than ten (10) years and which are freely negotiable and regularly serviced, shall be eligible as underlying instruments

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for repo agreements subject to the collateral requirement prescribed by the BSP.

(4) *Delivery.* Delivery of the underlying instruments shall be made to the BSP at the prescribed time. For overnight repo agreements, delivery of the underlying instruments shall be made not later than 12:00 noon of the date of transaction.

Government securities which are held by the issuer of the repo agreement under the book-entry system with the BSP may be used as underlying instruments only with the conformity of the BSP.

(5) Upon termination of the repo agreement, the issuer of such agreement shall claim and take delivery of the underlying instruments at the Treasury Department, BSP. Failure to claim and take delivery of the underlying instruments immediately upon such termination shall relieve the BSP of any liability or responsibility for the loss or misplacement of said instruments.

b. US dollar (USD) denominated repo agreement facility may likewise be effected with the BSP, subject to the following terms and conditions, and as may be provided under the repo agreement facility:

(1) *Eligible borrowers.* The USD denominated repo agreement facility shall only be available to banks with legitimate foreign currency denominated funding needs as may be provided under the repo agreement facility: *Provided,* That the borrowing shall be for the account of the applicant bank and shall not be used to fund liquidity requirements of foreign branches, affiliates, or subsidiaries.

(2) *Collateral.* Only USD denominated obligations of the National Government of the Republic of the Philippines shall be eligible as collateral.

(3) The guidelines on the availment of USD denominated repo agreement with the BSP are shown in *Appendix 86*.

The Monetary Board may, at its discretion, impose any or all of the following

sanctions to a bank and/or its director/s or officer/s found to be responsible for violation of the provisions on the terms and conditions of the USD denominated repo agreement with the BSP:

(1) Termination of eligibility and pre-termination of any outstanding balance through repayment and/or sale of the collateral;

(2) Fine of up to P30,000 per transaction per day of violation reckoned from the time the violation was committed up to the date it is corrected;

(3) Suspension of interbank clearing privileges/immediate exclusion from clearing;

(4) Suspension of access to BSP rediscounting facilities;

(5) Suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;

(6) Revocation of authority to perform trust operations;

(7) Revocation of quasi-banking license;

(8) Suspension for 120 days without pay of the officers and/or directors responsible for the violation; and

(9) Other sanctions as may be provided by law.

(As amended by Circular Nos. 631 dated 12 November 2008, 627 dated 23 October 2008, M-2008-034 dated 12 November 2008 and M-2008-031 dated 23 October 2008)

§ X601.2 Reverse repurchase agreements with Bangko Sentral. Reverse repo agreements may be effected with the BSP subject to the following terms and conditions:

a. *Rate.* The rates shall be set by the Treasury Department, with the concurrence of the Governor, taking into account the prevailing liquidity/market conditions.

b. *Term.* At the option of the Treasury Department, availments may be for a minimum of one (1) day (overnight) and a maximum of 364 days.

c. *Security.* The collateral shall consist of obligations of the National Government and other freely negotiable securities in the BSP portfolio valued at 100%.

d. *Delivery.* No delivery of the collateral shall be made, but a custody receipt shall be issued instead.

e. *Reservation.* Prepayment may be made by the BSP at its option anytime before maturity.

Effective 01 July 2003, published interest rates that will be applied on BSP's reverse repo agreements with banks shall be inclusive of Value Added Tax (VAT).

Reverse repo agreements entered into by the BSP with any AAB are included in the definition of the term "deposit substitutes" under Sec. 22 (y) Chapter 1 of the National Internal Revenue Code of 1997.

The BSP shall withhold twenty percent (20%) Final Withholding Tax (FWT) on its overnight reverse repo agreements starting January 01, 2008, under the following guidelines:

Ⓐ All overnight reverse repo agreements with the BSP shall be subject to the twenty percent (20%) FWT in the same manner as term reverse repo agreements, which tax is deducted on each maturity date and remitted to the BIR;

Ⓑ The total twenty percent (20%) FWT on the overnight reverse repo agreements due starting 01 January 2008 until 08 September 2008 shall be divided equally in the remaining months of taxable year 2008. The installments due will be deducted every end of the month from the RDDA of concerned banks; and

Ⓒ Concerned banks shall issue the corresponding debit authority to the BSP to cover the twenty percent (20%) FWT on their overnight reverse repo agreements with the BSP mentioned in Item "2" above.

(As amended by Circular No. 619 dated 22 August 2008)

§ X601.3 *Settlement procedures on the purchase and sale of government securities under repurchase agreements with the Bangko Sentral.* Purchase and sale of government securities under repo agreements (GS/repo agreements) between and among banks and QBs and BSP in connection with the latter's open market operations shall be settled in accordance with the provisions of the agreement for the PhilPaSS executed on 12 December 2002 between the BSP and BAP/CTB/RBAP and any subsequent amendments thereto.

(As superseded by the agreement between the BSP and BAP/CTB/RBAP dated 12 December 2002)

§§ X601.4 - X601.5 (Reserved)

§ X601.6 *Bangko Sentral trading windows and services during public sector holidays.* The guidelines on BSP's trading windows and services during public sector holidays are shown in *Appendix 84*.

(M-2008-025 dated 13 August 2008)

Secs. X602 - X610 (Reserved)

B. FINANCIAL INSTRUMENTS

Sec. X611(2008 - X602) *Derivatives.* A bank may engage in authorized derivatives activities: *Provided,* That the bank:

a. Understands, measures, monitors and controls the risks assumed from its derivatives activities;

b. Adopts effective risk management practices whose sophistication are commensurate to the risks being monitored and controlled; and

c. Maintains capital commensurate with the risk exposures assumed.

Further, a bank may likewise engage in financial derivatives activities in accordance with these guidelines. The transacting bank shall have the responsibility to comply with the guidelines

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set out in this Section, including the relevant appendices, and other applicable laws, rules and regulations governing derivatives transaction. In case of derivatives instruments involving foreign currencies and/or other foreign currency - denominated assets, the transacting bank shall observe the pertinent FX rules and regulations. For purposes of these guidelines, a bank that transacts (i.e., transacting bank) whether as end-user, broker or dealer, in derivatives instruments is considered to be engaging in a derivatives activity.

Derivative is broadly defined as a financial instrument that primarily derives its value from the performance of an underlying variable. For purposes of these guidelines, a *financial derivative* is any financial instrument or contract with all of the following characteristics:

a. Its value changes in response to a change in a specified interest rate, financial instrument price, commodity price, FX rate, index of prices or rates, credit spread, credit rating or credit index or other variables not prohibited under existing laws, rules and regulations (the “underlying”);

b. It requires either no initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have a similar response to changes in market factors; and

c. It is settled at a future date.

Financial derivatives activities shall also include transactions in cash instruments with embedded derivatives that reshape the risk-return profile of the host instrument, such as credit-linked notes (“CLNs”) and other structured products (“SPs”).

A market participant may take any of the following roles in a derivatives transaction:

a. An *end-user* is defined as a financial market participant that enters, for its own

account, in a derivatives transaction for legitimate economic purposes. These purposes may include, but are not limited to, the following: hedging, proprietary trading, managing capital or funding costs, obtaining indirect exposures to desired market factors, investment, yield-enhancement, and/or altering the risk-reward profile of a particular item or an entire balance sheet.

An end-user may be classified according to its financial sophistication:

(1) *Market counterparty* - refers to any UB or KB, only with respect to the instruments for which it is authorized to engage in as a dealer.

(2) *Institutional counterparty* - refers to an institution which is not a market counterparty and has the level of net worth, knowledge, expertise, and experience to deal with financial derivatives.

(3) *Sophisticated individual end-user* - refers to an individual who has demonstrated to the bank as having the level of net worth, knowledge and experience in dealing with financial products, including financial derivatives. An individual may register as a sophisticated individual end-user with the Centralized Applications and Licensing Group of the BSP.

(4) *Other end-user* - This refers to all other institutional or individual clients not categorized as market counterparty, institutional counterparty or sophisticated individual end-user.

b. A *broker* is a financial market participant that facilitates a derivatives transaction between a dealer and its client, for a fee or commission. The counterparties to the derivatives contract are the client and an authorized dealer.

c. A *dealer* is defined as a financial market participant that engages in a derivatives activity as an originator of derivatives products or as market-maker in derivatives products. A dealer can distribute

its own derivatives products, including those of others. A dealer can also act as broker and/or end-user of derivatives instruments.
(As amended by Circular No. 594 dated 08 January 2008)

§ X611.1 (2008 - X602.1) Generally authorized derivatives activities. A bank may engage in the following derivatives activities without need of prior BSP approval: *Provided*, That it observes the provisions of *Appendix 25* and meets the following conditions:

a. UBs and KBs may transact in the following derivatives in the capacities specified:

(1) *As a dealer*. A UB or KB may originate and distribute the following “organized market”-traded financial derivatives:

(a) FX forwards, FX swaps, currency swaps and analogous financial futures with a tenor of three (3) years or less; and

(b) Interest rate swaps, forward rate agreements and analogous financial futures with a tenor of ten (10) years or less: *Provided*, That the issuance of sub-participation in any derivatives held as an end-user shall be deemed as undertaking the role of a dealer: *Provided, further*, That the dealer UB or KB observes the provisions of *Appendix 26* and other pertinent securities laws, rules and regulations.

For purposes of this Subsection, an *organized market* refers to an exchange or a BSP-recognized over-the-counter market governed by transparent and binding market conventions on price transparency, trade reporting, market surveillance and orderly conduct/operations of the market.

(2) *As end-user*¹.

(a) A UB or KB, including its trust department, may enter in any financial derivatives transaction for the purpose of

hedging its own risks: *Provided*, That it observes all the requirements for hedging transactions under PAS.

(b) A UB or KB may trade with counterparties in order to take positions for its own account in “organized market” - traded financial instruments enumerated under Item “1” above. It can also take long positions in naked FX options with a tenor of three (3) years or less.

(c) RBU and EFCDU of UBs and KBs, including its trust departments, may invest, for their own account, in the following SPs:

(i) Principal-protected foreign currency-denominated SPs, the revenue streams of which are linked to interest rate indices, interest rate instruments, listed equity shares or indices, FX rates, credit rating or index, or gold: *Provided*, That the maximum contractual maturity shall be five (5) years;

(ii) Plain vanilla single-name CLNs where the reference asset is an obligation issued or guaranteed by the Republic of the Philippines.

Provided, That the bank or trust entity shall comply with the following conditions:

(aa) Total carrying value of all investments in SPs shall not exceed 100% of the bank’s qualifying Tier 1 capital or fifty percent (50%) of a trust entity’s trust assets; and

(bb) For investments in SPs under the EFCDU, total carrying value of SPs as defined herein shall also not exceed twenty percent (20%) of the total FCDU assets: *Provided*, That SPs which are not booked in an investment account (e.g., booked as inter-bank loans), for this purpose, shall be considered as part of the EFCDU assets.

An SP is considered principal-protected if the minimum all-in return for such investment is at least zero and such minimum all-in return is guaranteed by an

¹ All transactions involving warrants issued under the ROP’s “Paired Warrants Program” shall be considered as among the generally authorized derivatives activities that banks (including TBs and RBs/Coop Banks) may engage in as end-user, without need for additional derivatives authority required under this Subsection: *Provided*, That banks holding such instruments shall comply with the requirements of *Appendix 25*, where applicable.

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entity (i.e., issuer or a third party) rated at least “A” or its equivalent by an international rating agency acceptable to the BSP or fully collateralized by an asset with equivalent credit quality.

(3) *As a broker.* A UB or KB may facilitate derivatives transactions between dealers and market and/or institutional counterparties and/or sophisticated individual end-users: *Provided*, That the UB/KB, acting as broker, ensures that its client fully understands its limited responsibility as a broker: *Provided further*, That the bank adheres to procedures for evaluating client suitability, including risk disclosures, as prescribed in *Appendix 26*: *Provided finally*, That the bank complies with other pertinent securities laws, rules and regulations.

b. TBs, RBs and Coop Banks may enter in derivatives transactions as end-user with BSP - authorized dealers and brokers solely for hedging purposes: *Provided*, That they observe all the requirements for hedging transactions under PAS¹. A TB, RB or Coop Bank may apply for a Type 3 authority to enter into derivatives transactions as end-user for purposes other than hedging: *Provided*, That the applicant bank agrees to be covered by all regulations prescribing capital for market risk, notwithstanding any provision to the contrary; and

c. A trust department of a UB or KB may transact, as an institutional counterparty, with financial derivatives instruments enumerated under Subsec. X611.1(a)(2) on behalf of its trustor/principal/s as may be authorized by such trustor/principal/s: *Provided*, That the trust department observes the relevant provisions of *Appendices 25* and *26*. Trust entities other than that within a UB or KB may apply for a Type 3 authority to enter on behalf of its trustor/principal/s in

derivatives transactions under Subsec. X611.1(a)(2). Any trust entity may also apply for Type 3 authority in order to transact as end-user on behalf of its trustor/principal/s with derivatives instrument outside those enumerated under Subsec. X611.1(a)(2).

(As amended by Circular Nos. 605 dated 05 March 2008 and 594 dated 08 January 2008)

§ X611.2(2008 - X602.2) **Activities requiring additional derivatives authority.** A bank shall apply for prior BSP approval of additional derivatives authority to engage in all other financial derivatives activities not expressly allowed in Subsec. X611.1. A bank may apply for two (2) or more additional authorities. A bank applying for additional derivatives authority/ies must have and maintain a risk management system commensurate to the additional authority/ies being applied for, in accordance with the provisions of *Appendix 25* and meet other conditions specified under this Subsection.

a. *Classification of additional derivatives authority*

(1) Type 1 - *Expanded dealer authority*

A UB or KB may apply for a Type 1 authority. A bank with Type 1 authority may transact in any financial derivatives as a dealer: *Provided*, That a bank with Type 1 authority shall comply with the sales and marketing guidelines prescribed in *Appendix 26*. A bank with Type 1 authority may likewise transact in any financial derivatives as a broker and an end-user.

The BSP expects banks applying for Type 1 authority to institutionalize a (a) comprehensive and integrated risk management system; and (b) sales and marketing practices that are deemed appropriate and adequate for the different derivatives activities it expects to engage

¹ All transactions involving warrants issued under the ROP’s “Paired Warrants Program” shall be considered as among the generally authorized derivatives activities that banks (including TBs and RBs/Coop Banks) may engage in as end-user, without need for additional derivatives authority required under this Subsection: *Provided*, That banks holding such instruments shall comply with the requirements of *Appendix 25*, where applicable.

in. It must be rated at least CAMELS (or ROCA for branches of foreign banks) of “4” or better over-all, notwithstanding any provision to the contrary.

(2) Type 2 - *Limited dealer authority*

A UB or KB may apply for a Type 2 authority. A bank with Type 2 authority may operate as a dealer in specific types of derivatives products with specific underlying reference, as applied for by the bank, outside those financial derivatives instruments under Subsec. X611.1(a)(1): *Provided*, That a bank with Type 2 authority shall comply with the sales and marketing guidelines prescribed in *Appendix 26*. The Type 2 authority also carries authority to transact as broker and end-user of the said specific derivatives instruments.

(3) Type 3 - *Limited user authority*

Any bank may apply for a Type 3 authority. A bank with Type 3 authority may transact, as an end-user, in specific types of derivatives products, with specific underlying reference, as applied for by the bank, outside of those instruments under Subsec. X611.1(a)(2). However, as regards a TB, RB or Coop Bank and trust entity other than that within a UB or KB, a Type 3 authority will enable said bank/entity to transact as end-user of a derivative instrument as may be applied for by the bank/entity.

(4) Type 4 - *Special broker authority*

A bank, other than a UB or KB, may apply for a Type 4 authority. A bank with Type 4 authority may facilitate a derivatives transaction between a UB or KB, as dealer, and market and institutional counterparties and sophisticated individual end-users: *Provided*, That the bank, acting as broker, ensures that its client fully understands its limited responsibility as a broker and observes the provisions of *Appendix 26*.

A UB or KB may likewise apply for a Type 4 authority to enable itself to broker a derivatives transaction for or with other end-users.

A bank with additional Type 1, 2 or 4 authorities shall be responsible for complying with pertinent securities laws, rules and regulations.

For purposes of this Subsection, the types of derivatives are classified as follows: forwards, swaps and options. Underlying reference pertains to the following: interest, FX, equity, credit and commodity.

b. *Qualification requirements*. A bank applying for additional authority to engage in expanded derivatives activities shall:

(1) Demonstrate adequate competence in its general operations as evidenced by:

(a) CAMELS (or ROCA for branches of foreign banks) composite rating of at least “3” with a similar rating for Management;

(b) No unresolved major safety and soundness issues that threaten liquidity or solvency; and

(c) Substantial compliance with regulations on anti-money laundering, corporate governance and risk management.

(2) Hold capital commensurate to the risks assumed or to be assumed from the derivatives activities. The BSP expects a bank applying for or holding additional derivatives authority to have adequate capital to accommodate existing and future risks from additional and generally authorized derivatives activities as well as risks arising from the bank’s other business activities. For this purpose, the BSP may require capital higher than the minimum required under prudential regulations.

(3) Have and maintain a risk management system that conforms to the principles and complies with the minimum standards prescribed in *Appendix 25*.

c. *Applicability to trust entities*. Trust entities may apply for Type 3 authority: *Provided*, That they comply with the requirements prescribed and observe the provisions of *Appendix 26*.

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d. *Application procedures.* The applicant shall submit to the Capital Markets Specialist Group, SES of the BSP a written application for additional derivatives authority/ies accompanied by:

- (1) A copy of the board resolution (or equivalent management review body in the case of branches of foreign banks or trust committee, in case of trust entities) approving the application for a specific type of derivatives authority;
- (2) A notarized certification signed jointly by the president, treasurer and compliance officer of the applicant-bank (or two (2) authorized signatories of equivalent rank of the trust committee in case of trust entities), stating that the bank complies with all the requirements for the authority being applied for specified in Subsec. X611.2; and
- (3) A list of the types of derivatives and underlying reference the bank intends to engage in, including the following information for each derivatives class or type:
 - (a) Target customers for such derivatives;
 - (b) The capacity in which the bank intends to engage in such derivatives;
 - (c) Description of each type of derivatives and underlying reference with which it will deal;
 - (d) Analysis of the risks involved in transacting in each type of derivatives;
 - (e) Procedures/methodologies that the bank will implement to measure, monitor (including risk management reports) and control the risks inherent in the types of derivatives;
 - (f) Relevant accounting guidelines, including pro-forma accounting entries;
 - (g) Analysis of any actual or potential legal/regulatory restrictions; and
 - (h) Process flow chart, from deal initiation to risk reporting, indicating the departments and personnel involved in identified processes.
- (4) Payment of a non-refundable processing fee amounting to:

Authority	Amount	
Type 1	P 200,000	(UBs and KBs)
Type 2	100,000	
Type 3	50,000	(other applicants)
	25,000	
Type 4	25,000	(all banks)

(5) The BSP will not accept applications lacking any of the above-stated requirements. The BSP, however, may require additional documents to aid its evaluation of the application. By virtue of the application, the applicant automatically authorizes the BSP to conduct an on-site evaluation of the applicant’s risk management capabilities, if this is deemed necessary.

(6) Type 1 authority shall be subject to approval by the Governor, upon recommendation of the Deputy Governor, SES. All other applications for additional authority/ies shall be subject to approval by the Deputy Governor, SES.

(7) A bank whose application for additional derivatives authority/ies or an upgrade thereof (e.g., from Type 2 to Type 1 authority) has been denied cannot submit a new application for additional derivatives authorities until after six (6) months from receipt of denial. The same rule applies for a bank whose authorities have been limited or downgraded.

(8) A bank that holds an additional derivatives authority may apply for additional derivatives authorities (e.g., currently holding Type 3 authority who wish to apply for Type 4 authority) or an upgrade thereof only after the lapse of six (6) months from the grant of the previous additional derivatives authority.

(As amended by Circular No. 594 dated 08 January 2008)

§ X611.3 (2008 - X602.3) Intra-group transactions. All derivatives transactions between a bank and any of its subsidiaries and affiliates shall comply with minimum risk management standards for related-

party transactions outlined in *Appendix 25*, as part of the bank's internal control procedures. The BSP expects banks to establish internal reporting and monitoring system for derivatives activities for related-party transactions. Failure to comply with minimum standards shall be a ground for citing non-compliance with Subsecs. X611.1 and X611.2 without prejudice to other BSP rules and regulations such as those related to corporate governance and unsafe and unsound banking practices.

(As amended by Circular No. 594 dated 08 January 2008)

§ X611.4 (2008 - X602.4) Accounting guidelines. A bank that engages in derivatives activities must strictly account for such transactions in accordance with PAS.

(As amended by Circular No. 594 dated 08 January 2008)

§ X611. 5 (2008 - X602.5) Reporting requirements. A bank or trust department/entity engaged in any derivatives transaction shall submit, in addition to the derivatives reports enumerated under the BSP FRP, a monthly report on derivatives transactions/outstanding derivatives within fifteen (15) banking days from end of the reference month. The reports shall be certified by the treasurer.

(As amended by Circular No. 594 dated 08 January 2008)

§ X611.6 (2008 - X602.6) Sanctions

a. *Unauthorized transactions.* Sanctions prescribed under Sections 36 and 37 of R.A. No. 7653 shall be imposed on any bank (including its directors and officers) found to have engaged in an unauthorized derivatives activity.

A bank undertaking unauthorized derivatives activities may be considered as conducting its business in an unsafe and unsound manner under Section 56 of R.A. No. 8791.

b. *Delayed/erroneous/inaccurate reporting.* Banks failing to submit the reports required under Subsec. X611.5 within the prescribed deadline shall be

subject to monetary penalties applicable for delayed reporting under existing regulations. Moreover, submission of incomplete, uncertified or improperly certified or otherwise erroneous reports shall be considered non-reporting, subject to applicable penalties for amended/delayed reports. For purposes of imposing monetary penalties, the reports shall be classified as a *Category A-1* report. Habitual delayed or erroneous reporting may be a ground for further sanction, including limitation of generally authorized activities and/or additional authorities and/or suspension of authority to engage in such derivatives activities.

c. *Non-compliance with the provisions of Sec. X611 and its Subsections and Appendices 25 and 26.* Any bank/trust entity found violating any of the provisions of Sec. X611 and its Subsections, and/or *Appendices 25* and/or *26* shall be sanctioned with the penalties prescribed under Sections 36 and 37 of R.A. No. 7653 in accordance with the gravity/seriousness of the offense taking into consideration the number of times the offense was committed, possible consequent losses on the clients, effect on the financial markets and other relevant factors.

d. *Curtailment of derivatives authority.* The BSP reserves the right to suspend, modify, downgrade, limit or revoke any bank's derivatives authority (including any or all of those generally authorized activities) for prudential reasons as may be evidenced by any or all of the following:

(1) The bank is assigned a CAMELS (or ROCA in the case of branches of foreign banks) composite rating or component management rating of lower than that prescribed under Subsec. X611.2, in the most recent regular examination.

(2) The bank has not maintained adequate risk management systems given the level and type of derivatives activities it has engaged in as may be determined

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by the BSP in any on-site evaluation and confirmed by the Monetary Board.

(3) The Monetary Board has confirmed an SES finding that the bank has conducted business in an unsafe and unsound manner.

An erring bank may apply for reinstatement of its derivatives authority only after six (6) months from lapse of the implementation of the sanction: *Provided*, That the bank has satisfactorily addressed all BSP concerns.

Transitory provisions. Expanded or any other derivatives authority granted prior to 30 January 2008 shall be operative for one (1) year from the said date: *Provided*, That a bank undertaking any derivatives activities pursuant thereto shall immediately comply with the pertinent provisions of *Appendices* 25 and 26. A bank which intends to continue its existing derivatives authority not covered by those generally authorized under Subsec. X611.1, must submit an application for the appropriate additional derivatives authority within the one (1) - year transitory period. After the lapse of the one (1) - year transitory period, a bank can only perform those activities which are permissible under Sec. X611 and its Subsections.

A bank whose SPs, as of 30 January 2008, exceed the prudential limits prescribed under Subsec. X611.1(a)(3) may maintain existing positions but cannot increase its exposures or invest in additional SPs until such time when its exposure levels are within the prescribed limits.

(As amended by Circular No. 594 dated 08 January 2008)

Secs. X612 - X624 (Reserved)

Sec. X625 (2008 - X602.14) Forward and Swap Transactions. The following guidelines shall govern the forward and swap transactions in Philippine peso

§ X625.1 (2008 - X602.14) Statement of policy. It is the policy of the BSP to support the deepening of the Philippine financial markets. In line with this policy,

customers may, thru FX forwards, hedge their market risks arising from FX obligations and/or exposures: *Provided*, That forward sale of FX (deliverable and non-deliverable) may only be used when the underlying transaction is eligible for servicing by the banking system under Circular No. 1389 dated 13 April 1993, as amended. Customers may, likewise, cover their funding requirements thru FX swaps.

Banks may only engage in FX forwards and swap transactions with customers if the latter is hedging market risk or covering funding requirements. There shall be no double/multiple hedging such that at any given point in time, the total notional amount of the FX derivatives transaction/s shall not exceed the amount of the underlying FX obligation/exposure.

The customer shall no longer be allowed to buy FX from the banking system for FX obligations/exposures that are fully covered by deliverable FX forwards and FX swaps.

The following guidelines, as well as minimum documentary requirements, shall cover FX forward and swap transactions involving the Philippine peso between authorized dealer banks and their customers.
(As amended by Circular No. 591 dated 27 December 2007)

§ X625.2 (2008 - X602.15) Definition of terms

a. *Credit default swaps* (CDS) - refers to a financial contract between two (2) parties, the protection buyer and protection seller, with reference to a certain notional value of a reference credit or a basket of reference credits, whereby the former pays a premium to the latter, and in return the latter agrees to make certain protection payments to the former contingent upon the occurrence of a credit event with respect to the reference entity(ies)/asset(s).

b. *Credit-linked note* (CLN) - refers to a pre-funded credit derivative instrument under which the note holder effectively accepts the transfer of credit risk pertaining

to a reference asset or basket of assets issued by a reference entity/ies. The repayment of the principal to the note holder is contingent upon the occurrence of a defined credit event. In consideration thereof, the note holder receives an economic return reflecting the underlying credit risk of the reference assets. For purposes of Sec. X611, the term shall generically include similar instruments such as credit-linked deposits (CLDs) and credit-linked loans (CLLs). Unless otherwise stated, the term shall refer only to plain vanilla CLNs. Plain vanilla CLNs are composed of a debt or deposit instrument and a CDS. Non-plain vanilla CLNs are those that are leveraged and/or include features of other SPs (e.g., coupon payments linked to interest or FX rate movements) and/or contains more than one (1) embedded derivative.

c. *Currency swaps* - refers to an arrangement in which two parties exchange a series of cash flows in one (1) currency for a series of cash flows in another currency, at specified exchange and/or interest rates and at agreed intervals over an agreed period.

d. *Forward FX contracts* - refers to an agreement for delayed delivery of a foreign currency in which the buyer agrees to purchase and the seller agrees to deliver at a specified future date a specified amount at a specified exchange rate.

e. *Forward rate agreement (FRA)* - refers to an agreement fixing the interest rates for a specified period whereby the buyer receives (or pays) and the seller pays (or receives) the interest rate differential if the reference rate rises above (or falls below) the contract rate, respectively.

f. *FX exposure* - refers to an FX risk arising from an existing commitment to or from a non-resident or AAB which leads to payment of an FX obligation or receipt of an FX asset based on verifiable documents on deal date.

g. *FX obligation* - refers to an actual FX commitment to a non-resident or any AAB where the amount, payment tenor and party have been determined.

h. *FX options* - refers to option contracts which convey the right or the obligation depending upon whether the bank is the purchaser or the writer, respectively to buy or sell at a specified price by a specified future date, for a fee or a premium, two (2) different currencies at a specified exchange rate.

i. *FX swaps* - refers to an agreement involving an initial exchange of two (2) currencies, usually at the prevailing spot rate, and a simultaneous commitment to reverse the exchange of the same two (2) currencies at a date further in the future at a rate (different from the rate applied to the initial exchange) agreed on deal date.

j. *Interest rate swaps (IRS)* - refers to an agreement in which the parties agree to exchange interest cash flows on a principal amount at certain times in the future according to an agreed upon formula.

k. *Non-deliverable forward (NDF)* - refers to a forward FX contract where only the net difference between the contracted forward rate and the market rate shall be settled at maturity.

l. *Non-resident* - refers to an individual, a corporation or other juridical person not included in the definition of resident.

m. *Resident* - refers to:

(1) An individual citizen of the Philippines residing therein; or

(2) An individual who is not a citizen of the Philippines but is permanently residing therein; or

(3) A corporation or other juridical person organized under the laws of the Philippines; or

(4) A branch, subsidiary, affiliate, extension office or any other unit of corporations or juridical persons which are organized under the laws of any country and operating in the Philippines, except OBUs.

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n. *Structured product (SP)* - refers to a financial instrument where the total return is a function of one (1) or more underlying indices, such as interest rates, equities and exchange rates. It is composed of a host contract (e.g., plain vanilla debt or equity securities) and an embedded derivative (e.g., swaps, forwards or options) that re-shape the risk-return pattern of the hybrid instrument. For purposes of guidelines under Sec. X611, the term SP does not include asset-backed securities. Provisions under Sec. 1648 shall continue to apply for securities overlying securitization structures.

(As amended by Circular Nos. 594 dated 08 January 2008 and 591 dated 27 December 2007)

§ X625.3 (2008 - X602.16) Documentation

Minimum documentary requirements for FX forward and swap transactions in *Appendix 58* shall be presented on or before deal date to the banks unless otherwise indicated.

FX selling banks shall stamp the supporting documents upon presentation by customers as follows:

a. For hedging transactions: *“FX hedged/deliverable”* or *“FX hedged/non-deliverable”*;

b. For funding transactions: *“FX sold”*, indicating the contract date and amount involved, and signed by the bank’s authorized officer. Copies of all duly marked supporting documents shall be retained by the banks and made available to the BSP for verification. The retained copies shall also be marked *“Documents Presented as Required”* and signed by the bank’s authorized officer.

(As amended by Circular No. 591 dated 27 December 2007)

§ X625.4 (2008 - X602.17) Tenor/maturity and settlement

a. *Forward sale of FX (whether deliverable or non-deliverable)*. The tenor/maturity of such contracts shall not be longer

than: (i) the maturity of the underlying FX obligation; or (ii) the approximate due date or settlement of the FX exposure. For deliverable FX forward contracts, the tenor/maturity shall be co-terminus with the maturity of the underlying obligation or the approximate due date or settlement of the FX exposure. This shall not preclude pretermination of the contract due to prepayment of the underlying obligation or exposure: *Provided*, That for foreign currency loans, prior BSP approval has been obtained for the prepayment and a copy of such approval is presented to the bank counterparty.

b. *FX Swaps* - No restriction on tenor.

c. *Settlement of NDFs* - All NDF contracts with residents shall be settled in pesos.

d. *Remittance of FX proceeds of deliverable forward and swap contracts* FX proceeds of deliverable forward and swap contracts shall be delivered by the bank counterparty directly to the beneficiaries concerned except for foreign investments where said FX proceeds are reconverted to Philippine pesos and reinvested in eligible peso instrument such as those listed in Item “A.2.2” of *Appendix 58*. For this purpose, beneficiaries shall refer to the FCDU of a bank or a nonresident entity (e.g., creditor, supplier, investor) to whom the customer is committed to pay/remit FX.

(As amended by Circular No. 591 dated 27 December 2007)

§ X625.5 (Reserved)

§ 1625.5 (2008 - 1602) Forward contracts with non-residents. All forward contracts to sell foreign exchange to non-residents (including OBUs) with no full delivery of principal, including cancellations, roll-overs/renewals shall be submitted for prior clearance to the BSP. However, every roll-over of short-term (ST) deliverable forward contracts with

non-residents need not be prior-approved, provided:

a. The underlying transaction for each ST deliverable FX forward contract is a foreign investment in long-term (LT) Philippine government securities for which a Bangko Sentral Registration Document (BSRD) has been issued;

b. The roll-over is effected during the tenor of the underlying LT Philippine government securities;

c. The actual delivery/settlement of the forward contract coincides with the date of the intended capital repatriation of the BSP-registered investments;

d. The value of the forward contract does not exceed the foreign currency equivalent of the maturity value/net proceeds of the BSP-registered investments computed at the agreed forward exchange rate; and

e. The repatriation of capital and remittance of income for the BSP-registered investment complies with documentary requirements under existing BSP rules.

(As amended by Circular No. 591 dated 27 December 2007)

§ 2625.5 (Reserved)

§ 3625.5 (Reserved)

§ X625.6 (2008 - X602.18) Cancellations, roll overs or non-delivery of FX forward contracts. All cancellations, roll-overs or non-delivery of all FX deliverable forward contracts and the forward leg of swap contracts shall be subject to the following guidelines to determine the validity thereof:

a. *Eligibility test* - Contracts must be supported by documents listed in *Appendix 58* hereof.

b. *Frequency test* - the reasonableness of the cancellation, roll-over or non-delivery shall be based on the results of the evaluation of the justification/explanation submitted by banks as evidenced by appropriate documents.

c. *Counterparty test* - the cancellation or roll-over of contracts must be duly acknowledged by the counterparty to the contract as shown in documents submitted by banks, e.g., there should be *conforme* of counterparty as evidenced by the counterparty signature on pertinent documents.

d. *Mark-to-Market test* - the booking or recording in the books of accounts of the profit or loss on contracts and cash flows/settlement to counterparties must be fully supported by appropriate documents such as authenticated copy of debit/credit tickets, schedules showing among others, mark-to-market valuation computation, etc.

(As amended by Circular No. 591 dated 27 December 2007)

§ X625.7 (2008 - X602.19) Non-deliverable forward contracts with non-residents. NDF contracts to sell FX to non-residents shall be covered by the provisions of Subsection 1625.5.

§ X625.8 (2008 - X602.20) Compliance with anti-money laundering rules. All transactions under Sec. X625 and Subsecs. X625.1 to X625.9 shall comply with existing regulations on anti-money laundering under Sec. X801.

(As amended by Circular No. 591 dated 27 December 2007)

§ X625.9 (2008 - X602.21) Reporting requirements. Banks duly authorized to engage in derivatives transactions shall continue to be covered by the BSP's existing reporting requirements on financial derivatives. Cancellations, roll-overs or non-delivery of deliverable FX forward contracts and under the forward leg of swap contracts shall be reported electronically in Excel format to the BSP not later than five (5) banking days after reference month as indicated in *Appendix 6*.

Swap contracts with counterparties involving purchase of FX by banks at the initial leg shall likewise be reported

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electronically in Excel format to the BSP not later than five (5) banking days after reference month as indicated in *Appendix 6*.

The reports shall be transmitted to the International Department at iod@bsp.gov.ph, copy furnished the SDC at the following addresses: sdcfxkdbdom@bsp.gov.ph (for domestic banks) and sdcfxkbfor@bsp.gov.ph (for foreign banks).

(As amended by Circular No. 591 dated 27 December 2007)

§§ X625.10 - X625.13 (Reserved)

§ X625.14 (2008 - X602.26) Sanctions

Violations of Sec. X625 and Subsecs. X625.1 to X625.9 shall be subject to the penalty provisions under R.A. No. 7653 (The New Central Bank Act) and other existing banking laws and regulations.

Failure to comply with Subsec. X625.6 shall result in the exclusion of the forward contracts in the computation of the bank’s consolidated daily position starting from day one, i.e., when the individual contracts were entered into. Violations of the prescribed FX position limits shall be subject to the following sanctions provided under Circular Letter dated 13 March 1998:

a. Monetary Penalties	
<u>Per Calendar Month</u>	<u>Daily Penalty</u>
1 st banking day	P10,000
2 nd banking day	20,000
3 rd banking day of violation, and onwards, or if the excess FX position of the bank is thirty percent (30%) or more of the allowable limits in any banking day, regardless of whether a bank is in the first, second, third or more days of violation	30,000

b. In addition, the following non-monetary sanctions shall be imposed on the bank committing violations considered as:

(1) “*chronic*”, i.e., when the violation continues beyond three (3) banking days within a calendar month, but the excess position is less than thirty percent (30%) of the allowable limit; and

(2) “*abusive*”, i.e., when the violation continues beyond three (3) business days within a calendar month and excess position is thirty percent (30%) or more of the allowable limit.

“Chronic” violation	Suspension of the bank’s rediscounting privileges, cash dividend declaration and branching privileges until the violation is corrected but in no case shall such suspension be less than thirty (30) calendar days.
“Abusive” violation	Suspension of the bank’s rediscounting privileges, cash dividend declaration and branching privileges until the violation is corrected but in no case shall such suspension be less than sixty (60) calendar days.

c. The Monetary Board may impose other non-monetary sanctions on a bank for violations determined by BSP as “chronic” or “abusive” on a case-to-case basis, pursuant to Sec. 37 of R.A. No. 7653.

d. Banks shall be duly advised by the BSP of their violations and the corresponding sanctions imposed for such violations.

e. A monetary penalty imposed on a bank shall be paid to the BSP Cash Department, within three (3) banking days from the bank’s receipt of advice of said penalty imposition.

For purposes of imposing sanctions for delayed, erroneous or unsubmitted reports, reports required under Subsec. X625.9 are classified as *Category B* reports and subject to corresponding penalties.

Counterparties that habitually cancel deliverable forwards without proper justification may be subject of a BSP watchlist.
(As amended by Circular No. 591 dated 27 December 2007)

Secs. X626 - X628 (Reserved)

Sec. 1628 (2008 - 1633) Credit-linked Notes and Similar Credit Derivative Products. The following are the guidelines for the capital treatment of investments in credit-linked notes and similar credit derivative products such as credit-linked deposits and credit linked loans.

§ 1628.1(2008 - 1633) Definitions

(1) A credit-linked note (CLN) pertains to a pre-funded credit derivative instrument under which the note holder effectively accepts the transfer of credit risk pertaining to a reference asset or basket of assets issued by a reference entity/ies. The repayment of the principal to the note holder is contingent upon the occurrence of a defined credit event. In consideration, the note holder receives an economic return reflecting the underlying credit risk of the reference asset/s.

All references to CLNs in this Section shall be taken to generically include similar instruments, such as Credit-Linked Deposits (CLDs) and Credit-Linked Loans (CLLs).

(2) An SPV, for purposes of this Section, refers to an entity specifically established to issue CLNs of a single, homogeneous risk class that are fully collateralized as to principal by high-grade securities purchased out of the proceeds of the note issuance. Collateral shall be limited to securities with an assignable risk weight of not more than twenty percent (20%) under existing regulations.

§ 1628.2 (2008 - 1633) Qualified banks

In general, only banks with expanded derivatives authority may invest in CLNs

as defined above on the principle that such banks have already demonstrated a more sophisticated ability to manage risks. Subject to the provisions in Sec. 1648, they may also invest in SPV-issued CLNs that co-exist with other CLNs of different seniority of claims against the reference asset pool. As an exception to the general rule, a UB/KB without expanded derivatives authority may invest in single name CLNs where the reference asset is a direct ROP obligation or an obligation fully guaranteed by the ROP.

§ 1628.3 (2008 - 1633) Capital treatment of investments in CLNs

(1) Banking book. Positions in CLNs in the banking book shall be reported in the computation of the risk-based capital adequacy ratio covering credit risks under Sec. X116.

Through holding a CLN, a bank acquires credit exposure on two (2) fronts - to the reference entity of the note and also to the note issuer. The on-balance sheet exposure arising from the CLN should be weighted by the higher of the risk weight of the reference entity or the risk weight of the note issuer. The amount of exposure is the book value of the note. If the CLN principal is fully collateralized by securities that are acceptable as credit risk mitigant under Sec. X116 and provided such collateral is constituted in a legally effective manner as to give priority to the note holders' interest in the event of bankruptcy of the note issuer, the risk weight of the note issuer is substituted with the risk weight associated with the relevant security.

When the CLN is referenced to a basket of reference entities and the contract terminates and pays out on the first entity to default in the basket, capital should be held to consider the cumulative risk of all the reference entities in the basket. This means that the risk weights of all the

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reference entities are added up and the sum compared with the risk weight of the note issuer. If the sum of the risk weights of all the reference entities in the basket is higher than the risk weight of the note issuer, then this sum is adopted. The resultant risk-weighted exposure to the basket is, however, capped at ten (10) times the book value of the note. Accordingly, the maximum capital charge is 100% of the book value of the note. The multiplier ten (10) is the reciprocal of the BSP-required minimum capital adequacy ratio of ten percent (10%).

If, on the other hand, the risk weight of the note issuer is still higher than the sum of the risk weights of all the reference entities in the basket, then the risk weight of the note issuer is adopted.

When the contract terminates and pays out on the n^{th} (other than the first) entity to default in the basket, the treatment above shall apply except that in aggregating the risk weights of reference entities, the risk weight/s of $n-1$ entity/ies is/are excluded from the computation. The bank may choose which entity/ies to exclude.

If a CLN that pays out on the n^{th} entity to default is rated such that it meets the criteria of a security with the “highest credit quality” as defined under *Appendix 46*, only the highest risk weight in the basket of reference entities is compared with the risk weight of the note issuer.

If the CLN is issued by an SPV, the bank is exposed to both the reference entity and the collateral held by the SPV. Thus, the risk weight/s of the reference entity/ies should be compared with the risk weight of the riskiest eligible collateral for purposes of computing the risk-weighted exposure of the note and the corresponding capital charge.

Subject to prior BSP clearance, a bank may disapply the additive rule when a very strong correlation among the reference entities in the basket can be demonstrated.

A CLN which is referenced to entities in the basket proportionately should be risk-weighted according to each reference entity’s share of protection under the contract. Thus, if there are two (2) reference entities in a P100.0 million contract, one (1) with a 100% risk weight and a twenty percent (20%) share and the other with a twenty percent (20%) risk weight and an eighty percent (80%) share, the risk weighted exposure is P36.0 million, i.e., $P100.0 \text{ million} \times 20\% \times 100\% + P100.0 \text{ million} \times 80\% \times 20\%$. The corresponding capital charge is P3.6 million ($P36.0 \text{ million} \times 10\%$).

(2) *Trading book*. Positions in CLNs taken up in the trading book should be reported in the computation of the adjusted risk-based capital adequacy ratio covering combined credit risk and market risk under *Appendix 46*.

(a) *Standardized approach*

The following describes the positions to be reported for investments in CLNs for purposes of calculating specific risk and general market risk charges under the standardized approach.

A CLN investment is treated as a position in the note itself, with an embedded credit default product. The CLN is subject to the specific risk associated with the issuer or the collateral when the issuer is an SPV. In addition, it is subject to general market risk that is a function of the maturity and coupon or interest rate of the note. The embedded credit default product creates a notional position in the specific risk of the reference obligation (with no additional general market risk position created).

Specific risk

A CLN investment should be reported as a long position on the reference obligation and a long position on the note itself.

When a CLN is referenced to multiple obligations in a basket, the positions

reported shall depend on the structure of the contract. When the contract terminates and pays out on the first obligation to default in the basket, the note should be reported as long positions in each of the reference obligations in the basket, with the total capital charge for the product capped at the book value of the note.

When the contract terminates and pays out on the n^{th} (other than the first) entity to default in the basket, the treatment above shall apply except that in aggregating the risk weights of the reference obligations, the risk weight/s of $n-1$ obligations is/are excluded from the computation. The bank may choose which obligations to exclude.

Subject to prior BSP clearance, a bank may disapply the additive rule when a very strong correlation among the reference obligations in the basket can be demonstrated.

The additive treatment may also be disappplied when an n^{th} -to-default CLN is rated such that it meets the criteria of a security with the “highest credit quality” as defined under *Appendix 46*. Positions in the reference obligations can be reported as a single long position in a debt security with the “highest credit quality”. A long position on the note should also be reported whether or not the CLN meets the criteria of a security with the “highest credit quality”.

When the CLN is referenced to multiple obligations under a proportionate structure, positions in the reference obligations should be reported according to their respective proportions in the contract.

General market risk

A CLN investment creates a long position in the note itself.

(b) *Internal models approach*

Banks may seek the BSP’s approval to include CLNs in their recognized models for calculating capital charges. The detailed requirements relating to the

use of internal models are set out in *Annex A of Appendix 46*.

While some banks may not be able to run full internal models to calculate market risk capital charges, they may, with the necessary expertise and systems, use preprocessing techniques to calculate capital charge for CLNs. Banks wishing to adopt these techniques should seek BSP’s prior consent. The preprocessing models are subject to verification by the BSP.

§ 1628.4 (2008 - 1633) Risk management

CLN structures are considered to be exposed to greater risks than comparable investments in direct obligations. In particular, investing banks should be aware of the potential legal risk arising from an unenforceable contract. They should consult their legal advisors about these and related legal issues before engaging in such transactions. In addition, all investments in CLNs must be duly approved by a bank’s board of directors and subjected to appropriate risk management procedures.

§ 1628.5 (2008 - 1633) Transitional arrangements. Banks which have outstanding investments in CLNs, but which have not been authorized under this Section to invest in such, shall be given a period of ninety (90) calendar days from 25 February 2004 (effectivity of Circular No. 417) to divest themselves of such investments.

§ 1628.6 (2008 - 1633) Bangko Sentral approval not required. No prior BSP approval is required to invest in CLNs and similar products. However, it shall be the responsibility of UBs/KBs to fully comply with appropriate risk management standards including, as a minimum, those prescribed under this Section. The regulatory requirements enumerated in *Appendix 66* shall be fully complied with

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by UBs/KBs investing in products allowed under this Section.

Sec. 2628 (Reserved)

Sec. 3628 (Reserved)

Secs. X629 - X635 (Reserved)

Sec. 1635 Banks’ Exposures to Structured Products. The following rules and regulations shall govern the capital treatment of banks’ exposures to structured products.

§ 1635.1 *Statement of policy.* The BSP aims to foster the development of a market for new financial products in the country, while at the same time ensure that banks hold sufficient capital commensurate to the risks inherent in these products.

§ 1635.2 *Definition.* A structured product refers to a financial instrument where the return is a function of one (1) or more underlying indices, such as interest rates, equities and exchange rates. There may also be embedded derivatives such as swaps, forwards, options, caps, and floors that reshape the risk-return pattern. For purposes of this Subsection, structured products do not include asset-backed securities, credit-linked notes and other similar instruments.

§ 1635.3 *Qualified banks.* As a general rule, only UBs and KBs with expanded derivatives license may obtain exposures in structured products. Banks without expanded derivatives license may only invest in structured products duly approved by the BSP.

§ 1635.4 *Capital treatment of banks’ exposures to structured products*

- a. Banking book
 (1) Risk weights. Capital charge for structured products held in the banking

book shall depend on the rating of the issuing entity, or rating of the collateral in case of structured products issued by special purpose vehicles (SPVs), given by the following BSP-recognized international credit rating agencies:

- (a) Moody’s;
 (b) Standard & Poor’s;
 (c) Fitch Ratings; and
 (d) Such other international rating agencies as may be approved by the Monetary Board.

In cases where there are two (2) or more types of collateral, capital charge shall depend on the lowest rated collateral.

The mapping of ratings to the corresponding risk weights shall be as follows:

Risk weight	Moody’s	Standard & Poor's	Fitch Ratings
50%	Aaa to Aa3	AAA to AA-	AAA to AA-
100%	A1 to A3	A+ to A-	A+ to A-
150%	Baa1 to Baa3	BBB+ to BBB-	BBB+ to BBB-
Deduction from total of Tier 1 and Tier 2 capital	Below Baa3 Unrated	Below BBB-	Below BBB-

(2) *Use of ratings.* If an issuer of a structured product has only one (1) rating by any of the BSP-recognized international rating agencies, that rating shall be used to determine the risk weight of the product; in cases where there are two (2) or more ratings which map into different risk weights, the higher of the lowest two (2) risk weights should be used.

b. Trading book. Capital charge for structured products held in the trading book shall be determined in accordance with *Appendix 45*.

§ 1635.5 *Bangko Sentral approval not required.* No prior BSP approval is required to enter into authorized transactions. However, it shall be the responsibility of UBs/KBs to fully comply with appropriate

risk management standards including, as a minimum, those prescribed under this Section. The regulatory requirements enumerated in *Appendix 66* shall be fully complied with by UBs/KBs investing in products allowed under this Section.

Sec. 2635 (Reserved)

Sec. 3635 (Reserved)

Sec. X636 (Reserved)

Sec. 1636 Expanded Foreign Currency Deposit Units Investments in Foreign Currency Denominated Structured Products. The following guidelines allow UBs and KBs without expanded derivatives authority to invest in certain specified structured products.

§ 1636.1 *Statement of policy.* The BSP encourages banks to diversify their EFCDU investment portfolios in order to stabilize earnings, control maturity mismatches and minimize over concentration of exposures.

§ 1636.2 *Scope.* EFCDUs of UBs and KBs without expanded derivatives authority may invest, for their own account, in foreign currency-denominated structured products issued by banks and SPVs of high credit quality: *Provided*, That the revenue streams of such products may only be linked to interest rate indices and/or foreign exchange rates other than those that involve the Philippine Peso: *Provided, further*, That the minimum all-in return of such investments may not be lower than zero. For purposes of this Section, structured products do not include asset backed securities, credit-linked notes and other similar instruments.

§ 1636.3 *Other conditions*

a. *Maturity* - The maximum contractual maturity of any investment in structured products shall be five (5) years.

b. *Credit quality of issuer* - Acceptable issuers are banks and SPVs collateralized by securities rated at least “A” or its equivalent by an international rating agency acceptable to the Monetary Board.

c. *Booking* - Investments in structured products as herein defined shall be booked under banking book accounts as follows: (1) DFVPL, (2) AFS, (3) Held to Maturity (HTM); or (4) Unquoted Debt Securities Classified as Loans, which shall be accounted for in accordance with Subsecs. X186.1, X388.5 and *Appendix 33*, but not under the HFT category.

d. *Prudential limits* - The total carrying value of all investments in structured products as defined herein at any given point in time must not exceed twenty percent (20%) of the total investment portfolio of the EFCDU [combined amount of Trading Account Securities (TAS), ASS and IBODI].

e. *Risk management* - Investing banks must have established internal processes to identify, evaluate, monitor and manage the risk exposures, e.g., credit risk, market risk, liquidity risk, operational risk, legal risk, compliance risk, created by their investments in structured products. As a minimum:

(1) Such investments must be specifically approved by the board of directors and be subject to appropriate internal limits and periodic reporting to the Board.

(2) Banks must comply with generally accepted accounting and disclosure standards and/or rules and regulations prescribed by the BSP.

(3) An independent risk management function must be in place.

(4) Banks should have the ability to value their investments on a continuing and consistent basis and to measure their sensitivity to market movements. This should include performing, at regular intervals, stress tests that reflect extreme market conditions. As part of the valuation exercise, banks should be able to obtain bid

§§ 1636.3 - 1648.4
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prices from the issuers of the investment instruments on a monthly basis.

(5) Management should ensure that the risks of the investments are accurately aggregated in risk reports on a timely basis.

§ 1636.4 *Capital treatment of structured products.* The capital treatment shall be in accordance with existing rules and regulations as modified for structured instruments.

§ 1636.5 *Bangko Sentral approval not required.* No prior BSP approval is required to enter into authorized transactions. However, it shall be the responsibility of UBs/KBs to fully comply with appropriate risk management standards including, as a minimum, those prescribed under this Section. The regulatory requirements enumerated in *Appendix 66* shall be fully complied with by UBs/KBs investing in products allowed under this Section.

§ 1636.6 *Sanctions.* Non-compliance with the provisions of this Section shall subject the bank to a fine of one-tenth of one percent (1/10 of 1%) of the outstanding investment per day, but not to exceed P30,000 per day, to be reckoned from the day the bank is deemed in violation of regulations, until the day the bank has complied with the requirements. Banks may also be temporarily or permanently prohibited from such investments as circumstances may warrant.

Sec. 2636 (Reserved)

Sec. 3636 (Reserved)

Secs. X637 - X648 (Reserved)

Sec. 1648 *Investments in Securities Overlying Securitization Structures.* The following rules shall govern banks’ investments in securities overlying securitization structures.

§ 1648.1 *Statement of policy.* The BSP aims to foster the development of a market for new financial products in the country and provide banks with expanded opportunities for investment diversification, while at the same time ensure that they hold sufficient capital commensurate to the risks inherent in these products.

§ 1648.2 *Definition.* *Securitization structures* refer to:

- a. structures where the cash flow from an underlying pool of exposures is used to service at least two (2) different stratified risk positions or tranches reflecting different degrees of credit risk (also known as traditional securitization); or
- b. structures with at least two (2) different stratified risk positions or tranches that reflect different degrees of credit risk, where credit risk of an underlying pool of exposures is transferred, in whole or in part, through the use of credit derivatives or guarantees that serve to hedge the credit risk of the portfolio (also known as synthetic securitization).

§ 1648.3 *Qualified banks.* UBs/KBs with expanded derivatives authority may invest in securities overlying any tranches of securitization structures. UBs/KBs without expanded derivatives authority may also invest but only in securities overlying tranches of securitization structures that are rated at least “A”, or its equivalent, by a BSP-recognized credit rating agency.

§ 1648.4 *Capital treatment of investments in securities overlying securitization structures*

- a. Credit risk
 - (1) *Risk weights.* Capital charge for investments in securitization structures held in the banking book shall be based on the latest rating given by any of the following BSP-recognized credit rating agencies:
 - (a) International rating agencies:
 - (i) Moody’s;

- (ii) Standard & Poor’s;
 - (iii) Fitch IBCA; and
 - (iv) Other international rating agencies as may be approved by the Monetary Board
- (b) Domestic rating agencies:
- (i) PhilRatings; and
 - (ii) Other domestic rating agencies as may be approved by the Monetary Board
- The assignment of risk weights corresponding to agency ratings shall be as follows:

Risk weight	Moody's	Standard & Poor's	Fitch IBCA	PhilRatings
20%	Aaa to Aa3	AAA to AA-	AAA to AA-	Aaa to Aa
50%	A1 to A3	A+ to A-	A+ to A-	A
100%	Baa1 + to Baa3	BBB+ to BBB-	BBB+ to BBB-	Baa
Deduction from total of Tier 1 and Tier 2 capital	Below Baa3	Below BBB-	Below BBB-	Below Baa
	Unrated			

- (2) *Use of ratings.* Ratings of BSP recognized credit rating agencies shall be used as follows:
- (a) Securities overlying securitization structures created within the Philippines may be rated by any BSP-recognized international or domestic credit rating agency, while securities overlying securitization structures created outside of the Philippines may only be rated by any of the international credit rating agencies that are recognized by the BSP; and
- (b) In cases when overlying securities have split ratings which map into different risk weights, the higher risk weight should be used.
- b. Market risk. Capital charge for securities overlying securitization structures held in the trading book shall be determined in accordance with *Appendix 46* and the use of agency ratings for such purpose shall be consistent with the above principles.

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§ 1648.5 *Bangko Sentral approval not required.* No prior BSP approval is required to invest in securities overlying securitization structures. However, it shall be the responsibility of UBs/KBs to fully comply with appropriate risk management standards including, as a minimum, those prescribed under this Section. The regulatory requirements enumerated in *Appendix 66* shall be fully complied with by UBs/KBs investing in products allowed under this Section.

Sec. 2648 (Reserved)

Sec. 3648 (Reserved)

Secs. X649 - X650 (Reserved)

Sec. X651 *Asset-Backed Securities.* The following regulations shall govern the origination, issuance, sale, servicing and administration of asset-backed securities (ABS) by any bank including its subsidiaries and affiliates engaged in allied activities, which are domiciled in the Philippines.

§ X651.1 *Definition of terms*

- a. *Assets* shall mean loans or receivables existing in the books of the originator prior to securitization. Such assets are generated in the ordinary course of business of the originator and may include mortgage loans, consumption loans, trade receivables, lease receivables, credit card receivables and other similar financial assets.
- b. *Asset-backed securities* shall refer to the certificates issued by a Special Purpose Trust (SPT) representing undivided ownership interest in the asset pool.
- c. *Asset pool* shall mean a group of identified, self-amortizing assets that is conveyed the SPT issuing the ABS and such other assets acquired as a consequence of the securitization.

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d. *Clean-up call* shall refer to an option granted to the seller to purchase the remaining assets in the asset pool.

e. *Credit enhancement* shall refer to any legally enforceable scheme that is intended to enhance the marketability of the ABS and increase the probability that investors receive payment of amounts due them.

f. *Guarantor* shall refer to an entity that guarantees the repayment of principal and interest on loans or receivables included in the asset pool in the event of default by the borrower.

g. *Investible funds* shall refer to the proceeds of collection of loans or receivables included in the asset pool which are not yet due for distribution to investors.

h. *Issuer* shall refer to the SPT that issues the ABS.

i. *Originator* shall refer to a bank and/or its subsidiary or affiliate engaged in allied activities that grants or purchases loans or receivables and assembles them into a pool for securitization.

j. *Residual certificates* shall refer to certificates issued representing claims on the remaining value of the asset pool after all ABS holders are paid.

k. *Seller* shall refer to the entity which conveys to the SPT the assets that constitute the asset pool.

l. *Servicer* shall refer to the entity designated by the Issuer primarily to collect and record payment received on the Assets, to remit such collections to the Issuer and perform such other services as may be specifically required by the issuer excluding asset management or administration.

m. *Special Purpose Trust* shall refer to a trust administered by a trustee and created solely for the purpose of issuing and administering an ABS.

n. *Trustee* shall refer to the entity designated to administer the SPT.

o. *Underwriter* shall refer to the entity engaged in the act or process of distributing

and selling of the ABS either on guaranteed or best effort basis.

§ X651.2 *Prior Bangko Sentral approval*
Any bank including its subsidiaries and affiliates engaged in allied activities, may securitize its assets upon prior approval of the BSP.

§ X651.3 *Board approval requirement*
The originator/seller shall have the securitization program approved by its board of directors. The originator/seller shall integrate such securitization program into its corporate strategic plan. The board of directors shall ensure that the securitization of assets is consistent with such program.

§ X651.4 *Minimum documents required*
The application to securitize must be accompanied by the following documents as a minimum requirement:

a. Trust indenture evidencing the conveyance of the assets from the seller to the Issuer or SPT, the features of which shall include the following:

- (1) Title or nature of the contract in noticeable print;
- (2) The parties involved, indicating in noticeable print, their respective legal capacities, responsibilities and functions;
- (3) Features and amount of ABS;
- (4) Purposes and objectives;
- (5) Description and amount of assets comprising the asset pool;
- (6) Representations and warranties;
- (7) Credit enhancements;
- (8) Distribution of funds;
- (9) Authorized investment of investible funds;
- (10) Rights of the investor;
- (11) Reports to investors; and
- (12) Termination and final settlement.

The trust indenture shall include as annexes the servicing agreement between the trustee and the servicer and

the underwriting agreement between the seller and the underwriter.

b. Prospectus. As a minimum requirement, it shall contain the following:

(1) Summary of the contents of the prospectus;

(2) Description of each class of certificate, including such matters as probable yields, payment dates and priority of payments;

(3) Description of the assets comprising the Asset Pool as well as the representations and warranties set forth by the originator and/or seller;

(4) Assumptions underlying the cash flow projections for each class of certificate;

(5) Description of any credit enhancements;

(6) Identity of the servicer; and

(7) Disclosure statements as required under Subsec. X651.6.

c. Specimen of application to purchase ABS. It shall include the terms and conditions of the purchase and the disclosures required under Subsec. X651.6.

d. Specimen of certificate. It shall indicate the features of the ABS and the disclosures required under Subsec. X651.6.

§ X651.5 *Minimum features of asset-backed securities.* The ABS shall be pre-numbered and printed on security paper. The ABS shall be signed and authenticated by the trustee. They are transferable by endorsement of the certificate. The transfer shall be recorded in the books of the trustee, indicating the names of the parties to the transaction, the date of the transfer and the number of the certificate transferred.

The minimum denomination of any ABS shall be P10,000.

§ X651.6 *Disclosure requirements*

The following disclosures must be provided in a conspicuous manner in any document

inviting investment, application to purchase ABS and the certificate itself:

a. The ABS do not represent deposits or liabilities of the originator, servicer or trustee and that they are not insured with PDIC;

b. The investor has an investment risk;

c. The trustee does not guarantee the capital value of the ABS or the collectibility of the asset pool; and

d. The right of an investor.

The investors shall be required to sign an acknowledgment indicating that they have read and understood the disclosures.

§ X651.7 *Conveyance of assets*

a. The conveyance of the assets comprising the asset pool shall be done within the context of a true sale and, for this purpose, the seller may not retain in its books the ABS, except the residual certificate, if any.

b. The seller shall have no obligation to repurchase or substitute an asset or any part of the asset pool at any time, except in cases of a breach of representation or warranty, or under a revolving structure, to replace performing assets which have been paid out in part or full.

c. The seller shall be under no obligation to provide additional assets to the SPT to maintain a “coverage ratio” of collateral to outstanding ABS. A breach of this requirement will be considered a credit enhancement and should be charged against capital. However, this will not apply to an asset pool conveyed under a revolving structure such as the securitization of credit card receivables.

d. Securitized assets shall be considered the subject to a true sale between the seller and the SPT. Sold assets shall be taken off the books of the seller and shall be transferred to the books of the SPT.

For accounting purposes, the transfer shall only be considered a true sale if the

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following three (3) conditions have been satisfied:

- (1) the transferred assets have been isolated and put beyond the reach of the seller and its creditor;
- (2) the SPT has the right to pledge or exchange its interest in the assets; and
- (3) the seller does not effectively maintain control over the transferred assets by any concurrent agreement.

e. All expenses incidental to underwriting, conveyance of the asset pool including expenses for credit enhancement may be paid by the originator/seller: *Provided*, That no further expenses shall be borne by the originator/seller after the asset pool has been conveyed to the SPT.

§ X651.8 Representations and warranties

a. *Standard representations and warranties* refer to an existing state of facts that the originator, seller or servicer can either control or verify with reasonable due diligence at the time the assets are sold. Any breach of representation or warranty may give rise to legal recourse.

b. The representations or warranties shall be clear and explicit and, in particular, shall not relate to the future creditworthiness of the assets in the asset pool or the performance of the SPT or the securities issued.

c. Any agreement to pay damages as a result of breach of warranties and representations shall hold only where:

- (1) there is a well-documented negotiation of the agreement in good faith;
- (2) the burden of proof for a breach of representation or warranty rests with the other party;
- (3) damages are limited to the loss incurred as a result of the breach; and
- (4) there is a written notice of claim specifying the basis for the claim.

The BSP shall be notified of any instance where a bank or its subsidiaries/

affiliates has agreed to pay damages arising out of any breach of representation or warranty.

§ X651.9 Third party review. A due diligence review by an independent entity mutually agreed upon by the seller and the Issuer shall be done before the assets are sold.

§ X651.10 Originator and seller

a. The seller may itself be the originator, and may likewise be designated as the servicer.

b. The seller or originator shall deliver to the trustee all original documents or instruments with respect to each asset sold.

§ X651.11 Trustee and issuer

a. The trustee shall be the trust department of a bank licensed to do business in the Philippines.

b. The trustee shall have the right to manage or administer the asset pool. The trustee shall see to it that necessary measures are taken to protect the asset pool.

c. The trustee shall undertake a performance review of the asset pool at least quarterly and shall prepare a report to investors indicating, among others, collections, fees and other expenses as well as defaults, which report shall be made available to the investors at anytime after thirty (30) days from end of the reference quarter.

d. The trustee shall initiate all civil actions including foreclosure of mortgaged properties to effect collection of receivables in the asset pool. The servicer or any other party may be designated by the trustee to perform such function on a case-by-case basis.

e. The trustee may invest the Investible funds only in obligations issued and/or fully guaranteed by the government of the Republic of the Philippines or by the

BSP and such other high-grade readily marketable debt securities as the BSP may approve.

f. The trustee shall designate a replacement of the servicer if the latter fails to satisfactorily perform its duties and responsibilities according to the terms and conditions of the servicing agreement.

§ X651.12 Servicer

a. The servicer shall perform its duties according to the terms and conditions of the servicing agreement and such other written instructions as the trustee may issue on a case-by-case basis. Collections made by the servicer shall be remitted promptly to the trustee or as may be agreed upon by the parties in the servicing agreement, but in no case shall the remittance period be longer than one (1) month.

b. The servicer shall prepare periodic reports as may be required by the trustee.

c. The servicer shall report to the trustee within thirty (30) days, any borrower which fails to pay its debt at maturity date or any adverse development that may affect the collectibility of any loan account or receivable comprising the asset pool.

d. The servicer shall have no authority to waive penalties and charges except with a written authority from the trustee.

§ X651.13 Underwriter

a. A UB or IH shall have written policies and procedures on underwriting of ABS.

b. The underwriter shall perform its functions according to the terms and conditions of the underwriting agreement.

c. An underwriter may deal in ABS, except those administered by its trust department, the trust departments of its subsidiaries/affiliates, the trust department of its parent bank or the trust department of its parent bank's subsidiaries/affiliates.

d. A UB/IH may act as underwriter, on a firm basis, of ABS except those

administered by its trust department, the trust departments of its subsidiaries/affiliates, the trust department of its parent bank or the trust department of its parent bank's subsidiaries/affiliates.

e. The underwriter may not extend credit for the purpose of purchasing the ABS which such UB/IH underwrites or that which is underwritten by its subsidiaries/affiliates, its parent bank or its parent bank's subsidiaries/affiliates.

§ X651.14 Guarantor

a. Only an entity the regular business of which includes the issuance of guarantees or similar undertaking may act as guarantor.

b. The guarantor must have the financial capacity to perform its responsibilities in accordance with the terms and conditions of the guarantee agreement. It shall submit to the trustee at least once in every six (6) months such financial reports as the trustee may require.

c. The originator or seller may not issue a counter-guarantee in favor of the guarantor.

§ X651.15 Credit enhancement. Credit enhancement may be provided in any of the following manner:

a. Standby letter of credit issued by a UB/KB other than the originator/seller or its subsidiary/affiliate, its parent bank or the parent bank's subsidiary/affiliate, and trustee or its subsidiary/affiliate;

b. Surety bond issued by any insurance company other than the originator's/seller's subsidiary or affiliate, the subsidiary or affiliate of the originator's/seller's parent bank and the trustee or its subsidiary/affiliate;

c. Guarantee issued by any entity other than the originator/seller or its subsidiary/ affiliate, its parent bank or the parent bank's subsidiary/affiliate, and trustee or its subsidiary/affiliate;

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d. Overcollateralization provided by the originator/seller wherein the assets conveyed to the SPT exceed the amount of securities to be issued.

Losses arising from overcollateralization shall be recognized by the originator/seller upfront. Such losses shall be treated as capital charges.

e. Spread account wherein the income from the underlying pool of receivables is made available to cover any shortfall in the repayment of ABS. The spread account shall be handled by the trustee which shall account for it separately. If not needed, this "spread" generally reverts to the holder of the residual certificate.

f. Subordinated securities that are lower ranking, or junior to other obligations and are paid after claims to holders of senior securities are satisfied.

g. Other credit enhancements as may be approved by the Monetary Board.

To be consistent with the concept of true sale, subordinated securities shall be sold to third party investors other than originator's/seller's parent company or its subsidiary/affiliate and the trustee or its subsidiary/affiliate or, if held by the seller, capital charges should be booked upfront. Otherwise, the subordinated securities shall be treated as deposit substitute subject to legal reserves.

§ X651.16 *Clean-up call.* A *clean-up call* may be exercised by the seller once the outstanding principal balance of the receivable component of the asset pool falls to ten percent (10%) or less of the original principal balance of the asset pool. Where the asset pool includes foreclosed and other assets, such assets shall be included in the clean-up call and the consideration thereof shall be at current market value. Such a *clean-up call* shall not be considered recourse or in violation of Subsec. X651.7 on conveyance of assets.

§ X651.17 *Prohibited activities*

a. The seller may not, under any circumstance, designate its trust department, the trust department of its subsidiaries/affiliates, the trust department of its parent bank or the trust department of its parent bank's subsidiaries/affiliates as trustee.

b. Any director, officer or employee of the originator, seller or servicer may not serve as a member of the board of directors or trust committee of the trustee or vice versa for the duration of the securitization.

c. The trust indenture shall not contain any stipulation whereby the seller, its subsidiaries/affiliates, its parent bank or the parent bank's subsidiaries/affiliates shall commit to extend any credit facility to the issuer and/or trustee.

d. The ABS shall not be eligible as collateral for a loan extended by a bank which originated/sold the underlying assets of such ABS.

e. The trust department of a bank that has discretion in the management of any trust or investment management account may not purchase for said trust/investment management account ABS administered by the trust department of the same bank, the trust department of such trustee's subsidiaries/affiliates, the trust department of such trustee's parent bank and the trust department of the parent bank's subsidiaries/affiliates.

f. The trustee may not designate its subsidiary/affiliate, its parent or the parent's subsidiaries/affiliates as servicer or vice versa.

§ X651.18 *Amendment of trust indenture.* Any amendment to the trust indenture shall require the prior approval of the BSP.

§ X651.19 *Trustee or servicer in securitization.* Without prior approval of the BSP, a bank or any entity supervised by the BSP may act as trustee or servicer

in a securitization scheme originated by an entity not supervised by the BSP: *Provided*, That the assets which are the subject of such securitization are existing in the books of the entity prior to securitization: *Provided, further*, That such entity acting as trustee or servicer is not a subsidiary/affiliate of the originator/seller, its parent bank or the parent bank’s subsidiaries/affiliates or vice versa: *Provided, finally*, That such entity acting as trustee may not designate its subsidiaries/affiliates, its parent or the parent’s subsidiaries/affiliates as servicer or vice versa.

§ X651.20 Report to Bangko Sentral
The trustee bank shall submit a report of every securitization scheme in formats to be prescribed by the BSP. The report shall be

submitted to the appropriate department of the SES, within fifteen (15) banking days after end of every reference quarter. Such report shall be considered a *Category A* report for purposes of implementing fines in the submission of required reports pursuant to existing regulations.

Secs. X652 - X698 (Reserved)

Sec. X699 General Provision on Sanctions. Except as otherwise prescribed in Subsec. X691.9, any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R. A. No. 7653 on banks, their directors and/or officers are shown in *Appendix 67*.

PART SEVEN

ELECTRONIC BANKING SERVICES AND OPERATIONS

Section X701 (2008 - X621) Electronic Banking Services. The following are the guidelines concerning electronic banking activities.

§ X701.1 (2008 - X621.1) Application

Banks wishing to provide and/or enhance existing electronic banking services shall submit to the BSP an application describing the services to be offered/enhanced and how it fits the bank's overall strategy. This shall be accompanied by a certification signed by its president or any officer of equivalent rank and function to the effect that the bank has complied with the following minimum pre-conditions:

a. An adequate risk management process is in place to assess, control, monitor and respond to potential risks arising from the proposed electronic banking activities;

b. A manual on corporate security policy and procedures exists that shall address all security issues affecting its electronic banking system, particularly the following:

(1) *Authentication* - establishes the identity of both the sender and the receiver; uses trusted third parties that verify identities in cyberspace;

(2) *Non-repudiation* - ensures that transactions can not be repudiated or presents undeniable proof of participation by both the sender and the receiver in a transaction;

(3) *Authorization* - establishes and enforces the access rights of entities (both persons and/or devices) to specified computing resources and application functions; also locks out unauthorized entities from physical and logical access to the secured systems;

(4) *Integrity* - assures that data have not been altered; and

(5) *Confidentiality* - assures that no one except the sender and the receiver of the data can actually understand the data.

c. The system had been tested prior to its implementation and that the test results are satisfactory. As a minimum standard, appropriate systems testing and user acceptance testing should have been conducted; and

d. A business continuity planning process and manuals have been adopted which should include a section on electronic banking channels and systems.

§ X701.2 (2008 - X621.2) Pre-screening of applicants

a. The BSP, thru the Technical Working Group on Electronic Banking, shall pre-screen the overall financial condition as well as the applicant-bank's compliance with BSP rules and regulations based on the latest available Bank Performance Rating (BPR) and Report of Examination (ROE) including CAMELS Rating.

b. The Working Group shall ensure that the applicant bank's overall financial condition can adequately support its electronic banking activities and that it shall have complied with certain comprehensive prudential requirements such as, but not limited to, the following:

(1) Minimum capital requirement and net worth to risk assets ratio;

(2) Satisfactory solvency, liquidity and profitability positions;

(3) CAMELS composite rating of at least 3, (this number, however can be flexible depending on other circumstances prevailing), and with at least a moderate

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risk assessment system (RAS) based on the latest regular examination.

(4) There are no uncorrected major findings/exceptions noted in the latest BSP examination.

§ X701.3 (2008 - X621.3) Approval in principle

a. Based on the recommendation of the Technical Working Group on Electronic Banking, the Deputy Governor, SES, shall approve in principle the application so that banks may immediately launch and/or enhance their existing electronic banking services.

b. Banks shall be informed of the conditional approval of the DG, SES and they shall in turn notify the BSP on the actual date of its launching/enhancement.

§ X701.4 (2008 - X621.4) Documentary requirements

a. Within thirty (30) calendar days from such launching/enhancement, banks shall submit to the BSP thru the SDC for evaluation, the following documentary requirements:

(1) A discussion on the banking services to be offered/enhanced, the business objectives for such services and the corresponding procedures, both automated and manual, offered through the electronic banking channels;

(2) A description or diagram of the configuration of the bank's electronic banking system and its capabilities showing:

(i) how the electronic banking system is linked to other host systems or the network infrastructure in the bank;

(ii) how transaction and data flow through the network;

(iii) what types of telecommunications channels and remote access capabilities (e.g., direct modem dial-in, internet access, or both) exist; and

(iv) what security controls/measures are installed;

(3) A list of software and hardware components indicating the purpose of the software and hardware in the electronic banking infrastructure;

(4) A description of the security policies and procedures manual containing:

(i) description of the bank's security organization;

(ii) definition of responsibilities for designing, implementing, and monitoring information security measures; and

(iii) established procedures for evaluating policy compliance, enforcing disciplinary measures and reporting security violations;

(5) A brief description of the contingency and disaster recovery plans for electronic banking facilities and event scenario/problem management plan/program to resolve or address problems, such as complaints, errors and intrusions and the availability of back-up facilities;

(6) Copy of contract with the communications carrier, arrangements for any liability arising from breaches in the security of the system or from unauthorized/fraudulent transactions;

(7) Copy of the maintenance agreements with the software/hardware provider/s; and

(8) Latest report on the periodic review of the system, if applicable.

b. If after the evaluation of the submitted documents, the Working Group has still some unresolved issues and gray areas, the bank may be required to make a presentation of its electronic banking transactions to BSP.

§ X701.5 (2008 - X621.5) Conditions for Monetary Board approval. Upon completion of evaluation, the appropriate recommendation shall be made to the Monetary Board. The following shall be the standard conditions for approval:

a. Existence at all times of appropriate top-level risk management oversight;

b. Operation of electronic banking system outsourced to a third party service provider taking into consideration the existence of adequate security controls and the observance of confidentiality [as required in R.A. No. 1405 (Bank Secrecy Law)] of customer information;

c. Adoption of measures to properly educate customers on safeguarding of user ID, PIN and/or password, use of bank's products/services, actual fees/bank charges thereon and problem/error resolution procedures;

d. Clear communication with its customers in connection with the terms and condition which would highlight how any losses from security breaches, systems failure or human error will be settled between the bank and its customers;

e. Customer's acknowledgement in writing that they have understood the terms and conditions and the corresponding risks that entail in availing electronic banking service;

f. The bank's oversight process shall ensure that business expansion shall not put undue strains on its systems and risk management capability;

g. The establishment of procedures for the regular review of the bank's security arrangements to ensure that such arrangements remain appropriate having regard to the continuing developments in security technology;

h. Strict adherence to BSP regulations on fund transfers in cases where clients use the electronic banking services to transfer funds;

i. The electronic banking service shall not be used for money laundering or other illegal activities that will undermine the confidence of the public; and

j. The BSP shall be notified in writing thirty (30) days in advance of any enhancements that may be made to the online electronic banking service.

§ X701.6 (2008 - X621.6) Requirements for banks with pending applications. The same procedure and requirements stated in the foregoing shall apply to all banks with pending applications with the BSP, except on the submission of the documents enumerated in Item "e", Subsec. X701.1, i.e., banks which have already submitted all the required information/documents need not comply with this requirement.

§ X701.7 (2008 - X621.7) Exemption Electronic banking services that are purely informational in nature are exempted from these regulations: *Provided*, however, That should such services be upgraded to transactional service, then prior BSP approval shall be required.

§ X701.8 (2008 - X621.8) Transitory provision. Banks with existing electronic banking services but do not qualify as a result of the pre-screening process mentioned in Item "b", Subsec. X701.1, shall be given three (3) months from 21 December 2000, within which to show proof of improved overall financial condition and/or substantial compliance with BSP's prudential requirements, otherwise, their electronic banking activities will be temporarily suspended until such time that the same have been complied with.

§§ X701.9 - X701.11 (Reserved)

§ X701.12 (2008 - X621.12) Sanctions For failure to seek BSP approval before launching/enhancing/implementing electronic banking services, and/or submit within the prescribed deadline the required information/documents, the following monetary penalties and/or suspension of electronic banking activities or both, shall be imposed on erring banks and/or its officers:

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	Monetary penalties	Amount
a.	For responsible officer/s and/or director/s - for failure to seek prior BSP approval and/or for non-submission delayed submission of required information/documents	a one time penalty of P200,000
b.	On the bank - for failure to seek prior BSP approval and/or for non-submission/ delayed submission of required information/ documents	P30,000 per day starting from the day the offense was committed up to the time the same was corrected.

§ X701.13 (2008-X621.13) *Outsourcing of internet and mobile banking services.* Outsourcing of internet and mobile banking services shall be governed by the provisions of Subsec. X162.2.
(M-2008-030 dated 12 September 2008)

Secs. X702 – X704 (Reserved)

Sec. X705 (2008 - X624 and App. 70) **Consumer Protection for Electronic Banking.** These guidelines shall govern the implementation of e-banking activities of a bank for purposes of compliance with the requirements to safeguard customer information; prevention of money laundering and terrorist financing; reduction of fraud and theft of sensitive customer information; and promotion of legal enforceability of banks’ electronic agreements and transactions.
(Circular No. 542 dated 01 September 2006, as amended by CL-2007-048 dated 24 September 2007)

§ X705.1 (2008 - App. 70) **E-Banking oversight function**
 (a) Bank’s board of directors (BOD) and a senior management committee are responsible fo developing the bank’s e-banking business strategy and establishing

an effective management oversight over e-banking services.
 The BOD is expected to take an explicit, informed and documented strategic decision as to whether and how the bank is to provide e-banking services to their customers. Effective management oversight encompasses the review and approval of the key aspects of the bank’s security control program and process, such as the development and maintenance of security control policies and infrastructure that properly safeguard e-banking systems and data from both internal and external threats. It also includes a comprehensive process for managing risks associated with increased complexity of and increasing reliance on outsourcing relationships and third-party dependencies to perform critical e-banking functions.
 It is also incumbent upon the BOD and banks’ senior management to take steps to ensure that their banks have updated and modified where necessary, their existing risk management policies and processes to cover their current or planned e-banking services. The integration of e-banking applications with legacy systems implies an integrated risk management approach for all banking activities.
 (b) Bank’s compliance officer should ensure that proper controls are incorporated into the system so that all relevant compliance issues are fully addressed.
 Management and system designers should consult with the compliance officer during the development and implementation stages of e-banking products and services. This level of involvement will help decrease bank’s compliance risk and may prevent the need to delay deployment or redesign programs that do not meet regulatory requirements.
(Circular No. 542 dated 01 September 2006, as amended by CL-2007-048 dated 24 September 2007)

§ X705.2 (2008 - App. 70) E-Banking risk management and internal control

(a) Information Security Program

Banks should establish and maintain comprehensive information security program and ensure that it is properly implemented and strictly enforced. They should also encourage the development of a security culture within the organization. The information security program should include, at a minimum, the following:

- (1) Identification and assessment of risks associated with e-banking products and services;
- (2) Identification of risk mitigation actions, including appropriate authentication technology and internal controls;
- (3) Information disclosure and customer privacy policy; and
- (4) Evaluation of consumer awareness efforts.

Banks should adjust or update, as appropriate, their information security program in light of any relevant changes in technology, the sensitivity of its customer information and internal or external threats to information such as increasing incidence of identity theft¹.

(b) Information security measures

Banks should ensure that their information security measures and internal control related to e-banking are installed, regularly updated, monitored and is appropriate with the risks associated with their products and services.

Appendices 70a and 70b provide for the minimum security measures that banks should employ in their ATM facilities and internet/mobile banking activities, respectively, to protect depositors and

consumers from fraud, robbery and other e-banking crimes.

Banks should also take into account other relevant industry security standards and sound practices as appropriate, and keep up with the most current information security issues (e.g., security weaknesses of the wireless environment), by sourcing relevant information from well-known security resources and organizations.

(c) Authentication

To authenticate the identity of e-banking customers, banks should employ techniques appropriate to the risks associated with their products and services. The implementation of appropriate authentication methodologies should start with a risk assessment process. The risk should be evaluated based on the type of customer; the customer transactional capabilities (e.g., bill payment, fund transfer, inquiry); the sensitivity of customer information and transaction being communicated to both the bank and the customer; the ease of using the communication method; and the volume of transactions.

Because the standards for implementing a commercially reasonable system may change over time as technology and other procedures develop, banks and technology service providers should continuously review, evaluate and identify authentication technology and ensure appropriate changes are implemented for each transaction type and level of access based on the current and changing risk factors. Account fraud and identity theft are frequently the result of single-factor (e.g., ID/password) authentication exploitation. Where risk assessments

¹ There are several schemes perpetrated by these identity thieves, e.g., credit card fraud, account takeover fraud, new account fraud and check fraud. *Credit card fraud* is where a fraudster causes the credit card of another person to be charged for a purchase. *Account takeover fraud* occurs when a fraudster obtains an individual's personal information, and changes the official mailing address with that individual's FI. Once accomplished, the fraudster has established a window of opportunity in which transactions are conducted without the victim's knowledge. *New account fraud* involves the criminal using a false identity, made-up or stolen; to open a new account, typically to obtain a credit card or loan. *Check fraud* may either be done through (i) alterations to the check, (ii) forgeries of the maker's signature on either the face of the check or the payee's endorsement at the back of the check, or (iii) counterfeit checks created by a dishonest third party

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indicate that the use of single-factor authentication is inadequate, banks should implement multi-factor authentication (e.g., ATM card and PIN), layered security, or other controls reasonably calculated to mitigate those risks.

Banks’ authentication process should be consistent with and support the bank’s overall security and risk management programs. An effective authentication process should have customer acceptance, reliable performance, scalability to accommodate growth, and interoperability with existing systems and future plans as well as appropriate policies, procedures, and controls.

(d) Account origination and customer verification

With the growth in e-banking and e-commerce, banks should use reliable methods of originating new customer accounts. Potentially significant risks may arise when a bank accepts new customers through the internet or other electronic channels. Thus, in an e-banking environment, banks need to ensure that in originating new accounts, the KYC (“know your customer”) requirement which involves a “face-to-face” process is strictly adhered to.

(e) Monitoring and reporting of e-banking transactions

Monitoring systems can determine if unauthorized access to computer systems and customer accounts has occurred. A sound monitoring system should include audit features that can assist in the detection of fraud, money laundering, compromised passwords, or other unauthorized activities.

The activation and maintenance of audit logs can help banks to identify unauthorized activities, detect intrusions, reconstruct events, and promote employee and user accountability. This control process also facilitates banks in the submission of suspicious activities reports as required by the AMLC and other regulatory bodies.

Adequate reporting mechanisms are needed to promptly inform security administrators when users are no longer authorized to access a particular system and to permit the timely removal or suspension of user account access.

Whenever critical systems or processes are outsourced to third parties, management should ensure that the appropriate logging and monitoring procedures are in place and that suspected unauthorized activities are communicated to the bank in a timely manner.

An independent party (e.g., internal or external auditor) should also review activity reports documenting the security administrators’ actions to provide the necessary checks and balances for managing system security.

(Circular No. 542 dated 01 September 2006, as amended by CL-2007-048 dated 24 September 2007)

§ X705.3 (2008 - App. 70) Compliance with consumer awareness program

Consumer awareness is a key defense against fraud and identity theft and security breach. *Appendix 70c* provides for the minimum Consumer Awareness Program that banks should convey to their customers.

To be effective, banks should implement and continuously evaluate their consumer awareness program. Methods to evaluate a program’s effectiveness include tracking the number of customers who report fraudulent attempts to obtain their authentication credentials (e.g., ID/ password), the number of clicks on information security links on websites, the number of inquiries.

(Circular No. 542 dated 01 September 2006, as amended by CL-2007-048 dated 24 September 2007)

§ X705.4 (2008 - App. 70) Minimum disclosure requirements

(a) Banks are required to provide their customers with a level of comfort regarding

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information disclosures or transparencies, protection of customer data and business availability that they can expect when using traditional banking services.

To minimize operational, legal and reputational risks associated with e-banking activities, banks should make adequate disclosure of information and take appropriate measures to ensure adherence to customer privacy and protection requirements. *Appendix 70d* provides for the minimum disclosure requirement of the banks.

Likewise, to meet customers' expectations, banks should have effective capacity, business continuity and contingency planning. They should have the ability to deliver e-banking services to all end-users and be able to maintain such availability in all circumstances (e.g., 24/7 availability). Effective incident response mechanisms and communication strategies are also critical to minimize risks arising from unexpected events, including internal and external attacks.

(b) Banks should apply to e-banking financial transactions and disclosures the record retention provisions required in paper-based transactions.

A written policy or procedure needs to define vital records relating to e-banking financial transactions and disclosures and the corresponding retention period of these records.

(Circular No. 542 dated 01 September 2006, as amended by CL-2007-048 dated 24 September 2007)

§ X705.5 (2008 - App. 70) Complaint resolution. Banks may receive customer complaint either through an electronic medium or otherwise, concerning an unauthorized transaction, loss, or theft in

its e-banking account. Therefore, banks should ensure that controls are in place to review these notifications and that an investigation is initiated as required. Banks should also establish procedures to resolve disputes arising from the use of the e-banking products and services.

(Circular No. 542 dated 01 September 2006, as amended by CL-2007-048 dated 24 September 2007)

§ X705.6 (2008 - App. 70) Applicability

This regulations is intended for all e-banking services and products offered by the banks to their customers. Although these are focused on the risks and risk management techniques associated with an electronic delivery channel to protect customers and the general public, it should be understood, however, that not all of the consumer protection issues that have arisen in connection with new technologies are specifically addressed in this Section. Additional issuances may be issued in the future to address other aspects of consumer protection as the financial service environment through e-banking evolves.

(Circular No. 542 dated 01 September 2006, as amended by CL-2007-048 dated 24 September 2007)

Secs. X706 - X798 (Reserved)

Sec. X799 (2008 - X199) General Provision on Sanctions. Except as otherwise provided, any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R. A. No. 7653 on banks, their directors and/or officers are shown in *Appendix 67*.

PART EIGHT

ANTI-MONEY LAUNDERING REGULATIONS

Sec. X801 (2008 - X691 and App. 52a) Prevention of Money Laundering, Customer Identification Requirements and Record Keeping. Banks, OBUs, QBs, trust entities, NSSLAs, pawnshops, and all other institutions, including their subsidiaries and affiliates supervised and/or regulated by the BSP, otherwise known as “covered institutions” shall comply with the provisions of R.A. No. 9160, otherwise known as the “Anti-Money Laundering Act of 2001” and its Implementing Rules and Regulations (IRRs) in *Appendix 52* and the following rules and regulations.

Banks, QBs, trust entities and all other institutions, and their subsidiaries and affiliates supervised or regulated by the BSP (covered institutions) shall strictly comply with the provisions of Section 9 of R.A. No. 9160, as amended, and the following rules and regulations on anti-money laundering.

(As amended by Circular Nos. 612 dated 13 June 2008, 564 dated 03 April 2007 and CL-2007-010 dated 28 February 2007)

§ X801.1 (2008 - App. 52a) Customer identification. Covered institutions shall establish and record the true identity of its clients based on official documents. They shall maintain a system of verifying the true identity of their clients and, in case of corporate clients, require a system of verifying their legal existence and organizational structure, as well as the authority and identification of all persons purporting to act on their behalf.

The guidelines on *Customer Due Diligence* for banks issued by the BASEL Committee on Banking Supervision which highlights the Know-Your-Customer (KYC) standards to be observed in the design of KYC programs are shown in *Appendix 52c*.

The guidelines on the Account Opening and Customer Identification issued by the BASEL Committee on Banking Supervision represent the starting point, which can be used by banks in the area of customer identification are shown in *Appendix 52e*.

When establishing business relations or conducting transactions (particularly opening of deposit accounts, accepting deposit substitutes, entering into trust and other fiduciary transactions, renting of safety deposit boxes, performing remittances and other large cash transactions) banks should take reasonable measures to establish and record the true identity of their clients. Said client identification may be based on official or other reliable documents and records.

a. In cases of corporate and other legal entities, the following measures should be taken, when necessary:

(1) Verification of the legal existence and structure of the client from the appropriate agency or from the client itself or both, proof of incorporation, including information concerning the customer’s name, legal form, address, directors, principal officers and provisions regulating the power behind the entity.

(2) Verification of the authority and identification of the person purporting to act on behalf of the client.

b. In case of doubt as to whether their purported clients or customers are acting for themselves or for another, reasonable measures should be taken to obtain the true identity of the persons on whose behalf an account is opened or a transaction conducted.

c. The provisions of existing laws to the contrary notwithstanding, anonymous accounts, accounts under fictitious names,

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and all other similar accounts shall be absolutely prohibited. In case where numbered accounts is allowed (i.e., peso and foreign currency non-checking numbered accounts), bank should ensure that the client is identified in an official or other identifying documents.

The BSP may conduct annual testing solely limited to the determination of the existence and the identity of the owners of such accounts.

Banks shall phase out within a period of one (1) year from 02 April 2001 or upon their maturity, whichever is earlier, anonymous accounts or accounts under fictitious names as well as numbered accounts being kept or managed by them, which are not expressly allowed under existing law.

d. The identity of existing clients or beneficial owners of deposits and other funds held or being managed by the bank should be renewed/updated at least every other year.

e. All records of all transactions of covered institutions shall be maintained and safely stored for five (5) years from the dates of transactions. With respect to closed accounts, the records on customer identification, account files and business correspondence, shall be preserved and safely stored for at least five (5) years from the dates when they were closed.

Such records must be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal behaviour.

f. Special attention should be given to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies.

g. Banks should not, or should at least avoid, transacting business with criminals. Reasonable measures should be adopted to prevent the use of their facilities for laundering of proceeds of crime and other illegal activities.

h. Banks are enjoined to require their clients FDXs/MCs and RAs to submit a copy of their certificate of registration issued by the BSP. This requirement shall be considered as part of KYC compliance procedures.

The certificates can be confirmed or verified with the appropriate department of the BSP. The registration of FDXs/MCs and the RAs with the BSP is provided for under Sec. 4511N of the MORNBFIs.

(As amended by CL-2007-010 dated 28 February 2007)

§ X801.2 (2008 - App. 52a) Issuance of cashier's, manager's or certified checks. Banks may issue cashier's, manager's or certified checks or other similar instruments in blank or payable to cash, bearer or numbered account subject to the following conditions:

a. The amount of each check shall not exceed P10,000;

b. The buyer of the check is properly identified as required under this Subsection;

c. A register of said checks shall be maintained with the following minimum information:

- (1) Date issued;
- (2) Amount;
- (3) Name of buyer;
- (4) Date paid; and

(5) If the aggregate instruments purchased by the same person within any thirty (30) day period amounts to at least P50,000, the purpose of the buyer should be stated.

d. Banks which issue as well as those which accept as deposits, said cashier's, manager's or certified checks or other similar instruments issued in blank or payable to cash, bearer or numbered

account shall take such measure(s) as may be necessary to ensure that said instruments are not being used/resorted to by the buyer or depositor in furtherance of a money laundering activity;

e. The deposit of said instruments shall be subject to the same requirements scrutiny applicable to cash deposits; and

f. Transactions involving said instruments should be accordingly reported to the BSP if there is reasonable ground to suspect that said transactions are being used to launder funds of illegitimate origin.

(As amended by CL-2007-010 dated 28 February 2007)

§ X801.3 (2008 - App. 52a) Programs against money laundering. Programs against money laundering should be developed. These programs, should include, as a minimum:

a. The development of internal policies, procedures and controls, including the designation of compliance officers at management level, and adequate screening procedures to ensure high standards when hiring employees;

b. An ongoing employee training program; and

c. An audit function to test the system.

(As amended by CL-2007-010 dated 28 February 2007)

§ X801.4 (2008 - App. 52a) Submission of plans of action. Banks shall submit a plan of action on how to comply with the requirements of Items “1”, “3” and “5”, on customers identification, programs against money laundering and requires reporting, respectively, within thirty (30) days from 31 July 2000 or from opening of the bank.

(As amended by CL-2007-010 dated 28 February 2007)

§ X801.5 (2008 - App. 52a) Required reporting of certain transactions. If there is reasonable ground to believe that the funds are proceeds of an unlawful activity as defined under R.A. No. 9160, as amended, and/or its IRRs, the transactions

involving such funds or attempts to transact the same, should be reported to the Anti-Money Laundering Council (AMLC) in accordance with Rules 5.2 and 5.3 of the AMLA IRRs.

a. *Report on covered and suspicious transactions.*¹ Banks shall report covered transactions and suspicious transactions, as defined in Rules 5.2 and 5.3 of the AMLA IRRs, to the AMLC using the forms prescribed by the AMLC. Reportable transactions shall include the following:

(1) Outward remittances without visible lawful purpose;

(2) Inward remittances without visible lawful purpose or without underlying trade transactions;

(3) Unusual purchases of foreign exchange without visible lawful purpose;

(4) Unusual sales of foreign exchange whose sources are not satisfactorily established;

(5) Complex, unusually large transactions, and all unusual patterns of transactions, which have no apparent or visible lawful purpose;

(6) Funds being managed or held as deposit substitutes if there is reasonable ground to believe that the same are proceeds of criminal and other illegal activities;

(7) Suspicious Transaction Indicators or “red flags” as a guide in the submission to the AMLC of reports of suspicious transactions relating to potential or actual financing of terrorism:

(a) Wire transfers between accounts, without visible economic or business purpose, especially if the wire transfers are effected through countries which are identified or connected with terrorist activities;

(b) Sources and/or beneficiaries of wire transfers are citizens of countries which are identified or connected with terrorist activities;

(c) Repetitive deposits or withdrawals that cannot be explained or do not make sense;

¹ Amended by AMLC Resolution No. 292 dated 20 November 2003 (App. 52a) and AMLC Resolution No. 10 dated 31 January 2007 (App. 52b).

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- (d) Value of the transaction is over and above what the client is capable of earning;
- (e) Client is conducting a transaction that is out of the ordinary for his known business interest;
- (f) Deposits being made by individuals who have no known connection or relation with the account holder;
- (g) An individual receiving remittances, but has no family members working in the country from which the remittance is made;
- (h) Client was reported and/or mentioned in the news to be involved in terrorist activities;
- (i) Client is under investigation by law enforcement agencies for possible involvement in terrorist activities;
- (j) Transactions of individuals, companies or NGOs that are affiliated or related to people suspected of being connected to a terrorist group or a group that advocates violent overthrow of a government;
- (k) Transactions of individuals, companies or NGOs that are suspected as being used to pay or receive funds from revolutionary taxes;
- (l) The NGO does not appear to have expenses normally related to relief or humanitarian effort;
- (m) The absence of contributions from donors located within the country of origin of the NGO;
- (n) A mismatch between the pattern and size of financial transactions on the one hand and the stated purpose and activity of the NGO on the other;
- (o) Incongruities between apparent sources and amount of funds raised or moved by the NGO;
- (p) Any other transaction that is similar, identical or analogous to any of the foregoing; and
- (8) All other suspicious transactions/activities which can be reported without violating any law.

The report on suspicious transactions shall provide the following minimum information:

- (a) Name or names of the parties involved;
- (b) A brief description of the transaction or transactions;
- (c) Date(s) the transaction(s) occurred;
- (d) Amount(s) involved in every transaction; and
- (e) Such other relevant information which can be of help to the authorities should there be an investigation.

b. *Exemption from Bank Secrecy Law.* When reporting covered transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates shall not be deemed to have violated R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791 and other similar laws, but are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. In case of violation thereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, shall be criminally liable. However, no administrative, criminal or civil proceedings, shall lie against any person for having made a covered transaction report in the regular performance of his duties and in good faith, whether or not such reporting results in any criminal prosecution under R.A. No. 9160, as amended, or any other Philippine law.

c. *Prohibition from disclosure of the covered transaction report.* When reporting covered transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates are prohibited from communicating, directly or indirectly, in any manner or by

any means, to any person, entity, the media, the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. Neither may such reporting be published or aired in any manner or form by the mass media, electronic mail, or other similar devices. In case of violation thereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, or media shall be held criminally liable.

(As amended by CL-2007-010 dated 28 February 2007)

§ X801.6 (2008 - App. 52a) Certification of compliance with anti-money laundering regulations. Banks shall submit annually to the BSP thru the appropriate supervising and examining department a certification (*Appendix 53*) signed by bank president or officer of equivalent rank and by their compliance officer to the effect that they have monitored compliance with existing anti-money laundering regulations.

The certification shall be submitted in accordance with *Appendix 6* and shall be considered a *Category A-2* report.

(As amended by CL-2007-010 dated 28 February 2007)

§ X801.7 (2008 - App. 52a) Acceptance of second-endorsed checks. Banks shall adopt stricter policy guidelines in the acceptance of second-endorsed checks to ensure that they are not being used as instruments for money laundering or other illegal activities.

For this purpose, banks shall limit the acceptance of second-endorsed checks from properly identified clients and only after establishing that the nature of the business of said client justifies, or at least, makes practical the deposit of second-endorsed checks. In case of isolated transactions involving deposits of second-endorsed checks by clients who are not engaged in trade or business, the identity of the first endorser should be established

and the record of the identification shall also be kept for five (5) years. It is also understood that banks shall at all times follow the Know-Your-Customer (KYC) rules whenever they handle or transact second-endorsed checks.

(As amended by CL-2007-010 dated 28 February 2007)

Secs. X802 - X803 (Reserved)

Sec. X804 (2008 - X691.1) Minimum Guidelines for Fund Transfers and Correspondent Banking Account Opening and Customer Identification

Banks shall adopt the minimum prescribed guidelines that contain the salient and relevant policies related to electronic fund transfers in Subsecs. X804.1 to X804.7 and correspondent banking transactions in Sec. X805.

The prescribed minimum guidelines should be incorporated as part of the standard operating procedures manual and wider anti-money laundering program which must be adhered to at all times. Enhancements may be introduced to these minimum guidelines to suit the particular institution's risk profile but taking into consideration the minimum requirements prescribed under existing anti-money laundering rules and regulations of the BSP, particularly in the area of "Know Your Customer/Customer Due Diligence".

§ X804.1 (2008 - App. 52b) Nature of fund transfers. Fund transfers are remittances of funds from one (1) bank to another, either locally or internationally, in local or foreign currencies. It is used for moving the proceeds of loans, reimbursing letters of credit, payment of collections, foreign exchange transactions, etc. This may also include the movement of money between customers or between accounts of the same customer, or from a customer to a third party who is not a customer of the bank. Transfers can be effected by

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teletransmission, draft, manager’s check, or certified check depending on the request of the applicant. The term also includes Automated Clearing House transfers, transfers made at automated teller machines (ATMs) and point-of-sale terminals.

§ X804.2 (2008 - App. 52b) Responsibility and oversight

- a. The FIs should be governed by a Manually Initiated Fund Transfers (MIFT) Policies and Procedures for fund transfer requests that are manually initiated (via fax, telephone, messenger, electronic mail, file transfers, and other similar manual origination means) externally from clients or internally from within the banking group/entities.
- b. The policies and procedures should specify personnel that will be responsible for ensuring compliance with the guidelines on fund transfer transactions.
- c. The policies and procedures shall also provide for independent review by appropriate personnel to monitor and ensure continued compliance with the institution’s policies, procedures and guidelines on fund transfers.
- d. The FI shall allow electronic wire transfer (internet transfer) only upon its prior approval.

§ X804.3 (2008 - App. 52b) Risk-based due diligence

- a. The bank should maintain a policies and procedures manual for fund transfers that is reasonably designed to prevent the FI from being used to facilitate money laundering and the financing of terrorist activities. At a minimum, the manual must incorporate policies, procedures and internal controls to:
 - Verify customer information (KYC);
 - Verify transactions that show indicators of suspicious transactions, particularly those instance stated under

Rule 3.b.1 of the Revised Implementing Rules and Regulations (R.A. No. 9160, as amended by R.A. No. 9194);

- File reports (including covered transaction/suspicious transactions reports);
 - Respond to regulators/law enforcement requests;
 - Provide education and/or training of personnel; and
 - Provide security procedures.
- b. The bank should not accept fund transfer instructions from and/or pay-out fund transfers to non-customers, unless in cases where the initiating party is an authenticated primary customer of a sending group or unit of the bank.
 - c. If the fund sender/remitter is not a bank or coming from non-FATF member or non-compliant countries on AML, the receiving bank must do the due diligence on the beneficiary of the fund.
 - d. Whenever possible, manually initiated fund transfer instructions should not be the primary delivery method. Every effort should be made to provide the client with an electronic banking solution

§ X804.4 (2008 - App. 52b) Validation

- a. For written and faxed transaction initiations. The term validation applies to various methods used by both sending and receiving parties to verify the identity of the sender of a message. Some validation methods also verify elements in the message including but not limited to amount, value date and currency. Validation must be performed by all bank units. Some specific validation methods are:
 - Test key:* An algorithmic computation method using a fixed set of factors known only to the sender and receiver, used to verify the sender and, in some cases, other elements of the message.
 - Authentication:* A cryptographic process used to verify the sender and, in some cases, the full text of a message.

Signature verification: A matching of signature or other representation from a source document request to a document pre-signed by a bank customer and held on file by the bank, or other documents held by the customer (e.g. bank approved acceptable identification), used to verify the sender.

Telephone callback: A procedure used to verify the authenticity of a message received by telephone. The bank places a return phone call to the customer using a pre-determined telephone number on file within the bank.

- **Validation procedures**

i. Prior to the bank accepting from a customer a manually initiated funds transfer request, the customer must execute and sign an agreement which preferably is part of the account opening documentation, wherein are outlined the manual instruction procedures with related security procedures including customer agreement to accept responsibility for fraudulent or erroneous instructions provided the bank has complied with the stated security procedures.

ii. It is mandatory that written MIFT instructions are signature verified. In addition, one (1) of the following primary security procedures must be applied: a recorded callback to the customer to confirm the transaction instructions, or testword arrangement/verification. The callback or testword requirement may be substituted by any of the following validity checks: use of a controlled PIN or other pre-established code; sequential numbering control of messages; pre-established verifiable forms; same as prior transmissions; standing/pre-defined instructions; or value for value transactions.

iii. It is mandatory that faxed MIFT instructions are signature verified and the fax machine be located in a secured

environment with limited and controlled staff access which permits visual monitoring. If monitoring is not possible, the equipment must be secured or programmed to receive messages into a password protected memory.

Faxed MIFT transactions below a certain threshold (approved by the President/Country Manager (for branches of foreign banks) or Business Risk Manager) may be processed with the mandatory procedure described above and an enhanced security procedure such as (a) a recorded callback to the customer to confirm the transaction instructions and/or (b) testword arrangement/verification, and/or (c) utilization of secured forms that incorporate verifiable security procedures such as watermarks or codes, and/or (d) transmission encryption.

iv. Telephone callback numbers and contacts must be securely controlled. The confirmation callback is to be recorded and made to the signatory/(ies) of the customer's individual account(s). For commercial and company accounts the callback will be made to the signatory/(ies) of the account or, if so authorized, another person designated by the customer in the MIFT agreement. The party called is to be documented on the instructions. The callback must be made by someone other than (a) the person receiving the original instructions and (b) effecting the signature verification.

b. Over-the-counter initiated transactions. Over-the-counter initiated funds transfers by the customers themselves require positive identification of the customer and verification of his/her signature. For transactions over a threshold set by the President/Country Manager (for branches of foreign banks) or Business Risk Manager these transactions shall also require a recorded telephone callback confirmation or another appropriate additional security procedure.

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§ X804.5 (2008 - App. 52b) Exception processing. On rare occasions, exceptions processing may be necessary. When an established control standard temporarily cannot be met, a senior officer preferably Vice President or above, designated in writing by the President/Country Manager (for branches of foreign banks) may approve an exception processing standard because of unique business circumstances. The reason for creating the exception must be clearly documented including the identification of the applied compensating controls.

§ X804.6 (2008 - App. 52b) Control and administration policies for incoming fund/wire transfers. This section deals with teletransmission payment orders received from Head office, branches and banks requesting payment or credit to be made to a specified beneficiary.

a. Cash payments to beneficiaries should only be made against proper receipt and identification.

b. Payment orders with incomplete or insufficient details should be referred immediately to the remitter bank for clarification. If no response is received within a reasonable time, the matter should be referred to the Compliance or Operations Officer or his/her designated officer for appropriate action as to whether to further investigate or return funds.

§ X804.7 (2008 - App. 52b) Integration with anti-money laundering program These guidelines shall form part of the institution's wider anti-money laundering program.

Sec. X805 (2008 - App. 52c) Banking Account Opening and Customer Identification. The following Subsections are the minimum guidelines for correspondent banking account opening and customer identification.

§ X805.1 (2008 - App. 52c) Nature of correspondent banking activities

Correspondent banking refers to activities of a bank having direct connection or friendly service relations with another bank.

§ X805.2 (2008 - App. 52c) Responsibility and oversight.

FIs should, in relation to cross-border correspondent banking and other similar relationships, in addition to performing normal due diligence measures:

a. Gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to money laundering or terrorist financing investigation or regulatory action.

b. Assess the respondent institution's anti-money laundering and terrorist financing controls.

c. Obtain approval from senior management before establishing new correspondent relationships.

d. Document the respective responsibilities of each institution.

e. With respect to "payable-through accounts", be satisfied that the respondent bank has verified the identity of and performed on-going due diligence on the customers having direct access accounts of the correspondent and that it is able to provide relevant customer identification data upon request to the correspondent bank.

§ X805.3 (2008 - App. 52c) Risk-based due diligence

a. Correspondent Banking Clients (CBC) presenting greater risk should be subjected to a higher level of due diligence.

b. The FI should consider the type of risk indicators in initiating the

correspondent banking relationship, and on a continuing basis, to ascertain what reasonable due diligence or enhanced due diligence it will undertake.

c. The risk indicators to be considered are as follows:

(1) The Correspondent Banking Client's (CBC) domicile:

(a) Jurisdiction where the CBC is based and/or where its ultimate parent is headquartered. Certain jurisdictions are internationally recognized as having inadequate anti-money laundering standards, insufficient regulatory supervision or presenting greater risk for crime, corruption or terrorist financing. On the other hand, other jurisdictions such as members of the Financial Action Task force (FATF) have more robust regulatory environments representing lower risks.

(b) Institutions should review pronouncements from regulatory agencies and international bodies, such as the FATF, to evaluate the degree of risk presented by the jurisdiction in which the CBC is based and/or in which its ultimate parent is headquartered.

(2) The Correspondent Banking Client's Ownership and Management Structures:

- (a) location of owners;
- (b) their corporate legal form;
- (c) transparency or ownership structure;
- (d) location and experience of management; and
- (e) involvement of politically exposed persons (PEPs) in the management or ownership.

(3) The Correspondent Banking Client's Business and Customer Base:

- (a) type of businesses the CBC engages in;
- (b) type of markets the CBC serves;
- (c) involvement in certain business segments internationally recognized as creating particular vulnerability to

money laundering, corruption or terrorist financing; and

(d) substantial part of business income derived from higher risk clients (i.e., clients of a CBC that may be involved in activities or are connected to jurisdictions that are identified by credible sources as activities or countries being especially susceptible to money laundering).

d. The institution may give the appropriate weight to each risk factor as it deems necessary.

§ X805.4 (2008 - App. 52c) Due diligence standards

a. All CBC should be subjected to appropriate due diligence that will seek to assure that an institution is comfortable conducting business with a particular client given the client's risk profile.

b. The institution may rely on publicly available information obtained either from the CBC or reliable third parties (e.g., regulators, exchanges) to satisfy its due diligence requirements.

c. Countries may permit FIs to rely on intermediaries or other third parties to perform the Customer Due Diligence (CDD) process or to introduce business, provided that the criteria set out below are met. Where such reliance is permitted, the ultimate responsibility for customer identification and verification remains with the FI relying on the third party.

The criteria that should be met are as follows:

(1) An FI relying upon a third party should immediately obtain the necessary information concerning the elements of the CDD process. FIs should take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to the CDD requirements will be made available from the third party upon request without delay.

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(2) The FI should satisfy itself that the third party is regulated and supervised for, and has measures in place to comply with CDD requirements.

d. The institution should consider the following elements -

(1) CBC domicile and organization

(a) jurisdiction where the CBC's ultimate parent is incorporated and/or headquartered;

(b) particular operating unit wishing to maintain relationship; and

(c) corporate legal form of CBC.

(2) CBC ownership

(a) publicly held

(3) Shares traded on an exchange in a jurisdiction with an adequately recognized regulatory scheme; and

(4) Identity of any significant controlling interests.

(a) or privately owned

(5) CBC executive management

(a) structure and experience; and

(b) existence of PEP.

(6) CBC's Business

(a) types of financial products and services; and

(b) geographic markets reached.

(7) Products and Services Offered

(a) business purpose for the relationship with the CBC; and

(b) products and services offered to the CBC.

(8) Regulatory status and history

(a) primary regulatory body supervising CBC; and

(b) based on publicly available materials, any criminal or adverse regulatory action in the recent past.

(9) CBC anti-money laundering controls

(a) nature and extent of application.

(10) No business arrangements with shell banks

(a) the institution should confirm that CBC will not use the institution's products and services to engage in business with shell banks.

(11) CBC visit

(a) The institution should visit CBC premises prior to or within a reasonable period of time; and

(b) The institution confirms that CBC is not a shell bank.

§ X805.5 (2008 - App. 52c) Enhanced due diligence. The enhanced due diligence process will involve further consideration of the following elements designed to assure the institution has secured a greater level of understanding:

a. Ownership and management

(1) Significant controlling interests, owner's sources of wealth and background, reputation in the market place, and recent material ownership changes.

(2) Detailed data on the experience of each member of executive management and recent material changes in the executive management structure.

b. Politically Exposed Person (PEP) involvement.

FIs should, in relation to PEP, in addition to performing normal due diligence measures:

(1) Have appropriate risk management systems to determine whether the customer is a PEP.

(2) Obtain senior management approval for establishing business relationships with such customers.

(3) Take reasonable measures to establish the source of wealth and source of funds.

(4) Conduct enhanced on-going monitoring of the business relationship.

c. CBC anti-money laundering controls

(1) Quality of anti-money laundering and client identification controls

(2) Recognition by CBC senior management of the importance of controls

d. Downstream correspondent clearing

(1) Downstream correspondent clearer is a CBC who receives correspondent banking services from an institution and itself provides corresponding banking services to other FIs in the same currency as the account it maintains with the institution.

(2) If CBC is also downstream corresponding clearer, the institution should (1) take steps to understand the types of FIs to whom the CBC offers the downstream banking services, and (2) consider the degree to which the CBC examines the anti-money laundering controls of the FIs to whom it offers those services.

§ X805.6 (2008 - App. 52c) Shell banks

a. A *shell bank* is a bank that (a) does not conduct business at a fixed address in a jurisdiction in which the shell bank is authorized to engage in banking activities; (b) does not employ one or more individuals on a full time business at this fixed address; (c) does not maintain operating records at this address, and (d) is not subject to inspection by the banking authority that licensed it to conduct banking activities.

b. FIs should refuse to enter into, or continue, a correspondent banking relationship with shell banks. FIs should also guard against establishing relations with respondent foreign FIs that permit their accounts to be used by shell banks.

§ X805.7 (2008 - App. 52c) Branches, subsidiaries and affiliates

a. In situations involving branches, subsidiaries or affiliates, the institution should consider the parent of the CBC in determining the extent of required due diligence.

b. If CBC is an affiliate not substantively and effectively controlled by the parent, the institution should review both the parent and the CBC.

§ X805.8 (2008 - App. 52c) Updating client files. The institution's policies and procedures should require that the CBC information is reviewed and updated on a periodic basis or when a material change in the risk profile of the CBC occurs.

§ X805.9 (2008 - App. 52c) Monitoring and reporting of suspicious activities. The institution's policies and procedures on the monitoring and reporting of suspicious activities should include correspondent banking activity.

§ X805.10 (2008 - App. 52c) Integration with anti-money laundering program. These guidelines shall form part of the institution's wider anti-money laundering program.

Secs. X806 - X881 (Reserved)

Sec. 1881 (2008 - 1691.4) Electronic Monitoring Systems for Money Laundering. UBs and KBs are required to adopt an electronic money laundering transaction monitoring system which at the minimum shall detect and raise to the bank's attention, transactions and/or accounts that qualify either as "covered transactions" or "suspicious transactions" as defined under Rules 3.b and 3.b.1 of *Appendix 52*, respectively, of R.A. No. 9160 otherwise known as the Anti-Money Laundering Act of 2001, as amended.

The system must have at least the following functionalities:

a. Covered and suspicious transaction monitoring - performs statistical analysis and profiling;

b. Watch list monitoring - checks transfer parties (originator, beneficiary and narrative fields) and the existing customer database for any listed undesirable individual or corporation;

c. Investigation - checks for given names throughout the history of payment stored in the system;

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- d. Can generate both the covered transaction reporting (CTR) and the suspicious transaction reporting (STR);
- e. Must provide complete audit trail;
- f. Capable of aggregating information and statistics for reporting purposes; and
- g. Has the capability to support the investigation of alerts surfaced by the system.

UBs and KBs are given up to 14 October 2007 to put in place the electronic money laundering transaction monitoring system.

UBs and KBs with existing electronic system of flagging and monitoring transactions already in place shall ensure that their existing system is fully compliant with and has similar functionalities as those required above by 14 October 2007.

(As amended by Circular No. 527 dated 28 April 2006)

Sec. 2881 (Reserved)

Sec. 3881 (Reserved)

Sec. X882 (2008 - X691.9) Sanctions and penalties

- a. Whenever a covered institution violates the provisions of Section 9 of R.A. No. 9160 or of this Section, the officer(s) or other persons responsible for such violation shall be punished by a fine of not less than P50,000 nor more than P200,000 or by imprisonment of not less than two (2) years nor more than ten (10) years, or both, at the discretion of the court pursuant to Section 36 of R.A. No. 7653, otherwise known as “The New Central Bank Act”.
- b. Without prejudice to the criminal sanctions prescribed above against the culpable persons, the Monetary Board may, at its discretion, impose upon any covered institution, its directors and/or officers for any violation of Section 9 of R.A. No. 9160, the administrative sanctions provided under Section 37 of R.A. No. 7653.

Secs. X883 - X894 (Reserved)

Sec. X895 Valid Identification Cards for Financial Transactions. The following guidelines govern the acceptance of valid ID cards for all types of financial transactions by banks, including financial transactions involving overseas Filipino workers (OFWs), in order to promote access of Filipinos to services offered by formal FIs, particularly those residing in the remote areas, as well as to encourage and facilitate remittances of OFWs through the banking system:

- a. Clients who engage in a financial transaction with covered institutions for the first time shall be required to present the original and submit a clear copy of at least one (1) valid photo-bearing ID document issued by an official authority.

For this purpose, the term *official authority* shall refer to any of the following:

- (1) Government of the Republic of the Philippines;
- (2) Its political subdivisions and instrumentalities;
- (3) GOCCs; and
- (4) Private entities or institutions registered with or supervised or regulated either by the BSP or SEC or IC.

Valid IDs include the following:

- (a) Passport
- (b) Driver’s license
- (c) PRC ID
- (d) NBI clearance
- (e) Police clearance
- (f) Postal ID
- (g) Voter’s ID
- (h) Barangay certification
- (i) GSIS e-Card
- (j) SSS card
- (k) Senior Citizen card
- (l) OWWA ID
- (m) OFW ID
- (n) Seaman’s book

- (o) Alien Certification of Registration/ Immigrant Certificate of Registration
 - (p) Government office and GOCC ID (e.g., AFP, HDMF IDs)
 - (q) Certification from the NCWDP
 - (r) DSWD certification
 - (s) IBP ID; and
 - (t) Company IDs issued by private entities or institutions registered with or supervised or regulated either by the BSP, SEC or IC.
- b. Students who are beneficiaries of remittances/fund transfers and who are not yet of voting age, may be allowed to present the original and submit a clear copy of one (1) valid photo-bearing school ID duly signed by the principal or head of the school.
- c. Banks shall require their clients to submit a clear copy of one (1) valid ID on a one-time basis only, or at the commencement of a business relationship. They shall require their clients to submit an updated photo and other relevant information whenever the need for it arises.
- The foregoing shall be in addition to the customer identification requirements

under Rule 9.1.c of the Revised IRRs of R.A. No. 9160, as amended (*Appendix 52*).

For purposes of this Section, financial transactions may include remittances, among others, as falling under the definition of transaction. Under the Anti-Money Laundering Act of 2001, as amended, a *financial transaction* is any act establishing any right or obligation or giving rise to any contractual or legal relationship between the parties thereto. It also includes any movement of funds by any means with a covered institution .

(Circular No. 564 dated 03 April 2007, as amended by Circular No. 608 dated 20 May 2008)

Secs. X896 - X898 (Reserved)

Sec. X899 (2008 - X199) General Provision on Sanctions. Except as otherwise provided, any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R. A. No. 7653 on banks, their directors and/or officers are shown in *Appendix 67*.

PART NINE
OTHER BANKING REGULATIONS

A. BANKING FEES/CHARGES

Section X901 (2008 - X608) Assessment Fees on Banks. Banks shall contribute to the BSP an annual fee to help defray the cost of maintaining the appropriate department of the SES in accordance with the following guidelines.

§ X901.1 (2008 - X608.1) Annual fees on banks. For purposes of computing the annual fees chargeable against banks, the term “*Total Assessable Assets*” shall be the amount referred to as the total assets under Section 28 of R.A. No. 7653 (end-of-month total assets per balance sheet, after deducting cash on hand and amounts due from banks, including the BSP and banks abroad), plus trust department accounts.

Average Assessable Assets (AAAs) shall be the summation of the end-of-month total assessable assets divided by the number of months in operation during the particular assessment period.

The rates of annual fees for banks for the assessable years 2000, 2001 and 2002 shall be as follows:

- a. UBs/KBs - 1/28 of 1%
- b. TBs - 1/28 of 1%
- c. RBs/Coop Banks - 1/40 of 1%

multiplied by their AAAs for 2000, 2001 and 2002: *Provided*, That the annual fees chargeable to RBs/Coop Banks shall be the lower of the amount computed based on the above rate or the cost of maintaining the appropriate department of the SES: *Provided, further*, That beginning the fiscal year 1999, the annual banking fees of RBs/Coop Banks shall be computed based on

average total assets based on the bank’s balance sheets as of month-end for the months of March, June, September and December and dividing by four (4) the sum of the end-of-month balances. RBs and Coop Banks shall compute and pay the supervisory fees on or before 30 January of each year starting 2003 and every year thereafter. The amount of the fee as computed by the banks shall be subject to BSP review and verification, and appropriate adjustment, as the case may be. Non-payment of the supervisory fee within the prescribed period shall subject the concerned bank to the sanctions prescribed under Sections 34, 35, 36 and 37 of R.A. No. 7653.

Annual fees to be collected from banks shall be debited from their respective deposits with the BSP by the BSP Comptrollership Department upon receipt of the notice of the assessment from the appropriate department of the SES.

Where the deposit account is insufficient to cover the assessment fee, the BSP Comptrollership Department shall bill the bank for the full amount of the annual fee or for the balance thereof not covered by its deposit account, as the case may be.

Within thirty (30) calendar days from receipt of the bill, the bank shall make the corresponding remittance to the BSP Accounting Department. Failure to pay the bill within the prescribed period shall subject the institution to administrative sanctions.

Sec. X902 (2008 - X609) Collection of Fines and Other Charges from Banks. The following regulations shall govern the payment of fines and other charges by banks.

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§ X902.1 (2008 - X609.1) Guidelines on the imposition of monetary penalties

The following are the guidelines on the imposition of monetary penalties on banks, their directors and/or officers.

a. *Definition of terms.* For purposes of the imposition of monetary penalties, the following definitions are adopted:

(1) *Continuing offenses/violations* are acts, omissions or transactions entered into, in violation of laws, BSP rules and regulations, Monetary Board directives, and orders of the Governor which persist from the time the particular acts were committed or omitted or the transactions were entered into until the same were corrected/rectified by subsequent acts or transactions. They shall be penalized on a per calendar day basis from the time the acts were committed/omitted or the transactions were effected up to the time they were corrected/rectified.

(2) *Transactional offenses/violations* are acts, omissions or transactions entered into in violation of laws, BSP rules and regulations, Monetary Board directives, and orders of the Governor which cannot be corrected/rectified by subsequent acts or transactions. They shall be meted with one-time monetary penalty on a per transaction basis.

(3) *Continuing penalty* refers to the monetary penalty imposed on continuing offenses/violations on a per calendar day basis reckoned from the time the offense/violation occurred or was committed until the same was corrected/rectified.

(4) *Transactional penalty* refers to a one-time penalty imposed on a transactional offense/violation.

b. *Basis for the computation of the period or duration of penalty.* The computation of the period or duration of all penalties shall be based on calendar days. For this purpose the terms “*per banking day*”, “*per business day*”, “*per day*” and/or “*a day*” as used in this Manual,

and other BSP rules and regulations shall mean “*per calendar day*” and/or “*calendar day*” as the case may be.

c. *Additional charge for late payment of monetary penalty.* Late payment of monetary penalty shall be subject to an additional charge of six percent (6%) per annum to be computed from the time said penalty becomes due and payable up to the time of actual payment. The penalty shall become due and payable fifteen (15) calendar days from receipt of the Statement of Account from the BSP. For banks which maintain DDA with the BSP, penalties which remain unpaid after the lapse of the fifteen-day period shall be automatically debited against their corresponding DDA on the following banking day without additional charge. If the balance of the concerned bank’s DDA is insufficient to cover the amount of the penalty, said penalty shall already be subject to an additional charge of six percent (6%) per annum to be reckoned from the banking day immediately following the end of said fifteen (15)-day period up to the day of actual payment.

d. *Appeal or request for reconsideration.* A one (1)-time appeal or request for reconsideration on the monetary penalty approved by the Governor/Monetary Board to be imposed on the bank, its directors and/or officers shall be allowed: *Provided*, That the same is filed with the appropriate department of the SES within fifteen (15) calendar days from receipt of the Statement of Account/billing letter. The appropriate department of the SES shall evaluate the appeal or request for reconsideration of the bank/individual and make recommendations thereon within thirty (30) calendar days from receipt thereof. The appeal or request for reconsideration on the monetary penalty approved by the Governor/Monetary Board shall be elevated to the Monetary Board for

resolution/decision. The running of the penalty period in case of continuing penalty and/or the period for computing additional charge shall be interrupted from the time the appeal or request for reconsideration was received by the appropriate department of the SES up to the time that the notice of the Monetary Board decision was received by the bank/individual concerned.
(As amended by Circular No. 585 dated 15 October 2007)

§ X902.2 (2008 - X609.2) Payment of fines by banks. Banks shall pay the fines within fifteen (15) calendar days from receipt of the statement of account from the BSP.
For banks which maintain demand deposit account with the BSP, fines which are unpaid after the lapse of the fifteen (15)-day period shall be automatically debited against the corresponding demand deposit account of the bank concerned: *Provided*, That if the balance of the bank’s account is insufficient to cover the fines due, such fines shall be paid not later than the following banking day. For the purpose of this Subsection, *banking day* means a day on which the BSP head office and the head office of the bank are open for business.
For uniform implementation of the above regulations, the procedural guidelines embodied in *Appendix 29* shall be observed.
(As amended by Circular No. 585 dated 15 October 2007)

§ X902.3 (2008 - X609.3) Cost of checks and documentary stamps. Banks are given fifteen (15) days from receipt of invoice to settle their accounts with the BSP Security Printing Plant for transactions representing the cost of printed checks and documentary stamps. Accounts not settled within fifteen (15) days will be debited against the bank’s corresponding demand deposit account with the BSP. A debit

advice showing invoices paid shall be sent to the head office of the bank concerned.
(As amended by Circular No. 585 dated 15 October 2007)

§ X902.4 (2008 - X609.4) Check/demand draft payments to the Bangko Sentral of thrift, cooperative and rural banks. TBs, Coop Banks and RBs are required to make all check and demand draft payments for CB:IBRD, LC/STD, legal reserve, supervisory fees, fines or penalties, redemption of preferred shares and cash dividends for government held preferred shares, and collections or repayments of notes used as collateral for loans payable either to the Cash Department, Bangko Sentral ng Pilipinas, Mabini St., Malate, Manila or directly to BSP Regional Cash Units. Such payments shall be accompanied by appropriate payment form as shown in *Appendix 35*. Payments not accompanied by the required payment forms shall be presumed to be additions to reserves and shall be credited to the demand deposit account of the paying bank.
Check payments shall be value dated when the check is cleared.
However, all assessments for annual supervisory fees, fines and penalties of TBs shall be debited from the respective demand deposit accounts with BSP.
(As amended by Circular No. 585 dated 15 October 2007)

**B. BANK AS COLLECTION/
REMITTANCE AGENTS**

Sec. X903 (2008 - X604) Collection of Customs Duties/Taxes/Levies and Other Revenues. The following regulations shall govern the collection and reporting of customs duties, taxes, levies and other revenues through the banking system.
§ X903.1 (2008 - X604.1) Coverage
All presently accredited agent banks with demand deposit accounts with the BSP and

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government banks are authorized to collect (a) customs duties, taxes and other levies, (b) import processing fees, and (c) export/premium duties: *Provided, however,* That the collection of taxes from GOCCs shall be made only through banking offices of government banks.

§ X903.2 (2008 - X604.2) Collection and reporting of internal revenue taxes
Banks which are duly accredited by the BIR to accept payment of internal revenue taxes shall be governed by the relevant BIR Revenue Regulations.

Deposits of the BIR shall be limited to those arising from tax collection.

The Authorized Agent Banks (AABs) shall transfer the deposit collection to the account of the Treasurer of the Philippines with the BSP on the sixth day from the day of deposit of the BIR collections.

§ X903.3 (2008 - X604.3) Collection and reporting of customs duties and import processing fees. Participating banks are authorized to accept payment of customs duties, taxes and other levies, and import processing fees under the following procedures:

a. The collecting bank shall acknowledge receipt of payments of customs duties, taxes and other levies, and import processing fees by issuing Official Receipts (ORs) in forms to be requisitioned by the Head Office from the General Services Division, Bureau of Customs, Manila;

b. The collecting bank shall book all such collections and credit the same to the special account *“Due to BSP - Bureau of Customs”*;

c. The branch shall report by telephone, telex or other means to its Head Office, at the end of each day, total collections for the day and the inclusive serial numbers of ORs issued, to be used as basis for the preparation by the Head

Office of the *Consolidated Report of Daily Collections of Customs Duties, Taxes and Other Levies (RC 82-005)*;

d. The Head Office and its branches shall accomplish the *Abstract of Daily Collections of Customs Duties, Taxes and Other Levies (RC 82-006)* and submit the same, duly supported with copies of Orders of Payment (OPs), ORs, Release Certificates (RCs) and commercial invoices on the same day to the offices indicated in the form; and

e. The Head Office of the participating banks shall consolidate all reports of collections with those of its branches and submit the original of the *Consolidated Report on Daily Collections of Customs Duties, Taxes and Other Levies (RC 82-005)* to the Comptrollership Department, BSP, Manila on the 10th calendar day following the date of collection. Simultaneously, the remaining copies shall be distributed to the offices indicated in the form.

Deposits of the BOC shall be limited to those arising from customs collection.

The AABs shall transfer the deposit collection to the account of the Treasurer of the Philippines with the BSP on the eleventh day from the day of deposit of the BOC collections.

§ X903.4 (2008 - X604.4) Collection and reporting of export/premium duties
Participating banks are authorized to accept payment of export premium duties under the following procedures:

a. The collecting bank shall deduct from the export proceeds the estimated amount of export/premium duties due from the export shipment upon negotiation of the shipping documents but shall collect the exact and correct amount of such duties upon presentation of the OP issued by the Export Coordinating Division, Bureau of Customs (For Port of Manila) or the Collector of Customs concerned;

b. The collecting bank shall issue the corresponding ORs in forms to be requisitioned by the Head Office from the General Services Division, Bureau of Customs, Manila;

c. The collecting bank shall book all such collections and credit the same to the special account “*Due to BSP-Export/Premium Duty*”;

d. The branch/extension office/agency shall:

(1) Report by telephone, telex or other means to its Head Office, at the end of each day, total collections for the day and the inclusive serial numbers of ORs issued, to be used as basis for the preparation by the Head Office of the *Consolidated Report on Daily Collections of Export/Premium Duty* (RC 82-007); and

(2) Accomplish the *Abstract of Daily Collections of Export/Premium Duty* (RC 82-008) and submit the same, duly supported with copies of OPs and ORs, within ten (10) calendar days from date of collection to the offices indicated in the form.

e. The Head Office of the collecting bank shall:

(1) Consolidate its report of collection with those of its branches/extension offices/agencies and submit to the Bureau of Customs the *Consolidated Report of Daily Collections of Export/Premium Duty* (RC 82-009) on the day following the date of collection; and

(2) Consolidate the *Abstract of Daily Collections of Export/Premium Duty* (RC 82-010) with those received from branches/extension offices/agencies. The original of the *Consolidated Abstract of Collection of Export/Premium Duty* (RC 82-011) shall be submitted to the Comptrollership Department, BSP, Manila, on the 10th calendar day following the date of collection.

Simultaneously, the remaining copies, with the supporting OPs and ORs, shall be submitted to the Bureau of Customs.

§ X903.5 (2008 - X604.5) Remittances thru debit/credit advices. The Comptrollership Department, BSP, Manila, shall debit the demand deposit accounts of the banks concerned for the total daily collection, which is due for remittance on the 10th calendar day from the date of collection (based on either forms RC 82-005, RC 82-007 or RC 82-011). Said Department shall also credit on the same day the account of the Treasurer of the Philippines for all such remittances of tax collections, duties, fees and other levies.

Copies of debit/credit advices to AABs shall be furnished by the Comptrollership Department, BSP.

§ X903.6 (2008 - X604.6) Reconciliation of revenue collections. The Bureau of Customs shall report to the appropriate department of the SES, BSP, Manila, any unreported collection or other discrepancies discovered for proper examination. The BSP shall take appropriate action, through the Comptrollership Department, either by debiting or crediting the DDA of the bank concerned, upon advice by the appropriate department of the SES on the results of the investigation.

§ X903.7 (2008 - X604.7) Penalty for willful delay on the reporting of collections/remittances. In the event the Bureau of Customs shall discover, in the course of its verification, any willful delay in the reporting of collections and remittances by banks, said Bureau shall advise the Comptrollership Department of the BSP to debit the DDA of the bank concerned with the corresponding penalty therefor, in accordance with Subsec. X903.8.

§ X903.8 (2008 - X604.8) Fines for delayed reports/remittances of collections
Any bank authorized to collect customs duties, taxes and other levies and export/premium duty, which shall willfully delay

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the submission of reports and remittance of its collection to the BSP within the period prescribed thereon, shall pay fines in accordance with the following schedule:

	Per delay in submission of report	For delay in remittance of collection
a. Per day of default for the first 5 days of default	P 60 plus	1/30 of 1% on the amount of delayed remittance
b. Per day of default for the next 5 days of default	P 90 plus	1/15 of 1% on the amount of delayed remittance
c. Per day of default for the succeeding days of default	P 120 plus	1/10 of 1% on the amount of delayed remittance

Provided, That:
 (1) Fines imposed above shall not be in excess of P30,000 a day;
 (2) The default shall start to run on the day following the last day required for submission of the report or remittance, as the case may be. However, should the last day of filing fall on a non-banking day in the locality where the reporting bank is situated, the default shall start on the day following the next banking day; and
 (3) The manner of payment or collection of fines enumerated under Subsec. X902.1 shall apply.
(As amended by Circular No. 585 dated 15 October 2007)

§ X903.9 (2008 - X604.9) Liquidity floor requirement on revenue collections
 Revenue collections of AABs shall be subject to the liquidity floor requirement under Subsec. X240.6.

§ X903.10 (2008 - X604.10) Collection of import duties at the time of opening of letters of credit. The following rules and regulations shall govern the collection of import duties at the time of opening of

letters of credit covering imports and for other purposes:
 a. *Collection of deposits for import duties.* All FIs shall, upon opening of the letters of credit covering imports, collect from the applicant/importer a deposit equivalent to the full amount of import duties due on the importation covered by such letters of credit. The deposit shall not be withdrawable and shall be utilized only by crediting the same to the import duties due on the importation.
 b. *Amount of import duties.* The import duties due shall be determined and declared by the applicant for the letter of credit subject to the penalties prescribed under the Tariff and Customs Code.
 c. *Other payment arrangements.* The requirement of a deposit shall likewise apply even if the importation is effected under other types of payment arrangements or on a deferred payment basis. The deposit should be made upon presentation of the import documents to the agent bank.
 d. *Validation of official receipt.* Such deposits shall be validated by official receipts of the FIs concerned and shall be credited in the final computation of the import duties, taxes and other charges due on the importation, upon the filing of the corresponding import entry.
 e. *Collection of deficiency and refund of excess deposits.* Any deficiency in the deposit made as against the actual import duties, taxes and other charges due on the importation shall be collected by the Bureau of Customs from the importer prior to the release or withdrawal of the shipment. Any excess deposit shall be refunded by the Bureau of Customs to the importer.
 f. *Remittance of collection.* The BSP demand deposit account of the FIs concerned shall be debited for the deposits collected, in accordance with Subsec. X903.5

g. *Violation.* Violation of the provisions of this Section shall be penalized under the pertinent provisions of the Tariff and Customs Code and/or under Sections 36 and 37 of R.A. No. 7653.

Sec. X904 (2008 - X605.1) Collection and Paying Agents of the Social Security System. Banks duly accredited by the SSS are authorized to act as collecting and paying agents under which agency, employer-members of the SSS may pay their premium contributions to the SSS through the said banks and the funds thus collected shall be remitted to the SSS within thirty (30) days from receipt thereof.

Such banks are also authorized to receive amortization payments by SSS members, individuals and entities on commercial, industrial, housing, salary and educational loans granted by the SSS.

During the thirty (30)-day period that such premium contributions are in the custody of the banks, such funds shall not earn interest.

The banks shall not collect from the SSS any service charge for such agency.

The funds collected by banks shall be handled by the bank proper and not the trust department: *Provided, however,* That such deposits shall be subject to the reserve requirements and the liquidity floor requirements on government deposits.

Sec. X905 (2008 - X605.3) Collection Agents of PhilHealth. Banks are authorized to act as collecting agents of the Philippine Health Insurance Corporation (PhilHealth) under which agency:

a. PhilHealth members may pay their premium contributions to PhilHealth through the said banks and the funds thus collected shall be remitted to PhilHealth in accordance with PhilHealth’s agreed remittance schedule which in no case shall exceed thirty (30) days from receipt thereof;

b. During the period that such premium contributions are in the custody of banks, such funds shall not earn interest; and

c. The banks shall not collect from PhilHealth any service charge for such agency.

The funds collected by the banks shall be handled by the operating departments (cash departments) of the banks concerned and not their trust operations: *Provided, however,* That such funds shall be subject to the reserve requirement on deposits and to the liquidity floor on government deposits.

Sec. X906 (2008 - X660) Disclosure of Remittance Charges and Other Relevant Information. It is the policy of the BSP to promote the efficient delivery of competitively-priced remittance services by banks and other remittance service providers by promoting competition and the use of innovative payment systems, strengthening the financial infrastructure, enhancing access to formal remittance channels in the source and destination countries, deepening the financial literacy of consumers, and improving transparency in remittance transactions, consistent with sound banking practices.

Towards this end, banks providing overseas remittance services shall disclose to the remittance sender and to the recipient/beneficiary, the following minimum items of information regarding remittance transactions, as defined herein:

a. *Transfer/remittance fee* - charge for processing/sending the remittance from the country of origin to the country of destination and/or charge for receiving the remittance at the country of destination;

b. *Exchange rate* - rate of conversion from foreign currency to local currency, e.g., peso-dollar rate;

c. *Exchange rate differential/spread* - foreign exchange mark-up or the difference between the prevailing BSP

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reference/guiding rate and the exchange/ conversion rate;

d. *Other currency conversion charges* - commissions or service fees, if any;

e. *Other related charges* - e.g., surcharges, postage, text message or telegram;

f. *Amount/currency paid out in the recipient country* - exact amount of money the recipient should receive in local currency or foreign currency; and

g. *Delivery time to recipients/ beneficiaries* - delivery period of remittance to beneficiary stated in number of days, hours or minutes.

Banks shall likewise post said information in their respective websites and display them prominently in conspicuous places within their premises and/or remittance/service centers.

(Circular No. 534 dated 26 June 2006)

Secs. X907 - X930 (Reserved)

C. CREDIT RATING AGENCIES

Sec. X931 (2008 - X654) Recognition and Derecognition of Domestic Credit Rating Agencies for Bank Supervisory Purposes

The following regulations shall govern the recognition and derecognition of domestic credit rating agencies (CRAs) for bank supervisory purposes.

§ X931.1 (2008 - X654.1) Statement of policy. The introduction in the financial market of new and innovative products create increasing demand for and reliance on CRAs by the industry players and regulators as well. As a matter of policy, the BSP wants to ensure that the reliance on credit ratings is not misplaced. The following rules and regulations that shall govern the recognition/derecognition of domestic CRAs for bank supervisory purposes.

§ X931.2 (2008 - X654.2) Minimum eligibility criteria. Only ratings issued by CRAs recognized by the BSP shall be considered for BSP bank supervisory purposes. The BSP, through the Monetary Board, may officially recognize a credit rating agency upon satisfaction of the following requirements:

a. *Organizational structure*

(1) A domestic CRA must be a duly registered company under the Securities and Exchange Commission (SEC); and

(2) A domestic CRA must have at least five (5) years track record in the issuance of reliable and credible ratings. In the case of new entrants, a probationary status may be granted: *Provided*, That the CRA employs professional analytical staff with experience in the credit rating business.

b. *Resources*

(1) Human Resources

(a) The size and quality of the CRA’s professional analytical staff must have the capability to thoroughly and competently evaluate the assessed/rated entity’s creditworthiness;

(b) The size of the CRA’s professional analytical staff must be sufficient to allow substantial on-going contact with senior management and operational levels of assessed/rated entities as a routine component of the surveillance process;

(c) The CRA shall establish a Rating Committee composed of adequately qualified and knowledgeable individuals in the rating business, majority of whom must have at least five (5) years experience in credit rating business;

(d) The directors of the CRA must possess a high degree of competency equipped with the appropriate education and relevant experience in the rating business;

(e) The directors, officers, members of the rating committee and professional analytical staff of the CRA have not at any time been convicted of any offense

involving moral turpitude or violation of the Securities Regulation Code; and

(f) The directors, officers, members of the rating committee and professional analytical staff of the CRA are not currently involved as a defendant in any litigation connected with violations of the Securities Regulation Code nor included in the BSP watchlist.

(2) Financial resources

(a) The CRA must have the financial capability to invest in the necessary technological infrastructure to ensure speedy acquisition and processing of data/information and timely release of reliable and credible ratings; and

(b) The CRA must have financial independence that will allow it to operate free from economic and political pressures.

c. *Objectivity*

(1) The CRA must use a rigorous and systematic assessment methodology that has been established for at least one (1) year; however, a three (3)-year period is preferable;

(2) The assessment methodology of the CRA must be based both on qualitative and quantitative approaches; and

(3) The CRA must use an assessment methodology that is subject to on-going review and is responsive to changes in the operations of assessed/rated entities.

d. *Independence*

(1) The CRA must be free from control of and undue influence by the entities it assesses/rates;

(2) The assessment process must be free from ownership pressures to allow management to exercise independent professional judgement;

(3) Persons directly involved in the assessment process of the CRA are free from conflicts of interest with assessed/rated entities; and

(4) The CRA does not assess/rate an associate entity.

e. *Transparency*

(1) A general statement of the assessment methodology used by the CRA should be publicly available;

(2) The CRA shall disseminate to the public thru a well-circularized publication, all assigned ratings disclosing whether the rating issued is solicited or unsolicited;

(3) The rationale of ratings issued and risk factors considered in the assessment should be made available to the public;

(4) The ratings issued by the CRA should be available both to domestic and foreign institutions with legitimate interest; and

(5) Publication of changes in ratings together with the basis for the change should be done on a timely basis.

f. *Disclosure requirements*

(1) Qualitative disclosures

(a) Definition of ratings along with corresponding symbols;

(b) Definition of what constitutes a default, time horizon within which a default is considered and measure of loss given a default; and

(c) Material changes within the CRA (i.e., changes in management or organizational structure, rating personnel, modifications of rating practices, financial deterioration) that may affect its ability to provide reliable and credible ratings.

(2) Quantitative disclosures

(a) Actual default rates experienced in each rating category; and

(b) Rating transitions of assessed/rated entities over time (i.e., likelihood of an AAA credit rating transiting to AA etc. over time).

g. *Credibility*

(1) The CRA must have a general reputation of high standards of integrity and fairness in dealing with its clients and conducts its business in an ethical manner;

(2) The CRA is generally accepted by predominant users in the market

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(i.e., issuers, investors, bankers, financial institutions, securities traders); and

(3) The CRA must carry out its rating activities with due diligence to ensure ratings are fair and appropriate.

For purposes of this Section, a subsidiary refers to a corporation, more than fifty percent (50%) of the voting stock of which is owned or controlled directly or indirectly by the CRA while an affiliate refers to a corporation, not more than fifty percent (50%) but not less than ten percent (10%) of the voting stock of which is owned or controlled directly or indirectly by the CRA.

“Control” exists when the parent owns directly or indirectly through subsidiaries more than one-half of the voting power of an enterprise unless, in exceptional circumstance, it can be clearly demonstrated that such ownership does not constitute control. Control may also exist even when ownership is one-half or less of the voting power of an enterprise when there is:

(a) power over more than one-half of the voting rights by virtue of an agreement with other stockholders;

(b) power to govern the financial and operating policies of the enterprise under a statute or an agreement;

(c) power to appoint or remove the majority of the members of the board of directors or equivalent governing body;

(d) power to cast the majority votes at meetings of the board of directors or equivalent governing body; or

(e) any other arrangement similar to any of the above.

h. *Internal compliance procedures*

(1) The CRA must have the necessary internal procedures to prevent misuse or unauthorized disclosure of confidential/non-public information; and

(2) The CRA must have rules and regulations that prevent insider trading and other conflict of interest situations.

§ X931.3 (2008 - X654.3) Pre-qualification requirements

The application of a domestic CRA for BSP recognition shall be submitted to the appropriate department of the SES of the BSP together with the following information/documents:

a. *An undertaking*

(1) That the CRA shall comply with regulations, directives and instructions which the BSP or other regulatory agency/body may issue from time to time; and

(2) That the CRA shall notify the BSP in writing of any material changes within the organization (i.e., changes in management or organizational structure, rating personnel, modifications of its rating practices, financial deterioration) that may affect its ability to provide reliable and credible ratings.

b. *Other documents/information:*

(1) Brief history of the CRA, major rating activities handled including information on the name of the client, type of instruments rated, size and year of issue;

(2) Audited financial statements for the past three (3) years and such other information as the Monetary Board may consider necessary for selection purposes;

(3) For new entrants, employment of professional analytical staff with experience in the credit rating business;

(4) List of major stockholders/partners (owning at least ten percent (10%) of the voting stocks of the CRA directly or along with relatives within the 1st degree of consanguinity or affinity);

(5) List of directors, officers, members of the rating committee and professional analytical staff of the CRA; including their qualifications, experience related to rating activities, directorship and shareholdings in the CRA and in other companies, if any;

(6) List of subsidiaries and affiliates including their line of business and the nature of interest of the CRA in these companies;

(7) Details of the denial of a previous request for recognition, if any (i.e., application date, date of denial, reason for denial etc.); and

(8) Details of all settled and pending litigations connected with the securities market against the CRA, its directors, officers, stockholders, members of the rating committee and professional analytical staff, if any.

§ X931.4 (2008 - X654.4) Inclusion in Bangko Sentral list. The BSP will regularly circularize to all banks and NBFIs an updated list of recognized CRAs. The BSP, however, shall not be liable for any damage or loss that may arise from its recognition of CRAs to be engaged by users.

§ X931.5 (2008 - X654.5) Derecognition of credit rating agencies

a. *Grounds for derecognition.* Credit rating agencies may be derecognized from the list of BSP recognized CRAs under the following circumstances:

(1) Failure to maintain compliance with the requirements under Subsec. X931.2 or any willful misrepresentation in the information/documents required under Subsec. X931.3;

(2) Involvement in illegal activities such as ratings blackmail; creation of a false market or insider trading; divulging any confidential information about a client without prior consent to a third party without legitimate interest; indulging in unfair competition (i.e., luring clients of another rating agency by assuring higher ratings etc.); and

(3) Any violations of applicable laws, rules and regulations.

b. *Procedure for derecognition.* A CRA shall only be derecognized upon prior

notice and after being given the opportunity to defend itself.

§ X931.6 (2008 - X654.6) Recognition of PhilRatings as domestic credit rating agency for bank supervisory purposes Credit ratings assigned by Philippine Rating Services Corporation (PhilRatings) may be used, among others, for determining appropriate risk weights in ascertaining compliance with existing rules and regulations on risk-based capital requirements.

Sec. X932 (2008 - X659) Internationally Accepted Credit Rating Agencies Internationally accepted CRAs are recognized for bank supervisory purposes to undertake local and national ratings: *Provided*, That said CRAs shall have at least a representative office in the Philippines. Accordingly, credit ratings assigned by said CRAs may be used, among others, as basis for determining appropriate risk weights in ascertaining compliance with existing rules and regulations on risk-based capital requirements.

Sec. X933 (2008 - X659.6) Recognition of Fitch Singapore Pte., Ltd. as International Credit Rating Agency For Bank Supervisory Purposes. The national or domestic credit ratings of Fitch Singapore Pte. Ltd., a BSP-recognized international credit rating agency with representative office in the Philippines, is hereby recognized by the BSP for bank supervisory purposes. Accordingly, national or domestic credit ratings assigned by Fitch Singapore Pte. Ltd. may be used, among others, as basis for determining appropriate risk weights in ascertaining compliance with existing rules and regulations on risk-based capital requirements.

Secs. X934 - X946 (Reserved)

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Sec. X947 (2008 - X632) Prohibition on the Sale of Foreign-Based Mutual Funds by Banks. Criminal and administrative sanctions prescribed under Sections 36 and 37, respectively, of R.A. No. 7653 (The New Central Bank Act) shall be imposed on banks marketing/selling foreign-based mutual funds using any or all of their branches as outlets and/or selling such financial products without prior BSP approval.

Sec. 1948 (2008 - 1650) Offering in the Philippines of Products by Parent Bank and Branches Abroad of the Parent Bank Philippine branches and subsidiaries of foreign banks shall:

- a. Inform/notify the BSP if their parent bank and/or branches abroad of their parent bank offer or market products in the Philippines, either through electronic means (website) or through its local desks (within bank premises); and
- b. In cases when there are products being offered, to submit to the appropriate department of the SES within ten (10) banking days from receipt of Circular Letter dated 12 April 2005, the list of products offered/marketed, the corresponding manuals containing the policies and procedures, the flow chart of transaction and the risk management system for each particular product.

Sec. 2948 (Reserved)

Sec. 3948 (Reserved)

Sec. X949 (Reserved)

D. PHILIPPINE & FOREIGN CURRENCY NOTES & COINS

Sec. X950 (2008 - X610) Philippine and Foreign Currency Notes and Coins. The following rules and regulations shall govern the treatment and disposition of

counterfeit Philippine and foreign currency notes and coins, the reproduction and/or use of facsimiles of legal tender Philippine currency notes and coins, the replacement and redemption of legal tender Philippine currency notes and coins considered mutilated or unfit for circulation, and the treatment and disposition of Philippine currency notes and coins called in for replacement.

§ X950.1 (2008 - X610.1) Definition of terms. For purposes of this Section, the following terms are defined.

- a. *Legal Tender Philippine Currency* - Notes and coins issued and circulating under the provisions of R.A No. 265 and/or R.A. No. 7653, which when offered for the payment of public or private debt must be accepted.
- b. *Counterfeit Note* - An imitation of a legal and genuine note intended to deceive or to be taken for that which is original, legal and genuine.
- c. *Counterfeit Coin* - An imitation or forged design of a genuine legal and authorized coin intended to deceive or pass for the genuine coin, regardless of its intrinsic value.
- d. *Unauthorized Reproduction of Legal Tender Philippine Note* - A reproduction of a facsimile or any illustration or object bearing the likeness or similitude of legal tender Philippine currency note or any part thereof, without prior authority from the Governor of BSP or his duly authorized representative.
- e. *Unauthorized Reproduction of Legal Tender Philippine Coin* - A reproduction of a facsimile or any object in metal form bearing the likeness or similitude of legal tender Philippine currency coin or any part thereof, without prior authority from the Governor of BSP or his duly authorized representative.

§ X950.2 (2008 - X610.2) Treatment and disposition of counterfeit Philippine and foreign currency notes and coins. Any person or entity, public or private, who receives or takes hold of a note or coin which is counterfeit or whose genuineness is questionable, whether Philippine or foreign currency, shall issue a temporary receipt to its owner/holder and must indicate therein his name, address and community tax certificate number or the passport number, in case of a foreigner, the date of receipt, the denomination, serial number of the note or the coin series as the case may be. The owner/holder shall be required to countersign the receipt and in case of refusal, the reasons thereof shall be stated in the receipt.

Any person or entity, public or private, who receives, takes hold or has in his possession a note or a coin which is counterfeit or whose genuineness is questionable, whether Philippine or foreign currency, shall forward the same within five (5) working days from date of receipt/ possession thereof, together with a copy of the temporary receipt required herein for examination to:

The Cash Department
Bangko Sentral ng Pilipinas
A. Mabini St., Manila

In cases where personal delivery to the Cash Department, BSP, Manila, is not feasible, delivery of the afore-stated notes or coins may be made through any of the following agencies:

- (1) The BSP Regional Offices/Units; or
- (2) Any banking institution.

Any law enforcement agency which conducted any seizure of notes and coins, whether Philippine or foreign, which are counterfeits or suspected to be counterfeit currency, shall within five (5) working days from date of seizure, advise in writing the Cash Department, BSP, Manila of said

seizure enclosing therewith a copy of the receipt and inventory taken on the seized items. All seized notes or coins which are not or no longer needed as evidence in any investigation/legal proceedings shall be immediately turned over to the Cash Department, BSP, for proper disposition.

The Cash Department, BSP, after examining all notes and coins submitted to it for examination and/or determination as to its genuineness, shall:

- (a) Issue a corresponding certification for the currency examined, if needed;
- (b) Stamp the word "COUNTERFEIT" on both the face and the back of each note found to be counterfeit; and
- (c) Return to the owner/holder, and/or sender the Philippine or foreign currency notes or coins found to be genuine in accordance with existing accounting and auditing regulations.

All notes and coins, whether Philippine or foreign, determined by the BSP to be counterfeit currency, shall not be returned to the owner/holder, but shall be retained and later disposed of in accordance with such guidelines as may be adopted by the BSP, except those which will be used as evidence in an investigation or legal proceedings, in which case, the same shall be retained and preserved by the BSP for evidentiary purposes.

The BSP shall extend assistance as may be requested of it in the investigation, apprehension and/or prosecution of person/s responsible for counterfeiting of notes and coins, both Philippine or foreign.

§ X950.3 (2008 - X610.3) Reproduction and/or use of facsimiles of legal tender Philippine currency notes. No person or entity, public or private, shall design, engrave, print, make or execute in any other manner, or utter, issue, distribute, circulate or use any handbill, advertisement, placard, circular, card, or any other object whatsoever bearing the facsimile, likeness or similitude

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of any legal tender Philippine currency note, or any part thereof, whether in black and white or any color or combination of colors, without prior authority therefor having been secured from the Governor, BSP or his duly authorized representative.

The reproduction and/or use of facsimiles or any illustration bearing the likeness or similitude of legal tender Philippine currency notes may be authorized by the Governor, BSP or his duly authorized representative, for printed illustrations in articles, books, journals, newspapers, or other similar materials and strictly for numismatic, educational, historical, newsworthy or other purposes which will maintain, promote or enhance the integrity and dignity of said note: *Provided, however,* That any such facsimile or illustration shall be of a size less than three-fifths (3/5) or more than one and one-half (1-1/2) times in size of the currency note being illustrated and that there will be no deviation from the purpose for which the notes will be used.

§ X950.4 (2008 - X610.4) Reproduction and/or use of facsimiles of legal tender Philippine currency coins. No person or entity, public or private, shall design, engrave, make or execute in any other manner, or use, issue, or distribute any object whatsoever bearing the likeness or similitude as to design, color or the inscription thereon of any legal tender Philippine currency coin or any part thereof, in metal form, irrespective of size and metallic composition, without prior authority from the Governor, BSP or his duly authorized representative.

The reproduction and/or use of facsimiles or of any object bearing the likeness or similitude of legal tender Philippine currency coins referred to in the foregoing section may be authorized by the Governor, BSP or his duly authorized representative, strictly for numismatic,

educational, historical and other purposes which will maintain, promote or enhance the integrity and dignity of said coins.

§ X950.5 (2008 - X610.5) Clean note policy. When making cash deposits with the Cash Department or any of the Regional Offices/Units of the BSP, banks and their branches shall observe the following guidelines and procedures.

a. Banks shall classify their cash deposits into: (1) clean or fit notes and (2) dirty or unfit notes, in accordance with the *Currency Guide for Bank Tellers, Money Counters and Cash Custodians* prepared by Cash Department, BSP. The notes thus classified shall be further sorted by series and by denomination.

b. Banks shall provide securely sealed bags or containers separately for the clean or fit notes and for the dirty or unfit notes accompanied by a deposit slip for each type/category. The deposit slip for unfit currency notes shall be clearly labelled as *unfit*.

c. To facilitate handling of deposits, bank deposits shall be packed in sealed bags or containers in standard quantity of twenty (20) full bundle per denomination (each bundle containing 1,000 notes in ten (10) equal straps, each strap containing 100 notes).

d. Provincial branches of banks may make direct deposits of currency notes duly identified and sorted, with the nearest BSP Regional Office/Unit. In areas where there are no BSP Regional Office/Unit, provincial branches of banks shall arrange with their respective head offices the shipment of their unfit or dirty notes for deposit with the BSP Cash Department in Manila. Cost of shipment and other related expenses to be incurred shall be solely for the account of the bank concerned.

For purposes of this Subsection, the Cash Department and the regional offices/units of BSP may refuse acceptance of cash

deposits that do not conform with these guidelines and procedures.

§ X950.6 (2008 - X610.6) Replacement and redemption of mutilated or unfit legal tender Philippine currency notes and coins. The replacement and redemption of legal tender Philippine currency notes and coins considered mutilated or unfit for circulation shall be governed by the following rules.

a. *Unfit currency note.* A currency note shall be considered unfit for circulation when:

(1) It contains heavy creases which break the fiber of the paper and indicate that disintegration has begun: *Provided, however,* that mere creasing or wrinkling which has not broken nor weakened the note does not render the note unfit for circulation; or

(2) It is badly soiled/contaminated and/or with writings even if it has proper life or sizing; or

(3) It presents a limp or raglike appearance.

b. *Mutilated currency note.* A currency note shall be considered mutilated when:

(1) Torn parts of banknote are joined together with adhesive tape in a manner which tries to preserve as nearly as possible the original design and size of the note; or

(2) The original size of the note has been reduced/lost through wear and tear or has been otherwise torn, damaged, defaced or perforated through action of insects, chemicals or other causes; or

(3) It is scorched or burned to such an extent that although recognizable as such, it has become frail and brittle as to render further handling thereof impossible without disintegration or breaking; or

(4) It is split edgewise; or

(5) It has lost all the signatures inscribed thereon.

c. *Unfit currency coin.* A currency coin shall be considered unfit for circulation when:

(1) It is bent or twisted out of shape or defaced, but its genuineness and/or denomination can still be readily and clearly determined/identified; or

(2) It has been considerably reduced in weight by natural abrasion/wear and tear.

d. *Mutilated currency coin.* A currency coin shall be considered mutilated when:

(1) It shows signs of filing, clipping or perforation; or

(2) It shows signs of having been burned or has been so defaced, that its genuineness and/or denomination cannot be readily and clearly identified.

e. Currency notes and coins considered unfit for circulation shall not be re-circulated, but may be presented for exchange to or deposited with any bank.

f. Currency notes and coins considered mutilated shall not be recirculated nor deposited/exchanged, but may be presented or forwarded for determination of their redemption exchange value to:

(1) The Cash Department

Bangko Sentral ng Pilipinas

A. Mabini St., Manila; or

(2) The nearest BSP Regional Office/ Unit.

g. The BSP shall replace or redeem notes and coins considered unfit for circulation or mutilated except when such notes and coins fall under any of the following classifications:

(1) Notes and coins the identification of which is impossible;

(2) Coins which show signs of filing, clipping or perforations; or

(3) Notes which have lost more than two-fifths (2/5) of their surface or all of the signatures inscribed thereon.

Notes and coins falling under any of the classifications mentioned under Item “g” above shall be withdrawn from

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circulation and demonetized without compensation to the owner/bearer.

§ X950.7 (2008 - X610.7) *Treatment of Philippine currency notes and coins called in for replacement.* Any person or entity, public or private, who receives, takes, holds or has in his possession Philippine currency notes and coins called in for replacement shall forward the same during the redemption period to:

a. Any authorized agent banks of the BSP when the notes are still considered legal tender, within one (1) year from the date of call; or

b. The BSP Cash Department or BSP Regional Offices/Cash Units, within the redemption period as may be determined by the Monetary Board.

The BSP Cash Department or the BSP Regional Cash Units shall exchange the notes/coins called in for replacement if presented to the BSP within the redemption period as determined by the

Monetary Board and subsequently dispose the same in accordance with BSP procedures for disposal.

§ X950.8 (2008 - X610.8) *Sanctions.* Any violation of the provisions of Subsecs. X950.3 and X950.4, shall subject the offender to imprisonment of not less than five (5) years, but not more than ten (10) years. In case the Revised Penal Code provides for a greater penalty, then that penalty shall be imposed.

Secs. X951 - X998 (Reserved)

Sec. X999 (2008 - X199) *General Provision on Sanctions.* Except as otherwise provided, any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R. A. No. 7653 on banks, their directors and/or officers are shown in *Appendix 67*.

GUIDELINES FOR THE ISSUANCE OF A UNIVERSAL BANKING AUTHORITY
[Appendix to Subsec. X102.1 (2008 - X101.2)]

I. QUALIFICATION REQUIREMENTS

A. Minimum Capital Required. A KB applying for a universal banking (UB) authority shall have capital equivalent to at least the amount prescribed by the Monetary Board for UBs. The term *capital* shall have the same meaning as defined in Sec. X111 prescribing the required minimum capitalization for each bank category.

The merger or consolidation of banks, or that of a bank and an investment house as a means of meeting the minimum capitalization requirement for a UB is encouraged. The revaluation of the premises, improvements and equipment of the institutions involved in a merger or consolidation may be allowed under Sec. X108.3.

B. Financial Resources, Past Performance and General Compliance with Banking Laws and Regulations

1. Applicant bank shall not have incurred any deficiency in the minimum capital to risk assets ratio prescribed by the Monetary Board pursuant to Section 34 of R.A. No. 8791 for the year preceding the filing of application. It shall have sufficient valuation reserves to cover estimated losses.

2. Applicant bank shall not have incurred net deficiencies in its reserves against deposit and deposit substitute liabilities for the three (3)-month period immediately preceding the filing of application. In addition, applicant bank's liquidity ratios such as primary reserves to deposit liabilities and primary and secondary reserves to deposit and demand liabilities shall at least be equal to the

averages of the UB sector as of the end of the quarter immediately preceding the date of application.

3. Applicant bank shall show profitable operations for the past calendar year immediately preceding the filing of application. Its ratio of net earnings to average capital accounts should indicate satisfactory returns on stockholders' investments.

4. Applicant bank has substantially complied with banking laws or orders, instructions, or regulations issued by the Monetary Board or orders, instructions, or rulings by the Governor. Major/important exceptions and findings by BSP examiners have been corrected or satisfactorily explained.

C. Banking Facilities, Managerial Capability, Competence, Experience and Integrity of Directors, Principal Officers and Key Personnel

1. The applicant bank shall manifest adequate banking facilities and managerial capability in commercial banking operations as shown by, among other things, its branch network, subsidiaries and allied undertakings, FCDU/EFCDU and foreign trade transactions, participation in syndicated lending, trust services, etc.

2. The applicant bank shall indicate in the application those officers and key personnel having the appropriate training and/or experience in investment banking and related functions are available/obtainable by the bank.

The application shall be supported by the updated bio-data of the bank's directors and principal officers, including the officers and key personnel who will handle the investment banking and related functions.

II. FEASIBILITY STUDY

The applicant bank shall submit a feasibility study, which shall include, in addition to the usual content of such study, the following information:

A. Capitalization and Ownership

- 1. A schedule showing the computation of the applicant bank’s capital accounts taking into consideration *capital* as defined under Sec. X111 and, if applicable, the merger or consolidation scheme to meet the capitalization requirement as allowed under Sec. X108 and Subsec. X108.3.
- 2. A list of direct and indirect loans to DOSRI which are unsecured, indicating the original amount, date granted, outstanding balance and classification (i.e., whether current or past due) of each DOSRI loan.
- 3. A summary of holdings of stockholders classified as to citizenship and family/business group indicating the number of shares subscribed in the applicant bank and the corresponding percentage of each shareholding to total shareholdings.
- 4. A list of individual stockholders grouped according to family/business group, indicating the TIN, citizenship, type of shares held (whether voting or non-voting, common or preferred), number of shares subscribed and percentage of holdings to total of each shareholder.
- 5. A list of individual stockholders in the applicant bank with equity investment in other financial institutions, indicating the type and number of shares held in the other institution and the corresponding percentage of holdings to total of each shareholder.

B. Organization and Management

- 1. The names of the members of the board of directors and principal officers of the applicant bank.
- 2. The proposed organization chart of the department within the applicant bank

that will be responsible for the investment banking functions, indicating the designation of officers and other key positions and the names of persons proposed for appointment to those positions.

C. Financial Capability and Previous Year’s Operation.

A brief discussion of the applicant bank’s general financial condition, operating performance, solvency and liquidity position, supported by appropriate financial ratios as seen from the latest condensed balance sheet and income statement. The discussion shall include major banking activities, exposure concentrations (in terms of top borrowers and major industries), equity and credit exposures in subsidiaries and affiliates, and other significant information.

D. Corporate Strategy

- 1. The statement of corporate strategy of the proposed UB, its immediate and long-term goals and objectives.
- 2. The lending program and special policies lined up for the first five (5) years including details on guidelines and standards to be established on exposure limits, portfolio diversification, collateral requirements, geographical expansion, assistance to pioneer and priority areas of economic activities and relationship with clients.
- 3. The investment policies and programs to be implemented within the first five (5) years of operation including broad categories of undertakings in which the proposed UB will invest, the portfolio mix to be observed, the extent of control over subscribed capital stock and voting stock to be exercised in the financial allied undertakings, QBs and non-financial allied undertakings.
- 4. The fund generation program for the first five (5) years of operation to support the expansion in loans and investments.

5. The quarterly underwriting program for one (1) year stating industry of issuer, the volume of underwriting business classified into equity and debt, public offering and private placement and other information.

E. Financial Projections

1. The detailed statement of underlying assumptions made in projecting the financial statements and ratios.
2. The detailed projected statement of income and expenses for the first five (5) years of operation.
3. The projected operating ratios for the first five (5) years of operation.
4. The actual statement of condition of applicant bank at month-end before filing of application and the projected statement of condition as of the first five (5) years-end of operation.
5. The projected balance sheet ratios as of the first five (5) years-end of operation.
6. The projected funds flow for the first five (5) years of operation.

III. PUBLIC OFFERING AND LISTING OF BANK SHARES

A domestic bank applying for a UB authority shall cause the public offering and listing of its shares under the following terms and conditions:

1. The shares to be publicly offered may be voting or non-voting shares and may come from the bank’s existing authorized and unsubscribed stock or from an increase in its authorized capital stock: *Provided*, That in the case of an applicant bank whose authorized capital has been fully subscribed and paid-up and that bank does not intend to increase its authorized capital stock, the shares to be publicly offered may come from existing stockholders who may be willing to divest themselves of such holdings.

2. The offering bank shall accept offers to buy or invest in its publicly offered shares of stock from new investors or from existing stockholders whose stockholdings, together with those of their relatives within the fourth degree of consanguinity or affinity or of firms, partnerships, corporations or associations, at least a majority of the voting stock of which are owned by such stockholders, constitute less than twenty percent (20%) of the bank’s subscribed capital stock. The bank’s articles of incorporation shall have an explicit provision stating that existing stockholders who are disqualified under these rules shall waive their pre-emptive rights to the additional shares to be publicly offered unless the articles of incorporation already provide that such stockholders do not have pre-emptive rights. The waiver may be limited to three (3) months after which period the disqualified stockholders may purchase shares from the unsubscribed/unsold publicly offered shares.

The publicly offered shares of stock shall be sold to at least twenty-one (21) qualified buyers or group of buyers but the total shares of stock which may be purchased by any qualified buyer or group of buyers shall not exceed ten percent (10%) of the publicly offered shares of stock.

Buyers of publicly offered shares shall in no case exceed the ownership ceilings under Sections 11, 12, and 13 of R.A. No. 8791 and Section 2 of R.A. No. 7721.

3. The bank shall fix the price of the shares of stock. In the case of subscribed and fully paid-up shares which shareholders are willing to divest, the price shall be set by agreement of the parties.

4. The offering bank shall submit to the appropriate supervising and examining department for evaluation, a prospectus containing the following minimum information:

- (a) Name and address of issuing bank;
- (b) A brief history of the bank’s operations and a description of its premises and facilities;

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(c) The current authorized capital stock and the stock offered for subscription/sale to the public indicating the classes of stock and the amount for each class presented in tabular form;

(d) Features of the offer:

(i) The number and amount of each class of stock offered;

(ii) The per share and aggregate offering price of each class of stock and the per share and aggregate proceeds to be received by the bank;

(iii) The proposed means of distribution;

(iv) Specific terms of the offer (minimum subscription, payment terms, etc.); and

(v) The expiry date of the offer.

(e) Audited statements of condition (format similar to published statement of condition) and earnings and expenses for the last three (3) calendar years; *Provided*, That banks in operation for less than three (3) years shall disclose their audited financial statements from the start of operations to the year last ended;

(f) Names and addresses of all directors and principal officers and their respective designations, and stock options and other similar plans for directors and officers; and

(g) A list of stockholders owning ten percent (10%) or more of the subscribed capital stock, the number of shares held by each, whether voting or non-voting, and the par value of such shares. The list shall likewise show the ratio of subscribed capital

stock held by directors and principal officers to the authorized capital stock; the ratio of the publicly offered shares of stock to the authorized capital stock, the citizenship and family groupings of stockholders with their corresponding percentage of ownership.

5. The bank shall cause the publication of the public offering in a newspaper of general circulation at least twice within a period of one (1) month prior to the offering.

6. The provisions of the guidelines on public offering shall be deemed substantially complied with if the bank causes its shares of stock to be publicly offered in the manner and under the conditions herein prescribed for a period of three (3) months. In cases where there are no buyers willing and/or qualified to purchase or invest in the shares of stock being publicly offered within said period, the bank, after written notice to the appropriate supervising and examining department of the BSP, may sell said shares to its existing stockholders, subject to the limitations on equity holdings prescribed by law and regulations.

The requirements of public offering and listing shall be complied with by all applicant banks including those that are able to meet the prescribed minimum capital requirement on their own or through merger/consolidation with other banks or non-bank financial intermediaries.

**PRESCRIBED APPLICATION FORMS FOR THE ENTRY OF
FOREIGN BANKS**
[Appendix to Subsec. X121.1 (2008 - X105.1)]

**A. Sample Application for Authority to Invest in an Existing Domestic Bank in the
Philippines**

Name of Applicant

Address of Head Office

Cable Address

Telefax/Fax Number

Date

The Governor
Bangko Sentral ng Pilipinas
Manila, Philippines

S i r :

We hereby apply for authority to invest in _____ percent (__%) of the voting
stock of _____, an existing domestic bank in the Philippines.

In support of this application, we submit the following documents:

1. A copy of the Memorandum of Understanding between the bank and the investee domestic bank;
2. A copy of the Board Resolution authorizing the bank to invest in such domestic bank, and designating the person who will represent the bank in connection therewith;
3. Historical background of the bank, as follows:

(a) Date and place of incorporation;

(b) Number of branches and agencies in the home country;

(c) List of foreign branches, agencies, other offices, parent (if any), subsidiaries and affiliates, and their location and line of business (if different from banking);

(d) Range of banking services offered; and

(e) Financial and commercial relationship with the Philippine Government, local banks, business entities and residents, past or present;

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4. A copy each of the latest amended articles of incorporation and by-laws;
5. List of the bank's directors and their citizenship;
6. List of principal officers of the head office;
7. Number of stockholders and list of stockholders owning more than fifteen percent (15%) of the voting stock, if any;
8. A copy each of the bank's audited financial statements (i.e., statement of condition and statement of income and expenses) for the last two (2) years prior to the filing of application;
9. A copy of the bank's annual report to the stockholders for the year immediately preceding the date of filing of application;
10. A certification from the bank's home country supervisory authority that:
 - (a) The bank's home country supervisory authority has no objection to the bank's investment in an existing domestic bank in the Philippines;
 - (b) Adequate information on the bank and its subsidiaries will be provided to the Bangko Sentral ng Pilipinas to the extent allowed under existing laws; and
 - (c) The Philippine banks may likewise be allowed to establish subsidiaries and/or branches in the bank's home country, subject to compliance with the rules and regulations governing admission which are applicable to all foreign banks;
11. If the investment will constitute majority ownership or give the investor bank control of management, business plan supported by projected financial statements for one (1) year, and how such business plan can accomplish the policy objectives of R.A. No. 7721; and
12. Undertaking to fully share technology, e.g. services/products and facilities such as computer hardware/software.

Should this application be approved, the following additional documents shall be submitted:

1. Bio-data sheet for each of the new directors and new principal officers;
2. Evidence of citizenship for each of the new directors and new principal officers in the investee domestic bank, such as:
 - (a) Passport;
 - (b) Birth certificate; or
 - (c) Naturalization certificate;
3. National Bureau of Investigation (NBI) and Bureau of Internal Revenue (BIR) clearances or similar police and tax clearances for each of the new directors and new principal officers who are Filipino citizens or residents of the Philippines;

- 4. Authorization for the Bangko Sentral ng Pilipinas to conduct investigation and to obtain information from other sources in order to establish the authenticity of information/representations submitted; and
- 5. Other relevant information as the Bangko Sentral ng Pilipinas may require.

Very truly yours,

Signature of Authorized Officer
Over Printed Name

Designation

Attachments

B. Sample Application for Authority to Establish a Subsidiary in the Philippines

Name of Applicant

Address of Head Office

Cable Address

Telex/Fax Number

Date

The Governor
Bangko Sentral ng Pilipinas
Manila, Philippines

S i r :
We hereby apply for authority to establish a _____ percent (____ %)-owned
(Specify the type of bank) banking subsidiary in the Philippines.

In support of this application, we submit the following information/documents:

- 1. A copy of the board resolution authorizing the bank to establish such subsidiary, and designating the person who will represent the bank in connection therewith;

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2. Historical background of the bank, as follows:
 - (a) Date and place of incorporation;
 - (b) Number of domestic branches and agencies in the home country;
 - (c) List of foreign branches, agencies, other offices, subsidiaries and affiliates, and their location and line of business (if different from banking);
 - (d) Range of banking services offered; and
 - (e) Financial and commercial relationship with the Philippine Government, local banks, business entities and residents, past or present;
3. A copy each of the bank's latest amended articles of incorporation and by-laws;
4. List of the bank's directors and their citizenship;
5. List of principal officers of the head office;
6. A certification from the bank's Corporate Secretary that the bank or its holding company has at least fifty (50) stockholders and that no stockholder owns more than fifteen percent (15%) of the capital stock of the bank or its holding company, or that more than fifty percent (50%) of the capital stock of said bank or its holding company is owned by the government;
7. A certification from the bank's home country stock exchange authorized by the government that the bank is listed therein;
8. A copy each of the audited financial statements (i.e., statement of condition and statement of income and expenses) for the last two (2) years prior to the filing of application of the applicant bank, and other corporate stockholders, if any, in the proposed subsidiary;
9. Statement of Assets and Liabilities of each of the non-corporate subscribers/stockholders* as of a date not earlier than ninety (90) days prior to the filing of application, duly certified by a Certified Public Accountant or sworn to by the subscriber/stockholder* himself, with supporting schedules;
10. A copy of the bank's annual report to the stockholders for the year immediately preceding the date of filing of application;
11. Certified photo copies of income tax returns of each of the subscribers/ stockholders* for the last two (2) calendar/fiscal years;
12. A certification from the bank's home country supervisory authority:
 - (a) That the bank's home country supervisory authority has no objection to the bank's establishment of a subsidiary in the Philippines;
 - (b) That adequate information on the bank and its subsidiaries will be provided to the Bangko Sentral ng Pilipinas to the extent allowed under existing laws;

* Owning at least 2% of the subscribed capital stock

- (c) That the Philippine banks may likewise be allowed to establish subsidiaries and/or branches in the bank’s home country, subject to compliance with the rules and regulations governing admission which are applicable to all foreign banks;
 - (d) As to the ranking of the applicant bank in the home country on the basis of net worth as well as on the basis of on-book total assets of the head office and all branches, excluding subsidiaries and affiliates; and
 - (e) That the bank complies with the capital requirements as prescribed by the laws and regulations of the home country;
13. Business plan supported by projected financial statements for one (1) year, and how such business plan can accomplish the policy objectives of R.A. No. 7721;
14. National Bureau of Investigation (NBI) and Bureau of Internal Revenue (BIR) clearances or similar police or tax clearance for each of the non-corporate subscribers/stockholders* and proposed directors who are Filipino citizens or residents of the Philippines;
15. Undertaking to fully share technology, e.g. services/products and facilities such as computer hardware/software;
16. Agreement to Organize a (specify type of bank) Bank in the Philippines (See prescribed format in Item C below); and
17. Authorization for the Bangko Sentral ng Pilipinas to conduct investigation and to obtain information from other sources in order to establish the authenticity of information/representations submitted.

Should this application be approved, we shall submit the articles of incorporation of the proposed subsidiary together with an application for authority to register the same with the Securities and Exchange Commission (SEC) the Articles of Incorporation (See prescribed format in Item D below).

Very truly yours,

Signature of Authorized Officer
Over Printed Name

Designation

Attachments

* Owning at least 2% of the subscribed capital stock

C. Sample Agreement to Organize a Subsidiary Bank

AGREEMENT TO ORGANIZE A (Specify type of Bank) BANK

An agreement, made this _____ day of _____, 19__ by and among the following:

<u>Name</u>	<u>Residence</u>	<u>Citizenship</u>

Whereas, the parties hereto are desirous of forming a corporation under the following terms:

1. That a corporation to be known as _____ shall forthwith be formed for the purpose of carrying on the business of a _____ bank as provided for by law;
2. That the place where the principal office of the corporation is to be established or located is in _____;
3. That the number of directors of the said corporation shall be _____ and that the names, residences and citizenship of the proposed directors of the corporation are, as follows:

<u>Name</u>	<u>Residence</u>	<u>Citizenship</u>

4. That the capital stock of said corporation is _____ pesos (_____) Philippine Currency, and said capital shall be divided into (number) preferred shares with a par value of _____ each share:

(If there are preferred shares, their preferences should be described.)

5. That the amount of said capital stock which is proposed to be subscribed initially by the stockholders is _____ pesos (P _____) and the amount proposed to be paid thereof upon organization is _____ pesos (P _____), as follows:

<u>Name</u>	<u>Residence</u>	<u>Citizenship</u>	<u>Amount to be</u> <u>Subscribed</u>	<u>Paid-In</u>

T o t a l _____

6. That _____, one of the organizers, is hereby authorized to sign the application to the Bangko Sentral ng Pilipinas for the issuance of the certificate of authority to establish a _____ bank.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 20__ in the _____, Philippines.

SIGNATURES

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

SIGNED IN THE PRESENCE OF:

_____	_____
Witness	Witness

NOTARIAL ACKNOWLEDGMENT

D. Sample Letter to BSP Submitting Bank’s Articles of Incorporation for Issuance of the Certificate of Authority for SEC Registration

Date

The Governor
Bangko Sentral ng Pilipinas
Manila, Philippines

Sir :

I have the honor to submit herewith the Articles of Incorporation of

By way of supporting documents, I am also submitting the following:

1.

Names of the proposed principal officers with their proposed designations and duties;

2.

Bio-data sheet for each of the incorporators, proposed directors and principal officers;

3.

Evidence that at least 40% of the voting stock of the corporation is owned by citizens of the Philippines;

4.

Evidence of citizenship for each of the directors and principal officers in the banking subsidiary, such as:

(a)

Passport;

(b)

Birth certificate; or

(c)

Naturalization certificate;

5.

National Bureau of Investigation (NBI) and Bureau of Internal Revenue (BIR) clearances or similar police or tax clearance for each of the proposed principal officers who are Filipino citizens or residents of the Philippines; and

6.

Location and banking premises, as follows:

(a)

Proposed location; and

(b)

Bank premises (indicate if purchased, built, or leased).

If you find the Articles of Incorporation in order, we are requesting for the issuance of the necessary certificate of authority for its registration with the Securities and Exchange Commission.

Very truly yours,

Authorized Representative
of the Organizers

Attachments

E. Sample Application for Authority to Establish Branch/es in the Philippines

Name of Applicant

Address of Head Office

Cable Address

Telex/Fax Number

Date

The Governor
Bangko Sentral ng Pilipinas
Manila, Philippines

S i r :
We hereby apply for authority to establish branch/es with full banking authority in the Philippines.

In support of this application, we submit the following information/documents:

1. A copy of the board resolution authorizing the bank to establish such branch/es in the Philippines, and designating the person who will represent the bank in connection therewith;
2. Historical background of the bank, as follows:
 - (a) Date and place of incorporation;
 - (b) Number of branches and agencies in the home country;
 - (c) List of foreign branches, agencies, other offices, subsidiaries and affiliates, and their location and line of business (if different from banking);
 - (d) Range of banking services offered; and
 - (e) Financial and commercial relationship with the Philippine Government, local banks, business entities and residents, past or present;
3. A copy each of the latest amended articles of incorporation and by-laws;
4. List of directors and their citizenship;
5. List of principal officers of the head office;

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- 6. A certification from the bank’s Corporate Secretary that the bank or its holding company has at least fifty (50) stockholders and that no stockholder owns more than fifteen percent (15%) of the capital stock of the bank or its holding company, or that more than fifty percent (50%) of the capital stock of said bank or its holding company is owned by the government;
- 7. A certification from the bank’s home country stock exchange authorized by the government that the bank is listed therein;
- 8. A copy each of the bank’s audited financial statements (i.e., statement of condition and statement of income and expenses) for the last two (2) years prior to the filing of application;
- 9. A copy of the bank’s annual report to the stockholders for the year immediately preceding the date of filing of application;
- 10. A certification from the bank’s home country supervisory authority;
- 11. Business plan supported by projected financial statements for one (1) year, and how such business plan can accomplish the policy objectives of R.A. No. 7721;
- 12. Undertaking to fully share technology, e.g. services/products and facilities such as computer hardware/software; and
- 13. Authorization for the Bangko Sentral ng Pilipinas to conduct investigation and to obtain information from other sources in order to establish the authenticity of the information/representations submitted.

Should this application be approved, we undertake to submit another application for the issuance of the necessary certificate of authority to obtain license from the Securities and Exchange Commission (SEC) to operate branch/es in the Philippines (See prescribed format in Item F below).

Very truly yours,

Signature of Authorized Officer
Over Printed Name

Designation

Attachments

F. Sample Request for BSP Authority to Obtain License from SEC to Establish Branches of Foreign Banks

Date

The Governor
Bangko Sentral ng Pilipinas
Manila, Philippines

S i r:
I have the honor to request for a certificate of authority to obtain license from the Securities and Exchange Commission (SEC) for the establishment of branch/es in the Philippines.

In support of this request, I am pleased to submit the following papers/documents and other information:

- Names of the proposed principal officers with their proposed designation and duties;
- Bio-data sheet for each of the proposed principal officers;
- Evidence of citizenship for each of the proposed principal officers, such as:
 - Passport;
 - Birth certificate; or
 - Naturalization certificate;
- National Bureau of Investigation (NBI) and Bureau of Internal Revenue (BIR) clearances or similar police or tax clearances for each of the proposed principal officers who are Filipino citizens or residents of the Philippines;
- Location and banking premises, as follows:
 - Proposed location; and
 - Bank premises (indicate if purchased, built or leased); and
- Head office guarantee (See suggested format in Item G below).

Very truly yours,

Name of Bank

By:

Signature of Authorized Officer
Over Printed Name

Designation

Attachments

G. Sample Guarantee Undertaking to Establish Branches of Foreign Banks

GUARANTEE

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, under the provisions of Republic Acts No. 8791, as amended, and No. 7721 of the Republic of the Philippines, the licensing, supervision and regulation of banks, both foreign and domestic, are vested with the Bangko Sentral ng Pilipinas;

WHEREAS, under said Republic Act No. 7721, entitled: “An Act Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines and for Other Purposes”, Name of Bank (hereinafter called Guarantor) has been authorized to operate a branch or branches in the Philippines.

WHEREAS, under the provisions of Republic Act No. 7721, banks organized under laws other than those of the Republic of the Philippines shall guarantee the full payment of all liabilities of its branch or branches in the Philippines for the purpose of providing effective protection and security to the interests of the depositors and other creditors of said branch or branches; and

WHEREAS, Guarantor is willing, desirous and ready at any time to give such full guarantee as well as to comply with whatever conditions required in said Republic Act No. 7721.

NOW, THEREFORE, for the purpose above mentioned, Guarantor hereby agrees that in the event any branch of Guarantor located in the territory of the Republic of the Philippines should fail to promptly pay any lawful debt, claim or liability of any kind or character, due and payable under the laws of the Republic of the Philippines and pursuant to the terms of said debt, claim or liability, then Guarantor upon the demand of the Bangko Sentral shall promptly pay said debt, claim or liability to the person or persons entitled thereto under the laws of the Republic of the Philippines. Any such debt, claim or liability, not so promptly paid, shall bear interest at a rate per annum as may be prescribed by the Monetary Board. Said debts, claims or liabilities, interest thereon and any cost or expenses incidental to the collection thereof, shall be paid in the currency in which the obligations are expressed, or in which the costs or expenses were incurred.

The obligation of Guarantor upon default of any of its branches located in the territory of the Republic of the Philippines is primary, direct and immediate and not contingent on any remedy or recourse upon any asset, property or right which its branch or branches within the territory of the Republic of the Philippines may have, in such a way that any depositor or creditor of its branch or branches in the Philippines may take, at any time, any action on this Guaranty whether or not said depositor or creditor has simultaneously taken or will thereafter take, any direct or indirect action under the laws of the Philippines against said branch or branches, or against any assets, property or rights thereof: *Provided, however,* That Guarantor shall have the right to set-off should it have any claim or claims against any depositor or creditor taking any action by virtue of the provisions of its Guarantee.

The right on this Guarantee is independent of and separate from whatever right, security or action which any depositor or creditor of said branch or branches in the Philippines may have, take or pursue to protect his interest, and whatever action or measure the Bangko Sentral ng Pilipinas may adopt in the exercise of its supervisory and regulatory powers allowed and provided for in said Republic Acts No. 8791, as amended, and No. 7721 of the Republic of the Philippines, such as requiring Guarantor to assign to its Philippine Branch or Branches an amount of capital sufficient to meet the minimum capital required in said Republic Act No. 7721, or any measure it may be authorized to take under the provisions of said Republic Act No. 8791, as amended, in the case of capital deficiencies; in such case or cases, the liability created hereunder shall not in the least be minimized or affected, it being the purpose of this undertaking that Guarantor shall at all times be responsible and obligated for any such obligations or liabilities of its branch or branches in the Philippines, and to the extent that the same has been fully paid or satisfied only will said Guarantor be relieved from its primary obligations hereunder.

No technicality in the law or in the language of this Guarantee or in any contract, agreement or security, held by or with said branch or branches in the Philippines, shall defeat the nature and purpose of this Guarantee as a primary and direct obligation of Guarantor to the end that the interest of the depositors and creditors of the said branch or branches in the Philippines may be fully protected and satisfied in accordance with Section 5 of Republic Act No. 7721. Guarantor hereby acknowledges having full knowledge of said Republic Act No. 7721 in accordance with which this primary and principal obligation is given.

Guarantor hereby recognizes the jurisdiction of Philippine courts and hereby authorizes its branch office and/or offices in the Philippines to accept summons, processes and notices from the Philippine courts.

The Guarantee shall be governed by Philippine law.

IN WITNESS WHEREOF, this Guarantee has been executed by Guarantor acting by and through its Officers thereunto duly authorized this ____ day of _____, 19__.

**GUIDELINES FOR THE ISSUANCE OF A UNIVERSAL
BANKING AUTHORITY FOR BRANCHES OF FOREIGN BANKS**
[Appendix to Subsec. X105.8 (2008 - X121.8)]

**I. QUALIFICATION AND
DOCUMENTATION REQUIREMENTS**

A. Minimum Capital Required. A branch of a foreign bank applying for a universal banking (UB) authority shall have capital equivalent to at least the amount prescribed for UBs under Subsecs. X111.1 and X111.2.

The capital of a Philippine branch of a foreign bank which is authorized to operate as a UB shall consist of its permanently assigned capital plus *Net Due to* account: *Provided*, That at no time shall the aggregate of said accounts fall below the amount prescribed under Subsec. X111.1: *Provided further*, That the amount of the *Net Due to* which may be added to permanently assigned capital shall not exceed the equivalent of three (3) times the amount of the permanently assigned capital.

The capital as described in the immediately preceding paragraph shall be net of (a) such unbooked valuation reserves and other capital adjustments as may be required by the BSP; (b) total outstanding unsecured credit accommodations, both direct and indirect, to directors, officers, stockholders, and their related interests (DOSRI); (c) deferred income tax; (d) equity investment of a bank in another bank or enterprise whether foreign or domestic, if the other bank or enterprise has a reciprocal equity investment in the investing bank, in which case, the investment of the bank or the reciprocal investment of the other bank or enterprises, whichever is lower; and (e) appraisal increment reserves (revaluation surplus) arising from an appreciation or an increase in the book value of bank assets.

The list of direct and indirect loans to DOSRI which are unsecured, the original amount of the loan and date granted and the outstanding balance classified into current and past due shall be submitted by the applicant banks to the BSP.

B. Financial Resources, Past Performance and General Compliance with Banking Laws and Regulations. Applicant bank shall not have incurred deficiency in the required capital-to-risk assets ratio (10%) under Section 34 of R.A. No. 8791, as amended, and Subsecs. X105.5 and X105.6, for the year preceding the filing of application. It shall have sufficient valuation reserves to cover estimated losses.

Applicant bank shall not have incurred net deficiencies in its reserves against deposit liabilities and/or deposit substitute liabilities for the three (3)-month period immediately preceding the filing of the application. In addition, such ratios as primary reserves to deposit liabilities and primary and secondary reserves to deposit and demand liabilities shall show that applicant bank is in a liquid position.

Applicant bank has substantially complied with banking laws or orders, instructions or regulations issued by the Monetary Board or orders, instructions or rulings by the Governor. Major/important exceptions and findings by BSP examiners have been corrected or satisfactorily explained.

C. Knowledge, Competence, Experience and Integrity of Officers and Key Personnel. The applicant shall indicate in the application that officers and key personnel having the appropriate training and/or experience in investment banking and related functions are available/obtainable by the bank.

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An updated bio-data shall be submitted by each of the officers and key personnel who will handle investment banking and related functions.

II. PROJECT FEASIBILITY STUDY

The project feasibility study to be submitted by the applicant bank shall include, in addition to the regular content of such study, the following information in the format prescribed.

A. Organization and Management

- 1. The proposed organization (position) chart of department within the applicant bank which shall be responsible for the investment banking functions, indicating for each position the name of the personnel proposed for appointment.
- 2. Bio-data that should be prepared for each of the proposed key personnel in the investment banking department.

B. Corporate Strategy

- 1. The statement of corporate strategy of the UB and the immediate and long-term goals and objectives.
- 2. The lending program and special policies lined up for the first five (5) years including details on guidelines and standards to be established on exposure limits, portfolio diversification, collateral requirements, geographical expansion, assistance to pioneer and priority areas of economic activities and relationship with clients.
- 3. Investment policies and program to be implemented within the first five (5) years of operation including the broad categories of undertakings in which the UB may invest,

the portfolio mix to be observed, the extent of control over subscribed capital stock and voting stock to be exercised in financial allied undertakings, quasi-banks and non-financial allied undertakings.

- 4. Local branches of foreign banks may invest in the equity of financial as well as non-financial allied undertakings and non-allied undertakings wherein locally incorporated commercial banks with UB authority are allowed to invest. However, the branches' equity investments shall be subject to equity ceilings set in pertinent laws.

- 5. Fund generation program for the first five (5) years of operation to support the expansion in loans and investments.

- 6. Quarterly underwriting program for one (1) year stating industry of issuer, the volume of underwriting business classified into equity and debt, public offering and private placement and other information.

C. Financial Projections

- 1. The detailed statements of the underlying assumptions made in projecting the financial statements and ratios.
- 2. The detailed projected statement of income and expenses for the first five (5) years of operation.
- 3. The projected operating ratios for the first five (5) years of operation.
- 4. The actual statement of condition of UB at month-end before filing of application and the projected statement of condition as of the first five (5) years-end of operation.
- 5. The projected balance sheet ratios as of the first five (5) years of operation.
- 6. The projected funds flow for the first five (5) years of operation.

FORMAT OF AFFIDAVIT ON TRANSFER OF STOCKS
[Appendix to Subsec. X126.2b (3)]

REPUBLIC OF THE PHILIPPINES)
_____) S.S.

AFFIDAVIT

I, _____, also known as _____ with
business address at _____, after having been duly sworn to in accordance with
law depose and state that:

1. I am the transferee of (state quantity) shares representing ____ percent of voting
stocks of (state name of bank), hereinafter to be referred to as “Bank”, by virtue of (state
instrument of transfer) dated _____.
2. In acquiring equity in the Bank, I acted with full awareness and understanding
that the Bank is a duly organized domestic banking corporation, exercising and enjoying a
right, franchise and privilege to engage in _____ banking business, decreed by law to
be a nationalized industry, wherein at least _____ of the voting stock should be owned
by citizens of the Philippines and that there exist prohibitions under the law against the
holding by a corporation or any person of voting stocks in excess of _____ of the voting
stock of the Bank.
3. Consonant with the policy of the Government as provided for in Commonwealth
Act No. 108, as amended, otherwise known as the Anti-Dummy Law, and Republic Act No.
8791, otherwise known as the General Banking Law of 2000, I hereby declare as follows:
 - a. The (state instrument of transfer) was not simulated to evade the provisions of
the Constitution and Commonwealth Act. No. 108 or the provisions of Republic
Act No. 8791 particularly Sections 11, 12 and 13 imposing maximum equity
holdings by any natural or juridical persons;
 - b. That I acquired said shares of stocks for valuable consideration from my own
funds;
 - c. As such transferee, I have title over said shares of stock; and
 - d. That I undertake to dispose of the shares of stocks I may have acquired in excess
of the prescribed ceilings.
4. This Affidavit is executed for the purpose of stating under oath my bona fide title
over the shares of voting stocks of the Bank; that in acquiring title over said shares I gave
valuable consideration; and that I shall comply with the requirements of all laws, rules and
regulations with respect to my conduct as stockholder of the Bank.

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IN WITNESS WHEREOF, I hereby affix my signature this _____ day of _____, 20__ at _____.

Affiant

SUBSCRIBED and sworn to before me this _____ day of _____ 20__, affiant exhibiting to me his Community Tax Certificate No. _____, issued at _____ on _____ 20__.

Notary Public

Doc. No. _____
Page No. _____
Book No. _____
Series of _____

STANDARD PRE-QUALIFICATION REQUIREMENTS
FOR THE GRANT OF BANKING AUTHORITIES
(Appendix to Subsecs. Indicated Below)

A. Banks Applying For Authority to –

- 1. Establish additional branches of foreign banks (Subsec. X153.2);
- 2. Establish offices abroad (Subsec. X154.2);
- 3. Accept or create demand deposits (Subsec. X201.1);
- 4. Accept NOW accounts (Subsec. X223.1); and
- 5. Issue NCTDs (Subsec. X233.1);
- 6. Accept government deposits (Subsec. X240.3);
- 7. Engage in quasi-banking operations (Subsec. X234.2);
- 8. Operate an EFCDU/FCDU (Subsec. X501.2); and
- 9. Engage in derivatives transactions [Subsec. X611.1 (2008 - X602.1)]

B. Standard Pre-Qualification Requirements

Banking Authorities

	• To establish additional branches of foreign bank	• To establish offices abroad; • To accept demand, NOW NCTDs and • To engage in quasi-banking, EFCDU/FCDU and derivatives transactions
1. The bank has complied, during the period indicated immediately preceding the date of application, with the following:		
a. Net worth to risk assets ratio;	90 days	60 days
b. Ceilings on credit accommodation to DOSRI; and	90 days	continuing
c. Liquidity floor on government deposits;	90 days	continuing

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2. The bank has not incurred net weekly reserve deficiencies during the period indicated immediately preceding the date of application;	12 weeks	8 weeks
3. The applicant bank has generally complied with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management;	a	a
4. The bank’s past due loans do not exceed twenty percent (20%) of its total loan portfolio as of the date of application;	a	a
5. The bank has corrected as of date of application the major violations noted in its latest examination particularly relating to –		
a. single borrower’s loan limit; and	a	a
b. total investment in real estate and improvements thereon, including bank equipment, does not exceed fifty percent (50%) of net worth as of date of application;	a	a
6. The bank’s accounting records, systems, procedures and internal control systems are satisfactorily maintained;	a	a
7. The bank does not have float items outstanding for more than sixty (60) calendar days in the “Due From/To Head Office/Branches/Offices” accounts and the “Due From Bangko Sentral” account exceeding one percent (1%) of the total resources as of end of preceding month;	a	a
8. The bank has no past due obligation with the BSP or with any FI as of date of application;	a	a
9. The bank’s facilities pertinent to the authority applied for are adequate;	a	a
10. The officers who will be in-charge of the operation relating to the authority applied for have actual experience of at least two (2) years in another bank as in-charge (or at least as assistant-in-charge) of the same operation;	a	a

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11. The bank personnel who will handle the operation relating to the authority applied for, have attended appropriate seminars, workshops or on-the-job training or have experience of at least six (6) months;	a	a
12. The bank has complied with the mandatory allocation of credit resources to small and medium enterprises for two (2) quarters immediately preceding the date of application;	a	a
13. The bank has not been found engaging in unsafe and unsound banking practices during the last six (6) months immediately preceding the date of application where applicable;	a	n/a
14. The bank has complied with the twenty percent (20%) aggregate limit on real estate loans as of end of preceding quarter (for UBs/KBs only);	a	n/a
15. The bank has set up the prescribed allowances for probable losses, both general and specific, as of date of application;	a	n/a
16. The bank is a member of the Philippine Deposit Insurance Corporation in good standing as of date of application (for TBs/RBs/Coop Banks only)	a	n/a

(As amended by Circular No. 613 dated 13 June 2008)

**PREREQUISITES FOR THE GRANT OF
AUTHORITY TO OPERATE FCDU**
(Appendix to Subsec. X501.2)

A. Thrift Banks

A TB applying for authority to operate an FCDU shall comply with the following requirements:

a. The bank’s operation during the preceding calendar year and for the period immediately preceding the date of application has been profitable;

b. The bank is well capitalized with risk-based CAR not lower than twelve percent (12%) at the time of filing the application;

c. The officer who will be in-charge of FCDU operations shall either:

(1) have at least one (1) year of actual experience in another bank as in-charge or assistant in-charge of the same operations; or

(2) have attended a specialized training course on FCDU transactions or operations conducted by the BSP Institute or an institution or bank duly accredited by the BSP;

d. The bank has not incurred net weekly reserve deficiencies within eight (8) weeks immediately preceding the date of application;

e. The bank has generally complied with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management in the last two (2) preceding examinations prior to the date of application, more particularly on:

(1) election of at least two (2) independent directors;

(2) attendance by every member of the board of directors in a special seminar for

board of directors conducted or accredited by the BSP;

(3) the ceilings on credit accommodations to DOSRI;

(4) liquidity floor requirements for government deposits;

(5) single borrower’s loan limit; and

(6) investment in bank premises and other fixed assets;

f. The bank maintains adequate provisions for probable losses commensurate to the quality of its asset portfolio but not lower than the required valuation reserves as determined by the BSP;

g. The bank has no float item outstanding for more than sixty (60) calendar days in the “Due From/To Head Office/Branches/Offices” accounts and the “Due From Bangko Sentral” account exceeding one percent (1%) of the total resources as of date of application;

h. The bank has no past due obligation with the BSP or with any government FI;

i. The bank has established a risk management system appropriate to its operations characterized by clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system;

j. The bank has a CAMELS composite rating of at least “3” in the last regular examination with Management rating not lower than “3”; and

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k. The bank is a member of the PDIC in good standing.

B. Rural/Cooperative Banks

An RB/Coop Bank applying for authority to operate an FCDU must comply with the following requirements:

- a. Minimum capital under Subsection X151.3 or P20.0 million, whichever is higher;
- b. Risk-based CAR at the time of filing the application of at least twelve percent (12%);
- c. CAMELS composite rating in the latest examination of at least “3”, with Management component score not lower than “3”; and
- d. No outstanding major supervisory concerns on safety and soundness from last examination, such as, but not limited to:

(1). Unbooked valuation reserves	-
(2). Inadequate regular and liquidity reserves on deposits including government deposits and deposit substitutes	12 weeks
(3). DOSRI loans in excess of ceilings	3 months
(4). Poor asset quality	-
(5). Violation of single borrower’s loan limit and investment limits.	-
(6). Past due obligation with the BSP or with any FI	-
(7). Unsafe and unsound banking practices	6 months
(8). Inadequate accounting records, systems, procedures and internal controls	-
(9). Corporate governance	
(10). Compliance with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management	- -
(11). Membership with the PDIC	-

(As amended by Circular Nos. 582 dated 17 September 2007 and 522 dated 23 March 2006)

**QUALIFICATION REQUIREMENTS FOR A BANK/NBFI APPLYING FOR
ACCREDITATION TO ACT AS TRUSTEE ON ANY MORTGAGE OR
BOND ISSUED BY ANY MUNICIPALITY, GOVERNMENT-OWNED OR
-CONTROLLED CORPORATION, OR ANY BODY POLITIC**
(Appendix to Subsec. X409.16)

A bank/NBFI applying for accreditation to act as trustee on any mortgage or bond issued by any municipality, government-owned or controlled corporation, or any body politic must comply with the following requirements:

- a. It must be a bank or NBFI under BSP supervision;
- b. It must have a license to engage in trust and other fiduciary business;
- c. It must have complied with the minimum capital accounts required under existing regulations, as follows:

UBs and KBs	The amount required under existing regulations or such amount as may be required by the Monetary Board in the future
Branches of Foreign Banks	The amount required under existing regulations
Thrift Banks	P650.0 million or such amounts as may be required by the Monetary Board in the future
NBFIs	Adjusted capital of at least P300.0 million or such amounts as may be required by the Monetary Board in the future.

- d. Its risk-based capital adequacy ratio is not lower than twelve percent (12%) at the time of filing the application;
- e. The articles of incorporation or governing charter of the institution shall include among its powers or purposes, acting as trustee or administering any trust or holding property in trust or on deposit for the use, or in behalf of others;

f. The by-laws of the institution shall include among others, provisions on the following:

- (1) The organization plan or structure of the department, office or unit which shall conduct the trust and other fiduciary business of the institution;
- (2) The creation of a trust committee, the appointment of a trust officer and subordinate officers of the trust department; and
- (3) A clear definition of the duties and responsibilities as well as the line and staff functional relationships of the various units, officers and staff within the organization.
- g. The bank's operation during the preceding calendar year and for the period immediately preceding the date of application has been profitable;
- h. It has not incurred net weekly reserve deficiencies during the eight (8) weeks period immediately preceding the date of application;
- i. It has generally complied with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management in the last two (2) preceding examinations prior to the date of application, particularly on the following:
 - (1) election of at least two (2) independent directors;
 - (2) attendance by every member of the board of directors in a special seminar for board of directors conducted or accredited by the BSP;
 - (3) the ceilings on credit accommodations to DOSRI;
 - (4) liquidity floor requirements for government deposits;

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(5) single borrower's loan limit; and
(6) investment in bank premises and other fixed assets.

j. It maintains adequate provisions for probable losses commensurate to the quality of its assets portfolio but not lower than the required valuation reserves as determined by the BSP;

k. It does not have float items outstanding for more than sixty (60) calendar days in the "Due From/To Head Office/Branches/Other Offices" accounts and the "Due from BSP" account exceeding one percent (1 %) of the total resources as of date of application;

l. It has established a risk management system appropriate to its operations characterized by clear delineation of

responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system;

m. It has a CAMELS Composite Rating of at least 3 in the last regular examination with management rating of not lower than 3; and

n. It is a member of the PDIC in good standing (for banks only);

Compliance with the foregoing as well as with other requirements under existing regulations shall be maintained up to the time the trust license is granted. A bank that fails in this respect shall be required to show compliance for another test period of the same duration.

REPORTS REQUIRED OF BANKS
[Appendix to Sec. X192 (2008 - X162)]

A. UBs/KBs

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-1	Form 2B/2B.1 (BSP-7-16-03)	X192.9 (Cir. No. 576 dated 08.08.07 and M-030 dated 10.04.07)	Balance Sheet (BS)/Consolidated Balance Sheet (CBS)	Quarterly	12th banking day from the date of the Call Letter	Diskette/CD/e-mail to SDC ^{1/} sdckb-pbs@bsp.gov.ph
			Published BS/CBS		20th banking day from the date of the Call Letter	SDC Postal/messengerial services/Fax to 523-3461 or 523-0230
A-1	Unnumbered	X191.2 (Cir. No. 512 dated 02.03.06, as amended by M- 012 dated 03.14.08, M-011 dated 03.07.08, M-026 dated 09.20.07, M-015 dated 05.28.07, Cir. No. 568 dated 05.08.07, M-006 dated 07.07.06 and MAB dated 03.07.06)	Financial Reporting Package (FRP)			
			Balance Sheet (FRP)			
			- Solo basis (Head Office and branches)	Monthly	15th banking day after end of reference month	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
			- Consolidated basis (together with applicable schedules) ^{2/}	Quarterly	30th banking day after end of reference quarter	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.
^{2/} Only banks with financial allied subsidiaries, excluding insurance subsidiaries, shall submit the reports on consolidated basis.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			Income Statement (FRP):			
			- Solo basis (Head Office and branches)	Quarterly	15th banking day after end of reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
			- Consolidated basis (together with applicable schedules) ^{2/}	-do-	30th banking day after end of reference quarter	-do-
			Schedules (Solo Report):			
			1 - Checks and Other Cash Items (COCI)	Monthly	15th banking day after end of reference month	-do-
			2 - Due from Other Banks	-do-	-do-	-do-
			3 - Financial Assets Held for Trading	-do-	-do-	-do-
			3a - Breakdown of Held for Trading (HFT) Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/Participation with Recourse, Securities Lending and Borrowing Agreements	Quarterly	15th banking day after end of reference quarter	-do-
			4 - Derivatives Held for Trading (HFT)	-do-	-do-	-do-
			4a - Derivatives Held for Trading Matrix of Counterparty and Type of Derivative Contracts	Monthly	15th banking day after end of reference month	-do-

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^{2/} Only banks with financial allied subsidiaries, excluding insurance subsidiaries, shall submit the reports on consolidated basis.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
		5	- Financial Assets Designated at Fair Value through Profit or Loss	Monthly	15th banking day after end of reference month	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
		6	- Available-For-Sale Financial Assets	-do-	-do-	-do-
		6a	- Available for Sale Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/ Participation with Recourse, Securities Lending and Borrowing Agreements	Quarterly	15th banking day after end of reference quarter	-do-
		6b to 6b4	- Available-For-Sale Financial Assets- Classified as to Status	-do-	-do-	-do-
		6c to 6c4	- Available-For-Sale Financial Assets Movements in Allowances for Credit Losses	Annually	15th banking day after end of reference year	-do-
		7	- Held to Maturity (HTM) Financial Assets	Monthly	15th banking day after end of reference month	-do-
		7a	- Held to Maturity Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/ Participation with Recourse, Securities Lending and Borrowing Agreements	Quarterly	15th banking day after end of reference quarter	-do-
		7b	- Fair Value of Held to Maturity (HTM) Financial Assets	Annually	15th banking day after end of reference year	-do-

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			7c to - Held to Maturity Financial Assets 7c4 Classified as to Status	Quarterly	15th banking day after end of reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
			7d to - Held to Maturity Financial Assets 7d4 Movements in Allowances for Credit Losses	Annually	15th banking day after end of reference year	-do-
			8 - Unquoted Debt Securities Classified as Loans	Monthly	15th banking day after end of reference month	-do-
			8a - Fair Value of Unquoted Debt Securities Classified as Loans	Annually	15th banking day after end of reference year	-do-
			8b to - Unquoted Debt Securities Classified as 8b4 Loans Classified as to Status	Quarterly	15th banking day after end of reference quarter	-do-
			8c to - Unquoted Debt Securities Classified as 8c4 Loans Movements in Allowances for Credit Losses	Annually	15th banking day after end of reference year	-do-
			9 - Investment in Non-Marketable Equity Securities	Monthly	15th banking day after end of reference month	-do-
			10 - Interbank Loans Receivables	-do-	-do-	-do-
			11 - Loans and Receivables - Others	-do-	-do-	-do-
			11a to - Loans and Receivables - Others 11a4 Classified as to Status	-do-	-do-	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			11b to - Restructured Loans and Receivables 11b4 Classified as to Status	Monthly	15th banking day after end of reference month	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
			11c to - Loans and Receivables - Others 11c4 Movements in Allowances for Credit Losses	Quarterly	15th banking day after end of reference quarter	-do-
			11d to - Gross Loans and Receivables - Others 11d4 Type of Business/Industry of Counterparty	Monthly	15th banking day after end of reference month	-do-
			11e to - Loans and Receivables - Others 11e4 Classified as to Status Per PAS 39	Annually	15th banking day after end of reference year	-do-
			11f - Schedule of Agri/Agra SME, DIL and Microfinance Loans and Receivables Classified as to Counterparty	Monthly	15th banking day after end of reference month	-do-
		(Cir. No. 600 dated 02.04.08)	11g1 - Report on Real Estate Exposure	Quarterly	15th banking day after end of reference quarter	-do-
			11g2 - Investment in Debt and Equity Securities issued by Real Estate Companies	-do-	-do-	-do-
			11g3 - Original Maturity and Earliest Repricing of Real Estate Exposure	-do-	-do-	-do-
			12 - Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions	Monthly	15th banking day after end of reference month	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			12a to - Loans and Receivables Arising from 12a4 Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions Matrix of Counterparty and Issuer of Collateral Securities	Quarterly	15th banking day after end of reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
			13 - Fair Value Adjustments in Hedge Accounting	-do-	-do-	-do-
			13a - Financial Derivatives Held for Fair Value Hedge	-do-	-do-	-do-
			13b - Financial Derivatives Held for Cash Flow Hedge	-do-	-do-	-do-
			13c - Financial Derivatives Held for Hedges of Net Investment in Foreign Operations	-do-	-do-	-do-
			13d - Financial Derivatives Portfolio Hedge of Interest Rate Risk	-do-	-do-	-do-
			14 - Accrued Interest Income/Expense from Financial Assets and Liabilities	-do-	-do-	-do-
			15 - Equity Investment in Subsidiaries, Associates and Joint Ventures	Monthly	15th banking day after end of reference Month	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			15a - Equity Investment in Subsidiaries, Associates and Joint Ventures - Classified as to Nature of Business	Quarterly	15th banking day after end of reference quarter	Diskette/CD/e-mail to SDC [/] sdckb-frp@bsp.gov.ph
			15b - Details of Investment in Subsidiaries, Associates and Joint Ventures	-do-	-do-	-do-
			16 - Bank Premises, Furniture, Fixture and Equipment	-do-	-do-	-do-
			17 - Real and Other Properties Acquired	-do-	-do-	-do-
			18 - Deferred Tax Assets and Liabilities	Annually	15th banking day after end of reference year	-do-
			19 - Other Assets	Monthly	15th banking day after end of reference month	-do-
			20 - Breakdown of Due from and Due to Head Office/Branches/Agencies Abroad - Philippine Branch of Foreign Banks	-do-	-do-	-do-
			21 - Liability for Short Position	Quarterly	15th banking day after end of reference quarter	-do-
			22 - Deposit Liabilities Classified as to Type of Deposit	Monthly	15th banking day after end of reference month	-do-
			22a - Deposit Liabilities by Size of Accounts Excluding Deposits in Foreign Offices/Branches	Quarterly	15th banking day after end of reference quarter	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
		23	- Due to Other Banks	Monthly	15th banking day after end of reference month	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
		24	- Bills Payable	-do-	-do-	-do-
		25	- Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	Quarterly	15th banking day after end of reference quarter	-do-
		26	- Fair Value of Financial Liabilities	Annually	15th banking day after end of reference year	-do-
		27	- Financial Liabilities Associated with Transferred Assets	Quarterly	15th banking day after end of reference quarter	-do-
		28	- Other Liabilities	Monthly	15th banking day after end of reference month	-do-
		29	- Interest Income/Expense from Financial Instruments	Quarterly	15th banking day after end of reference quarter	-do-
		29a	- Interest Income from Due from Other Banks Classified as to Type of Deposits	-do-	-do-	-do-
		29b	- Interest Income from Held for Trading, Designated at FVPL, Available for Sale, Held to Maturity Financial Assets and Unquoted Debt Securities Classified as Loans	-do-	-do-	-do-
		29c	- Interest Income from Interbank Loans Receivables	-do-	-do-	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			29d to - Interest Income from Loans and Receivables- 29d4 Others - Classified as to Status	Quarterly	15th banking day after end of the reference month	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
			29e - Interest Income from Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions	-do-	-do-	-do-
			30a - Interest Expense on Deposit Liabilities	-do-	-do-	-do-
			30b - Interest Expense on Bills Payable	-do-	-do-	-do-
			30c - Interest Expense on Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	-do-	-do-	-do-
			31 - Dividend Income	-do-	-do-	-do-
			32 - Gains/(Loss) on Financial Assets and Liabilities Held for Trading	-do-	-do-	-do-
			33 - Gains/(Losses) from Sale/Redemption/ Derecognition of Non-Trading Financial Assets and Liabilities	-do-	-do-	-do-

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
		34	- Compensation/Fringe Benefits	Quarterly	15th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
		35	- Other Administrative Expenses	-do-	-do-	-do-
		36	- Depreciation/Amortization Expense	-do-	-do-	-do-
		37	- Impairment Loss	-do-	-do-	-do-
		38	- Off-Balance Sheet	-do-	-do-	-do-
		38a	- Compliance with Section X347	-do-	-do-	-do-
		39 & 39a	- Residual Maturity Performing Financial Assets and Financial Liabilities	-do-	-do-	-do-
		40 & 40a	- Repricing - Performing Financial Assets and Financial Liabilities	-do-	-do-	-do-
		41	- Investment in Debt Instruments Issued by LGUs and Loans Granted to LGUs	-do-	-do-	-do-
		42	- Disclosure of Due From FCDU/RBU and Due to FCDU/RBU	-do-	-do-	-do-
			Schedules (Consolidated Report): Control Prooflist	-do-	30th banking day after end of reference quarter	-do-
		1	- Checks and Other Cash Items	-do-	-do-	-do-
		2	- Due from Other Banks	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
		3	- Financial Assets Held for Trading	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
	3a		- Breakdown of Held for Trading (HFT) Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/Participation with Recourse, Securities Lending and Borrowing Agreements	-do-	-do-	-do-
	4		- Derivatives Held for Trading (HFT)	-do-	-do-	-do-
	4a		- Derivatives Held for Trading Matrix of Counterparty and Type of Derivative Contracts	-do-	-do-	-do-
	5		- Financial Assets Designated at Fair Value through Profit of Loss	-do-	-do-	-do-
	6		- Available-For-Sale Financial Assets	-do-	-do-	-do-
	6a		- Available-for-Sale Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/ Participation with Recourse, Securities Lending and Borrowing Agreements	-do-	-do-	-do-
	6b		- Available-For-Sale Financial Assets- Classified as to Status	Quarterly	30th banking day after end of reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
		6c	- Available-for-Sale Financial Assets Movements in allowances for credit losses	Annually	30th banking day after end of reference year	Check with SDC
		7	- Held to Maturity (HTM) Financial Asset	Quarterly	30th banking day after end of reference quarter	-do-
		7a	- Held to Maturity Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/ Participation with Recourse, Securities Lending and Borrowing Agreements	-do-	-do-	-do-
		7b	- Fair Value of Held to Maturity Financial Assets	Annually	30th banking day after end of reference year	-do-
		7c	- Held to Maturity Financial Assets Classified as to Status	Quarterly	30th banking day after end of reference quarter	-do-
		7d	- Held to Maturity Financial Assets Movements in Allowances for Credit Losses	Annually	30th banking day after end of reference year	-do-
		8	- Unquoted Debt Securities Classified as Loans	Quarterly	30th banking day after end of reference quarter	-do-
		8a	- Fair Value of Unquoted Debt Securities Classified as to Status	Annually	30th banking day after end of reference year	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
		8b	- Unquoted Debt Securities Classified as Loans Classified as to Status	Quarterly	30th banking day after end of reference quarter	-do-
		8c	- Unquoted Debt Securities Classified as Loans Movements in allowances for Credit Losses	Annually	30th banking day after end of the reference year	-do-
		9	- Investment in Non-Marketable Equity Securities	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			10 - Interbank Loans Receivables	Quarterly	30th banking day after end of reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
			11 - Loans and Receivables - Others	-do-	-do-	-do-
			11a - Loans and Receivables - Others Classified as to Status	-do-	-do-	-do-
			11b - Restructured Loans and Receivables Classified as to Status	-do-	-do-	-do-
			11c - Loans and Receivables - Others Movements in Allowances for Credit Losses	-do-	-do-	-do-
			11d - Gross Loans and Receivables - Others Classified as to Type of Business/Industry of Counterparty	-do-	-do-	-do-
			11e - Loans and Receivables - Others Classified as to status per PAS 39	Annually	30th banking day after end of reference year	-do-
			11f - Schedule of Agri/Agra SME, DIL and Microfinance Loans and Receivables Classified as to Counterparty	Quarterly	30th banking day after end of reference quarter	-do-
		(Cir. No. 600 dated 02.04.08)	11g1 - Report on Real Estate Exposure	-do-	-do-	-do-
			11g2 - Investment in Debt and Equity Securities Issued by Real Estate companies	-do-	-do-	-do-
			11g3 - Original Maturity and Earliest Repricing of Real Estate Exposure	-do-	-do-	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			12 - Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions	Quarterly	30th banking day after end of reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
			12a - Loans and Receivables Arising from Repurchase Agreements, Cerificates of Assignment/Participation with Recourse and Securities Lending and Borrowing transactions Matrix of Counterparty and Issuer of Collateral Securities	-do-	-do-	-do-
			13 - Fair Value Adjustments in Hedge Accounting	-do-	-do-	-do-
			13a - Financial Derivatives Held for Fair Value Hedge	-do-	-do-	-do-
			13b - Financial Derivatives Held for Cash Flow Hedge	-do-	-do-	-do-
			13c - Financial Derivatives Held for Hedges of Net Investment in Foreign Operations	-do-	-do-	-do-
			13d - Financial Derivatives Portfolio Hedge of Interest Rate Risk	-do-	-do-	-do-
			14 - Accrued Interest Income/Expense from Financial Assets and Liabilities	-do-	-do-	-do-
			15 - Equity Investment in Subsidiaries, Associates and Joint Ventures	-do-	-do-	-do-
			15a - Equity Investment in Subsidiaries, Associates and Joint Ventures - Classified as to Nature of Business	-do-	-do-	-do-
			15b - Details of Investment in Subsidiaries, Associates and Joint Ventures	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			16 - Bank Premises, Furniture, Fixture and Equipment	Quarterly	30th banking day after end of reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
			17 - Real and Other Properties Acquired	-do-	-do-	-do-
			18 - Deferred Tax Assets & Liabilities	Annually	30th banking day after end of reference year	-do-
			19 - Other Assets	Quarterly	30th banking day after end of reference quarter	-do-
			20 - Breakdown of Due from and Due to Head Office/Branches/Agencies Abroad - Philippine Branch of a Foreign Bank	-do-	15th banking day after end of reference quarter	-do-
			21 - Liability for Short Position	-do-	-do-	-do-
			22 - Deposit Liabilities Classified as to Type of Deposit	-do-	30th banking day after end of reference quarter	-do-
			22a - Deposit Liabilities by Size of Accounts Excluding Deposits in Foreign Offices/Branches	-do-	-do-	-do-
			23 - Due to Other Banks	-do-	-do-	-do-
			24 - Bills Payable	-do-	-do-	-do-
			25 - Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	-do-	-do-	-do-
			26 - Fair Value of Financial Liabilities	Annually	30th banking day after end of reference year	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			27 - Financial Liabilities Associated with Transferred Assets	Quarterly	30th banking day after end of reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
			28 - Other Liabilities	-do-	-do-	-do-
			29 - Interest Income/Expense from Financial Instruments	-do-	-do-	-do-
			29a - Interest Income from Due from Other Banks Classified as to Type of Deposits	-do-	-do-	-do-
			29b - Interest Income from Held for Trading, Designated at FVPL, Available for Sale, Held to Maturity Financial Assets and Unquoted Debt Securities Classified as Loans	-do-	-do-	-do-
			29c - Interest Income from Interbank Loans Receivables	-do-	-do-	-do-
			29d - Interest Income from Loans and Receivables - Others - Classified as to Status	-do-	-do-	-do-
			29e - Interest Income from Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactons	-do-	-do-	-do-
			30a - Interest Expense on Deposit Liabilities	-do-	-do-	-do-
			30b - Interest Expense on Bills Payable	-do-	-do-	-do-
			30c - Interest Expense on Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			31 - Dividend Income	Quarterly	30th banking day after end of reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdckb-frp@bsp.gov.ph
			32 - Gains/(Loss) on Financial Assets and Liabilities Held for Trading	-do-	-do-	-do-
			33 - Gains/(Losses) from Sale/Redemption Derecognition of Non-Trading Financial Assets and Liabilities	-do-	-do-	-do-
			34 - Compensation/Fringe Benefits	-do-	-do-	-do-
			35 - Other Administrative Expenses	-do-	-do-	-do-
			36 - Depreciation/Amortization Expense	-do-	-do-	-do-
			37 - Impairment Loss	-do-	-do-	-do-
			38 - Off-Balance Sheet	-do-	-do-	-do-
			38a - Compliance with Section X347	-do-	-do-	-do-
			39 - Residual Maturity Performing Financial Assets and Financial Liabilities	-do-	-do-	-do-
			40 - Repricing - Performing Financial Assets and Financial Liabilities	-do-	-do-	-do-
			41 - Investment in Debt Instruments Issued by LGUs and Loans Granted to LGUs	-do-	-do-	-do-
			42 - Disclosure of Due from FCDU/RBU and Due to FCDU/RBU	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-1	Unnumbered	X116.5 1115.2 (As amended by Cir. Nos. 574 dated 07.10.07, 503 dated 12.22.05 and 475 dated 02.14.05)	Computation of the Adjusted Risk-Based Capital Adequacy Ratio Covering Combined Credit Risk, Market Risk, and Operational Risk			
			- solo basis (head office and branches)	Quarterly	15th banking day after end of reference quarter	SDC
			- consolidated basis (parent bank plus subsidiary financial allied undertakings, but excluding insurance companies)	-do-	30th banking day after end of reference quarter	SDC
A-1	Unnumbered	X611.5 (Cir. No. 594 dated 01.08.08, as amended by M-009 dated 02.27.08)	Derivatives Report Schedules: Report on Outstanding Derivatives Contracts (Stand - Alone - RBU, Stand - Alone - FCDU, Hybrid) Report on Trading (Gains/Losses) on Financial Derivatives	Monthly	15th banking day after end of reference month	CMSG cc : SDC cmsg@bsp.gov.ph. sdc-derivatives@bsp.gov.ph
			Certification (Hard Copy)	Monthly	15th banking day after end of reference month	Receiving Section, SES
A-2	DCB I/II Form 1 (Revised June 2001)	X116.3 X105.5 X258	Consolidated Daily Report of Condition: Schedules: Schedule 1 - Other Non-Risk Assets Schedule 2 - Selected Domestic Accounts and Control Proofsheets Annexes - Weekly Inventory of GS Held	Weekly	3rd banking day after end of reference week	cc mail: SDC at sdckb-cdrc@bsp.gov.ph SDC via Fax No. (02)523-3461 or postal/ messengerial service

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
	KAR 230KB (BSP-SES1.03) KAR 240KB (BSP-SES1.04) KAR 250KB (BSP 7-16-07) KAR 260KB (BSP 7-16-01.1-3) KUB 265DR		CARE Reports Reports on Required and Available Reserves on: - Deposit Substitutes/Interbank Loans; and - Deposit Liabilities Reports on Minimum Capital Required Under Section 34 of R.A. No. 8791 Summary Utilization of Available Reserves & Liquidity Floor on Gov't Funds Held	Weekly	Upon completion of Processing by SDC	(Note: CDRC-sourced reports generated by SDC are furnished to the appropriate department of the SES)
A-2	Unnumbered	X405.9	Report on Peso-Denominated Common Trust Fund and Other Similarly Managed Funds	Weekly	3rd banking day after end of reference week	In diskette format hardcopy via postal/ messengerial service via electronic mail at sdckb-trust@bsp.gov.ph to SDC
A-2	Unnumbered	X405.9 (CL dated 08-20-98)	Report on Trust and Other Fiduciary Accounts (TOFA) - Others	-do-	3rd banking day after end of reference week	-do-
A-2	BSP - 16-35 TR	X192 X425.2	Report on Trust and Other Fiduciary Business and Investment Management Activities	Quarterly	10th banking day after end of reference quarter	-do-
A-2		X425.2	Report on Investment Management Activities	-do-	10th banking day after end of reference quarter	-do-
A-2	Unnumbered	X425.2 (Cir. 609 dated 05.26.08 as amended by M-022 dated 06.26.08)	Financial Reporting Package for Trust Institutions	-do-	20th banking day after the end of reference quarter	SDC sdckb-frpti@bsp.gov.ph

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
Schedules: Balance Sheet A1 to A2 Main Report B to B2 Details of Investments in Debt and Equity Securities C to C2 Details of Loans and Receivables D to D2 Wealth/Asset/Fund Management - UITF E Other Fiduciary Accounts E1 to E1b Other Fiduciary Services - UITF Income Statement Control Prooflist						
A-2	Unnumbered (no prescribed form)	X141.9	Acknowledgment of copies of specific duties and responsibilities of the board of directors and of a director and certification that they fully understand the same	Annually or as directors are elected	30th banking day after date of election	Hardcopy to CPCD/ISD or Appropriate department of the SES
A-2	Unnumbered	X801.5 (Revised May 2002, as amended by Cir. 612 dated 06.03.08)	Covered Transaction Report (CTR)	As transaction occurs	10th banking day from the occurrence of the transaction	Original and duplicate to Anti-Money Laundering Council (AMLC)
A-2	Unnumbered	X801.5 (Revised May 2002, as amended by Cir. 612 dated 06.03.08)	Suspicious Transaction Report (STR)	-do-	-do-	-do-

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-2	Unnumbered	X801.6 (Cir. No. 279 dated 04.02.01)	Certification on Compliance with Anti-Money Laundering Regulations	Annually	20th banking day after end of reference year	Original and duplicate - Appropriate department of the SES
A-2	Unnumbered	(Cir. No. 607 dated 04.30.08, as amended by M-021 dated 06.16.08)	Report on Microfinance Loans	Monthly	15th banking day after end of the reference month	SDC sdckb-micro@bsp.gov.ph
			Control Prooflist	-do-	-do-	SDC via Fax at (632) 523-3461 or 523-0230
A-2	Unnumbered	(Cir. No. 607 dated 04.30.08, as amended by M-021 dated 06.16.08)	Income Statement on Microfinance Operations	Quarterly	15th banking day after end of the reference quarter	SDC sdckb-micro@bsp.gov.ph
			Control Prooflist	-do-	-do-	SDC via Fax at (632) 523-3461 or 523-0230
A-2	Unnumbered	X181.5 (Cir. No. 620 dated 09.03.08)	Self-Assesment and Certification of Compliance with Rules and Regulations on Bank Protection/Updated Security Program	Annually	On or before 30 January	Appropriate department of the SES
A-3	DCB I/II Form 2C (BSP-7-16-02-KB)	X192 (Revised Nov. 2003 per MAB dated 12.30.03)	Statement of Condition (By Banking Unit) with the prescribed schedules (including ROPA by banks), to wit:	Quarterly	15th banking day after end of reference quarter	Original -SDC Duplicate-Appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			Schedules: 1 - Loans-to-Deposit Ratio Supplementary Information; 2 - Aging of Loans and Selected Receivables (Revised September 2003 per MAB dated 12.30.03); 3 - Report on Reconciling Items of More than Six (6) months in "Due From Head Office/ Branches/Agencies" accounts; 4 - Breakdown of Due From/Due to Local Banks and Domestic Deposit Liabilities (BSP-7-16-02-KB.1); 5 - Breakdown of Domestic Savings Deposits (BSP-7-16-02-KB.2)			
			X192.6			
			X192			
			X192			
A-3	DCB I/II Form 3B (BSP-7-16-04- A)	X192 (Revised Nov. 2003 per MAB dated 12.22.08)	Statement of Income and Expenses (By Banking Unit) (NOTE: Covering the periods: for the 1st Quarter, 1 st Semester, Three Quarters and for the Year, respectively)	Quarterly	15th banking day after end of reference quarter	Original-SDC Duplicate - Appropriate department of the SES
A-3	Unnumbered	X393 (Cir. No. 613 dated 06.18.08, as amended by M-032 dated 10.31.08)	Report of Selected Branch Accounts Schedules Selected Balance Sheet Accounts Selected Balance Sheet and Income Statement Accounts	Semestral	20th banking day after end of reference semester	cc: Mail - SDC sdckb-bris@bsp.gov.ph.

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			Aging of Loans and Receivables - Others			
			Breakdown of Deposit Liabilities Bank Loans-to-Deposits Ratio			
			Reconciling Items Outstanding for More than Six (6) Months on the Due From/Due To Head Office, Branches and Agencies Account			
A-3	DCB I/II Form 5 (BSP-7-16-07-A	X331 X409.3	Daily Report on Compliance with Aggregate Ceiling on Direct/Indirect Credit Accommodations to Directors/Officers/Stockholders (DOSRI), Secured and Unsecured Loans	Weekly	4th banking day after end of reference week	Original and duplicate- Appropriate department of the SES, as combined report w/ Form 5 above
A-3	DCB I/II Form 5A (BSP-7-16-07-B)	X330 X409.3	Daily Report on Compliance with Ceiling on Outstanding Unsecured Direct and Indirect Credit Accommodations to Directors/Officers/Stockholders (DOSRI)	-do-	-do-	Original and duplicate - Appropriate department of the SES, as supporting schedules to Form 5A above
A-3	SES I/VI Form 5A.1 (BSP-716-07B.1)	X330 X409.3	Daily Report on Compliance with Individual Ceilings on Direct/Indirect Credit Accommodations to DOSRI, secured and unsecured loans together with a certification by authorized signatories that no one has exceeded the prescribed individual ceilings	-do-	-do-	Original and duplicate - Appropriate department of the SES
A-3	DCB I/II Form 5B (BSP-7-16-13)	X335 X409.3	Consolidated Report on Compliance With Aggregate Ceiling on Credit Accommodations to DOSRI	Semestral	15th banking day after end of reference semester	-do-

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	DCB I/II Form 5D (BSP-7-16-17)	X334	Report on Compliance with Section 36 of R.A. No. 8791 Transmittal of Board resolution/Written approval on credit Accommodatin to DOSRI in compliance with Sec. 36 R.A. No. 8791	As loan to DOSRI is approved	20th banking day after approval of direct or indirect loan granted any director or officer, stockholder (DOSRI)	Original and duplicate - Appropriate department of the SES
A-3	Unnumbered	X328.5 (Cir. No. 560 dated 01.31.07)	Transmittal of Board Resolution/Written Approval On Credit Accommodations to Subsidiaries and/or Affiliates	As loan to subsidiaries and/or affiliates is approved	20th banking day after approval	-do-
A-3	DCB I/II Form 5E (BSP-7-16-31)	X192.5 X192.15	Sworn Statement on Real Estate/Chattel Transaction to DOS	As transaction is approved	10th banking day after approval of the transaction	-do-
A-3	DCB I/II Form 6	X342.6 (MAB dated 4.28.03, as amended by M-035 dated 11.19.08 and Cir. No. 625 dated 10.14.08)	Report on Compliance with Mandatory Credit Allocation Required by R.A. No. 6977 as amended by R.A. Nos. 8289 and 9501 (Solo and Consolidated Reports) Schedules: 1A - Computation of Total Loan Portfolio for Purposes of Determining Amount of Mandatory Credit Allocation for MSMEs 1A-1 - Wholesale Lending of a Bank to Conduit NBFIs w/o QB Authority Other Than Those for On-Lending to MSMEs 1A-2 - Loans Granted Under Special Financing Program Other Than for MSMEs 1A-3 - Loans Granted to MSMEs Other Than To BMBEs Which are Funded by Wholesale Lending of or Rediscounted with Another Bank	Quarterly	15th banking day after end of reference quarter	cc: Mail/e-mail/Diskette-SDC sdckb-sme@bsp.gov.ph Appropriate department of the SES;

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-3	DCB I/II Form 2D	X192	1B - Details of Eligible Investments for Compliance with the Required Credit Allocation for MSMEs			
			1B-1 - Loans Granted to MSMEs Other Than to BMBEs Which are Funded by Wholesale Lending of or Rediscounted with Another Bank			
			1B-2 - Wholesale Lending or Rediscounting Facility Granted to Participating Financial Institutions for On-Lending to MSMEs other than to BMBEs			
			2 - Loans Granted to BMBEs			
			3 - Reconciliation of Loans granted to MSMEs as Reported Under Schedules 1B,1B-1 and 2 and FRP Balance of Microfinance and SME Loans			
A-3	DCB I/II Form 2D	X192	Control Prooflist,duly notarized and signed by the authorized official	Quarterly	15th banking day after end of reference quarter	Via Fax at (632) 5233461 or 5230230
			Statement of Condition (For branches/agencies/offices abroad of domestic banks) with schedules, as follows:	-do-	-do-	Original and duplicate-Appropriate department of the SES
			1 - Analysis of Due to Head Office/Branches/ Agencies Account; and	Semestral		Attachment to Main Report
A-3	DCB I/II Form 2E	X192.12	2 - Schedule of Selected Accounts - Classified by Country	-do-		-do-
			Statement of Conditon (For subsidiaries/affiliates abroad of domestic banks) with schedules, as follows:	Quarterly	-do-	Original and duplicate-Appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			1 - Analysis of Due to Parent Firm/Bank and/or Other Subsidiaries/Affiliates; and	Semestral		ID
			2 - Schedule of Selected Accounts - Classified by Country	-do-		Attachment to Main Report
A-3	DCB I/II Form 3C	X192	Statement of Income and Expenses (For branches/agencies/offices abroad of domestic KBs)	Quarterly/ Annually	15th banking day after end of calendar quarter/year	Original and duplicate- Appropriate department of the SES
A-3	DCB I/II Form 3D	X192.12	Statement of Income and Expenses (For subsidiaries affiliates abroad of domestic KBs)	-do-	15th banking day after end of reference quarter	-do-
A-3	BSP-7-16-27	X341.9 (Revised Dec. 2004 per MAB dated 09.08.04)	Consolidated Report on the Utilization of Loanable Funds Generated Which Were Set Aside for Agrarian Reform/Other Agricultural Credits with prescribed schedules to wit: A - Total Collections from Loan Portfolio as of 31 May 1975 B - Direct Loans to Farmers' Association or Cooperatives for High Value Crop Projects Under Sec. 8 of R.A. 7900 C - Utilization of the 10% Loanable Funds Generated for Agrarian Reform Credit D - Utilization of the 15% Loanable Funds Generated for Agricultural Credit Loans E - Development Loan Incentives Under Sec. 9, R.A. 7721 F - Report on Compliance with P.D. 717 Under Sec. 11 of R.A. 7835	Quarterly	15th banking day after end of reference quarter/year	Original and duplicate - SDC Electronic mail at sdckb-agra@bsp.gov.ph/ diskette/hard copy

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	Unnumbered	(CL-050 dated 10.04.07 and CL-059 dated 11.28.07)	G - Report on Loans Granted to BMBEs (Revised per MAB dated 4.28.03)			
			Control Prooflist (notarized)		Upon transmission/ submission of main report	Original - SDC (by fax, if hard copy cannot be submitted on deadline)
			Report on Borrowings of BSP Personnel	Quarterly	15th banking day after end of reference quarter	Original to SDC
			Consolidated List of Stockholders and Their Stockholdings	Annually/ quarterly when any change occurs	12th banking day after end of calendar year and if there are changes, 12th banking day after end of the reference quarter	Original - Appropriate department of the SES
			Availments of Financial Assistance to Officers and Employees Under an Approved Plan	Semestral	15th banking day after the end of reference semester	Original and duplicate - Appropriate department of the SES
B	DCB I/II Form 4 (BSP 7-16-11)	X192.7 (Revised June 2006 per Cir. No. 533 dated 06.19.06)				
B	DCB I/II Form 6C (BSP 7-16-20)	X339.4 (Revised June 2005 per Cir. No. 487 dated 06.03.05)				
B	DCB I/II Form 6E (BSP 7-16-16)	X156.2	Report on New Schedule of Banking Days/Hours	As changes occur	7th banking day before the intended effectivity of the change	-do-
B	DCB I/II Form 6F (BSP 7-16-18)	X144 (CL dated 01.09.01, as amended by M-024 dated 07.31.08)	Biographical Data of Directors/Officers if sent by electronic mail - Notarized first page of Biographical Data or Notarized list of names of Directors/Officers whose Biographical Data were submitted thru electronic mail to be faxed to SDC	After election or appointment and as changes occur	7th banking day from the date of the meeting of the board of directors in which the directors/officers are elected or appointed	cc: Mail/Diskette: SDC Appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			If submitted in diskette form - Notarized first page of each of the directors'/officers' bio-data save in diskette and control prooflist			
		MAB dated 09.02.04	Certification under oath of independent directors that he/she is an independent director as defined under Subsec. X141.1 and that all the information thereby supplied are true and correct			cc:Mail/Diskette:SDC Appropriate department of the SES
		X143.3 (Cir. No. 513 dated 02.10.06)	Verified Statement of Directors/Officers	After election or appointment and as changes occur	7th banking day as changes occur or after election/appointment	-do-
B	Unnumbered		List of Members of the Board of Directors and Officers	Annually	25th banking day after annual election/appointment	Original and duplicate - Appropriate department of the SES
B	SES Form 6G	X192.4 (As amended by Cir. Nos. 587 dated 10.26.07 486 dated 06.01.05)	Report on Crimes/Losses	As crimes or incidents occur	Not later than ten (10) calendar days from knowledge of crime/incident and complete report not later than twenty (20) calendar days from termination of investigation	SDC and SITD
B	Unnumbered (no prescribed form)	X143.4	Report on Disqualification of Director/Officer	As disqualification occurs	Within 72 hours from receipt of report by the BOD	Appropriate department of the SES
B	DCB I/II Form 6H (BSP-7-16-21)	X306.5c	Notice/Application for Write-Off of Loans, Other Credit Accommodations, Advances and Other Assets	As write-off occurs	Within 30 banking days after every write-off	Original and duplicate- Appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	BSP-7-16-32 A (Rev. August 2003)	X192	Report on Credit and Equity Exposures to Individuals/ Companies/Groups aggregating P1.0 million and above (Bank Proper and Trust Department)	Quarterly	15th banking day after end of reference quarter	Electronic submission/ diskette - SDC
B	Unnumbered	X192.10	Report on Consolidated Financial Statements of Banks and their Subsidiaries Engaged in Allied Financial Undertakings together with audited financial reports of such subsidiaries	Annually	120th calendar day after the end of reference year or adopted fiscal period	Original and duplicate - Appropriate department of the SES
B	Unnumbered	X190.6	Annual Report of Management to Stockholders Covering Results of Operations for the Past Year	-do-	180th calendar day after the close of the calendar/ fiscal year elected by the bank	-do-
B	Unnumbered	X190	Financial Audit Report - Bank Proper a. Audited Financial Statements ^{1/} b. Opinion of the Auditor Together with attachments listed in Appendix 61	-do-	120th calendar day after the close of the calendar or fiscal year	-do-
B		X426.2	Financial Audit Report - Trust Department a. Audited Financial Statements ^{1/} b. Opinion of the Auditor together with attachments listed in Appendix 61	-do-	-do-	-do-
B	Unnumbered	X190 X190.1	Annual Audit Report ^{1/} - Bank Proper a. Audited Financial Statements ^{1/} b. Opinion of the Auditor together with attachments listed in Appendix 61	-do-	30th banking day after receipt of the report	-do-
B	Unnumbered	X426.2	Annual Audit Report ^{2/} - Trust Department a. Audited Financial Statements ^{1/} b. Opinion of the Auditor together with attachments listed in Appendix 61	As examination occurs	-do-	Original and duplicate- Appropriate department of the SES
^{1/} Solo and Consolidated basis ^{2/} For banks under the concurrent jurisdiction of the BSP and COA						

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	Unnumbered	X192.12	Audited Financial Statements of the Foreign Banking Offices and Subsidiaries	Annually	30th banking day from date of submission/ release of said reports to the foreign banking offices and subsidiaries of Philippine banks	Original and Duplicate - Appropriate department of the SES
B	Unnumbered	X192.12	Examination Reports Done by the Foreign Bank Supervisory Authority	As examination occurs	-do-	-do-
B	Unnumbered	X192.3	Report on Change of Required Information on Bank's Profiles, Organizational Structure and Operating Policies	As changes occur	15th banking day from such change/issuance	-do-
B	Unnumbered	X192.1	Report on Designation of Authorized Signatories of Bank's Reports Classified as Category A-1, A-2, A-3 and B	As designation by Bank's board of directors occurs	3rd banking day from date of designation/ and as changes occur	-do-
B	Unnumbered	X342.2c	Report on Reconciliation Statement of Demand Deposit Account with the BSP	Monthly	7th banking day from receipt of BSP statement	-do-
B	Unnumbered	X233.9	Registry Bank Report of Compliance with Prohibition on Holdings of LTNCTDs	-do-	10th banking day after end of reference month	-do-
B	Unnumbered	X262.3	Certification of Compliance with Section 55.4 of R.A. No. 8791(prohibits banks from employing casual, non-regular personnel)	Semestral	7th banking day after end of June and Dec.	Original - Appropriate department of the SES
B	Unnumbered	X501.3 (Revised Jan. 2003 per Cir. No. 366 dated 01.21.03)	Certification on Funds Borrowed from FCDU/EFCDU	Monthly	5th banking day after end of reference month	Original and Duplicate - Appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	Unnumbered	X565	Conversion/Transfer of FCDO loans to RBU (A report is not required if no transfers were effected during the month)	Monthly	10th banking day from end of reference month	Appropriate department of the SES
B		X409.16	Waiver of the Confidentiality of Information under Sections 2 and 3 of R.A. No. 1405, as amended	As transaction occurs		-do-
B	Unnumbered	X235.12 (Cir. No. 467 dated 01.10.05)	Report on Undocumented Repurchase Agreement	-do-	Within 72 hours from knowledge of transaction	-do-
		X235.12	Notarized Certification that the bank did not enter into repurchase agreement covering government securities, commercial papers and other non-negotiable securities or instruments that are not documented	Semestral	5th banking day after end of referenc semester	-do-
B	SEC Form	(MAB dated 09.02.05)	General Information Sheet	Annual	30 days from date of annual stockholders' meeting or if changes occur, 7 days from date of change	Drop box - SEC Central Receiving Section
B		(M-005 dated 02.04.08)	Disclosure Statement on SPV Transactions	Quarterly	15th banking day after end of reference quarter	SDC
DES/ID Reports:						
A-2	ID Form 5	(CL-024 dated 05.08.08)	Report on Bank Liabilities to Non - Residents	Monthly	15th banking day after end of reference month	International Dept. (ID) id-form5@bsp.gov.ph
			Banks Certification	-do-	-do-	Hardcopy to ID

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	Fx Form1 Main Report (Formerly FED Form 1)	Rev. 2000, as amended by M-031 dated 10.23.08	Consolidated FX Assets and Liabilities, with the following schedules:	Weekly	Within 5 banking days after end of the reference week	cc: Mail to appropriate department of the SES /ID and DES and hardcopy to ID
			1 - Summary of FX Acquisitions and Dispositons	-do-	-do-	-do-
			2 - Interbank Transactions	-do-	-do-	-do-
			3 - FX Acquisition Transaction	-do-	-do-	-do-
			4 - FX Disposition for Loans	-do-	-do-	-do-
			5 - Other Current Accounts and Transfers Acquisitions/Dispositions (As amended by CL dated 05.08.03)	-do-	-do-	-do-
			6 - Investment Acquisition/Disposition	-do-	-do-	-do-
			7 - Other FX Acquisitions/Dispositions	-do-	-do-	-do-
			8 - Details of Spot and Forward FX transactions	Daily	2nd banking day after end of reference week	-do-
			9 - Export Proceeds	Weekly	Within 5 banking days after end of the reference week	-do-
			10 - Import L/Cs opened and Records of Goods Imported (RGIS) under DA-OA	-do-	-do-	-do-
			11 - Import Payments		-do-	
			12 - Spot and Financial Derivatives Acquisition/Disposition	-do-	-do-	-do-
			13 - FX Position Report	-do-	2nd banking day after end of reference week	-do-

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-3	BSP-ID Form No.1 S-2008	(CL-004 dated 01.11.08)	Monthly FX Sales by Authorized Agent Banks (AABs) for Outward Investments	Monthly	5th banking day after end of reference month	Original - ID
A-3	Unnumbered (Per CL dated 09.05.97)	X503 (As amended by Cir. No. 445 dated 08.20.04)	Consolidated FX Position Report of Bank's branches/offices, subsidiaries/affiliates, here and abroad with certification of its CEO and treasurer at month-end	Daily	3rd banking day after the semester	cc: Mail to appropriate department of the SES/DES/ID & hardcopy to ID
A-3	FX Form 1 Sch. 1 (Formerly FED Form I, Sch.16)		Consolidated Foreign Exchange Assets and Liabilities in Original Currency - RBU & FCDO	Monthly	15th banking day after end of reference month	cc: Mail to appropriate department of the SES/DES/ID
B	RS Form 1A (BSP 5-17-30)	1192.13	Report on the Volume and Interest Rates on Loans and Discounts Granted	Weekly	Not later than 4:00 p.m. Thursday after end of reference week	Original - DES
B	RS Form 1A (BSP 5-17-33)	1192.13	Report on the Volume and Weighted Monthly Average Interest Rate on Savings Deposit	Monthly	Not later than 2:00 p.m. on the following day after end of reference month	-do-
B	RS Form 1B (BSP 5-17-30)	1192.13	Weighted Average Interest Rate on Outstanding Loans and Discounts	-do-	-do-	-do-
B	RS Form 1B (BSP-5-17-27)	1192.13	Daily Report on Volume of Money Market Transactions	Daily	Not later than 3:00 p.m. on reference day	Appropriate department of the SES
B	RS Form 2A (BSP-5-17-33)	1192.13	Report on the Volume of Interest Rates on Deposits	Weekly	Not later than 4:00 p.m. Thursday after end of reference week	Original - DES
B	BSP-5-17-35.A	1192.13	Report on the Volume of and Interest Rates on Credit Line Availments under Short Term Prime Rates	Monthly	Not later than five (5) banking days after end of reference month	-do-
B	RS Form 2C (BSP 5-17-36)		Weekly Report on Quoted Rates of Dollar Savings and Time Deposits			

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	RS Form 2D (CBP 5-17-34A)		Daily Report on the Volume of and Weighted Average Rates on Promissory Notes issued	Weekly	Not later than 2:00 p.m. of every Thursday	Original - DES
B	RS Form 2E		Daily Report on the Volume of and Weighted Average Rates on Time Deposits Received	Daily	Not later than 4:00 p.m. of the following day	-do-
B	TCRKB.dbf	(As amended by CL dated 01.11.06)	Report of Outstanding Loans, Advances, Discounts and Trading Account Securities	Semestral	15th banking day after the semester	e-mail to des@bsp.gov.ph
			Control Prooflist for Outstanding Loans and Loans Granted		15th banking day after the semester	Fax to DEX (523-7985)
B	Combined BSP 05-17-02 and BSP 05-17-31		Report on Credits Granted and Outstanding - By Banking Units	Monthly	15th banking day after end of reference month	In Diskette-format to DES
	Unnumbered	X425.3	Post Bond Flotation Report	As transaction occurs	30th day from date of bond flotation by Local Government Unit	DES
	Unnumbered	(M-019 dated 05.03.08)	Report on Non-Deliverable USD/PHP Forward Transactions with Non-Residents	Weekly	2nd banking day after end of reference week	SDC sdc-ndf@bsp.gov.ph cc: Treasury Dept. fx-omo@bsp.gov.ph SDC
		(M-019 dated 05.03.08)	Control Prooflist	-do-	-do-	SDC via Fax at (632) 523-3461 or 523-0230
B	Unnumbered	1625.5 (As amended by Cir. No. 591 dated 12.27.07)	Report on Cancellations, Roll-overs and Non-Delivery of FX Forwards Purchase - Sales Contracts and Forward Leg of Swap Contracts ^{1/} (For banks with derivatives license)	Monthly	5th banking day after end of reference month	ID @ e-mail address: id@bsp.gov.ph SDC at e-mail address: sdcfxkbdom@bsp.gov.ph sdcfxkbfor@bsp.gov.ph

^{1/} Excluding cross country swaps

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
	Unnumbered	CL-003 dated 01.11.08	Report on Sale of Foreign Currency (FC) for Advance Payment of Importations up to \$100,000.00	Monthly	Within the first 5 banking days of the month succeeding the date of foreign exchange sale	ID
	Unnumbered	CL-003 dated 01.11.08	Report on Purchase of Foreign Currency (FC) from Refund of Advance Payment of Importations up to \$100,000.00	-do-	Within the first 5 days of the month succeeding the receipt of the refund	ID
B	IOD Form1	(CL dated 04.23.03, as amended by Cir. No. 611 dated 05.30.08)	Consolidated Daily Foreign Portfolio Investment Registration and Outward Remittance Report Schedules: - Annex 1a - Initial Registration - Annex 1b - Changes on Existing Registered Investments - Annex 1c - Repatriation	Daily	2nd banking day from transaction date 2nd banking day from issuance of BSRD 2nd banking day from settlement/completion of required documents 2nd banking day from remittance date (when FX was actually remitted)	ID @ iod-pid@bsp.gov.ph
B	Unnumbered		Statement of Remittance Report Part II: Report on Repatriation/FX Remittances Accruing to Registered Foreign Direct Investments	-do-	2nd banking day from transaction date	Hardcopy to ID
B	IOS Form 4 (BSP 6-22-01)		Consolidated Report on Loans Granted by FCDUs/ EFCDUs	Monthly	15th banking day after end of reference month	Original - Appropriate department of the SES Duplicate - ID
B	Unnumbered	(As amended by Cir. No. 591 dated 12.27.07)	Report on FX Swaps with Customers ^{1/} where 1st Leg is a Purchase of FX Against Pesos (For banks with derivatives license)	-do-	5th banking day after end of reference month	ID at e-mail address: iod@bsp.gov.ph. SDC @ e-mail address: sdcfxkdbdom@bsp.gov.ph sdcfxkbf@bsp.gov.ph

^{1/} Excluding cross country swaps

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
B	R - 4		Report on Foreign Guarantees Securing Loans of Residents from Local Banks and Financial Institutions	Monthly	15th banking day after end of reference month	Original - ID
B	R - 1		Report on Guarantees Issued by Local Banks and Financial Institutions in Favor on Non-Residents	Quarterly	15th banking day after end of reference quarter	-do-
B	BSP 6-40-04		Statement of Earnings and Expenses	Semestral	15th banking day after end of reference semester	-do-
Domestic Operation Sector Report						
	DOS Form I (DLC Form G)		Report on Negotiation of Accounts Rediscounted with Banko Sentral	Monthly	15th banking day after end of reference month	Original - DLC

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
B. TBs						
A-1	Unnumbered	X191.2 <i>(Cir. No. 512 dated 02.03.06, as amended by M-012 dated 03.14.08, M-011 dated 03.07.08, M-026 dated 09.20.07, M-015 dated 05.28.07, Cir. No. 568 dated 05.08.07, M-006 dated 07.07.06 and MAB dated 03.07.06)</i>	Financial Reporting Package (FRP)			
			Balance Sheet (FRP):			
			- Solo basis (head office and branches)	Monthly	15th banking day after end of reference month	Diskette/CD/e-mail to SDC ^{1/} sdctbfrp@bsp.gov.ph
			- Consolidated basis (together with applicable schedules) ^{2/}	Quarterly	30th banking day after end of reference quarter	-do-
			Income Statement (FRP):			
			- Solo basis (head office and branches)	-do-	15th banking day after end of reference quarter	-do-
			- Consolidated basis (together with applicable schedules) ^{2/}	-do-	30th banking day after end of reference quarter	-do-
			Schedules (Solo Report):			
			1 - Checks and Other Cash Items (COCI)	Monthly	15 banking day after end of the reference month	-do-
			2 - Due from Other Banks	-do-	-do-	-do-
			3 - Financial Assets Held for Trading	-do-	-do-	-do-

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^{2/} Only banks with financial allied subsidiaries, excluding insurance subsidiaries, shall submit the reports on consolidated basis.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			3a - Breakdown of Held for Trading (HFT) Financial Assets Purchased/Sold/Lent under Repurchase Agreements, Certificates of Assignment/Participation with Recourse, Securities Lending and Borrowing Agreements	Quarterly	15 banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			4 - Derivatives Held for Trading (HFT)	-do-	-do-	-do-
			4a - Derivatives Held for Trading Matrix of Counterparty and Type of Derivative Contracts	Monthly	15th banking day after end of the reference month	-do-
			5 - Financial Assets Designated at Fair Value through Profit or Loss	-do-	-do-	-do-
			6 - Available-For-Sale Financial Assets	-do-	-do-	-do-
			6a - Breakdown of Available for Sale Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/Participation with Recourse, Securities Lending and Borrowing Agreements	Quarterly	15th banking day after end of the reference quarter	-do-
			6b to 6b3 - Available-For-Sale Financial Assets Classified as to Status	-do-	-do-	-do-
			6c to 6c3 - Available-For-Sale Financial Assets Movements in Allowances for Credit Losses	Annually	15th banking day after end of the reference year	-do-
			7 - Held to Maturity (HTM) Financial Assets	Monthly	15th banking day after end of the reference month	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			7a - Held to Maturity Financial Assets Purchase/Sold/Lent Under Repurchase Agreements, Certificates of Assignment Participation with Recourse, Securities Lending and Borrowing Agreements	Quarterly	15th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			7b - Fair Value of Held to Maturity (HTM) Financial Assets	Annually	15th banking day after end of the reference year	-do-
			7c to 7c3 - Held to Maturity Financial Assets Classified as to Status	Quarterly	15th banking day after end of the reference quarter	-do-
			7d to 7d3 - Held to Maturity Financial Assets Movements in Allowances for Credit Losses	Annually	15th banking day after end of the reference year	-do-
			8 - Unquoted Debt Securites Classified as Loans	Monthly	15th banking day after end of the reference month	-do-
			8a - Fair Value of Unquoted Debt Securities Classified as Loans	Annually	15th banking day after end of the reference year	-do-
			8b to 8b3 - Unquoted Debt Securities Classified as Loans Classified as to Status	Quarterly	15th banking day after end of the reference quarter	-do-
			8c to 8c3 - Unquoted Debt Securities Classified as Loans Movements in Allowances for Credit Losses	Annually	15th banking day after end of the reference year	-do-
			9 - Investment in Non-Marketable Equity Securities	Monthly	15th banking day after end of the reference month	-do-
			10 - Interbank Loans Receivables	-do-	-do-	-do-
			11 - Loans and Receivables - Others	-do-	-do-	-do-

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			11a to - Loans and Receivables - Others 11a3 Classified as to Status	Monthly	15th banking day after end of the reference month	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			11b to - Restructured Loans and Receivables 11b3 Classified as to Status	-do-	-do-	-do-
			11c to - Loans and Receivables - Others 11c3 Movements in Allowances for Credit Losses	Quarterly	15th banking day after end of the reference quarter	-do-
			11d to - Gross Loans and Receivables - Others 11d3 Classified as to Type of Business/Industry of Counterparty	Monthly	15th banking day after end of the reference month	-do-
			11e to - Loans and Receivables - Others 11e3 Classified as to Status per PAS 39	Annually	15th banking day after end of the reference year	-do-
			11f - Schedule of Agri/Agra SME, DIL and Microfinance Loans and Receivables Classified as to Counterparty	Monthly	15th banking day after end of the reference month	-do-
		Cir. No. 600 dated 02.04.08	11g1 - Report on Real Estate Exposure	Quarterly	15th banking day after end of the reference quarter	-do-
			11g2 - Investment in Debt and Equity Securities Issued by Real Estate Companies	-do-	-do-	-do-
			11g3 - Original Maturity and Earliest Repricing of Real Estate Exposure	-do-	-do-	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			12 - Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions	Monthly	15th banking day after end of the reference month	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			12a to 12a3 - Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions Matrix of Counterparty and Issuer of Collateral Securities	Quarterly	15th banking day after end of the reference quarter	-do-
			13 - Fair Value Adjustments in Hedge Accounting	-do-	-do-	-do-
			13a - Financial Derivatives Held for Fair Value Hedge	-do-	-do-	-do-
			13b - Financial Derivatives Held for Cash Flow Hedge	-do-	-do-	-do-
			13c - Financial Derivatives Held for Hedges of Net Investment in Foreign Operations	-do-	-do-	-do-
			13d - Financial Derivatives Portfolio Hedge of Interest Rate Risk	-do-	-do-	-do-
			14 - Accrued Interest Income/Expenses from Financial Assets and Liabilities	-do-	-do-	-do-
			15 - Equity Investment in Subsidiaries, Associates and Joint Ventures	Monthly	15th banking day after end of the reference month	-do-

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			15a - Equity Investment in Subsidiaries, Associates and Joint Ventures - Classified as to Nature of Business	Quarterly	15th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			15b - Details of Investment in Subsidiaries, Associates and Joint Ventures	-do-	-do-	-do-
			16 - Bank Premises, Furniture, Fixture and Equipment	-do-	-do-	-do-
			17 - Real and Other Properties Acquired	-do-	-do-	-do-
			18 - Deferred Tax Assets and Liabilities	Annually	15th banking day after end of the reference year	-do-
			19 - Other Assets	Monthly	15th banking day after end of the reference month	-do-
			20 - Breakdown of Due from and Due to Head Office/Branches/Agencies Abroad - Philippine Branch of a Foreign Bank	-do-	-do-	-do-
			21 - Liability for Short Position	Quarterly	15th banking day after end of the reference quarter	-do-
			22 - Deposit Liabilities Classified as to Type of Deposit	Monthly	15th banking day after end of the reference month	-do-
			22a - Deposit Liabilities by Size of Accounts Excluding Deposits in Foreign Offices Branches	Quarterly	15th banking day after end of the reference quarter	-do-
			23 - Due to Other Banks	Monthly	15th banking day after end of the reference month	-do-

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			24 - Bills Payable	Monthly	15th banking day after end of the reference month	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			25 - Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	Quarterly	15th banking day after end of the reference quarter	-do-
			26 - Fair Value of Financial Liabilities	Annually	15th banking day after end of the reference year	-do-
			27 - Financial Liabilities Associated with Transferred Assets	Quarterly	15th baking day after end of the reference quarter	-do-
			28 - Other Liabilities	Monthly	15th banking day after end of the reference month	-do-
			29 - Interest Income/Expense from Financial Instruments	Quarterly	15th banking day after end of the reference quarter	-do-
			29a - Interest Income from Due from Other Banks Classified as to Type of Deposits	-do-	-do-	-do-
			29b - Interest Income from Held for Trading, Designated at FVPL, Available for Sale, Held to Maturity Financial Assets and UDSCl	-do-	-do-	-do-
			29c - Interest Income from Interbank Loans Receivables	-do-	-do-	-do-
			29d to- 29d3 Interest Income from Loans and Receivables - Others - Classified as to Status	-do-	-do-	-do-

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			29e - Interest Income from Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions	Quarterly	15th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			30a - Interest Expense on Deposit Liabilities	-do-	-do-	-do-
			30b - Interest Expense on Bills Payable	-do-	-do-	-do-
			30c - Interest Expense on Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	-do-	-do-	-do-
			31 - Dividend Income	-do-	-do-	-do-
			32 - Gains/(Loss) on Financial Assets and Liabilities Held for Trading	-do-	-do-	-do-
			33 - Gains/(Losses) from Sale/Redemption/ Derecognition of Non-Trading Financial Assets and Liabilities	-do-	-do-	-do-
			34 - Compensation/Fringe Benefits	-do-	-do-	-do-
			35 - Other Administrative Expenses	-do-	-do-	-do-
			36 - Depreciation/Amortization Expense	-do-	-do-	-do-
			37 - Impairment Loss	-do-	-do-	-do-
			38 - Off-Balance Sheet	-do-	-do-	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			38a - Compliance with Section X347	Quarterly	15th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			39 - Residual Maturity Performing Financial Assets and Financial Liabilities	-do-	-do-	-do-
			39a			
			40 - Repricing- Performing Financial Assets and Financial Liabilities	-do-	-do-	-do-
			40a			
			41 - Investment in Debt Instruments Issued by LGUs and Loans Granted to LGUs	-do-	-do-	-do-
			42 - Disclosure of Due From FCDU/RBU and Due to FCDU/RBU	-do-	-do-	-do-
			Schedules (Consolidated Report):	-do-	-do-	-do-
			1 - Checks and Other Cash Items	-do-	-do-	-do-
			2 - Due from Other Banks	-do-	-do-	-do-
			3 - Financial Assets Held for Trading	-do-	-do-	-do-
			3a - Held for Trading (HFT) Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment Participation with Recourse, Securities Lending and Borrowing Agreements	-do-	-do-	-do-
			4 - Derivatives Held for Trading (HFT)	-do-	-do-	-do-

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			4a - Derivatives Held for Trading Matrix of Counterparty and Type of Derivative Contracts	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			5 - Financial Assets Designated at Fair Value through Profit of Loss	-do-	-do-	-do-
			6 - Available-For-Sale Financial Assets	-do-	-do-	-do-
			6a - Breakdown of Available for Sale Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/Participation with Recourse, Securities Lending and Borrowing Agreements	-do-	-do-	-do-
			6b - Available-For-Sale Financial Assets- Classified as to Status	-do-	-do-	-do-
			7 - Held to Maturity (HTM) Financial Asset	-do-	-do-	-do-
			7a - Held to Maturity Financial Assets Purchased/ Sold/Lent Under Repurchase Agreements, Certificates of Assignment/Participation with Recourse, Securities Lending and Borrowing Agreements	-do-	-do-	-do-
			7c - Held to Maturity Financial Assets Classified as to Status	-do-	-do-	-do-
			7d - Held to Maturity Financial Assets Movements in allowances for Credit Losses	Annually	30th banking day after end of the reference year	-do-
			8 - Unquoted Debt Securities Classified as Loans	Quarterly	30th banking day after end of the reference quarter	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			8a - Fair Value of Unquoted Debt Securities Classified as to Status	Annually	30th banking day after end of the reference year	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			8b - Unquoted Debt Securities Classified as Loans Classified as to Status	Quarterly	30th banking day after end of the reference quarter	-do-
			8c - Unquoted Debt Securities Classified as Loans Movements in allowances for Credit Losses	Annually	30th banking day after end of the reference year	-do-
			9 - Investment in Non-Marketable Equity Securities	Quarterly	30th banking day after end of the reference quarter	-do-
			10 - Interbank Loans Receivables	-do-	-do-	-do-
			11 - Loans and Receivables - Others	-do-	-do-	-do-
			11a - Loans and Receivables - Others Classified as to Status	-do-	-do-	-do-
			11b - Restructured Loans and Receivable Classified as to Status	-do-	-do-	-do-
			11c - Loans and Receivables - Others Movements in Allowances for Credit Losses	-do-	-do-	-do-
			11d - Gross Loans and Receivables - Others Classified as to Type of Business/Industry of Counterparty	-do-	-do-	-do-
			11e - Loans and Receivables - Others Classified as to Status Per PAS 39	Annually	30th banking day after end of the reference year	-do-
			11f - Schedule of Agri/Agra SME, DIL and Microfinance Loans and Receivables Classified as to Counterparty	Quarterly	30th banking day after end of the reference quarter	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
		Cir. No. 600 dated 02.04.08	11g1 - Report on Real Estate Exposure	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			11g2 - Investment in Debt and Equity Securities issued by Real Estate Companies	-do-	-do-	-do-
			11g3 - Original Maturity and Earliest repricing of the Real Estate Exposure	-do-	-do-	-do-
			12 - Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions	-do-	-do-	-do-
			12a - Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions Matrix of Counterparty and Issuer of Collateral Securities	-do-	-do-	-do-
			13 - Fair Value Adjustments in Hedge Accounting	-do-	-do-	-do-
			13a - Financial Derivatives Held for Fair Value Hedge	-do-	-do-	-do-
			13b - Financial Derivatives Held for Cash Flow Hedge	-do-	-do-	-do-
			13c - Financial Derivatives Held for Hedges of Net Investment in Foreign Operations	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			13d - Financial Derivatives Portfolio Hedge of Interest Rate Risk	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			14 - Accrued Interest Income/Expense from Financial Assets and Liabilities	-do-	-do-	-do-
			15 - Equity Investment in Subsidiaries, Associates and Joint Ventures	-do-	-do-	-do-
			15a - Equity Investment in Subsidiaries, Associates and Joint Ventures - Classified as to Nature of Business	-do-	-do-	-do-
			15b - Details of Investment in Subsidiaries, Associates and Joint Ventures	-do-	-do-	-do-
			16 - Bank Premises, Furniture, Fixture and Equipment	-do-	-do-	-do-
			17 - Real and Other Properties Acquired	-do-	-do-	-do-
			18 - Deferred Tax Assets and Liabilities	Annually	30th banking day after end of the reference year	-do-
			19 - Other Assets	Quarterly	30th banking day after end of the reference quarter	-do-
			20 - Breakdown of Due from and Due to Head Office/Branches/Agencies Abroad - Philippine Branch of a Foreign Bank	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			21 - Liability for Short Position	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			22 - Deposit Liabilities Classified as to Type of Deposit	-do-	-do-	-do-
			22a - Deposit Liabilities by Size of Accounts Excluding Deposits in Foreign Offices/ Branches	-do-	-do-	-do-
			23 - Due to Other Banks	-do-	-do-	-do-
			24 - Bills Payable	-do-	-do-	-do-
			25 - Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	-do-	-do-	-do-
			26 - Fair Value of Financial Liabilities	Annually	30th banking day after end of the reference year	-do-
			27 - Financial Liabilities Associated with Transferred Assets	Quarterly	30th banking day after end of the reference quarter	-do-
			28 - Other Liabilities	-do-	-do-	-do-
			29 - Interest Income/Expense from Financial Instruments	-do-	-do-	-do-
			29a - Interest Income from Due from Other Banks Classified as to Type of Deposits	-do-	-do-	-do-
			29b - Interest Income from Held for Trading, Designated at FVPL, Available for Sale, Held to Maturity Financial Assets and Unquoted Debt Securities Classifised as Loans	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			29c - Interest Income from Interbank Loans Receivables	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			29d - Interest Income from Loans and Receivables - Others - Classified as to Status	-do-	-do-	-do-
			29e - Interest Income from Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing transactions	-do-	-do-	-do-
			30a - Interest Expense on Deposit Liabilities	-do-	-do-	-do-
			30b - Interest Expense on Bills Payable	-do-	-do-	-do-
			30c - Interest Expense on Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	-do-	-do-	-do-
			31 - Dividend Income	-do-	-do-	-do-
			32 - Gains/(Loss) on Financial Assets and Liabilities Held for Trading	-do-	-do-	-do-
			33 - Gains/(Losses) from Sale/Redemption/ Derecognition of Non-Trading Financial Assets and Liabilities	-do-	-do-	-do-
			34 - Compensation/Fringe Benefits	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			35 - Other Administrative Expenses	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdctb-frp@bsp.gov.ph
			36 - Depreciation/Amortization Expense	-do-	-do-	-do-
			37 - Impairment Loss	-do-	-do-	-do-
			38 - Off-Balance Sheet	-do-	-do-	-do-
			38a - Compliance with Section X347	-do-	-do-	-do-
			39 - Residual Maturity Performing Financial Assets and Financial Liabilities	-do-	-do-	-do-
			40 - Repricing - Performing Financial Assets and Financial Liabilities	-do-	-do-	-do-
			41 - Investment in Debt Instruments Issued by LGUs and Loans Granted to LGUs	-do-	-do-	-do-
			42 - Disclosure of Due from FCDU/RBU and Due to FCDU/RBU	-do-	-do-	-do-
A-2	TB Form 1	X116.3 X105.5 X258	Consolidated Daily Report of Condition (CDRC)	Weekly	6th banking day after end of week	By electronic mail to SDC
			Control Prooflist on the contents of the data sent via electronic mail, with certification and signature of the authorized officer of the bank	-do-	Immediately after the bank has received the acknowledgment receipt from the BSP	SDC via facsimile at Fax No. (02) 523-3461 or hard copy via postal/messengerial services
			Control Prooflist, together with the cover page of the report	-do-	6th banking day after end of reference week	Appropriate department of the SES

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	TB Form 1 Schedule		Weekly Inventory List of Govt. Securities Held - On a Daily Basis	Weekly	6th banking day after end of week	By electronic mail to SDC
	Unnumbered		Weekly Inventory List of Government Securities Held Set Aside for the Intra-Day Liquidity Facility from Week Starting Monday to Friday	-do-	Every Thursday	-do-
A-2	TB Form 1 Schedule 1B		Schedule of Other Non-Risk Assets	Monthly	6th banking day after end of week wherein month-end falls	Appropriate department of the SES & SDC
A-1	Unnumbered	X116.5 (As amended by Cir. Nos. 503 dated 12.22.05 and 475 dated 02.14.05)	Computation of the Adjusted Risk-Based Capital Adequacy Ratio Covering Combined Credit Risks (for stand alone TBs)			
			- Solo basis (head office and branches)	Quarterly	15th banking day after end of reference quarter	Original copy to appropriate department of the SES
			- Consolidated basis (parent bank plus subsidiary financial allied undertakings, but excluding insurance companies)	-do-	30th banking day after end of reference quarter	-do-
A-1	Unnumbered	X116 (Cir. No. 574 dated 07.10.07)	Computation of the Adjusted Risk-Based Capital Adequacy Ratio Covering Combined Credit Risks, Market Risk and Operational Risk ^{1/}			
			- Solo basis (Head office and branches)	Quarterly	15th banking day after end of reference quarter	Original copy to SDC
			- Consolidated basis (parent bank plus subsidiary financial allied undertakings, but excluding insurance companies)	-do-	30th banking day after end of reference quarter	Original copy to SDC

^{1/} For TBs which are subsidiaries of UBs and KBs.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-1	Unnumbered	X611.5 (Cir. No. 594 dated 01.08.08, as amended by M-009 dated 02.27.08)	Derivatives Report Schedules: - Report on Outstanding Derivatives Contracts (Stand - Alone - RBU, Stand - Alone - FCDU, Hybrid) - Report on Trading Gains/(Losses) on Financial Derivatives Certification (Hard Copy)	Monthly -do-	15th banking day after the end of the reference month -do-	CMSG cc: SDC cmsg@bsp.gov.ph sdc-derivatives@bsp.gov.ph Receiving Section, SES
A-2	Unnumbered (no prescribed form)	X141.9	Acknowledgement receipt of copies of specific duties and reponsibilities of the board of directors and of a director and certification that they fully understand the same TBs with resources of P1.0 billion and above	Annually or as directors are elected	30th banking day after the date of election	-do-
A-2	Form 2B/2B.1	X192.9 (Cir. No. 576 dated 08.08.07 and M-030 dated 10.04.07)	Balance Sheet/Consolidated Balance Sheet Control Prooflist duly notarized and signed by the authorized official of the reporting bank Published Balance Sheet/Consolidated Balance Sheet (together with the publisher's certificate)	Quarterly -do- -do-	12th banking day from the date of the Call Letter -do- 20th banking day from the date of the Call Letter	Diskette/CD/e-mail to SDC sdctb-pbs@bsp.gov.ph Fax to 523-3461 or 523-0230 Fax to 523-3461 or 523-0230 or via postal/messengerial services to SDC

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	Form 2B/2B.1	Cir. No. 576 dated 08.08.07 and M-030 dated 10.04.07	TBs with resources of less than P1.0 billion			
			Balance Sheet/Consolidated Balance Sheet	Quarterly	20th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC sdctb-pbs@bsp.gov.ph hard copy to SDC
			Control Prooflist duly notarized and signed by the authorized official of the reporting bank	-do-	-do-	Fax to 523-3461 or 523-0230 or via postal/messengerial services to SDC
A-2	Unnumbered	X425.2 (Cir. No. 609 dated 05.26.08, as amended by M-022 dated 06.26.08)	Published/Posted Balance Sheet/Consolidated Balance Sheet (together with publisher's certificate, if applicable)	-do-	20th banking day from the end of reference quarter	-do-
			Financial Reporting Package for Trust Institutions	Quarterly	20th banking day after the end of reference quarter	SDC sdctb-frpti@bsp.gov.ph
			Schedules: Balance Sheet A1 to A2 - Main Report B to B2 - Details of Investments in Debt and Equity Securities C to C2 - Details of Loans and Receivables D to D2 - Wealth/Asset/Fund Management - UITF E - Other fiduciary Accounts E1 to E1b - Other Fiduciary Services - UITF Income Statement			
			Control Prooflist	Quarterly	20th banking day after the end of reference quarter	SDC

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	Unnumbered	Cir. No. 607 dated 04.30.08, as amended by M-021 dated 06.16.08	Report on Microfinance Loans	Monthly	15th banking day after the end of reference month	SDC sdctb-micro@bsp.gov.ph
A-2	Unnumbered	Cir. No. 607 dated 04.30.08, as amended by M-021 dated 06.16.08	Income Statement on Microfinance Operations	Quarterly	15th banking day after end of the reference quarter	-do-
A-2	Unnumbered	X181.5 (Cir. No. 620 dated 09.03.08)	Self-Assesment and Certification of Compliance with Rules and Regulations on Bank Protection/Updated Security Program	Annually	On or before 30 January	Appropriate department of the SES
A-2	TB Form 20A	X405.9	Report on Peso-Denominated Common Trust Funds and Other Similarly Managed Funds (for TBs engaged in Trust and Other Fiduciary Business, and submitting TB form 1 in diskette form)	Weekly	3rd banking day after end of reference week	SDC Appropriate department of the SES
			Control Prooflist		Immediately after receipt of BSP acknowledgment receipt	Fax - SDC
			Control Prooflist, together with the cover page of the report	Weekly	3rd banking day after end of reference week	SDC
A-2	TB Form 20B		Report on Trust and Other Fiduciary Accounts (TOFA) - Others	-do-	3rd banking day after end of reference week	SDC Appropriate department of the SES
			Control Prooflist		Immediately after receipt of BSP acknowledgment receipt	Fax - SDC
			Control Prooflist, together with the cover page of the report	-do-	3rd banking day after end of reference week	SDC

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-3	TB Form 3	X192 (As amended by MAB dated 12.30.03)	Statement of Condition (By Banking Unit)	Quarterly	15th banking day after end of reference quarter	Appropriate department of the SES & SDC
			Schedules:			
			3A - Breakdown of Due from /Due to Other Banks and Deposit Liabilities - Banks			
			3B - Breakdown of Deposits (Other than Banks)			
			3C - Selected Financial Accounts (Only for extension offices, savings agencies or money shops not maintaining separate books; in lieu of TB Form 3 and its other schedules)			
			3D - Aging of Loans and Selected Receivable (Revised December 2003 per MAB dated 12.30.03)			
A-3	TB Form 6	X192 (Revised Dec. 2003 per MAB dated 12.30.03)	3E - Loans-to-Deposits Ratio Supplementary Information	-do-	-do-	SDC Appropriate department of the SES
			Statement of Income and Expenses by Banking Unit			

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	Unnumbered	X393 (Cir. No. 613 dated 06.18.08, as amended by M-032 dated 10.31.08)	Report of Selected Branch Accounts	Semestral	20th banking day after end of reference semester	SDC sdctb-bris@bsp.gov.ph
			Schedules:			
			Selected Balance Sheet Accounts			
			Selected Balance Sheet and Income Statement Accounts			
			Aging of Loans and Receivables - Others			
B	TB Form 7	X192.7 (Cir. No. 533 dated 06.19.06)	Reconciling Items Outstanding for More than Six (6) Months on the Due From/Due to Head Office, Branches and Agencies Account	Annually	12th banking day after end of reference year	-do-
			Consolidated List of Stockholders			
			Changes in the List of Stockholders and their Stockholdings			
A-3	TB Form 8	X335 X409.3	Consolidated Report on Compliance with Aggregate Ceiling on Credit Accommodations to Directors/Officers/Stockholders/Related Interest	Quarterly	7th banking day after end of reference quarter	Appropriate department of the SES & SDC
A-3	TB Form 9 Page 1	X335 X409.3	Consolidated Report on Compliance with Individual Ceiling on Direct Credit Accommodations to Directors/Officers/Stockholders/Related Interest	Semestral	15th banking day after end of reference semester	-do-

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	Page2	X338.3 X339.4 (Revised June 2005 per Cir. No. 487 dated 06.03.05)	Availments of Financial Assistance to Officers and Employees under Bangko Sentral Approved Plan	Semestral	15th banking day after end of reference semester	Appropriate department of the SES & SDC
A-3	TB Form 11	X342.6 (As amended by M-035 dated 11.19.08 Cir. No. 625 dated 10.14.08, and MAB dated 04.28.03)	Report on Compliance with Mandatory Credit Allocation Required under R.A. 6977 (As amended by R.A. Nos. 8289 and 9501)	Quarterly	15th banking day after end of reference quarter	By electronic mail to SDC- sdctb-sme@bsp.gov.ph
			Schedules:			
			1A - Computation of Total Loan Portfolio for Purposes of Determining Amount of Mandatory Credit Allocation for MSMEs	-do-	-do-	-do-
			1A-1 - Wholesale Lending of a Bank to Conduit NBFIs w/o QB Authority Other Than Those for On-Lending to MSMEs	-do-	-do-	-do-
			1A-2 - Loans Granted Under Special Financing Program Other Than for MSMEs	-do-	-do-	-do-
			1A-3 - Loans Granted to MSMEs Other Than to BMBEs Which are Funded by Wholesale Lending of or Rediscounted with Another Bank	-do-	-do-	-do-

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	TB Form 12	X341.9 (Revised December 2004 per MAB dated 09.08.04)	1B - Details of Eligible Investments for Compliance with the Required Credit Allocation for MSMEs	Quarterly	15th banking day after end of reference quarter	By electronic mail to SDC sdctb-sme@bsp.gov.ph
			1B-1 - Loans Granted to MSMEs Other Than to BMBEs Which are Funded by Wholesale Lending of or Rediscounted with Another Bank	-do-	-do-	-do-
			1B-2 - Wholesale Lending or Rediscounting Facility Granted to Participating Financial Institutions for On-Lending to MSMEs other than to BMBEs	-do-	-do-	-do-
			2 - Loans Granted to BMBEs	-do-	-do-	-do-
			3 - Reconciliation of Loans Granted to MSMEs as Reported Under Schedules 1B, 1B-1 and 2 and FRP Balance of Microfinance and SME Loans	-do-	-do-	-do-
			Control Prooflist	-do-	-do-	SDC
			Consolidated Report on the Utilization of Loanable Funds Generated Which Were Set Aside for Agrarian Reform/Other Argicultural Credit (Compliance with PD 717)	Quarterly	15th banking day after end of reference quarter	By electronic mail to SDC/ Diskette/hardcopy at sdctb-agra@bsp.gov.ph
			- solo basis (head office and branches)	-do-	-do-	-do-

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			- on a groupwide basis (based on consolidated financial statements of investor-financial institution or parent bank and its subsidiaries/affiliates) to be supported by the individual reports of the bank and its subsidiaries duly signed by each bank's authorized signatory (Compliance on a groupwide basis allowed by Cir. No. 252 dated 07-18-00)	Quarterly	15th banking day after end of reference quarter	By electronic mail to SDC/ Diskette/hardcopy at sdctb-agra@bsp.gov.ph
			A - Total collections from Loan Portfolio as of 31 May 1975			
			B - Direct Loans to Farmers' Associations or Cooperatives for High Value Crops Projects under Sec. 8 of R.A. 7900			
			C - Utilization of 10% Loanable Funds Generated for Agrarian Reform Credit			
			D - Utilization of 15% Loanable Funds Generated for Other Agricultural Credit Loans			
			E - Development Loans Incentives under Section 9 of R.A. 7721			
			F - Report on Compliance with P.D. 717 under Section 11 R.A. 7835			
			G - Report on Loans Granted to BMBEs (Revised per MAB dated. 04.28.03)			
			Control Prooflist, notarized and signed by the authorized officer of the bank			

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	TB Form 13	X425.2	Report on Trust and Other Fiduciary Business and Investment Management Activities	Quarterly	10th banking day after end of reference quarter	SDC Appropriate department of the SES
A-3	TB Form 14	X425.2	Report on Investment Management Activities	-do-	-do-	-do-
A-3	Unnumbered	X192 (CL-050 dated 10.04.07 CL-059 dated 11.28.07)	Report on Borrowings of BSP Personnel	-do-	15th banking day after end of reference quarter	Original to SDC
B	TB Form 15	X192 (Revised August 2003 per CL dated 08.06.03)	Report on Credit and Equity Exposures to Individuals/ Groups/Companies Aggregating P1M and above	-do-	-do-	-do-
B			Control Prooflist, notarized and signed by the authorized officer of the bank	-do-	-do-	-do-
B	Q06-TB	X192.6	Report on Reconciling Items Outstanding for More than Six Months in the "Due from/Due to Head Office, Branches and Agencies" accounts (by Banking Unit)	-do-	30th banking day after end of reference quarter	SDC Appropriate department of the SES
B	Unnumbered	X190	Financial Audit Report - Bank Proper a. Audited Financial Statements ^{1/} b. Opinion of the Auditor together with attachments listed in Appendix 61	Annually	120th calendar day after the close of the calendar or fiscal year	Original and duplicate - Appropriate department of SES

^{1/} Solo and consolidated basis

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
		X426.2	Financial Audit Report - Trust Department	Annually	120th calendar day after the close of the calendar or fiscal year	Original and duplicate - Appropriate department of the SES
			a. Audited Financial Statements			
			b. Opinion of the Auditor together with attachments listed in Appendix 61			
B	Unnumbered	X190	Annual Audit Report ^{2/} - Bank Proper	-do-	30th banking day after receipt of the report	-do-
B	Unnumbered		a. Audited Financial Statements ^{1/}	-do-	-do-	-do-
			b. Opinion of the Auditor together with attachments listed in Appendix 61	-do-	-do-	-do-
		X426.2	Annual Audit Report ^{2/} - Trust Department			
			a. Audited Financial Statements	-do-	-do-	-do-
			b. Opinion of the Auditor together with attachments listed in Appendix 61	-do-	-do-	-do-
A-2	Unnumbered	X801.5 (Revised May 2002 as amended by Cir. No. 612 dated 06.03.08)	Report on Suspicious Transactions	As transaction occurs	10th banking day from the occurrence of the transaction	Original and duplicate - Anti-Money Laundering Council (AMLC)

^{1/} Solo and consolidated basis

^{2/} for banks under the current jurisdiction of the BSP and COA

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	Unnumbered	X801.5 <i>(Revised May 2002, as amended by Cir. No. 612 dated 06.03.08)</i>	Covered Transaction Report	As transaction occurs	10th banking day from the occurrence of the transaction	Original and duplicate - Anti-Money Laundering Council (AMLC)
A-2	Unnumbered	X801.6 <i>(Cir. No. 279 dated 04.02.01)</i>	Certificate on Compliance with Anti-Money Laundering Regulations	Annually	20th banking day after end of reference year	Original and duplicate - Appropriate department of the SES
B	Unnumbered	X262.3	Certification of Compliance with Secton 55.4 of R.A. No. 8791	Semestral	7th banking day after end of June and December	-do-
	Unnumbered	X501.3 <i>(Revised Sept. 2006 per Cir. No. 403 dated 09.19.03)</i>	Certification on Funds Borrowed from FCDU/EFCDU	Monthly	5th banking day from end of reference month	-do-
B	Unnumbered	X235.12 <i>(Cir. No. 467 dated 01.10.05)</i>	Report on Undocumented Repurchase Agreements	As transaction occurs	Within 72 hours from knowledge of transaction	Appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	Unnumbered	X235.12 (Cir. No. 467 dated 01.10.05)	Notarized Cerification that the bank did not enter into Repurchase Agreement covering Government Securities, Commercial Papers and Other Negotiable securities or instruments that are not documented.	Semestral	5th banking day after end of the reference semester	Appropriate department of the SES
B	SEC Form	(MAB dated 09.02.05)	General Information Sheet	Annual	30 days from date of annual stockholders' meeting	Drop box-SEC Central Receiving Section
B	SES II Form 10	X334	Transmittal of Board Resolution/Written Approval on Credit Accommodations to DOSRI in Compliance with Sec. 36, R.A. 8791, as amended	As any direct or indirect loan to any DOSRI is approved	20th banking day from date of approval of the directors	Appropriate department of the SES
B	Unnumbered	X328.5 (Cir. No. 560 dated 01.31.07)	Transmittal of Board Resolution/Written Approval On Credit Accommodations to Subsidiaries and/or Affiliates in Compliance with Sec. X328.5	As loan to subsidiaries and/or affiliates is approved	-do-	Original and duplicate - Appropriate deparment of the SES
B	SES II Form 12 (NP06-TB)	X192.5 X192.15	Sworn Statements on Real Estate/Chattel Transactions to Directors, Officers and Stockholders	As transacton is approved	Within 10 banking days from approval of transaction	Appropriate department of the SES
B	SES II Form 14 (NP04-TB)	X156.2	New Schedule of Banking Days/Hours	As changes occur	7th banking day prior to effectivity of the change	-do-

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	SES II For 15 (NP08-TB)	X144 (As amended by M-024 dated 07.31.08)	Biographical Data of Directors/Officers - If submitted in diskette form - Notarized first page of each of the directors'/officers' bio-data saved in diskette and control prooflist - If sent by electronic mail - Notarized first page of Biographical Data or Notarized list of names of Directors/Officers whose Biographical Data were submitted thru electronic mail to be faxed to SDC	After election or appointment and as changes occur	7th banking day from the date of the meeting of the board of directors in which the directors/officers are elected or appointed	Electronic mail or diskette form to SDC or if hard copy Original to Appropriate department of the SES, Duplicate to SDC
		MAAB dated 09.02.05	Certification under oath of independent directors that he/she is an independent director as defined under Subsection X141.10 and that all the information thereby supplied are true and correct			
		Cir. No. 513 dated 02.10.06	Verified statement of director/officer that he/she has all the aforesaid qualifications and none of the disqualifications			
B	SES Form6G	X192.4 (Revised Oct. 2007 per Cir. No. 587 dated 10.26.07; June 2005 per Cir. No. 486 dated 06.01.05)	Report on Crimes and Losses	As crime/incident occurs	Not later than ten (10) calendar days from knowledge of crime/incident and complete report not later than twenty (20) calendar days from termination of examination.	SDC and SITD
B	Unnumbered (no prescribed form)	X143.4	Report on Disqualification of Director/Officer	As disqualification occurs	Within 72 hours from receipt of report by the BOD	Appropriate department of the SES
B	SES Form 6H (CBP 7-16-21) Revised	X306.5	Notice/Application for Write-off of Loans, Other Credit Accommodations, Advances and Other Assets	As write-off occurs	Within 30 days after every write-off	

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	SES II Form 26	X192.3	Information/Documents Required under Appendices 7 & 8 (MOR)	Only once; as change occurs	15th banking day from date of change	Appropriate department of the SES
B	SES III Form 27	X192.1	Specimen Signature of Authorized Signatories and Board Resolution Designating Authorized Signatories	As change occurs	3rd banking day from date of resolution	Appropriate department of the SES & SDC
B	Unnumbered (NP09-TB)	X144	List of Members of the Board of Directors and Officers	As election occurs	12th banking day after annual board election	-do-
B		X151.8 X151.9	Notice of transfer of branches/voluntary closure of branches	As transfer occurs	5th banking day from date of transter	-do-
B		X153.4	Notice of Actual Date of Opening a Branch	As it occurs	10th banking day after opening	-do-
B		X565	Conversion/Transfer of FCDU Loans to RBU*	Monthly	10th banking day from end of reference month	-do-
		X409.16 (f)		As transaction occur	Within 72 hours from knowledge of transactions	-do-
		(M-005 dated 02.04.08)	Disclosure Statement on SPV Transactions	Quarterly	15 banking day after end of reference quarter	SDC

* Report is not required when no transfers were effected during the month

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	FX Form 1A (Formerly FED Form 1)	X192.2 (As amended by Cir. No. 284 dated 06.04.01)	Consolidated Foreign Exchange Assets and Liabilities	Monthly	10th banking day after end of reference month	DES
			Schedules:			
			1 - Monthly Summary of FX Acquisitions Dispositions			
			2 - Interbank Transactions			
			3 - FX Acquisition from Loans (of Resident Clients)			
			4 - FX Disposition for Loans (of Resident Clients)			
			5 - Other Current Accounts and Transfers Acquisition and Disposition			
			6 - Investments Acquisition and Disposition			
			7 - Other Foreign Exchange Acquisitions/ Dispositions			
B	Unnumbered		9 - Export Proceeds	Monthly	Next banking day following the prescribed date of submission of the report and schedules	-do-
			Certification as to the veracity and accuracy of the Consolidated Report on FX Assets and Liabilities and all supporting schedules, to be signed by an officer of the bank with the rank of AVP or equivalent rank			

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
	RS Form 1 (TB)		Summary Report of Transactons on TB Loans by Banking Unit	Monthly for loans granted; quarterly for loans outstanding	15th banking day after end of reference period	Appropriate department of the SES
	RS Form 2A-TB		Survey on the Volume and Weighted Average Interest Rates on Deposits	Daily	A daily survey report only for banks notified by DER	Appropriate department of the SES
	RS Form 1B (5-17-27) DER (TR-D01-TB)		Report on Volume of Money Market Transactions	As transacton occurs	2nd banking day after transaction occurs	DES
	Unnumbered	X425.3	Post Bond Flotation Report	As transaction occurs	30th day from date of the bond flotation by the LGU	-do-
ID Reports						
A-2	M01-TB (For FCDUs)	X501.4	Foreign Currency Cover	Monthly	15th banking day after end of reference month	ID
A-2	ID Form 5		Report on Bank Liabilities to Non-Residents [formerly, Schedule of Foreign Exchange Liabilities to Non-Residents (In Original Currency)] (CL dated 02.18.03)	Monthly	-do-	id-form5@bsp.gov.ph
			Bank Certification	Monthly	-do-	ID
A-3	BSP-ID Form No. 1, S-2008	CL-004 dated 01.11.08	Monthly FX Sales by Authorized Agent Banks (AABs) for Outward Investments	-do-	5th banking day after end of reference month	-do-

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	IOS Form 4		Consolidated Report on Loans Granted by FCDUs	Monthly	15th banking day after end of reference month	15th banking day after end of reference month
B	Unnumbered	X625.9 (As amended by Cir. No. 591 dated 12.27.07)	Report on FX Swaps with Customers ^{1/} where 1st Leg is a Purchase of FX Against Pesos (For TBs with derivatives License)	Monthly	5th banking days after end of reference month	ID @ e-mail address: i o d @ b s p . g o v . p h SDC @ e-mail address: sdcfxkbdm@bsp.gov.ph sdcfxkbf@bsp.gov.ph
	Unnumbered	(M-019 dated 05.03.08)	Report on Non-Deliverable USD/PHP Forward Transactions with Non-Residents	Weekly	2nd banking day after end of reference week	SDC sdc-ndf@bsp.gov.ph cc: Treasury Dept. fx-omo@bsp.gov.ph
		(M-019 dated 05.03.08)	Control Prooflist	Weekly	2nd banking day after end of reference week	SDC sdc-ndf@bsp.gov.ph. cc: Treasury Dept. fx-omo@bsp.gov.ph.
		(CL-003 dated 01.11.08)	Report on Sale of Foreign Currency (FC) for Advance Payment of Importations up to \$100,000.00	Monthly	Within the first 5 banking days of the month succeeding the date of foreign exchange sale	ID
		(CL-003 dated 01.11.08)	Report on Puchase of Foreign Currency (FC) from Refund of Advance Payment of Importations up to \$100,000.00	Monthly	Within the first 5 days of the month succeeding the receipt of the refund	ID

^{1/} Excluding cross country swaps

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
C. RBs/Coop Banks						
A1	Unnumbered	X191.2 (Cir. No. 512 dated 02.03.06, as amended by M-012 dated 03.14.08, M-011 dated 03.07.08, M-026 dated 09.20.07, M-015 dated 05.28.07, Cir. No. 568 dated 05.08.07, M-006 dated 07.07.06 and MAB dated 03.07.06)	Financial Reporting Package (FRP)			
			Balance Sheet (FRP):			
			- Solo basis (head office and branches)	Monthly	15th banking day after end of reference month	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			- Consolidated basis (together with applicable schedules) ^{2/}	Quarterly	30th banking day after end of reference quarter	-do-
			Income Statement (FRP):			
			- Solo basis (head office and branches)	Quarterly	15th banking day after end of reference quarter	-do-
			- Consolidated basis (together with applicable schedules) ^{2/}	-do-	30th banking day after end of reference quarter	-do-
			Schedules (Solo Report):			
			1 - Checks and Other Cash Items (COCI)	Monthly	15 banking day after end of the reference month	-do-
			2 - Due from Other Banks	-do-	-do-	-do-
			3 - Financial Assets Held for Trading	-do-	-do-	-do-

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^{2/} Only banks with financial allied subsidiaries, excluding insurance subsidiaries, shall submit the reports on consolidated basis.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			3a - Breakdown of Held for Trading (HFT) Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Cerificates of Assignment/Participation with Recourse, Securities Lending and Borrowing Agreements	Quarterly	15th banking day after end of reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			4 - Derivatives Held for Trading (HFT)	Quarterly	15th banking day after end of the reference quarter	-do-
			4a - Derivatives Held for Trading Matrix of Counterparty and Type of Derivative Contracts	Monthly	15th banking day after end of the reference month	-do-
			5 - Financial Assets Designated at Fair Value through Profit or Loss	-do-	-do-	-do-
			6 - Available-For-Sale Financial Assets	-do-	-do-	-do-
			6a - Breakdown of Available for Sale Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/Participation with Recourse, Securities Lending and Borrowing Agreements	Quarterly	15th banking day after end of the reference quarter	-do-
			6b - Available-For-Sale Financial Assets-Classified as to Status	-do-	-do-	-do-
			6b3			
			6c - Available-For-Sale FA Movements in Allowances for Credit Losses	Annually	15th banking day after end of the reference year	-do-
			6c3			
			7 - Held to Maturity (HTM) Financial Asset	Monthly	15th banking day after end of the reference month	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			7a - Held to Maturity Financial Assets Purchased/ Sold/Lent Under Repurchase Agreements, Cerificates of Assignment/Participation with Recourse, Securities Lending and Borrowing Agreements	Quarterly	15th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			7b - Fair Value of Held to Maturity (HTM) Financial Asset	Annually	15th banking day after end of the reference year	-do-
			7c to 7c3 - Held to Maturity Financial Assets Classified as to Status	Quarterly	15th banking day after end of the reference quarter	-do-
			7d to 7d3 - Held to Maturity Financial Assets Movements in Allowances for Credit Losses	Annually	15th banking day after end of the reference year	-do-
			8 - Unquoted Debt Securities Classified as Loans	Monthly	15th banking day after end of the reference month	-do-
			8a - Fair Value of Unquoted Debt Securities Classified as Loans	Annually	15th banking day after end of the reference year	-do-
			8b to 8b3 - Unquoted Debt Securities Classified as Loans Classified as to Status	Quarterly	15th banking day after end of the reference quarter	-do-
			8c to 8c3 - Unquoted Debt Securities Classified as Loans Movements in Allowances for Credit Losses	Annually	15th banking day after end of the reference year	-do-
			9 - Investment in Non-Marketable Equity Securities	Monthly	15th banking day after end of the reference month	-do-
			10 - Interbank Loans Receivables	-do-	-do-	-do-
			11 - Loans and Receivables - Others	-do-	-do-	-do-

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
		11a to - 11a3	Loans and Receivables - Others Classified as to Status	Monthly	15th banking day after end of the reference month	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
		11b to - 11b3	Restructured Loans and Receivables Classified as to Status	Monthly	15th banking day after end of the reference month	-do-
		11c to - 11c3	Loans and Receivables - Others Movements in Allowances for Credit Losses	Quarterly	15th banking day after end of the reference quarter	-do-
		11d to - 11d3	Gross Loans and Receivables - Others Classified as to Type of Business/Industry of Counterparty	Monthly	15th banking day after end of the reference month	-do-
		11e to - 11e3	Loans and Receivables - Others Classified as to Status Per PAS 39	Annually	15th banking day after end of the reference year	-do-
		11f -	Schedule of Agri/Agra SME, DIL and Microfinance Loans and Receivables Classified as to Counterparty	Monthly	15th banking day after end of the reference month	-do-
		12 -	Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions	Monthly	15th banking day after end of the reference month	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			12a to - Loans and Receivables Arising from 12a3 Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions Matrix of Counterparty and Issuer of Collateral Securities	Quarterly	15th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			13 - Fair Value Adjustments in Hedge Accounting	Quarterly	15th banking day after end of the reference quarter	-do-
			13a - Financial Derivatives Held for Fair Value Hedge	-do-	-do-	-do-
			13b - Financial Derivatives Held for Cash Flow Hedge	-do-	-do-	-do-
			13c - Financial Derivatives Held for Hedges of Net Investment in Foreign Operations	-do-	-do-	-do-
			13d - Financial Derivatives Portfolio Hedge of Interest Rate Risk	-do-	-do-	-do-
			14 - Accrued Interest Income/Expense from Financial Assets and Liabilities	-do-	-do-	-do-
			15 - Equity Investment in Subsidiaries, Associates and Joint Ventures	Monthly	15th banking day after end of the reference month	-do-

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			15a - Equity Investment in Subsidiaries, Associates and Joint Ventures- Classified as to Nature of Business	Quarterly	15th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			15b - Details of Investment in Subsidiaries, Associates and Joint Ventures	-do-	-do-	-do-
			16 - Bank Premises, Furniture, Fixture and Equipment	-do-	-do-	-do-
			17 - Real and Other Properties Acquired	Quarterly	-do-	-do-
			18 - Deferred Tax Assets and Liabilities	Annually	15th banking day after end of the reference year	-do-
			19 - Other Assets	Monthly	15th banking day after end of the reference month	-do-
			20 - Breakdown of Due from and Due to Head Office/Branches/Agencies Abroad - Philippine Branch of a Foreign Bank	-do-	-do-	-do-
			21 - Liability for Short Position	Quarterly	15th banking day after end of the reference quarter	-do-
			22 - Deposit Liabilities Classified as to Type of Deposit	Monthly	15th banking day after end of the reference month	-do-
			22a - Deposit Liabilities by Size of Accounts Excluding Deposits in Foreign Offices/ Branches	Quarterly	15th banking day after end of the reference quarter	-do-

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			23 - Due to Other Banks	Monthly	15th banking day after end of the reference month	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			24 - Bills Payable	-do-	-do-	-do-
			25 - Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	Quarterly	15th banking day after end of the reference quarter	-do-
			26 - Fair Value of Financial Liabilities	Annually	15th banking day after end of the reference year	-do-
			27 - Financial Liabilities Associated with Transferred Assets	Quarterly	15th banking day after end of the reference quarter	-do-
			28 - Other Liabilities	Monthly	15th banking day after end of the reference month	-do-
			29 - Interest Income/Expense from Financial Instruments	Quarterly	15th banking day after end of the reference quarter	-do-
			29a - Interest Income from Due from Other Banks Classified as to Type of Deposits	-do-	-do-	-do-
			29b - Interest Income from Held for Trading, Designated at FVPL, Available for Sale, Held to Maturity Financial Assets and UDSCL	-do-	-do-	-do-
			29c - Interest Income from Interbank Loans Receivables	-do-	-do-	-do-
			29d to - Interest Income from Loans and Receivables - 29d3 Others - Classified as to Status	-do-	-do-	-do-
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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			29e - Interest Income from Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions	Quarterly	15th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			30a - Interest Expense on Deposit Liabilities	-do-	-do-	-do-
			30b - Interest Expense on Bills Payable	-do-	-do-	-do-
			30c - Interest Expense on Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	-do-	-do-	-do-
			31 - Dividend Income	-do-	-do-	-do-
			32 - Gains/(Losses) on Financial Assets and Liabilities Held for Trading	-do-	-do-	-do-
			33 - Gains/(Losses) from Sale/Redemption/ Derecognition of Non-Trading Financial Assets and Liabilities	-do-	-do-	-do-
			34 - Compensation/Fringe Benefits	-do-	-do-	-do-
			35 - Other Administrative Expenses	-do-	-do-	-do-
			36 - Depreciation/Amortization Expense	-do-	-do-	-do-
			37 - Impairment Loss	-do-	-do-	-do-
			38 - Off-Balance Sheet	-do-	-do-	-do-
			38a - Compliance with Secton X347	-do-	-do-	-do-

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
		39 & 39a	- Residual Maturity Performing Financial Assets and Financial Liabilities	Quarterly	15th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
		40 & 40a	- Repricing - Performing Financial Assets and Financial Liabilities	-do-	-do-	-do-
		41	- Investment in Debt Instruments Issued by LGUs and Loans Granted to LGUs	-do-	-do-	-do-
		42	- Disclosure of Due From FCDU/RBU and Due To FCDU/RBU	-do-	-do-	-do-
		Schedules (Consolidated Report):				
		1	- Checks and Other Cash Items	Quarterly	30th banking day after end of the reference quarter	-do-
		2	- Due from Other Banks	-do-	-do-	-do-
		3	- Financial Assets Held for Trading	-do-	-do-	-do-
		3a	- Held for Trading (HFT) Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/ Participation with Recourse, Securities Lending and Borrowing Agreements	-do-	-do-	-do-
		4	- Derivatives Held for Trading (HFT)	-do-	-do-	-do-

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			4a - Derivatives Held for Trading Matrix of Counterparty and Type of Derivative Contracts	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			5 - Financial Assets Designated at Fair Value through Profit or Loss	-do-	-do-	-do-
			6 - Available-For-Sale Financial Assets	-do-	-do-	-do-
			6a - Breakdown of Available for Sale Financial Assets Purchased/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/Participation with Recourse, Securities Lending and Borrowing Agreements	-do-	-do-	-do-
			6b - Available-For-Sale Financial Assets-Classified as to Status	-do-	-do-	-do-
			6c - Available-For-Sale Financial Assets Movements in Allowances for Credit Losses	Annually	30th banking day after end of the reference year	-do-
			7 - Held to Maturity (HTM) Financial Asset	Quarterly	30th banking day after end of the reference quarter	-do-
			7a - Held to Maturity Financial Assets Purchase/Sold/Lent Under Repurchase Agreements, Certificates of Assignment/Participation with Recourse, Securities Lending and Borrowing Agreements	-do-	-do-	-do-
			7b - Fair Value of Held to Maturity (HTM) Financial Assets	Annually	30th banking day after end of the reference year	-do-
^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.						

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			7c - Held to Maturity Financial Assets Classified as to Status	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			7d - Held to Maturity Financial Assets Movements in Allowances for Credit Losses	Annually	30th banking day after end of the reference year	-do-
			8 - Unquoted Debt Securities Classified as Loans	Quarterly	30th banking day after end of the reference quarter	-do-
			8a - Fair Value of Unquoted Debt Securities Classified as to Status	Annually	30th banking day after end of the reference year	-do-
			8b - Unquoted Debt Securities Classified as Loans Classified as to Status	Quarterly	30th banking day after end of the reference quarter	-do-
			8c - Unquoted Debt Securities Classified as Loans Movements in Allowances for Credit Loans	Annually	30th banking day after end of the reference year	-do-
			9 - Investment in Non-Marketable Equity Securities	Quarterly	30th banking day after end of the reference quarter	-do-
			10 - Interbank Loans Receivables	-do-	-do-	-do-
			11 - Loans and Receivables - Others	-do-	-do-	-do-
			11a - Loans and Receivables - Others Classified as to Status	-do-	-do-	-do-
			11b - Restructured Loans and Receivables Classified as to Status	-do-	-do-	-do-

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Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
			11c - Loans and Receivables - Others Movements in Allowances for Credit Losses	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			11d - Gross Loans and Receivables - Others Classified as to Type of Business/Industry of Counterparty	-do-	-do-	-do-
			11f - Schedule of Agri/Agra SME, DIL and Microfinance Loans and Receivables Classified as to Counterparty	-do-	-do-	-do-
			12 - Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions	-do-	-do-	-do-
			12a - Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions Matrix of Counterparty and Issuer of Collateral Securities	-do-	-do-	-do-
			13 - Fair Value Adjustments in Hedge Accounting	-do-	-do-	-do-
			13a - Financial Derivatives Held for Fair Value Hedge	-do-	-do-	-do-
			13b - Financial Derivatives Held for Cash Flow Hedge	-do-	-do-	-do-
			13c - Financial Derivatives Held for Hedges of Net Investment in Foreign Operations	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			13d - Financial Derivatives Portfolio Hedge of Interest Rate Risk	Quarterly	30th banking day after end of reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			14 - Accrued Interest Income/Expense from Financial Assets and Liabilities	-do-	-do-	-do-
			15 - Equity Investment in Subsidiaries, Associates and Joint Ventures	-do-	-do-	-do-
			15a - Equity Investment in Subsidiaries, Associates and Joint Ventures-Classified as to Nature of Business	-do-	-do-	-do-
			15b - Details of Investment in Subsidiaries, Associates and Joint Ventures	-do-	-do-	-do-
			16 - Bank Premises, Furniture, Fixture and Equipment	-do-	-do-	-do-
			17 - Real and Other Properties Acquired	-do-	-do-	-do-
			18 - Deferred Tax Assets and Liabilities	Annually	30th banking day after end of reference year	-do-
			19 - Other Assets	Quarterly	30th banking day after end of the reference quarter	-do-
			20 - Breakdown of Due from and Due to Head Office/Branches/Agencies Abroad - Philippines Branch of a Foreign Bank	-do-	-do-	-do-
			21 - Liability for Short Position	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
		22	- Deposit Liabilities Classified as to Type of Deposit	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
		22a	- Deposit Liabilities by Size of Accounts Excluding Deposits in Foreign Offices/ Branches	-do-	-do-	-do-
		23	- Due to Other Banks	-do-	-do-	-do-
		24	- Bills Payable	-do-	-do-	-do-
		25	- Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	-do-	-do-	-do-
		26	- Fair Value of Financial Liabilities	Annually	30th banking day after end of the reference year	-do-
		27	- Financial Liabilities Associated with Transferred Assets	Quarterly	30th banking day after end of the reference quarter	-do-
		28	- Other Liabilities	-do-	-do-	-do-
		29	- Interest Income/Expense from Financial Instrument	-do-	-do-	-do-
		29a	- Interest Income from due from Other Banks Classified as to Type of Deposits	-do-	-do-	-do-
		29b	- Interest Income from Held for Trading, Designated at FVPL, Available for Sale, Held to Maturity Financial Assets and Unquoted Debt Securities Classified as Loans	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			29c - Interest Income from Interbank Loans Receivables	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
			29d - Interest Income from Loans and Receivables - Others - Classified as to Status	-do-	-do-	-do-
			29e - Interest Income from Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignmnet/Participation with Recourse and Securities Lending and Borrowing transactions	-do-	-do-	-do-
			30a - Interest Expense on Deposit Liabilities	-do-	-do-	-do-
			30b - Interest Expense on Bills Payable	-do-	-do-	-do-
			30c - Interest Expense on Bonds Payable, Unsecured Subordinated Debt and Redeemable Preferred Shares	-do-	-do-	-do-
			31 - Dividend Income	-do-	-do-	-do-
			32 - Gains/(Losses) on Financial Assets and Liabilities Held for trading	-do-	-do-	-do-
			33 - Gains/(Losses) from Sale/Redemption/ Derecognition of Non-Trading Financial Assets and Liabilities	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
		34	- Compensation/Fringe Benefits	Quarterly	30th banking day after end of the reference quarter	Diskette/CD/e-mail to SDC ^{1/} sdcrb-frp@bsp.gov.ph
		35	- Other Administrative Expenses	-do-	-do-	-do-
		36	- Depreciation/Amortization Expense	-do-	-do-	-do-
		37	- Impairment Loss	-do-	-do-	-do-
		38	- Off-Balance Sheet	-do-	-do-	-do-
		38a	- Compliance with Section X347	-do-	-do-	-do-
		39	- Residual Maturity Performing Financial Assets and Financial Liabilities	-do-	-do-	-do-
		40	- Repricing - Performing Financial Assets and Financial Liabilities	-do-	-do-	-do-
		41	- Investment in Debt Instruments Issued by LGUs and Loans Granted to LGUs	-do-	-do-	-do-
		42	- Disclosure of Due From FCDU/RBU and Due to FCDU/RBU	-do-	-do-	-do-

^{1/} Control Prooflist duly signed by the authorized official of the reporting bank and a Notary Public, shall be submitted within the prescribed submission deadlines to SDC via Fax No. (02) 523-3461 or hard copy via postal/messengerial services.

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-1	Unnumbered	X611.5 (Cir. No. 594 dated 01.08.08 and M-009 dated 02.27.08)	Derivatives Report	Monthly	15th banking day after the end of the reference month	CMSG cc: SDC c m s g @ b s p . g o v . p h . sdc-derivatives@bsp.gov.ph.
			Schedules:			
			Report on Outstanding Derivatives Contracts (Stand - Alone - RBU, Stand - Alone - FCDU, Hybrid)			
			Report on Trading (Gains/Losses) on Financial Derivatives			
			Certification (Hard Copy)	Monthly	15th banking day after the end of the reference month	Receiving Section, SES
			Control Prooflist			
A-2	Unnumbered	X116.5 (As amended by Cir. Nos. 503 dated 12.22.05 and 475 dated 02.14.05)	Computation of the Adjusted Risk-Based Capital Adequacy Ratio Covering Combined Credit Risks (for stand alone RBs)			
			- Solo basis (head office and branches)	Quarterly	15th banking day after end of reference quarter	Appropriate department of the SES
			- Consolidated basis (parent bank plus subsidiary financial allied undertakings, but excluding insurance companies)	-do-	30th banking day after end of reference quarter	-do-
A-1		X116.5 (Cir. No. 574 dated 07.10.07)	- Computation of the Adjusted Risk-Based Capital Adequacy Ratio Covering Combined Credit Risks, Market Risk and Operational Risk ^{1/}			

^{1/} For RBs which are subsidiaries of UBs/KBs

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-1		X116	- Solo basis (head office and branches)	Quarterly	15th banking day after end of reference quarter	SDC
A-1		X116	- Consolidated basis (parent bank plus subsidiary financial allied undertakings, but excluding insurance companies)	-do-	30th banking day after end of reference quarter	-do-
A-2	RB/COB Form1	X116.3	Consolidated Daily Report of Condition (CDRC)	Weekly	4th banking day after end of reference week	-do-
A-2	RB/COB Form 2A	X192 (Revised 2004 per MAB dated 05.21.04)	Consolidated Statement of Condition Schedules: 1 - Due from/Due to Other Banks 2 - Loan Portfolio and Other Accommodations 2.1 - Loan Portfolio and Other Accommodations (Borrowings of Local Government Units) 2.2 - Schedule of Microfinance Loans 3 - Investments in Bonds and Other Debt Instruments 3.1 - Investments in Bonds and Other Debt Instruments (Govenment Issue - Local Government Units) 3A - Equity Investments 4 - Fixed and Other Assets 5 - Deposit Liabilities 6 - Bills Payable Control Prooflist	Monthly	15th banking day after end of reference month	cc: Mail to SDC Appropriate department of the SES
				-do-	-do-	-do-

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	Unnumbered (no prescribed form)	X141.9	Acknowledgment receipt of copies of specific duties and responsibilities of the board of directors and of a director and certification that they fully understand the same	Annually or as directors are elected	30th banking day after date of election	
A-2	Form 2B/2B.1	X192.9 <i>(Cir. No. 576 dated 08.08.07 and M-030 dated 10.04.07)</i>	RBs with resources of P1.0 billion and above Balance Sheet/Consolidated Balance Sheet Control Prooflist duly notarized and signed by the authorized official of the reporting bank Published Balance Sheet/Consolidated Balance Sheet (together with the publisher's certificate)	Quarterly	12 banking days from the date of the Call Letter 20 banking days from the date of the Call Letter	Diskette/CD/e-mail to SDC sdcrb-pbs@bsp.gov.ph hard copy to SDC Fax to 523-3461 or 523-0230 Fax to 523-3461 or 523-0230 or via postal/ messengerial services to SDC
A-2	Form 2B/2B.1	<i>Cir. No. 576 dated 08.08.07 and M-030 dated 10.04.07</i>	RBs with resources of less than P1.0 billion Balance Sheet/Consolidated Balance Sheet Control Prooflist duly notarized and signed by the aurthorized official of the reporting bank Published/Posted Balance Sheet/Consolidated Balance Sheet (together with the publisher's certificate if applicable)	-do- -do-	20 banking days from the date of the reference quarter 20 banking days from the date of the reference quarter	Diskette/CD/e-mail to SDC sdcrb-pbs@bsp.gov.ph hard copy to SDC Fax to 523-3461 or 523-0230 or via postal/ messengerial services to SDC

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	Unnumbered	X425.2 (Cir. No. 609 dated 05.26.08 and M-022 dated 06.26.08)	Financial Reporting Package for Trust Institution ^{1/}	Quarterly	20th banking day after the end of reference quarter	SDC sdcrb-frpti@bsp.gov.ph
			Schedules: Balance Sheet A1 to A2 - Main Report B to B2 - Details of Investments in Debt and Equity Securities C to C2 - Details of Loans and Receivables D to D2 - Wealth/Asset/Fund Management-UITF E - Other Fiduciary Accounts E1 to E1b - Other fiduciary Services - UITF Income Statement Control Prooflist	Quarterly	20th banking day after the end of reference quarter	SDC sdcrb-frpti@bsp.gov.ph
A-2	Unnumbered	X192 (Cir. No. 607 dated 04.30.08 and M-021 dated 06.16.08)	Report on Microfinance Loans	Monthly	15th banking day after end of the reference month	SDC sdcrb-micro@bsp.gov.ph

^{1/} RBs/Coop Banks which are authorized to engage in limited trust business are only required to submit the main report and Annex E of the FRPTI

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	Unnumbered	X192 (Cir. No. 607 dated 04.30.08 and M-021 dated 06.16.08)	Income Statement on Microfinance Operations	Quarterly	15th banking day after end of the reference quarter	SDC sdcrb-micro@bsp.gov.ph
A-2		X181.5 (Cir. No. 620 dated 09.03.08)	Self-Assesment and Certification of Compliance with Rules and Regulations on Bank Protection/Updated Security Program	Annually	On or before 30 January	Appropriate department of the SES
A-2	RB/COB Form 7	X254	Report on Microfinance Transactions	Monthly	5th banking day after end of reference month	Original - DLC/BSPRLC
A-2	RB/COB Form 7A	X254	Weekly Report on Required and Available Reserves Against Deposit Liabilities (To be replaced with CDRC - Form 1)	Weekly	4th banking day after end of reference week	Electronic mail to SDC
A-2	RB/COB Form 8	X240.8	Control Prooflist of WRRAR Against Deposit Liabilities	-do-	-do-	-do-
A-2	Unnumbered (Rev. May 2002)	X240.6	Government Funds Held/Compliance with Liquidity Floor Requirement	Quarterly	15th banking day after end of the reference quarter	Original - Appropriate department of the SES Duplicate - SDC
A-2	Unnumbered	X801.5 (Rev. May 2002 as amended by Cir. No. 612 dated 06.13.08)	Covered Transaction Report (CTR)	As transaction occurs	10th banking day from the occurrence of the transaction	Original and duplicate - Anti - Money Laundering Council (AMLC)

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	Unnumbered	X801.5 (Cir. No. 279 dated 04.02.01)	Suspicious Transaction Report (STR)	As transaction occurs	10th banking day from the occurrence of the transaction	Original and duplicate - Anti-Money Laundering Council (AMLC)
A-1	RB/COB Form 9	X801.6	Certification of Compliance with Anti - Money Laundering Regulations	Annually	20th banking day after end of reference year	-do-
A-3	RB/COB Form 2B	X192 (As amended by MAB dated 05.21.04)	Statement of Condition (by Banking Unit) - including ROPA by banks Schedules: 1 - Loans-to-Deposit Ratio Supplementary Information	-do-		Original -SDC Duplicate - Appropriate department of the SES
A-3	RB/COB Form 3A	X192 (As amended by CL-022 dated 08.29.06)	Consolidated Statement of Income and Expenses Control Prooflist	Quarterly -do-	15th banking day after end of reference quarter -do-	cc: Mail/Diskette/Hard copy; SDC/Appropriate department of the SES SDC Appropriate department of the SES
A-3	RB/COB Form 3B	X192 (As amended by MAB dated 05.21.04)	Statement of Income and Expenses (by Banking Unit)	-do-	-do-	cc: Mail/Diskette/Hard copy; SDC

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	Unnumbered	X393 (Cir. No. 613 dated 06.18.08 and M-032 dated 10.31.08)	Report of Selected Branch Accounts Schedules: Selected Balance Sheet Accounts Selected Balance Sheet and Income Statement Accounts Aging of Loans and Receivables - Others Breakdown of Deposit Liabilities Bank Loans-to-Deposits Ratio Reconciling Items Outstanding for More than Six (6) Months on the Due From/Due to Head Office, Branches and Agencies Account	Semestral	20 banking days after end of reference semester	SDC sdcrb-bris@bsp.gov.ph
A-3	RB/COB Form 4A	X335 X409.3	Consolidated Report on Compliance with Individual Ceiling on Direct Credit Accommodations to Directors/ Officers/Stockholders/Related Interests (DOSRI) Schedule: 1 - Compliance with Individual Ceiling on Credit Accommodations to DOSRI	Quarterly	15th banking day after end of reference quarter	Original - Appropriate department of the SES
A-3	RB/COB Form 4B	X335 X409.3	Consolidated Report on the Compliance with Aggregate Ceiling on Credit Accommodations to DOSRI Schedules: 1 - Secured and Unsecured DOSRI Loans	-do-	-do-	-do-
A-3	RB/COB Form 5a	X341.9 (Rev. Dec. 2004 MAB dated 09.08.04)	Consolidated Report on the Utilization of Loanable Funds Generated Which Were Set Aside for Agrarian Reform Credit/Other Agricultural Credit	-do-	-do-	Electronic mail/Diskette/ Hardcopy: SDC sdcrb-agra@bsp.gov.ph

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	RB/COB Form 5B	X342.6 (Cir. No. 625 dated 10.14.08 and M-035 dated 11.19.08)	Schedules: A - Total Collection from Loan Portfolio as of 31 May 1975 B - Direct Loans to Farmer's Assn. or Coop for High Value Crop Projects C - Utilization of 10% Loanable Funds Generated for Agrarian Reform Credit D - Utilization of 15% Loanable Funds Generated for Agricultural Credit E - Development Loan Incentives F - Report of Compliance with PD 717 G - Report on Loans Granted to Barangay Micro Business Enterprises (BMBEs) (Revised per MAB dated 4.28.03) Control Prooflist (notarized)	Quarterly	Upon transmission/ submission of main report	cc: Mail/Diskette/Hard copy: SDC (by fax, if hard copy cannot be submitted on deadline)
			Report on Compliance with Mandatory Credit Allocation Required under R.A. 6977, as amended by R.A. Nos. 8289 and 9501 Schedules: 1A - Computation of Total Loan Portfolio for Purposes of Determining Amount of Mandatory Credit Allocation for MSMEs 1A-1 - Wholesale Lending of a Bank to Conduit NBFIs w/o QB authority other than those for On-Lending to MSMEs	-do-	15th banking day after end reference quarter	Electronic mail/diskette: SDC - e-mail at sdcrb-sme@bsp.gov.ph

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
			1A-2 - Loans Granted Under Special Financing Program Other Than for MSMEs			
			1A-3 - Loans Granted to MSMEs Other Than to BMBEs which are Funded by Wholesale Lending of or Rediscounted with Another Bank			
			1B - Details of Eligible Investments for Compliance with the Required Credit Allocation for MSMEs			
			1B-1 - Loans Granted to MSMEs Other than to BMBEs which are Funded by Wholesale Lending of or Rediscounted with Another Bank			
			1B-2 - Wholesale Lending or Rediscounting Facility Granted to Participating Financial Institutions for On-Lending to MSMEs other than to BMBEs			
			2 - Loans Granted to BMBEs			
			3 - Reconciliation of Loans Granted to MSMEs as Reported Under Schedules 1B, 1B-1 and 2 and FRP Balance of Microfinance and SME Loans			
A-3	Unnumbered	3277.6	Control Prooflist	Quarterly	15th Banking day after end of reference quarter	SDC
			Summary of Loans Granted	Annually	15th banking day after end of reference year	Original -SDC Duplicate- Appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	Unnumbered	X192 (CL-050 dated 10.04.07 CL-059 dated 11.28.07)	Report on Borrowings of BSP Personnel	Quarterly	15th banking day after end of reference quarter	Original to SDC
B	RB/COB Form 10	X192.6	Reconciling Items Outstanding for More than Six Months on the Due from/Due to Head Office/ Branches & Agencies Account (by Banking Unit)	Semestral	15th banking day after end of reference semester	Original - Appropriate department of the SES
B	RB/COB Form 13	X338.3 X339.4 (Cir. No. 487 dated 06.03.05)	Report on Availment of Financial Assistance to Officers and Employees under an Approved Plan	Semestral	15th banking day after end of reference semester	
B	RB/COB Form 16	X192.7 (As amended by Cir. No. 533 dated 06.19.06)	Consolidated List of Stockholders and Their Stockholdings and Changes thereto	Annually/ Quarterly when changes occurs	30th banking day after end of calendar year and if there are changes, 12th banking day after end of the reference quarter	-do-
B	RB/COB Form 18	X144 (CL dated 01.09.01, as amended by M-024 dated 07.31.08)	Biographical Data of Directors/Officers - If submitted in diskette form - Notarized first page of each of the directors'/officers' bio-data saved in diskette and control prooflist - If sent by electronic mail - Notarized first page of Biographical Data or Notarized list of names of Directors/Officers whose Biographical data were submitted thru electronic mail to be faxed to SDC (CL dated 01.09.01)	After election or appointment and as change occurs	7th day from the date of the meeting of the board of directors in which the directors/officers are elected or appointed	cc: Mail/Diskette to SDC Original - SDC Duplicate-Appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
		MAAB dated 09.02.05	Certification under oath of independent directors that he/she is an independent director as defined under Section X141.10 and that all the information thereby supplied are true and correct.			
		Cir. No. 513 dated 02.10.06	Verified statement of directors/officers that he/she has all the aforesaid qualifications and none of the disqualifications.			
B	RB/COB Form 19	X156.2	New Schedule of Banking Days/Hours	As necessary	7th banking day prior to effectivity of change	Original-Appropriate department of the SES
B	RB/COB Form 20	X192.5	Sworn Statement of Real Estate/Chattel transaction to DOS	As transaction is approved	10th banking day from approval of transaction	-do-
B	SES Form6G	X192.4 (As amended by Cir. Nos. 587 dated 10.26.07 and 486 dated 06.01.05)	Report on Crimes and Losses	As transaction occurs As incident occurs	Not later than ten (10) calendar days from knowledge of crime/ incident and complete report not later than twenty (20) calendar days from termination of e x a m i n a t i o n	SDC and SITD
B	Unnumbered (no precribed form)	X143.4	Report on Disqualification of Directors/Officers	As disqualification occurs	Within 72 hours from receipt of report by the BOD	Original-Appropriate department of the SES
B	RB/COB Form 23	X306.5 (As amended by Cir. No. 463 dated 12.29.04)	Notice/Application for Write-off Loans, Other Credit Accommodations, advances and Other Assets	As write-off occurs	Within 30 days after every write-off	Original and duplicate-Appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	RB/COB Form 25	X144	List of Members of the Board of Directors and Officers	Annually	10th banking day after election or appointment	Original-Appropriate department of the SES
B	RB/COB Form 26	X334	Transmittal of Board Resolution/Written Approval on Credit Accommodation to DOSRI in compliance with Sec. 36, R.A. 8791, as amended	As transaction occurs	20th banking day from date of approval	-do-
B	Unnumbered	X328.5 (Cir. No. 560 dated 01.31.07)	Transmittal of Board Resolution/Written Approval On Credit Accommodations to Subsidiaries and/or Affiliates in Compliance with Sec. X328.5	As loan to subsidiaries and/or affiliates is approved	20 banking days after approval	Original and duplicate-Appropriate department of the SES
B		X190.6	Annual Report of Management to Stockholders Covering Results of Operation for the Previous Year	Annually	180 days after close of calendar or fiscal year	Original-Appropriate department of the SES
B	Unnumbered	X192.1	Report on the Designation of Authorized Signatories of Bank's Reports Classified as Category A1, A2, A3 and B	As designation by bank's board of directors occurs	Within 3 banking days from the date the designation/change occurs	-do-
B	Unnumbered	X262.3	Certification of Compliance with Section 55.4 of R.A. No. 8791	Semestral	Within 7 banking days after end of June and December	-do-
	Unnumbered	X425.3	Post Bond Flotation Report	As transaction occurs	30th day from date of the bond flotation by the LGU	DES
		X409.16	Waiver of the Confidentiality of Information under Sections 2 and 3 of R.A. No. 1405, as amended	As transaction occurs		Appropriate department of the SES

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
B	Unnumbered	X235.12 (Cir. No. 467 dated 01.10.05)	Notarized certification that the bank did not enter into repurchase agreement covering government securities, commercial papers and other non-negotiable securities or instruments that are not documented	Semestral	Within 72 hours from knowledge of transaction	Appropriate department of the SES
B	Unnumbered	X235.12 (Cir. No. 467 dated 01.10.05)	Report on Undocumented Repurchase Agreements	As transaction occurs	5th banking day after end of the reference semester	-do-
B	SEC Form	(MAB dated 09.02.05)	General Information Sheet	Annual	30 days from date of annual stockholders' meeting, and if there are changes, 7 days from date of change	Drop box-SEC Central Receiving Section
		(M-005 dated 02.04.08)	Disclosure Statement on SPV Transactions	Quarterly	15th banking day after end of reference quarter	SDC
		(M-019 dated 05.03.08)	Report on Non-Deliverable USD/PHP Forward Transactions with Non-Residents	Weekly	2nd banking day after end of reference week	SDC sdc-ndf@bsp.gov.ph cc: Treasury Dept. fx-omo@bsp.gov.ph
			Control Prooflist	-do-	-do-	-do-

CERTAIN INFORMATION REQUIRED FROM BANKS
[Appendix to Subsec. X192.3 (2008 - X162.3)]

1. Name of bank

2. Address

3. P. O. Box Number

4. Cable address or cable code

5. Board of Directors including Corporate Secretary:

a. Names of Chairman, Vice-Chairman and Directors;

b. Number of directors per by-laws;

c. Number of vacancies in the Board;

d. Names of corporations where they serve as Chairman of the Board or as President and names of other business enterprises of which they are proprietors or partners;

e. For the Corporate Secretary, indicate if he is also a Director; and

f. Date of annual election of directors per by-laws.

6. President to Department Heads, including Auditor:

a. Names and titles;

b. Telephone number of each officer (office);

c. For Executive Vice Presidents, state the names of corporations where they serve as Chairman of the Board and names of other business enterprises of which they are proprietors or partners; and

d. For Vice-Presidents and other officers with non-descriptive titles, indicate area of responsibility, e.g., Vice-President for Operations or Vice-President, International Department.

7. Branches, agencies and extension offices:

a. Name of branch, agency or extension office, e.g., Quiapo Branch or Makati Agency;

b. Address;

c. Names and telephone numbers of:

(1) Manager

(2) Cashier

(3) Accountant; and

d. For agencies and extension offices, indicate name of mother branch.
- Manual of Regulations for Banks

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**DOCUMENTS/INFORMATION ON ORGANIZATIONAL
STRUCTURE AND OPERATIONAL POLICIES**
[Appendix to Subsec. X192.3 (2008 - X162.3)]

1. Chart of the firm's organizational structure or any substitute therefore;	b) Procedure/flow of paper work; and
2. Name of departments/units/offices with their respective functions and responsibilities;	c) Other matters;
3. Designations of positions in each department/unit/office with the respective duties and responsibilities;	5. Memoranda-Circulars or the like issued covering organizational and operational policies;
4. Manual of Instructions or the like embodying the operational policies/procedures of each department/unit/office, covering such areas as:	6. Sample copies of each of the forms/reports used by each office/unit/department other than those submitted to the BSP; and
a) Signing/delegated authority;	7. Such other documents/information that may be required from time to time by the supervisory/regulatory department concerned.

**GUIDELINES FOR CONSOLIDATION OF FINANCIAL STATEMENTS OF BANKS
AND THEIR SUBSIDIARIES ENGAGED IN FINANCIAL ALLIED
UNDERTAKINGS**
[Appendix to Subsec. X192.10 (2008 - X162.10)]

(deleted by Cir. No. 494 dated 20 September 2005)

**FORMAT OF SELF-ASSESSMENT AND CERTIFICATION ON COMPLIANCE WITH
RULES AND REGULATIONS ON BANK PROTECTION**
[Appendix to Subsec. X181.5 (2008 - X171.5)]

(Name of Bank)

I hereby certify that the Bank has developed and adopted an updated security program which has been reduced in writing and approved by the Bank’s Board of Directors in its Resolution No. _____ dated _____ and retained by this Bank in such form as will readily permit determination of its adequacy and effectiveness. I also certify that I have evaluated/assessed said security program and its implementation and that to the best of my knowledge and belief said security program equals or exceeds the standards prescribed by the Bangko Sentral rules and regulations.

Attached are the results of the self-assessment prepared under my supervision regarding the Bank's security program.

President

Date

**ASSESSMENT OF COMPLIANCE WITH RULES AND
REGULATIONS ON BANK PROTECTION**

(Name of Bank)

I, _____, Security Officer of (Name of Bank), hereby certify that -

1. The Bank has a written security program approved by its board of directors and retained by this Bank in such form as will readily permit determination of its adequacy and effectiveness;
2. The security program is compliant with the standards set by BSP rules and regulations and commensurate to the Bank’s operations, taking into consideration its size, locations and the number of its offices. The security program of the Bank is deemed adequate to promote maximum protection of life and property against crimes and other destructive causes; prevent and discourage crimes against the Bank; and assist law enforcement agencies in the identification and prosecution of perpetrators of crimes committed against the Bank;
3. The assessment we conducted last _____ disclosed that said security program of the Bank has faithfully been implemented by the Bank and the

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implementation thereof is substantially compliant with the requirements on bank protection prescribed under Section X181 as follows:

- a. Guard system
Description of the system
- b. Security devices
Description of the security devices, such as:
 - Surveillance system;
 - Burglar alarm system; and
 - Robbery/hold-up alarm system.
- c. Vaults and safes
State physical description and minimum security measures designed for the vault
- d. Security of the premises
Description of the security measures/devices for banking premises
- e. Automated Teller Machines (ATM)
Description of security measures/devices for ATMs
- f. Armored car operation
Description of armored vehicles and security measures adopted for them
- g. Employees training
Describe training given

There are no noted adverse deviations of the program from the requirements under BSP rules and regulations. (If there are deviations, please state, “We noted the following deviations and the measures taken to address the deviations.”)

- 4. The Bank has written procedures on the following emergency programs:
 - a. Anti-robbery/hold-up plan;
 - b. Bomb threat plan;
 - c. Fire protection plan; and
 - d. Other disaster plan like earthquake and terrorist attack.

5. The Bank periodically inspects, tests and reviews its security program and records thereof are adequately maintained and will be made readily available to the BSP for the determination of the program’s adequacy and effectiveness.

Security Officer

Date

Noted by:

President

Date

(As amended by Circular No. 620 dated 03 September 2008)

PRO-FORMA ORDER OF WITHDRAWAL FOR "NOW" ACCOUNTS
(Appendix to Sec. X225)

The order of withdrawal form shall have a size of three (3) inches by seven (7) inches, and shall be on security/check paper. It shall contain as a minimum the features contained in the following pro-forma order of withdrawal:

FRONT

Acct. No. _____	No. _____
ORDER OF WITHDRAWAL "NOW" ACCOUNTS	
_____, 20 ____	
Pay to _____ the amount of PESOS _____ (P _____)	
NAME OF DRAWEE BANK Address	
_____ Drawer/Depositor	

BACK

Important
1. This order of withdrawal shall be payable only to a specific person, natural or juridical, and not to bearer nor to the order of a specific person.
2. Only the payee can encash this order of withdrawal with the drawee bank, or deposit it in his account with the drawee bank or with any other bank.

SAMPLES OF STANDARDIZED INSTRUMENTS EVIDENCING
DEPOSIT SUBSTITUTE LIABILITIES
(Appendix to Subsec. X235.3)

Serial No. _____

Original

(Name of Bank)

PROMISSORY NOTE

Issue Date : _____, 20 _____.
Maturity Date : _____, 20 _____.

FOR PESOS _____ (P _____), RECEIVED.
(Present Value/Principal)

_____ promises to pay _____
(Name of Issuer/Maker) (Name/Account Number of Payee)

or order, the sum of PESOS _____ (P _____),
(Maturity Value/Principal & Interest)

subject to the terms and conditions on the reverse side hereof.

Duly Authorized Officer

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

TERMS AND CONDITIONS OF A PROMISSORY NOTE

1. Computation of Yield

Interest is hereby stipulated/computed at _____ % per annum, compounded
() monthly () quarterly () semi-annually () Others.

2. No Pretermination

This promissory note shall not be honored or paid by the issuer/maker before the maturity date indicated on the face hereof.

3. Liquidated Damages

In case of default, issuer/maker shall pay, in addition to stipulated interest, liquidated damages of (amount or %), plus attorney’s fees of (amount or %) and costs of collection in case of suit.

4. Renewal

- () No automatic renewal.
- () Automatic renewal under the following terms:

5. Collateral/Delivery

- () No automatic renewal
- () Collateralized/secured by (describe collateral)
 - () Physically delivered to payee
 - () Evidenced by Custodian Receipt No. _____ dated _____ issued by _____.
 - () Collateralized/secured by (fraction or %) share of (describe collateral) as evidenced by Custodian Receipt No. _____ dated _____ issued by _____.

6. Substitution of Securities

- () Not acceptable to Payee
- () Acceptable to payee, however, actual substitution shall be with prior written consent of payee.

7. Separate Stipulations

- () This Agreement is subject to the terms and conditions of (describe document) dated _____, executed by (name of party/ies) and made an integral part hereof.

Serial No. _____

Original

(Name of Bank)

REPURCHASE AGREEMENT

Issue Date : _____, 20 _____.
Repurchase Date : _____, 20 _____.

FOR AND IN CONSIDERATION OF PESOS _____
(P _____) Vendor, _____, hereby sells,
(Name of Issuer/Vendor)
transfers and conveys in favor of Vendee, _____,
(Name of Vendee)
the security(ies) described below, it being mutually agreed upon that the same shall be
resold by Vendee and repurchased by Vendor on the repurchase date indicated above at the
price of PESOS _____ (P _____),
subject to the terms and conditions stated on the reverse side hereof.

(Description of Securities)

Principal Debtor/s	Serial Number/s	Maturity Date/s	Face Value	Interest/Yield
			P	P
TOTAL				

CONFORME:

(Signature of Vendee)

Duly Authorized Officer

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

TERMS AND CONDITIONS OF A REPURCHASE AGREEMENT

1. *Computation of Yield*
Yield is hereby stipulated/computed at_____ % per annum, compounded
() monthly () quarterly () semi-annually () others
2. *No Pretermination*
Vendor shall not repurchase subject security/ies before the repurchase date stipulated on the face of this document.
3. *Liquidated Damages*
In case of default, the Vendor shall be liable, in addition to stipulated yield, for liquidated damages of (amount or %), plus attorney’s fees of (amount or %) and costs of collection in case of suit.
4. *Renewal*
() No automatic renewal
() Automatic renewal under the following terms:

5. *Delivery/Custody of Securities*
() Physically delivered to payee
() Evidenced by Custodian Receipt No. _____, dated _____, Issued by _____.
6. *Substitution of Securities*
() Not acceptable to Payee
() Acceptable to payee, however, actual substitution shall be with prior written consent of payee.
7. *Separate Stipulations*
() This Agreement is subject to the terms and conditions of (describe document) dated _____, executed by (name of party/ies) and made an integral part hereof.

Serial No. _____

Original

(Name of Bank)

CERTIFICATE OF ASSIGNMENT WITH RECOURSE

Issue Date: _____, 20 ____.

FOR AND IN CONSIDERATION OF PESOS _____

(P _____), _____ hereby assigns, conveys, and transfers
(Name of Assignor)

with recourse to _____ the debt of _____
(Name of Assignee) (Name of Principal Debtor)

to the Assignor, specifically described as follows:

(Description of Debt Securities)

Principal Debtor/s	Serial Number/s	Maturity Date/s	Face Value	Interest/Yield
			P	P
		TOTAL	P	P

and Assignor hereby undertakes to pay, jointly and severally with the Principal Debtor, the face value of, and the interest/yield on, said debt securites. This assignment shall be subject to the terms and conditions on the reverse side hereof.

C O N F O R M E :

(Signature of Assignee)

Duly Authorized Officer

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

TERMS & CONDITIONS OF CERTIFICATE OF ASSIGNMENT WITH RECOURSE

1. *No Pretermination*

Assignor shall not pay nor repurchase subject security/ies before the maturity date thereof.

2. *Liquidated Damages*

In case of default, Assignor shall be liable, in addition to interest, for liquidated damages of (amount or %) plus attorney’s fees of (amount or %) and costs of collection in case of suit.

3. *Delivery/Custody of Securities*

- () Physically delivered to Assignee
- () Evidenced by Custodian Receipt No. _____ dated _____, issued by _____,

4. *Separate Stipulations*

- () This Agreement is subject to the terms and conditions of _____, dated _____ executed by name of party/ies and made an integral part hereof.

Serial No. _____

Original

(Name of Bank)

CERTIFICATE OF ASSIGNMENT WITH RECOURSE

Issue Date: _____, 20 ____.

FOR AND IN CONSIDERATION OF PESOS _____

(P_____), _____ hereby assigns, conveys,
(Name of Assignor)
and transfers with recourse to _____ the debt of
(Name of Assignee)

_____ to the Assignor, specifically described as follows:
(Name of Principal Debtor)

(Description of Debt Securities)

Principal Debtor/s	Serial Number/s	Maturity Date/s	Face Value	Interest/Yield
			P	P
		T O T A L	P	P

and hereby undertakes that in case of default of the Principal Debtor, Assignor shall pay the face value of interest/yield on, said debt securities, subject to the terms and conditions on the reverse side hereof.

C O N F O R M E :

(Signature of Assignee)

Duly Authorized Officer

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

TERMS & CONDITIONS OF CERTIFICATE OF ASSIGNMENT WITH RECOURSE

1. *No Pretermination*

Assignor shall not pay nor repurchase subject security/ies before the maturity date thereof.

2. *Liquidated Damages*

In case of default, Assignor shall be liable, in addition to interest, for liquidated damages of (amount or %) plus attorney’s fees of (amount or %) and costs of collection in case of suit.

3. *Delivery/Custody of Securities*

- () Physically delivered to Assignee
- () Evidenced by Custodian Receipt No. _____ dated _____, issued by _____,

4. *Separate Stipulations*

- () This Agreement is subject to the terms and conditions of _____, dated _____ executed by (name of party/ies) and made an integral part hereof.

Serial No. _____

Original

(Name of Bank)

CERTIFICATE OF PARTICIPATION WITH RECOURSE

Issue Date: _____, 20 _____

FOR AND IN CONSIDERATION OF PESOS _____,
this certificate of participation is hereby issued to evidence the _____
(fraction or %)
share of _____ in the
(Name of Participant)
loan/s of _____ granted by/assigned to the herein issuer,
specifically described as follows:

(Description of Debt Securities)

Principal Debtor/s	Serial Number/s	Maturity Date/s	Face Value	Interest/Yield
			P	P
		TOTAL	P	P

The issuer shall pay, jointly and severally with the principal debtor, _____
(fraction or %)
share of the face value of, and the interest/yield on, said debt security(ies), subject to the terms
and conditions on the reverse side hereof.

C O N F O R M E :

(Signature of Participant)

(Duly Authorized Officer)

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

TERMS & CONDITIONS OF CERTIFICATE OF PARTICIPATION WITH RECOURSE

1. *No Pretermination*

 Issuer shall not pay nor repurchase the participation before the maturity date of subject security(ies).
2. *Liquidated Damages*

 In case of default, the issuer of this instrument shall be liable, in addition to interest, for liquidated damages of (amount or %), plus attorney’s fees of (amount or %) and costs of collection in case of suit.
3. *Delivery/Custody of Securities*

 () Physically delivered to Participant
 () Evidenced by Custodian Receipt No. _____ dated _____,
 issued by _____.
4. *Separate Stipulations*

 () This Agreement is subject to the terms and conditions of (describe document) _____ dated _____ executed by (name of party/ies) and made an integral part hereof.

Serial No. _____

Original

(Name of Bank)

CERTIFICATE OF PARTICIPATION WITH RECOURSE

Issue Date: _____, 20 _____

FOR AND IN CONSIDERATION OF PESOS _____,
this certificate of participation is hereby issued to evidence the _____
(fraction or %)
share of _____ in the loan/s
(Name of Participant)
of _____ granted by/assigned to the herein issuer, specifically
described as follows:

(Description of Debt Securities)

Principal Debtor/s	Serial Number/s	Maturity Date/s	Face Value	Interest/Yield
			P	P
		TOTAL	P	P

In case of default of the Principal Debtor, the issuer shall pay the _____
(fraction or %)
share of the face value of, and the interest/yield on, said debt security(ies), subject to the terms
and conditions on the reverse side hereof.

C O N F O R M E :

(Signature of Participant)

Duly Authorized Officer)

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

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TERMS & CONDITIONS OF CERTIFICATE OF PARTICIPATION WITH RECOURSE

1. *No Pretermination*

Issuer shall not pay nor repurchase the participation before the maturity date of subject security(ies).

2. Liquidated Damages

In case of default, the issuer of this instrument shall be liable, in addition to interest, for liquidated damages of (amount or %), plus attorney's fees of (amount or %) and costs of collection in case of suit.

3. *Delivery/Custody of Securities*

- () Physically delivered to Participant
() Evidenced by Custodian Receipt No. _____ dated
_____, issued by _____.

4. *Separate Stipulations*

- () This Agreement is subject to the terms and conditions of (describe document) _____ dated _____ executed by (name of party/ies) and made an integral part hereof.

**NEW RULES ON THE REGISTRATION
OF LONG-TERM COMMERCIAL PAPERS**
(Appendix to Subsecs. X239.2 and X239.5)

Pursuant to Section 4(b) of the Revised Securities Act and other existing applicable laws, the Securities and Exchange Commission (SEC) hereby promulgates the following New Rules and Regulations governing long-term commercial papers, in the interest of full disclosure and protection of investors and lenders, in accordance with the monetary and credit policies of the BSP:

Sect. 1. Scope. These Rules shall apply to long-term commercial papers issued by corporations.

Sect. 2. Definitions. For purposes of these Rules, the following definitions shall apply:

- a. *Long-term commercial papers* shall refer to evidence of indebtedness of any corporation to any person or entity with maturity period of more than 365 days.
- b. *Interbank loan transactions* shall refer to borrowings between and among banks and QBs.
- c. *Issue* shall refer to the creation of commercial paper and its actual or constructive delivery to the payee.
- d. *Appraised value* shall refer to the value of chattle and real property as established by a duly licensed and independent appraiser.
- e. *Current market value* shall refer to the value of the securities at current prices as quoted at the stock exchanges.
- f. *Recomputed debt-to-equity ratio* shall refer to the proportion of total outstanding liabilities, including the amount of long-term commercial papers applied for, and any unissued authorized commercial papers to net worth.
- g. *Specific person* shall refer to a duly named juridical or natural person as an investor for its or his own account, a trustee

for one or more trustors, an agent or fund manager for a principal under a fund management agreement, and does not include numbered accounts.

h. *Net worth* shall refer to the excess of total assets over total liabilities, net of appraisal surplus.

i. *Subsidiary* shall refer to a company more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled, or held with power to vote by another company.

j. *Affiliates* shall refer to a concern linked, directly or indirectly, to another by means of:

- 1) Ownership, control and power to vote of 10% but not more than 50% of the outstanding voting stock.
- 2) Common major stockholders; i.e., owning 10% but not more than 50% of the outstanding voting stock.
- 3) Management contract or any arrangement granting power to direct or cause the direction of management and policies.
- 4) Voting trustee holding 10% but not more than 50% of the outstanding voting stock.
- 5) Permanent proxy constituting 10% but not more than 50% of the outstanding voting stock.

k. *Underwriting* shall refer to the act or process of distributing and selling of any kind of original issues of long-term commercial papers of a corporation other than those of the underwriter itself, either on guaranteed or best-effort basis.

l. *Trust accounts* shall refer to those accounts with a financial institution authorized by the BSP to engage in trust functions, wherein there is a trustor-trustee relationship under a trust agreement.

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Sec. 3. Conditions for Registration. Long-term commercial papers shall be registered under any of the following conditions:

a. Collateral

The amount of long-term commercial papers applied for is covered by the following collaterals which are not encumbered, restricted or earmarked for any other purpose and which shall be maintained at their respective values at all times, indicated in relation to the face value of the long-term commercial paper issue:

1) Securities listed in the stock exchanges	- Current market value of 200%
2) Registered real estate mortgage	- Appraised value of 150%
3) Registered chattel mortgage on heavy equipment, machinery, and similar assets acceptable to the Commission and registrable with the appropriate government agency	- Appraised value of 200%

b. Financial Ratios

A registrant who meets such standard, as may be prescribed by the SEC, based on the following complementary financial ratios for each of the immediate past three (3) fiscal years:

- 1) Ratio of (a) the total cash, marketable securities, current receivables to (b) the total of current liabilities;
- 2) Debt-to-equity ratio, with debt referring to all kinds of indebtedness, including guarantees;
- 3) Ratio of (a) net income after taxes to (b) net worth.
- 4) Net profits to sales ratio; and
- 5) Such other financial indicators, as may be required by the SEC.

c. Debt-to-equity

The recomputed debt-to-equity ratio of the applicant based on the financial statements required under Sec. 4.c. hereof shall not exceed 4:1: *Provided*, that the authorized short-term commercial papers do not exceed 300% of net worth and upon

compliance with the registration requirements specified in Sec. 4 hereof.

The conditions under which the commercial papers of a registrant were registered shall be strictly maintained during the validity of the Certificate of Registration.

Sec. 4. Registration Requirements. Any corporation desiring to issue long-term commercial papers shall apply for registration with, and submit to, the SEC the following:

a. Sworn Registration Statement in the form prescribed by the SEC;

b. Board resolution signed by a majority of its members -

- 1) authorizing the issue of long-term commercial papers;
- 2) indicating the aggregate amount to be applied for;
- 3) stating purpose or usage of proceeds thereof;
- 4) providing that the registration statement shall be signed by any of the following: the principal executive officer, the principal operating officer, the principal financial officer, or persons performing similar functions; and
- 5) designating at least two (2) senior officers with a rank of vice-president, or higher of their equivalent, to sign the commercial paper instruments to be issued.

c. The latest audited financial statements and should the same be as of a date more than three (3) months prior to the filing of the registration statements, an unaudited financial statement as of the end of the immediately preceding month: *Provided, however*, That such unaudited financial statement shall be certified under oath by the accountant and the senior financial officer of the applicant duly authorized for the purpose and substituted with an audited financial statement within 105 days after the end of the applicant's fiscal year;

d. Schedules A to L based on Subsection c above, in the form attached as Annex "A";

e. Income statements for the immediate past three (3) fiscal years audited by an independent certified public accountant: *Provided*, That if the applicant has been in operation for less than three (3) years, it shall submit income statements for such number of years that it has been in operation;

f. An underwriting agreement for the long-term commercial paper issues with an expanded commercial bank or an investment house (IH), or any other financial institution which may be qualified subsequently by the BSP with minimum condition, among others, that the underwriter and the issuer shall be jointly responsible for complying with all reportorial requirements of the SEC and the BSP in connection with the long-term commercial paper issue, it being understood that the primary responsibility for the submission of the report of these regulatory agencies is upon the underwriter during the effectivity of the underwriting agreement and thereafter, the responsibility shall devolve upon the issuer: *Provided, however*, That if the issuer is unable to provide the information necessary to meet such reportorial requirements, the underwriter shall, not later than two (2) working days prior to the date when the report is due, notify the SEC of such inability on the part of the issuer: *Provided, further*, That if the underwriting agreement is with a group composed of UBs and/or IHs or any FIs which may be qualified subsequently by the BSP, there shall be a syndicate manager acting and responsible for the group: *Provided, finally*, That the underwriter may be changed subject to prior approval by the SEC;

g. A typewritten copy of a preliminary prospectus approved by the applicant's board of directors which, among others, shall contain the following:

1) A statement printed in red on the left-hand margin of the front page, to wit:

"A registration statement relating to these long-term commercial papers has been filed with, but has not yet been approved by, the SEC. Information contained herein is subject to completion or amendment. These long-term commercial papers may not be sold nor may offers to buy be accepted prior to the approval of the registration statement. This preliminary prospectus shall not constitute an offer to buy nor shall there be any sale of these long-term commercial papers in the Philippines as such offer, solicitation or sale is prohibited prior to registration under the Revised Securities Act".

2) Aggregate maximum amount applied for, stated on the front page of the prospectus;

3) Description and nature of the applicant's business;

4) Intended use of proceeds;

5) Provisions in the underwriting agreement, naming the underwriter and its responsibilities in connection with, among others, the reportorial requirements under these Rules;

6) Other obligations of the applicant classified by maturities - maturing within six (6) months; from six (6) months to be one (1) year; and one (1) year and past-due amounts;

7) List of assets which are encumbered, restricted or earmarked for any other purposes;

8) List of directors, officers and stockholders owning two percent (2%) or more of the total outstanding voting stock of the corporation, indicating any advance to said directors, officers and stockholders; and

9) List of entities where its owns more than 33- 1/3% of the total outstanding voting stock, as well as borrowings from, and advances to, said entities.

h. Projected annual cash flow statement presented on a quarterly basis

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as of the approximate date of issuance for a period coterminus with the life time of the issue, indicating the basic assumptions hereto and supported by schedules on actual maturity patterns of outstanding receivables and liabilities (under six (6) months, six (6) months to one (1) year, over one (1) year, and past-due accounts) and inventory turnover; and

i. Data on financial indicators as may be prescribed by the SEC for each of the immediate past three (3) fiscal years, such as on solvency, liquidity and profitability.

The SEC may, whenever it deems necessary, impose other requirements in addition to those enumerated above.

Sec. 5. Action on Application for Registration

a. Within sixty (60) days after receipt of the complete application for registration, the SEC shall act upon the application and shall, in the appropriate case, grant the applicant a Certificate of Registration and Authority to Issue Long-Term Commercial Papers valid for one (1) year, which may be renewed annually with respect to the unissued balance of the authorized amount upon showing that the registrant has strictly complied with the provisions of these Rules and the terms and conditions of the Certificate of Registration.

b. The SEC shall return any application for registration, in cases where the requirements of applicable laws and regulations governing the issuance of long-term commercial papers have not been complied with, or for other reasons which shall be so stated.

Sec. 6. Close-end Registration. Registration of long-term commercial papers under these Rules shall be a close-end process whereby the portion of the authorized amount already issued shall be deducted from the authorized amount and may no longer be reissued even if reacquired in any manner, pursuant to the terms and conditions of issue.

Sec. 7. Long-Term Commercial Papers Exempt *Per Se*. The following specific long-term debt instruments are exempt *per se* from the provisions of these Rules:

a. Evidence of indebtedness arising from interbank loan transactions;

b. Evidence of indebtedness issued by the national and local governments;

c. Evidence of indebtedness issued by government instrumentalities, the repayment and servicing of which are fully guaranteed by the National Government;

d. Evidence of indebtedness issued to the BSP under its open market and/or rediscounting operations;

e. Evidence of indebtedness issued by the BSP, Philippine National Bank (PNB), Development Bank of the Philippines (DBP) and Land Bank of the Philippines (LBP);

f. Evidence of indebtedness issued to the following primary institutional lenders: banks including their trust accounts, trust companies, QBs, IHs including their trust accounts, financing companies, investment companies, NSLAs, venture capital corporations, special purpose corporations referred to in Central Bank Monetary Board Resolution No. 1051 dated 19 June 1981, insurance companies, government financial institutions, pawnshops, pension and retirement funds approved by the Bureau of Internal Revenue (BIR), educational assistance funds established by the national government and other entities that may be classified as primary institutional lenders by the BSP, in consultant with the SEC: *Provided*, That all such evidences of indebtedness shall be held on to maturity and shall neither be negotiated nor assigned to any one other than the BSP and the DBP, with respect to private development banks in connection with their rediscounting privileges;

g. Evidence of indebtedness, the total outstanding amount of which does not exceed P15.0 million and issued to not more than fifteen (15) primary lenders

other than those mentioned in subsection (f) above, which evidence of indebtedness shall be payable to specific persons, and not to bearers, and shall neither be negotiated nor assigned but held on to maturity: *Provided*, That the aggregate amount of ₱15.0 million shall include outstanding short-term commercial papers: *Provided, further*, That in reckoning compliance with the number of primary lenders under this section, holders of such papers exempt under Sec. 4(f) of the Rules on Registration of Short-Term Commercial Papers, as amended, shall be counted: *Provided, furthermore*, That such issuer shall:

1) File a disclosure statement prior to the issuance of any evidence of indebtedness; and a quarterly report on such borrowings in the forms prescribed by the SEC; and

2) Indicate in bold letters on the face of the instrument the words "NON-NEGOTIABLE, NON-ASSIGNABLE":

Provided, finally, That any issuer, in accordance with the Rules on Registration of Long-Term Commercial Papers and Bonds dated 15 October 1976 and withoutstanding long-term commercial papers falling under this subsection as of the effectivity date hereof, shall likewise file the prescribed disclosure statement and the quarterly report on such borrowings;

h. Evidence of indebtedness denominated in foreign currencies; and

i. Evidence of indebtedness arising from *bona fide* sale of goods or property.

Sec. 8. Other Long-Term Commercial Papers Exempt from Registration. The following long-term commercial papers shall be exempt from registration under Secs. 3 and 4 hereof, but shall be subject to the payment of the exemption fee, as prescribed under Sec. 14, and to the reportorial requirements under Sec. 15 of these Rules:

a. Long-term commercial papers issued by a financial intermediary authorized by the BSP to engage in quasi-banking functions; and

b. Long-term commercial papers fully secured by debt instruments of the National Government and the BSP and physically delivered to the trustee in the Trust Indenture.

Sec.9. Prohibition

a. No long-term commercial papers shall be issued or negotiated or assigned unless the requirements of these Rules shall have been complied with: *Provided*, That no registered long-term commercial paper issuer may issue long-term commercial paper exempt *per se* under Sec. 7(g) hereof.

b. There shall be no pretermination of long-term commercial papers either by the issuer or the lender within 730 days from issue date. Pretermination shall include optional redemption, partial installments, and amortization payments; however, installment and amortization payments may be allowed, if so stipulated in the loan agreement.

Sec. 10. Compliance with Bangko Sentral Quasi-Banking Requirements. Nothing in these Rules shall be construed as an exemption from, or a waiver of, the applicable BSP rules and regulations governing the performance of quasi-banking functions. Any violation of said BSP rules and regulations shall be considered a violation of these Rules.

Sec.11. Conditions of the Authority to Issue Long-Term Commercial Papers

a. During the effectivity of the underwriting agreement, should the issuer fail to pay in full any interest due on, or principal of long-term commercial paper upon demand at stated maturity date, the Authority to Issue Long-Term Commercial Papers shall be automatically suspended.

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The underwriter shall, within the next working day, notify the SEC thereof, and the SEC shall forthwith issue a formal Cease and Desist Order enjoining both the issuer and the underwriter from further issuing or underwriting long-term commercial papers.

b. Upon the expiration of the underwriting agreement, it shall be the responsibility of the issuer to notify the SEC that it failed to pay in full any interest due on, or principal of, long-term commercial paper upon demand at stated maturity date and has accordingly automatically suspended the issuance of its long-term commercial papers. Within the next working day, the SEC shall forthwith issue a formal Cease and Desist Order enjoining the issuer from further issuing long-term commercial papers.

c. Whenever necessary to implement the monetary and credit policies promulgated from time to time by the Monetary Board of the BSP, the SEC may suspend the Authority to Issue Long-Term Commercial Papers, or reduce the authorized amount thereunder, or schedule the maturities of the registered long-term commercial paper to be issued.

Sec. 12. Basic Features of Registered Commercial Papers

a. All registered commercial paper instruments shall have a standard format, serially pre-numbered, and denominated. The instrument shall state, among others, the debt ceiling of the registrant and a notice that information about the registrant submitted in connection with the registration and other reportorial requirements from the issuer is available at the SEC and open to public inspection and that the issuer is not authorized by the BSP to perform quasi-banking functions.

b. A specimen of the proposed commercial paper instrument shall be submitted to the SEC for approval of the text thereof.

c. The instrument approved by the SEC shall be printed by an entity authorized by the SEC and shall be released by the SEC to the issuer.

Sec. 13. Minimum Principal Amount.

The minimum principal amount of each registered long-term commercial paper instrument shall not be lower than the amounts indicated in the following schedule:

- a. Up to two years ₱100,000
- b. Over two years but less than four years 50,000
- c. Four years or more 20,000

Sec. 14. Fees. Every registrant shall pay the following fees.

a. Upon application for registration, a filing fee of 1/20 of 1% based on total commercial paper proposed to be issued, but not to exceed ₱75,000.

b. For issuers of commercial papers exempt under Section 8 hereof, an annual exemption fee of ₱10,000.

Sec. 15. Periodic Reports

a. Issuers of registered long-term commercial papers, through their underwriters and those exempt under Sec. 8 hereof, shall submit the following reports in the form prescribed by the SEC:

1) Monthly reports on long-term commercial papers outstanding as at the end of each month to be submitted within ten (10) working days following the end of the reference month;

2) Quarterly reports on long-term commercial paper transactions, accompanied by an interim quarterly financial statement to be submitted within thirty (30) calendar days following the end of the reference quarter; and

3) Actual quarterly cash flow statement to be submitted within ten (10) working days following the end of the reference quarter.

b. These periodic reports shall be signed under oath by the corporate officers

authorized, pursuant to a board resolution previously filed with the SEC.

c. Issuers whose offices are located in the provinces may, through their underwriters, submit their reports to the nearest extension office of the SEC.

Sec. 16. Administrative Sanctions. If the SEC finds that there is a violation of any of these Rules and Regulations and implementing circulars or that any issuer, in a registration statement and its supporting papers, as well as in the periodic reports required to be filed with the SEC and the BSP, has made any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or refuses to permit any lawful examination into its corporate affairs, the SEC shall, in its discretion, impose any or all of the following sanctions:

a. Suspension or revocation, after proper notice and hearing, of the certificate of Registration and Authority to Issue Commercial Papers;

b. A fine in accordance with the guidelines that the SEC shall issue from time to time: *Provided, however,* That such fine shall in no case be less than P200 nor more than P50,000 for each violation, plus not more than P500 for each day of continuing violation. Annex "B" hereof shall initially be the guidelines on the scale of fines;

c. Other penalties within the power of the SEC under existing laws; and

d. The filing of criminal charges against the individuals responsible for the violation.

Sec. 17. Cease and Desist Order

a. The SEC may, on its own motion or upon verified complaint by an aggrieved party, issue a Cease and Desist Order *ex parte*, if the violation(s) mentioned in Sec. 16 hereof may cause great or irreparable injury to the investing public or will amount to palpable fraud or

violation of the disclosure requirements of the Revised Securities Act and of these Rules and Regulations.

b. The issuance of such Cease and Desist Order automatically suspends the Authority to Issue Long-Term Commercial Papers.

c. Such Cease and Desist Order shall be confidential in nature until after the imposition of the sanctions mentioned in Sec. 16 hereof shall have become final and executory.

d. Immediately upon the issuance of an *ex parte* Cease and Desist Order, the SEC shall notify the parties involved, and schedule a hearing on whether to lift such order, or to impose the administrative sanctions provided for in Sec. 16 not later than fifteen (15) days after receipt of notice.

Sec. 18. Repealing Clause. The Rules and Regulations supersede the Rules on Registration of Long-Term Commercial Papers and Bonds dated 15 October 1976 and all the amendments to said Rules except as provided in Sec. 19 hereof. All other rules, regulations, orders, memoranda circular of the SEC, which are inconsistent herewith are likewise hereby repealed or modified accordingly.

Sec. 19. Transitory Provision

a. Any Authority to Issue or Certificate of Exemption to Register Long-term Commercial Papers, granted under the Rules on Registration of Long-Term Commercial Papers dated 15 October 1976, valid and subsisting as of the date of the effectivity of these Rules, shall remain valid with respect only to all outstanding issues until such issues are retired or redeemed.

b. The SEC may, at its discretion and subject to such conditions it may impose, authorize issuance of any unissued portion of the issuer's approved long-term debt ceiling solely for refinancing of maturing

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long-term commercial paper issue for a period not beyond fifteen (15) months from the effectivity date of these Rules.

Sec. 20. Effectivity. These Rules and Regulations shall take effect fifteen (15) days after publication in two newspapers of general circulation in the Philippines.

Mandaluyong, Metro-Manila,
Philippines, 17 May 1984.

(Sgd.) MANUEL G. ABELLO
Chairman
Securities and Exchange Commission

APPROVED:

(Sgd.) JOSE B. FERNANDEZ
Chairman
Monetary Board of the Central Bank
of the Philippines

(Sgd.) CESAR E. A. VIRATA
Minister
Ministry of Finance

(Ed. Note: Annexes "A" and "B" are not reproduced in this Appendix.)

**NEW RULES ON REGISTRATION OF
SHORT-TERM COMMERCIAL PAPERS**
(Appendix to Sec. X348)

Pursuant to Presidential Decree No. 678, as amended by Presidential Decree No. 1798, and other existing applicable laws, the SEC hereby promulgates the following new Rules and Regulations governing short-term commercial papers, in the interest of full disclosure and protection of investors and lenders, in accordance with the monetary and credit policies of the BSP.

Section 1. Scope. These Rules and Regulations shall apply to short-term commercial papers issued by corporations.

Sec. 2. Definition. For the purpose of these Rules, the following definitions shall apply:

(a) *Commercial paper* is an evidence of indebtedness of any corporation to any person or entity with a maturity of three hundred sixty-five (365) days or less.

(b) *Interbank loan transactions* shall refer to borrowings between and among banks and non-bank financial intermediaries duly authorized to perform quasi-banking functions.

(c) *Issue* means creation of a commercial paper and its actual or constructive delivery to the payee.

Sec. 3. Registration of Commercial Papers
Any corporation desiring to issue commercial papers shall apply for registration with, and submit to, the SEC the following:

- (a) Ordinary Registration;
 - (1) Sworn Registration Statement in the prescribed form;
 - (2) Board resolution signed by majority of its members (a) authorizing the issue of commercial paper, (b) indicating the aggregate amount to be applied for,

(c) providing that the registration statement shall be signed by the principal executive officer, the principal operating officer, the principal financial officer, the comptroller, or principal accounting officer, or persons performing similar functions, and (d) designating at least two senior officers with a rank of vice-president or higher, or their equivalent, to sign the commercial paper instrument to be issued;

(3) The latest audited financial statements; and should the same be as of a date more than three (3) months prior to the filing of the registration statement, an audited financial statement as of the end of the immediately preceding month: *Provided, however,* That such unaudited financial statements shall be certified under oath by the accountant and the senior financial officer of the applicant, duly authorized for the purpose, and substituted with an audited financial statement within 120 days after the end of the applicant's fiscal year.

(4) Schedules, based on sub-section (3) above, in the form attached as Annex "A";

(5) A committed credit line agreement with a bank, or any FI which may be qualified subsequently by the BSP, earmarked specifically for repayment of aggregate outstanding commercial paper issues on a pro-rata basis, with the following features:

(i) A firm, irrevocable commitment to make available funds to cover at least 20% of the aggregate commercial papers outstanding at any time: *Provided,* That if the commitment is extended by a group, there shall be a lead bank or any FI which may be qualified subsequently by the BSP acting for the group;

(ii) The commitment shall be effective for as long as the issues are outstanding

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and may be renewed by the bank or any FI which may be qualified subsequently by the BSP;

(iii) The request for drawdown shall be addressed to the bank or any FI which may be qualified subsequently by the BSP, which request shall be duly signed by a member of the board of directors and a senior financial officer of the commercial paper issuer, duly authorized for the purpose by an appropriate board resolution, which shall also provide for the designation of the alternate signatories (likewise a member of the board of directors and a senior financial officer);

(iv) A provision that availments shall be allowed only for repayment of commercial papers which are due and payable in accordance with the terms of the commercial paper;

(v) Notwithstanding the foregoing requirements for a committed credit line with a bank, or any FI which may be qualified subsequently by the BSP, any corporation desiring to issue commercial papers may be exempted from compliance therewith by the SEC, should it meet all of the following financial ratios based on consolidated AFs for the immediate past three (3) years:

1) Average current ratio shall be at least 1.2:1 computed as follows:

$$\text{Current Ratio} = \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

Average acid-test ratios shall be at least 0.5:1 computed as follows:

$$\text{Acid-test ratio} = \frac{\text{Cash, receivables, and marketable securities}}{\text{Current Liabilities}}$$

2) Average solvency position shall be one whereby total assets must not be less than total liabilities;

3) Average net profit margin shall be at least 3% computed as follows:

$$\text{Acid-test ratio} = \frac{\text{Net income after income tax, corporate development taxes, and other non-cash charges}}{\text{Net sales or revenues}}$$

OR

Average annual return on equity shall be at least 8% computed as follows:

$$\text{Return on equity} = \frac{\text{Net income after income tax, corporate development taxes, and other non-cash charges}}{\text{Total stockholder's equity}}$$

4) Average interest service coverage ratio shall be at least 1.2:1 computed as follows:

$$\text{Interest service coverage ratio} = \frac{\text{Net income-before-interest expense, income tax, corporate development taxes, and other non-cash charges}}{\text{Interest expense}}$$

5) Debt-to-equity ratio shall not exceed 2.5:1.

The SEC may, in its discretion, consult with industry organization(s) such as Investment Houses Association of the Philippines (IHAP) and Bankers Association of the Philippines (BAP) and/or the Credit Information Bureau, Inc.

(6) A selling agreement for the commercial paper issues with a universal bank or an investment house, or any FI which may be qualified subsequently by the BSP, with minimum conditions that the selling agent, among others, shall be responsible for ensuring that the issuer observes the provisions of these rules pertaining to the use of proceeds of the

committed credit line and, with the issuer, shall be jointly responsible for complying with all reportorial requirements of the SEC and the BSP in connection with the commercial paper issue, it being understood that the primary responsibility for the submission of the report to said regulatory agencies is upon the selling agent: *Provided, however,* That if the commercial paper issuer is unable to provide the information necessary to meet such reportorial requirements, the selling agent shall, not later than two (2) working days prior to the date when the report is due, notify the SEC of such inability on the part of the issuer: *Provided, finally,* That if the selling agreement is with a group, composed of universal banks and/or investment houses or any FIs which may be qualified subsequently by the BSP, there shall be a syndicate manager acting and responsible for the group.

(7) Income statements for the immediate past three (3) fiscal years audited by an independent certified public accountant: *Provided,* That if the applicant has been in operation for less than three years, it shall submit income statements for such number of years that it has been in operation.

(8) A printed copy of a preliminary prospectus approved by the applicant's Board of Directors which, among others, shall contain the following:

(i) A statement printed in red on the left-hand margin of the front page of the following tenor:

"A registration statement relating to these short-term commercial papers has been filed with, but has not yet been approved by, the SEC. Information contained herein is subject to completion or amendment. These short-term commercial papers may not be sold nor may offer to buy be accepted prior to the time the registration statement is approved. This preliminary prospectus shall not constitute an offer to buy nor shall there be any sale of

these commercial papers in the Philippines as such offer, solicitation, or sale is prohibited prior to registration under the Securities Act, as amended by P.D. No. 678 and P.D. No. 1798."

(ii) Aggregate maximum amount applied for, stated on the front page of the prospectus;

(iii) Description and nature of the applicant's business;

(iv) Intended use of proceeds;

(v) The nature of the firm, irrevocable, and committed credit line, the amount of the line which shall be at least 20% of the aggregate outstanding commercial paper issues, proceeds of which shall be allocated on a *pro-rata* basis to the aggregate outstanding commercial paper issue (regardless of the order of their maturities), and the manner of availments, as stipulated in the credit line agreement between the bank and the issuer;

(vi) The provision in the selling agreement naming the selling agent and the responsibilities of the selling agent in, the issuer of the proceeds of the bank committed credit line and the reportorial requirements under these rules;

(vii) Other obligations of the commercial paper issuer classified by maturities (maturing within six (6) months; from six (6) months to one (1) year; over one (1) year; and past-due amounts);

(viii) Encumbered assets;

(ix) Directors, officers, and stockholders owning 2% or more of the total subscribed stock of the corporation, indicating any advance to said directors, officers and stockholders;

(x) List of entities where it owns more than 33-1/3% of the total equity, as well as borrowings and advances to said entities;

(xi) Financial statements for the immediate past three (3) fiscal years audited by an independent certified public accountant: *Provided,* That if the applicant has been in operation for less than three (3)

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years, it shall submit financial statements for such number of years that it has been in operation.

(b) *Special Registration*

In the case of special registration provided for under Section 10 hereof, the following shall, in addition to the immediately preceding requirements, be prepared and submitted by the selling agent on behalf of the applicant:

(1) Projected annual cash flow statement as of the date of filing, presented on a quarterly basis, supported by schedules on actual maturity patterns of existing receivables and liabilities (under six (6) months, six (6) months to one (1) year, over one (1) year, and past-due amounts) and inventory turnover as of the end of the month prior to the filing of the registration statement; and

(2) Complemetary financial ratios for each of the immediate past three (3) fiscal years:

(i) Ratio of (a) the total of cash on hand, marketable securities, current receivables to (b) the total of current liabilities;

(ii) Debt-to-equity ratio, with debt referring to all kinds of indebtedness, including guarantees;

(iii) Ratio of (a) net income after taxes to (b) net worth;

(iv) Net profits-to-sales ratio; and

(v) Such other financial indicators as may be prescribed by the SEC. These additional data shall likewise be incorporated in the prospectus.

(c) The SEC may, whenever it deems necessary, impose other requirements in addition to those enumerated in subsections (a) and/or (b) above.

Sec. 4. Commercial Papers Exempt *Per Se*

The following specific debt instruments are exempt *per se* from the provisions of these Rules:

(a) Evidence of indebtedness arising from interbank loan transactions;

(b) Evidence of indebtedness issued by the national and local governments;

(c) Evidence of indebtedness issued to the BSP under its open market and/or rediscounting operations;

(d) Evidence of indebtedness issued by the BSP, PNB, DBP, LBP, GSIS, and the Social Security System (SSS);

(e) Evidence of indebtedness issued to the following primary institutional lenders: banks, non-bank financial intermediaries authorized to engaged in quasi-banking functions, IHs, financing companies, investment companies, NSLAs, building and loan associations, venture capital corporations, special purpose corporations referred to in Central Bank Monetary Board Res. No. 1051 dated 19 June 1981, insurance companies, government financial institutions, and pawnshops; and other entities that may be classified as primary institutional lenders by the BSP, in consultation with the SEC: *Provided*, That all such evidences of indebtedness shall be held on to maturity and shall neither be negotiated nor assigned to any one other than the BSP and the DBP with respect to private development banks in connection with their rediscounting privilege;

(f) Evidence of indebtedness the total outstanding amount of which does not exceed P5.0 million and issued to not more than ten (10) primary lenders other than those mentioned in subsection (e) above, which evidence of indebtedness shall be payable to a specific person and not to bearer and shall neither be negotiated nor assigned but held on to maturity;

(g) Evidence of indebtedness denominated in foreign currencies; and

(h) Evidence of indebtedness arising from *bona fide* sale of goods or property.

Sec. 5. Other Commercial Papers Exempt from Registration.

Commercial papers issued by any financial intermediary authorized by the BSP to engage in quasi-

banking functions shall be exempt from registration under Sec. 3, but shall be subject to payment of the exemption fee, as provided under Sec. 15, and to the reportorial requirements under Sec. 17, all under these Rules.

Sec. 6. Prohibition. No commercial paper, except of a class exempt under Secs. 4 and 5 hereof, shall be issued unless such commercial paper shall have been registered under these Rules: *Provided*, That no registered commercial paper issuer may issue commercial paper exempt *per se* under Section 4 (f) hereof.

Sec. 7. Compliance with Bangko Sentral Quasi-Banking Requirements. Nothing in these Rules shall be construed as an exemption from or a waiver of the applicable BSP rules/regulations or circulars governing the performance of quasi-banking functions or financial intermediaries duly authorized to engage in quasi-banking activities. Any violation of said BSP rules/regulations or circulars shall be considered a violation of these rules and regulations.

Sec. 8. Action on Application for Registration

(a) Within sixty (60) days after receipt of the complete application for registration, the SEC shall act upon the application and shall, in the appropriate case, grant the applicant a Certificate of Registration and Authority to Issue Commercial Papers.

(b) The SEC shall return any application for registration, in cases where the requirement of applicable laws and regulations governing the issuance of commercial papers have not been complied with, or for reasons which shall be so stated.

Sec. 9. Ordinary Registration

If the value of commercial papers applied for, when added to the total outstanding liabilities of the applicant, does not exceed three hundred percent (300%) of networth based on the financial statements referred to under Section 3(a) (3), the

commercial papers shall be registered upon compliance with the requirements specified in Section 3(a) hereof. The same principle shall apply in the case of renewal of the Authority to Issue Commercial Paper.

Sec. 10. Special Registration

If the value of commercial paper applied for exceeds 300% of networth, as contemplated in the preceding section, it shall be subject to compliance with the requirement under Sec. 3(b) hereof.

Sec. 11. Validity Period of the Authority to Issue Commercial Paper.

The authority to issue commercial papers shall be valid for a period of 365 days which shall be indicated in the Authority to Issue Commercial Paper, provided that renewal thereof, upon application filed at least forty five (45) days prior to its expiry date, may be for a period shorter than 365 days.

Sec. 12. Conditions of the Authority to Issue Commercial Paper

(a) In the event that the commercial paper issuer fails to pay in full any commercial paper upon demand at stated maturity date, the Authority to Issue Commercial Paper is automatically suspended. The selling agent shall, within the next working day, notify the SEC thereof, and the SEC shall forthwith issue a formal Cease and Desist Order, enjoining both the issuer and the selling agent from further issuing or selling Commercial papers.

(b) Whenever necessary to implement the monetary and credit policies promulgated from time to time by the Monetary Board of the BSP, the SEC may suspend the Authority to Issue Commercial Paper, or reduce the authorized amount thereunder, or schedule the maturities of the registered commercial paper to be issued.

Sec. 13. Basic Features of Registered Commercial Papers

(a) All registered commercial paper instruments shall have a standard format,

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serially pre-numbered, and denominated. The instrument shall state, among others, the debt ceiling of the registrant and a notice that information about the registrant submitted in connection with the registration and other reportorial requirements from the issuer is available at the SEC and open to public inspection and that the issuer is not authorized by the BSP to perform quasi-banking functions.

(b) A specimen of the proposed commercial paper instrument shall be submitted to the SEC for approval of the text thereof.

(c) The approved instrument shall be printed by the Bangko Sentral Security Printing Plant pursuant to a prior authorization from the SEC, and shall be released by the SEC to the issuer.

Sec. 14. Minimum Maturity Value. The maturity value of each registered commercial paper instrument shall not be lower than P300,000.

Sec. 15. Fees. Every registrant shall pay the following fees:

(a) Upon application for registration, and for renewals thereof, a filing fee of not more than 1/50th of 1% based on the total commercial paper proposed to be issued.

(b) For issuers of commercial paper exempt under Sec. 5 hereof, an annual exemption fee of P10,000.

Sec. 16. Notice of availment. Whenever the credit line is drawn upon, the selling agent and/or issuer shall, within two (2) working days immediately following the date of drawdown, notify the SEC of such event, indicating the amount availed of and the total availment as of that given time.

Sec. 17. Periodic Reports

(a) Issuers of registered commercial papers and those exempt under Sec. 5 hereof

shall submit to the SEC and the BSP the following reports in the prescribed form:

(1) Monthly reports on commercial papers outstanding as at the end of each month, to be submitted within ten (10) working days following the end of the reference month;

(2) Quarterly reports on commercial paper transactions accompanied by an interim quarterly financial statement to be submitted within thirty (30) calendar days following the end of the reference quarter; and

(3) For issuers whose application for registration was under Sec. 10 hereof, the projected quarterly cash flow statements with the corresponding quarter's actual figure to be submitted within ten (10) working days following the end of the reference quarter;

(b) These periodic reports shall be signed under oath by the corporate officers authorized pursuant to a board resolution previously filed with the SEC;

(c) Issuers whose offices are located in the provinces may submit their reports to the nearest extension offices of the SEC.

Sec. 18. Administrative Sanctions. If the SEC finds that there is a violation of any of these Rules and Regulations and implementing circulars or that any issuer, in a registration statement and its supporting papers, as well as in the periodic reports required to be filed with the SEC and the BSP, has made any untrue statement of a material fact, or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or refuses to permit any lawful examination into its corporate affairs, the SEC shall, in its discretion, impose any or all of the following sanctions:

(a) Suspension or revocation, after proper notice and hearing, of the Certificate of Registration and Authority to Issue Commercial Paper;

(b) A fine in accordance with the guidelines that the Commission shall issue from time to time: *Provided, however,* That

such fine shall in no case be less than P200 or more than P50,000 for each violation, plus not more than P500 for each day of continuing violation. Annex "B" hereof shall initially be the guideline on the scale of fines;

- (c) Other penalties within the power of the Commission under existing laws; and
- (d) The filing of criminal charges against the individuals responsible for the violation.

Sec. 19. Cease and Desist Order. The Commission may, on its own motion or upon verified complaint by an aggrieved party, issue a Cease and Desist Order *ex parte* if the violation(s) mentioned in Sec. 18 may cause great or irreparable injury to the investing public or may amount to palpable fraud, or violation of the disclosure requirements of the Securities Act and of these Rules and Regulations.

The issuance of such Cease and Desist Order automatically suspends the Authority to Issue Commercial Papers.

Such Cease and Desist Order shall be confidential in nature until after the imposition of the sanctions mentioned in Sec. 18 shall have become final and executory.

Immediately upon the issuance of an *ex parte* Cease and Desist Order, the Commission shall notify the parties involved, and schedule a hearing on whether to lift such order, or to impose the administrative sanctions provided for in Sec. 18 not later than fifteen (15) days after receipt of notice.

Sec. 20. Repealing Clause. These Rules and Regulations supersede the Rules on Registration of Commercial Papers dated 10 December 1975, and all the amendments to said Rules. All other rules, regulations, orders, and memoranda circular of the Commission which are inconsistent herewith are likewise hereby repealed or modified accordingly.

Sec. 21. Transitory Provision. Any Authority to Issue Commercial Papers, valid and subsisting as of the date of the effectivity of these Rules and Regulations, shall remain valid and upon its expiration may, at the discretion of the Commission and subject to such conditions as it may impose, be renewed on the basis of the Rules of Registration of Commercial Papers dated 10 December 1975 for an aggregate period not exceeding fifteen (15) months from its expiry date.

Sec. 22. Effectivity. These Rules and Regulations shall take effect on 11 December 1981.
Mandaluyong, Metro Manila, Philippines, 8 December 1981

(Sgd.) MANUEL G. ABELLO
Chairman
Securities and Exchange Commission

APPROVED:

(Sgd.) JAIME C. LAYA
Chairman
Monetary Board of the Central Bank
of the Philippines

(Sgd.) ALFREDO PIO de RODA, JR.
Acting Minister
Minister of Finance

LIST OF RESERVE - ELIGIBLE AND NON-ELIGIBLE SECURITIES
(Appendix to Sec. X254)

A. Government securities <i>ELIGIBLE</i> as reserves	annum, <i>issued by government-owned or controlled corporations, political subdivisions and instrumentalities</i> likewise eligible as reserves against peso deposit liabilities and deposit substitute liabilities:
I. Direct obligations of the Government of the Republic of the Philippines eligible as reserve against peso deposit liabilities and deposit substitute liabilities:	1.1 4% NAWASA Bonds (1st to 9th & 13th Series)
a. 4% <i>PWED Bonds</i> all outstanding series	III. The following government securities bearing <i>more than four</i> percent (4%) per annum interest, whether Bangko Sentral supported or not, if BEING USED BY BANKS/NBQBs as reserve against deposit substitute liabilities as of 17 January 1977 shall continue to be eligible as such: <i>Provided</i> , That whenever said securities shall have matured, they shall be replaced by securities carrying the features/conditions enumerated under Circular No. 630, dated 8 November 1978, as amended:
b. 4% <i>NPC Bonds</i> (26th - 50th Series except 39th Ser. which bear 6% - obligation assumed by the National Government)	6% PWED Bonds - All outstanding issues
c. (1) 4% <i>Treasury Bonds</i> (30th S; 57th S; 59th-71st S; 78th-93rd S)	6% NPC Bond - -do-
(2) <i>Treasury Bonds</i> with less than 4% per annum interest considered eligible by reason of expressed BSP limited support to original purchaser:	7% NPC Bond - -do-
(3) 2% T/Bond L of 1973/2003 1st Series (1st & 2nd Rel.)	8-1/2% NPC Bonds - 13th - 22nd Series
(4) 3% T/Bond L of 1978/2008 55th Series (1st Release)	7% MWS Capital Bonds - All outstanding issues except 15th Series
(5) 4% T/bond L of 1979/2009 55th Series (2nd Release)	6% NIA Bonds - -do-
(6) 3-1/4% T/Bond L of 1974/1999 6th Series (1st. & 2nd Rel.)	4 1/2% Treasury Bonds - -do-
(7) 3-1/4% T/Bond L of 1978/2003 54th Series (1st-3rd Rel.)	4 7/10% Treasury Bonds - 7th Series
d. 4% <i>Treasury Notes</i> L of 1980/1995 115th Series	5% Treasury Bonds - 9th Series
e. Bonds made specifically eligible to its holders only:	6% Treasury Bonds - 8th Series
(1) 4% Treasury Capital Bonds - DBP only	7% Treasury Bonds - all outstanding issues except 15th Series
(2) 2% Capital Treasury Bonds - PNB only	10-3/4% Treasury Notes - All outstanding issues
II. Bonds and other evidences of indebtedness bearing interest rate of four percent (4%) per	9% Treasury Notes - 60th and 65th Series
	10-1/2% Treasury Notes - 101st Series (1st & 2nd Release)
	10-3/4% Treasury Notes - 56th and 61st Series
	11-3/4% Treasury Notes - 59th Series
	6% NAWASA Bonds - 11th, 12th and 1st Series
	10% EPZA Bonds - 9th - 11th Series
	10-3/4% EPZA Bonds - 3rd - 8th Series

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B. The following government securities are NOT ELIGIBLE: whatsoever for reserve purposes:

- Negotiable Land Certificate (NLC)
 - Cultural Center of the Philippines (CCP) Bonds
 - Philippine Charity Sweepstakes Office (PCSO) Bonds
 - Public Estate Authority (PEA) Bonds
 - National Development Company (NDC) Bonds
 - National Housing Authority (NHA) Bonds
 - National Food Authority (NFA) Bonds
 - NHMFC Bahayan Certificates
 - Light Rail Transit Authority (LRTA) Notes
 - CBCIS (Auctioned/discounted) - 24th - 29thSeries
 - CBCIs (Negotiated) A to D-1 Series and 5th to 7th Series (18 months)
 - CBCIs 10-1/2% Special Series 1st - 32nd Series
 - Central Bank Bills (Negotiated/discounted)
 - Treasury Bills (Negotiated/discounted)
 - Treasury Notes and Treasury Bonds bearing less than four percent (4%) per annum, but not given BSP support as follows:
- Treasury Bonds*
- 2% T/Bond L of 1973/2003 4th Series

- 2-3/4% T/Bond L of 1974/1986 7-A & 7-B Series
 - 3% T/Bond L of 1976/2001 26th, 27th, 31st - 34th 46th & 47th Series
 - 3% T/Bond L of 1977/2002 49th Series
 - 3-1/4% T/Bond L of 1974/1999 6th Series 3rd & 4th Release
 - 3-1/4% T/Bond L of 1977/2002 6th Series 5th Release
 - 3-1/4% T/Bond L of 1975/2000 21st Series 1st Release
 - 3-1/4% T/Bond L of 1977/2002 21st Series 2nd Release
 - 3-1/4% T/Bond L of 1977/2002 51st Series
 - 1st & 2nd Release
 - 3-1/4% T/Bond L of 1978/2003 54th Series 1st & 34th Release
 - 3-1/4% T/Bond L of 1980/2005 58th Series
 - 3-3/4% T/Bond L of 1973/2003 2nd Series
- Treasury Notes*
- 2% T/Notes L of 1976/1991 79th Series
 - 3% T/Notes L of 1982/1997 128th Series
 - 3% T/Notes L of 1981/1986 120th Series & 125th Series
 - 3-1/2% T/Notes L of 1982/1997 Special Series 1st-24th Release

**IMPLEMENTING GUIDELINES OF THE COUNTRYSIDE
FINANCIAL INSTITUTIONS ENHANCEMENT PROGRAM**
(Appendix to Sections 2274 and 3274)

Sec. 1. Statement of Policy Objectives

The CFIEP aims to:

- a. raise the capital base of the countryside FIs by encouraging existing and new investors to infuse fresh equity into said institutions and thereby accelerate the government's economic development efforts;
- b. reduce the debt burden of eligible countryside FIs and the corresponding financial strain on the government in continually assisting them; and
- c. improve the long-term viability of the countryside FIs and establish such institutions as an effective means to mobilize savings and credit.

Sec. 2. Qualified Participants

The Program shall be open to the following:

- a. All Countryside Financial Institutions (CFIs) that meet the eligibility requirement set by the BSP except those with unrectified/unaddressed serious irregularities based on the examination findings of the BSP.

The term CFIs shall refer to all RBs, Coop banks and TBs, which have their main operations in the countryside.

- b. TBs as may be determined by the Task Force which have their main operations in the countryside.
- c. Individuals, cooperatives and/or corporations as may be qualified to make an investment in the RB or qualified TB.

Sec. 3. Coverage of the Program

All past due borrowings (principal and interests) with the BSP of the countryside FIs as of 31 December 2001 in the form of rediscounted loans, CB:IBRD loans other supervised credit program and special liquidity loans.

Sec. 4. CFIEP Task Force

To effectively attain the objectives hereinabove cited, the Task Force constituted under CBP Circular 1315 composed of the Governor of the BSP, the President of the LBP, the President of the PDIC, shall continue coordinating all activities relating to, and oversee the implementation of the CFIEP.

Sec. 5. Incentives under the Program

As the Task Force may allow, participants to the Program are entitled to the following incentives:

- a. Exemption from the forty percent (40%) limitation on voting stockholdings of any person or persons related to each other within the third degree of consanguinity or affinity, cooperatives, or corporations participating in the program, from the application of prescribed equity ceiling, as may be warranted, and for a period not to exceed twenty (20) years; and
- b. Waiver of penalties and other charges due on arrearages that may be redeemed under the Program.

Sec. 6. Definition of Terms

As used in these Guidelines:

- a. *Investor* – shall refer to individuals, group of individuals, cooperative and all CFIs that meet the eligibility requirements set by the BSP except those CFIs with unrectified/uncorrected serious irregularities based on the examination findings of the BSP.
- b. *Arrearages* – shall refer to the CFI's arrearages with BSP as of 31 December 2001 which are eligible for buy-back such as past due rediscounted loans, special liquidity loans, CBP-IBRD loans and other supervised credit programs, including those other arrearages as the Task Force may determine.

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c. *Converted Shares* - shall refer to the arrearages converted into LBP equity in the form of common and preferred shares pursuant to BSP Circular Nos. 1143 and 1172.

Sec. 7. Components of the Program

The components of the Program are as follows:

a. *Purchase of CFI Arrearages (Module I)*

The investor/CFI stockholders' equity infusion with the CFI shall be used to purchase negotiable promissory notes (NPNs) with the LBP valued at twice the amount actually infused by the investor. The NPNs, in turn, will be used to redeem arrearages with the BSP through the PDIC. The investor/CFI stockholders will then be issued shares of stock in the CFI equivalent to the actual amount invested and the difference between the amount actually infused and the value of the NPN issued by the LBP shall be credited to the investors which actually infused the capital.

b. *Land Bank Counterpart Capital (Module II)*

An eligible CFI is provided access to LBP's capital infusion program which essentially involves the matching on a one-to-one basis of CFI's fresh capital infusion. The LBP's matching equity shall be in preferred shares redeemable within a period of five (5) years for Business and Risk Recovery Modules, and ten (10) years for the Developmental Module. The cumulative dividend shall be equal to the average 364-day T-Bill rate for the Developmental and Risk Recovery Modules, and 364-day T-bill plus three percent (3%) for the Business Module. Other terms of LBP's investment will be determined by its board and operational details will be announced to the CFIs accordingly.

c. *Merger, Consolidation or Acquisition Incentives (Module III)*

Eligible CFIs can avail of incentives aimed at promoting mergers, consolidations or acquisitions among CFIs as a means to develop larger and stronger CFIs which may include the following:

(1) Counterpart capital infusion by the LBP by a ratio of more than one-to-one of the merged, consolidated or acquired CFI's total fresh equity;

(2) PDIC financial assistance to qualified merger, consolidation or acquisition applicants to augment the capital infusion required in absorbing the adverse impact of asset write-downs and other costs as part of restructuring. The merger, consolidation or acquisition must involve a lead bank (with strong capital position and good track record) acquiring a majority stock of one (1) or more undercapitalized CFI. The amount of financial assistance shall be an amount that would generate income spread to the surviving or consolidated CFI equivalent to fifty percent (50%) of the undercapitalized CFI's eligible non-performing loans and ROPA or unbooked valuation reserves as of 31 December 2001, whichever is higher, over a period of six (6) years as determined by the BSP;

(3) CFIs availing of the financial assistance shall submit, among others, a business plan supported by a six (6) -year financial projections; and

(4) The term of the loan shall be for a period of at least six (6) years.

Sec. 8. Qualification to the Program

CFIs, except those with unrectified/ uncorrected serious irregularities based on the examination findings of the BSP, may participate in the Program.

a. Under Module I, CFIs with arrearages as defined in Sec. 6(b) hereof may qualify.

b. To avail of equity matching program of the LBP under Module II, the CFI must meet the following minimum requirements:

(1) A past due loans ratio of not more than twenty-five percent (25%); and

(2) A loan portfolio at least sixty percent (60%) of which is in agriculture or rural-based production activities.

c. Under Module III, PDIC financial assistance shall be available to merging, consolidating or acquiring CFIs involving at least one (1) or more undercapitalized banks.

A separate memorandum shall be issued on the guidelines for the LBP equity matching program and PDIC financial assistance.

d. Investors/CFI stockholders will be evaluated based on the “fit and proper” rule under Sec. X143 and other criteria that the Task Force may set.

CFIs investing in undercapitalized CFIs should have a minimum unimpaired capital as defined under Secs. X111 and X116 and a history of sustained profitability for a period of at least five (5) years.

e. Fresh investments should at least cover the additional capital to achieve the required minimum risk-based capital adequacy ratio of ten percent (10%) after adequate provision for losses based on the latest examination findings of the appropriate department of the SES.

Sec. 9. Application Procedures*

a. *Purchase of Arrearages under Module I*

(1) Investor/CFI stockholder files application (CFIEP Form No. 1-A) with the LBP together with the following requirements:

(a) a proposal for financial strengthening accompanied by a three (3)-year financial projection and a subsequent two (2)-year business plan;

(b) the designation of PDIC by the CFI as the attorney-in-fact to receive the NPN from LBP and to exchange the NPN for arrearages of the CFI;

(c) other requirements as the Task Force may deem necessary.

(2) Simultaneously, the investor/CFI stockholder deposits cash with the LBP in an amount equivalent to fifty percent (50%) of the arrearages to be redeemed, which shall be placed in a special account pending approval of application by the Task Force.

(3) Upon approval of the application, the CFI shall be duly notified by the Task Force directly or through the LBP Regional Office.

(4) The LBP shall issue a Negotiable Promissory Note in favor of the CFI, with a ten (10)-year term or such period where a maturity value will be equivalent to twice the amount invested.

(5) The CFI, through the PDIC as attorney-in-fact, shall exchange the NPN for the CFI arrearages equivalent to the amount of the NPN.

(6) The CFI shall issue stock certificates in favor of the investor/s equivalent to the total fresh capital infusion. The difference between the amount actually infused and the value of the NPN issued by the LBP shall be credited as equity of the investor who actually infused the capital.

(7) Applicants who do not qualify shall be reimbursed for their deposits including accrued interest earned.

b. *LBP Counterpart Capital under Module II*

Interested CFIs shall submit the requirements listed in CFIEP Form No. 2-B to the LBP.

c. *Merger and Consolidation under Module III*

The merging/consolidating/acquiring CFIs shall formulate a merger/consolidation/acquisition plan which shall be an integral component of the CFIEP application documents to be submitted to the LBP Regional Office.

Sec. 10. Applicability of Relevant Laws

Nothing herein shall be construed as a waiver by the BSP from proceeding under Section 30 of R.A. No. 7653 or other pertinent provisions in said Act, R.A. No. 7353 (Rural Banks Act of 2000), and R.A. No. 7906 (Thrift Banks Act) in the event that circumstance shall exist as would warrant action under such provisions of law.

* Application deadline 31 March 1992

**RULES GOVERNING ISSUANCE OF MORTGAGE/
CHATTEL MORTGAGE CERTIFICATE BY THRIFT BANKS**
(Appendix to Subsec. 2283)

A. With prior approval of the Monetary Board, TBs, whether or not authorized to engage in quasi-banking functions, may issue and deal in mortgage and chattel mortgage certificates exclusively for the purpose of financing the following loans:

1. Equipment loans;
2. Mortgage loans for acquisition of machinery and other fixed installations;
3. Loans for the conservation, enlargement or improvement of productive properties; and
4. Real estate mortgage loans (a) for the construction, aquisition, expansion or improvement of rural and urban properties; (b) for the refinancing of similar loans and mortgages; and (c) for such other purposes as may be authorized by the Monetary Board.

B. The certificates shall be issued at a minimum denomination of P20,000 for a term of at least four (4) years.

C. The amount of certificates which a TB may issue shall not exceed an amount equivalent to fifty percent (50%) of the total amortizations falling due during the projected term of the certificates on the mortgages/chattel mortgages pooled for the purpose of the issue.

D. The maturity of the certificates shall in no case be later than any of the maturities of the mortgages/chattel mortgages constituting the pool. Mortgages and chattel mortgages on "past due loans" as defined under existing regulations shall not be eligible for the pool.

E. All outstanding certificates shall constitute a prior preferred lien on payments or

amortizations on the mortgages and chattel mortgages constituting the pool.

F. If at any time, during the term of the certificates, the aggregate outstanding amount thereof should exceed the ceiling as provided in Item C above on account of any deficiency or inadequacy of the mortgages or chattel mortgages resulting from prepayments by the mortgage or chattel mortgages becoming past due as determined by existing regulations, the issuing bank shall provide additional mortgages or chattel mortgages as are current necessary to cover the deficiency.

G. The issuing TB shall enter into an agreement with another bank which shall constitute the latter as custodian of the mortgages/chattel mortgages pooled for the purpose of the issue, as transfer agent of the certificates, and as its paying and securing agent, and in general shall specifically state (a) the rights, obligations and liabilities of the issuing bank and custodian banks; and (b) the rights of the holders of the certificates; (c) the mortgages making up the pool; and (d) the aggregate value of the certificates that may be issued.

H. The agreement shall be available for inspection at reasonable hours during business days to the holders of the certificates, or their duly authorized representatives.

I. The certificates shall have the following minimum features:

1. The certificate shall be 13 inches in length and 8.5 inches in width, and shall be serially pre-numbered and printed on security paper with safeguards against alterations and/or falsifications;

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2. The description of the certificate, i.e., “Mortgage Certificate” or “Chattel Mortgage Certificate”, shall be printed on the upper center margin of the certificate;

3. The certificate shall indicate its date of issuance, the amount or denomination thereof, the rate of interest expressed as a percentage on an annual basis, and the term or maturity thereof;

4. The certificate shall contain a conspicuous notice at the lower margin thereof that the same is not insured by the Philippine Deposit Insurance Corporation (PDIC); and

5. The copy of the certificate to be issued to the investor shall be stamped or printed with the word “Original” and the copies retained by the issuer as “Duplicate copy”, “File copy”, or words of similar import.

J. A five percent (5%) reserve shall be maintained against all issues of mortgage/

chattel mortgage certificates. The Monetary Board may change the required reserves as may be necessary.

K. Any thrift bank desiring to apply for authority to issue mortgage/chattel mortgage certificates may submit its application to the appropriate department of the SES duly accompanied by the following documents:

1. Pro-forma copies of the mortgage/chattel mortgage certificates proposed to be issued and the agreement referred to in Item G thereof;

2. Statement setting forth the details or particulars of the mortgages/chattel mortgages to be pooled for purposes of the issue and the purpose for which the proceeds will be used; and

3. Other records or data as the appropriate department of the SES may deem necessary for the proper evaluation of the bank’s application.

**GUIDELINES IN IDENTIFYING AND MONITORING
PROBLEM LOANS AND OTHER RISK ASSETS AND
SETTING UP OF ALLOWANCE FOR PROBABLE LOSSES
(Appendix to Sec. X302)**

I. Classification of loans. In addition to classifying loans as either current or past due, the same should be qualitatively appraised and grouped as Unclassified or Classified.

A. Unclassified loans. These are loans that do not have a greater-than-normal risk and do not possess the characteristics of classified loans as defined below. The borrower has the apparent ability to satisfy his obligations in full and therefore no loss in ultimate collection is anticipated. The following loans, among others, shall not be subject to classification:

1. Loans or portions thereof secured by hold-outs on deposits/deposit substitutes maintained in the lending institution and margin deposits, or government-supported securities;
2. Loans granted by Philippine branches of foreign banks to subsidiaries and affiliates in the Philippines of multinational companies which are covered by standby letters of credit (Standby LC) issued by the bank head offices in favor of their local branches, and are current in status: *Provided*, That the foreign bank is rated at least "AA-" or its equivalent by a BSP-recognized international credit assessment agency based on the guidelines for the use of third party credit assessment as provided in App. 63b: *Provided, further*, That the Standby LC is direct, explicit, irrevocable and unconditional; and
3. Loans with technical defects and deficiencies in documentation and/or collateral requirements. These deficiencies are isolated cases where the exceptions involved are not material nor is the bank's

chance to be repaid or the borrower's ability to liquidate the loan in an orderly manner undermined. These exceptions should be brought to management's attention for corrective action during the examination and those not corrected shall be included in the Report of Examination under "*Miscellaneous Exceptions – Loans*". Moreover, deficiencies which remained uncorrected in the following examination shall be classified as "*Loans Especially Mentioned*".

The following are examples of loans to be cited under "*Miscellaneous Exceptions – Loans*":

- a. Loans with unregistered mortgage instrument which is not in compliance with the loan approval;
- b. Loans with improperly executed supporting deed of assignment/pledge agreement/chattel mortgage/real estate mortgage;
- c. Loans with unnotarized mortgage instruments/agreements;
- d. Loans with collaterals not covered by appraisal reports or appraisal reports not updated;
- e. Loan availments against expired credit line; availments in excess of credit line; availments against credit line without prior approval by appropriate authority;
- f. Loans with collaterals not insured or with inadequate/expired insurance policies or the insurance policy is not endorsed in favor of the bank;
- g. Loans granted beyond the limits of approving authority;
- h. Loans granted without compliance with conditions stated in the approval; and

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i. Loans secured by property the title to which bears an uncanceled annotation or lien or encumbrance.

B. Classified loans. These are loans which possess the characteristics outlined hereunder. Classified loans are subdivided into (1) loans especially mentioned; (2) substandard; (3) doubtful; and (4) loss.

1. Loans especially mentioned

These are loans and advances that have potential weaknesses that deserve management's close attention. These potential weaknesses, if left uncorrected, may affect the repayment of the loan and thus increase credit risk to the bank. Their basic characteristics are as follows:

a. Loans with unlocated collateral folders and documents including, but not limited to, title papers, mortgage instruments and promissory notes;

b. Loans to firms not supported by board resolutions authorizing the borrowings;

c. Loans without credit investigation report/s;

d. Loans not supported by the documents required under Subsec. X304.1 except: consumer loans, with original amounts not exceeding P2.0 million: *Provided*, That these loans are current, and are supported by latest ITR or by BIR Form 2316 or payslips for at least three (3) months immediately preceding the date of loan application, and financial statements submitted for taxation purposes to the BIR, as may be applicable, at the time they were granted, renewed, restructured or extended. For this purpose, consumer loans include housing loans, loans for purchase of car, household appliance(s), furniture and fixtures, loans for payment of educational and hospital bills, salary loans and loans for personal consumption, including credit card loans;

e. Loans the repayment of which may be endangered by economic or market conditions that in the future may affect the borrower's ability to meet scheduled repayments as evidenced by a declining trend in operations, illiquidity, or increasing leverage trend in the borrower's financial statements;

f. Loans to borrowers whose properties securing the loan (previously well secured by collaterals) have declined in value or with other adverse information;

g. Loans past due for more than thirty (30) days up to ninety (90) days; and

h. Loans previously cited as "*Miscellaneous Exceptions*" still uncorrected in the current BSP examination.

2. Substandard. These are loans or portions thereof which appear to involve a substantial and unreasonable degree of risk to the institution because of unfavorable record or unsatisfactory characteristics.

There exists in such loans the possibility of future loss to the institution unless given closer supervision. Those classified as "*Substandard*" must have a well-defined weakness or weaknesses that jeopardize their liquidation. Such well-defined weaknesses may include adverse trends or development of financial, managerial, economic or political nature, or a significant weakness in collateral. Their basic characteristics are as follows:

a. Secured loans

(1) Past due and circumstances are such that there is an imminent possibility of foreclosure or acquisition of the collateral because of failure of all collection efforts;

(2) Past due loans to borrowers whose properties securing the loan have declined in value materially or have been found with defects as to ownership or other adverse information; and

(3) Current loans to borrowers whose AFs show impaired/negative net worth except for start-up firms which should be evaluated on a case-to-case basis.

Loans and advances possessing any of the above characteristics shall be classified “Substandard” at the full amount except portions thereof secured by hold-outs on deposits, deposit substitutes, margin deposits, or government-supported securities. The portions so secured are not subject to classification.

b. Unsecured loans

(1) Renewed/extended loans of borrowers with declining trend in operations, illiquidity, or increasing leverage trend in the borrower’s financial statements without at least twenty percent (20%) repayment of the principal before renewal or extension; and

(2) Current loans to borrowers with unfavorable results of operations for two (2) consecutive years or with impaired/negative net worth except for start-up firms which should be evaluated on a case-to-case basis.

c. Loans under litigation;

d. Loans past due for more than ninety (90) days;

e. Loans granted without requiring submission of the latest AFS/ITR and/or statements of assets and liabilities to determine paying capacity of the borrower;

f. Loans with unsigned promissory notes or signed by unauthorized officers of the borrowing firm; and

g. Loans classified as “*Loans Especially Mentioned*” in the last BSP examination which remained uncorrected in the current examination.

3. **Doubtful.** These are loans or portions thereof which have the weaknesses inherent in those classified as “*Substandard*”, with the added characteristics that existing facts, conditions, and values make collection or liquidation in full highly improbable and in which substantial loss is probable. Their basic characteristics are as follows:

a. Past due clean loans classified as “*Substandard*” in the last BSP examination

without at least twenty percent (20%) repayment of principal during the succeeding twelve (12) months or with current unfavorable credit information;

b. Past due loans secured by collaterals which have declined in value materially such as, inventories, receivables, equipment, and other chattels without the borrower offering additional collateral for the loans and previously classified “*Substandard*” in the last BSP examination;

c. Past due loans secured by real estate mortgage, the title to which is subject to an adverse claim rendering settlement of the loan through foreclosure doubtful; and

d. Loans wherein the possibility of loss is extremely high but because of certain important and reasonably specific pending factors that may work to the advantage and strengthening of the asset, its classification as an estimated loss is deferred until a more exact status is determined.

4. **Loss.** These are loans or portions thereof which are considered uncollectible or worthless and of such little value that their continuance as bankable assets is not warranted although the loans may have some recovery or salvage value. The amount of loss is difficult to measure and it is not practical or desirable to defer writing off these basically worthless assets even though partial recovery may be obtained in the future. Their basic characteristics are as follows:

a. Past due clean loans the interest of which is unpaid for a period of six (6) months;

b. Loans payable in installments where amortization applicable to interest is past due for a period of six (6) months, unless well secured;

c. When the borrower’s whereabouts is unknown, or he is insolvent, or his

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earning power is permanently impaired and his co-makers or guarantors are insolvent or that their guaranty is not financially supported;

d. Where the collaterals securing the loans are considered worthless and the borrower and/or his co-makers are insolvent;

e. Loans considered as absolutely uncollectible; and

f. Loans classified as “Doubtful” in the last BSP examination and without any payment of interest or substantial reduction of principal during the succeeding twelve (12) months or have current unfavorable credit information which renders collection of the loan highly improbable.

C. **Credit card receivables.** Credit card receivables shall be classified in accordance with age as follows:

<u>No. of days past due</u>	<u>Classification</u>
91 - 120	Substandard
121 - 180	Doubtful
181 or more	Loss

The foregoing is the minimum classification requirement. Management may therefore formulate additional specific guidelines.

II. Investments and Other Risk Assets

A. **Investment in debt securities and marketable equity securities.** The classification, accounting procedures, valuation and sales and transfers of investment in all debt securities and marketable equity securities is in *Appendix 33*.

B. **Equity investment in affiliates** shall be booked at cost or book value whichever is lower on the date of acquisition. If cost is greater than book value, the excess shall be charged in full to operations or booked

as deferred charges and amortized as expense over a period not exceeding five (5) years. Subsequent to acquisition, if there is an impairment in the recorded value, the impairment should adequately be provided with allowance for probable losses.

C. **Other property owned or acquired**

1. The basic characteristics of real estate property acquired subject to “*Substandard*” classification are as follows:

a. Acquired for less than five (5) years unless worthless.

b. Converted into a Sales Contract Receivable.

c. Sold subject to a firm purchase commitment from a third party before the close of the examination.

2. The basic characteristics of real estate property acquired subject to “*Loss*” classification are as follows:

a. Foreclosure expenses and other charges included in the book value of the property, excluding the amount of non-refundable capital gains tax and documentary stamp tax paid in connection with the foreclosure/purchase which meet the criteria for inclusion in the book value of the acquired property.

b. The excess of the book value over the appraised value.

c. Property whose title is definitely lost to a third party or is being contested in court.

d. Property wherein the exercise of the right of usufruct is not practicable or possible as when it is eroded by a river or is under any like circumstances.

Real estate property acquired are not sound bank assets. Because of their nature, that is, non-liquid and non-productive, their immediate disposal through sale is highly recommended.

D. **Acquired or repossessed personal property**

1. All personal property owned or acquired held for three (3) years or less from date of acquisition shall be classified as “*Substandard*” assets.

2. The basic characteristics of acquired or repossessed personal property classified as "Loss" are as follows:
- a. Property not sold for more than three (3) years from date of acquisition;
 - b. Property which is worthless or not salable;
 - c. Property whose title is lost or is being contested in court;
 - d. Foreclosure expenses and other charges included in the book value of the property; and
 - e. The excess of the book value of the property over its appraised or realizable value.

E. Accounts Receivable

1. Accounts receivable arising from loan and investment accounts still uncollected after six (6) months from the date such loans or loan installments have matured or have become past due shall be provided with a 100% allowance for uncollected accounts receivable.
2. All other accounts receivable should be classified in accordance with age as follows, unless there is good reason for non-classification:

No. of Days Outstanding	Classification
61 - 180	Substandard
181 - 360	Doubtful
361 or more	L o s s

The classification according to age of accounts receivable should be used in classifying other risk assets not covered above. However, their classification should be tempered by favorable information gathered in the review.

F. Accrued Interest Receivable

1. Accrued interest receivable on loans or loan installments still uncollected after three (3) months from the date such loans or loan installments have matured or have become non-performing shall be

provided with a 100% allowance for uncollected interest on loans.

2. All other accrued interest receivable on loans or loan installments shall be classified similar to the classification of their respective loan accounts.

III. Allowance for probable losses

An allowance for probable losses on the loan accounts shall be set up as follows:

A. Specific allowance

Classification	Allowance (Percent)
1. Unclassified	0.0
2. Loans Especially Mentioned	5.0
3. Substandard	
(a) Secured	10.0
(b) Unsecured	25.0
4. Doubtful	50.0
5. L o s s	100.0

B. General allowance. In addition to the specific allowance for probable losses required under Item "A", a general provision for loan losses shall also be set up as follows:

- (1) Five percent (5%) of the outstanding balance of unclassified restructured loans less the outstanding balance of restructured loans which are considered non-risk under existing laws, rules and regulations: *Provided*, That loans restructured/rescheduled under the debt relief and rehabilitation program for borrowers adversely affected by the super typhoon last 20 July 2003 in the Province of Isabela shall be treated as regular loans and shall be subject to the general loan loss provision of one percent (1%) instead of five percent (5%) applicable to restructured loans: *Provided, further*, That the restructuring/rescheduling of said loans are effected not later than 31 December 2003: *Provided, finally*, That the restructured/rescheduled loans are subsequently

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maintained in performing status or have complied with the terms of the restructuring agreement.

(2) One percent (1%) of the outstanding balance of unclassified loans other than restructured loans less loans which are considered non-risk under existing laws, rules and regulations.

The general loan loss provision shall be computed as follows:

For Loans Not Restructured			
Gross Loan Portfolio			
(Excluding Restructured Loans)	P xxx		
Less: Classified Loans			
(based on latest BSP examination)			
Loans especially mentioned	P xxx		
Substandard			
Secured	xxx		
Unsecured	xxx		
Doubtful	xxx		
Loss	xxx	xxx	
Unclassified Loans		xxx	
Less: Loans considered non-risk under existing regulations		xxx	
Loan Portfolio, net of exclusions		xxx	
General Loan Loss Provision			
(1% of net loan portfolio)	P xxx		

For Restructured Loans			
Restructured Loans (Gross)	P xxx		
Less: Classified Restructured Loans			
(based on latest BSP examination)			
Loans especially mentioned	P xxx		
Substandard			
Secured	xxx		
Unsecured	xxx		
Doubtful	xxx		
Loss	xxx	xxx	
Unclassified Restructured Loans		xxx	
Less: Rest. Loans considered non-risk under existing regulations		xxx	
Restructured Loans, net of exclusions		xxx	
General Loan Loss Provision			
(5% of net restructured loans)	P xxx		

The excess of the booked general loan loss provisions over the amount required as a result of the reduction of the amount required to be set up to one percent (1%) shall

first be applied to unbooked specific valuation reserves, whether authorized to be booked on a staggered basis or not and only the remainder can be considered as income.

C. Allowance for probable losses - microfinance loans

Specific allowance for probable losses on microfinance loans shall be set up immediately in accordance with the PAR number of days of missed payment, as follows:

No. of days of missed payment		Allowance for probable losses (%)
PAR		
1 - 30		2
31 - 60 and/or loans restructured once		20
61 - 90		50
91 - or more and/or loans restructured twice		100

Provided, That a general provision for losses for microfinance loans equivalent to one percent (1%) of the outstanding balance of microfinance loans not subject to the foregoing provisioning less microfinance loans which are considered non-risk under existing laws/rules/regulations, if any, shall also be set up.

The specific and general allowances for probable losses shall be adjusted accordingly for additional allowance required by the BSP: *Provided*, That in cases of partially secured loans, only ten percent (10%) allowance shall be required for the portion thereof which are covered by the appraised value of the collateral: *Provided, further*, That said collateral is re-appraised at least annually.

Management is, however, encouraged to provide additional allowance as it deems prudent and to formulate additional specific guidelines within the context of the herein-described system.

(As amended by Circular Nos. 622 dated 16 September 2008, 603 dated 03 March 2008, 520 dated 20 March 2006)

FORMAT OF DISCLOSURE STATEMENT ON
LOAN/CREDIT TRANSACTION
(Appendix to Subsec. X307.2)

(Business Name of Creditor)

DISCLOSURE STATEMENT ON LOAN/CREDIT TRANSACTION
(As Required under R.A. 3765, Truth in Lending Act)

NAME OF BORROWER _____
ADDRESS _____

1. LOAN GRANTED (Amount to be financed) P_____ (A)
2. FINANCE CHARGES

	Not Deducted From	Deducted From	
	Proceeds of Loan		
a. Interest _____ % p.a. from _____ to _____	P _____	P _____	(A)
() Simple			() Monthly
() Compound			() Quarterly
			() Annual
			() Semi-Annual
b. Non-Interest Charges	_____	_____	
c. Commitment fee	_____	_____	
d. Guarantee fee	_____	_____	
e. Other charges incidental to the extension of credit (Specify):			
_____	_____	_____	
_____	_____	_____	
Total finance charges	P _____	P _____	(B)
3. NON-FINANCE CHARGES			
a. Insurance Premium	P _____	P _____	
b. Taxes	_____	_____	
c. Documentary/Science Stamps	_____	_____	
d. Notarial Fees	_____	_____	
e. Others (Specify)			
_____	_____	_____	
_____	_____	_____	
Total non-finance charges	P _____	P _____	(C)

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4. TOTAL DEDUCTIONS FROM PROCEEDS OF LOAN (B plus C) P (D)

5. NET PROCEEDS OF LOAN (A less D) P

6. PERCENTAGE OF FINANCE CHARGES TO TOTAL AMOUNT FINANCED (Computed in accordance with Subsec. X301.1 %

7. EFFECTIVE INTEREST RATE % p.a.
(Method of computation attached)

8. SCHEDULE OF PAYMENT
a. Single payment due on P
(Date)

b. Total Installment Payments
Payable in months/year
(no. of payments)
at P each installment. P

9. COLLATERAL
This loan is wholly/partly secured by (check)
☐ real estate ☐ chattels
☐ government securities ☐ UNSECURED

10. ADDITIONAL CHARGES IN CASE CERTAIN STIPULATIONS ARE NOT MET BY THE BORROWER
Nature Amount

CERTIFIED CORRECT:

(Signature of Creditor/Authorized Representative Over Printed Name)

Position

I ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT PRIOR TO THE CONSUMMATION OF THE CREDIT TRANSACTION AND THAT I UNDERSTAND AND FULLY AGREE TO THE TERMS AND CONDITIONS THEREOF.

(Signature of Borrower over Printed Name)

Date
Notice to Borrower: You are entitled to a copy of this paper which you shall sign.

ABSTRACT OF "TRUTH IN LENDING ACT"
(Republic Act No. 3765)
(Appendix to Sec. X307.4)

Sec. 1. This Act shall be known as the "Truth in Lending Act."

Sec. 2. Declaration of Policy. It is hereby declared to be the policy of the State to protect its citizens from a lack of awareness of the true cost of credit to the user by assuring a full disclosure of such cost with a view of preventing the uninformed use of credit to the detriment of the national economy.

xxx xxx xxx

Sec. 3. As used in this Act, the term

xxx xxx xxx

(3) "Finance charge" includes interest, fees, service charges, discounts, and such other charges incident to the extension of credit as the Board may by regulation prescribe.

xxx xxx xxx

Sec. 4. Any creditor shall furnish to each person to whom credit is extended, prior to the consummation of the transaction, a clear statement in writing stating forth, to the extent applicable and in accordance with rules and regulations prescribed by the Board, the following information:

(1) the cash price or delivered price of the property or service to be acquired;

(2) the amounts, if any, to be credited as down payment and/or trade-in;

(3) the difference between the amounts set forth under clauses (1) and (2);

(4) the charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit;

(5) the total amount to be financed;

(6) the finance charge expressed in terms of pesos and centavos; and

(7) the percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the outstanding unpaid balance of the obligation.

xxx xxx xxx

Sec. 5. (a) Any creditor who in connection with any credit transaction fails to disclose to any person any information in violation of this Act or any regulation issued thereunder shall be liable to such person in the amount of P100 or in an amount equal to twice the finance charge required by such creditor in connection with such transaction, whichever is greater, except that such liability shall not exceed P2,000 on any credit transaction.

xxx xxx xxx

(b) Any person who willfully violates any provision of this Act or any regulation issued thereunder shall be fined by not less than P1,000 nor more than P5,000 or imprisonment for not less than 6 months, nor more than one year or both.

xxx xxx xxx

(c) Any final judgment hereafter rendered in any criminal proceeding

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under this Act to the effect that a defendant has wilfully violated this Act shall be *prima facie* evidence against such defendant in an action or proceeding brought by any other party against such defendant under this Act as to all matters respecting which said judgment would be

an estoppel as between the parties thereto.

Sec. 6. This Act shall become effective upon approval.

Approved, 22 June 1963.

(RESERVED)

(RESERVED)

ENHANCED INTRADAY LIQUIDITY FACILITY
(Appendix to Sec. X278)

Given the increasing volume of PhilPaSS transactions as well as concerns of having temporary gridlocks in the PhilPaSS, the current features of the ILF had been enhanced, specifically on the following areas:

- a. Flexibility in changing the securities that will be used for the ILF;
- b. Availment of the facility on a “as the need arises” basis; and
- c. Removal of commitment fees

The revised features of the ILF are described below.

A. Access to ILF

Government securities (GS) held by an Eligible Participant bank in its Regular Principal Securities Account that will be used for ILF purposes shall be delivered to a sub-account under the BSP-ILF Securities Account with the Bureau of the Treasury’s (BTr) Registry of Scripless Securities (RoSS). The delivered GS to be used for ILF purposes shall be recorded by RoSS in a sub-account (the “Client Securities Account (CSA)”-ILF) under the BSP-ILF Securities Account in the name of the Eligible Participant/banks.

Banks without RoSS securities accounts who intend/desire to avail of the ILF shall be required to open/maintain a Securities Account with the RoSS. The documentation requirements for RoSS membership shall be prescribed by the BTr.

Banks desiring to avail of the ILF shall be further required to open a sub-account under the BSP-ILF Securities Account with the BTr’s RoSS by accomplishing an application letter addressed to the Treasurer of the Philippines, Attn: The Director, Liability Management Service and the

Chief, Scripless Securities Registration Division. The application letter shall be in the form of ANNEX 1 hereto.

B. Timeline

From 9:00AM to 9:30AM of each banking day, an Eligible Participant bank shall electronically instruct the BTr to move/transfer from its Principal Securities Account with the BTr’s ROSS to the CSA-ILF under the name of the Eligible Participant bank, the pool of peso-denominated GS to be set aside for the ILF purpose. The Eligible Participant bank hereby confirms to the BTr that pursuant to an ILF availment, it has authorized the transfer without consideration unto the CSA-ILF the pool of GS to be used for ILF purposes.

From 9:30 AM to 10:00 AM, the BTr RoSS shall electronically submit a consolidated report to BSP showing the details of the GS that were transferred to the BSP-ILF Securities Account.

From 10:00 AM to 4:00PM, Eligible Participant banks with insufficient balances in its Demand Deposit Account No.2 (PhilPaSS Account) may avail of the ILF.

Eligible Participant banks may avail of the ILF as necessary to fund pending payment instructions. Thus, when the ILF system detects queued transactions in the PhilPaSS-Central Accounting System, the Eligible Participant bank with insufficient balance in its PhilPaSS Account will automatically sell to the BSP-Treasury the GS in the CSA-ILF pool corresponding to the amount which may be needed to cover any pending payment instruction, and the proceeds of the sale of securities shall be immediately credited to the bank’s PhilPaSS Account. There may be more than one availment during the day. Until a sale to the BSP or an Overnight Repurchase

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(O/N-RP) transaction with the BSP is executed, the beneficial ownership of the GS that have been transferred to the CSA-ILF still belongs to the banks.

At 5:00PM, the BSP shall sell back to the Eligible Participant bank the GS at the same price as the original BSP purchase. Partial repayment of a particular availment will not be allowed.

In case the PhilPaSS Account balance of the participating bank is not sufficient to cover the afternoon repayment transaction, the BSP and the participating bank may agree on the following:

a. BSP shall extend to the Eligible participant bank an O/N-RP at 600 basis points over the BSP’s regular overnight lending rate for the day. The O/N-RP shall be paid not later than 11:00AM on maturity date. Unpaid O/N-RP shall be automatically converted into an absolute sale to the BSP of the subject GS earlier delivered/transferred to the CSA-ILF, pursuant to an ILF availment by the Eligible Participant bank, in which case, BSP shall issue an instruction to BTr to deliver/transfer the subject GS from the BSP-ILF Securities Account to the BSP regular Principal Securities Account. The sale shall be evidenced by the issue of Confirmation of Sale by the Eligible Participant bank (Annex 2) and the Confirmation of Purchase by the BSP Treasury Department (Annex 3), or,

b. Only in extreme cases, the BSP shall sell back to the participating bank GS up to the extent of the PhilPaSS Account balance. The BSP shall issue an instruction to the BTr to transfer the remaining GS amounting to the unpaid ILF availment from the BSP-ILF Securities Account to the BSP’s Regular Principal Securities Account.

At the end of the day and after BSP’s sell-back of the GS to ILF participants,

normally by 5:45PM, the BSP Treasury Department shall electronically instruct RoSS, using the ILF RoSS system developed for herein purpose, to return/deliver from the CSA-ILF of the participating banks to their respective Regular Principal Securities Accounts with the RoSS all unused/unencumbered GS. GS used for O/N-RP shall remain in the CSA-ILF until repayment of subject O/N-RP or conversion to outright sale the following day.

Upon receipt of BSP’s electronic instruction for the return of GS back to the participating banks’ regular Principal Securities Accounts, the BTr shall update their database after which participating banks may request/download statements of securities accounts for their verification.

C. Eligible Securities

Peso-denominated scripless securities of the National Government that are free and unencumbered and with remaining maturity of eleven (11) days to ten (10) years shall be eligible for the ILF. GS that will be used for ILF purposes would be reclassified with due consideration to the original booking of the security, as follows:

<u>Original Booking of GS</u>	<u>To be reclassified to</u>
a. Held for Trading	Held for Trading – ILF
b. Designated Fair Value Through Profit or Loss	Designated Fair Value Through Profit or Loss - ILF
c. Available for Sale	Available for Sale - ILF
d. Held to Maturity	Held to Maturity - ILF

D. Valuation of Securities

The GS subject of an ILF transaction shall be valued based on the 11:16AM fixing rates of the previous business day, from the applicable Reuters PDEX pages

or any other valuation benchmark as may be prescribed by the BSP.

banks of any change in fee at least fifteen (15) days prior to implementation.

E. Margins

Margins shall be applied based on prevailing policies of the BSP Treasury Department.

G. DDA Statements/Transaction Details

Eligible Participating banks will be able to verify the status of their accounts by initiating the SWIFT/PPS-Front-end System inquiry request.

F. Transaction Fee

The BTr shall collect a monthly maintenance fee of One Thousand Pesos (P1,000.00) from each Eligible Participant bank for the use of the CSA-ILF Securities Account. The maintenance fees herein required to be paid by each Eligible Participant bank shall be separate from and exclusive of any other fees being assessed and collected by BTr for membership in the RoSS. For this purpose, the Eligible Participant bank shall issue to the BTr an autodebit instruction to authorize the BTr to debit its DDA with BSP for the above-mentioned monthly maintenance fee. The BTr will inform the Eligible Participant

AVAILABILITY OF SERVICE

The ILF is covered by a Memorandum of Agreement (MOA) dated 25 March 2008 by and among the BSP, the BTr, the Bankers Association of the Philippines (for BAP members) and the Money Market Association of the Philippines (for non-BAP members). Participating banks shall sign individual participation agreements. The services outlined in the MOA shall be available at the BSP and the BTr at a fixed hour on all banking days. Banking days refer to the days banking institutions are open for business Mondays thru Fridays as authorized by the BSP.

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PARTICIPATION AGREEMENT

_____ **Date**

Bangko Sentral ng Pilipinas
A. Mabini corner P. Ocampo Sr. Streets,
Manila

Bureau of the Treasury
Palacio del Gobernador
Intramuros, Manila

Bankers Association of the Philippines
11th Floor, Sagittarius Building
H. V. dela Costa Street, Salcedo Village
Makati City

Money Market Association of the Philippines
Penthouse, PDCP Bank Center
Herrera corner L. P. Leviste Streets, Salcedo Village
Makati City

Gentlemen:

Please be advised that we agree to participate in the Agreement for the Establishment of Intraday Liquidity Facility to support the Philippine Payment and Settlement System (the “System”) which is covered by the Memorandum of Agreement dated ____ (the “Agreement”) among yourselves and its subsequent amendments of revisions as may be agreed upon by the parties thereto from time to time.

We agree to be bound by all the terms and conditions of the Agreement and adopt it as an integral part of this Participation Agreement, including the authority of the BSP to execute payment instructions and the authority of the Bureau of the Treasury (BTr) to execute our instructions on transfer to/from, credit and debit to/against our Securities Account. Further, we agree to comply with all our obligations as participating bank/financial institution as provided in the Agreement. Lastly, we agree to keep yourselves free and harmless from any claim or liability arising from, or in connection with, our transactions transmitted through the System in accordance with the provisions of the Agreement.

This participation will become effective upon your conformity hereto and your notification of the same to us, the BSP and the BTr.

Very truly yours,

Participating Bank/Financial Institutions

APPROVED:

Bangko Sentral ng Pilipinas	By: _____
Bureau of the Treasury	By: _____
Bankers Association of the Philippines	By: _____
Money Market Association of the Philippines	By: _____

(LETTERHEAD OF THE APPLICANT)

The Treasurer of the Philippines
Palacio del Gobernador
Intramuros, Manila

Sir:

The undersigned hereby makes an application to open a Client Securities Account under the BSP-ILF RoSS Account in the Registry of Scripless Securities (RoSS) operated and maintained by the Bureau of the Treasury (BTr).

The undersigned will pay to BTr an additional monthly fee of P1,000.00 for the Client Securities Account opened payable on the first business day of each month. The BTr will inform the undersigned of any change in fee at least fifteen (15) days prior to implementation.

Please debit/credit our Regular Demand Deposit Account No._____ with the BSP for the payment of said monthly fee.

_____ Manila, Philippines
(Date)

(Name of Applicant)

(Signature of Authorized Signatory)

(Designation)

LETTERHEAD OF THE SELLER

Transaction No. _____
Value Date _____

CONFIRMATION OF SALE OF GOVERNMENT SECURITIES

The _____, does hereby CONFIRM that it has SOLD, TRANSFERRED AND CONVEYED unto _____, pursuant to the Memorandum of Agreement for Intraday Liquidity Facility and the Participation Agreement executed on _____ and _____, respectively, all of its rights, titles and interests over the following described Government Securities, held by the Bureau of the Treasury under the Registry of Scripless Securities System.

ISIN	TERM	ISSUE DATE	MATURITY DATE	FACE AMOUNT
_____ (Code)				_____ (Account Number)
			_____ (Name of GSED)	
			_____ (Signature of Authorized Signatory)	
			_____ (Designation)	

Transaction No. _____
Value Date _____

CONFIRMATION OF PURCHASE OF GOVERNMENT SECURITIES

The _____, does hereby CONFIRM that it has PURCHASED from _____, pursuant to the Memorandum of Agreement for Intraday Liquidity Facility and the Participation Agreement executed on _____ and _____, respectively, all of its rights, titles and interests over the following described Government Securities, held by the Bureau of the Treasury under its Registry of Scripless Securities System.

ISIN	TERM	ISSUE DATE	MATURITY DATE	FACE AMOUNT
_____ (Code)				_____ (Account Number)
			_____ (Name of GSED)	
			_____ (Signature of Authorized Signatory)	
			_____ (Designation)	

LIST OF NON-ALLIED UNDERTAKING
WHERE UBs MAY INVEST IN EQUITIES¹
(Appendix to Subsec. 1381.1)

PSIC CODE MAJOR GROUP	GROUP	DESCRIPTION
I. Agriculture (Major Division 1)		
A. Agricultural crops production (Division 11)		
111		Palay production
112		Corn production
113		Vegetable production, including root and tuber crops
114		Fruits and nuts (excluding coconut) production
115		Coconut production, including copra making in the farm
116		Sugarcane production, including muscovado sugar in the farm
118		Fiber crops production
119		Other agricultural crops production
B. Production of livestock, poultry and other animals (Division 12)		
121		Livestock and livestock products
122		Poultry and poultry products
123		Raising of other animals, including their products
C. Agricultural services (Division 13)		
130		Agricultural services
II. Fishery and Forestry (Major Division 2)		
A. Fishery (Division 14)		
141		Ocean (offshore) and coastal fishing
142		Inland fishing
143		Operation of fish farms
149		Other fishery activities

¹ For purposes of identifying the classification of a certain enterprise or undertaking, the industrial groupings in the 1977 Philippine Standard Industrial Classification (PSIC) list shall be followed.

PSIC CODE	DESCRIPTION
MAJOR GROUP	GROUP
	B. <i>Forestry (Division 15)</i>
159	Other forestry activities (operation of forest tree nurseries; planting, replanting and conservation of forests; gathering of uncultivated forest materials; establishments primarily engaged in providing forestry services on a fee or contract basis)
III. Mining and Quarrying (Major Division 3)	
	A. <i>Metallic ore mining (Division 21)</i>
211	Gold ore mining
212	Other precious metal ore mining
213	Copper ore mining
214	Nickel ore mining
215	Chromite ore mining
216	Iron ore mining
217	Other base metal ore mining
	B. <i>Non-metallic mining and quarrying (Division 22)</i>
221	Coal mining
222	Exploration and production of crude petroleum and natural gas
223	Stone quarrying, clay and sand pits
229	Other non-metallic mining and quarrying
IV. Manufacturing (Major Division 4)	
	A. <i>Manufacture of food (Division 31)</i>
311-312	Food manufacturing
	B. <i>Textile, wearing apparel and leather industries (Division 32)</i>
321	Manufacture of textiles
322	Manufacture of wearing apparel, except footwear
	Manufacture of leather and leather products, leather substitutes, and fur, except footwear & wearing apparel
324	Manufacture of footwear, except rubber, plastic or wood footwear

PSIC CODE	DESCRIPTION
MAJOR GROUP	GROUP
	C. <i>Manufacture of paper and paper products; printing and publishing (Division 34)</i>
341	Manufacture of paper and paper products
342	Printing, publishing and allied industries
	D. <i>Manufacture of chemicals and chemical, petroleum, coal rubber and plastic products (Division 35)</i>
351	Manufacture of industrial chemicals
352	Manufacture of other chemical products
353	Petroleum refineries
354	Manufacture of miscellaneous products of petroleum and coal
355	Manufacture of rubber products
356	Manufacture of plastic products not elsewhere classified
	E. <i>Manufacture of non-metallic mineral products, except products of petroleum and coal (Division 36)</i>
361	Manufacture of pottery, china and earthenware
362	Manufacture of glass and glass products
363	Manufacture of cement
369	Manufacture of other non-metallic mineral products
	F. <i>Basic metal industries (Division 37)</i>
371	Iron and steel basic industries
372	Non-ferrous metal basic industries
	G. <i>Manufacture of fabricated metal products, machinery and equipment (Division 38)</i>
381	Manufacture of fabricated metal products, except machinery and equipment and furniture and fixtures primarily of metal
382	Manufacture of machinery except electrical
383	Manufacture of electrical machinery apparatus, appliances and supplies
384	Manufacture of transport equipment
385	Manufacture of professional and scientific and measuring and controlling equipment not elsewhere classified, and of photographic and optical instruments
386	Manufacture and repair of furniture and fixtures primarily of metal

PSIC CODE	DESCRIPTION
MAJOR GROUP	GROUP
	H. <i>Other manufacturing industries (Division 39)</i>
390	Other manufacturing industries
	V. Electricity, Gas and Water (Major Division 5)
	A. <i>Electricity (Division 41)</i>
411	Generating and distributing electricity
412	Distributing electricity to consumers
	B. <i>Gas and steam (Division 42)</i>
421	Gas manufacture and distribution through systems
422	Steam heat and power plants
	C. <i>Waterworks and supply (Division 43)</i>
430	Waterworks and supply
	VI. Construction (Major Division 6)
501	General building construction
502	General engineering construction
503	Special trade construction
	VII. Wholesale Trade and Retail Trade Repair of MV Motorcycles and Personal and Household Goods (Major Division 7)
	A. <i>Wholesale trade (Division 61)</i>
619	Wholesale trade not elsewhere classified Merchandise brokers, general merchants, importers and exporters
	VIII. Transport, Storage and Communication (Major Division 8)
	A. <i>Transportation services (Division 71)</i>
711	Railway transport
712	Road passenger and freight transport
713	Water transport

PSIC CODE	DESCRIPTION
MAJOR GROUP	GROUP
714	Air transport
719	Services allied to transport
	B. <i>Communication (Division 73)</i>
731	Mail and express services
732	Telephone services
733	Telegraph services
739	Communication services, non-essential commodities
	IX. Financial Intermediation (Major Division 9)
	X. Real Estate, Renting and Business Activities (Major Division 10)
	XI. Public Ad and Defense; Compulsory Social Security (Major Division 11)
	XII. Education (Major Division 12)
	XIII. Health and Social Work (Major Division 13)
	XIV. Other Community, Social, and Personal Service Activities (Major Division 14)
	A. <i>Other social and related community services (Division 95)</i>
951	Research and scientific institutions
	XV. Private Households with Employed Persons (Major Division 15)
	XVI. Extra- Territorial Organizations and Bodies (Major Division 16)
	XVII. Restaurant and Hotels (Major Division 17)
981	Restaurants, cafes and other eating and drinking places
982	Hotel, motels and other lodging places, non-essential commodities

CREDIT PRIORITY CLASSIFICATION
(Appendix to Sec. X395)

Priority I -

- a. Production of agricultural, including forestry and fishery, and industrial goods which (1) possess growth potential in competitive domestic and world markets, (2) contribute most to the development of the economy, (3) provide for the satisfaction of basic wants of the population as a whole, and (4) require resources in addition to their self-financing capabilities.
- b. Marketing export products, primarily those goods that contain the maximum possible domestic processing and labor content.
- c. Marketing in the international market of domestic products which fall under Priority I and imported basic consumer goods by Filipino merchandisers.
- d. Importation and marketing of capital equipment, raw materials and supplies for the production and distribution of Priority I products.
- e. Public utilities which are not overcrowded and are necessary to support the production and distribution of Priority I goods or to satisfy basic wants.
- f. Other services which are not overcrowded and which are necessary for (1) the development of desirable knowledge and skills, (2) the support of the production and distribution of Priority I products, and (3) the promotion of tourism and cultural pursuits.
- g. Construction of (1) infrastructure projects, (2) physical plants necessary for the production and distribution of Priority I products and services, and (3) individual low cost housing for the lower income groups of the population.

Priority II -

- a. Production and distribution of goods and services which do not qualify under the Priority I category.
- b. Real estate loans (construction, acquisition, development and refinancing of real estate) other than those specified under Priority I.
- c. Consumption.
- d. Other non-productive and speculative activities.

ECONOMIC ACTIVITIES FALLING
UNDER PRIORITY I

A. Economic activities eligible for credits
up to eighty percent (80%) of loan value of
credit instrument

- 1. Agriculture, Fisheries and Forestry
 - a. Agricultural
 - (1) Abaca
 - (2) Cassava
 - (3) Cattle and dairy farms
 - (4) Coconut
 - (5) Coffee and cocoa
 - (6) Corn
 - (7) Palay or rice
 - (8) Piggery
 - (9) Poultry
 - (10) Ramie
 - (11) Rubber plantation
 - (12) Other fruits and vegetables
 - b. Fisheries
 - (1) Fishponds and inland fishing
 - (2) Marine fishing
 - c. Forestry
 - (1) Forest nurseries and reforestation project

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2. *Mining and quarrying*

a. Metal mining

(1) Chromite

(2) Copper

(3) Iron

(4) Lead

(5) Manganese

(6) Mercury and quicksilver

(7) Nickel

(8) Zinc

b. Non-mettalic mining

(1) Asbestos

(2) Sulphur

(3) Coal

(4) Gypsum
3. *Manufacturing*

a. Basic metal industries

(1) Blast furnaces, steel works and rolling mills

(2) Iron and steel basic industries

(3) Iron and steel foundries

(4) Non-ferrous metal basic industries

b. Chemical and chemical products

(1) Basic chemicals

(2) Drugs

(3) Fertilizer

c. Coconut products and their preparation

(1) Coconut oil, edible

(2) Coconut oil, inedible

(3) Copra meal and cake

d. Electrical machinery, apparatus and appliances

(1) Transmissions and distribution equipment

e. Food manufacturing

(1) Canning and preserving of fish and other sea foods
- (a) Fish canning

(2) Canning and preserving of fruits and vegetables

(a) Canning, drying, brining, pickling or otherwise preserving or preparing vegetables

(b) Canning, drying or otherwise preparing and preserving fruits

(3) Slaughtering, preparation and preserving of meat

(4) Miscellaneous food preparation

(a) Prepared feeds for animals and fowls

f. Furniture and fixtures manufacture

(1) Rattan and bamboo furniture

g. Leather and leather products

(1) Tanning and finishing

h. Lumber and wood products

(1) Veneer, plywood and prefabricated products

i. Machinery, equipment, accessories and parts

(1) Agricultural machinery

(2) Engines and turbines

(3) Industrial, construction and mining machinery

j. Non-metallic products

(1) Cement

k. Paper and paper products

(1) Pulp, paper and paperboard

l. Petroleum and coal products

(1) Coke

m. Textile, cordage and twines manufactures

(1) Cordage, rope, twines and nets

- (2) Hemp milling, abaca stripping and baling establishments
- (3) Knitting mills
- (4) Spinning, weaving and finishing of textiles
- n. Transportation equipment and parts
 - (1) Aircrafts and parts
 - (2) Motor vehicles, equipment and parts
 - (3) Motorcycles, bicycles and parts
 - (4) Railroad equipment
 - (5) Ships and boats
- o. Miscellaneous manufacturing industries
 - (1) Laboratory, engineering and medical
- 4. *Construction*
 - a. Contract
 - (1) Building construction
 - (a) Commercial and industrial projects*
- 5. *Public Utilities*
 - a. Ice and ice refrigeration plants
 - b. Operation of wharves, dry docks etc.
 - c. Warehousing
 - d. Water supply and sanitary services
 - (1) Irrigation systems
 - (2) Water supply systems
- 6. *Commerce*
 - a. Export products*
 - b. Importation of capital goods and raw materials*
 - c. Domestic trade (Filipino only) wholesales and retail

B. Economic activities eligible for credits up to sixty percent (60%) of the loan value of the credit instrument **

- 1. *Agriculture, fisheries and forestry*
 - a. Agricultural
 - (1) Citrus
 - (2) Cotton
 - (3) Salt farming
 - (4) Soybean
 - (5) Other root crops
- 2. *Mining and quarrying*
 - a. Metal mining
 - (1) Gold
 - (2) Silver
 - b. Non-metallic mining
 - (1) Asphalt
 - (2) Marble
- 3. *Manufacturing*
 - a. Chemical and chemical products
 - (1) Dyeing and tanning materials
 - (2) Explosives (excluding firecrackers)
 - b. Coconut products and their preparations
 - (1) Dessicated coconut
 - c. Electrical machinery, apparatus and appliances
 - (1) Communication equipment
 - (2) Dry cells and storage batteries
 - d. Food manufacturing
 - (1) Canning and preserving of fruits and vegetables
 - (a) Fruits and vegetables, sauces and seasoning
 - (2) Dairy products
 - (a) Milk processing
 - (3) Miscellaneous food preparations

* To follow rating of economic activities included in the list.
** For updated loans values, see Subsec X269.5

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- (a) Coffee roasting, grinding and/or processing

e. Furniture and fixture manufacture

(1) Wood furniture

f. Lumber and wood products

(1) Cork

(2) Sashes and doors

(3) Sawn and planed lumber

(4) Wooden box

(5) Wood chips

g. Machinery, equipment, accessories and parts

(1) Office and store machines and devices

h. Metal industries

(1) Cutlery, handtools and general products

(2) Fabricated structural and metal products

(3) Tin and aluminum ware

i. Non-metallic products

(1) Glass and glass products

(2) Structural clay products

j. Textile, cordage and twines manufactures

(1) Jute bags and sacks

k. Miscellaneous manufacturing industries

(1) Cottage native handicraft industries

(2) Footwear (other than rubber)

(3) Photographic and optical goods

4. Construction

a. Contract

(1) Building construction

(a) Commercial and industrial projects*

(2) Highway and street construction (including road building)
5. Public utilities

a. Common carriers

(1) Airlines and other air transportation

(2) Motor vehicles

(3) Railroad and railway companies

(4) Steamboats and steamship lines

b. Communication

(1) Telecommunication (cable, mail and express, telegraph, telephone)

c. Electricity, gas and steam

(1) Electric, light, heat and power

d. Water supply and sanitary services

(1) Garbage, sewerage and disposal system

6. Services

a. Business and professional services

(1) Engineering and technical services

b. Educational services

(1) Private vocational and trade schools

(2) Public universities and higher educational institutions

(3) Public vocational and trade schools

c. Medical and other health services

(1) Public health services

d. Recreation services

* To follow rating of economic activities included in the list.

- (1) Theatrical production (i.e., all performing arts)

e. Research and scientific institutions

7. *Financial*

a. Banks

(1) Private development banks

(2) Rural banks/Cooperative banks

8. *Commerce*

a. Export products*

b. Importation of capital goods and raw materials*

c. Domestic trade (Filipino only) wholesale and retail*

9. Other activities

a. Loans for other dollar-earning purposes not elsewhere classified (included in this category are the construction, development and operations of first-class hotels which cater to the needs of the tourist industry).
- C. Economic activities eligible for credits up to sixty percent (60%) of the loan value of the credit instrument**

1. *Agriculture, Fisheries and Forestry*

a. Agricultural

(1) Pineapple

(2) Tobacco, native

b. Fisheries

(1) Fishery services

(2) Pearl fishing and culture, shell gathering and other marine products

c. Forestry

(1) Forest services

(2) Timber tracts

2. *Mining and quarrying*

a. Non-metallic mining

(1) Mineral salt

(2) Silica

3. *Manufacturing*

a. Apparel and other finished products made from fabrics and similar materials

(1) Embroidery shops

(2) Wearing apparel

b. Chemicals and chemical products

(1) Paints, varnishes and lacquers

(2) Soaps and other cleansing preparations

c. Coconut products and their preparations

(1) Copra

d. Electrical machinery, apparatus and appliances

(1) Electric lamp

(2) Household appliances

(3) Radio, television, telephone receiving sets, electronic tubes and components

e. Food manufacturing

(1) Canning and preserving of fish and other sea foods

a. Fish sauce (patis) manufacture

b. Shellfish curing, smoking, salting or pickling

(2) Cocoa and chocolate and sugar confectionery

a. Cocoa and chocolate processing factories

(3) Grain mill products

a. Corn mills

b. Rice mills

c. Tuber flour mills

d. Wheat flour
- * To follow rating of economic activities included in the list.
** For updated loan values, please see Subsec. X269.
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- (4) Miscellaneous food preparations
- (a) Salt manufacture
- (b) Starch and its products
- (c) Vegetable lard and margarine manufacture
- (d) Vermicelli and noodles manufacture
- f. Lumber and wood products
 - (1) Creosoting and other wood treating
- g. Metal industries
 - (1) Fabricated wire products
 - (2) Metal stamping, coating and engraving
- h. Non-metallic products
 - (1) Private vocational and trade schools
 - (2) Public universities and higher educational institutions
 - (3) Public vocational and trade schools
- c. Medical and other health services
 - (1) Public health services
- d. Recreation services
 - (1) Theatrical production (i.e., all performing arts)
- e. Research and scientific institutions
- 7. *Financial*
 - a. Banks
 - (1) Private development banks
 - (2) Rural banks/Cooperative banks
- 8. *Commerce*
 - a. Export products*
 - b. Importation of capital goods and raw materials*

- c. Domestic trade (Filipino only) whosale and retail*
- 9. Other activities
 - a. Loans for other dollar-earning purposes not elsewhere classified (included in this category are the construction, development and operations of first-class hotels which cater to the needs of the tourist industry).

C. Economic activities eligible for credits up to sixty percent (60%) of the loan value of the credit instrument**

- 1. *Agriculture, Fisheries and Forestry*
 - a. Agricultural
 - (1) Pineapple
 - (2) Tobacco, native
 - b. Fisheries
 - (1) Fishery services
 - (2) Pearl fishing and culture, shell gathering and other marine products
 - c. Forestry
 - (1) Forest services
 - (2) Timber tracts
- 2. *Mining and quarrying*
 - a. Non-metallic mining
 - (1) Mineral salt
 - (2) Silica
- 3. *Manufacturing*
 - a. Apparel and other finished products made from fabrics and similar materials
 - (1) Embroidery shops
 - (2) Wearing apparel
 - b. Chemicals and chemical products

* To follow rating of economic activities included in the list.
** For updated loans values, please see Subsec X269

- (1) Paints, varnishes and lacquers
 - (2) Soaps and other cleansing preparations
 - c. Coconut products and their preparation
 - (1) Copra
 - d. Electrical machinery, apparatus and appliances
 - (1) Electric lamp
 - (2) Household appliances
 - (3) Radio, television, telephone receiving sets, electronic tubes and components
 - e. Food manufacturing
 - (1) Canning and preserving of fish and other sea foods
 - (a) Fish sauce (patis) manufacture
 - (b) Shellfish curing, smoking, salting or picking
 - (2) Cocoa and chocolate and sugar confectionary
 - (a) Cocoa and chocolate processing factories
 - (3) Grain mill products
 - (a) Corn mills
 - (b) Rice mills
 - (c) Tuber flour mills
 - (d) Wheat flour
 - (4) Miscellaneous food preparations
 - (a) Salt manufacture
 - (b) Starch and its products
 - (c) Vegetable lard and margarine manufacture
 - (d) Vermicelli and noodles manufacture
 - f. Lumber and wood products
 - (1) Creosoting and other wood treating
 - g. Metal industries
 - (1) Fabricated wire products
 - (2) Metal stamping, coating and engraving
 - h. Non-metallic products
 - (1) Plastic products
 - (2) Pottery, china, earthenware
 - (3) Concrete aggregates
 - (4) Concrete products
 - (a) Cement products light weight aggregate
 - (b) Pre-mold concrete light aggregate
 - i. Paper and paper products
 - (1) Coated and glazed paper products
 - j. Printing, publishing and allied industries
 - (1) Book publishing and printing
 - (2) Newspaper and periodical publishing
 - k. Tobacco
 - (1) Cigar and cigarette factories (native)
 - l. Miscellaneous manufacturing industries
 - (1) Oxygen, acetylene and similar products
 - (2) Silver and gold work without precious stones
 - (3) Musical instruments and parts
 - (a) Blank recording discs
 - (b) Metal stampers
4. Construction
- a. Contract
 - (1) Building construction
 - (a) Government projects
 - (b) Commercial and industrial projects*
 - (2) Heavy construction (including bridges and irrigation projects)

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- b. Personal

(1) Construction

(2) Reconstruction

5. *Public utilities*

a. Electricity, gas and steam

(1) Gas manufacture and distribution

(2) Steam heat and power

b. Water supply and sanitary services

(1) Drainage system
6. *Services*
- a. Medical and other health services

(1) Private health services
- b. Recreation services
- (1) Motion picture production

7. *Financial*

a. Banks

(1) Commercial banks

(2) Savings and mortgage banks

8. *Commerce*

a. Export products*

b. Importation of capital goods and raw materials*

c. Domestic trade (Filipino only) wholesale and retail*

* To follow rating of economic activities included in the list.

SAMPLE INVESTMENT MANAGEMENT AGREEMENT
(Appendix to Subsec. X411.1)

IMA No. (prenumbered)

INVESTMENT MANAGEMENT AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This AGREEMENT, made and executed this ____ day of _____ at _____,
Philippines, by and between:

(Hereinafter referred to as the “**PRINCIPAL**”)

and

_____, a banking corporation authorized to
perform trust functions, organized and existing under and by virtue
of the laws of the Philippines, with principal office and place of
business at _____,
Philippines.
(Hereinafter referred to as the “**INVESTMENT MANAGER**”)

WITNESSETH: THAT -

WHEREAS, the **Principal** desires to avail of the services of the **Investment Manager**
relative to the management and investment of **Principal’s** investible funds;

WHEREAS, the **Investment Manager** is willing to render the services required by the
Principal relative to the management and investment of **Principal’s** investible funds, subject
to the terms and conditions hereinafter stipulated;

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual
conditions stipulated hereunder, the parties hereto hereby agree and bind themselves to the
following terms and conditions:

INVESTMENT PORTFOLIO

1. Delivery of the Fund - Upon execution of this Agreement, the **Principal** shall
deliver to the **Investment Manager** the amount of PHILIPPINE PESOS:
_____ (P_____).

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2. Composition - The cash which the **Principal** has delivered to the **Investment Manager** as well as such securities in which said sums are invested, the proceeds, interest, dividends and income or profits realized from the management, investment and reinvestment thereof, shall constitute the managed funds and shall hereafter be designated and referred to as the **Portfolio**. For purposes of this Agreement, the term *securities* shall be deemed to include commercial papers, shares of stock and other financial instruments.

3. Delivery of Additional Funds - At any time hereafter and from time to time at the discretion of the **Principal**, the latter may deliver additional funds to the **Investment Manager** who shall form part of the Portfolio and shall be subject to the same terms and conditions of this Agreement. No formalities other than a letter from the principal and physical delivery to the **Investment Manager** of cash will be required for any addition to the Portfolio.

4. Nature of Agreement - **THIS AGREEMENT IS AN AGENCY AND NOT A TRUST AGREEMENT. AS SUCH, THE CLIENT SHALL AT ALL TIMES RETAIN LEGAL TITLE TO FUNDS AND PROPERTIES SUBJECT OF THIS ARRANGEMENT.**

THIS AGREEMENT IS FOR FINANCIAL RETURN AND FOR THE APPRECIATION OF ASSETS OF THE ACCOUNT. THIS AGREEMENT DOES NOT GUARANTEE A YIELD, RETURN OR INCOME BY THE INVESTMENT MANAGER. AS SUCH, PAST PERFORMANCE OF THE ACCOUNT IS NOT A GUARANTY OF FUTURE PERFORMANCE AND THE INCOME OF INVESTMENTS CAN FALL AS WELL AS RISE DEPENDING ON PREVAILING MARKET CONDITIONS.

IT IS UNDERSTOOD THAT THIS INVESTMENT MANAGEMENT AGREEMENT IS NOT COVERED BY THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC) AND THAT LOSSES, IF ANY, SHALL BE FOR THE ACCOUNT OF THE PRINCIPAL.

POWERS

5. Powers of the Investment Manager - The **Investment Manager** is hereby conferred the following powers:

- a. To invest or reinvest the Portfolio in (1) Evidences of indebtedness of the Republic of the Philippines and of the Bangko Sentral ng Pilipinas, and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines or loans against such government securities; (2) Loans fully guaranteed by the government as to the payment of principal and interest; (3) Loans fully secured by hold-out on, assignment or pledge of deposits or of deposit substitutes, or mortgage and chattel mortgage bonds; (4) Loans fully secured by real estate and chattels in accordance with Section 78 of R.A. No. 337, as amended, and subject to the requirements of Sections 75, 76 and 77 of R.A. No. 337, as amended; and (5) Such other investments or loans as may be directed or authorized by the **Principal** in a separate written instrument which shall form

part of this Agreement: *Provided*, That said written instrument shall contain the following minimum information: (a) The transaction to be entered into; (b) The amount involved; and (c) The name of the issuer, in case of securities and/or the name of the borrower and nature of security, in the case of loans;

- b. To endorse, sign or execute any and all securities, documents or contracts necessary for or connected with the exercise of the powers hereby conferred or the performance of the acts hereby authorized;
- c. To cause any property of the Portfolio to be issued, held, or registered in the name of the **Principal** or of the **Investment Manager**: *Provided*, That in case of the latter, the instrument shall indicate that the Investment Manager is acting in a representative capacity and that the **Principal**'s name is disclosed thereat;
- d. To open and maintain savings and/or checking accounts as may be considered necessary from time to time in the performance of the agency and the authority herein conferred upon the **Investment Manager**;
- e. To collect and receive matured securities, dividends, profits, interest and all other sums accruing to or due to the Portfolio;
- f. To pay such taxes as may be due in respect of or on account of the Portfolio or in respect of any profit, income or gains derived from the sale or disposition of securities or other properties constituting part of the Portfolio;
- g. To pay out of the Portfolio all costs, charges and expenses incurred in connection with the investments or the administration and management of the Portfolio including the compensation of the **Investment Manager** for its services relative to the Portfolio; and
- h. To perform such other acts or make, execute and deliver all instruments necessary or proper for the exercise of any of the powers conferred herein, or to accomplish any of the purposes hereof.

LIABILITY OF INVESTMENT MANAGER

6. Exemption from Liability - In the absence of fraud, bad faith, or gross or willful negligence on the part of the **Investment Manager** or any person acting in its behalf, the **Investment Manager** shall not be liable for any loss or damage to the Portfolio arising out of or in connection with any act done or performed or caused to be done or performed by the **Investment Manager** pursuant to the terms and conditions herein agreed, to carry out the powers, duties and purposes for which this Agreement is executed.

7. Advice of Counsel - The **Investment Manager** may seek the advice of lawyers. Any action taken or suffered in good faith by the **Investment Manager** as a consequence of

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the opinion of the said lawyers shall be conclusive and binding upon the **Principal**, and the **Investment Manager** shall be fully protected from any liability suffered or caused to be suffered by the **Principal** by virtue hereof.

ACCOUNTING AND REPORTING

8. The **Investment Manager** shall keep and maintain books of accounts and other accounting records as required by law. The **Principal** or the authorized representative of the **Principal** shall have access to and may inspect such books of accounts and all other records related to the Portfolio, including the securities held in custody by the **Investment Manager** for the Portfolio.

9. Reporting Requirements - The **Investment Manager** shall prepare and submit to the **Principal** the following reports within _____: (a) Balance Sheet; (b) Income Statement; (c) Schedule of Earning Assets; (d) Investment Activity Report; and (e) (such other reports as may be required by the **Principal**).

INVESTMENT MANAGER'S FEE

10. Investment Fee - The **Investment Manager**, in addition to the reimbursement of its expenses and disbursements in the administration and management of the Portfolio including counsel fees, shall be entitled to receive as compensation for its services a management fee of _____ (Specify amount or rate) _____.

WITHDRAWALS FROM THE PORTFOLIO

11. Withdrawal of Income/Principal - Subject to availability of funds and the non-diminution of the Portfolio below P1 million, the **Principal** may withdraw the income/principal of the Portfolio or portion thereof upon written instruction or order given to the **Investment Manager**. The **Investment Manager** shall not be required to see as to the application of the income/principal so withdrawn from the Portfolio. Any income of the Portfolio not withdrawn shall be accumulated and added to the principal of the Portfolio for further investment and reinvestment.

12. Non-alienation of Encumbrance of the Portfolio or Income - During the effectivity of this Agreement, the **Principal** shall not assign or encumber the Portfolio or its income or any portion thereof in any manner whatsoever to any person without the prior written consent of the **Investment Manager**.

EFFECTIVITY AND TERMINATION

13. Term - This Agreement shall take effect from the date of signing hereof and shall be in full force and effect until terminated by either party by giving written notice thereof to the other at least _____() days prior to the termination date.
14. Powers upon Liquidation - The powers, duties and discretion conferred upon the **Investment Manager** by virtue of this Agreement shall continue for the purpose of liquidation and return of the Portfolio, after the notice of termination of this Agreement has been served in writing, until final delivery of the Portfolio to the **Principal**.
15. Accounting of Transaction - Within _____() days after the termination of this Agreement, the **Investment Manager** shall submit to the **Principal** an accounting of all transactions effected by it since the last report up to the date of termination. Upon the expiration of the _____() days from the date of submission, the **Investment Manager** shall forever be released and discharged from all liability and accountability to anyone with respect to the Portfolio or to the propriety of its acts and transactions shown in such accounting, except with respect to those objected to in writing by the **Principal** within the _____() day period.
16. Remittance of Net Assets of the Portfolio - Upon termination of the Agreement, the **Investment Manager** shall turn over all assets of the Portfolio which may or may not be in cash to the **Principal** less the payment of the fees provided in this Agreement in carrying out its functions or in the exercise of its powers and authorities.

This Agreement or any specific amendments hereto constitute the entire agreement between the parties, and the **Investment Manager** shall not be bound by any representation, agreement, stipulation or promise, written or otherwise, not contained in this Agreement or incorporated herein by reference, except pertinent laws, circulars or regulations approved by the Government or its agencies. No amendment, novation, modification or supplement of this Agreement shall be valid or binding unless in writing and signed by the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date and at the place first above set forth.

(PRINCIPAL) (INVESTMENT MANAGER)

By:

SIGNED IN THE PRESENCE OF:

RISK MANAGEMENT GUIDELINES FOR DERIVATIVES
[Appendix to Subsec. X611.1 (2008 - X602.1)]

I. Introduction

This appendix, together with the Guidelines on Supervision by Risk (*Appendix 72*) and other BSP issuances on management of the different risks attendant to banking activities, provides a framework on which a bank can establish its risk management activities. Accordingly, this set of risk management guidelines for derivatives should be read and used in conjunction with all related BSP issuances on risk management.

A bank, in using these guidelines to evaluate the propriety and adequacy of its risk management, must consider the following principles:

a. No single risk management system for derivatives is expected to work for all banks considering that the structure and level of derivatives activities will vary from one bank to another. Each bank should apply the principles set in these guidelines in a manner appropriate to its needs and circumstances. The BSP shall evaluate the quality of a bank’s risk management system based on the principles and minimum requirements of these guidelines, scaled to the derivatives activities being undertaken.

b. The requirements prescribed in these guidelines are merely minimum standards and therefore, should not be taken as the “be-all” for a bank’s risk management. The board of directors¹ has the responsibility of ensuring that a bank’s risk management system appropriately captures its risk exposures and affords proper management of these.

c. A trust entity within a bank must have a separate risk management system. However, the trust department may in-source back office functions of its risk management system with the bank proper

only upon prior BSP approval on the basis that such in-sourcing will not give rise to potential conflict of interest.

II. Risk associated with derivatives

While derivatives primarily help manage existing and anticipated risks, derivatives themselves are exposed to the risks they are designed to manage. Moreover, simple derivatives, when combined with other financial instruments, may result in a structure that exposes a bank to complicated risks. Thus, derivatives can aggravate the risks of banks and of counterparties if derivatives are not clearly understood and properly managed.

A single derivatives product may expose a bank to multiple risks as enumerated under *Appendix 72*. These categories are not mutually exclusive of each other. Hence, derivatives activities must be managed with consideration of all these risks.

III. Risk management process for derivatives

The management of derivatives activities should be integrated into a bank’s overall risk management system using a conceptual framework common to the bank’s other businesses. For example, price risk exposure arising from derivatives transactions should be assessed in a manner comparable to and aggregated with all other price risk exposures. Risk consolidation is particularly important because the various risks contained in derivatives and other market activities can be interconnected and may transcend specific markets.

At a minimum, the risk management process for derivatives should be able to:

a. **Identify** the risks arising from its derivatives activities in whatever capacity

¹ In case of a local branch of a foreign bank, the equivalent management review arrangement (e.g., management committee, regional review committee). In case of a trust entity, the trust committee.

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it deals with the same. A bank must likewise identify the impact of its derivatives activities on its overall risk profile. To properly identify risks, a bank must understand the derivatives products with which it is transacting and the factors that affect them. Considering that changes in the value of derivatives are highly influenced by changes in market factors, risk identification should be a continuing process and should occur at both a transaction and portfolio level.

b. **Measure** the risks arising from its derivatives activities. A bank must have measurement models or tools to quantify the risks identified. These measurement tools should be suitable to the nature and volume of a bank’s derivatives activities. As the complexity and volume of the derivatives activity increases, the measurement tools should correspondingly be more sophisticated. The primary criteria for the propriety of the measurement tools are accuracy, timeliness, efficiency and comprehensiveness with which these tools can capture the risks involved and their contribution to the decision-making process of bank management.

c. **Monitor** the risks arising from its derivatives activities. Derivatives products are very sensitive to market factors, which continually change. Thus, a bank should have a mechanism to monitor the responsiveness of derivatives to market factors to enable it to review and assess its risk positions. In order to effectively monitor the risks, reports must be timely generated in order to aid management in determining whether there is a need to adjust the bank’s derivatives positions.

d. **Control** the risks arising from its derivatives activities. A bank must establish limits to its derivatives exposure. These limits should be comprehensive and aligned with a bank’s overall risk tolerance. A bank’s

policies and procedures on control should provide for contingencies when limits are breached. A bank must allot lead time and have a mechanism that enables management to act in time to control unacceptable or undesired exposures. A bank must also establish a system that separates functions susceptible to conflicts of interest.

IV. Sound risk management practices for derivatives

Consistent with the criteria for sound risk management practices in Item V of *Appendices 73 and 74*, the BSP shall assess the propriety and adequacy of a bank’s risk management system for its derivatives activities in accordance with the following basic principles:

a. Active and appropriate board¹ and senior management oversight

A bank’s board of directors must set the general policy or the policy direction relating to the management of a bank’s risks, including those arising from its derivatives activities. This policy should be consistent with the bank’s business strategies, capital strength, management expertise and risk profile. Accordingly, the board of directors must understand the nature and purpose of the bank’s derivatives activities and the role derivatives play in the bank’s overall business strategy. Passive board of directors approval is not acceptable. There must be verifiable evidence of the board of directors approval processes and that senior management exerted effort to explain the nature and purpose of the derivatives activities to the board of directors (e.g., minutes of board of directors meetings documenting presentations and reports to the board of directors and the approval processes).

The board of directors must review and pre-approve new derivatives products as

¹ In case of a local branch of a foreign bank, the equivalent management review arrangement (e.g., management committee, regional review committee). In case of a trust entity, the trust committee.

well as significant related policies and procedures. Central to the approval of new products is defining when a product or activity is new in order to ensure that variations on existing products receive the proper review and authorization. Policies should also detail authorized activities (e.g., at what stages approvals should be obtained, from whom approvals should be obtained), those that require one-time approval and those that are considered inappropriate.

The board of directors must be apprised of the bank's derivatives exposures on a timely basis in order to enable the board of directors to act on such exposures accordingly. Consequently, there should be an established reporting methodology to ensure that the board of directors receives, on a continuing basis, detailed information regarding the bank's risk exposures from derivatives, including the impact to the bank's overall risk profile, earnings and capital. These reports should include both normal and stress scenarios.

Pursuant to the general policy or policy direction on risk management set by the board of directors, senior management must adopt adequate policies and procedures for conducting the bank's derivatives activities on both a long-range and day-to-day basis. Policies should clearly delineate responsibility for managing risk, and provide effective internal controls and a comprehensive risk-reporting process. Policies must also keep pace with the changing nature of derivatives products and markets and therefore must be reviewed on an on-going basis. Senior management should ensure that the various components of a bank's risk management process are regularly reviewed and evaluated. Internal evaluations may be supplemented by external auditors or other qualified outside parties.

The quality of oversight provided by the board of directors and senior management

to a bank's derivatives activities will be reflected in the overall risk management process, the adequacy of resources (financial, technical expertise, and systems technology) devoted to handle derivatives activities and its use of the monitoring reports. The board of directors and senior management shall be responsible for ensuring that bank personnel comply with prescribed risk management standards and sales and marketing guidelines.

b. Adequate risk management policies and procedures

A bank must establish policies and procedures to guide its personnel in conducting derivatives activities. These risk management policies must be reflective of a bank's current strategy and practice.

A bank should not issue policies and procedures for derivatives in isolation. All aspects of the risk management process for derivatives activities should be integrated into the bank's over-all risk management system to the fullest extent possible using a conceptual framework common to the bank's other activities. Risk management policies should be comprehensive, covering all activities of the bank. The BSP will evaluate the degree to which controls covering derivatives activities have been integrated in other issuances of the bank covering aggregate risk-taking activities

For banks that conduct derivatives transactions with subsidiaries and affiliates, there should be policies and procedures that describe the nature, pricing, monitoring, and reporting of acceptable related-party transactions.

All risk management policies and procedures must be written, well communicated to all personnel involved in the derivatives activities and readily available in user-friendly form, whether the same is a hard or soft copy thereof. A bank must also put up systems and procedures to ensure an audit trail evidencing the

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dissemination process for new and amended policies and procedures.

At a minimum, a bank is expected to have:

1. Comprehensive, updated and relevant risk policy manual(s);
2. Operations manual(s) or similar documents that describe the flow of transactions among and between the relevant units and personnel in a bank's treasury (front office, back office and accounting) and risk management unit;
3. Approved product manual(s) that includes product definition, benefits and risks, pricing mechanisms, risk management processes, capital allocation guidelines, tax implications and other operating procedures and controls for the bank's derivatives activities.

c. Appropriate risk measurement methodologies, limits structure, monitoring and management information system

The process of measuring, monitoring and controlling risk should be carried out independently from individuals conducting derivatives activities. An independent system of reporting exposures to both senior level management and to the board of directors is critical to the effectiveness of the process.

(1) Measurement methodologies

A bank must be able not only to accurately quantify the multiple risk exposures arising from its derivatives activities but also aggregate similar risks across the different activities of the bank to the fullest extent possible. A bank must develop a risk measurement model appropriate to its portfolio. Accordingly, a bank must evaluate the assumptions used, computational requirements, procedures for computing the risk metric, sourcing of inputs used in the measurement process, including the theoretical reasons for a particular input choice, and how these concepts apply to the bank's portfolio.

The risk measurement system should be structured to enable management to initiate prompt remedial action, facilitate stress-testing, and assess the potential impact of various changes in market factors on earnings and capital. A risk measurement system is considered sound if it is capable of comprehensively capturing risks from: (a) the bank's on and off-balance sheet exposure; (b) all relevant market factors; and (c) normal circumstances and stress events. Sound risk measurement practice includes identifying possible events or changes in market behavior that could have unfavorable effects on the bank and assessing the ability of the bank to withstand these events or changes. The stress testing should include not only quantitative exercises that compute potential gains or losses but also qualitative analyses of actions that management might take under particular scenarios.

A bank's risk measurement system should provide appropriate pricing and valuation procedures to ensure best execution for both proprietary trading and those undertaken for clients and mark-to-market/model (MTM) methodology for derivatives instruments that follows established MTM regulations and Philippine Accounting Standards (PAS 39).

New measurement models whether developed internally or purchased from vendors, should be subject to an initial validation before it is used. Internally developed models require more intensive evaluation where they have not been market-tested by external parties. The validation process should consist of a review of the logic, mathematical or statistical theories, assumptions, internal processes and overall reliability of a bank's measurement models, including the compatibility of the measurement model with the bank's technology and systems.

The validation must be undertaken by a technical expert independent from the unit that developed the model. For example, pricing systems developed by a trader is required to be independently validated by a corresponding technical expert from the bank's risk management unit. If no such personnel from the risk management unit exists, an independent validation may be performed by internal audit provided that internal audit has the necessary expertise. A bank may also avail of the services of an independent outside expert. Thereafter, the frequency and extent to which models are validated depends on changes that affect pricing, risk presentation or the existing control environment. Changes in market conditions that affect pricing and risk conventions, which model performance, should trigger additional validation review.

Risk management policies should clearly address the scope of the validation process, the frequency of validations, documentation requirements, and management responses. At a minimum, policies should require the evaluation of significant underlying algorithms and assumptions before the model is put in regular use, and as market conditions warrant thereafter. Such internal evaluations should be conducted by parties who, where practicable, are independent of the business sector using or developing the model. The evaluation may, if necessary, be conducted or supplemented with reviews by qualified outside parties, such as experts in highly technical models and risk management techniques.

(2) Limits structure

A bank must specify individual limits for all types of risks involved in a bank's derivatives activities. A bank should use a variety of limits to adequately capture the range of risks or to address risks that the measurement system does not capture. These limits should be integrated into the

bank-wide limit structure to ensure consistency with the board of director-approved risk appetite and business strategy.

The limit structure should be realistic taking into consideration the target budget, level of earnings and capital. Limits must be documented and promptly communicated to all relevant personnel. Limits must be reviewed at least annually or more frequently, if circumstances warrant, in order to ensure that limits reflect the bank's past performance and current position.

Limits should be continually analyzed as regards its impact on target income, earnings and capital. These analyses should be submitted/reported to the board of directors. Any excess over the limit must be approved only by authorized personnel and immediately reported to senior management and depending on the seriousness, also to the board of directors. The seriousness of limit exceptions depends upon management's approach towards setting limits and on the actual size of individual and organizational limits relative to the bank's capacity to take risks. A bank with relatively conservative limits may encounter more exceptions to those limits than that with less restrictive limits. There must also be mechanisms for the correction of breach of these limits.

A bank's limit structure should address the following:

- (a) Definition of a credit exposure;
- (b) Maximum credit exposure to an individual counterparty;
- (c) Credit concentrations;
- (d) Maximum nominal exposure:
 - (i) per trader and per transaction; and
 - (ii) position limits.
- (e) Approved credit risk mitigation techniques;
- (f) Appropriate loss exposure triggers:
 - (i) loss alert;
 - (ii) stop loss;
 - (iii) value-at-risk; and

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(iv) earnings-at-risk.

(3) Monitoring

Monitoring of risk exposures, market conditions, and trading positions should be done at least daily. Derivatives instruments are highly influenced by movements in market factors. Thus, a bank must have a mechanism that can track and analyze the effect of market movements on its derivatives exposures.

To ensure proper monitoring of risks, a bank is expected to have technology and systems that can (a) track movements in reference variables (underlying) and other market factors affecting the value of the derivatives instruments, such as trigger events; and (b) incorporate observed market movements into the pricing and valuation of derivatives instruments.

While monitoring is undertaken independently from the personnel conducting derivatives activities, bank traders are expected to actively monitor their positions to ensure that they do not breach their limits. Bank traders should not wait until a limit is breached to alert senior management and risk control units. Instead, traders should promptly report unanticipated changes and progressively deteriorating positions, as well as other significant issues arising from their positions, to the risk control function and responsible management.

(4) Management information system

A bank must institute an information system that generates accurate and incisive reports to ensure that management and the board of directors are timely and regularly apprised of the bank's derivatives exposures. A bank is expected to have policies and procedures pertaining to the derivatives reporting specifying, among others, the types of derivatives reports to be generated, the purpose and contents thereof, responsible units that will generate the reports, frequency and deadlines of reports, recipients/users of reports, and the

type of action expected from the users of the report. At a minimum, management reports should contain the following: outstanding derivatives positions, compliance with or status of positions as against limits, analysis of derivatives positions, along with other bank exposures, in relation to the impact to earnings and capital, monitoring of trigger events, and deviations from established policies and procedures and justifications thereof.

The management information system must be able to translate the measured risks from derivatives activities from a technical and quantitative format to one that can easily be read and understood by senior managers and directors, who may not have specialized and technical knowledge of derivatives products. Such a system enables management and the board of directors to judge the changing nature of the bank's risk exposures. The electronic data processing capability must be commensurate to the volume and complexity of the bank's derivatives activities to facilitate the generation of needed reports.

The frequency and content of board of directors and management reporting will ultimately depend upon the nature and significance of derivatives activities. Where applicable, board of directors and management reports should consolidate information across functions and divisions. Board of directors and management reporting should be tailored to the intended audience, providing summary information to senior management and the board of directors and more detailed information to bank traders.

Management reports should be generated by control departments independent of the risk-takers. When risk-takers provide information (e.g., valuations or volatilities on thinly traded derivatives contracts) for management

reports, senior management should be informed of possible weaknesses in the data, and these positions should be audited frequently.

d. Comprehensive internal controls and independent audits

A sound system of internal controls promotes effective and efficient operations, reliable financial and regulatory reporting, and compliance with relevant laws, regulations and policies of the bank. In determining whether a bank's internal controls meet these objectives, the BSP will consider the overall control environment of the bank, particularly, the process of identifying, measuring, analyzing and managing risk, the adequacy of management information systems, and degree of adherence to control activities such as approvals, confirmations and reconciliations. Control of the reconciliation process is particularly important where there are differences in the valuation methodologies or systems used by the front and back offices.

(1) Risk control

A bank should have an independent risk control unit responsible for the design and implementation of the bank's risk management system. A strong risk control function is a key element in fulfilling the oversight responsibilities of board of directors and senior managers. This unit must be independent from business trading units and should report directly to senior management of the bank. The role and structure of risk control function should be commensurate to the nature, complexity and extent of a bank's derivatives activities.

A risk control unit should regularly evaluate risk-taking activities by assessing risk levels and the adequacy of risk management processes. It should also monitor the development and implementation of control policies and risk measurement systems. It should analyze daily reports produced by the bank's risk

measurement model, including an evaluation of the relationship between measures of risk exposure and trading limits. Risk control personnel staff should periodically communicate their observations to senior management and the board of directors.

A bank's control structure shall be considered sound if all the following elements are present:

(a) Formal approval process for new products

A bank should have an effective process to evaluate and review risks involved in products that are either new to the bank or new to the market and of potential interest to the bank. A bank that desires to engage in new products and transactions must first subject these products and transactions to a rigorous review and approval process. This will ensure that all bank personnel involved in the activity have sufficient knowledge of the product or transaction, and that the ensuring risk exposures can be identified, measured and analyzed. The process must be contained in a board of directors-approved policy that is fully documented and must be implemented consistently and with integrity.

Before initialing a new derivatives activity, all relevant personnel should understand the product. Risks arising from the new product should be integrated into the bank's risk measurement and control systems. The new product approval process should include a sign-off by all relevant areas such as risk control, operations, accounting, legal, audit, and senior management and trading operations.

Defining a product or activity as "new" is central to ensuring that variations on existing products receive the proper review and authorization. Factors that should be considered in classifying a product/activity as "new" include: capacity changes (e.g., end-user to dealer), structure variations

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(e.g., non-amortizing swap versus amortizing interest rate swap), products which require a new pricing methodology, legal or regulatory considerations, or market characteristics (e.g., foreign exchange forwards in major currencies as opposed to emerging market currencies).

A bank should introduce new products in a manner that adequately limits potential losses and permits the testing of internal systems.

(b) Segregation of functions/units subject to conflict of interest

A bank must separate the business unit conducting the derivatives activities from the unit/s tasked with the checking, accounting, reporting and control functions of its derivatives activities.

A bank should have policies and procedures addressing conflicts of interest, particularly among the following functions: proprietary trading, sales or marketing desks/units, personal trading, and asset management.

A bank that conducts derivatives activities with its subsidiaries and/or affiliates must establish policies and procedures to avoid actual, or even the appearance of a conflict of interest. Off-market rates between related parties should generally be forbidden.

A bank should avoid dealing in transactions conducted at off-market rates. A bank should have internal policies defining what constitutes “market rates” and identify the range of deviation from the benchmark rates which could still be considered as “market rates”. The bank’s monitoring system should be able to alert management of any breaches in the rate tolerance levels and the appropriate action that should be taken. A bank must be able to justify any off-market transaction.

(c) Competent and adequate personnel who are properly supervised

The increased complexity of derivatives activities requires highly skilled staff particularly in the risk-taking, risk

control, and operational functions. Management should regularly review the knowledge, skills and number of people needed to engage in the bank’s derivatives activities. The staff must be appropriately balanced among the different areas involved in derivatives activities such that no area is understaffed in terms of number or skill.

Staff turnover can create serious problems, especially if knowledge is concentrated in a few individuals. The impact of staff turnover can be particularly acute in specialized trading markets where bank traders are in high demand and are often recruited in teams.

To mitigate business continuity and succession risk arising from a high staff turnover, a bank should devise a system of building technical expertise across involved personnel through continuous technical training, periodic rotation and cross-training of staff members performing key functions and developing understudies.

The board of directors should ensure that the power and control delegated to these expert personnel are not abused. Therefore, the board of directors must establish appropriate controls over their activities.

(d) Independent control functions or units

The risk control and audit units should possess the authority, independence, and corporate stature to enable them to identify and report their findings unimpeded by bank traders. It is equally important to employ individuals with sufficient experience and technical expertise to be credible to the business line they monitor and senior executives to whom they report.

2. Audit

Audits should be conducted by qualified professionals who are independent of the business line being audited. Audits should supplement, and

not be a substitute for, risk control function.

The scope of audit coverage should be commensurate with the level of risk and volume of derivatives activity. The audit should include an appraisal of the effectiveness and independence of the bank's risk management process; the adequacy of operations, compliance, accounting and reporting systems; propriety of risk measurement models; and the effectiveness of internal controls. Auditors should test compliance with the bank's policies, including limits.

The level of auditor expertise should be consistent with the level and complexity of activities and degree of risk assumed. A bank may choose to out-source audit coverage to ensure that the professionals performing the work possess sufficient knowledge and experience.

Procedures should be in place to ensure that auditors are informed of

significant changes in product lines, risk management methods, risk limits, operating systems, and internal controls so that the auditors can update their scope and procedures accordingly. Auditors should periodically review and analyze performance and risk management reports to ensure that areas showing significant changes are given appropriate attention.

The audit function must have the support of management and the board of directors in order to be effective. Management should respond promptly to audit findings by investigating identified system and internal control weaknesses and implementing corrective action. Thereafter, management should periodically monitor newly implemented systems and controls to ensure they are working appropriately. The board of directors, or designated committee, should receive reports tracking management's actions to address identified deficiencies.

(As amended by Circular No. 594 dated 08 January 2008)

SALES AND MARKETING GUIDELINES FOR DERIVATIVES
(Appendix to Section X602)

I. General principle

A bank, in dealing with its clients, should always act with honesty, fairness and in pursuance of the best interests of its clients. Due to the complex nature of derivatives and the increasingly sophisticated products introduced into the market, a bank acting as dealer or broker must have appropriate controls and procedures to ensure the suitability of the transactions to its clients. A bank should ensure that (1) a client understands the nature of the transaction and the risks involved and (2) the transaction meets the client's financial objectives and risk tolerance. A bank should also disclose sufficient, accurate and comprehensible information about derivatives products, including inherent risks, in a clear and balanced presentation in order to enable its clients to make informed investment decisions.

These guidelines prescribe the minimum standards for sales and marketing procedures for banks acting as dealers or brokers of derivatives.

II. Client suitability guidelines

A bank should ensure that the derivatives products it offers to a client are appropriate for that client through a client suitability process which involves obtaining client information, classifying a client according to his/its financial sophistication and conducting a suitability review.

a. Client information

A bank, at the inception of a possible business relationship with a client, should obtain from said client information about his/its financial situation, experience, and financial objectives relevant to his/its desired products/ services. A bank should ensure that the clients' risk and return

objectives are clearly identified. This can be done through questionnaires and interviews. A bank may design and use its own system for obtaining client information that would be responsive to its client suitability process.

At a minimum, client information, including client classification, should be reviewed and updated annually or earlier, in cases of material changes in the client's financial situation or goals.

b. Client classification

Based on the information obtained from a client, a bank should be able to ascertain, at a minimum, a client's classification according to financial sophistication as embodied in Section X602 and its Subsections^{1/} and his/its risk tolerance. The client classification should serve as basis for a bank product/service offerings and level of disclosures required.

In dealing with corporate clients, a bank should determine whether the client is specifically authorized to enter into all or specific kinds of derivatives transactions and the person/s authorized to act in its behalf. A bank should also determine if a corporate client has competent/ qualified personnel to handle the proposed derivatives activities. If a corporate client seeks to participate in highly sophisticated/ more complex products, a bank should require the client to incorporate in its board resolution authorizing the latter's derivatives activities that it likewise has appropriate risk management techniques and systems sufficient to manage and monitor the risks it will take.

In determining an individual client's classification, a bank should consider the following:

(1) The client's knowledge and understanding of derivative transactions,

^{1/} A bank, however, may adopt its own sub-classification for its own purposes.

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related investments and the risks involved therein, including the derivatives markets;

(2) The length of time the client has been actively dealing with investment and/or derivative products, the frequency of dealings and the extent to which he has relied on the investment advice of a bank or any financial advisor, if any;

(3) The size and nature of investment transactions that have been undertaken by the client; and

(4) The client’s financial standing, which may include an assessment of his net worth or the value of his portfolio.

A bank must make a record of the classification under which each client is categorized, including sufficient information to support the categorization.

Only banks with Type 1 or 2 authorities may originate or distribute authorized derivatives products to non-sophisticated end-users for investment purposes. Non-sophisticated end-users should be provided greatest protection compared to all other client types.

c. *Suitability review*

Before presenting, proposing or recommending a particular derivatives product to a client, a dealer should determine that the derivatives product is suitable to the client’s financial situation and consistent with the clients’ mandates, financial objectives and constraints.

At a minimum, a bank should consider the following in choosing the derivatives products/ services offerings to its clients:

(1) Investment amount or investible funds;

(2) Concentration ratio (i.e., asset allocation of the client’s investible funds);

(3) Purpose for transacting in derivatives transaction (e.g., hedging vs. investment; long-term buy and hold as opposed to short-term active trading);

(4) Holding period or investment horizon;

(5) Client’s regulatory and legal circumstances;

(6) Liquidity needs;

(7) Returns objectives (e.g., income, growth in principal, maintenance of purchasing power);

(8) Risk tolerance; and

(9) Client’s understanding of the risks.

A bank should maintain a record of all the information as bases of its suitability assessment. It is highly recommended that a bank requires a client to sign its conformity to the suitability assessment (including the information basis of the assessment) in order to avoid disputes with the client on its suitability assessment.

For non-sophisticated clients, a bank should adopt a suitability statement explaining simply and clearly why the product offered is viewed suitable, considering the client’s needs and preferences. To ensure the statement will be effective, a bank should consider the following features:

- *Simple and plain language*: when technical terms need to be incorporated, they should be explained if the client is unlikely to understand their meaning; and

- *Concise and clear messages*: lengthy explanations and extensive statements are likely to reduce the effectiveness of the statement and make the client less likely to read the statement properly.

Ideally, each suitability letter for non-sophisticated will be different, reflecting the approach taken by the bank representative in obtaining client information, the derivatives product presentation, the client’s profile and considerations on which the investment proposal was based, all of which involve professional judgment. A bank, however, can apply a degree of standardization to aid quality control. A bank should clearly

link its proposed or recommended derivatives product to the client's own needs, priorities and attitude toward risk. A bank may mention alternative products suitable for the client. The suitability letter should be signed by the client and the officer authorized by the bank to advise/sell/propose the recommended product.

A bank does not need to comply with the requirement of suitability review in cases where the client is classified as a market counterparty, considering its recognized sophistication. However, a bank should be able to provide sufficient support for its classification.

III. Disclosures

A bank should always be mindful of its statements regarding its products/services, whether the statements pertain to promotion, marketing or sale thereof or in the course of making the required disclosures. A bank must institute measures to ensure that its clients understand the nature and risks in a derivative transaction. These procedures may vary with the sophistication of its client. A bank can tailor-fit information, marketing and sales presentations/materials in accordance with the client classification under Section X602 and its Subsections. A bank should take further steps to adequately disclose the attendant risks of specific types of transactions when dealing with an unsophisticated client, either generally or with respect to a particular derivatives transaction (e.g., non-sophisticated client or sophisticated client with respect to complex product types). A bank should adopt standards for its publications/materials/disclosure statements and review the aforementioned documents regularly to ensure that they meet the standards.

A bank, when providing information to its clients, including potential clients, must not knowingly misrepresent or give a false

impression in any of its advertisements, electronic communications, written materials (whether publicly disseminated or not) or oral representations regarding the financial derivatives offered. A misrepresentation is any statement that deviates from the truth or omits a material fact or even tends to mislead the recipients.

a. *Financial promotion (marketing and sales)*

A bank embarking on a financial promotion, whether through a direct offer or information/sales publications, should ensure it gives sufficient information to enable a client to make an informed assessment of the derivatives transaction, including its underlying. A bank must prominently indicate its name in all its promotional materials and must specify its role or capacity in the transaction (e.g., as issuer, dealer/distributor, broker).

A financial promotion is considered clear, fair and not misleading if all the following requisites are present:

(1) Any statement of fact, promise or prediction is clear, fair and not misleading. A statement should disclose relevant assumptions;

(2) A client, by himself, can discern from the presentation whether the statement is a fact, promise or prediction;

(3) The accuracy of all material statements of fact can be substantiated.

(4) Any comparison or contrast of a product offered should be with another investment intended to meet the same needs or to serve the same purpose. The facts on which any comparison or contrast is made are verified, or alternatively, that relevant assumptions are disclosed. The comparison or contrast should be presented in a fair and balanced way and includes all factors which are relevant to the comparison or contrast.

(5) The design, content or format of any presentation does not disguise, obscure or diminish the significance of any

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statement, warning or other matter which the presentation should contain;

(6) Disclosures on risks and warnings should not be less prominent than any other information on performance;

(7) No reference to an approval by a regulatory body or its officials shall be made, unless a written approval was actually obtained;

(8) A recommendation to consult/refer to a financial advisor, if the client has doubts on suitability of derivatives product; and

(9) It does not omit any information, the omission of which causes a material fact to be misleading, unclear, or unfair.

A bank should consider the client's knowledge of the transaction to which a given information relates. A bank should not assume that clients/recipients necessarily have an understanding of the derivatives product being promoted. A bank should assess its usage of terms, especially those which are technical. If promotional or marketing materials are specially designed for a targeted client base reasonably believed to have particular knowledge of the investment, this should be made clear in the materials.

b. Product disclosures

A bank must endeavor to explain the derivatives products it offers to its clients to enable the latter make an informed investment decision. Product disclosures should present an adequate description of at least (a) the nature of the derivatives product, including the underlying, (b) the amount of investment required and (c) the risks involved. The adequacy of description depends on the target client classification and type of product offered. In general, disclosure should always be presented in a balanced manner where the potential benefits of an investment are tempered by a fair indication of the risks involved.

A product disclosure, which includes an illustration of past or future performance

of the derivatives product or its underlying, must comply with the following:

(1) When using past performance of a derivatives instrument, or its underlying, to illustrate possible returns, the disclosure should state that past performance is not necessarily indicative of future performance. This should be presented in the main text of presentation material. Past performance must be culled from a sufficient time frame to provide a fair and balanced indication of performance; and

(2) When using any forecast on the economy, stock market, bond market and economic trends of markets, the disclosure should state that such forecast is not necessarily indicative of the likely or future performance of the instrument; and

(3) Illustrations of returns should include worst case scenarios (i.e., not just the likely or best scenarios). Benefits shown in headline rates (pro-forma returns highlighted) should be realistic and achievable, and not based on unreasonably optimistic view of events.

Product disclosures for derivatives products with some form of guarantee or protection must highlight which benefits are guaranteed/protected and those which are not. In case of structured deposit products, a bank must ensure that any representation or claim of PDIC guarantee should have been pre-cleared with the PDIC. In instances where the guarantee or protection involves a cost to the client, the bank must disclose the fee or charge for the same. A bank should also disclose the counterparty (e.g., issuer/guarantor) risk involved to clients so that they are not misled about the capital security/principal protection. A bank, when applicable, should state if the guaranteed or protected amount is payable only at the end of the term.

Product disclosures for leverage products/transactions²¹ should emphasize that while these types of products/

²¹ Leverage or gearing can be employed in structured product to be able to offer high yields.

strategies amplify the potential gain from an investment, they also increase the potential loss thereof. A client who intends to engage in margin buying, a means of applying leverage in investing, must be cautioned on possible loss exceeding the margin or initial cash outlay.

c. Minimum required disclosures

The minimum required disclosure should always be in writing. Except for a market counterparty, a bank should require its client to sign or initial the disclosure statement as affirmation of the client's receipt and understanding of the disclosure statement. A bank may opt to draft individual and separate suitability assessment and disclosure statement to its client or consolidate the same into a separate document or incorporate these with the main derivatives transaction agreement/ contract.

Product-specific minimum disclosures should include:

- (1) The nature of the derivatives product, including the underlying financial instruments and how these instruments work;
- (2) Investment horizon or tenor of financial derivatives;
- (3) Fees and charges, whether embedded in the structure or not;
- (4) Details on the issuing entity in case the dealing bank is not the issuing institution, (i.e., the bank acts as a broker/dealer, market maker);
- (5) Returns or benefits likely to be derived from the instrument, the amount and timing thereof and whether the benefits are guaranteed or not;
- (6) All risk factors that may result in the client receiving returns less than the illustrated returns and factors affecting the recoverable amount by the client;
- (7) Details of conflicts of interest, if any;
- (8) All termination clauses, when appropriate, including charges and restrictions³⁾;

(9) Any warning, exclusion or disclaimer in relation to the product, including, but not limited, to the following:

(a) The derivatives products carry higher risks than those associated with ordinary bank savings or time deposits;

(b) The transactions are risky and may not be appropriate if client is not willing or able to accept the risk of adverse movements in the underlying securities/reference rates;

(c) Past performance of the underlying reference is not a guarantee of future performance.

(d) When applicable, a bank should draw the attention of the client to the following:

(i) The effect of early redemption of a product on the return (e.g., penalties and a poor return);

(ii) The availability of maximum benefit advertised after a specified period; and

(iii) The pre-requisite conditions for the advertised growth rate of income.

Complex products (i.e., those outside the enumeration of instruments under Subsection X602.1 (a)(2) must carry a standard warning that they are not suitable for all clients, and are intended for experienced and sophisticated investors. Complex products should carry appropriate warnings on the high economic risks of complex derivatives transaction, such as

(1) Loss of all or a substantial portion of the investment due to leveraging or other sophisticated practices;

(2) Volatility of returns;

(3) Lack of liquidity considering that there may be no secondary market for the instrument;

(4) Restrictions on transferring interests; and

(5) Absence of information regarding valuation and pricing.

Appendix 26a contains a sample disclosure statement which a bank may adopt in accordance with the features of the derivatives product offered.

³⁾ For instance, for a structured deposit, the bank should ensure that the customer is fully aware of the tenor of the deposit and that the principal amount is only guaranteed if held to maturity.

IV. Sales and marketing personnel

Any informational or promotional presentation regarding derivatives products should be undertaken only by personnel who are knowledgeable on derivatives products involved. A bank, in assessing its personnel’s knowledge in derivatives transactions, may consider the personnel’s educational background, relevant training, professional experience in rendering investment advice, making presentations regarding derivatives products or assessing the propriety of investment products for a client. Personnel involved in derivatives transactions must likewise be familiar with all relevant laws, applicable rules and regulations and must ensure compliance therewith.

At a minimum, a bank should establish qualification standards for personnel

involved in derivatives activities as well as comply with certification requirements prescribed by existing securities laws, rules and regulations. In addition, a bank should implement, and maintain a reasonably comprehensive system of training of personnel geared at enhancing technical knowledge of its personnel to enable them to understand, explain the nature and risks of a bank’s derivatives products and ensure client suitability.

The bank’s board of directors and senior management^{4\} shall be liable to its clients for the acts performed and representations made by sales and marketing personnel in their official capacity. Notwithstanding the foregoing, a bank’s board of directors and senior management are not precluded from filing the necessary action against the erring sales and marketing personnel.

^{4\} For purposes of this appendix, senior management shall comprehend officers starting from the level of the president down to the level of vice presidents.

SAMPLE RISK DISCLOSURE STATEMENT FOR DERIVATIVES ACTIVITIES
[Appendix to Section X611 (2008 - X602)]

While derivatives instruments are utilized for hedging or managing investment risk, derivatives instruments themselves involve a variety of significant risks. Considering the complexity of derivatives products, these products are generally unsuitable for non-sophisticated investors.

You should not deal in derivatives products unless you understand their nature and the extent of your exposure to the attendant risks. And even assuming that you understand derivatives transactions, you should not deal with the same unless the product is suitable for you in the light of your circumstances, experience, financial position and operational resources.

As in any financial transaction, you should ensure that you understand and comply with the regulatory requirements applicable to you and/or limitations set by your board of directors or other governing body. You should also consider the legal, tax and accounting implications of entering into any derivatives transaction.

This product generally carries higher risks than those associated with ordinary bank investments and therefore not a suitable substitute for savings or time deposits. These transactions are risky and may not be appropriate if you are not willing or able to accept the risk of adverse movements in the underlying securities/reference rates.

This transaction does not guarantee a yield, return or income. Past performance of the reference rate or similar instruments is not a guarantee of future performance. The income from the transaction may or may not fluctuate depending on prevailing market conditions.

(A bank need not adopt all the following enumerated statements. It only has to incorporate those statements that may be applicable to the derivatives products or transactions)

- This transaction may be used for hedging purposes. If you are entering into the transaction for hedging purposes, this product may not match your exposure perfectly. You may be under or over hedged or may be subject to other exposures as a result of the transaction.*
- These are over-the-counter derivatives which may pose liquidity risks to you. These are generally not liquid because there is no exchange or secondary trading market through which you can dispose the derivative. Bid and offer prices for these instrument may not be quoted. Bid and offer quotes, if any, are established by the dealers in the instruments and consequently fair price may be difficult to establish.*
- While you may terminate this transaction prior to the specified termination date, the cost of early termination may be substantial. Pre-termination may reduce the expected return or the investment amount, even in the case of principal protected structured products.*

Product specific disclosures:

- This transaction can be subject to the risk of loss of the entire principal/notional amount of the transaction. You may lose some or all of your investment.*
- (For principal protected structured products) While the principal for structured deposits may be protected and carries PDIC guarantee, returns are variable and are often contingent on the performance of complex financial instruments that an average customer may not fully understand. There is still a potential loss of the principal amount invested if the structured deposit is not held to maturity, i.e. there is an early redemption fee.*
- (For leveraged products/ transactions) if the derivatives transactions require you to put up a margin, you may sustain a loss of the entire margin you deposited with the*

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bank to establish or maintain your position. If the market moves against you (i.e., unfavorably), you may even be called upon to pay additional margin (known as margin call) at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss and you will be responsible for the resulting deficit.

- (For non-readily realizable investments) You may have difficulty selling this investment at a reasonable price and, in some circumstances, it may be difficult to sell it at any price. Do not invest in this unless you have carefully thought about whether you can afford it and whether it is right for you.
- These instruments often involve a high degree of gearing or leverage, so that a relatively small movement in the price of the underlying asset or variable can result in a much larger movement, unfavorable or favorable, in the price of the instrument. The price of the instrument can therefore be volatile
- In buying options, the maximum loss can be limited to the premium (plus any commission or transaction charges) when the price of the underlying asset moves against you because you can simply allow the option to lapse. However, if you buy a call option on another derivatives instrument, e.g., futures contract, the exercise of the option may expose you to the risks for that particular derivatives.
- If you write an option, the risks are considerably greater. You may be liable for margin (i.e., minimum level of collateral) to maintain your position and a loss may be

sustained well in excess of the premium received. By writing an option, you are accepting a legal obligation to purchase or sell the underlying asset if the option is exercised against you, however far the exercise price may have moved from the market price of the underlying asset. If you already own the underlying asset (known as covered call option), the risk is reduced. However, if you do not own the underlying asset, the risk can be unlimited. Only experienced persons should contemplate writing uncovered options, and then only after securing full details of the applicable conditions and potential risk exposure.

Any scenario analysis is being provided for illustrative purposes only. It does not represent actual prices that may be available to you. It does not present all possible outcomes or describe all factors that may affect the value of the transaction.

No advice on investments has been given. If you have any doubt about the suitability of the product, you should contact a financial advisor or carefully consider whether the product is suitable for you.

In entering into any derivatives activity with or arranged by us, you should understand that we are not acting in the capacity of your financial adviser due to the inherent conflicts of interest in simultaneously acting as dealer and financial adviser. Notwithstanding the conflict of interest, we may act as your financial adviser only if you have so agreed in writing and only to the extent so provided.

THIS STATEMENT DOES NOT PURPORT TO DISCLOSE ALL OF THE RISKS OR RELEVANT CONSIDERATIONS IN ENTERING INTO DERIVATIVES TRANSACTIONS. YOU SHOULD REFRAIN FROM ENTERING INTO ANY SUCH ACTIVITY UNLESS YOU FULLY UNDERSTAND ALL SUCH RISKS AND HAVE INDEPENDENTLY DETERMINED THAT THE ACTIVITY IS SUITABLE FOR YOU.

(Name of Bank)

I/We have read and understood the risk warning set out above.

Date

(Signature of Customer)

(As amended by Circular 594 dated 08 January 2008)

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(RESERVED)

CLEARING PROCEDURES
[Appendix to Sec. X205 (2008 - X603)]

a. Clearing regulations in general

(1) *Time and place of exchanges.* The clearing of checks, bills and other demand items herein contemplated shall be conducted in the BSP-designated clearing centers. The hour for making such exchanges shall be at 4:00 P.M. on each business day as well as on all local holidays in the clearing centers and/or at such other times as may be fixed by the BSP.

(2) *Settling clerks.* The head office of each bank, together with all its branches within the designated clearing areas, shall be considered as a unit and shall be represented by one (1) or more [but not exceeding six(6)] competent clerks/representatives to deliver and receive the items to be exchanged. The facsimile signatures and NBI clearances of these clerks/representatives shall be submitted to the Accounting Department. All settling clerks/representatives shall be issued their respective ID cards which shall be presented for admission in the clearing office or regional units.

(3) *Items for clearing.* All checks and documents payable on demand and drawn against a bank/branch allowed to clear may be exchanged through clearing centers designated by the BSP. As evidence of the channel through which they were negotiated, all items to be exchanged shall be properly endorsed and guaranteed before being sent to the Clearing Office/Unit and shall bear the name of the bank/branch, institution or entity to which they belong. Likewise, they shall be impressed by the sending bank/branch, institution or entity with a special stamp to the effect that they have been cleared through the clearing facilities of the BSP. The Clearing Office/Unit of the BSP shall in no way be

responsible for any flaw or defect in the items or for any irregularity whatsoever in any of their features.

(4) *Clearing procedures.*

(a) *Procedure for regular clearing.* Each bank/branch through its representative/s, shall deliver their respective demands in sealed envelopes made out separately against the other banks/branches, institutions or entities allowed to clear: *Provided,* That Negotiable Orders of Withdrawal shall be contained in an envelope exclusively for the purpose: *Provided, further,* That the BSP may, at its discretion, verify the contents of sealed envelopes. The total of each demand shall be listed in a certified adding machine tape attached to the sealed envelope. In the acknowledgment of receipt of the demands against the bank/branch, institution or entity he represents, the settling clerk concerned shall prepare and sign a Clearing Office Statement (Clearing Form No. 4) in duplicate for local clearing. The original and duplicate of the statement shall be submitted to the clearing office in Manila or the regional clearing centers. The original shall be retained and shall be the basis for settlement of clearing balances in the respective deposit accounts with the BSP. The duplicate, duly authenticated by the Manila or the Regional Clearing Officer concerned, shall be returned to the bank/branch, institution or entity concerned through their clearing representatives. The duplicate shall be the basis of each bank/branch, institution or entity for taking up corresponding entries in their respective books of accounts on the date of clearing.

For out-of-town clearing, the Clearing Office Statement (Clearing Form No. 4-A) shall be prepared in quadruplicate for

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authentication by the Clearing Officer who retains one copy. The third copy shall be returned to the sending bank/branch, institution or entity coursed through their respective clearing representatives. The original and duplicate shall be shipped to, or retained in, the Manila Clearing Office as the case may be.

Out-of-town demands presented in a clearing center against a bank without any branch in that particular clearing area shall be delivered to the Clearing Officer who shall prepare a debit advice (Clearing Form No. 4-B) for the Head Office of the drawee bank/branch concerned in the Manila clearing area.

In the acknowledgement of receipt of out-of-town demands, the duplicate of the Clearing Office Statement and/or the original of the debit advice/s, the settling clerks of respective drawee banks/branches in each clearing center shall sign the shipping manifest. These clearing office statements and/or the debit advice/s shall serve as bases for the Head Offices in the Manila clearing area to record the result of out-of-town exchanges in their books on the date of receipt.

Clearing operations between regional clearing centers and the Manila Clearing Center is shown in *Appendix 28a* (Tarlac, Tarlac used as sample).

(b) *Procedure for special clearing.* Demands may be presented directly to the drawee banks/branches concerned at times other than that specified in Item a. For this purpose, the Special Clearing Receipt (Cash Form No. 10) shall be used. The original and duplicate copies of the receipt shall be retained by the sending bank/branch, and the triplicate shall be delivered to the drawee bank/branch. At the following clearing season, the original of the Special Clearing Receipt shall be presented as a demand against the bank/branch, institution or entity concerned. Nothing in this section shall prevent direct settlement between the parties concerned.

(c) *Procedure for returned items.* Items which should be returned for any reason whatsoever shall be presented not later than the next regular clearing for local exchanges. Out-of-town exchanges shall be returned within the period specified in the Memorandum to Authorized Agent Banks announcing the opening of clearing facilities in each of the authorized regional clearing centers. Items for return shall be sealed in special red envelopes and shall be considered and accounted for as debits to the demanding banks/branches, and credits to the returning banks/branches. Nothing in this paragraph shall prevent direct settlement of returned items between the parties concerned.

Mis-sorts or items misdirected through clearing shall be returned at the next clearing session in special yellow envelopes and shall be accounted for as debits to the bank/branch which had misdirected the items.

(d) *Procedure for excluded member(s).* In case any bank/branch is excluded from clearing on any day on account of tardiness or absence, value shall be given to the deliveries of the others present for credit to their accounts in accordance with normal settling procedures. The total of said deliveries shall be debited to the account of the excluded bank/branch. The bank/branch excluded from clearing shall, as heretofore, send its representative to the Clearing Office /Unit to prepare the clearing statement and accept deliveries on it. In case of failure to send its representative, the Clearing Office /Unit shall, in the meantime, receive such deliveries which should be picked up by the excluded bank/branch not later than 5:30 p.m. on the same day.

In the event of a strike or force majeure which prevents a bank/branch allowed to clear from having access to its representative records or otherwise ascertaining whether checks delivered to its representatives shall be honored or returned, notice of such circumstances shall immediately be given

to the BSP Clearing Office/Unit. In such cases, items drawn against the bank/branch concerned shall not be presented for clearing.

(5) *Loss of clearing items.* Any loss or damage arising from theft, pilferage, or other causes affecting items in transit shall be for the account of the sending bank/branch concerned.

b. **Inter-regional clearing operations in Visayas and Mindanao.** Inter-regional clearing operations shall be conducted in Visayas and Mindanao through the facilities of BSP Regional Clearing Units. Checks received by banks/branches in one clearing area against banks/branches located in the other clearing areas may be presented for clearing in accordance with these rules.

(1) *Items for clearing.* Items for clearing shall consist of demand items consisting of checks and/or other documents drawn against banks/branches located in each of the clearing areas.

The special brown envelope for demands against banks located in the four (4) regional clearing centers shall bear one (1) inch stripe on the left side according to the following color scheme:

<u>Regional Clearing Unit</u>	<u>Color</u>
Dumaguete	Brown
General Santos	Pink
Ozamis	Orange
Surigao	Black

The color code of clearing envelopes for other regional clearing centers invoiced in inter-regional clearing as specified in Circular Letter dated 20 September 1978, shall continue to be observed.

(2) *Settlement of clearing balances.* Clearing balances of participating banks/branches shall be debited or credited, as the case may be, to the clearing accounts of their respective head offices in Manila in the

afternoon of the same date the demands are presented for clearing.

(3) *Miscellaneous provisions.* Checks for inter-regional clearing shall be sealed in special brown envelope measuring 7" x 1" with the destination "*To Cebu*" or "*To Zamboanga*", etc., as the case may be, properly stated in bold letters of not less than one (1) inch. The left side of the envelope shall bear one (1) inch stripe according to the following color scheme:

<u>Regional Clearing Unit</u>	<u>Color</u>
Bacolod	Green
Cagayan de Oro	White
Cebu	Blue
Davao	Red
Iloilo	Violet
Tacloban	Royal Blue
Zamboanga	Gray

All participating banks shall keep photo copies/microfilms of checks presented for clearing.

Any loss or damage arising from theft, pilferage, or other causes affecting items in transit shall be for the account of the sending bank/branch concerned.

(4) *Guidelines for inter-regional clearing*

(a) For an orderly process of exchanges, each bank/branch representative shall deposit the demand envelopes against drawee banks/branches located in other regional clearing areas in the respective compartments assigned to each of the participating banks/branches.

(b) The bank/branch representative shall sort the demand envelope received according to destination. Amount of demands shall be posted as Debits (Items Received) in their respective Clearing Statements (Clearing Form 4-A) to be prepared in four (4) copies for distribution as follows:

Original Sending Clearing Unit
Duplicate Sending Bank/Branch

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Triplicate Head Office of Drawee Bank/Branch
Quadruplicate . . Drawee Bank/Branch

(c) The Regional Clearing Officer shall sort according to bank/branch and destination the demand envelopes delivered for the account of banks without branches in his clearing area. Corresponding Debit Statement (Clearing Form 4-B) shall be prepared in three (3) copies for distribution as follows:

Original Head Office of Drawee Bank/Branch
Duplicate. Drawee Bank/Branch
Triplicate Sending BSP Clearing Unit

(d) The quadruplicate of the Clearing Statements and duplicate of the Debit Statements shall be attached to the demand envelopes for shipment to the Regional Clearing Units concerned. In acknowledgment of receipt of inter-regional demands, clearing representatives of respective bank/branch at destination shall sign the covering manifest (in duplicate). The original shall be returned to the sending clearing unit.

(e) In the Regional Clearing Unit where the demands are presented, a Clearing Advice (Form 4-B(a)) shall be prepared for inter-regional as well as local and out-of-town (Manila) clearing results reflected in clearing statements and debit statements. After the 9:00 A.M. clearing session, the results of the inter-regional clearing transactions shall be posted in the Clearing Advice, striking a sub-total to determine that it is in balance. In the same Clearing Advice, the results of local and "on Manila" clearing shall be posted after the 4:00 p.m. session to complete the transactions for the day.

The original of the clearing advice shall be sent to the Head Office of the Drawee Bank Division, Manila, bound together with:

- (1) The duplicate of the local and out-of-town (Manila) clearing statements;
- (2) Triplicate of inter-regional clearing statements;
- (3) The original of the debit statements; and
- (4) The demand envelopes containing "on Manila" checks/returns.

The Clearing Advice shall be the basis for entries in the books of accounts of the bank Head Offices concerned. The duplicate of the Clearing Advice shall be forwarded to the Drawee Bank/Branch while the third copy shall be retained as office file of the Regional Clearing Unit.

(f) The daily results of both local, out-of-town (Manila) and inter-regional clearing shall be summarized in the consolidated clearing proof sheet. For purposes of transmission to the Head Office through the DEX machine, the results of clearing as reflected in the consolidated proof sheet shall be condensed in Clearing Form 4-C (a). Any exception or observation which required immediate attention shall be explained in the memorandum portion.

(g) All Regional Clearing Officers shall acknowledge receipt of all incoming pouches and/or shall give notice of delay/non-arrival of pouch/es or other exception/s to the sending clearing unit concerned on the Confirmation Slip not later than the following business day. If for any reason, clearing is suspended or there is no demand against any of the other clearing unit and as no pouch will be send to all or any of the clearing units, the Confirmation Slip, which shall be placed in an envelope properly addressed to the clearing unit concerned and duly marked in bold letters "CONFIRMATION SLIP FOR IMMEDIATE TRANSMITTAL TO ADDRESSEE", shall be sent through the pouch to Manila. A duplicate of the Confirmation Slip for the file of the Clearing Operations Division, Manila Office shall be stapled to the envelope.

(h) All shipments of pouches shall be accompanied by a check and manifest which shall be properly acknowledged by the receiving clearing unit. A separate transmittal letter shall be prepared in duplicate for all communications addressed to other departments which are sent through the general-purpose pouch under the responsibility of the Administrative Department, Manila. The original shall be properly marked "*for the Communications Center*" while the duplicate shall be returned to the sending Regional Clearing Unit with the acknowledgment of the personnel in-charge of opening the pouch in the Communications Center.

(i) All clearing pouches arriving late in the afternoon and in the evening may be picked up from the airport in the morning of the following day for delivery to the drawee bank at 9:00 A.M. clearing session. For security reasons, those arriving on Friday night shall be picked up on Saturday morning.

c. **Treasury warrants.** Types "A" and "B" treasury warrants in Manila and in areas served by the BSP Regional Clearing Offices are governed by the following rules issued by the National Treasurer:

(1) *Effectivity.* Types "A" and "B" treasury warrants shall be accepted as clearing items for regional clearing in areas served by the BSP Regional Clearing Offices. The branches or agencies of banks may avail of this facility of the BSP by following the procedures prescribed hereunder. These treasury warrants shall be carried in the BSP pouches from their regional offices to Manila.

(2) *Treatment of Types "A" and "B" treasury warrants.* Types "A" and "B" treasury warrants with circular holes already punched at the designated field by the bank branches or agencies in accordance with Treasury Circular dated 7 July 1969 shall be placed in separate sealed envelopes or

packages, together with their respective run-up tapes. The outside of the envelopes must clearly indicate the type of treasury warrants contained therein, the number of pieces, and the total amount per tape. When the pouch is received in Manila, these envelopes or packages shall be turned over by the BSP unopened to the representative of the sending bank's Manila office. The Manila office of a bank shall gather all treasury warrants it receives from its various branches and agencies in a single day, and submit them to the Bureau of Treasury for special clearing on the next day. The treasury warrants must be endorsed by the Manila office, stating, among other things, the date of clearing and that they are being presented for special clearing.

These treasury warrants, as well as those paid at the main offices and suburban branches or agencies of banks shall be presented to the Bureau of Treasury by the banks concerned between the hours of 8:00 A.M. and 10:00 A.M. during banking days, supported by run-up tapes and the usual clearing receipt. The special clearing receipt may be cleared on the same day through the BSP Clearing House and shall be accounted as debit against the demand of the National Treasurer.

(3) *Period within which treasury warrants may be dishonored.* The Bureau of Treasury (BTr) may dishonor a Type "B" treasury warrant found defective within (2) working days, while Type "A" treasury warrants may be dishonored within sixty (60) working days. In both cases, the period shall be reckoned from the date the special clearing receipt is coursed through the BSP.

The foregoing time limit will not apply to treasury warrants found to have been paid to the wrong party, tampered, and otherwise tainted with fraud.

(4) *Dishonored, miscleared and other returnable items.* These items will be returned directly to the presenting bank. The

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accepting bank shall issue the corresponding credit ticket in favor of the BTr, which ticket shall be cleared by the BTr through the BSP.

If the bank to which a treasury warrant is dishonored, refuses to accept or recognize the action taken by the BTr for a valid reason, the bank may return the controversial items, or evidences thereof, directly to the National Treasurer, together with required run-up tapes and a concise but comprehensive statement of such reason. The return must be made not later than 10:00 A.M. on the next banking day, otherwise the member bank shall be deemed to have accepted and recognized the validity of the returned item, and it is therefore, left without further recourse. The BTr shall issue the corresponding credit ticket for those returned items accepted, and the same shall be taken up in the manner set forth above.

(5) *Compliance.* Banks participating in the BTr special clearing operations bind themselves to conform, without reservation, to the regulations promulgated herein, or which may henceforth be promulgated relative to special clearing operations. Any bank has the option to present their paid treasury warrants to the National Treasurer for collection.

(6) *Bangko Sentral responsibility.* Any treasury warrant lost or pilfered from the BSP pouch shall be the responsibility of the sending bank, and such responsibility ends only after the National Treasurer has taken physical possession of the treasury warrants. Lost or pilfered treasury warrants must be reported to the National Treasurer in accordance with Treasury Memorandum Circular No. 13-69 dated 01 October 1969.

d. Handling of checks drawn against out-of-town accounts. The following regulations shall govern the handling of checks drawn against demand deposits maintained in out-of-town banks:

(1) The bank which accepted for deposit/collection a check drawn against a demand deposit maintained in an out-of-town bank must send the same for collection within twenty-four (24) hours (non-regular banking days excluded) counted from the time of its receipt. Sending the check for collection means sending it directly to the drawee bank or thru the collecting bank's branch, agency or extension office/correspondent bank/collecting, agent in or near the locality to the drawee bank by registered mail with return receipt or by other equivalent means. Checks drawn against drawee banks located in places where the BSP maintains clearing offices shall be cleared directly with the said clearing offices.

(2) Upon receipt of a check from the collecting bank, the drawee bank carrying the demand deposit against which the check is drawn (if cleared through means other than the clearing facilities of the BSP), must indicate the date and time of receipt of the check on the registered mail return receipt, if the item is sent by registered mail, or on the duplicate copy of the collecting bank's letter of instruction, if the item is sent through means other than by registered mail.

(3) The drawee bank should maintain a register of all checks received for settlement which should be separate and distinct from the register of incoming mails or messages. This register must indicate in chronological order all checks received for settlement with information such as, but not limited to, the date and time the check was received, the name and address of the collecting bank, the current account number against which check is drawn, the date and amount of the check and the date the proceeds thereof were remitted or the date the check was returned, as the case may be.

(4) The drawee bank or office carrying the demand deposit against which the check is drawn must dispose of such item within twenty-four (24) hours (non-regular banking

days of the drawee bank excluded) counted from the time it received the check. Disposing of such item means remitting the proceeds to the collecting bank if the check is honored, or returning the check with the reason for the return, in the event of dishonor.

(5) The date of disposition of the check shall be determined by the date of mailing of the instrument of payment, say demand

draft, or date or dispatch of telegraphic transfer, if the check is honored, or by the date of mailing of the return slip attached to the item, if it is dishonored.

(6) All checks received for payment but not acted upon at the end of the day must be recorded by the drawee bank on the same day as part of its contingent account *Inward Bills for Collection*.

CLEARING OPERATIONS BETWEEN REGIONAL CLEARING CENTER
AND THE MANILA CLEARING CENTER
(Tarlac, Tarlac Used as Sample)
[Appendix to Subsec. X205 (2008 - X603)]

Exchanges of clearing items among branches of commercial and thrift banks in Tarlac, Tarlac, will be conducted at 4:00 P.M. on each business day as well as on all local holidays in the premises of the Tarlac Regional Clearing Unit in accordance with the clearing regulations embodied in *Appendix 28*.

Simultaneously, “On Tarlac” checks and “On Manila” checks may be presented for clearing through the Manila Clearing Office and the Tarlac Regional Clearing Unit, respectively.

In Manila

4:00 P.M. - Manila banks deliver “On Tarlac” checks and dishonored “On Manila” checks picked up at 4:00 P.M. of the previous day.

- Manila banks pick-up “On Manila” checks and returned “On Tarlac” checks delivered at 4:00 P.M. at Tarlac the previous day.

In Tarlac

4:00 P.M. - Tarlac banks deliver “On Manila” checks and dishonored “On Tarlac” checks picked up at 4:00 P.M. of the previous day.

- Tarlac banks pick up “On Tarlac” checks and returned “On Manila” checks delivered at 4:00 P.M. at Manila the previous day.

If not returned on schedule, it is understood that “On Tarlac” and “On Manila” checks delivered to the Manila Clearing Office and Tarlac Regional Clearing Unit, respectively, will be considered “good” after 4:00 P.M. on the third business day following the date of delivery.

Items for Clearing

Items for clearing shall consist of checks and documents payable on demand and drawn against banks in Manila and its suburbs (Quezon City, Pasay City, Kalookan City, San Juan City, Mandaluyong City, Makati City, Parañaque City, Navotas City, Malabon City, Marikina City and Pasig City) on one hand and banks in Tarlac, Tarlac on the other.

Settlement of Balances

Clearing balances of participating banks in Tarlac, Tarlac, shall be debited or credited, as the case may be, to the clearing accounts of their respective head offices with the Bangko Sentral in the afternoon of the date of clearing.

Miscellaneous

Out-of-town checks shall be sealed in special brown envelope measuring 7” x 11” with the destination “To Tarlac” or “ To Manila”, as the case may be, properly stamped in bold letters of not less than one (1) inch and three (3) orange stripes, 1/1” wide on the right edge.

Banks shall microfilm all out-of-town checks.

PROCEDURES ON COLLECTION OF FINES FROM BANKS
[Appendix to Subsec. X902.1 (2008 - X609.1)]

For uniform implementation of the regulations on collection of fines from banks, the following procedures shall be observed:

1. The department or office imposing the fine shall furnish the Comptrollership Department a copy of its notice to the bank for the fines imposed indicating therein the date said notice was received by the bank. This shall serve as basis for entries to *Accounts Receivable* and debit against the bank's demand deposit account after the lapse of fifteen (15) days.

2. In the case of fines which the department/office concerned requests the Comptrollership Department to bill the bank, the date the bill sent by the Comptrollership Department is received by

the bank shall serve as basis for entries to *Accounts Receivable* and debit against the bank's demand deposit account after the lapse of fifteen (15) days.

3. If the fine is not paid voluntarily within the 15-day period, the Comptrollership Department shall debit the demand deposit account of the bank, provided, the balance of said demand deposit account is sufficient to cover the fines due. Fines that cannot be debited against the bank's demand deposit account due to insufficiency of balance shall be reported by the Comptrollership Department to the department/office concerned which shall then recommend the appropriate sanctions against the bank, its directors and/or officers.

PREScribed FORMAT
MEMORANDUM OF UNDERSTANDING
[Appendix to Subsec. X111.3 (2008 - X106.3)]

_____(Name of Bank)_____ and the Bangko Sentral ng Pilipinas (BSP) wish to protect the interest of the depositors, creditors, shareholders and the public in general and toward that end, wish the Bank to operate safely and soundly and in accordance with all applicable banking laws, rules and regulations.

In consideration of the above premise, the BSP, through its authorized deputies, and the Bank, by and through its duly elected Board of Directors (Board), do hereby agree that the Bank shall at all times operate in compliance with the articles of this Memorandum of Understanding.

ACTION PLAN

Within thirty (30) days, the Board shall adopt and implement a capital restoration plan detailing the Board’s perception of what needs to be done to improve the Bank’s capital position, specifying how the Board will implement the plan and setting forth a timetable for the implementation of the plan.

Upon completion of the plan, the Bank shall submit the plan to the appropriate supervising and examining department of the BSP for review. The Board shall establish appropriate procedures for the implementation of the plan.

In the event the BSP recommends changes to the action plan, the Board shall immediately incorporate those changes into the plan.

The plan shall be implemented pursuant to the time frames set forth within the plan unless events dictate modifications to the plan are required. Where the Board considers modifications appropriate, those modifications shall be submitted to the BSP for approval.

CAPITAL PROGRAM

The Bank shall achieve by _____ (date)_____ and thereafter maintain the following capital levels:

- a. At least equal to ten percent (10%) of its risk assets;
- b. At least equal to the following amounts (in million pesos):

	Existing Requirements	Compliance Period		
		12/24/98	12/31/99	12/31/2000
Expanded KBs	3,500	4,500	4,950	5,400
Non-Expanded KBs	1,625	2,000	2,400	2,800

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	Existing Requirements	12/24/98	Compliance 12/31/99	Period 12/31/2000
Thrift Banks				
Within Metro Manila	200	250	325	400
Outside Metro Manila	40	40	52	64
Rural Banks				
Within Metro Manila	20	20	26	32
Cities of Cebu & Davao	10	10	13	16
1st/2nd/3rd class cities & 1st class municipalities	5	5	6.5	8
4th/5th/6th class cities & 2nd/ 3rd/4th class municipalities	3	3	3.9	4.8
5th/6th class municipalities	2	2	2.6	3.2

Within thirty (30) days, the Board shall develop a three (3)-year capital build-up program. The program shall include, as may be necessary:

- (a) Specific plans for the maintenance of adequate capital that should not be less than the requirements stated above;
- (b) Projections for growth and capital requirements based upon a detailed analysis of the Bank’s assets, liabilities, earnings, fixed assets and off-balance sheet activities;
- (c) Projections of sources and timing of additional capital to meet the Bank’s current and future needs;
- (d) The primary source(s) from which the Bank will strengthen its capital structure to meet the Bank’s needs; and
- (e) Contingency plans that identify alternative methods should the primary source(s) be not available.

COMPLIANCE/PROGRESS REPORTS

The Compliance Officer shall be responsible for monitoring and coordinating the Bank’s adherence to the provisions of this Memorandum of Understanding. The Compliance Officer shall submit a written progress report to the Board on a (Monthly/Quarterly) basis setting forth in detail:

- a. Actions taken to comply with each article of this Memorandum; and
- b. The results of those actions

The Board shall submit (monthly/quarterly) progress reports to the appropriate supervising and examining department of the BSP containing the abovementioned details.

FORMAL AGREEMENT

Although the Board has by this Memorandum of Understanding consented to submit certain proposed actions and programs for the review and approval of the BSP, the Board has the ultimate responsibility for proper and sound management of the Bank.

It is expressly and clearly understood that if, at any time, BSP deems it appropriate in fulfilling the responsibilities placed upon it by laws of the Republic of the Philippines to

undertake any action affecting the Bank, nothing in this Memorandum of Understanding shall in any way inhibit, estop, bar, or otherwise prevent it from so doing.

Any time requirements specified in this Memorandum of Understanding shall begin from the effective date of this Memorandum. Such time requirements may be extended by the BSP for good cause upon written application of the Board.

This Memorandum of Understanding shall be effective upon execution by the parties hereto, and its provisions shall continue in full force and effect until such time as they shall be amended by mutual consent of the parties to this Memorandum or excepted, waived, terminated by BSP.

IN TESTIMONY WHEREOF, the undersigned has hereunto set his hand this_____ day of _____ at the City of _____, Philippines.

BANGKO SENTRAL NG PILIPINAS

Authorized Deputy

Deputy Governor-SES

BANK

President

Chairman of the Board

SIGNED IN THE PRESENCE OF:

(Witness)

(Witness)

**IMPLEMENTING GUIDELINES FOR THRIFT BANKS AUTHORIZED TO ACCEPT
DEMAND DEPOSITS AND RURAL BANKS WHO ARE MEMBERS OF THE
PHILIPPINE CLEARING HOUSE CORPORATION**
(Appendix to Items "c" and "d" of Sections 2205 and 3205)

Sec. 1. Requirements for Thrift Banks Migrating from NOW and Conduit Arrangements and Rural Banks Who are Members of the Philippine Clearing House Corporation:

a. TBs migrating from NOW and conduit arrangements and RB members of the PCHC shall secure a Bank Routing Symbol Transit Number (BRSTN) with PCHC.

b. TBs and RB members shall secure prior authority to participate directly in the PCHC and BSP clearing operations with the appropriate department of the SES.

Sec. 2. Requirements for Thrift Banks and Rural Banks Who are Members of PCHC

TBs/RBs participating directly in the clearing operations of PCHC and BSP Regional Clearing Centers shall apply for collateralized overnight clearing line under Items "c" and "d" of Sections 2205 and 3205 of the Manual. Said banks shall enter into an agreement with the BSP conforming to these guidelines and they shall in turn enter into similar agreements with their clients.

Sec. 3. Application for Overnight Clearing Line

a. TBs and RBs authorized to participate directly in the clearing operations of PCHC shall file their application for an Overnight Clearing Line with the appropriate department of the SES supported by documents indicated below under Items "b.1", "b.2" and "b.3".

b. The applicant bank shall furnish the DLC a copy of the application, together with the following:

(1) A duly notarized secretary's certificate together with a resolution of the board of directors of the bank authorizing the bank to apply for a loan line and designating the officers authorized to negotiate, sign and execute all accessory documents for the loan line;

(2) Duly signed and notarized Overnight Clearing Line Agreement between the bank and the BSP;

(3) Duly accomplished Tripartite Memorandum of Agreement between and among the BSP, the applicant-bank and the PCHC;

(4) Notarized Surety Agreement executed by the controlling stockholders (owning more than fifty percent (50%) of the voting stocks) and every person or group of persons whose stockholdings are sufficient to elect at least one director obligating themselves jointly and severally with the bank to pay promptly on maturity or when due the BSP, its successors or assigns, all promissory notes covering availment against the loan line; and

(5) Collateral documents to cover the loan line.

c. The loan line shall be secured by first class collaterals that refer to the assets and securities which have relatively stable and clearly definable value and/or greater liquidity and free from lien and encumbrances, to the extent of their applicable loan values, as follows:

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Acceptable Collaterals	Loan Value
c.1.a Government securities c.1.b Commercial Credits (AAA)	80% of the current market value of the securities
c.2 Unencumbered real estate properties in the name of the bank	70% of the appraised value of the land and insured improvements determined by a licensed and independent appraiser acceptable to the BSP in accordance with BSP's terms of reference.
c.3 Mortgage credits	70% of the appraised value of the property securing the loan evidenced by negotiable instruments as determined by a licensed and independent appraiser acceptable to the BSP in accordance with BSP's terms of reference or 80% of the outstanding balance of such loan whichever is lower.
c.4 Holdout on foreign currency deposits with the BSP	80% of current market value

d. The DLC shall inform the appropriate department of the SES of the total loan value of eligible collaterals and the appropriate department of the SES upon finding the application and any amendments thereto to be in order, shall recommend to the Monetary Board the approval of the bank's loan line.

e. The loan line, once approved, can be amended at the instance of the applicant bank only once every twelve (12) months. The loan line shall be equal to at least five (5%) percent of the bank's deposit liabilities as at end of prior month. The appropriate department of the SES

shall recommend to the Monetary Board any request for amendment of the line.

f. The bank shall be allowed the flexibility of changing or substituting collateral, specially matured government securities. The DLC shall act on such request, provided it will not result in an amendment of the approved overnight clearing line.

Sec. 4. Availments Against the Approved Loan Line

a. The electronic notice of application of the loan line to settle net clearing losses from the BSP Comptrollership Department shall constitute availment. Upon receipt of the electronic notice of availment, DLC shall immediately post the transaction to the bank's loan ledger.

b. Each availment shall be fully paid through an automatic debit to the demand deposit account of the bank with BSP on the next clearing day, without need of demand.

c. The availments against the approved loan line shall bear interest at the 91-day Treasury Bill rate of the last auction immediately preceding the availments.

d. The loan value of the collaterals securing the loan line shall be correspondingly reduced under any of the following circumstances:

(1) There are collections received on the mortgage credits;

(2) The mortgage credits become past due;

(3) The property mortgaged was sold; and

(4) The collateral assets fall short of the definition of first class collateral.

e. The bank shall duly inform DLC of any collections on mortgaged credits or sale of assets mortgaged and ensure that adequate records on collections and sales made by the branches are maintained in its head office.

Sec. 5. Definition of Value or Settlement Date. *Value or Settlement Date* shall refer to date when the checks presented for clearing are given value. For local clearing, the *Value or Settlement Date* shall be the next clearing day when dishonored checks are returned within the reglementary period, reckoned after the date of presentation in the integrated Manila clearing area of PCHC and in all BSP regional clearing centers. For inter-regional clearing items, outward Manila clearing items and to Manila clearing items, the *Value or Settlement Date* will be defined in clearing circulars to be issued by BSP.

Unless otherwise modified in subsequent clearing circulars, value or settlement date for clearing items shall be as stated in the following schedule:

Session Returned Items	Value/Settlement Date On date of return
Outward Items Local Clearing	Next clearing day
Inter-Regional Clearing	As defined in Clearing Circular Letter for nationwide inter-regional clearing
Out-of-town and Manila Outward Regional	As defined in Clearing Circular Letter fixing Outward Regional the number of <i>float days</i> for exchanges between Manila and the BSP Regional Clearing Centers

Sec. 6. Procedures for Clearing and Settling Clearing Results

- a. Regular exchanges shall be conducted daily for local, inter-regional and out-of-town and outward Manila on regular banking days and local holidays.
- b. *Returned Items* shall be contained in special red envelopes and presented separately in the clearing statements.
- c. The net clearing demands of banks shall be debited/credited to the

demand deposit accounts on value date as defined in Sec. 5 above.

d. The participating banks in BSP Regional Clearing Centers shall prepare their electronic clearing statements following the procedures contained in the BSP Clearing Operations User Manual for Participating Banks.

e. Manila outward regional clearing demands bound for BSP Regional Clearing Centers and *On Manila* outward clearing demands shall be presented to PCHC in accordance with the existing PCHC prescribed clearing rules.

f. BSP Regional Clearing Centers shall consolidate clearing statements and transmit back electronically to the participating banks the consolidated clearing statement for each bank. The hard copy of the consolidated clearing statements signed by responsible officials of the participating banks shall be submitted to the BSP Regional Clearing Center on the next clearing day.

g. Participating banks shall present the demand items in sealed envelopes, segregating the demand items according to regional clearing centers. Each envelope shall show the number and the total value of the checks presented. The duly authorized settling representatives of the participating banks shall sign on the BSP control copy of the consolidated clearing statements to document the exchanges.

Sec. 7. Procedures for Settling Losses

Clearing losses shall be settled to the extent of the combined amount of the demand deposit balance and additional funds obtained from the following credit sources of the participating bank:

- a. Interbank borrowing through IBCL - MIPS;
- b. Interbank borrowing from BSP Treasury Department; and
- c. Collateralized overnight clearing line granted by the BSP.

Sec. 8. Procedures for Unwinding Clearing Transactions

- a. Procedures for unwinding clearing transactions shall apply to all inward items, other than *Returned Items*, and to local exchanges only.
- b. The aggregate values of all inward items of all clearing centers, including *On Manila* inward clearing demands presented to PCHC, shall be ranked from highest to lowest. The unsettled net clearing losses shall be eliminated by unwinding the inward items starting from the clearing centers, including PCHC, with highest aggregate value.
- c. In case the aggregate value of the inward items for a given clearing center, except PCHC, exceeds the unsettled net clearing losses, the total inward items for that clearing center shall be the subject of unwinding.
- d. In the case of checks cleared through PCHC, the inward clearing items shall be unwound to the extent of the unsettled net clearing loss. The selection of the specific demand items to be covered by unwinding shall be based on PCHC rules.

- e. Checks which are the subject of the unwound clearing transactions shall be returned to the presenting banks not later than 9:00 o'clock A.M. of the following clearing day.

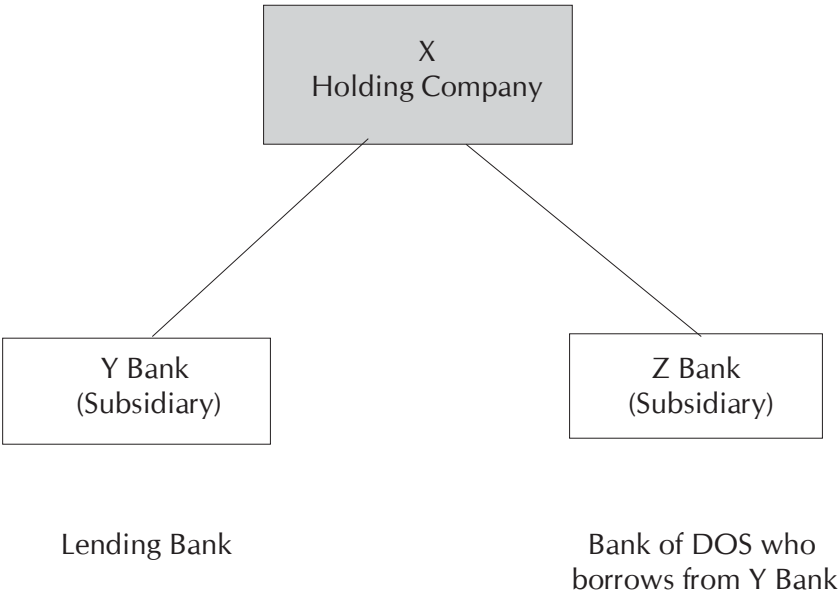
Sec. 9. Identification of Checks Issued Under Sec. 2205/3205. Participating bank shall print or stamp on the face of the blank checks issued to current account depositors the words “issued subject to Sec. 2205/3205 of the MOR”.

Sec. 10. Exemption from Liability. The participating bank and PCHC shall have no cause of action or right of relief whatsoever against the BSP in connection with or arising out of any transaction under this Agreement. Moreover, BSP shall not be held responsible for any loss or damage to the Bank, PCHC or any third party arising out of or by reason of this Agreement.

Sec. 11. Effectivity Date
The clearing operation guidelines shall take effect on 15 September 1998.
(As amended by CL No. 04 August 2000 and Circular No. 516 dated 06 March 2006)

ILLUSTRATIONS WHEN A DIRECTOR, OFFICER AND STOCKHOLDER (DOS)
SHALL WAIVE THE SECRECY OF DEPOSITS
(Appendix to Subsec. X338.1b)

- A. When the loan is obtained from a bank that is a subsidiary of a holding company of which both the borrower's bank and the lending bank are subsidiaries.

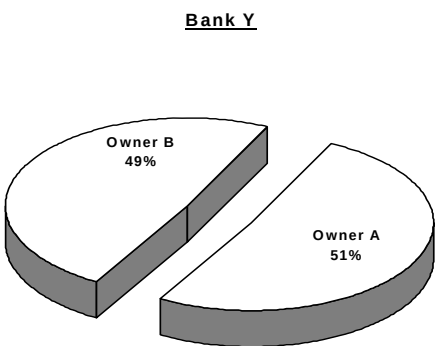


Thus, if Mr. A, who is a director of Z Bank borrows from Y Bank, he should waive the secrecy of deposits of whatever nature in all banks in the Philippines since both Y Bank and Z bank are subsidiaries of X Holding Company.

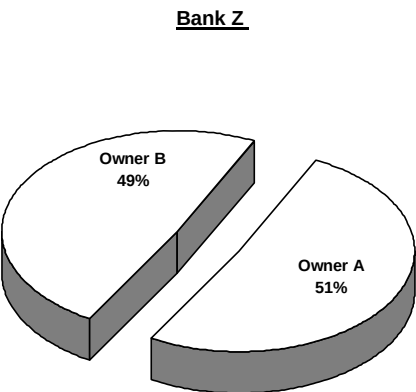
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- B. When the loan is from a bank in which a controlling proportion of the shares is owned by the same interest that owns a controlling proportion of the shares of his bank.

Lending bank’s Equity Structure



Borrower’s bank Equity Structure



In illustration above, the controlling shares in both banks belong to the “same interest”, Owner A.

**CLASSIFICATION, ACCOUNTING PROCEDURES, VALUATION AND
SALES AND TRANSFERS OF INVESTMENTS IN DEBT SECURITIES
AND MARKETABLE EQUITY SECURITIES**
(Appendix to Subsec. X388.5)

Sec. 1. Statement of Policy. It is the policy of the BSP to promote full transparency of the financial statements of banks and other supervised institutions in order to strengthen market discipline, encourage sound risk management practices, and stimulate the domestic capital market. Towards these ends, the BSP desires to align local financial accounting standards with international accounting standards as prescribed by the International Accounting Standards Board (IASB) to the greatest extent possible.

Sec. 2. Scope. This Appendix covers accounting for investments in debt and equity securities except:

- a. those that are part of hedging relationship;
- b. those that are hybrid financial instruments;
- c. those financial liabilities that are held for trading;
- d. those financial assets and financial liabilities which, upon initial recognition, are designated by the FIs as at fair value through profit or loss; and
- e. those that are classified as loans and receivables.

It also does not include accounting for derivatives and non-derivative financial instruments other than debt and equity securities. The foregoing exceptions and exclusions shall be covered by separate regulations.

Sec. 3. Investments in Debt and Equity Securities. Depending on the intent, investments in debt and equity securities shall be classified into one (1) of four (4) categories and accounted for as follows:¹

a. Held to Maturity (HTM) Securities
- These are debt securities with fixed or determinable payments and fixed maturity that an FI has the positive intention and ability to hold to maturity other than:

(1) those that meet the definition of *Securities at Fair Value Through Profit or Loss*; and

(2) those that the FI designates as Available-for-Sale Securities .

An FI shall not classify any debt security as HTM if the FI has, during the current financial year or during the two (2) preceding financial years, sold or reclassified more than an insignificant amount of HTM investments before maturity (more than insignificant in relation to the total amount of HTM investments) other than sales or reclassifications that:

(a) are so close to maturity or the security's call date (i.e., less than three (3) months before maturity) that changes in the market rate of interest would not have a significant effect on the security's fair value;

(b) occur after the FI has substantially collected all [i.e., at least eighty-five percent (85%)] of the security's original principal through scheduled payments or prepayments; or

(c) are attributable to an isolated event that is beyond the FI's control, is non-recurring and could not have been reasonably anticipated by the FI.

For this purpose, the phrase "*more than an insignificant amount*" refers to sales or reclassification of one percent (1%) or more of the outstanding balance of the HTM portfolio: *Provided, however,* That sales or reclassifications of less than one percent (1%) shall be evaluated on case-to-case basis.

¹ Reclassification allowed until 30 November 2005 as per MAB dated 23 November 2005

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Sales or reclassifications before maturity that do not meet any of the conditions prescribed in this Appendix shall require the entire HTM portfolio to be reclassified to Available-for-Sale. Further, the FI shall be prohibited from using the HTM account during the reporting year of the date of sales or reclassifications and for the succeeding two (2) full financial years. Failure to reclassify the HTM portfolio to Available-for-Sale on the date of sales or reclassifications, shall subject the FI and concerned officers to penalties and sanctions provided under Item "c" of X388.5. This provision shall be applied prospectively, i.e., on prohibited sales or reclassifications occurring on 13 March 2005 (effectivity date of Cir. 476 dated 16 February 2005) and thereafter.

Securities held in compliance with BSP regulations, e.g., securities held as liquidity reserves and for the faithful performance of trust duties, may be classified either as HTM, Securities Held-for-Trading (HFT) or Available-for-Sale: *Provided*, That the provision of Item (4) of paragraph 2 of Section 3.a.1 shall not apply to sales or reclassifications of the said securities booked under HTM.

a.1. Positive intention and ability to hold investments in HTM securities to maturity – An FI does not have a positive intention to hold to maturity an HTM security if:

(a) the FI intends to hold the security for an undefined period;

(b) the FI stands ready to sell the security (other than if a situation arises that is non-recurring and could not have been reasonably anticipated by the FI) in response to changes in market interest rates or risks, liquidity needs, changes in the availability of and the yield on alternative investments, changes in financing sources and terms or changes in foreign currency risk; or

(c) the issuer has a right to settle the security at an amount significantly below its amortized cost.

Sales before maturity could satisfy the condition of HTM classification and therefore need not raise a question about the FI's intention to hold other HTM securities to maturity if they are attributable to any of the following:

(i) A significant deterioration in the issuer's creditworthiness; for example, a sale following a downgrade in a credit rating by an external rating agency would not necessarily raise a question about the FI's intention to hold other investments to maturity if the downgrade provides evidence of a significant deterioration in the issuer's creditworthiness judged by reference to the credit rating at initial recognition. Similarly, if an FI uses internal ratings for assessing exposures, changes in those internal ratings may help to identify issuers for which there has been a significant deterioration in creditworthiness, provided the FI's approach to assigning internal ratings and changes in those ratings give a consistent, reliable and objective measure of the credit quality of the issuers. If there is evidence that an instrument is impaired, the deterioration in creditworthiness is often regarded as significant;

(ii) A change in tax law that eliminates or significantly reduces the tax-exempt status of interest on the HTM security (but not a change in tax law that revises the marginal tax rates applicable to interest income);

(iii) A major business combination or major disposition (such as sale of a segment) that necessitates the sale or transfer of HTM securities to maintain the FI's existing interest rate risk position or credit risk policy: *Provided*, That the sale or transfer of HTM security shall be done only once and within a period of six (6) months from the date of the business combination or major disposition: *Provided, further*, That prior BSP approval is required for sales or transfers occurring

after the prescribed six (6)-month time frame. In this case, FIs shall submit to the appropriate department of the SES, a plan stating the reason for the extension and the proposed schedule for the disposition of the HTM security;

(iv) A change in statutory or regulatory requirements significantly modifying either what constitutes a permissible investment or the maximum level of particular types of investments, thereby causing an FI to dispose of an HTM security;

(v) A significant increase in the industry's regulatory capital requirements that causes the FI to downsize by selling HTM securities; or

(vi) A significant increase in the risk weights of HTM securities used for regulatory risk-based capital purposes.

An FI does not have a demonstrated ability to hold to maturity an investment in HTM security if:

(aa) it does not have the financial resources available to continue to finance the investment until maturity; or

(bb) it is subject to an existing legal or other constraint that could frustrate its intention to hold the security to maturity.

Sales before maturity due to events that are non-recurring and could not have been reasonably anticipated by the FI such as a run on a bank, likewise satisfy the condition of HTM classification and therefore need not raise a question about the FI's intention and ability to hold other HTM investments to maturity.

An FI assesses its intention and ability to hold its investment in HTM securities to maturity not only when those securities are initially recognized, but also at each time that the FI prepares its financial statements.

a.2. HTM securities shall be measured upon initial recognition at their fair value plus transaction costs that are directly attributable to the acquisition of the securities.

For this purpose, *transactions costs* include fees and commissions paid to

agents (including employees acting as selling agents), advisers, brokers and dealers, levies by regulatory agencies and securities exchanges, and transfer taxes and duties. Transaction costs do not include debt premiums or discounts, financing costs or internal administrative or holding costs.

After initial recognition, an FI shall measure HTM securities at their amortized cost using the effective interest method.

For this purpose, the *effective interest method* is a method of calculating the amortized cost of a security (or group of securities) and of allocating the interest income over the relevant period using the effective interest rate. The *effective interest rate* shall refer to the rate that exactly discounts the estimated future cash receipts through the expected life of the security or when appropriate, a shorter period to the net carrying amount of the security. When calculating the effective interest rate, an FI shall estimate cash flows considering all contractual terms of the security (for example, prepayment, call and similar options) but shall not consider future credit losses. The calculation includes all fees and points paid to the other party to the contract that are an integral part of the effective interest rate, transaction costs, and all other premiums or discounts. There is a presumption that the cash flows and the expected life of a group of similar securities can be estimated reliably. However, in those rare cases when it is not possible to estimate reliably the cash flows or the expected life of a security (or group of securities), the FI shall use the contractual cash flows over the full contractual terms of the security.

A gain or loss arising from the change in the fair value of the HTM security shall be recognized in profit or loss when the security is derecognized or impaired, and through the amortization process.

An FI shall assess at each time it prepares its financial statements whether

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there is any objective evidence that an HTM security is impaired.

If there is objective evidence that an impairment loss on HTM securities has been incurred, the amount of the loss is measured as the difference between the security's carrying amount and the present value of estimated future cash flows (excluding future credit losses that have not been incurred) discounted at the security's original effective interest rate (i.e., the effective interest rate computed at initial recognition). The carrying amount of the security shall be reduced through the use of an allowance account. The amount of the loss shall be recognized in profit or loss.

As a practical expedient, a creditor may measure impairment of HTM securities on the basis of an instrument's fair value using an observable market price.

An FI first assesses whether objective evidence of impairment exists individually for HTM securities that are individually significant, and individually or collectively for HTM securities that are not individually significant. If an entity determines that no objective evidence of impairment exists for an individually assessed HTM security, whether significant or not, it includes the asset in a group of HTM securities with similar credit risk characteristics and collectively assesses them for impairment. HTM securities that are individually assessed for impairment and for which an impairment loss is or continues to be recognized are not included in a collective assessment of impairment.

If, in a subsequent period, the amount of the impairment loss decreases and the decrease can be related objectively to an event occurring after the impairment was recognized (such as an improvement in the debtor's credit rating), the previously recognized impairment loss shall be reversed by adjusting the allowance account. The reversal shall not result in a carrying amount of the security that exceeds

what the amortized cost would have been had the impairment not been recognized at the date the impairment is reversed. The amount of the reversal shall be recognized in profit or loss.

b. Securities at Fair Value through Profit or Loss – These consist initially of HFT securities. HFT are debt and equity securities that are:

(1) acquired principally for the purpose of selling or repurchasing them in the near term; or

(2) part of a portfolio of identified securities that are managed together and for which there is evidence of a recent actual pattern of short-term profit-taking.

For this purpose, an FI shall adopt its own definition of short-term which shall be within a twelve (12)-month period. Said definition which shall be included in its manual of operations, shall be applied and used consistently.

b.1 HFT securities shall be measured upon initial recognition at their fair value. Transaction costs incurred at the acquisition of HFT securities shall be recognized directly in profit or loss. After initial recognition, an FI shall measure HFT securities at their fair values without any deduction for transaction costs that it may incur on sale or other disposal. A gain or loss arising from a change in the fair value of HFT securities shall be recognized in profit or loss under the account "Trading Gain/(Loss)".

c. Available-for-Sale Securities. These are debt or equity securities that are designated as Available-for-Sale or are not classified/designated as (a) HTM, (b) Securities at Fair Value through Profit or Loss, or (d) Investment in Non-Marketable Equity Securities (INMES).

c.1 Available-for-Sale securities shall be measured upon initial recognition at their fair value plus transaction costs that are directly attributable to the acquisition of the securities. After initial recognition,

an FI shall measure Available-for-Sale securities at their fair values, without any deduction for transaction costs it may incur on sale or other disposal. A gain or loss arising from a change in the fair value of an Available-for-Sale security shall be recognized directly in equity under the account "Net Unrealized Gains/(Losses) on Securities Available-for-Sale" and reflected in the statement of changes in equity, except for impairment losses and foreign exchange gains and losses, until the security is derecognized, at which time the cumulative gain or loss previously recognized in equity shall be recognized in profit or loss. However, interest calculated using the effective interest method is recognized in profit or loss. Dividends on an Available-for-Sale equity security are recognized in profit or loss when the FI's right to receive payment is established.

For the purpose of recognizing foreign exchange gains and losses on a monetary Available-for-Sale security that is denominated in a foreign currency, it shall be treated as if it were carried at amortized cost in the foreign currency. Accordingly, for such an Available-for-Sale security, exchange differences resulting from changes in amortized cost are recognized in profit or loss and other changes in carrying amount are recognized directly in equity. For Available-for-Sale securities that are not monetary items (for example, equity instruments), the gain or loss that is recognized directly in equity includes any related foreign exchange component.

An FI shall assess at each time it prepares its financial statements whether there is any objective evidence that an Available-for-Sale security is impaired.

When a decline in the fair value of an Available-for-Sale security has been recognized directly in equity and there is objective evidence that the asset is impaired, the cumulative loss that had been recognized directly in equity shall be

removed from equity and recognized in profit or loss even though the security has not been derecognized.

The amount of the cumulative loss that is removed from equity and recognized in profit or loss shall be the difference between the acquisition cost (net of any principal repayment and amortization) and current fair value, less any impairment loss on that security previously recognized in profit or loss.

Impairment losses recognized in profit or loss for an investment in an equity instrument classified as Available-for-Sale shall not be reversed through profit or loss.

If, in a subsequent period, the fair value of a debt instrument classified as Available-for-Sale increases and the increase can be objectively related to an event occurring after the impairment loss was recognized in profit or loss, the impairment loss shall be reversed, with the amount of the reversal recognized in profit or loss.

c.2.Underwriting Accounts (UA) shall be a sub-account under Available-for-Sale. These are debt and equity securities purchased which have remained unsold/locked-in from underwriting ventures on a firm basis. UA account is applicable only to UBs and IHs.

d. INMES- These are equity instruments that do not have a quoted market price in an active market, and whose fair value cannot be reliably measured.

INMES shall be measured upon initial recognition at its fair value plus transaction costs that are directly attributable to the acquisition of the security. After initial recognition, an FI shall measure INMES at cost. A gain or loss arising from the change in fair value of the INMES shall be recognized in profit or loss when the security is derecognized or impaired.

An FI shall assess each time it prepares its financial statements whether there is any

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objective evidence that an INMES is impaired.

If there is objective evidence that an impairment loss has been incurred on an INMES, the amount of impairment loss is measured as the difference between the carrying amount of the security and the estimated future cash flows discounted at the current market rate of return for a similar financial instrument. Such impairment loss shall not be reversed.

For Securities at Fair Value through Profit or Loss and Available-for-Sale, an FI is required to book the mark-to-market valuation on a daily basis. However, an FI may opt to book the mark-to-market valuation every end of the month: *Provided*, That an adequate mechanism is in place to determine the daily fair values of securities.

An FI shall recognize an investment in debt or equity security on its balance sheet when, and only when, the FI becomes a party to the contractual provisions of the financial instrument. A regular way purchase or sale of financial assets shall be recognized and derecognized, as applicable using trade date accounting or settlement date accounting. The method used is applied consistently for all purchases and sale of financial assets that belong to the same category.

Sec. 4. Reclassifications¹

a. An FI shall not reclassify a security into or out of the Fair Value through Profit Loss category while it is held.

b. If, as a result of a change in intention or ability, it is no longer appropriate to classify a debt security as HTM, it shall be reclassified as Available-for-Sale and remeasured at fair value, and the difference between its carrying amount and fair value shall be accounted for in accordance with Section 3.c.1.

c. Whenever sales or reclassifications of more than an insignificant amount of

HTM investments do not meet any of the conditions in Section 3.a, any remaining HTM investments shall be reclassified as Available-for-Sale. On such reclassification, the difference between the carrying amount and fair value shall be accounted for in accordance with Section 3.c.1.

d. If a reliable measure becomes available for an INMES, it shall be reclassified as Available-for-Sale and remeasured at fair value, and the difference between its carrying amount and the fair value shall be accounted for in accordance with Section 3.c.1.

e. If, as a result of a change in intention or ability, or because the two (2) preceding financial years' referred to in Section 3.a have passed, it becomes appropriate to carry the debt security at amortized cost (i.e., HTM) rather than at fair value (i.e, Available- for-Sale), the fair value carrying amount of the security on that date becomes its new amortized cost. Any previous gain or loss on that debt security that has been recognized directly in equity in accordance with Section 3.c.1 shall be amortized to profit or loss over the remaining life of the HTM using the effective interest method. Any difference between the new amortized cost and maturity amount shall also be amortized over the remaining life of the security using the effective interest method, similar to the amortization of a premium and a discount. If the security is subsequently impaired, any gain or loss that has been recognized directly in equity is recognized in profit or loss in accordance with Section 3.c.1.

f. If, in the rare circumstance that a reliable measure of fair value is no longer available, it becomes appropriate to carry the equity security at cost (i.e., INMES) rather than at fair value (i.e., Available-for-Sale), the fair value carrying amount of the security on that date becomes its new cost. Any previous gain or loss on that equity security that has been recognized directly in equity

¹ The guidelines governing the reclassification of financial assets between categories in accordance with the provisions of the October 2008 amendments to PAS39 and PFRS7 are shown in Annex A.

in accordance with Section 3.c.1 shall remain in equity until the security is sold or otherwise disposed of, when it shall be recognized in profit or loss. If the financial asset is subsequently impaired, any previous gain or loss that has been recognized directly in equity is recognized in profit or loss in accordance with Section 3.c.1; and

g. The following securities booked under the HTM category, shall be exempted from the “tainting” provision for prudential reporting purposes which prohibits banks from using the HTM category and requires reclassification of the entire HTM portfolio to the Available-for-Sale category during the reporting year and for the succeeding two full financial years whenever a bank sells or reclassifies more than an insignificant amount of HTM investments before maturity, other than for reasons specified in Items “a(a)” to “a(c)” of Section 3 of this Appendix: *Provided*, That securities rejected under items “i” and “ii” shall continue to be booked under the HTM category:

- i. Securities exchanged pursuant to the Domestic Debt Exchange Offer of the Republic of the Philippines;
- ii. Securities offered and accepted in the Global Bond Offering of the Republic of the Philippines; and
- iii. Foreign currency denominated NG/BSP bonds/debt securities, outstanding as of 10 February 2007, which were reclassified from the HTM category in view of the increased risk-weights of said securities under *Appendix 63b* within thirty (30) calendar days after 10 February 2007. The subject securities once reclassified shall be accounted for in accordance with the measurement requirements of their new category (i.e., Available-for-Sale securities).

Sec. 5. Impairment. A debt or equity security is impaired and impairment losses are incurred if, and only if, there is objective

evidence of impairment as a result of event that occurred after the initial recognition of the security (a “loss event”) and that loss event has impact on the estimated future cash flows of the securities. Losses expected as a result of future events, no matter how likely, are not recognized. Objective evidence that the security is impaired includes observable data that comes to the attention of the holder of the security about the following loss events:

- a. significant financial difficulty of the issuer or obligor;
- b. a breach of contract, such as a default or delinquency in interest or principal payments;
- c. the FI, for economic or legal reasons relating to the issuer’s financial difficulty, granting to the issuer a concession that the FI would not otherwise consider;
- d. it becoming probable that the issuer will enter bankruptcy or other financial reorganization;
- e. the disappearance of an active market for that security because of financial difficulties; or
- f. observable data indicating that there is a measurable decrease in the estimated future cash flows from a portfolio of securities since the initial recognition of those assets, although the decrease cannot yet be identified with the individual securities in the portfolio, including:
 - (1) adverse change in the payment status of issuers in the portfolio; or
 - (2) national or local economic conditions that correlate with defaults on the securities in the portfolio.

The disappearance of an active market because an FI’s held securities are no longer publicly traded is not evidence of impairment. A downgrade of an issuer’s credit rating is not, of itself, evidence of impairment, although it may be evidence of impairment when considered with other available information. A decline in the fair value of a security below its cost or amortized cost is not necessarily evidence

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of impairment (for example, a decline in fair value of an investment in debt security that results from an increase in the risk free interest rate).

In addition to the types of events enumerated in Items “a” to “f” in this Section, objective evidence of impairment for an investment in an equity instrument includes information about significant changes with an adverse effect that have taken place in the technological, market, economic or legal environment in which the issuer operates and indicates that the cost of the investment in the equity

instrument may not be recovered. A significant or prolonged decline in the fair value of an investment in an equity security below its cost is also objective evidence of impairment.

Sec. 6. Operations Manual. The FI shall maintain an operations manual for booking and valuation of HTM, Securities at Fair Value through Profit or Loss, Available-for-Sale and INMES.

(As amended by Circular Nos. 628 dated 31 October 2008, 626 dated 23 October 2008, 558 dated 22 January 2007, 546 dated 21 September 2006 and 509 dated 01 February 2006)

RECLASSIFICATION OF FINANCIAL ASSETS BETWEEN CATEGORIES

The following guidelines govern the reclassification of investments in debt and equity securities between categories:

Section I. Conditions for Reclassifications

FIs shall be allowed to reclassify their investments in debt and equity securities from the Held for Trading (HFT) or Available for Sale (AFS) categories to the Held to Maturity (HTM) or Unquoted Debt Securities Classified as Loans (UDSCL) categories, subject to the following conditions:

(1) The reclassification shall be done in accordance with the provisions of the October 2008 amendments to the International Accounting Standards (IAS) 39: *Financial Instruments: Recognition* and Measurements and International Financial Reporting Standards (IFRS) 7: *Financial Instruments: Disclosures*;

(a) Only non-derivative financial assets may be reclassified from HFT to AFS, HTM or UDSCL. This shall however exclude those that are Designated at Fair Value through Profit or Loss (DFVPL).

(b) A financial asset may be reclassified out of HFT into AFS/HTM/UDSCL only in rare circumstances and if there is a change in intention (i.e., the financial asset is no longer held for the purpose of selling or repurchasing it in the near term). The financial assets shall be reclassified at their fair values on the effective date of reclassification all at the same time. Any gain or loss already recognized in profit or loss shall not be reversed. The fair value of a financial asset on the effective date of reclassification becomes its new cost or amortized cost, as applicable.

For this purpose, FIs may reclassify all or a portion of its financial assets for HFT to AFS/HTM/UDSCL as of the same date which shall be any day from 01 July 2008 to 14 November 2008. For example, an FI may choose to reclassify all financial assets booked under HFT to AFS/HTM/UDSCL as of 01 July 2008 using their fair values as of 01 July 2008. Another FI may choose to reclassify all financial assets booked under HFT to AFS/HTM/UDSCL as of 14 November 2008 using their fair values as of 14 November 2008. Thereafter, FIs shall not be allowed to "retrospectively" reclassify HFT to AFS/HTM/UDSCL. Any reclassification on or after 15 November 2008 shall take effect only from the date when the reclassification is made.

(c) A financial asset booked under HFT that would have also met the definition on UDSCL if the financial asset had not been required to be classified as HFT at initial recognition, may be reclassified from HFT to UDSCL if the entity has the intention and ability to hold the financial asset for the foreseeable future or until maturity.

(d) The financial assets shall be reclassified at their fair values on the effective date of reclassification, not necessarily all at the same time. Any gain or loss already recognized in profit or loss shall not be reversed. The fair value of a financial asset on the effective date of reclassification becomes its new cost or amortized cost, as applicable.

For this purpose, FIs may reclassify said financial assets from HFT to UDSCL as of any date from 01 July 2008 to 14 November 2008. Thereafter, FIs shall not be allowed to retrospectively reclassify HFT to UDSCL. Any reclassification on or

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after 15 November 2008 shall take effect only from the date when the reclassification is made.

(e) The financial asset reclassified in accordance with *Items "(b)", "(c)" or "(d)"* above shall thereafter be treated in accordance with the guidelines provided in *Appendix 20: Provided, however, That* if an FI subsequently increases its estimates of future cash receipts as a result of increased recoverability of those cash receipts, the effect of that increase shall be recognized as an adjustment to the effective interest rate from the date of the change in estimate rather than as an adjustment to the carrying amount of the asset at the date of the change in estimate.

(f) FIs that shall reclassify based on the provision of this Annex shall comply with the disclosure requirements under the Amendments to IAS 39 and IFRS 7 in preparing their audited financial statements.

(2) Financial assets that are reclassified from HFT/AFS to HTM/UDSCL shall thereafter be treated in accordance with the guidelines provided under *Appendix 33*;

(3) Reclassification from the AFS to the HTM category shall only be allowed if there was a change in intention for holding the debt instrument, and the financial institution has the ability to hold it until maturity; and

(4) FIs may reclassify from HFT/AFS to AFS/HTM/UDSCL effective 01 July 2008: *Provided, That* any reclassification made in periods beginning on or after 15 November 2008 shall take effect from the date when the reclassification is made.

Sec. II. Alternative accounting treatment for prudential reporting purposes. The following may be adopted for purposes of prudential reports:

(1) A financial asset booked under AFS may be reclassified from AFS to HTM/UDSCL if the FI has the intention and ability

to hold the financial assets for the foreseeable future or until the maturity using the fair value carrying amount of the financial assets as of the effective date of reclassification.

For this purpose, FIs may reclassify said financial assets from AFS to HTM/UDSCL as of any day from 01 July 2008 to 14 November 2008. Thereafter, FIs shall not be allowed to retrospectively reclassify AFS to HTM/UDSCL. Any reclassification on or after 15 November 2008 shall take effect only from the date when the reclassification is made.

(2) Financial assets that are booked under AFS category because of the tainting of the HTM portfolio may be reclassified to HTM or UDSCL using the fair value carrying amount of the financial assets as of the effective date of reclassification.

For this purpose, FIs may reclassify said financial assets from AFS to HTM/UDSCL as of any day from 01 July 2008 to 14 November 2008.

(3) Hybrid financial assets (other than CLNs) may be included among the financial assets that may be reclassified out of the HFT and into the AFS/HTM/UDSCL in accordance with *Items "(1)(b)" and "(1)(c)"* in Sec. I by, first, bifurcating the embedded derivative from the host instrument and booking the derivatives under Derivatives with Positive/Negative Fair Value; and second, reclassifying the host contract to AFS/HTM/UDSCL.

(4) CLNs and other similar instruments that are linked to ROPs, on the other hand, may be included among the financial assets that may be reclassified (i) out of the HFT into AFS/HTM/UDSCL in accordance with *Items "(1)(b)" and "(1)(c)"*; or (ii) from AFS to UDSCL or HTM in accordance with *Item "(1)(d)"* all in Sec. I and *Item "1"* above, without bifurcating the embedded derivatives from the host instrument: *Provided, That* this shall only apply for CLNs that are outstanding as of the effective

date of reclassification, which shall not be on or later than 15 November 2008.

Sec. III. Applicability to Trust Institutions

The guidelines shall likewise apply to trust institutions except for the following accounts:

- (a) UIT Funds; and
- (b) Pre-need, escrow and other accounts whose investments are regulated by or require approval from other regulatory agencies: *Provided*, That prior to the reclassification, the approval/consent and reflect the change in client's investment profile in the revised Investment Policy Statement as provided

in *Appendix 83: Provided, further*, That in the case of managed retirement funds/ employee benefit trust accounts, such reclassification shall be aligned with the liquidity requirements resulting from the latest actuarial valuation of the fund/account.

Sec. IV. Reportorial Requirements. FIs that reclassify financial assets out of the HFT/ AFS categories shall submit a report on Reclassification of Financial Assets between Categories to the Supervisory Data Center, Supervision and Examination Sector on or before 30 November 2008.

(Circular No. 626 dated 23 October 2008 as amended by Circular No. 628 dated 31 October 2008)

ESTABLISHING THE MARKET BENCHMARKS/REFERENCE PRICES AND
COMPUTATION METHOD USED TO MARK-TO MARKET DEBT
AND MARKETABLE EQUITY SECURITIES
(Appendix to Subsec. X388.5)

General Principle

As a general rule, to the extent a credible market pricing mechanism as determined by the BSP exists for a given security, that market price shall be the basis of marking-to-market. However, in the absence of a market price, a calculated price shall be used as prescribed herein.

Marking-to-Market Guidelines

To ensure consistency, the following shall be used as bases in marking-to-market debt and equity securities:

Type of Security	Market Price Basis
A. Equity Securities Listed in the Stock Exchange	
1. Traded in the Philippines	Same day closing price as quoted at the Philippine Stock Exchange. In case of halt trading/suspension or holidays, use the last available closing price.
2. Traded Abroad	Latest available closing price from the exchange where the securities are traded.
B. Foreign Currency-Denominated Debt Securities Quoted in Major Information Systems (e.g., Bloomberg, Reuters)	
1. US Treasuries	Price as of end of day, Manila time.
2. US Agency papers (e.g., Fannie Maes, Freddie Macs, Ginnie Maes, Municipal papers	Latest available price for the day, Manila time. In the absence of a price, use average quotes of at least three (3) regular brokers/market makers.*
3. Brady Bonds	Same as B.2.
4. For all US\$-denominated government and corporate securitites	Same as B.2.
5. Other foreign-currency securities	Same as B.2.

* Based on done rates if available. If done rates are not available, use the mid rate between bid and offer. If no mid-rates are available use the bid rate.

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C. Foreign Currency Denominated Debt Securities Traded in a Local Registered Exchange or Market

The basis for marking-to-market foreign currency-denominated debt securities traded in a local registered exchange or market shall be the same as those used in Peso-Denominated Government Securities in Section D below.

D. Peso-Denominated Government Securities

The benchmark or reference prices shall be based on the weighted average of done or executed deals in a trading market registered with the SEC. In the absence of done deals, the best firm bid per benchmark tenor shall be used in calculating the benchmark: *Provided*, That the best firm offer per benchmark tenor shall likewise be included as soon as permissible under securities laws and regulations.

The benchmark or reference rate shall be computed and published in accordance with prescribed guidelines on the computation of reference rates by a Calculation Agent which is recognized by the Bankers Association of the Philippines (BAP): *Provided*, That both the Calculation Agent and its method of computation are acceptable to the BSP.

To ensure the integrity of the benchmark or reference prices, the Calculation Agent shall perform the following:

1. Monitor the quality of the contributed source rates for the benchmark;
2. Monitor the data contributors and replace participants, upon consultation with the BAP, that fail to meet commitments to the benchmark;
3. Monitor the activities of the participants to ensure compliance with

their commitments and for possible market manipulation and enforce sanctions on errant participants and immediately inform BAP and the BSP thereon; and

4. Review and upgrade the benchmark setting methodology upon consultation with BAP on a continuing basis, including documentation and publications thereof.

Accordingly, all data on done and firm bids/offers must be credible and verifiable and preferably sourced from trade executions and reporting systems that are part of a regulated and organized market duly licensed by the SEC where the data contributors are bound to uphold the principles of transparency, fair trading and best execution.

E. Peso-Denominated Private Debt Securities

The basis for marking-to-market peso-denominated debt securities traded in an organized market shall be the same as those used in Peso-Denominated Government Securities in Section D above.

For private debt securities which are not traded in an organized market, the mark-to-market value shall be based on the corresponding government security benchmark plus risk premium. The corresponding government security benchmark shall be determined according to Section D above. In determining the risk premium, the credit risk rating of the securities involved given by a BSP-recognized credit risk rating agency shall be established and taken into account whenever available. In the absence of such credit risk rating, alternative analyses may be used: *Provided*, That, these are well-justified by sound risk analysis principles.

Other Guidelines

For the market valuation of securities with odd tenors, interpolated yields derived from the benchmark or reference rates in accordance with the BSP-approved guidelines for computation of reference rate in Section D above shall be used.

Penalties and Sanctions

FIs and the concerned officers found to have violated the provisions of these regulations shall be subject to the penalties prescribed under Subsec. X388.5: *Provided*, That non-compliance with the above guidelines may be a basis for a finding of unsafe and unsound banking practice.
(As amended by M-2007-006 dated 28 February 2007)

GUIDELINES ON THE USE OF SCRIPLESS (RoSS) SECURITIES
AS SECURITY DEPOSIT FOR THE FAITHFUL PERFORMANCE OF TRUST DUTIES
(Appendix to Sec. X405 and X415)

Definition of Terms and Acronyms

Scripless securities and RoSS securities
- refers to uncertificated securities issued by the Bureau of Treasury (BTr) that are under the BTr’s Registry of Scripless Securities

Trust institution - refers to a bank that is authorized to engage in trust business

BTr - Bureau of Treasury

RoSS - Registry of Scripless Securities

BSP - Bangko Sentral ng Pilipinas

BSP-SES - Supervision and Examination Sector of BSP

SRSO - Supervisory Reports and Studies Office of BSP-SES

BSP-Comptrollership - Accounting Department of BSP

GSED - Government Securities Eligible Dealer of the BTr

DDA - refers to the regular demand deposit account of a bank with BSP-Comptrollership

MOR - Manual of Regulations for Banks

Appropriate supervising and examining department or responsible SED - refers to the Department of Commercial Banks I in the case of EKBs; or the Department of Commercial Banks II in the case of non-EKBs and branches of foreign banks; or the Department of Thrift Banks and Non-Bank

Financial Institutions in the case of thrift banks, supervised by BSP.

A. Basic Requirements

1. The BSP-SES shall file with BTr an application to open a RoSS Principal Securities Account where RoSS securities of trust institutions used as security deposit for trust duties shall be held. BSP-SES shall use *Annex 1* for this purpose.
2. Using *Annex 1-A*, BSP-SES shall also apply for a Client Securities Account (sub-account) for each trust institution under its RoSS Principal Securities Account to enable BSP-SES to keep track of the security deposit. BTr shall maintain Client Securities Accounts for ₱1,000 each month per account.
3. A trust institution which has a DDA with BSP-Comptrollership shall act as its own settlement bank.
A trust institution which does not have a DDA with the BSP-Comptrollership shall designate a settlement bank which will act as conduit for transferring securities for trust duties to the BSP-SES account and for paying interest, interest coupons and redemption proceeds. The trust institution shall inform the appropriate SED of the BSP of the designation of a settlement bank.
4. Each trust institution shall accomplish an *Autodebit/Autocredit Authorization* for its client securities account under the BSP-SES RoSS account. The document will authorize the BTr and the BSP to credit the DDA of the trust institution with BSP-Accounting for coupons/interest payments on securities in the BSP-SES RoSS accounts and to debit the DDA for the monthly fees payable to BTr for maintaining its client securities accounts with BSP-SES. It will also

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authorize the BTR and BSP to credit the deposit account of BSP-SES with BSP-Comptrollership for the redemption proceeds of securities that mature while in the BSP-SES RoSS account.

A trust institution with a DDA with BSP-Comptrollership shall use *Annex 2-A* while a trust institution with a settlement arrangement shall use *Annex 2-B*.

5. BSP-SES shall open a deposit account with BSP-Comptrollership where the redemption value of securities shall be credited, in the event such securities mature while lodged in the RoSS account of BSP-SES.

6. SRSO shall be responsible for keeping track of the deposit and withdrawal of securities held under the BSP-SES Principal Securities Account and the Client Securities Accounts of the trust institutions. SRSO shall instruct BTr to transfer securities out of the BSP-SES account and the corresponding client securities accounts of trust institutions only after receiving authorization from the Director (or in his absence, the designated alternate officer) of the appropriate SED of SES.

SRSO shall also be responsible for keeping track of the BSP-SES deposit account with the BSP-Comptrollership representing credits for the redemption value of security deposit of trust institutions that have matured while in the RoSS account of BSP-SES. SRSO shall maintain sub-accounts for each trust institution for the purpose. SRSO shall instruct BSP-Comptrollership to transfer balances out of the deposit account and the corresponding sub-account of the trust institution only after receiving authorization from the Director (or in his absence, the designated alternate officer) of the appropriate SED of SES.

7. BSP-SES shall subscribe to the *Telerate* electronic trading system which is linked to BTr's RoSS and cause the installation of a *Telerate* terminal at SRSO.

Trust institutions may be required to reimburse BSP-SES for whatever expenses that may be incurred in connection with the subscription.

8. Every trust institution must ensure that it has adequate security deposit for trust duties pursuant to the provisions of Subsecs. X405.1, X405.2, X405.3 and X405.4 of the MOR.

9. BTr shall provide BSP-SES with the end-of-day transaction report whenever a transaction in any client securities account is made. BTr shall also provide BSP-SES a monthly report of balances of each client securities account.

10. Every quarter, the responsible SED of BSP-SES shall determine, based on the *Report of Trust and Other Fiduciary Business and Investment Management Activities* (CBP 7-16-35TR) submitted by the trust institution, whether or not the trust institution's security deposit for trust duties is sufficient pursuant to the provision of the MOR mentioned above. In case of deficiency, the department shall recommend the imposition of sanctions and/or any other appropriate action to higher authorities.

B. Procedures for Assigning RoSS Securities as Security Deposit for Trust Duties

1. The trust institution shall advise the appropriate BSP-SES department that it will transfer RoSS securities to BSP-SES. The advise should be received by the BSP-SES at least two (2) banking days before the date of transfer using the prescribed form (*Annex 3*) and checking Box "b" of said form. (Box "a" shall be checked by a new trust institution that is making an initial security deposit pursuant to Subsec. X404.2 of the MOR.) The advice should be sent by cc mail or by fax to be followed by an official letter duly signed by an authorized trust officer.

2. The trust institution shall electronically instruct BTr to transfer

securities from its own RoSS accounts to the BSP-SES RoSS and its corresponding Client Securities Account on the specified date. In the case of a trust institution with a settlement arrangement, the instruction shall be coursed through the settlement bank and the securities shall come from the RoSS account of the same bank.

3. BTr shall effect the transfer upon verification of RoSS balances. At the end of the day, BTr shall transmit a transaction report to SRSO containing the transfer.

4. SRSO shall provide the appropriate BSP-SES department a copy of the report.

5. The BSP-SES department concerned shall check from the report whether BTr effected the transfer indicated in the advice (*Annex 3*) sent earlier by the trust institution.

C. Procedures for Replacing RoSS Securities

1. The trust institution shall advise the appropriate SED of BSP-SES that it will replace existing RoSS securities assigned as security deposit. The advise should be received by the BSP-SES at least two (2) banking days before the date of replacement using the prescribed form (*Annex 3*). The trust institution shall check Box “c” of the form and indicate the details of the securities to be withdrawn. The advice should be sent by cc mail or by fax to be followed by an official letter duly signed by an authorized trust officer.

2. The responsible BSP-SES department shall verify whether the securities to be replaced are in the RoSS account of BSP-SES and the sub-account of the trust institution and whether the book value of the securities to be deposited is equal to or greater than those to be withdrawn. The department concerned shall immediately communicate with the trust institution in case of a discrepancy.

3. The trust institution shall electronically instruct BTr to transfer

securities from its own RoSS account to the BSP-SES RoSS accounts and its corresponding Client Securities Account on the specified date. In the case of a trust institution with a settlement arrangement, the instruction shall be coursed through the settlement bank and the securities shall come from the RoSS account of the same bank.

4. BTr shall effect the transfer upon verification of RoSS balances. At the end of the day, BTr shall transmit a transaction report to SRSO containing the transfer.

5. SRSO shall immediately provide the appropriate BSP-SES department a copy of the report.

6. The BSP-SES department concerned shall immediately check from the report whether the securities transferred to the BSP-SES account are the same securities described in the advice (*Annex 3*) sent earlier. If in order, the Director (or in his absence, the designated alternate officer) of the department concerned shall authorize SRSO to instruct BTr to transfer the securities specified to be withdrawn from the BSP-SES account to the trust institution’s (or the settlement bank’s) RoSS account. The Department concerned shall use *Annex 5* and check Boxes “a” and “d”. Should there be any discrepancy, the department shall inform the trust institution immediately. The authority to allow the withdrawal should be transmitted to SRSO not later than the day after the replacement securities were transferred to the BSP-SES account.

The BSP-SES department concerned shall also advise the trust institution that it has approved the replacement of security deposit by using *Annex 6* and checking Boxes “a” and “d” and the appropriate box under “d” depending on whether or not the trust institution has a settlement arrangement.

7. On the same day, SRSO shall instruct BTr to transfer the securities

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specified to be withdrawn from the BSP-SES account to the RoSS account of the trust institution (or its settlement bank).

8. BTr shall effect the transfer/withdrawal. At the end of the day, BTr shall send a report to SRSO containing the transfer/withdrawal.

9. SRSO shall provide the appropriate BSP-SES department a copy of the report.

10. The responsible BSP-SES department shall check from the report whether BTr effected the transfer/withdrawal.

D. Procedures for Withdrawing RoSS Securities

1. The trust institution shall advise the appropriate BSP-SES department that it will withdraw existing RoSS securities assigned as security deposit. The advice should be received by the BSP-SES at least two (2) banking days before the date of withdrawal using the prescribed form (*Annex 4*) and indicating therein details of the securities to be withdrawn. The advice should be sent by cc mail or by fax to be followed by an official letter duly signed by an authorized trust officer.

2. The responsible BSP-SES department shall verify whether the securities to be withdrawn are in the RoSS account of BSP-SES and the Client Securities Account of the trust institution. The department shall also determine whether the amount of remaining security deposit will still be adequate in spite of the proposed withdrawal. If in order, the Director (or in his absence, the designated alternate officer) of the department concerned shall authorize SRSO to instruct BTr to transfer the securities specified to be withdrawn from the BSP-SES account to the trust institution's own RoSS account (or its settlement bank). The Department concerned shall use *Annex 5* and check Boxes "b" and "d". Should there be any discrepancy, the department shall inform the trust institution immediately. The authority to allow the withdrawal should be

transmitted to SRSO not later than the date of the withdrawal indicated in the advice (*Annex 4*) sent earlier by the trust institution.

The BSP-SES department concerned shall also advise the trust institution that it has approved the withdrawal of security deposit by using *Annex 6* and checking Boxes "b" and "d" and the appropriate box under "d" depending on whether or not the trust institution has a settlement arrangement.

3. On the same date, SRSO shall instruct BTr to transfer the securities specified to be withdrawn from the BSP-SES account to the RoSS account of the trust institution (or its settlement bank).

4. BTr shall effect the transfer/withdrawal. At the end of the day, BTr shall send to SRSO a report which contains the transfer/withdrawal.

5. SRSO shall provide the appropriate BSP-SES department a copy of the report.

6. The BSP-SES department concerned shall check from the report whether BTr effected the withdrawal stated in the advice (*Annex 4*) sent earlier by the trust institution.

E. Procedures for Crediting Interest Coupon Payments

On coupon or interest payment date, BTr shall instruct BSP-Comptrollership to credit the DDA of trust institutions or their designated settlement banks for coupon/interest payment of securities held under the RoSS account of BSP-SES.

F. Procedures for Crediting and Withdrawing the Redemption Value of Matured Securities That are in the BSP-SES RoSS Account

1. On maturity date, BTr shall instruct BSP-Comptrollership to credit the deposit account of BSP-SES with BSP-Comptrollership for the redemption value of securities that mature while held as security deposit in the RoSS account of BSP-SES.

2. BTr shall send to SRSO a copy of the credit advice.

3. SRSO shall immediately provide the appropriate BSP-SES department a copy of the credit advice.

4. The responsible BSP-SES department shall immediately inform the trust institution concerned of the cash credit and shall inquire whether the trust institution intends to transfer securities to the RoSS account of the BSP-SES to replace the matured securities.

5. The trust institution shall advise the appropriate BSP-SES department that it will transfer RoSS securities to BSP-SES in place of the cash credited to the deposit account of BSP-SES with BSP-Comptrollership for matured securities. The trust institution shall check Box “d” of the prescribed form (*Annex 3*). The concerned department shall determine if the book value of the securities to be transferred is equal to or greater than the cash credit.

6. The trust institution shall electronically instruct BTr to transfer securities from its own RoSS accounts to the BSP-SES RoSS account and its corresponding Client Securities Account on the specified date. In the case of a trust institution with a settlement arrangement, the instruction shall be coursed through the settlement bank and the securities shall come from the RoSS account of the same bank.

7. BTr shall effect the transfer upon verification of RoSS balances. At the end of the day, BTr shall send a report to SRSO containing the transfer.

8. SRSO shall provide the appropriate BSP-SES department a copy of the report.

9. The BSP-SES department concerned shall immediately check from the report whether the securities transferred to the BSP-SES account are the same securities described in the advice (*Annex 3*) sent earlier by the trust institution. If in order, the Director (or in his absence, the designated alternate officer) of the Department shall direct the SRSO to instruct BSP-Accounting Department to debit the BSP-SES deposit account and transfer the funds to the DDA of the trust institution (or its designated settlement bank). The Department concerned shall use *Annex 5* and check Boxes “c” and “e”.

The BSP-SES department concerned shall also advise the trust institution that it has approved the replacement of matured securities by using *Annex 6* and checking Boxes “c” and “e” and the appropriate box under “e” depending on whether or not the trust institution has a settlement arrangement.

10. SRSO shall direct BSP-Accounting to debit the BSP-SES deposit account and credit the same amount to the DDA of the trust institution (or its designated settlement bank) using *Annex 7*.

11. BSP-Accounting shall effect the transaction and send a copy of the debit advice to SRSO and a copy of the credit advice to the trust institution (or the designated settlement bank).

12. SRSO shall send a copy of the debit advice to the SES department concerned.

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Annex 1

SUPERVISION AND EXAMINATION SECTOR

(Date)

Treasurer of the Philippines
Bureau of Treasury
Palacio del Gobernador
Intramuros, Manila

Attention: Registry of Scripless Securities (RoSS)

Dear _____:

The Supervision and Examination Sector of the Bangko Sentral ng Pilipinas (BSP-SES) hereby makes an application to open a Principal Securities Account in the Registry of Scripless Securities (RoSS) for the purpose of holding the security deposit for the faithful performance of trust duties of institutions engaged in trust business pursuant to Section 65 of R.A. No. 337, as amended.

We understand that the Bureau of Treasury shall maintain the Principal Securities Account of BSP-SES for free.

Very truly yours,

Deputy Governor

SUPERVISION AND EXAMINATION SECTOR

(Date)

Treasurer of the Philippines
Bureau of Treasury
Palacio del Gobernador
Intramuros, Manila

Attention: Registry of Scripless Securities (RoSS)

Dear Ms. _____

In connection with the Principal Securities Account of BSP-SES in the Registry of Scripless Securities (RoSS), please open Client Securities Account for the following trust institutions so we can keep track of their security deposit for the faithful performance of trust duties. Please note that the settlement bank of the institution, if it is required, is also indicated.

	Name of Trust Institution	Name of Settlement Bank, where required
1.	_____	_____
2.	_____	_____
3.	_____	_____

We understand that the Bureau of Treasury will maintain the Client Securities Account for P1,000 per month per account.

Very truly yours,

Authorized Signatory

To be used by a trust institution with own demand deposit account with BSP-Comptrollership

Letterhead of Trust Institution

AUTODEBIT/AUTOCREDIT AUTHORIZATION

The _____ (name of bank) hereby authorizes the Bureau of Treasury (BTr) and the Bangko Sentral ng Pilipinas (BSP) to debit/credit our demand deposit account with BSP-Comptrollership for coupons/interest payment of our securities in the BSP-SES RoSS accounts; and to settle the payment of monthly maintenance fees to BTr of our client securities account under the BSP-SES RoSS account. We also authorize the BTr and the BSP to credit the Account of BSP-SES with BSP-Comptrollership for the redemption proceeds of our securities in the event such securities mature while in the RoSS account of BSP-SES.

This authorization will take effect on _____ (indicate date) .

(Authorized Signatory)

To be used by a trust institution with settlement arrangement with a bank

Letterhead of Trust Institution

AUTO DEBIT/AUTOCREDIT AUTHORIZATION

The _____ (name of settlement bank) _____ for the account of _____ (name of trust institution) _____ hereby authorizes the Bureau of Treasury (BTr) and the Bangko Sentral ng Pilipinas (BSP) to debit/credit our demand deposit account with BSP-Comptrollership for coupons/interest payment of securities of the trust institution in the BSP-SES RoSS accounts; for maturing securities of the trust institution held in our RoSS Principal Securities Account with BTr; and to settle the payment of monthly maintenance fees to BTr of our client securities account under the BSP-SES RoSS account.

The _____ (name of trust institution) _____ also authorizes the BTr and the BSP to credit the Account of BSP-SES with BSP-Comptrollership for the redemption proceeds of our securities in the event such securities mature while in the RoSS account of BSP-SES.

This authorization will take effect on _____ (indicate date) _____ .

(Authorized Signatory of Settlement Bank)

(Authorized Signatory of Trust Institution)

Letterhead of Trust Institution

Date:

The Director
SED I/SED II/SED III/SED IV
Bangko Sentral ng Pilipinas
A. Mabini St., Manila

Dear Sir:

We are transferring on (indicate date of transfer) the following securities to your Principal Securities Account and our Client Securities Account (sub-account) as our security deposit for the faithful performance of trust duties pursuant to Section 65 of R.A. No. 337, as amended.

<u>Type</u>	<u>ISIN</u>	<u>Purchase Date</u>	<u>Issue Date</u>	<u>Due Date</u>	<u>Remaining Tenor ^{a/}</u>	<u>Face Amount</u>	<u>Purchase Price</u>

We are transferring the above securities:

- a. ☐ As our initial deposit
- b. ☐ As an additional security deposit
- c. ☐ To replace the following securities which we deposited on (date) .

<u>Type</u>	<u>ISIN</u>	<u>Purchase Date</u>	<u>Issue Date</u>	<u>Due Date</u>	<u>Remaining Tenor ^{a/}</u>	<u>Face Amount</u>	<u>Purchase Price</u>

- d. ☐ To replace matured securities the redemption value of which P is credited to the deposit account of BSP-SES with BSP-Comptrollership.

Very truly yours,

Name and Designation of Authorized Signatory

^{a/} Reckoned from actual date of transfer/withdrawal.

Letterhead of Trust Institution

Date:

The Director
SED I/SED II/SED III/SED IV/SED V
Bangko Sentral ng Pilipinas
A. Mabini St., Manila

Dear Sir:

We wish to withdraw on (indicate date of transfer) the following securities used as security deposit for the faithful performance of trust duties from the Principal Securities Account and from our corresponding Client Securities Account (sub-account).

<u>Type</u>	<u>ISIN</u>	<u>Purchase Date</u>	<u>Issue Date</u>	<u>Due Date</u>	<u>Remaining Tenor ^{a/}</u>	<u>Face Amount</u>	<u>Purchase Price</u>

Very truly yours,

Name and Designation of Authorized Signatory

^{a/} Reckoned from actual date of transfer/withdrawal.

MEMORANDUM
SED I/SED II/SED III/ SED IV

F o r : The Director
Supervisory Reports and Studies Office

From : The Director

Subject : Scripless Securities Used As Deposit for Trust Duties

Date :

In connection with the request of (indicate name of trust institution) dated _____ to:

- a. ☐ Replace outstanding RoSS securities
- b. ☐ Withdraw RoSS securities
- c. ☐ Replace cash credit of matured securities with outstanding RoSS securities
you are hereby authorized to:
- d. ☐ Instruct the Bureau of Treasury to transfer the following securities out of the BSP-SES RoSS accounts to the RoSS Principal Securities Account of (indicate name of trust institution or, where applicable, the name of its settlement bank)

Type	ISIN	Purchase Date	Issue Date	Due Date	Remaining Tenor ^{a/}	Face Amount	Purchase Price

- e. ☐ Instruct BSP-Comptrollership to debit the BSP-SES deposit account in the amount of P _____ and to transfer said amount to the demand deposit account of (indicate name of trust institution or, where applicable, the name of its designated settlement bank).

Authorized Signatory

^{a/} Reckoned from actual date of transfer/withdrawal.

SED I/SED II/SED III/SED IV

(Date)

(Name of Trust Institution)

(Address)

Subject: Scripless Securities Used As Deposit for Trust Duties

Dear Mr. _____:

We are pleased to inform you that we have approved your request dated _____ to:

- a. ☐ Replace outstanding RoSS securities
- b. ☐ Withdraw RoSS securities
- c. ☐ Replace cash credit of matured securities with outstanding RoSS securities.

Accordingly, we have authorized the Supervisory Reports and Studies Office to:

- d. ☐ Instruct the Bureau of Treasury to transfer the following securities out of the BSP-SES RoSS accounts to -
 - ☐ the RoSS Principal Securities Account
 - ☐ your settlement bank's RoSS Principal Securities Account, the securities described in your request.
- e. ☐ Instruct BSP-Comptrollership to debit the BSP-SES deposit account in the amount of P_____ and to credit said amount to -
 - ☐ your demand deposit account with BSP-Comptrollership
 - ☐ your settlement bank's demand deposit account with BSP-Comptrollership

Very truly yours,

Authorized Signatory

PROFORMA PAYMENT FORM
[Appendix to Subsec. X902.3 (2008 - X609.3)]

PAYMENT FORM - (Department Name)

Date _____

The Director
Cash Department
Bangko Sentral ng Pilipinas
Vito Cruz, Cor. Mabini, Manila

Sir: Attached is _____ (Bank) _____ (Check/DD/CC) _____ Number _____
in the amount of ₱ _____ as payment for: _____ AMOUNT _____

1. LEGAL RESERVE				
2. CB:IBRD LOAN/LC:STD				
BORROWER'S NAME	PRINCIPAL	INTEREST	PENALTY	
_____	_____	_____	_____	
_____	_____	_____	_____	
_____	_____	_____	_____	
_____	_____	_____	_____	
Total	_____	_____	_____	_____

Excess/deficiency will be credited/debited to the bank's Demand Deposit account with BSP.

3. CASH DIVIDENDS ON PREFERRED SHARES	YEAR	AMOUNT	
	_____	_____	
	_____	_____	_____

4. REDEMPTION OF PREFERRED SHARES	AMOUNT	

	_____	_____

5. SUPERVISORY FEES	YEAR	AMOUNT	
	_____	_____	
	_____	_____	_____

6. FINES/PENALTIES	PERIOD COVERED	AMOUNT	
NATURE			
a) Late reporting	_____	_____	
b) Reserve deficiency	_____	_____	
c) SBL	_____	_____	
d) Others (Specify)	_____	_____	
TOTAL	_____	_____	_____

Signature Over Printed Name

Position

SUGGESTED GESTATION/GRACE PERIODS FOR
AGRICULTURE AND FISHERIES PROJECTS
(Appendix to Sec. X349)

PROJECT	GESTATION (Years)	SUGGESTED MAXIMUM GRACE PERIOD (Years)
A. Crops		
Abaca	4-6	5
Blackpepper	3-4	4
Cacao	4-6	5
Calamansi	4-6	6
Cashew	5	5
Coconut	7-8	7
Coffee	3-4	4
Durian	5-7	7
Lanzones	6-8	7
Mango	5-7	7
Mangosteen	6-8	7
Pomelo	5-7	7
Rambutan	6-7	5
Rubber	5-7	7
Palm Oil	4-6	7
Pili	6-8	7
Jackfruit /	5-7	7
Others ^a		
B. Livestock		will depend on the cash flow or type of project, up to a maximum of seven (7) years
C. Poultry		
D. Fisheries		

Note: Cash Flows/Cost and Return Analysis for these projects are available at the Agribusiness and Marketing Assistance Service, Department of Agriculture.

^{a/} Others - other crops/projects as may be determined by the Department of Agriculture through the Agricultural Credit Policy Council which may include industrial tree crops planted in private lands and used for intercropping purposes.

BASIC GUIDELINES IN ESTABLISHING BANKS
(Appendix to Sec. X102)

A. GUIDING PRINCIPLE

The new banking organization must have suitable shareholders, adequate financial strength, a legal structure in line with its operational structure, and a management with sufficient expertise and integrity to operate the bank in a sound and prudent manner. Where the proposed owner or parent organization is a foreign bank, the prior consent of its home country supervisor should be obtained.

B. THE APPLICATION

1. The application for authority to establish a bank shall be accomplished in triplicate. The original copy and duplicate copy shall be submitted to the Supervisory Reports and Studies Office (SRSO), BSP. The third copy shall be retained by the organizers.
2. The required papers/documents and other information in support of the application are, as follows:
 - a. Agreement to organize a bank.
 - b. Accomplished bio-data sheet of each of the incorporators, proposed directors and officers, and subscribers.
 - c. Evidence of Filipino citizenship of each of the incorporators, proposed directors and officers, and subscribers if he/she claims to be a Filipino citizen:
 - (1) In case of a natural-born Filipino citizen, original or certified true copy of birth certificate from issuing office. In case the birth certificate cannot be produced by reason of destruction or otherwise, an affidavit to that effect by the civil registrar concerned should be submitted accompanied by an affidavit by the incorporator, director, officer or subscriber himself stating, among other things, the date and place of his birth and the names of his parents and their citizenship at the time of the affiant's birth; and joint

- affidavit of two (2) disinterested/unrelated persons stating, among other things, the date and place of the subject's birth and the names of his parents and their citizenship at the time of the subject's birth; or
- (2) In case of a naturalized citizen of the Philippines, the naturalization certificate, certificate of registration thereof with the civil registrar and other pertinent papers; or
 - (3) In the absence of the above-mentioned documents, a photocopy of the passport (with original to be presented for verification).
- d. Statement of assets and liabilities as of a date not earlier than ninety (90) days prior to the filing of application of each of the subscribers, sworn to by the subscriber himself and duly notarized, or certified by a Certified Public Accountant (CPA), with supporting schedules showing the following information:
- (1) In the case of cash in banks: (a) name of depository bank, (b) nature of deposit, and (c) amount of deposit with each bank as of balance sheet date;
 - (2) In the case of securities: (a) name and address of issuing corporation/entity, (b) number of shares owned as of balance sheet date, (c) par value, (d) date and cost of acquisition, and (e) information as to whether the securities are actively traded in the stock market and, if so, their current market price;
 - (3) In the case of land: (a) description (agricultural, etc.), (b) area, (c) location, (d) date and cost of acquisition, (e) transfer certificate of title or tax declaration number, (f) amount of encumbrance or lien, if any, (g) assessed value, and (h) current market value (*state basis of valuation*);

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(4) In the case of real estate improvements: (a) description of improvement (residential house, etc.), (b) location, (c) date and cost of acquisition/construction, (d) assessed value, and (e) current market value (state basis of valuation);

(5) In the case of accounts receivable, state the name and address of each debtor and the amount due from each; and

(6) In the case of accounts payable or other liabilities, state the name and address of each creditor and the amount owed to each.

(Evidences of asset ownership such as bank certification/statement, savings passbook, certificate of time deposit, bond or stock certificate, transfer certificate of title, tax declaration, etc. and waiver of rights under R. A. No. 1405, as amended, shall be submitted/presented for verification).

e. Statement of income and expense for the last three (3) calendar years of each of the subscribers, sworn to by the subscriber himself and duly notarized, or certified by a CPA.

f. Certified photocopies of Income Tax Returns (ITRs) for the last three (3) calendar years of each of the incorporators, proposed directors and officers, and subscribers.

g. Clearances from the National Bureau of Investigation (NBI) and Bureau of Internal Revenue (BIR) of each of the incorporators, proposed directors and officers, and subscribers.

h. For corporate subscribers:

(1) Copy of the board resolution authorizing the corporation to invest in such bank; and designating the person who will represent the corporation in connection therewith;

(2) Copy of the latest articles of incorporation and by-laws;

(3) List of directors and principal officers;

(4) List of major stockholders, indicating the citizenship and the number, amount and percentage of the voting and non-voting shares held by them;

(5) A copy of the corporation's audited financial statements for the last two (2) years prior to the filing of application;

(6) A copy of the corporation's annual report to the stockholders for the year immediately preceding the date of filing of application;

(7) Certified photocopies of ITRs for the last two (2) calendar years; and

(8) BIR clearance.

i. For foreign bank subscribers:

(1) A copy of the board resolution authorizing the bank to invest in a bank in the Philippines, and designating the person who will represent the bank in connection therewith;

(2) Historical background of the bank, as follows:

(a) Date and place of incorporation;

(b) List of domestic branches, agencies, other offices, subsidiaries and affiliates and their line of business (if different from banking) in the home country;

(c) List of foreign branches, agencies, other offices, subsidiaries and affiliates, and their location and line of business (if different from banking);

(d) Range of banking services offered; and

(e) Financial and commercial relationship with the Philippine government, local banks, business entities and residents, past or present;

(3) A copy each of the bank's latest amended articles of incorporation and by-laws;

(4) List of the bank's directors and their citizenships;

(5) List of principal officers of the bank's head office;

(6) List of major stockholders, indicating the citizenship and the number, amount and percentage of the voting and non-voting shares held by them;

(7) A copy of the bank's audited financial statements for the last two (2) years prior to the filing of application;

(8) A copy of the bank's annual report to the stockholders for the year immediately preceding the date of filing of application; and

(9) A certification from the bank's home country supervisory authority that the bank's home country supervisory authority has no objection to the bank's investment in a bank in the Philippines, and that adequate information on the bank and its subsidiaries will be provided to the BSP to the extent allowed under existing laws.

j. Detailed plan of operation and economic justification for establishing the bank. *(The plan of operation should describe and analyze the market area from which the bank expects to draw the majority of its business and establish a strategy for the bank's ongoing operations. It should also describe how the bank will be organized and controlled internally. The economic justification for establishing the bank should provide information on the economic profile of the region, e.g., population, agricultural/industrial/service projects to be financed).*

k. Projected monthly financial statements for the first twelve (12) months of operations, together with assumptions. *(The financial projections should be consistent and realistic in relation to the bank's proposed strategic plan, and should show sufficient capital to support the bank's strategy, specially in the light of start-up costs and possible operational losses in the early stages.)*

l. Proposal by each of the subscribers on how they will raise the amount to pay for their proposed paid-up capitalization in the bank.

3. The application shall be considered filed on a first-come, first-served basis:

Provided, That all the required documents are complete and properly accomplished.

4. Pursuant to Section 26 of R. A. No. 7653, approval of application shall be subject, among others, to the waiver of secrecy of deposits under Sec. X338.

5. Prescribed application form, together with other forms, is available at the Studies and Chartering Group, SRSO.

C. CAPITAL REQUIREMENT/ STOCKHOLDINGS

1. Banks to be established shall comply with the required minimum capital prescribed under Subsec. X111.1 or as may be prescribed by the Monetary Board.

2. At least twenty-five percent (25%) of the total authorized capital stock shall be subscribed by the subscribers of the proposed bank, and at least twenty-five percent (25%) of such subscription shall be paid-up: *Provided*, That in no case shall the paid-up capital be less than the minimum required capital stated in Item 1 above.

3. Stockholdings of any person or persons related to each other within the third (3rd) degree of consanguinity or affinity, or one (1) or more corporations wholly-owned or majority of the voting stock of which is owned by such person or persons shall not exceed twenty percent (20%) of the voting stock of the bank; while stockholdings of any other corporation, or two (2) or more corporations wholly-owned or majority of the voting stock of which is owned by the same group of persons shall not exceed thirty percent (30%) of the voting stock of the bank. *(Temporarily waived for a period of 10 years from the effectivity of R.A. No. 7906, i.e., 17 March 1995 for TBs; and from the date of approval of R.A. No. 7353, i.e., 2 April 1992 for RBs).*

4. At least seventy percent (70%) of voting stock of any KB shall be owned by Filipino citizens: *Provided*, That such percentage may be lowered to sixty percent

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(60%) with approval of the President of the Philippines. For any TB, at least forty percent (40%) of its voting stock shall be owned by Filipino citizens. Subject to Section 4 of R.A. No. 7353, all of the capital stock of any RB shall be fully owned and held, directly or indirectly, by Filipino citizens or corporations, associations or cooperatives qualified under Philippine laws to own and hold such capital stock.

D. INCORPORATORS/SUBSCRIBERS, DIRECTORS AND OFFICERS

1. The incorporators/subscribers and proposed directors and officers must be persons of integrity and of good credit standing in the business community. The subscribers must have adequate financial strength to pay for their proposed subscriptions in the bank.
2. The incorporators/subscribers and proposed directors and officers must not have been convicted of any crime involving moral turpitude, and unless otherwise allowed under the provisions of existing laws are not officers or employees of a government agency, instrumentality, department or office charged with the supervision of, or the granting of loans to banks.
3. A bank may be organized with not less than five (5) nor more than fifteen (15) incorporators. In case there are more than fifteen (15) persons initially interested in organizing and investing in the proposed bank, the excess may be listed among the original subscribers in the Articles of Incorporation.
4. The number of members of the board of directors of the bank shall not be less than five (5) nor more than fifteen (15) and shall always be in odd numbers.
5. At least two-thirds (2/3) of the members of the board of directors of any KB shall be Filipino citizens; at least a majority of the members of the board of

directors of any TB shall be Filipino citizens; and all members of the board of directors of an RB shall be Filipino citizens.

6. No appointive or elective public official, whether full-time or part-time shall at the same time serve as officer of a KB or a TB except in cases where such service is incident to financial assistance provided by the government or a government-owned or -controlled corporation to the bank.

7. The proposed directors and officers of the bank shall be subject to qualifications and other requirements under Sections X141, X142 and X143.

a. Qualifications of a director. A director shall have the minimum qualifications prescribed in Subsec. X141.2. In addition, for TBs and RBs, at least one (1) of the members of the Board of Directors must, in addition to the minimum qualifications, have at least one (1) year experience in banking and/or finance: *Provided*, That this requirement may be waived if the TB or RB is to be established in a municipality or city where there is no existing bank.

b. Qualifications of an officer. An officer shall have the minimum qualifications prescribed in Subsec. X142.2. In addition, for KBs, the president must, in addition to the minimum qualifications, have at least two (2) years experience in banking and/or finance. For TBs and RBs, any one (1) of the president, chief operating officer or general manager must, in addition to the minimum qualifications, have at least two (2) years experience in banking and/or finance.

c. Disqualifications of a director. The disqualifications prescribed under Subsec. X143.1 shall apply.

d. Disqualifications of an officer. The disqualifications prescribed under Subsec. X143.2 shall apply.

**E. REQUIREMENTS FOR THE
ISSUANCE OF AUTHORITY TO
OPERATE**

1. Within sixty (60) days from receipt of advice of approval by the Monetary Board/Governor of their application for authority to establish the bank, the organizers shall:

a. Submit the articles of incorporation, treasurer's sworn statement and by-laws in seven (7) copies; and

b. Deposit with any KB (for KBs and TBs) and any bank (for RBs) the initial paid-up capital of the proposed bank.

2. Within thirty (30) days after the articles of incorporation and by-laws had been passed upon by the Office of the General Counsel and the corresponding certificates of authority to register had been issued, the organizers shall effect the filing and registration of said documents with the SEC.

3. Within six (6) months (for KBs and TBs) and eight (8) months (for RBs) from receipt of advice of approval by the Monetary Board/Governor of their application for authority to establish the bank, the organizers shall:

a. Complete the construction and furnishing of the bank building, which shall be equipped with vault and appropriate security devices such as lighting system, time delay device, tamper-resistant locks, alarm system, etc., and provided with furniture, fixtures, equipment and bank forms;

b. Effect and complete the recruitment and hiring of officers and employees of the bank;

c. Submit the following documentary requirements at least thirty (30) days before the scheduled start of operations:

(1) Proof of registration of articles of incorporation and by-laws;

(2) Certification of compliance with the conditions of approval duly signed by the incorporators;

(3) List of principal and junior officers and their respective designations and salaries;

(4) Bio-data sheet, evidence of citizenship and NBI and BIR clearances of each of the officers (who have not had the previous approval of the Monetary Board/Governor) which are needed for the evaluation of their qualifications as officers;

(5) Chart of organization (*The chart should show the names of departments/units/offices with their respective functions and responsibilities, and the designations of positions in each department/unit/office with their respective duties and responsibilities. The internal organization should provide for a management structure with clear accountability, a board of directors with ability to provide independent check on management, and independent audit and compliance functions, and should follow the "four eyes" principle, e.g., segregation of various functions, cross-checking, dual control of assets, double signatures, etc.*);

(6) Manual of operations embodying the policies and operating procedures of each department/unit/office, covering such areas as signing/delegated authorities, etc. (for KBs and TBs);

(7) Plantilla showing the positions with corresponding salaries, the total of which should more or less conform with the amount of salaries shown in the submitted projected statement of earnings and expenses;

(8) Two (2) sets of specimens of principal bank accounting and other forms;

(9) Bond policy on officers and custodial employees;

(10) Insurance policy on bank properties required to be insured;

(11) Blueprint of floor layout of bank premises;

(12) Contract of lease on bank's premises, if the same are to be leased;

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(13) Excerpts of the minutes of the organizational meetings confirming all organizational and pre-opening transactions relative to activities undertaken to prepare the bank to operate (such as appointment of officers, contract of lease, etc.);

(14) An alphabetical list of stockholders with the number and percentage of voting stocks owned by them;

(15) A separate list containing the names of persons who own voting stocks in banks and who are related to each other within the third (3rd) degree of consanguinity or affinity, with proper indication of the combined percentage of voting stocks held by them in the particular bank, as well as corporations which are wholly-owned or a majority of the stock of which is owned by any of such persons, including their wholly- or majority-owned subsidiaries;

(16) Certification by the President that no person who is the spouse or relative within the second (2nd) degree of consanguinity or affinity of any person holding the position of Chairman, President, Executive Vice-President or any position of equivalent rank, General Manager, Treasurer, Chief Cashier or Chief Accountant will be appointed to any of said positions in the bank;

(17) Appointment of an officer of the proposed bank who shall have undergone orientation on the reportorial requirements with the Department of Thrift Banks and Non-Banks Financial Institutions (DTBNBFI), and a certification by the Manager that he is fully aware of said reportorial requirements

and the respective deadlines for submission to the BSP (for TBs); and

(18) Other documents/papers which may be required.

d. File with SRSO a request for ocular inspection of the bank premises at least thirty (30) days before the scheduled start of operation.

F. INAUGURATION/OPENING OF THE BANK FOR BUSINESS AFTER THE CERTIFICATE OF AUTHORITY TO OPERATE HAS BEEN ISSUED

G. REQUIREMENTS WITHIN THIRTY (30) DAYS AFTER FIRST DAY OF OPERATIONS

1. Inform the BSP of the first day of operation and the banking hours and days; and
2. Submit a statement of condition as of the first day of operation.

H. REVOCATION OF AUTHORITY TO ESTABLISH A BANK

The authority to establish a bank shall be automatically revoked if the bank is not organized and opened for business within six (6) months (for KBs and TBs) and eight (8) months (for RBs) after receipt by the organizers of the notice of approval by the Monetary Board/ Governor of their application. Extension may be granted upon presentation of justifiable reason for failure to open the bank within the prescribed period, and proof that the bank can be opened within the extension period.

**REVISED GUIDELINES FOR THE
ESTABLISHMENT OF COOPERATIVE BANKS
(Appendix to Sec. X102)**

Pursuant to Monetary Board Resolution No. 1244 dated 28 August 2003, the Revised Guidelines for the Establishment of Cooperative Banks is hereby issued, as follows:

Sec. 1 Cooperative defined. A cooperative is a duly registered association of persons with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally-accepted cooperative principles.

For purposes of these regulations, all cooperative organizations registered or re-registered with the Cooperative Development Authority (CDA) under R.A. No. 6938 shall be considered cooperatives.

Sec. 2 Organizers of Coop Banks
Only duly established cooperatives and federations of cooperatives which are registered or re-registered with the CDA under R.A. No. 6938 may become members/organizers of Coop Banks organized in accordance with the provisions of these guidelines. At least fifteen (15) such cooperatives organized in the province applied for may form and operate a Coop Bank.

Sec. 3 Registration requirements. A prospective Coop Bank shall file its application for licensing as a bank with the BSP and, upon approval, shall be registered with the CDA.

Sec. 4 Application documents. Duly registered cooperatives applying for authority to establish a Coop Bank shall submit the following documents to the Central Applications and Licensing Group (CALG):

- a. Certificate of registration or re-registration with the CDA;
- b. Board resolution authorizing the investment of the cooperative to the Coop Bank;
- c. Board resolution appointing/designating the authorized representative of the cooperative to the Coop Bank. The authorized representative must either be the chairman, president or secretary of the cooperative;
- d. Latest AFS of the cooperatives;
- e. Articles of Cooperation, Treasurer's Sworn Statement and By-Laws of the proposed Coop Bank in six (6) copies;
- f. Certificate of Good Standing of each cooperative from the CDA;
- g. Bio-data, accomplished in the prescribed form under oath and in triplicate, by each of the authorized representatives of the cooperative-members, and proposed members of the board of directors and officers of the Coop Bank;
- h. NBI/BIR clearances of the authorized representatives of the cooperative members and proposed members of the board of directors and officers of the Coop Bank;
- i. Latest statement of assets and liabilities of authorized representatives which must be not earlier than ninety (90) days from date of application;
- j. Projected monthly financial statements for the first three (3) years of operations which must be supported by the following:

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- 1. reasonable assumptions;
 - 2. plantilla of organization including the estimated salaries and allowances of the officers and employees, as well as the members of the board of directors;
 - 3. schedule of proposed banking premises, furniture, fixtures and equipment indicating their estimated cost; and
 - 4. such other information as may be necessary.
- k. Detailed plan of operations which should include the following minimum information:
- 1. marketing plan describing how the bank expects to generate viable and sustainable business;
 - 2. description of how the bank will be organized and controlled internally to ensure that an appropriate system of corporate governance will be in place; and
 - 3. adequate operational policies and procedures, internal control procedures and management expertise to operate the proposed bank in a safe and sound manner.
- l. Economic justification. The economic justification for establishing the bank should provide information on the economic profile of the proposed area of operation, i.e., whether it is industrial, agricultural, etc., number of existing business establishments, population, expected competition and such other relevant information.

Sec. 5 Limitation on the establishment of Coop Bank. Only one Coop Bank shall be established in each province, which must be located in a place accessible to the public. However, a second Coop Bank may be allowed to be established in a province: *Provided*, That it shall be located in a city or municipality other than the city or municipality where the first Coop Bank is located.

Sec. 6 Limitation on capital contribution of cooperatives. Capital contributions in a Coop Bank shall be as widely dispersed as possible. No cooperative member shall own or control more than forty percent (40%) of the total capital contributions of a Coop Bank. This limitation shall also apply to cooperatives purchasing government-held preferred shares of Coop Banks which are converted into common stock.

Sec. 7 Capitalization. Coop Banks shall have the following minimum capitalization (Private Paid-in Capital)¹:

	Amount (In Millions)
National Coop Bank	P20
Local Coop Bank:	
To be established in Metro Manila	P20
To be established in the Cities of Cebu and Davao	P10
To be established in other places	P 5
2 nd Coop Bank to be established within the province	P 5

Sec. 8 Members of the board of directors. The number of members of the board of directors of a Coop Bank shall not be less than five (5) nor more than fifteen (15) which shall at all times be in odd numbers and at least two (2) of whom shall be independent directors. These directors shall come from the ranks of the authorized representatives of the cooperative-member. For this purpose, an independent director shall mean a director who is not an officer or employee of the Coop Bank.

Sec. 9 Qualifications and disqualifications of officers and directors. Officers, such as president, vice-president, manager, treasurer, cashier and accountant and directors of the Coop Bank must possess the qualifications and none of the disqualifications

¹ Required under Subsec. X111.1

prescribed under the attached Annex “A” (Instructions for Directors and Officers of Proposed Cooperative Banks).

Sec. 10 Limitation on officership/directorship. Any officer or employee of the CDA shall be disqualified to be elected or appointed to any position in a Coop Bank. Elective officials of the government except barangay officials, shall also be ineligible to become officers and directors of Coop Banks.

Sec. 11 Pre-operating requirements

a. Within eight (8) months from receipt of advice of approval of the Monetary Board of its application, the proposed Coop Bank shall:

1. Complete the construction and furnishing of the bank building which shall be equipped with facilities, furniture, forms and stationery, and vault of reinforced concrete with a steel two (2)-hour fire resistant door and equipped with time delay device, in accordance with the specifications of the BSP;

2. Effect and complete the training/seminar of directors, officers and employees of the Coop Bank; and

3. Inaugurate and open the Coop Bank for business.

b. At least thirty (30) days prior to the start of operations, the Coop Bank shall submit the following requirements

1. Certification of compliance with the conditions of approval of the applications duly signed by the cooperators;

2. Proof of registration of Articles of Cooperation, Treasurer’s Sworn Statement and By-Laws of the Bank;

3. Certificate of deposits of the bank’s paid-in capital;

4. Request for ocular inspection of the bank premises at least thirty (30) days before the scheduled date of operations;

5. Certificates of training/seminar of officers and employees;

6. Certificates of attendance of the special seminar for members of the board of directors conducted or accredited by the BSP;

7. List of principal and junior officers and their respective designations and salaries;

8. Bio-data sheets, NBI/BIR clearances, statement of assets and liabilities, ITRs and statement of income and expenses for the last three (3) years of directors/officers who have not had the previous approval of the Monetary Board, for evaluation of their qualifications prior to their appointment;

9. Chart of organization. The chart should show the names of departments/units/offices with their respective functions and responsibilities, and the designations of positions in each department/unit/office with their respective duties and responsibilities. The internal organization should provide for a management structure with clear accountability, a board of directors with ability to provide independent check on management and independent audit and compliance functions, and should follow the “four eyes” principle, i.e., segregation of various functions, cross checking, dual control of assets, double signatures;

10. Manual of Operations embodying the policies and operating procedures of each department/unit/office covering such areas as signing/delegated authorities;

11. Two (2) sets of specimens of principal bank accounting and other forms;

12. Blueprint of floor layout of bank premises;

13. Contract of lease on bank’s premises, if the same are to be leased;

14. Insurance coverage of bank properties;

15. Fidelity bonds of accountable officers;

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16. Excerpts of the minutes of the organizational meetings confirming all organizational and pre-opening transactions relative to activities undertaken to prepare the bank to operate (such as appointment of officers, contract of lease, etc.);

17. An alphabetical list of stockholders with the number and percentage of voting stocks owned by them;

18. A separate list containing the names of persons who own voting stocks in banks and who are related to each other within the 3rd degree of consanguinity or affinity, with proper indication of the combined percentage of voting stocks held by them in the particular bank, as well as corporations which are wholly-owned or a majority of the stock of which is owned by any of such persons, including their wholly or majority-owned subsidiaries;

19. Certification by the president or officer of equivalent rank that no person who is the spouse or relative within the 2nd degree of consanguinity or affinity of any person holding the position of chairman, president, executive vice president or any position of equivalent rank, general manager, treasurer, chief cashier or chief accountant will be appointed to any of said positions in the bank;

20. Appointment of an officer of the proposed bank who shall have undergone orientation on the reportorial requirements with the BSP and a certification by the manager that he is fully aware of said reportorial requirements and the respective deadlines for submission to the BSP;

21. A certification by the PDIC that the organizers had already been briefed on all of its requirements for newly established banks; and

22. Other documents/papers which may be required.

Sec. 12 Training of personnel, directors and officers. The following personnel of the Coop Bank as well as the directors and officers are required to undergo training at the Bangko Sentral ng Pilipinas Institute:

a. The manager who must possess the qualifications and none of the disqualifications as enumerated in the attached Annex "A".

b. The cashier who must also possess the qualifications and none of the disqualifications as enumerated in the attached Annex "A".

c. The bookkeeper who must be at least twenty one (21) years old, a college degree holder, and must have at least eighteen (18) units in accounting.

d. The field inspector-appraiser who must be at least twenty (21) years old, at least a high school graduate, and must have knowledge/experience in farming, preferably an Agriculture graduate.

Sec. 13 Validity period of authority to operate the Coop Bank. The Coop Bank shall be organized and opened for business within eight (8) months upon receipt by the proposed Coop Bank of the notice of approval of its application by the Monetary Board, otherwise, the authority to operate shall be deemed automatically revoked.

Sec. 14 These rules and regulations supersede the Guidelines for the Organization of Rural Banks by Cooperatives approved under M.B. Resolution No. 1155, dated 6 October 1990.

INSTRUCTIONS FOR DIRECTORS AND OFFICERS
OF PROPOSED COOPERATIVE BANKS

The term *officers* shall include the president, senior vice-president, vice president, manager, secretary, cashier, and others mentioned as officers of the bank, or those whose duties as such are defined in the by-laws, or are generally known to be the officers of the bank (or any of its branches and offices other than the head office) either thru announcement, representation, publication or any kind of communication made by the bank.

The term *directors* shall include: (1) directors who are named as such in the Articles of Cooperation; (2) directors duly elected in subsequent meetings of authorized representative of each cooperative-member, and (3) those elected to fill vacancies in the board of directors.

The following are the qualifications and disqualifications of directors and officers of Coop Banks:

1. Qualifications for directors. A director must have the following minimum qualifications:

- (a) He shall be at least twenty-five (25) years of age at the time of his election or appointment;
- (b) He shall be at least a college graduate or have at least five (5) years experience in business;
- (c) He must have attended a special seminar for board of directors conducted or accredited by the BSP within a period of six (6) months from the date of his election; and
- (d) He must be fit and proper for the position of a director of the Coop Bank. In determining whether a person is fit and proper for the position of a director, the following matters must be considered:
 - integrity/probity;
 - competence;

- education;
- diligence; and
- experience/training.

At least one (1) of the members of the board of directors must, in addition to the above-mentioned minimum qualifications, have at least one (1) year experience in banking.

The foregoing qualifications for directors shall be in addition to those already required or prescribed under existing laws.

2. Persons disqualified to become directors. Without prejudice to specific provisions of law prescribing disqualifications for directors, the following persons are disqualified from becoming directors:

(a) Permanently disqualified

Directors/officers/employees permanently disqualified by the Monetary Board from holding a director position:

- (1) Persons who have been convicted by final judgment of the court for offenses involving dishonesty or breach of trust such as estafa, embezzlement, extortion, forgery, malversation, swindling and theft;
- (2) Persons who have been convicted by final judgment of the court for violation of banking laws;
- (3) Persons who have been judicially declared insolvent, spendthrift or incapacitated to contract; or
- (4) Directors, officers or employees of closed banks/QBs/trust entities who were responsible for such institution's closure as determined by the Monetary Board.

(b) Temporarily disqualified

Directors/officers/employees disqualified by the Monetary Board from holding a director position for a specific/ indefinite period of time. Included are:

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(1) Persons who refuse to fully disclose the extent of their business interest to the appropriate department of the SES when required pursuant to a provision of law or of a circular, memorandum or rule or regulation of the BSP. This disqualification shall be in effect as long as the refusal persists;

(2) Directors who have been absent or who have not participated for whatever reasons in more than fifty percent (50%) of all meetings, both regular and special, of the board of directors during their incumbency, or any twelve (12) month period during said incumbency. This disqualification applies for purposes of the succeeding election;

(3) Persons who are delinquent in the payment of their obligations as defined hereunder:

(a) Delinquency in the payment of obligations means that an obligation of a person with a bank/QB/trust entity where he/she is a director or officer, or at least two obligations with other banks/Fl, under different credit lines or loan contracts, are past due pursuant to Sec. X306 of the MORB and Sec. 4306Q of the MORNBFi;

(b) Obligations shall include all borrowings from a bank/QB obtained by:

(i) A director or officer for his own account or as the representative or agent of others or where he/she acts as a guarantor, endorser, or surety for loans from such Fls;

(ii) The spouse or child under the parental authority of the director or officer;

(iii) Any person whose borrowings or loan proceeds were credited to the account of, or used for the benefit of a director or officer;

(iv) A partnership of which a director or officer, or his/her spouse is the managing partner or a general partner owning a controlling interest in the partnership; and

(v) A corporation, association or firm wholly-owned or majority of the capital of

which is owned by any or a group of persons mentioned in the foregoing Items "i", "ii" and "iv";

This disqualification shall be in effect as long as the delinquency persists.

(4) Persons convicted for offenses involving dishonesty, breach of trust or violation of banking laws but whose conviction has not yet become final and executory;

(5) Directors and officers of closed banks/QBs/trust entities pending their clearance by the Monetary Board;

(6) Directors disqualified for failure to observe/discharge their duties and responsibilities prescribed under existing regulations. This disqualification applies until the lapse of the specific period of disqualification or upon approval by the Monetary Board on recommendation by the appropriate department of the SES of such directors' election/re-election;

(7) Directors who failed to attend the special seminar for board of directors required under Item "3" of Subsec. X141.2 of the MORB or Subsec. 4141Q.2 of the MORNBFi. This disqualification applies until the director concerned had attended such seminar;

(8) Persons dismissed/terminated from employment for cause. This disqualification shall be in effect until they have cleared themselves of involvement in the alleged irregularity;

(9) Those under preventive suspension; or

(10) Persons with derogatory records with the NBI, court, police, Interpol and monetary authority (central bank) of other countries (for foreign directors and officers) involving violation of any law, rule or regulation of the government or any of its instrumentalities adversely affecting the integrity and/or ability to discharge the duties of a bank/QB/trust entity director/officer. This disqualification applies until

they have cleared themselves of involvement in the alleged irregularity.

3. Qualification for officers

(a) He shall be at least twenty-one (21) years of age;

(b) He shall be at least a college graduate, or have at least five (5) years experience in banking or trust operations or related activities or in a field related to his position and responsibilities, or have undergone training in banking acceptable to the appropriate department of the SES; and

(c) He must be fit and proper for the position he is being proposed/appointed to. In determining whether a person is fit and proper for a particular position, the following matters must be considered:

- integrity/probity;
- competence;
- education;
- diligence; and
- experience/training.

Any one of the president, chief operating officer or general manager of a national Coop Bank must, in addition to the abovementioned minimum qualifications, have at least two (2) years actual banking experience in a senior management capacity (head or assistant head) while the manager of a local Coop Bank must have actual banking experience (at least manager or assistant manager).

The foregoing qualifications for officers shall be in addition to those already required or prescribed under existing laws.

4. Persons disqualified to become officers. The grounds for disqualification for directors shall likewise apply to officers, except that stated in Items "2.b.2" and "2.b.7".

(a) Except as may be authorized by the Monetary Board or the Governor, the spouse or a relative within the second degree of consanguinity or affinity of any person holding the position of chairman, president, executive vice president or any position of equivalent rank, general manager, treasurer, chief cashier or chief

accountant is disqualified from holding or being elected or appointed to any of said positions in the same bank; and the spouse or relative within the second degree of consanguinity or affinity of any person holding the position of manager, cashier, or accountant of a branch or office of a bank is disqualified from holding or being appointed to any of said positions in the same branch or office.

(b) Any officer or employee of the CDA or any appointive or elective public official, except a barangay official;

(c) Except as may otherwise be allowed under C.A. No. 108, otherwise known as "The Anti-Dummy Law", as amended, foreigners cannot be officers or employees of a Coop Bank.

The foregoing disqualifications for officers shall be in addition to those already required or prescribed under existing laws.

5. Government officers and employees.

Any officer or employee of the CDA shall be disqualified to be elected or appointed to any position in a cooperative; and (2) elective officials of the government, except barangay officials, shall be ineligible to become officers and directors of cooperatives.

However, any government employee may, in the discharge of his duties as member in the cooperative, be allowed by the head office concerned to use official time for attendance at the general assembly, board and committee meetings of cooperatives as well as cooperative seminars, conferences, workshops, technical meetings, and training courses locally or abroad: *Provided*, That the operations of the office concerned are not adversely affected.

Unless otherwise provided, officers elected or appointed without possessing the qualifications or possessing any of the disqualifications as enumerated herein, shall vacate their respective positions immediately.

SETTLEMENT OF INTERBANK TRANSACTIONS VIS-À-VIS COVERING RESERVE
REQUIREMENT/DEFICIENCY OF BANKS’ DDA WITH BSP
(Appendix to Subsec. X203)

ACTIVITIES					
DAY 1					
TIME	Philippine Clearing House Corporation (PCHC) METRO MANILA	BSP Regional Clearing Centers (BSP RCC)	Bangko Sentral ng Pilipinas Head Office (B S P)	Value Date	
2:00 PM		Clearing Results Available (Regional Local and Inter-Regional)	(Begin-of-day) Final Banks' DDA balance Cut-off Time – Submission of Financial Transactions Affecting BSP	T + O	
4:00 PM			Update Banks' DDA Balances for EFTIS Transactions		
6:00 PM	Clearing Results Available (Greater Manila and Manila-Regional Outward Clearing)		Update Banks' DDA Balances		
6:30 PM			1 st Broadcast Banks' DDA Balance	T + O	
DAY 2					
	Returned COCI CLEARING	Interbank Call Loan (IBCL) Window	Returned COCI CLEARING		
7:30 AM	Returned COCI Receiving Window				
8:00 AM			Returned COCI Receiving Window	Update Banks' DDA Balances	
8:30 AM					
8:31 AM	Returned COCI Processing		Update Banks' DDA (Returned COCI Clearing Results)		
9:29 AM					
9:30 AM				Returned COCI Clearing Results Available (BSP)	
10:00 AM	Returned COCI Clearing Results Available (BSP)	Receiving Processing of Interbank Call Loan Transactions		2 nd Broadcast Updated Banks' DDA Balance	T + O
11:00 AM					
11:30 AM		IBCL Netting Operation IBCL Results Available (BSP)			
12:30 PM			Update Banks' DDA (IBCL Results)		
1:00 PM					
2:00 PM	(End-of-Day) Final Banks' (T + O) DDA Balance "UNLESS" BSP Decides to "UNWIND" IBCL Transactions				T + O
			Unwinding Operation Window		
2:01 PM			Selective Broadcast of Final DDA Balances for "Unaffected Banks"	T + O	
3:00 PM			Unwinding Process (Affected Banks Only)		
4:00 PM			Broadcast affected Banks' Final DDA Balances	T + O	

GUIDELINES GOVERNING THE REDISCOUNTING
OF HOUSING LOAN PAPERS OF QUALIFIED BANKS
UNDER HUDCC PROGRAM
(Appendix to Sec. X276)

Section 1. Statement of Policy. The Bangko Sentral, consistent with its primary objective of maintaining price stability under its charter (R.A. No. 7653), shall comply with its mandate under Section 11(c) of R.A. No. 7835 (Comprehensive and Integrated Shelter Financing Act) by providing short-term rediscounting facility to qualified banking institutions providing financing for socialized and low-cost housing.

Sec. 2 Criteria for Eligibility

- a. Eligible Banks
KBs, TBs and RBs/Coop Banks which are qualified to rediscount with the DLC, under existing rules and regulations, and with unused rediscounting ceiling at the time of application for rediscounting can avail themselves of this rediscounting facility.
- b. Eligible Housing Loan Paper
Housing loan papers for rediscounting under this facility shall satisfy the following requirements:
- (1) *Loan purpose and amount.* The loan shall be used for the construction of a house/acquisition of a house and lot. The amount of the loan shall not exceed ₱180,000.00 for socialized housing and ₱375,000.00 for economic housing, as prescribed under existing guidelines of the HUDCC for the implementation of various government housing programs, or in such other amounts which HUDCC may prescribe in the future for said housing loans.
- (2) *Loan limit.* The amount of the loan shall not exceed the amount of amortization covering principal payments due within one (1) year from date of rediscount, subject to

the terms and conditions discussed in Section 3.

(3) *Security.* The subject property shall be covered by a duly registered Real Estate Mortgage (REM) in favor of the rediscounting bank.

Sec. 3 Terms and Conditions of Rediscounting Availments

- a. Maximum Loan Value
Banks can obtain additional availments annually representing amortizations for the current year against the mortgaged property. However, total cumulative availments for a mortgaged property shall not exceed eighty percent (80%) of the collateral value.
- b. Interest Rate
The loan availment shall be assessed an interest rate equivalent to the prevailing rediscount rate at the date of rediscount: *Provided*, That the banks’ spread shall not exceed three percent (3%) per annum.
- c. Maturity
Rediscounting availments shall be due on demand but not beyond 360 days from date of rediscount.

Sec. 4 Sanctions. Non-remittance or delayed remittance within the allowable period of the corresponding loan value of collections on rediscounted notes shall be considered as sufficient ground for suspension of banks’ rediscounting privilege as follows:

First offense	-one (1) month suspension
Second offense	-two (2) months suspension
Third offense	-three (3) months suspension
Fourth offense	-permanent suspension

**MINIMUM CRITERIA FOR ACCREDITATION OF PARTICIPATING
FINANCIAL INSTITUTIONS IN GOVERNMENT BANKS
WHOLESALE LENDING PROGRAM
(Appendix to Subsec. X303.8)**

I. Accreditation Criteria

For accreditation purposes, PFIs shall initially be evaluated/appraised on the basis of the following pre-qualifying criteria:

1. The PFI shall submit a certification on the following:

a. Compliance with the prescribed minimum capital to risk assets ratio of ten percent (10%), minimum capitalization, legal and liquidity reserve requirements for deposit liabilities, deposit substitutes, common trust funds (CTFs) and Trust and Other Fiduciary Accounts (TOFA)-Others, liquidity floor requirement for government funds held, and ceilings on credit accommodations to directors, officers, stockholders and their related interests (DOSRI), for six (6) consecutive months prior to the filing of application for accreditation.

b. As of application date, the PFI has generally complied with the orders or instructions of the Monetary Board and/or BSP Management, more particularly:

- (i) Set-up of the required general loan loss and specific provisioning requirements.; and
- (ii) Correction of major violations and previous years' exceptions noted in the latest BSP examination.

c. The PFI has no past due obligations with the BSP or with any government financial institution.

d. The PFI's accounting records, systems, procedures and internal control systems are satisfactorily maintained.

2. Profitability

a. For PFIs operating for more than three (3) years as of date of filing of the application for accreditation - Operating

profitably for three (3) consecutive years prior to the filing of application for accreditation.

b. For PFIs operating for less than three (3) years as of date of filing of the application for accreditation - Operating profitably for two (2) consecutive years prior to the filing of application for accreditation.

3. Capital

Compliance with minimum capital accounts of P400.0 million or BSP required minimum capitalization applicable to the category where the PFI belongs, whichever is higher.

4. Non-performing loans ratio for six (6) consecutive months prior to the filing of application for accreditation shall not exceed the industry ratio which may be obtained from the SRSO of the BSP.

5. Ownership/Management

For PFIs operating for less than three (3) years as of date of filing of the application for accreditation –

a. Domestic bank owned by reputable individuals/institutions and managed by reputable and experienced bankers.

b. Philippine branch of a foreign bank carrying an international investment grade rating acceptable to the government bank with foreign bank's (Head Office/parent bank) unconditional and irrevocable guarantee on loan availments of Philippine branch or subsidiary.

II. Grant and Renewal of Credit Lines to Accredited PFIs

1. Government banks shall provide credit lines for a specified term to each accredited PFI based on the results of the quantitative and qualitative evaluation guidelines to be

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formulated in accordance with credit policies and procedures approved by the bank’s Board of Directors and/or as prescribed by the institutions, organizations or agencies which provide the funds.

2. PFIs shall be subject to quantitative and qualitative evaluation as well as the

accreditation criteria when applying for renewal of credit lines.

3. Government banks may suspend the release of funds to PFIs that failed to meet any of the quantitative and qualitative evaluation guidelines and/or the accreditation criteria.

DEED OF UNDERTAKING
FOR THE ISSUANCE OF REDEEMABLE PREFERRED SHARES
[Appendix to Subsec. X126.5a(3)(e)]

We, the majority of the members of the Board of Directors and key executive officers of _____, a banking corporation duly registered and organized under the laws of the Republic of the Philippines, with principal office and place of business at _____, by these presents do hereby obligate ourselves to undertake the following in the issuance of preferred stock:

1. That the issuance of preferred stock shall be in accordance with the terms and conditions of approval by the Bangko Sentral ng Pilipinas (BSP) and pertinent rules and regulations of the BSP and that of the Securities and Exchange Commission (SEC)/Cooperative Development Authority (CDA);
2. That any preferred shares so issued shall not be redeemed, retired, converted to any other kind of stocks or securities or paid back in cash or property without the prior approval of BSP in accordance with Subsections X126.5 and 3127.4 of the Manual of Regulations for Banks, Section 8, R.A. 7353 and other applicable regulations and banking laws;
3. That in no case shall the issuance of preferred shares be treated as similar to or as a substitute of other form of temporary investments of clients and depositors such as time deposits, savings deposits, money market placements or other form of investments subject to withdrawal;
4. That outstanding preferred shares may be redeemed or retired only if the shares redeemed or retired are replaced with at least an equivalent amount of newly paid-in shares so that the total paid-in capital stock is maintained at the same level immediately prior to redemption or retirement: *Provided*, That no outstanding preferred share shall be redeemed within five (5) years from full payment of the subscription or issuance of stock certificate therefore;
5. That we, the undersigned, shall ensure that the above undertakings are strictly complied with and observed at all times by the management of the bank;
6. That non-compliance with this undertaking shall subject the directors/officers involved liable to such administrative sanctions as the Monetary Board may impose and such other sanctions as may be provided pursuant to Section 37 of R.A. 7653, without prejudice to the criminal sanctions under Section 36 of the same Act.

IN WITNESS WHEREOF, we have hereunto affix our signature on this _____ day of _____, 20__.

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Directors:	Officers:
_____	_____
_____	_____
_____	_____
_____	_____

REPUBLIC OF THE PHILIPPINES)
PROVINCE/CITY OF _____) S.S.

BEFORE ME, a Notary Public, for and in the Province/City of _____ this
_____ day of _____, 200_, personally appeared the herein named persons with
their Community Tax Receipts, known to me to be the same persons who executed the
foregoing instrument and acknowledged before me that the same is their own free and voluntary
act and deed.

Name	Comm. Tax Cert. No.	Date of Issue	Place of Issue
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the date and place
above written.

Notary Public
Until December 31, 20____
PTR No. _____
Issued at _____ on _____

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of _____.

**GUIDELINES TO GOVERN THE SELECTION, APPOINTMENT AND THE
REPORTING REQUIREMENT FOR EXTERNAL AUDITORS OF BANKS**
[Appendix to Sec. X189 (2008 - X165)]

A. GENERAL REQUIREMENTS

Only external auditors included in the list of BSP selected external auditors shall be engaged by banks, for regular audit or special engagements. The external auditor to be hired shall also be in-charge of the audit of the entity's subsidiaries and affiliates engaged in allied activities: *Provided, That* the external auditor shall be changed or the lead and concurring partner shall be rotated every five (5) years or earlier: *Provided, further, That* the rotation of the lead and concurring partner shall have an interval of at least two (2) years.

Banks which have engaged their respective external auditors for a consecutive period of five (5) years or more as of 26 November 2003 (effectivity of Circular No. 410) shall have a one (1) year period from said date within which to either change their external auditors or rotate the lead and/or concurring partner. The following are the selection requirements for external auditors:

1. No external auditor may be engaged by a bank if he or any member of his immediate family has or has committed to acquire any direct or indirect financial interest in the bank, its subsidiaries and affiliates, or if his independence is considered impaired under the circumstances specified in the Code of Professional Ethics for CPAs. In the case of a partnership, this limitation shall apply to the partners, associates and the auditor-in-charge of the engagement and members of their immediate family;

2. The external auditor and the members of the audit team do not have/shall not have outstanding loans or any credit accommodations (except credit card

obligations which are normally available to other credit card holders and fully secured auto loans and housing loans which are not past due) with the bank, its subsidiaries and affiliates at the time of signing the engagement and during the engagement. In the case of partnership, this prohibition shall apply to the partners and the auditor-in-charge of the engagement;

3. The external auditor must not be currently engaged nor was engaged during the preceding year in providing the following services to the bank, its subsidiaries and affiliates:

- a. Internal audit functions;
- b. Information systems design, implementation and assessment; and
- c. Such other services which could affect his independence as may be determined by the Monetary Board;

4. The external auditor, auditor-in-charge and members of the audit team must adhere to the highest standards of professional conduct and shall carry out services in accordance with relevant ethical and technical standards, such as the Generally Accepted Auditing Standards (GAAS) and the Code of Professional Ethics for CPAs;

5. The external auditor should have the following track record in conducting external audits:

- a. The external auditor for a UB or KB must have at least twenty (20) existing corporate clients with resources of at least P50.0 million each and at least one (1) existing client UB or KB in the regular audit or in lieu thereof, the external auditor or the auditor-in-charge of the engagement must have at least five (5) years experience in the regular audit of UBs or KBs;

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b. The external auditor for a TB and national Coop Bank must have at least ten (10) existing corporate clients with resources of at least P25.0 million each and at least one (1) existing client TB, QB, trust entity or national Coop Bank in the regular audit or in lieu thereof, the external auditor or the auditor-in-charge of the engagement must have at least five (5) years experience in the regular audit of TBs, QBs, trust entities or national Coop Banks: *Provided*, That an external auditor who has been selected by the BSP to audit a UB or KB is automatically qualified to audit a TB or national Coop Bank; and

c. The external auditor for an RB or local Coop Bank must have at least three (3) years track record in conducting external audit: *Provided*, That an external auditor who has been selected by the BSP to audit a UB, KB, TB, QB, trust entity and national Coop Bank is automatically qualified to audit an RB, local Coop Bank;

6. A bank shall not engage the services of an external auditor whose partner or auditor-in-charge of audit engagement during the preceding year had been hired or employed by the bank, its subsidiaries and affiliates as chief executive officer, chief financial officer, controller, chief accounting officer or any position of equivalent rank; and

7. The external auditor must undertake to keep for at least five (5) years all audit or review working papers in sufficient detail to support the conclusions in the audit report which shall be made available to the BSP upon request. Working papers shall include, but shall not be limited to, pre-audit analysis, audit scope and detailed work program.

B. APPLICATION AND PRE-QUALIFICATION REQUIREMENTS

The application for BSP selection shall be signed by the external auditor or the

managing partner, in case of partnership and shall be submitted to the appropriate department of the SES together with the following documents/information:

1. An undertaking:

a. That the external auditor, partners, associates, auditor-in-charge of the engagement and the members of their immediate family shall not acquire any direct or indirect financial interest with the bank, its subsidiaries and affiliates. Neither shall the external auditor, partners, associates and auditor-in-charge accept an audit engagement with a bank, its subsidiaries and affiliates where they or any member of their immediate family have any direct or indirect financial interest and that their independence is not considered impaired under the circumstances specified in the Code of Professional Ethics for CPAs;

b. That the external auditor, partners, associates, auditor-in-charge and members of the audit team do not have nor shall apply for loans or any credit accommodations (except normal credit card obligations and fully secured auto loans and housing loans) nor shall accept an audit engagement with a bank, its subsidiaries and affiliates where they have outstanding loans or any credit accommodations (except normal credit card obligations and fully secured auto loans and housing loans which are not past due);

c. That the external auditor shall not accept an audit engagement with a bank, its subsidiaries and affiliates where he was engaged during the preceding year in providing the following services:

(1) Internal audit functions;

(2) Information systems design, implementation and assessment; and

(3) Such other services, which could affect his independence as may be determined by the Monetary Board from time to time.

This requirement shall not, however, affect audit engagement existing as of 26 November 2003 (effectivity of Circular No. 410).

d. That the external auditor and members of the audit team shall adhere to the highest standards of professional conduct and shall carry out their services in accordance with relevant ethical and technical standards of the accounting profession;

e. That the lead or concurring partner and auditor-in-charge shall not accept employment with the bank, its subsidiaries and affiliates being audited during the engagement period and within a period of one (1) year after the audit engagement;

f. That the external auditor shall not accept an audit engagement with a bank, its subsidiaries and affiliates where an officer (i.e., chief executive officer, chief financial officer, controller, chief accounting officer or other senior officer of equivalent rank) had been a partner of the external auditor or had worked for the audit firm and had been the auditor-in-charge of the audit engagement of said entities during the year immediately preceding the engagement;

g. That the external auditor shall keep all audit or review working papers for at least five (5) years in sufficient detail to support the conclusions in the audit report; and

h. That the audit work shall include assessment of the audited institution's compliance with BSP rules and regulations, such as, but not limited to the following:

(1) CAR; and

(2) Loans and other risk assets review and classification.

2. Other documents/information:

a. List of existing corporate clients with resources of at least P50.0 million each for external auditor of a UB or KB; for a TB and national Coop Bank, list of existing corporate clients with resources of at least P25.0 million each; and list of existing

clients and/or details of three (3) years track record in external audit for external auditors of an RB and a local Coop Bank;

b. If the external auditor for a UB or KB has no existing UB or KB client, and the external auditor for a TB and national Coop Bank, has no existing client TB or national Coop Bank, a notarized certification that the external auditor or the auditor-in-charge of the engagement has at least five (5) years experience in the regular audit of banks of appropriate category mentioning the banks they have audited;

c. Updated PRC license (for individual auditors) and business license for the partnership;

d. Copy of the proposed engagement contract between the bank and the external auditor where applicable; and

e. Certification from PRC that the external auditor, lead partner, concurring partner, auditor-in-charge and members of the audit team have no derogatory information, previous conviction or any pending investigation. However, in the event that the certification cannot be obtained because of the pendency of a case, the BSP may dispense with this requirement upon determination by the Monetary Board that the case involves purely legal question, or does not, in any way, negate the auditor's adherence to the highest standards of professional conduct nor degrade his integrity and objectivity.

C. REQUIRED REPORTS

1. To enable the BSP to take timely and appropriate remedial action, the external auditor must report to the BSP within thirty (30) calendar days after discovery, the following cases:

a. Any material finding involving fraud or dishonesty (including cases that were resolved during the period of audit); and

b. Any potential losses the aggregate of which amounts to at least one percent (1%) of the capital.

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2. The external auditor shall report directly to the BSP within fifteen (15) calendar days the occurrence of the following:

- a. Termination or resignation as external auditor and stating the reason therefore;
- b. Discovery of a material breach of laws or BSP rules and regulations such as, but not limited to:
 - (1) CAR; and
 - (2) Loans and other risk assets review and classification.
- c. Findings on matters of corporate governance that may require urgent action by the BSP.

3. In case there are no matters to report (e.g. fraud, dishonesty, breach of laws, etc.) the external auditor shall submit directly to the BSP within fifteen (15) calendar days after the closing of the audit engagement a notarized certification that there is none to report.

The management of the bank, its subsidiaries and affiliates shall be informed of the adverse findings and the external auditor's report to the BSP shall include its explanation and/or corrective action.

The management of the bank, its subsidiaries and affiliates shall be given the opportunity to be present in the discussions between the BSP and the external auditor regarding the audit findings, except in circumstances where the external auditor believes that the entity's management is involved in fraudulent conduct.

It is, however, understood that the accountability of an external auditor is based on matters within the normal coverage of an audit conducted in accordance with generally accepted auditing standards.

D. DEFINITION OF TERMS

For purposes of these guidelines, the following terms shall be defined as follows:

1. *Subsidiary*. A corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly

or indirectly owned, controlled or held with power to vote by a bank.

2. *Affiliate*. A corporation, not more than fifty percent (50%) but not less than ten percent (10%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by a bank, and a juridical person that is under common control with the bank.

3. *Control*. Exists when the parent owns directly or indirectly more than one half of the voting power of an enterprise unless, in exceptional circumstance, it can be clearly demonstrated that such ownership does not constitute control. Control may also exist even when ownership is one half or less of the voting power of an enterprise when there is:

- a. Power over more than one-half of the voting rights by virtue of an agreement with other stockholders;
- b. Power to govern the financial and operating policies of the enterprise under a statute or an agreement;
- c. Power to appoint or remove the majority of the members of the board of directors or equivalent governing body;
- d. Power to cast the majority votes at meetings of the board of directors or equivalent governing body; or
- e. Any other arrangement similar to any of the above.

4. *Associate*. Any director, officer, manager or any person occupying a similar status or performing similar functions in the audit firm including employees performing supervisory role in the auditing process.

5. *Partner*. All partners including those not performing audit engagements.

6. *Lead Partner*. Also referred to as the engagement partner/partner-in-charge/managing partner who is responsible for signing the audit report on the consolidated financial statements of the audit client, and where relevant, the individual audit report of any entity whose financial statements form part of the consolidated financial statements.

- 7. *Concurring Partner.* The partner who is responsible for reviewing the audit report.
- 8. *Auditor-in-charge.* Refers to the team leader of the audit engagement.

E. INCLUSION IN BSP LIST

In case of partnership, inclusion in the list of BSP selected external auditors shall apply to the audit firm only and not to the individual signing partners or auditors under its employment. The BSP will circularize to all banks the list of selected external auditors once a year. The BSP, however, shall not be liable for any damage or loss that may arise from its selection of the external auditors to be engaged by banks for regular audit or special engagements.

F. SPECIFIC REVIEW

When warranted by supervisory concern, the Monetary Board may, at the expense of the bank, its subsidiaries and affiliates require the external auditor to undertake a specific review of a particular aspect of the operations of these institutions. The report shall be submitted to the BSP and the audited institution simultaneously, within thirty (30) calendar days after the conclusion of said review.

G. AUDIT ENGAGEMENT CONTRACT

Banks shall submit the audit engagement contract between them, their subsidiaries and affiliates and the external auditor to the appropriate department of the SES within fifteen (15) calendar days from signing thereof. Said contract shall include the following provisions:

- 1. That the bank shall be responsible for keeping the auditor fully informed of existing and subsequent changes to prudential, regulatory and statutory requirements of the BSP and that both parties shall comply with said requirements;

- 2. That disclosure of information by the external auditor to the BSP as required under Items "C" and "F" hereof, shall be allowed; and
- 3. That both parties shall comply with all of the requirements under these guidelines.

H. DELISTING OF EXTERNAL AUDITORS

- 1. Grounds for delisting
External auditors may be delisted from the list of BSP selected external auditor for the bank, for violation of, or non-compliance with any provision of these guidelines or in case of dissolution of the audit firm except when said dissolution was solely for the purpose of admitting new partner/s and the new partner/s have complied with the requirements of these guidelines.
- 2. Procedure for delisting
An external auditor shall only be delisted upon prior notice to him and after giving him the opportunity to be heard and defend himself by presenting witnesses/evidence in his favor. Delisted external auditor may re-apply for BSP selection after the period prescribed by the Monetary Board.

I. AUDIT BY THE BOARD OF DIRECTORS

Pursuant to Section 58 of R.A. No. 8791, otherwise known as "The General Banking Law of 2000" the Monetary Board may also direct the board of directors of a bank or the individual members thereof, to conduct, either personally or by a committee created by the board, an annual balance sheet audit of the bank to review the internal audit and the internal control system of the concerned entity and to submit a report of such audit to the Monetary Board within thirty (30) calendar days after the conclusion thereof.
(As amended by Circular No. 529 dated 11 May 2006)

IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC
ACT NO. 6848 (THE ISLAMIC BANK CHARTER)
(Appendix to Sec. X101)

Pursuant to Section 43 of R.A. No. 6848, otherwise known as “The Charter of the Al-Amanah Islamic Investment Bank of the Philippines”, the Monetary Board, in its Resolution Nos. 161 and 244 dated 14 February and 6 March 1996, respectively, approved the following Implementing Rules and Regulations:

Sec. 1. Domicile and Place of Business

The principal domicile and place of business of the Al-Amanah Islamic Investment Bank of the Philippines, hereinafter called the Islamic Bank, shall be in Zamboanga City. It may establish branches, agencies or other offices at such places in the Philippines or abroad subject to applicable laws, rules and regulations of the *BSP*.

Sec. 2. Purpose and Basis

The primary purpose of the Islamic Bank shall be to promote and accelerate the socio-economic development of the Autonomous Region by performing banking, financing and investment operations and to establish and participate in agricultural, commercial and industrial ventures based on the Islamic concept of banking.

All business dealings and activities of the Islamic Bank shall be subject to the basic principles and rulings of Islamic *Shari’a* within the purview of the aforementioned declared policy. Any *zakat* or “tithe” paid by the Islamic Bank on behalf of its shareholders and depositors shall be considered as part of compliance by the Islamic bank with its obligation to appropriate said *zakat* fund and to disburse it in legitimate channels to be ascertained first by the *Shari’a* Advisory Council.

Sec. 3. Shari’a Advisory Council

The *Shari’a* Advisory Council of the Islamic Bank shall be composed of at least three (3) but not more than five (5) members, selected from among Islamic scholars and jurists of comparative law.

The members shall be elected at a general shareholders’ meeting of the Islamic Bank every three (3) years from a list of nominees prepared by the Board of Directors of the Islamic Bank. The Board is hereby authorized to select the members of the first *Shari’a* Advisory Council and to determine their remunerations.

Sec. 4. Functions of the Shari’a Advisory Council

The functions of the *Shari’a* Advisory Council shall be to offer advice and undertake reviews pertaining to the application of the principles and rulings of the Islamic *Shari’a* to the Islamic Bank’s transactions, but it shall not directly involve itself in the operations of the Bank.

Any member of the *Shari’a* Advisory Council may be invited to sit in the regular or special meetings of the Board of Directors of the Islamic Bank to expound his views on matters of the Islamic *Shari’a* affecting a particular transaction but he shall not be entitled to vote on the question presented before the board meetings.

Sec. 5. Islamic Bank’s Powers

The Al-Amanah Islamic Investment Bank of the Philippines, upon its organization, shall be a body corporate and shall have the power:

1. To prescribe its by-laws and its operating policies;
2. To adopt, alter and use a corporate seal;

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3. To make contracts, to sue and be sued;
4. To borrow money; to own real or personal property and to introduce improvements thereon, and to sell mortgage or otherwise dispose of the same;
5. To employ such officers and personnel, preferably from the qualified Muslim sector, as may be necessary to carry Islamic banking business;
6. To establish branches, agencies and correspondent offices in provinces and cities in the Philippines, particularly where Muslims are predominantly located, or in other areas in the country or abroad as may be necessary to carry on its Islamic banking business, subject to the rules and regulations of the *BSP*;
7. To perform the following banking services:
 - a. Open current or checking accounts;
 - b. Open savings accounts for safekeeping or custody with no participation in profit and losses unless otherwise authorized by the account holders to be invested;
 - c. Accept investment account placements and invest the same for a term with the IB's funds in Islamically permissible transactions on participation basis;
 - d. Accept foreign currency deposits from banks, companies, organizations and individuals, including foreign governments;
 - e. Buy and sell foreign exchange;
 - f. Act as correspondent of banks and institutions to handle remittances or any fund transfers;
 - g. Accept drafts and issue letters of credit or letters of guarantee, negotiable notes and bills of exchange and other evidence of indebtedness under the universally accepted Islamic financial instruments;
 - h. Act as collection agent insofar as the payment orders, bills of exchange or other commercial documents are exclusive of *riba* or interest prohibitions;
 - i. Provide financing with or without collateral by way of *Al-Ijarah* (leasing), *Al-Bai ul Takjiri* (sale and leaseback), or *Al-Murabahah* (cost-plus profit sales arrangement);
 - j. Handle storage operations for goods or commodity financing secured by warehouse receipts presented to the Bank;
 - k. Issue shares for the account of institutions and companies assisted by the Bank in meeting subscription calls or augmenting their capital and/or fund requirements as may be allowed by law;
 - l. Undertake various investments in all transactions allowed by the Islamic *Shari'a* in such a way that shall not permit the *haram* (forbidden), nor forbid the *halal* (permissible);
8. To act as an official depository of the government or its branches, subdivisions and instrumentalities and of government-owned or controlled corporations, particularly those doing business in the Autonomous Region;
9. To issue investment participation certificates, *muquaradah* (non-interest-bearing bonds), debentures, collaterals and/or the renewal or refinancing of the same, with the approval of the Monetary Board of the *BSP*, to be used by the Bank in its financing operations for projects that will promote the economic development primarily of the Autonomous Region;
10. To carry out financing and joint investment operations by way of *mudarabah* partnership, *musharaka* joint venture or by decreasing participation, *murabaha* purchasing for others on a cost-plus

financing arrangement, and to invest funds directly in various projects or through the use of funds whose owners desire to invest jointly with other resources available to the IB on a joint *mudarabah* basis;

11. To invest in the equity of allied undertakings, financial or non-financial, as well as in the equity of enterprises engaged in non-allied activities, as the Monetary Board has declared or may declare as appropriate from time to time, subject to the limitations and conditions provided for under the Manual of Regulaions for Banks and Other Financial Intermediaries - Book I (MRBOFI) ; and

12. To exercise the powers granted under R.A. No. 6848 and such incidental powers as may be necessary to carry on its business, and to exercise further the general powers mentioned in the Corporation Law and the General Banking Act, insofar as they are not inconsistent or incompatible with the provisions of R.A. No. 6848.

Sec. 6. Authorized Capital Stock

The authorized capital stock of the IB shall be ₱1.0 billion divided into 10.0 million common shares with par value of One hundred pesos (₱100.00) each. All shares are nominative and indivisible. The subscription to and ownership of such shares, including the transfer thereof to third parties, shall be limited to persons and entities who subscribe to the concept of Islamic banking.

Sec. 7. Classification of Shares

The IB’s authorized capital stock shall have the following classifications and features in relation to its Islamic banking operations:

- 1. Series “A” shares shall comprise 5.1 million shares equivalent to ₱510.0 million to be made available for subscription by the present stockholders of the Philippine

Amanah Bank namely: the National Government, and such other financial entities as it may designate.

- 2. Series “B” shares shall comprise nine hundred thousand (900,000) shares equivalent to ₱90.0 million to be made available for subscription by the Filipino individuals and institutions.
- 3. Series “C” shares shall comprise 4.0 million shares equivalent to ₱400.0 million to be made available for subscription by Filipino and foreign individuals and/or institutions or entities:

Any shareholders may exercise his pre-emptive right to consolidate ownership of the outstanding shares as hereinafter increased: *Provided*, That the common shares of the Philippine Amanah Bank which have been issued and outstanding shall form part of the increased capitalization of the IB, subject to the concurrence of the existing shareholders of the Philippine Amanah Bank.

The IB is authorized to reacquire its common shares that are held privately: *Provided*, That it has sufficient surplus and/or accumulated earnings for the purpose.

The IB may take the necessary steps to have its Series “B” shares listed in any duly registered stock exchange.

Sec. 8. Sale or Transfer of Shares

The IB shall make a report to the BSP whenever a change is about to take place in relation to the ownership or control of the Bank. The approval of the Monetary Board shall be required in the following changes.

- 1. Any proposal for the sale or disposal of its share or business, or other matters related thereto, which will result in a change of the control of management of the IB in the following cases:
 - a. Any sale or transfer of ownership or control of more than twenty

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percent (20%) of the voting stock of the Bank to any person whether natural or juridical; and

- b. Any sale or transfer or a series of sales or transfers which will effect a change in the majority ownership or control of the voting stock of the Bank from one group of persons to another group.

2. Any scheme for reconstruction or for consolidation or merger, or otherwise, between the IB and any other company wherein the whole or any part of the undertaking of the property of the IB is to be transferred to another corporation.

3. Acquisition by foreign banking institutions, including their wholly- or majority-owned subsidiaries and their holding companies having majority holdings in such foreign banking institutions.

Sec. 9. Privatization

The IB may privatize its ownership. For this purpose, any limitation on the transfer of shares shall not be applicable with respect to the shareholdings of the National Government, SSS, GSIS, PNB and DBP. Transactions affecting the shares of stocks of the IB shall be subject to existing rules and regulations governing transfer of shares and ceilings on stockholdings, insofar as they are not in conflict with any provisions of R.A. No. 6848 and other pertinent laws, rules and regulations.

Sec. 10. Board of Arbitration

The Board of Directors of the IB, acting as an arbitrator, shall settle by the majority decision of its members any dispute between and among shareholders of the IB, whether individuals or entities, where such dispute arises from their relations as shareholders in the IB. The Board shall be bound in this respect to the procedures of laws on civil and commercial pleadings, except in regard to the basic principles of due process.

If the dispute is between the IB and any of the investors or the shareholders, a Board of Arbitration shall settle such dispute. In this case, the Board of Arbitration, consisting of three (3) members shall be formed by two (2) parties to the dispute within forty-five (45) days from receipt of written notice by either party to the dispute. The three (3) members shall be selected as follows: one (1) arbitrator from each party who shall then select a casting arbitrator as the third member of the board. The three (3) shall select one of them to preside over the Board of Arbitration. The selection by each party of its arbitrator shall be deemed as an acceptance of the arbitrator's decision and of its finality.

In the event that one of the two parties shall fail to select its arbitrator or in the case of non-agreement on the selection of the casting arbitrator or the presiding member of the Board of Arbitration within the period specified in the preceding paragraph, the matter shall be submitted to the *Shari'a* Advisory Council which shall select the arbitrator, the casting arbitrator or the presiding member, as the case may be.

The Board of Arbitration shall meet at the IB's principal office and shall set up the procedure of arbitration which it shall follow in hearing and deciding the dispute. The decision shall include the method of its execution and the party that shall incur the costs of arbitration. The final judgment shall be deposited with the Office of the Corporate Secretary of the Bank and the SEC.

The Board of Arbitration's decision shall, in all cases, be final and executory. It shall be valid for execution in the same manner as final judgments are effected under R.A. No. 876 otherwise known as the Arbitration Law.

Sec. 11. Incentives to Islamic Banking

Subject to the provisions of Section 72 of the New Central Bank Act, the

provisions of the Omnibus Investment Code on the basic rights and guarantees of investors are made applicable to the commercial operations of the IB in respect to repatriation or remittance of profits from investments, and to protection against nationalization, sequestrations, or expropriation proceedings. Any proceedings of judicial or administrative seizure may not be taken against the said property or investment except upon a final court judgment.

Sec. 12. Grants and Donations

The IB shall accept grants, donations, endowments, and subsidies, or funds and/or property offered by individuals and organization who may earmark such grants for a specific purpose or for such other purposes beneficial to the Muslim communities, without prejudice to the general objectives of the IB.

The financial statement and books of accounts of such funds shall be maintained separately but may be supplemented to the IB's balance sheet.

Under special circumstances in which the Board of Directors considers it advisable to promote or facilitate Islamic banking business and commercial operations, the IB may seek financing from governments, organizations, individuals or banks always without prejudice to the provisions of Section 43 of R.A. No. 6848.

Sec. 13. Non-Interest Bearing Placements

The IB is authorized to accept deposits from governments, banks, organizations or other entities and individuals from within the Philippines or abroad which shall form under any of the following non-interest bearing placements:

1. Savings accounts
2. Investment participation accounts
3. Current accounts and other deposit liabilities.

Any deposit received by the IB without authorization to invest shall be treated as current account and savings account, as the case may be, and may be withdrawn wholly or partly at any time, under the principle of *Al-Wadiah* (Safe Custody). The IB shall provide check books for its current account depositors and savings passbook for savings account depositors and other usual services connected therewith.

The IB, at its absolute discretion, may reward the customers for the use of their funds. The Board of Directors shall formulate rules and guidelines which should be consistent with the *Shari'a* principle, in the giving of rewards to the customers.

All deposits received with authorization to invest for a given period of time shall form part of the general pool of placements allocated for the investment portfolios of the IB and may be added to its working capital to be invested in any special projects or in general areas of investments or commercial operations of the Bank. These deposits shall be called as "Investment Participation Accounts" in which under the principle of *Al-Mudarabah*, the IB acts as the "entrepreneur" and the customers as the "Provider of Capital", and both shall agree through negotiation on the ratio of distribution of the profits generated from the investment of the funds. In the event of loss, the customers shall bear all the losses.

Sec. 14. Investment of Funds

The IB shall have the capacity of agent or attorney and shall act with full authority on behalf of the group of depositors in general in investing their commingled deposits without prejudice to the following sections and shall ensure a degree of liquidity to be determined by the Board of Directors to meet the current obligations of the IB including drawings from savings accounts and current accounts: *Provided*, That such degree of

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liquidity shall be subject to the reserve requirement as may be determined by the *BSP*. The Board of Directors shall determine the period for an investment participation account. Investment of funds shall be undertaken by the IB acting on behalf of the group of depositors or investors in selected areas of investment under such terms and conditions as the Board of Directors may determine by way of *mudarabah* or other forms of joint investment permitted by Islamic *Shari'a* principle.

Sec. 15. Return on Investment Funds

The depositors or investors in joint investment participation accounts shall be entitled to a portion of the return on investment according to the deposit balances and its period. The profits on participation account with authorization to invest in specific transaction shall be calculated on the same basis as on the capital funds invested as determined by the Board of Directors pursuant to Section 35 of R.A. No. 6848.

Sec. 16. Allocation of Resources

The IB may allocate part of its own investible funds or of the deposits on hand to finance investment projects and carry on its Islamic banking business directly or indirectly under its own supervision. For this purpose, it may create and finance investment companies or affiliates which shall manage investment projects on behalf of and under the supervision of the IB and for its own account.

The IB shall ascertain the viability and soundness of investment projects which it may directly supervise and those in which it may participate with part of its own funds, with the general pool of investors funds with authorization. The IB shall have the right to inspect and supervise the projects which it shall finance or in which it is the majority shareholder. The original capital and related profits shall be remitted in the same

currency it was originally contributed or in one of the convertible currencies, as the Board of Directors shall determine in accordance with R.A. No. 6848.

Sec. 17. Authorized Banking Services

The IB shall exercise all the powers enumerated under Section 6 of R.A. No. 6848 and perform all the services of a bank, except as otherwise prohibited by R.A. No. 6848: *Provided*, That no transactions with any customer, company, corporation or firm shall be permitted for discounts by the *BSP*.

Sec. 18. Acceptance of Government Funds

Pursuant to Sec. 6 (8) of R.A. No. 6848, the IB shall act as an official depository of the government or its branches, subdivisions and instrumentalities and of government-owned or controlled corporations, particularly those doing business in the autonomous region. Government funds placed with the IB shall be limited to working balances. All government deposits in excess of working balances shall be placed with the *BSP*.

Once privatized, acceptance by the IB of government funds or deposits shall be subject to existing laws and regulations governing the acceptance of such funds by private commercial banks which include prior Monetary Board approval.

The government deposits held by the IB shall be subject to reserve and liquidity floor requirements as the Monetary Board may prescribe.

Sec. 19. Authorized Commercial Operations

The IB may operate as an Investment House pursuant to Presidential Decree No. 129, as amended, and as a Venture Capital Corporation pursuant to Presidential Decree No. 1688, and by virtue thereof, carry on the following types of commercial operations:

1. The IB may have a direct interest as a shareholder, partner, owner or any other capacity in any commercial, industrial, agricultural, real estate or development project under *mudarabah* form of partnership or *musharaka* joint venture agreement or by decreasing participation, or otherwise invest under any of the various contemporary Islamic financing techniques or modes of investment for profit sharing.

2. The IB may carry on commercial operations for the purpose of realizing its investment banking objectives by establishing enterprises or financing existing enterprises, or otherwise by participating in any way with other companies, institutions or banks performing activities similar to its own or which may help accomplish its objectives in the Philippines or abroad, under any of the contemporary Islamic financing techniques or modes of investment for profit sharing; and

3) The IB may perform all business ventures and transactions as may be necessary to carry out the objectives of its charter within the framework of the IB's financial capabilities and technical considerations prescribed by law and convention: *Provided*, That these shall not involve any *riba* or other activities prohibited by the Islamic *Shari'a* principles.

The IB may likewise perform the functions of an investment house either directly or indirectly through a subsidiary investment house; in either case, the underwriting of equity securities and securities dealing shall be subject to pertinent laws and rules and regulations of the SEC: *Provided*, That the IB cannot perform such functions both directly and indirectly through a subsidiary: *Provided, further*, That if the investment house functions are performed directly by the IB, such functions shall be undertaken

by a separate and distinct department or other similar unit in the bank: *Provided, finally*, That if the bank avails of the option of exercising the powers of an investment house indirectly through its subsidiary investment house, it may not directly exercise the powers which are exclusively reserved to IHs.

Sec. 20. Employee Share Schemes

The Board of Directors may adopt an employee profit sharing scheme under any of the following ways:

1. Any arrangement under which the directors, officers and employees of the IB receive, in addition to their salaries and wages, a share, fixed beforehand, in the profits realized by the Bank or by its affiliate companies to which the profit sharing scheme relates; and

2. Any arrangement under which the IB facilitates the acquisition by its directors, officers and employees of common shares of stock either as share-incentives, share-bonus options, or any other share-saving schemes as the Board of Directors may determine.

No scheme shall be approved by the Board of Directors under this section unless it is satisfied that the participant in the profit sharing scheme is bound by a contract with the IB by virtue of which an appropriation of shares has been made for the purpose. The shares so purchased or appropriated shall be deposited in escrow with the Bank.

The Board of Directors of the IB shall then constitute the trustee of the approved scheme, whose functions with respect to the common shares held by them are regulated by Chapter VII of the General Banking Act and other pertinent laws. The terms of the approved scheme shall be prescribed by the Board of Directors and embodied in a deed of instrument.

The adoption of and any change in the employee profit sharing scheme shall

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be reported to the appropriate supervising and examining department of the *BSP* within thirty (30) calendar days from the date of approval.

Sec. 21. Investment Ceilings; Business Limits

The IB shall observe the following investment ceilings and business limits in its operations:

1. The aggregate credit facilities or any other liabilities of any customer of the IB shall not exceed at all times fifteen percent (15%) of the unimpaired capital and surplus of the Bank.

For purposes of determining compliance with this regulation, credit facilities shall refer to:

- a. Interbank Receivable
 - b. Financing and Investment
 - c. Trade Financing
 - d. Agrarian Reform/Other Agricultural Financing – P. D. No. 717
 - e. Bills Purchased
 - f. Customer's Liability on Bills/Drafts under Letters of Credit and/or Trust Receipts
 - g. Customer's Liability for this Bank's Acceptances Outstanding
 - h. Trading Account Securities – Financing
 - i. Underwriting Accounts – Debt Securities
 - j. Stand-by Letters of Credit
 - k. Such other facilities as may be determined by the Monetary Board
- Credit facilities granted by the IB to any other bank, as well as deposits maintained by it in any bank, shall be subject to the credit facility limit to any single borrower as herein prescribed.

2. The aggregate amount of investment portfolios for any single industry (following the major industry groupings in the 1977 Philippine Standard Industrial Classification) shall at no time exceed thirty percent (30%)

of the IB's investment capacity. Investment capacity shall mean the total unimpaired capital and surplus plus deposits and borrowings minus the investment in bank premises.

3. The IB shall not grant unsecured loans except *gardhasan* (benevolent loans). Such outstanding unsecured loans or credit accommodations which the IB may extend at any time without security or in respect of any advance, loan or credit facility made with the security wholly or partly whenever at any time it exceeds the aggregate market value of the assets constituting the security, shall be limited to fifty thousand pesos (P50,000.00) to any person, company, corporation or firm.

4. A credit facility granted to any person for the purpose of financing the acquisition of shares in any company, corporation or firm shall not exceed fifty percent (50%) of the appraised value of the shares at the time the credit facility is granted. Appraised value, in the case of listed shares, shall mean the weighted average price in the stock exchange. For unlisted shares, the appraised value shall mean the book value of the shares.

Sec. 22. Loans and Credit Facilities to Directors, Officers, Employees and Stockholders

1. *General Policy.* Except as otherwise provided in these regulations, the IB shall not directly or indirectly grant an advance, loan or credit facility to any of its directors, officers, employees or stockholders, or to any other person for whom any of them is a guarantor, or in any manner be an obligor for money granted by the IB.

2. *Direct Loans to Officers, Employees and Stockholders.* Whenever the IB is satisfied that special circumstances exist, a loan not exceeding at any one time an amount equivalent to six months remuneration, may be granted to an officer

or employee on such terms and conditions as the IB deems fit: *Provided, however,* That loans and advances to officers and employees in the form of fringe benefits granted in accordance with the rules and regulations prescribed under Section 1337 of the MRBOFI shall not be subject to the preceding limitation, nor to the ceiling on unsecured loans prescribed in Section 21.

The IB may extend credit facilities to stockholders owning two percent (2%) or more of the subscribed capital stock up to an amount equivalent to the outstanding deposits or the book value of his paid-in capital in the Bank, whichever is higher.

3. *Indirect Credit Facilities to Directors and Auditors.* No credit facility shall be granted by the IB to a company, corporation, partnership or firm wherein any member of the Board of Directors or auditors is a shareholder, partner, manager, agent or employee in any manner, except with the written approval of and by unanimous vote of not less than two-thirds of all the members of the Board of directors, excluding the director concerned: *Provided,* That the total liabilities of such company, corporation, partnership or firm to the IB shall be limited to the director's or auditor's outstanding deposits or the book value of his paid-in capital in the Bank, whichever is higher.

4. *Aggregate Ceiling.* Except with the prior approval of the Monetary Board, the total outstanding credit facilities of directors, officers, auditors and stockholders, whether direct or indirect, shall not exceed fifteen percent (15%) of the total credit facilities of the Bank or one hundred percent (100%) of combined capital accounts, net of deferred income tax and such unbooked valuation reserves and other capital

adjustments as may be required by the *BSP*, whichever is lower.

5. *Procedural Requirements.* The following provisions shall apply to direct loans to officers and indirect credit facilities to directors and auditors, allowed under these regulations.

- a. *Approval of the Board; when to obtain.* Direct loans to officers shall require the prior written approval of the majority of the directors.

Indirect loans to directors and auditors shall be allowed subject to the prior written approval, and by unanimous vote, of not less than two-thirds (2/3) of all the members of the Board of Directors, excluding the director concerned.

- b. *Approval by the Board; how manifested.* The approval as required in Item "a" above shall be manifested in a resolution passed by the Board of Directors duly assembled during a regular or special meeting for that purpose and made of record.
- c. *Determination of compliance with the required number of votes.* The determination of the majority or two-thirds (2/3) of the directors, excluding the directors concerned, shall be based on the total number of directors of the Bank as provided in its Charter and By-Laws.
- d. *Content of the resolution.* The resolution of the Board of Directors shall contain the following information:
 - (i) Name of the director, officer or auditor concerned and his relationship as regards the credit facility, such as principal, indorser, guarantor, etc.;
 - (ii) Nature of the loan or credit facility, purpose, amount, credit basis for such loan or credit facility,

security and appraisal thereof, maturity, schedule of repayment, and other terms of the loan or credit facility;

(iii) Date of the resolution;

(iv) Names of the directors who were present and who participated in the deliberations of the meeting;

(v) Names in print and signatures of the directors approving the resolution: *Provided*, That the corporate secretary may sign, under a power-of-attorney, in behalf of a director who was present in the board meeting and who approved such resolution, in instances where such signature is necessary to indicate that such resolution was approved by a majority or two-thirds of the directors; and

(vi) Such other information as may be required by the appropriate supervising and examining department of the *BSP*.

e. *Transmittal of copy of board approval; contents thereof.* A copy of the written approval of the Board of Directors, as herein required, shall be submitted to the appropriate supervising and examining department of the *BSP* within twenty (20) banking days from the date of approval. The copy may be a duplicate of the original, or a reproduction copy showing clearly the signatures of the approving directors: *Provided*, That if a reproduction copy is to be submitted, it shall contain on its face or reverse side a signed certification by the Secretary that it is a reproduction of the original written approval.

Sec. 23. Past Due Accounts

Accounts considered past due. The following shall be considered as past due:

1. Loans or receivables payable on demand – if not paid on the date indicated

on the demand letter, or within six (6) months from date of grant, whichever comes earlier;

2. Financing and investment accounts not paid at maturity/ expiry date or not paid in accordance with the terms of payment stipulated in the agreement/ contract;

3. Customers’ liability on drafts under LC/TR

a. Sight Bills – if dishonored upon presentment for payment or not paid within thirty (30) days from date of original entry, whichever comes earlier;

b. Usance Bills – if dishonored upon presentment for acceptance or not paid on due date, whichever comes earlier; and

c. Trust Receipts – if not paid on due date;

4. Bills and other negotiable instruments purchased – if dishonored upon presentment for acceptance/ payment or not paid on maturity date, whichever comes earlier: *Provided*, however, That an out-of-town check and a foreign check shall be considered as past due if outstanding for thirty (30) days and forty-five (45) days respectively, unless earlier dishonored;

5. Credit facilities or receivables payable in installments – the total outstanding balance thereof shall be considered past due in accordance with the following schedule:

<u>Mode of Payment</u>	<u>Minimum Number of Installments in Arrears</u>
Monthly	6
Quarterly	2
Semestraly	1
Annually	1

Provided, however, That when the total amount of arrearages reaches twenty percent (20%) of the total outstanding balance of the credit facility/receivable, the total outstanding balance of the credit

facility/receivable shall be considered as past due, notwithstanding the number of installments in arrears: *Provided, further,* That for modes of payment other than those listed above (e.g., daily, weekly or semi-monthly), the entire outstanding balance of the loan/receivable shall be considered as past due when the total amount of arrearages reaches ten percent (10%) of the total receivable balance;

6. Credit card receivables – if the amount due is not paid within ten (10) days from the deadline indicated in the billing statement; and

7. All items in litigation as defined in the IB’s Manual of Accounts.

For the purpose of determining delinquency in the payment of obligations as a ground for disqualification of bank directors and officers, any due and unpaid loan/financing installment or portion thereof, from the time the obligor defaults, shall be considered as past due.

Sec. 24. Equity Investments

1. *Financial Allied Undertakings.* With prior approval of the Monetary Board, the IB may invest in the equity of the following financial allied undertakings:

- a. Leasing companies;
- b. Banks;
- c. Investment houses;
- d. Financing companies;
- e. Credit card operations;
- f. Financial institutions addressed/ catering to small and medium-scale industries;
- g. Companies engaged in stock brokerage/security dealership/ brokerage;
- h. Foreign exchange dealers/brokers; and
- i. Insurance companies

Provided, That any such undertaking is the primary purpose for which a particular enterprise was established and the volume of its business indicates that

it is principally engaged in such undertaking.

The equity investment of the IB in a single financial allied undertaking shall be, in relation to the total subscribed capital stock and in relation to the total voting stock of the allied undertaking, within the following ratios:

<u>Allied Undertaking</u>	<u>Limit</u>
KBs	- Up to 49%
TBs and RBs	- Up to 100%
Other financial allied undertakings	- Up to 100% without prejudice to the limitations prescribed in Subsec. 1378.1 (of the MRBOFI).

Provided, That the equity investment in an insurance company of the IB, any of its wholly or majority-owned subsidiaries, its directors, officers and stockholders owning two percent (2%) or more of the bank’s subscribed capital stock, shall not exceed fifty-one percent (51%) of the total subscribed capital stock and the total voting stock of such insurance company.

The equity investment of the IB in a bank pursuant to R.A. No. 7721 shall be governed by the rules and regulations implementing said law.

2. *Non-Financial Allied Undertakings.* The IB may invest in the equity of the following non-financial allied undertakings:

- a. Warehousing companies;
- b. Storage companies;
- c. Safe deposit box companies;
- d. Companies engaged in the management of mutual funds but not in the mutual funds themselves;
- e. Management corporations engaged or to be engaged in activity similar to the management of mutual funds;
- f. Companies engaged in the provision of computer services;
- g. Insurance agencies: *Provided,* That no director, officer or stockholder

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of the bank and their related interests hold/own more than twenty percent (20%) of the subscribed capital stock or equity of the insurance company for which the affiliates insurance acts as agent;

h. Companies engaged in home building and home development;

i. Companies providing drying and/or milling facilities for agricultural crops such as rice and corn;

j. Companies engaged in insurance brokerage: *Provided*, That no director, officer, stockholder of the IB or its related interests shall have financial interests in the insurance company/companies for which the affiliate insurance brokerage company acts as broker;

k. Bank service corporations all of the capital of which is owned by one or more banks and organized to perform for and in behalf of banks the following services:

- (i) data processing systems development and maintenance;
- (ii) deposit and withdrawal recording;
- (iii) computation and recording of interests, service charges, penalties and other fees;
- (iv) check-clearing processing, such as the transmission and receipt of check-clearing items/tapes to and from the *BSP*, collection and delivery of checks not included in the Philippine Clearing House System, as well as the recording of the same; and
- (v) printing and delivery of bank statements.

l. Clearing house companies such as the PCHC and the Philippine Central Depository, Inc.

Provided, further, That any such undertaking is the primary purpose for which a particular enterprise was established and the volume of its business indicates that it is principally engaged in such undertaking.

The IB may acquire up to one hundred percent (100%) of the equity of a non-financial allied undertaking. However, prior Monetary Board approval is required if the investment is in excess of forty percent (40%) of the total subscribed capital stock or forty percent (40%) of the total voting stock of such allied undertaking.

3. *Investments in Non-Allied or Non-Related Enterprises*. The broad category of undertakings in which the IB may invest in directly or through its wholly or majority-owned subsidiary shall be subject to prior approval of the Monetary Board. Investments shall be allowed in enterprises engaged in certain activities in agriculture, mining and quarrying, manufacturing, public utilities, construction, wholesale trade and community and social services following the industrial groupings in the 1977 Philippine Standard Industrial Classification (PSIC) as enumerated in Annex I of Subsection 1380.1 of the MRBOFI, as amended. Individual equity investment in undertakings within these enumerated activities shall not require prior approval: *Provided, however*, That within thirty (30) days after the investment, the Bank shall furnish the appropriate supervising and examining department of the *BSP* such relevant information on the investments made as amount invested, name of investee company, and nature of business, accompanied by such pertinent documents as Articles of Incorporation, Articles of Partnership or Registration Certificate, whichever may be applicable, and such other information which may be required: *Provided, further*, That said investment is within the limits and restrictions set forth in the succeeding paragraphs of this Section.

The equity investment of the IB or of its wholly or majority-owned subsidiary, in any single non-allied enterprise shall

not exceed thirty-five percent (35%) of the total subscribed capital stock nor shall it exceed thirty-five percent (35%) of the voting stock in the enterprise.

For the purpose of determining compliance with the ceiling prescribed in the preceding paragraph, (i) the equity investment of the Bank; (ii) the equity investment of the Bank's wholly or majority-owned subsidiaries; and (iii) the equity investment of directors, officers and stockholders owning two percent (2%) or more of the subscribed capital stock of the Bank or of the Bank's wholly or majority-owned subsidiaries, shall be combined.

In no case shall the total equity investments in a single non-allied enterprise of the IB, together with the investments of other expanded commercial banks, non-bank financial intermediaries performing quasi-banking functions, or their wholly or majority-owned subsidiaries, whether or not the parent financial intermediaries have equity investments in the enterprise, amount to fifty percent (50%) or more of the voting stock of that enterprise.

4. *Other Limitations and Restrictions on Equity Investments.* The following limitations and restrictions shall also apply regarding equity investments of the IB:

- a. The total equity investments of IB in any single enterprise, whether allied or non-allied, shall not at any time exceed fifteen percent (15%) of the Bank's net worth.
- b. The total amount of investment in equities made by the IB in all enterprises, whether allied or non-allied, shall not exceed fifty percent (50%) of its net worth.

5. *Investments Abroad.* The ceiling provided for in the preceding paragraph shall apply to equity investments in and/or credit facilities to any enterprise abroad.

For purposes hereof, the phrase "equity investments in and/or credit facilities to" shall include any accommodation that gives rise to a creditor/debtor relationship such as deposits, money market placements, loans or any advances or any amount of funds granted or remitted by the IB to its subsidiary/affiliate abroad including letters of comfort and deposits/placements abroad of the Bank which are hypothecated.

6. *Exclusion of Underwriting Exposure from Ceiling.* The exposure of the IB arising from the firm underwriting of equity securities of enterprises shall not be counted in determining compliance with the ceiling prescribed for equity investments for a period of two (2) years from the acquisition of such equity securities.

Sec. 25. Special Cash Account

The IB shall open a special cash account with the *BSP* in which the liquid funds shall be deposited. Any transfer of funds from this account to other accounts shall be made only upon prior consultation with the IB.

The Bank's Board of Directors shall make such representations with the *BSP* as may be necessary to facilitate the opening of said account.

Sec. 26. Capital Funds Requirements

The IB shall maintain its combined capital accounts in proportion to its assets as prescribed by the General Banking Act and subject to the Rules and Regulations of the *BSP*.

Sec. 27. Investment Risk Fund

1. *Creation.* A reserve account, known as the Investment Risk Fund, shall be created in the books of the IB, by annually setting aside an amount equal to ten percent (10%) of the profits realized during the financial year from the investment of the customers' deposits in the following operations:

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- a. Financing & Investment
- b. Foreign Exchange Transactions
- c. Investment in Bonds & Other Islamic Financial Instruments
- d. Trading Account Securities
- e. Investments in Stocks
- f. Equity Investments
- g. Placements with Treasury Department
- h. Others

Should the accumulated reserves equal the authorized capital of the IB, the Board of Directors may reduce the amount of the annual deduction to a minimal percentage until the aggregate reserves become double the amount of the capital, after which the herein authorized deduction shall cease to accrue to the reserve account.

2. Determination of Profits and Losses. At the close of each financial year, the IB shall determine the results of its operation. The Board of Directors shall, after deducting the general and administrative expenses including remunerations of the Board of Directors and *Shari’a* Advisory Council, determine annually what part of the income shall be appropriated to reserves, investors and shareholders. All accounts relating to financing and joint investment operations shall be kept separate from the accounts of the other banking activities and services offered by the IB. The same rule with respect to the accounts of specific investments shall apply where such specific projects may have a separate account.

Losses incurred, if any, shall be deducted from the total profits realized for the financial year in which such losses are incurred, but any excess of losses over the profits which have been actually realized during the year may be deducted from the Investment Risk Fund opened for covering the risks of investments: *Provided*, That should the total profits realized in the year

be insufficient to cover the losses incurred, the IB shall carry out a comprehensive assessment to arrive at estimated profit and loss based on the market rates, from operations which are financed by the *mudarabah* funds and which have not reached the stage of final settlement by the end of the financial year.

3. Utilization. The Investment Risk Fund shall be invested for the benefit of the IB in safe non-interest bearing transactions only, as authorized by the Board of Directors.

The Board of Directors shall adopt policies on the creation and utilization of the Investment Risk Fund and determination of profits and losses, within one (1) year from date of this Circular.

Sec. 28. Periodic Reports

The IB shall submit to the appropriate department/office of the *BSP* the periodic reports enumerated under Annex “A” and such other reports as may be prescribed by the Monetary Board.

Sec. 29. Manual of Accounts

The IB shall adopt/implement the Manual of Accounts for Al-Amanah Islamic Investment Bank of the Philippines as approved by the Monetary Board in its Resolution No. 335 dated 15 March 1991.

Sec. 30. Board of Directors

The Board of Directors shall be composed of nine (9) members duly elected by the shareholders. The Board of Directors shall choose from among themselves the Chairman. The Board shall convene at the principal office once every three (3) months at the most upon due notice by the Chairman or, whenever the need arises, upon the request of three (3) members. The Board may convene outside the IB’s principal office as the members shall determine in the by-laws of the Bank.

Sec. 31. Power of the Board

The Board of Directors shall have the broadest powers to manage the IB except such matters as are explicitly reserved for the shareholders. The Board shall adopt policy guidelines necessary to carry out effectively the provisions of R.A. No. 6848, as well as internal rules and regulations necessary for the conduct of its Islamic banking business and all matters related to:

1. credit and investment;
2. discretionary and delegated authorities
3. risk management;
4. investment risk fund;
5. *qardhasan* (benevolent loans); and
6. personnel policies

The Board of Directors shall have the power to appoint managers, authorized agents or legal representatives and shall vest them with signing authority on behalf of the Bank either severally or jointly in accordance with the operational procedures of the Bank.

The Board shall cause the preparation of the IB's balance sheet for each financial year within three (3) months at the latest from the end of each accounting period as well as the profit and loss statement according to accounting rules established and based on Islamic criteria. Copies of the audited annual balance sheet, profit and loss account, together with any note thereon, and the report of the auditor and the directors own report shall be provided to the shareholders before the date of the general meeting.

The Board shall also cause the preparation of the annual revenue and expenditures budget as well as the annual business plan.

Sec. 32. Chief Executive Officer; Other Officers and Employees

The Chairman of the Board of the IB shall be the Chief Executive Officer of the

Bank. He must have experience and training in Islamic banking. All other officers and employees of the IB shall, upon recommendation of the Chief Executive Officer, be appointed and removed by the Board which shall not be subject to Civil Service Law.

The Chief Executive Officer of the IB shall, among others, execute and administer the policies, measures, orders and resolutions approved by the Board of Directors. In particular, he shall have the power and duty to execute all contracts in behalf of the IB, to enter into all necessary obligations required or permitted under R.A. No. 6848, to report weekly to the Board of Directors the main facts concerning the operations of the Bank during the preceding week, and to suggest changes in policy or policies which will serve the best interest of the Bank.

Sec. 33. Qualifications and Disqualifications of Directors and Officers

The provisions (of the MRBOFI – Book I) regarding the qualifications and disqualifications of directors and officers shall be applicable to the directors and officers of the IB.

Sec. 34. Business Development Office

The IB shall have a Business Development Office which shall be responsible for the following:

1. To conduct periodic economic surveys and studies of the investment climate and opportunities in the IB's sphere of operations and identify the viable projects which may be sponsored by the people of the Autonomous Region;
2. To offer technical consultancy services in the preparation of project studies and in meeting other technical credit requirements of the IB, including the provision of the management consultants at rates to be determined by the Board of

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Directors to projects financially assisted by the IB; and

3. To perform such other functions as may be directed by the Board of Directors.

Sec. 35. General Shareholder's Meeting

The shareholders shall convene in a general meeting annually at the latest within six (6) months following the end of the financial year of the Bank at the place, date and time fixed in the notice. The attendance of shareholders representing at least sixty percent (60%) of the capital of the IB shall constitute a quorum to do business and voting shall be by shares of stocks.

For purposes of this section, "Capital" shall refer to the Total Subscribed Capital, whether paid or unpaid.

No delinquent stock shall be voted for or be entitled to vote or to representation at any stockholders' meeting, nor shall the holder thereof be entitled to any of the rights of a stockholder except the right to dividends until and unless he pays the amount due on his subscription, including the cost and expenses incurred thereon, if any.

Holders of subscribed shares not fully paid which are not delinquent shall have all the rights of a stockholder.

Sec. 36. Purposes of General Meeting

The general shareholders' meeting shall be convened purposely to hear the Board of Directors' report on the activities of the IB, its financial condition, the auditor's report and to approve the balance sheet for the financial year ended and the profit and loss statement, to determine the portion of dividends to be distributed to the shareholders and the method of distribution, to appoint the auditors, and to elect the members of the Board of Directors and the *Shari'a* Advisory Council.

Sec. 37. Ordinary and Extraordinary Sessions

The general shareholders' meeting shall be presided over by the Chairman of the Board of Directors. All resolutions adopted by the general meeting in ordinary session assembled shall be taken by a vote of majority of the shareholders represented therein and in case of votes being equal, the Chairman shall cast his vote to break the tie. The resolutions of the general meeting adopted in accordance therewith shall be binding on all shareholders including those not in attendance or opposing the resolution.

An extraordinary general meeting shall be required to pass resolutions related to the increase or decrease of capital of the Bank, the extension of its legal existence or matters affecting amendment of R.A. No. 6848. Resolutions of the extraordinary general meeting shall be deemed adopted when a majority vote of at least sixty-six and two-thirds plus one percent ($66 \frac{2}{3} + 1\%$) of the capital shares shall have been cast.

In no case shall the general meeting resolve to modify the object of the Bank as an Islamic investment bank.

Sec. 38. Bank Auditor; Reports

Subject to the approval by the shareholders, the IB shall appoint an external auditor, whose qualifications and remunerations shall be fixed by the Board of Directors. The external auditor shall assume his functions from the date of his appointment until the date of the next general shareholders' meeting. In case a vacancy occurs at any time during the year for any reason, the Board of Directors shall immediately appoint a replacement who shall serve until the next general shareholders' meeting.

The external auditor shall conduct an annual financial audit not later than thirty

(30) days after the close of the calendar year. Reports on such audit shall be made and submitted to the Board of Directors and the appropriate supervising and examining department of the *BSP* not later than ninety (90) days after the start of the audit.

For purpose hereof, an independent external auditor who may be engaged by the Bank shall refer to one who does not hold or own two percent (2%) or more of equity in the Bank.

The Board of Directors, in a regular or special meeting, shall consider and act on the financial audit report and shall submit, within thirty (30) days after receipt of the report, a copy of its resolution to the appropriate supervising and examining department of the *BSP*. The resolution shall show, among other things, the names of the directors present and absent, and the action(s) taken on the findings and recommendations.

In the exercise of his auditing functions, all books, accounts and documents of the Bank shall be made available to the auditor for inspection to ascertain its assets and liabilities.

Sec. 39. Confidential Information

Banking transactions of the IB relating to all deposits of whatever nature are confidential and may not be examined, inquired or looked into by any person, government official, bureau or office except as provided in Sec. 38, or upon written permission by the depositor, or in cases where the money deposited or the transaction concerned is the subject of a court order.

It shall be unlawful for any official or employee of the IB or any person as may be designated by the Board of Directors to examine or audit the books of the Bank to disclose or reveal to any person any confidential information except under the circumstances mentioned in the preceding paragraph.

Sec. 40. Accounting Period

The financial year of the IB shall be based on the Gregorian calendar, but the corresponding Islamic *Hijra* date shall be mentioned on all correspondences, contracts, printed materials, forms and records of the IB. The accounting period shall commence on the first day of January and close on the last day of December each year.

Sec. 41. Sharing between the Bank and the Investors

Not later than the 31st day of January of each financial year, the Board of Directors shall determine and publish the general percentages of profit to be allocated to the total funds participating in joint investments of the IB.

The IB as a joint venturer (*Mudarib*) shall be entitled to certain percentage after deducting the amount allocated to investors. The Bank shall likewise be entitled to a share in the profits of joint investments in proportion to its own invested funds.

For the purpose of calculating funds employed in financing operations, priority shall be given to joint investment accounts and the holders of *muquaradah* (interest free) bonds.

All *zakat* due in the shareholder's capital and reserves represented by the pecuniary value of shares and the *zakat* due on the investor's funds or profits accruing to every depositor shall be paid to the *zakat* fund, subject to their instructions.

The Board of Directors shall adopt a policy on the sharing between the Bank and its investors which should be consistent with the *Shari'a* principle.

Sec. 42. Training of Technical Personnel

The IB shall promote and sponsor the training of technical personnel in the field of Islamic banking, finance and insurance.

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Towards this end, the IB may defray the costs of study, at home or abroad, of outstanding employees of the IB, of promising university graduates or of any other qualified persons who shall be determined by proper competitive examinations. The Board of Directors shall prescribe rules and regulations to govern the training program of the IB.

Sec. 43. Definition of Terms

For purposes of these Rules and Regulations, the following definition of term shall apply:

1. Islamic banking business means banking business whose aims and operations do not involve interest (*riba*) which is prohibited by the Islamic *Shari'a* principles.

2. *Shari'a* has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of R.A. No. 6848, it is construed by reference to pertinent Quranic ordinances and applicable rules in Islamic jurisprudence on business transactions.

3. *Riba* has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of banking activities, the term includes the receipt and payment of interest in the various types of lending and borrowing and in the exchange of currencies on forward basis.

4. *Zakat* has the meaning assigned to it by Islamic law and jurisprudence as expounded by authoritative sources; in the context of R.A. No. 6848, it represents annual an "tithe" payable by the Bank on behalf of its shareholders and investors in compliance with Islamic *Shari'a* principles.

5. Depositors means a person or entity who has an account at an IB, whether the account is a current account, a savings account, an investment account or any other deposit account; unless the

context requires another meaning, a depositor corresponds to an investor in joint investment of the IB.

6. Current account liabilities in relation to Islamic banking services mean the total deposits at the Bank which are repayable on demand.

7. Savings account liabilities in relation to Islamic banking services mean the total deposits at the IB which normally require the presentation of passbooks or such other legally acceptable documents in lieu of passbooks as approved by the *BSP* for the deposit or withdrawal of money;

8. Investment account liabilities in relation to Islamic banking services mean the total deposit liabilities at the IB in respect of funds placed by a depositor with the Bank for a fixed period of time under an agreement to share the profits and losses of that bank on the investment of such funds.

9. Other deposit liabilities in relation to an IB mean the deposit liabilities at the Bank other than savings account, investment account, current account liabilities and deposit liabilities from any IB or any other licensed bank.

10. Participation in relation to Islamic banking and commercial operations means any agreement or arrangement under which the mode of joint investments or specific transactions shall not involve the element of interest charge other than as percentage share in profits and losses of business.

11. Share means share in the capital of the Bank or a corporation and includes a stock, except where a distinction between stock and share is expressed or implied.

12. *Muqaradah* Bonds represent long term non-interest bearing bonds of definite denomination issued and floated by the bank on the basis of participation under the *Mudarabah* principle to be used

in financing projects for economic development.

Sec. 44. Statement of Principles

For purposes of implementing these Rules and Regulations, the following Shari'a principles shall be observed:

1. *Al-Bai Bithaman Ajil* (Deferred Payment Sale) - principle under which one sells to another by passing the ownership and delivery immediately but collects the payment later, usually by installments. This principle is applied in financing fixed asset acquisition, such as buying of houses, properties, plant and machinery, etc.

2. *Al-Bai ul Takjiri* (Leasing ending with ownership) - principle under which the fund-owner may purchase the asset required by the fund-user with the right to use the services of the asset, but subsequently to own the asset. Thus, the fund-owner first purchased the asset required by the fund-user and subsequently lease the asset to the fund-user with the stipulation that at a point in time the fund-user will purchase from the fund-owner the asset concerned at an agreed price with all the lease rental previously paid constituting part of the purchase price.

3. *Al-Ijarah* (Leasing) - principle under which the fund-owner purchases the asset required by the fund-user who acquires the right to use the services of said asset. The transaction is covered by a contract whereby the fund-owner first purchases the asset and subsequently leases the same to the beneficiary (fund-user) for a fixed, obligatory period, subject to lease rentals and other terms and conditions as may be agreed by both parties.

4. *Al-Kafalah* (Guarantee) - principle under which one can provide guarantee to another on behalf of a third person. This principle is applied by IBs

to issue Letters of Guarantee in respect of the performance of a task, or the settlement of a loan, etc. Where a security deposit is required, it is taken under the principle of *Al-Wadiah*. This principle also enables the IBs to take guarantees from others for the credit facilities granted.

5. *Al-Mudarabah* (Trust Financing) - principle under which a fund-owner provides full financing to the fund-user who provides only entrepreneurship and labor. The fund-owner is not involved in the management of the funds at all. The return to the fund-owner and the fund-user is a share of profit at a rate or ratio agreed in advance. In case of a failure, the fund-owner bears the financial losses. This principle is applied by the IBs in both deposit taking and financing. It is mostly applied to support the investment (fixed) deposit accounts.

6. *Al-Murabahah* (Purchase and Sale or Cost-plus) - principle under which the fund-owner purchases the goods or assets required by the fund-user and sells at an agreed mark-up to the fund-user. This principle is applied in Bills Receivable financing. If full financing is not to be given, the fund-user would be requested to place a margin deposit which will be used to pay for a portion of the cost of the goods or assets.

7. *Al-Musharaka* (Partnership Profit Sharing) - principle under which a fund-owner and an entrepreneur can jointly contribute to the finance and the management of a business. Profits or losses from the joint venture are shared between them in the rate or ratio agreed in advance. This principle is applicable in both the areas of funding and financing. It is mostly applied by IBs to raise capital, to finance projects on a joint venture basis, and in Trust Receipt financing.

8. *Al-Qardhasan* (Benevolent Loan) - principle under which one provides a direct loan, free of any charges, to

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another in need. Payment of dividend for the use of the loan is at the discretion of the user of the funds. Financing economic and business activities of the poor is sometimes extended under this principle.

9. *Al-Rahan* (Security) - principle under which security can be given and taken for an outstanding obligation. Although IBs extend financing through partnership and trading assets, security is also taken as a precaution under this principle.

10. *Al-Wadiah* (Safe Custody) - principle under which a trustee will safeguard the funds entrusted without any obligation to pay any dividend to the owners of the fund (depositors) as long as a guarantee is given to ensure the full refund of the money upon request of withdrawal. The trustee can have full discretion over the use of the funds.

11. *Al-Wakalah* (Agency) - principle under which one acts as an agent for another for a fee. This principle is applied in the Letters of Credit (LCs) operations in which the IBs issue LCs on behalf of their importing costumers when only LC service is required. A 100% margin deposit is collected under the principle of *Al-Wadiah*. The deposit will be used ultimately to meet the full value of the inward bills.

Sec. 45. Sanctions

Any director, officer, employee, auditor or agent of the IB who violates or permits the violation of any provisions of these Rules and Regulation shall be subject to the criminal and administrative sanctions provided under Sections 36 and 37 of R.A. No. 7653 (The New Central Bank Act).

Sec. 46. Supervision; Applicability of Banking Laws, Rules and Regulations

The IB shall be under the supervision of the *BSP*. The provisions of other banking laws, MRBOFI, as well as the existing Rules and Regulations of the *BSP*, particularly those enumerated under Annex “B”, and other pertinent laws insofar as they are not in conflict with any provisions of R.A. No. 6848 and these Rules and Regulations shall be applicable to the IB.

Sec. 47. Transformation to Islamic Banking Business

The IB shall transform its investment portfolios, accounts or assets for the conduct of full Islamic banking business within two (2) years from 24 April 1996. The Monetary Board may allow extension of the period as circumstances may warrant. If for any reason, such portfolios, accounts or assets granted under the authority of the Philippine Amanah Bank Charter are not eligible for this purpose, the same may be transferred, swapped, sold or otherwise disposed of in any manner deemed feasible.

The Board of Directors of the IB shall formulate policies to transform the business of the Bank into an Islamic concept, and shall submit the same to the appropriate department of the *BSP* within six (6) months from 24 April 1996.

During the transformation period, the Bank may continue to perform conventional banking activities under R.A. No. 337, as amended, insofar as they are not in conflict with R.A. No. 6848, and the applicable rules and regulations of the *BSP*.

NOTES ON MICROFINANCE
(Appendix to Subsec. X361)

A. Definition of Microfinance

Microfinance is the provision of a broad range of financial services, such as deposits, loans, payment services, money transfers and insurance products to the poor and low-income households, for their microenterprises and small businesses, to enable them to raise their income levels and improve their living standards.

B. Core Principles for Microfinance

1. The poor needs access to appropriate financial services
2. The poor has the capability to repay loans, pay the real cost of loans and generate savings.
3. Microfinance is an effective tool for poverty alleviation
4. Microfinance institutions must aim to provide financial services to an increasing number of disadvantaged people
5. Microfinance can and should be undertaken on a sustainable basis
6. Microfinance non-governmental organizations (NGOs) and programs must develop performance standards that will help define and govern the microfinance industry toward greater reach and sustainability

C. Characteristics and Features of Microfinance

Characteristics	Distinguishing Features
Type of client	Low income Employment in informal sector; low wage bracket Lack of physical collateral Closely interlinked household/business activities

Characteristics	Distinguishing Features
Lending Technology	Prompt approval and disbursement of micro loans Lack of extensive loan records Collateral substitutes; group-based guarantees Conditional access to further micro-credits Information-intensive character-based lending linked to cash flow analysis and group-based borrower selection
Loan Portfolio	Highly volatile Risk heavily dependent on portfolio management skills
Organizational Ideologyon	Remote from/non-dependent government Cost recovery objective vs. profit maximizing
Institutional Structure	Decentralized Insufficient external control and regulation Capital base is quasi-equity (grants, soft loans)

D. Definition of Microfinance loans

Microfinancing loans are small loans granted to the basic sectors, on the basis of the borrower’s cash flow and other loans granted to the poor and low-income households for their microenterprises and small businesses to enable them to raise their income levels and improve their living standards. These loans are typically unsecured but may also be secured as the case may be.

E. Level of Microfinance Loan

Average microfinance loan of an NGO microfinance institution or of a Coop Bank or credit union in the Philippine case is about P25,000 (from a low of P2,000 to P5,000).

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To be realistic, the maximum principal amount of a microfinance loan can be pegged at P150,000. This is equivalent to the total resources of a microenterprise under R.A. 8425.

F. Collateralization of Microfinance Loan

A microfinance borrower is not likely to be able to borrow from a large commercial, thrift or rural bank but from an NGO microfinance institution or perhaps from a small rural or Coop Bank. Thus, microfinance loans are typically unsecured, for relatively short periods of time (180 days) with monthly (or more frequent) amortizations of interest and principal, and often featuring a joint and several guarantee of one (1) or more persons and, certainly, seldom with tangible collateral. But in some cases they can also be secured, depending on the capacity of the borrower to offer collaterals acceptable to the lending institutions.

G. Interest on Microfinance Loans

Great caution should be exercised in drawing up regulations about interest rate ceilings on microfinance loans.

The old (and by now highly discredited as ineffective) approach to loans for low-income borrowers emphasized subsidized interest rates. It did not recognize that subsidized below-market interest rates do not necessarily result in opening up access to financial services for low-income households and microenterprises.

The new approach which has been demonstrated by global experience is characterized by a market-based interest rate regime which permits the institution providing microfinance services to cover administrative costs, provisions for loan losses and intermediation/funding costs.

This basis is consistent with financially sustainable rural finance and microfinance. Invariably, the global experience continues to validate the proposition that what matters most to the poor and undeserved segments is access to financial services rather than their interest-rate cost - most especially because microenterprise and small business borrowers will take a microfinance loan whose repayment period (monthly repayment) match the additional cash flows they hope to generate.

Therefore, interest on such microfinancing loans shall be reasonable but shall not be lower than the prevailing market rates. This is to enable the lending institution to recover the financial and operational costs incidental to this type of microfinance lending but also to realize some bottom line gains.

H. Segments of Demand for Micro-credit

1. The landless who are engaged in agricultural work on a seasonal basis and manual laborers in forestry, mining, household industries, construction and transport; requires credit for consumption needs and also for acquiring small productive assets, such as livestock.

2. Small and marginal farmers, rural artisans, weavers and those self-employed in the urban informal sector as hawkers, vendors, and workers in household micro-enterprises: requires credit for working capital, including a small part for consumption needs. *This segment largely comprises the poor but not the poorest.*

3. Medium farmers/small entrepreneurs who have gone in for commercial crops and others engaged in dairy, poultry, etc. Among non-farm activities, this segment includes those in villages and slums engaged in processing or manufacturing activity. *These persons live barely above the poverty line and also suffer from inadequate access to formal credit.*

**GUIDELINES TO INCORPORATE MARKET RISK IN THE
RISK-BASED CAPITAL ADEQUACY FRAMEWORK**
[Appendix to Subsec. 1115.2 (2008 - X1116.5)]

Introduction

1. These guidelines describe the approach to be used by the BSP to determine the minimum level of capital to be held by a bank against its market risk. The guidelines are broadly consistent with the recommendations of the Basel Committee on Banking Supervision in a document entitled “Amendment to the Capital Accord to Incorporate Market Risks” issued in January 1996.

2. Under these guidelines, banks shall be required to measure and apply capital charges against their market risk, in addition to their credit risk.

3. *Market risk* is defined as the risk of losses in on- and off-balance sheet positions arising from movements in market prices. The risks addressed by these guidelines are:

- the risks pertaining to *interest rate-related instruments* and *equities* in the trading book; and
- *Foreign exchange risk* throughout the bank.

Coverage of capital requirement for market risk

4. The capital requirement for market risk shall apply to all UBs and KBs.

5. The minimum capital adequacy ratio covering combined credit risk and market risk shall apply to banks which are subject to market risk capital requirement on both solo basis (i.e., head office plus branches) and consolidated basis (i.e., parent bank plus subsidiary financial allied undertakings, but excluding insurance companies).

Methods of measuring market risk

6. There are two (2) alternative methods recognized for the measurement of market risk, as follows:

(a) The *standardized approach* shall be used by all banks which are subject to market risk capital requirement, except by those which may be allowed by BSP to use the alternative method described in paragraph (b) below. The method of measuring market risk under the standardized approach is set out in the Instructions for Accomplishing the Report on Computation of the Adjusted Risk-Based Capital Adequacy Ratio Covering Combined Credit Risk and Market Risk.

(b) The *internal models approach* allows banks with the necessary system to use their own internal risk management models to calculate market risk. The use of this approach is subject to prior BSP approval. Approval shall be based on meeting certain qualitative and quantitative conditions relating to the models themselves and the controls surrounding them, as set out in *Annex “A”*. Banks may on a transitional basis be allowed to use a combination of the standardized approach and the models approach to measure their market risk, provided any such “partial” model shall cover a complete risk category (e.g., interest rate risk or foreign exchange risk). The reporting under the internal models approach is contained in the Instructions for Accomplishing the Report on Computation of the Adjusted Risk-Based Capital Adequacy Ratio Covering Combined Credit Risk and Market Risk.

Calculation of the capital adequacy ratio (CAR)

7. The adjusted capital adequacy ratio covering combined credit risk and market risk shall be calculated using the qualifying capital expressed as a percentage of the total risk-weighted assets (including credit risk and

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market risk-weighted assets). The components of this calculation are as follows:

- *Market risk-weighted assets* are the sum of the capital charges for all market risk categories calculated using either the standardized approach or the internal models approach [multiplied by 125% for those calculated using the standardized methodology to be consistent with the higher capital charge for credit risk, i.e., ten percent (10%) as opposed to BIS recommended eight percent (8%)] multiplied by 10. (The multiplier 10 is the reciprocal of the BSP required minimum capital adequacy ratio for credit risk of ten percent (10%). The effect is to convert the sum of the market risk capital charges into a risk-weighted assets equivalent which can then be directly added to the total credit risk-weighted assets.);
- *Credit risk-weighted assets* is the total risk-weighted assets calculated in accordance with Subsec. X116.3, less the part calculated for on-balance sheet debt securities and equities in the trading book. (The credit risk-weighted assets for on-balance sheet debt securities and equities are deducted because they represent an element now covered by the market risk capital charge); and
- *Qualifying capital* is the same as that calculated in accordance with Subsec. X116.2.

8. Banks shall maintain a minimum adjusted risk-based capital adequacy ratio covering combined credit risk and market risk of ten percent (10%) calculated in this manner on solo basis and on consolidated basis.

The trading book

9. A key feature of the market risk framework is the definition of the trading

book of a bank. This is set out in the Instructions for Accomplishing the Report on Computation of the Adjusted Risk-Based Capital Adequacy Ratio Covering Combined Credit Risk and Market Risk. Banks are expected to adopt a consistent approach to allocating transactions into their trading and non-trading (i.e., banking book), and clear audit trail for this purpose should be created at the time each transaction is entered into. The BSP shall monitor banks' practices to ensure that there is no abusive switching between different books to inappropriately reduce capital charges.

Required reports

10. Banks shall submit quarterly reports of their adjusted risk-based capital adequacy ratios covering combined credit risk and market risk on solo basis and on consolidated basis to the appropriate supervising and examining department of the BSP in accordance with the prescribed forms within fifteen (15) banking days and thirty (30) banking days after the end of reference quarter for solo report and consolidated report, respectively. These reports shall be in addition to the reports on risk-based capital adequacy ratio covering credit risk required to be submitted in Subsec. X116.5.

11. One (1) of three (3) alternative report forms prescribed, shall be used depending on the complexity of the bank's operations, to wit:

- (a) For UBs/KBs with expanded derivatives authority;
- (b) For UBs/KBs with expanded derivatives authority but without option transactions; or
- (c) For UBs/KBs without expanded derivatives authority.

12. The abovementioned reports shall be classified as *Category A-2 Reports*.

REQUIREMENTS FOR THE USE OF INTERNAL
MODELS TO MEASURE MARKET RISK

I. General Criteria

1. The use of internal models shall be conditional upon the explicit prior approval of the BSP.
2. The BSP will only give approval if at a minimum:
 - It is satisfied that the bank's risk management system is conceptually sound and is implemented with integrity;
 - The bank has in the BSP's view sufficient number of staff skilled in the use of sophisticated models not only in the trading area but also in the risk control, audit and if necessary, back office areas;
 - The bank's models have in the BSP's judgment a proven track record of reasonable accuracy in measuring risk; and
 - The bank regularly conducts stress tests along the lines discussed in Part V below.
3. The BSP may require a period of initial monitoring and live testing of a bank's internal model before it is used for supervisory capital purposes.
4. In addition to these general criteria, banks using internal models for capital purposes shall be subject to the requirements detailed in Parts II to VII below.

II. Qualitative Standards

5. Banks using internal models must have market risk management systems that are conceptually sound and implemented with integrity. Accordingly, a number of *qualitative criteria* that banks would have to meet before they are permitted to use a model-based approach are specified in paragraph 6 below. The extent to which banks meet the qualitative criteria may influence the level at which the BSP will set the multiplication factor referred to in Part IV, paragraph 8(j) below. Only those banks whose models are in full compliance with the qualitative criteria as listed in this section will be eligible for application of the minimum multiplication factor.
6. The qualitative criteria are:
 - (a) The bank should have an independent risk control unit that is responsible for the design and implementation of the bank's risk management system. The unit should produce and analyze daily reports on the output of the bank's risk measurement model, including an evaluation of the relationship between measures of risk exposure and trading limits. This unit must be independent from business trading units and should report directly to senior management of the bank.
 - (b) The unit should conduct a regular backtesting program, i.e. an ex-post

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- comparison of the risk measure generated by the model against actual daily changes in portfolio value over longer periods of time, as well as hypothetical changes based on static positions.
- (c) The board of directors (or equivalent management committee in the case of Philippine branches of foreign banks) and senior management should be actively involved in the risk control process and must regard risk control as an essential aspect of the business to which significant resources need to be devoted. In this regard, the daily reports prepared by the independent risk control unit must be reviewed by a level of management with sufficient seniority and authority to enforce both reductions of positions taken by individual traders and reductions in the bank's overall risk exposure.
 - (d) The bank's internal risk measurement model must be closely integrated into the day-to-day risk management process of the bank. Its output should accordingly be an integral part of the process of planning, monitoring and controlling the bank's market risk profile.
 - (e) The risk measurement system should be used in conjunction with internal trading and exposure limits. In this regard, trading limits should be related to the bank's risk measurement model in a manner that is consistent over time and that is well-understood by both traders and senior management.
 - (f) A routine and rigorous program of stress testing should be in place as a supplement to the risk analysis based on day-to-day output of the bank's risk measurement model. The results of stress testing exercises should be reviewed periodically by senior management and should be reflected in the policies and limits set by management and the board of directors (or equivalent management committee in the case of Philippine branches of foreign banks). Where stress tests reveal particular vulnerability to a given set of circumstances, prompt steps should be taken to manage those risks appropriately (e.g., by hedging against that outcome or reducing the size of the bank's exposures).
 - (g) Banks should have a routine in place for ensuring compliance with a documented set of internal policies, controls and procedures concerning the operation of the risk measurement system. The bank's risk measurement system must be well documented, for example, through a risk management manual that describes the basic principles of the risk management system and that provides an explanation of the empirical techniques used to measure market risk.
 - (h) An independent review of the risk measurement system should be carried out regularly in the bank's own internal auditing process. This review should include both the activities of the business trading units and of the independent risk control unit. A review of the overall risk management process should take place at regular intervals (ideally not less than once a year) and should specifically address, at a minimum:

- the adequacy of the documentation of the risk management system and process;
- the organization of the risk control unit;
- the integration of market risk measures into daily risk management;
- the approval process for risk pricing models and valuation systems used by front and back-office personnel;
- the validation of any significant change in the risk measurement process;
- the scope of market risks captured by the risk measurement model;
- the integrity of the management information system;
- the accuracy and completeness of position data;
- the verification of the consistency, timeliness and reliability of data sources used to run internal models, including the independence of such data sources;
- the accuracy and appropriateness of volatility and correlation assumptions;
- the accuracy of valuation and risk transformation calculations; and
- the verification of the model's accuracy through frequent

backtesting as described in paragraph (b) above.

III. Specification of Market Risk Factors

7. A bank's internal market risk measurement system must specify an appropriate set of market risk factors, i.e., the market rates and prices that affect the value of the bank's trading positions. The risk factors contained in a market risk measurement system should be sufficient to capture the risks inherent in the bank's portfolio of on-and off- balance sheet trading positions. Although banks will have some discretion in specifying the risk factors for their internal models, the following guidelines should be fulfilled:
- (a) For interest rates, there must be a set of risk factors corresponding to interest rates in each currency in which the bank has interest rate-sensitive on- or off-balance sheet positions.
 - The risk measurement system should model the yield curve using one (1) of a number of generally accepted approaches, for example, by estimating forward rates of zero coupon yields. The yield curve should be divided into various maturity segments in order to capture variation in the volatility of rates along the yield curve; there will typically be one (1) risk factor corresponding to each maturity segment. For material exposures to interest rate movements in the major currencies and markets, banks must model the yield curve using a minimum of six (6) risk factors. However, the number

of risk factors used should ultimately be driven by the nature of the bank’s trading strategies. For instance, a bank with a portfolio of various types of securities across many points of the yield curve and that engages in complex arbitrage strategies would require a greater number of risk factors to capture interest rate risk accurately; and

- The risk measurement system must incorporate separate risk factors to capture spread risk (e.g., between bonds and swaps). A variety of approaches may be used to capture the spread risk arising from less than perfectly correlated movements between government and other fixed-income interest rates, such as specifying a completely separate yield curve for non-government fixed-income instruments (for instance, swaps or local government unit securities) or estimating the spread over government rates at various points along the yield curve.
- (b) For equity prices, there should be risk factors corresponding to each of the equity markets in which the bank holds significant positions.
- At a minimum, there should be a risk factor that is designed to capture market-wide movements in equity prices (e.g., a market index). Positions in individual securities or in sector indices could be expressed in “beta-equivalents” relative to this market-wide index;

- A somewhat more detailed approach would be to have risk factors corresponding to various sectors of the overall equity market (for instance, industry sectors or cyclical and non-cyclical sectors). As above, positions in individual stocks within each sector could be expressed in beta-equivalents relative to the sector index; and
- The most extensive approach would be to have risk factors corresponding to the volatility of individual equity issues.

The sophistication and nature of the modeling technique for a given market should correspond to the bank’s exposure to the overall market as well as its concentration in individual equity issues in that market.

- (c) For exchange rates, the risk measurement system should incorporate risk factors corresponding to the individual foreign currencies in which the bank’s positions are denominated. Since the value-at-risk (VaR) figure calculated by the risk measurement system will be expressed in Philippine peso, any net position denominated in a foreign currency will introduce a foreign exchange risk. Thus, there must be risk factors corresponding to the exchange rate between the Philippine peso and each foreign currency in which the bank has a significant exposure.

IV. Quantitative Standards

8. Banks will have flexibility in devising the precise nature of their models, but

the following minimum standards shall apply for the purpose of calculating their capital charge:

- (a) “*Value-at-risk*” (VaR) must be computed on a daily basis.
- (b) In calculating VaR, a 99th percentile, one-tailed *confidence interval* is to be used.
- (c) In calculating VaR, an instantaneous price shock equivalent to a 10-day movement in prices is to be used, i.e., the minimum “*holding period*” will be ten (10) trading days. Banks may use VaR numbers calculated according to shorter holding periods scaled up to ten (10) days by the square root of time. (For the treatment of options, also see paragraph (h) below.)
- (d) The choice of *historical observation period* (sample period) for calculating VaR will be constrained to a minimum length of one (1) year. For banks that use a weighting scheme or other methods for the historical observation period, the “effective” observation period must be at least one (1) year (that is, the weighted average time lag of the individual observations cannot be less than six (6) months).
- (e) Banks should update their *data sets* no less frequently than once every three (3) months and should also reassess them whenever market prices are subject to material changes. The BSP may also require a bank to calculate its VaR using a shorter observation period’ if in the BSP’s judgment, this is justified by a significant upsurge in price volatility.

- (f) No particular *type of model* is prescribed. So long as each model used captures all the material risks run by the bank, as set out in Part III, banks will be free to use models based, for example on variance-covariance matrices, historical simulations, or Monte Carlo simulations.
- (g) Banks will have discretion to recognize empirical *correlations* within broad risk categories (e.g., interest rates, exchange rates and equity prices, including related options volatilities in each risk factor category). The BSP may also recognize empirical correlations across broad risk factor categories, provided that the BSP is satisfied that the bank’s system for measuring correlations is sound and implemented with integrity.
- (h) For banks with option transactions, banks’ models must accurately capture the unique risks associated with *options* within each of the broad risk categories. The following criteria apply to the measurement of options risk:
 - Banks’ models must capture the *non-linear price characteristics* of options positions;
 - Banks are expected to ultimately move towards the application of a full 10-day price shock to options positions or positions that display option-like characteristics. In the interim, the BSP may require banks to adjust their capital measure for options risk through

other methods, e.g., periodic simulations or stress testing; and

- Each bank’s risk measurement system must have a set of risk factors that captures the *volatilities of the rates and prices* underlying option positions, i.e., vega risk. Banks with relatively large and/or complex options portfolios should have detailed specifications of the relevant volatilities. This means that banks should measure the volatilities of options positions broken down by different maturities.
- (i) Each bank must meet, on a daily basis, a *capital requirement* expressed as the higher of (i) last trading day’s VaR number or (ii) an average of the daily VaR measures on each of the preceding sixty (60) trading days (both measured according to the parameters specified in this section) multiplied by a multiplication factor.
- (j) The *multiplication factor* shall be set by the BSP on the basis of its assessment of the quality of the bank’s risk management system subject to an absolute minimum of three (3). Banks will be required to add to this factor a “plus” directly related to the ex-post performance of the model (to be determined on a quarterly basis), thereby introducing a built-in positive incentive to maintain the predictive quality of the model. The plus will range from 0 to 1 based on the number of backtesting exceptions (i.e., the number of times that actual/hypothetical loss exceeds the VaR

measure) for the past 250 trading days of the reference quarter-end as set out in Table 5 of the Instructions for Accomplishing the Report on Computation of the Adjusted Risk-Based Capital Adequacy Ratio Covering Combined Credit Risk and Market Risk. (Table 3 for banks with expanded derivatives authority but without option transactions, and banks without expanded derivatives authority.)

- (k) Banks using models will be subject to a separate capital charge to cover the *specific risk* of interest rate-related instruments and equity securities as defined in the standardized approach to the extent that this risk is not incorporated into their models. However, for banks using models, the total specific risk charge applied to interest rate-related instruments or to equities should in no case be less than half the specific risk charges calculated according to the standardized methodology.

V. Stress Testing

- 9. Banks using internal models for measuring market risk capital requirements must have in place a rigorous and comprehensive stress testing program. Stress testing to identify events or influences that could greatly impact banks is a key component of a bank’s assessment of its capital position.
- 10. Banks’ stress scenarios should cover a range of factors that can create extraordinary losses or gains in trading portfolios, or to make the control of risks in those portfolios very difficult. These factors include low-probability

events in all major types of risks, including the various components of market, credit, and operational risks. Stress scenarios should shed light on the impact of such events on positions that display both linear and non-linear price characteristics (i.e., options and instruments that have options-like characteristics).

11. Banks' stress tests should be both of a qualitative and quantitative nature, incorporating both market risk and liquidity aspects of market disturbances. Quantitative criteria should identify plausible stress scenarios to which banks could be exposed. Qualitative criteria should emphasize that two (2) major goals of stress testing are to evaluate the capacity of the bank's capital to absorb potential large losses and to identify steps the bank can take to reduce its risk and conserve capital. This assessment should be integral to setting and evaluating the bank's management strategy and the results of stress testing should be regularly reported to senior management and, periodically, to the board of directors (or equivalent management committee in the case of Philippine branches of foreign banks).
12. Banks should combine the use of supervisory stress scenarios with stress tests developed by banks themselves to reflect their specific risk characteristics. Specifically, the BSP may ask banks to provide information on stress testing in the following three (3) broad areas:
 - (a) *Supervisory scenarios requiring no simulation by the bank.* Banks should provide the BSP information on the largest losses experienced during the reference quarter. This loss information could be compared

to the level of capital that results from a bank's internal measurement system. For example, it could provide BSP with a picture of how many days of peak day losses would have been covered by a given VaR estimate.

- (b) *Scenarios requiring a simulation by the bank.* Banks should subject their portfolios to a series of simulated stress scenarios and provide BSP with the results. These scenarios could include testing the current portfolio against past periods of significant disturbance, for example, the early 80's banking crisis or the 1997 Asian financial crisis, incorporating both the large price movements and the sharp reduction in liquidity associated with these events. A second type of scenario would evaluate the sensitivity of the bank's market risk exposure to changes in the assumptions about volatilities and correlations. Applying this test would require an evaluation of the historical range of variation for volatilities and correlations and evaluation of the bank's current positions against the extreme values of the historical range. Due consideration should be given to the sharp variation that at times has occurred in a matter of days in periods of significant market disturbance.
- (c) *Scenarios developed by the bank itself to capture the specific characteristics of its portfolio.* A bank should also develop its own stress test which it identifies as most adverse based on the characteristics of its portfolio. It should provide the BSP with a description of the

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methodology used to identify and carry out the scenarios, as well as with the description of the results derived from these scenarios.

The results should be reviewed periodically by senior management and should be reflected in the policies and limits set by management and the board of directors (or equivalent management committee in the case of Philippine branches of foreign banks). Moreover, if a bank’s testing reveals particular vulnerability to a given set of circumstances, the BSP would expect the bank to take prompt steps to manage those risks appropriately (e.g., by hedging against that outcome or reducing the size of its exposures).

VI. External Validation

13. The validation of models’ accuracy by external auditors and the BSP should at a minimum include the following steps:
- (a) Verify that the *internal validation processes* described in Part II, paragraph 6 (h) are operating in a satisfactory manner;
 - (b) Ensure that the *formulae* used in the calculation process, as well as for the pricing of options and other complex instruments, are validated by a qualified unit, which in all cases should be independent from the trading area;
 - (c) Check that the *structure* of internal models is adequate with respect to the bank’s activities and geographical coverage;

- (d) Check the results of the bank’s *backtesting* of its internal measurement system (i.e., comparing VaR estimates with actual profits and losses) to ensure that the model provides a reliable measure of potential losses over time. This means that banks should make the results, as well as the underlying inputs to their VaR calculation, available to the BSP and/or external auditors on request; and
- (e) Make sure that data flows and processes associated with the risk measurement system are *transparent and accessible*. In particular, it is necessary that auditors or the BSP is in a position to have easy access, whenever they judge it necessary and under appropriate procedures, to the models’ specifications and parameters.

VII. Combination of Internal Models and the Standardized Methodology

14. Unless a bank’s exposure to a particular risk factor is insignificant, the internal models approach will require banks to have an integrated risk measurement system that captures the broad risk factor categories (i.e., interest rates, exchange rates and equity prices, with related option volatilities being included in each risk factor category). A bank which has developed one or more models will no longer be able to revert to measuring the risk measured by those models according to the standardized methodology (unless the BSP withdraws approval for that model).
15. The following conditions will apply to banks using such combinations:

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- (a) Each broad risk factor category must be assessed using a single approach (either internal models or the standardized approach), i.e., no combination of the two (2) methods will be permitted within a risk category or across banks' different entities for the same type of risk;
- (b) All the criteria laid down in this Annex will apply to the models being used;
- (c) Banks may not modify the combination of the two (2) approaches they use without justifying to the BSP that they have a good reason for doing so;
- (d) No element of market risk may escape measurement, i.e., the exposure for all the various risk factors, whether calculated according to the standardized approach or internal models, would have to be captured; and
- (e) The capital charges assessed under the standardized approach and under the models approach are to be aggregated according to the simple sum method.

**MARKET RISK CAPITAL TREATMENT FOR
DOLLAR-LINKED PESO NOTES**
[Appendix to Subsec. 1115.2 (2008 - 1116.5)]

1. *Treatment of interest rate risk.* Dollar-linked Peso Notes (DLPNs) booked under Trading Account Securities (TAS) or Available for Sale Securities (ASS) result in interest rate risk. These exposures shall be included in the report forms in the following manner:

 - *Under the standardized approach.* The market value of the DLPN shall be reported in Part I.1, Item I.1, and Part I.2, US dollar ladder, under the coupon and time band corresponding to the DLPN's residual maturity; and
 - *Under the internal models approach.* DLPN exposures must be included in the computation of Value-at-Risk (VaR) measure for interest rate risk. This VaR measure shall be reported in Part V, Item 1 (for banks with expanded derivatives authority), or Part IV, Item 1 (for banks with expanded derivatives authority but without option transactions and for banks without expanded derivatives authority).
2. *Treatment of foreign exchange risk.* DLPNs booked under TAS, ASS or Investment in Bonds and other Debt Instruments (IBODI) result in foreign exchange risk. These exposures shall be included in the report forms in the following manner:

 - *Under the standardized approach.* The market value of the DLPN shall be included in the computation of the net long/(short) position for US dollar to be reported in Part III; and
 - *Under the internal models approach.* DLPN exposures must be included in the computation of VaR measure for foreign exchange risk. This VaR measure shall be reported in Part V, Item 2 (for banks with expanded derivatives authority), or Part IV, Item 2 (for banks with expanded derivatives authority but without option transactions, and for banks without expanded derivatives authority).

**INSTRUCTIONS FOR ACCOMPLISHING THE REPORT ON COMPUTATION OF
THE ADJUSTED RISK-BASED CAPITAL ADEQUACY RATIO COVERING
COMBINED CREDIT RISK AND MARKET RISK
(For Universal Banks and Commercial Banks
With Expanded Derivatives Authority)**

General Instructions

1. All universal banks and commercial banks are required to complete this Report both on a solo basis (i.e., head office plus branches) and on a consolidated basis (i.e., parent bank plus subsidiary financial allied undertakings, but excluding insurance companies).
2. The Report should be submitted as follows:
 - (a) Solo report - within 15 banking days after the end of each reference quarter; and
 - (b) Consolidated report - within 30 banking days after the end of each reference quarter.
3. Current market value should be used for reporting. For leveraged instruments where the apparent notional amount differs from the effective notional amount, the bank should use the effective notional amount in calculating the market value for reporting, e.g., a swap contract with a stated notional amount of PHP1.0 million, the terms of which call for a quarterly settlement of the difference between 5% and PHIBOR multiplied by 10 has an effective notional amount of PHP10.0 million.
4. Securities transactions are to be reported on a “trade date” basis.

Definitions and Clarifications

5. Market risk is defined as the risk of losses in on- and off-balance sheet positions arising from movements in market prices.

The risks subject to this reporting requirement are:

- (a) the risks pertaining to interest rate-related instruments and equities in the bank’s trading book; and
- (b) foreign exchange risk throughout the bank.

The Report should include the reporting bank’s positions in on-balance sheet financial instruments and off-balance sheet derivatives, the latter being defined as financial contracts whose values depend on the values of one or more underlying assets or indices.

6. For the purpose of the Report, the trading book of a bank shall consist of:
 - (a) its proprietary positions in financial instruments which are taken on with the intention of short-term resale or benefiting in the short term from actual or expected differences between the buying and selling prices or from other price or interest rate variations;
 - (b) positions which arise from the execution of trade orders from customers and market making; and
 - (c) positions taken in order to hedge other elements of the trading book.

7. The financial instruments referred to in the preceding paragraph include:
 - (a) (i) transferable securities;
 - (ii) units in collective investment undertakings;
 - (b) certificates of deposit and other similar capital market instruments;
 - (c) financial futures contracts;
 - (d) forward contracts including forward rate agreements;

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- (e) swaps; and
- (f) options.

8. Banks are expected to have an established policy for allocating transactions (including internal deals) to the trading or non-trading (i.e., banking) book, as well as procedures to ensure compliance with such policy. There must be a clear audit trail at the time each transaction is entered into and the BSP will examine the adequacy of such policy and procedures and their consistent implementation when it is considered necessary. For this purpose, banks which engage in trading activities should submit to the BSP a policy statement covering:

- (a) the definition of trading activities;
- (b) the financial instruments which can be traded or used for hedging the trading book portfolio; and
- (c) the principles for transferring positions between the trading and the banking books.

9. In general, the BSP will have regard to the bank's intention in entering into a particular transaction when determining whether such transaction should fall into the trading book. Transactions will likely be considered to carry a trading intent on the part of the bank if:

- (a) the positions arising from the transactions are marked to market on a daily basis as part of the internal risk management process;
- (b) the positions are not (or not intended to be) held to maturity; and
- (c) the positions satisfy other criteria the bank applies to its trading portfolio on a consistent basis.

10. Debt securities include both fixed-rate and floating-rate instruments, negotiable certificates of deposit, non-convertible preference shares, and also convertible bonds (i.e., debt issues or preference shares that are convertible, at a stated price, into

common shares of the issuer) which trade like debt securities. Debt related derivatives include bond futures and bond options. Options are subject to special treatment described in detail under Part IV of Specific Instructions.

11. Interest rate derivatives include all derivatives contracts and off-balance sheet instruments which react to changes in interest rates, e.g., interest rate futures, forward rate agreements (FRAs), interest rate and cross currency swaps, interest rate options and forward foreign exchange positions. As noted above, the treatment for options is described in Part IV of Specific Instructions.

12. Detailed offsetting rules applicable to the reporting of positions are set out in the relevant parts of Specific Instructions. These offsetting rules can be applied on both the solo and consolidated basis, provided that in the latter case there are no obstacles to the quick repatriation of profits from a foreign subsidiary to the Philippines and the bank performs daily management of risks on a consolidated basis. For this purpose, offsetting means the exclusion of matched positions of a bank from reporting and hence exclusion of such positions from the calculation of the adjusted capital adequacy ratio.

13. For avoidance of doubt, items that are deductible from the qualifying capital of the bank in the calculation of the risk-based capital adequacy ratio pursuant to Subsections X116.2.a to X116.2.c of the Manual of Regulations for Banks are excluded from market risk capital requirement.

14. In general, banks are only required to complete Parts I to IV and VI of the Report. Banks which have obtained the BSP's approval to adopt their internal value-at-risk (VaR) models to calculate their market risk capital charge (in all or individual risk

categories) should complete Part V (in lieu of Parts I to IV). Where the internal model is used to calculate only selected risk categories, the capital charge for the risk categories measured under the internal models approach should be reported in Part V while that for the other risk categories measured under the standardized approach should be reported in the relevant sections of Parts I to IV. This combination of the standardized approach and the internal models approach is allowed on a transitional basis. Banks which adopt the internal models approach will not be permitted, save in exceptional circumstances, to revert to the standardized approach.

Specific Instructions

Part I Interest Rate Exposures

1. Debt securities and debt related derivatives – specific risk

15. Report in this part the long and short positions in debt securities and debt derivatives (e.g., bond futures and bond options) in the trading book by category of the issuer. Offsetting will be allowed between long and short positions in identical issues (including positions in derivatives) with exactly the same issuer, coupon, currency and maturity. For items 1.4 to 1.7 of the Report, positions should be slotted into the appropriate time bands according to the residual maturities of the debt securities (or the underlying securities in case of debt derivatives). (Refer to examples (1) and (2) in Annex A).

16. A security, which is the subject of a repurchase agreement, will be treated as if it were still owned by the seller of the security, i.e., to be reported by the seller. This principle applies also in Part 1.2 of the Report. Commitments to buy and sell

securities should be reported as long and short positions, respectively.

17. Foreign countries, foreign incorporated banks and Philippine incorporated banks/QBs with the “highest credit quality”, as well as debt securities with the “highest credit quality” refer to ratees/debt securities given the minimum credit ratings as indicated below by any two of the following internationally accepted rating agencies:

Rating Agency	Credit Rating
(a) Moody’s	“Aa3” and above
(b) Standard and Poor’s	“AA-” and above
(c) Fitch IBCA	“AA-” and above

and such other recognized international rating agencies as may be approved by the Monetary Board.

The ratings of domestic rating agencies may likewise be used for this purpose provided that such rating agencies meet the criteria to be prescribed by the Monetary Board.

18. Multilateral development banks refer to the World Bank Group comprised of the International Bank for Reconstruction and Development (IBRD) and the International Finance Corporation (IFC), the Asian Development Bank (ADB), the African Development Bank (AfDB), the European Bank for Reconstruction and Development (EBRD), the Inter-American Development Bank (IADB), the European Investment Bank (EIB); the Nordic Investment Bank (NIB); the Caribbean Development Bank (CDB), the Council of Europe Development Bank (CEDB) and such others as may be recognized by the BSP.

19. Non-central government public sector entities of a foreign country refer to entities which are regarded as such by a recognized banking supervisory authority in the country in which they are incorporated.

2. Debt securities, debt related derivatives and interest rate derivatives – general market risk

20. Report in this part the long and short trading book positions in debt securities and debt derivatives described above, as well as interest rate derivatives. Report also interest rate exposures arising from futures contracts and forward positions in equities. A Maturity Method is adopted for the reporting of these positions as detailed below. Banks that possess the necessary capability to calculate the duration and price sensitivity of each position separately and wish to adopt such a duration approach for reporting in this part may seek approval from BSP.

21. Positions should be reported separately for each currency, i.e., banks should use separate sheets (Part I.2 of the Report) to report positions of different currencies. The unadjusted market risk capital charge is then calculated for each currency according to procedures set out in paragraphs 31 to 34 with no offsetting between different currencies.

22. Under the Maturity Method, positions are slotted into the time bands of the maturity ladder (as shown in Part I.2 of the Report) by remaining maturity if fixed rate and by the period to the next repricing date if floating rate. (Refer to examples (1) and (2) in Annex A). Derivatives should be treated as combinations of long and short positions. The maturity of an interest rate future or a forward rate agreement will be the period until delivery or exercise of the contract, plus – where applicable – the life of the underlying instrument. For example, a long position in a June 3-month interest rate future taken in December is to be reported at end of December as a long position in a zero coupon government security in that particular currency with a

maturity of 9 months and a short position in a zero coupon government security with a maturity of 6 months. (Refer to examples (5) and (6) in Annex A). The market values of the two positions should be reported. For forward foreign exchange positions in the trading book, they should be treated as long and as short positions in a zero coupon government security of the 2 currencies with the same maturity as the forward contract. (Refer to example (8) in Annex A).

23. For a bond future, where a range of deliverable instruments may be delivered to fulfill the contract, the bank has flexibility to elect which deliverable security goes into the maturity ladder but should take account of any conversion factor defined by the exchange. A two-leg approach will be adopted similar to the above. A long bond future will be taken as a long position in a deliverable bond and a short position in a zero coupon security maturing at the future's delivery date. For example, a long futures contract on a 5 year fixed rate security with delivery 3 months from the reporting date will be reported as a long position in say, a 5.25 year security, i.e., a specific security which is within the range of deliverables under the futures contract (as opposed to a notional/theoretical security), and a short position in a 3 months zero coupon security. (Refer to example (3) in Annex A).

The amount to be reported in the above example for both legs will be the contract face value divided by the relevant conversion factor and multiplied by the current cash price of the selected deliverable bond. A forward bond transaction (i.e., with a settlement period longer than the market norm) will be treated similarly, i.e., a long bond forward will be reported as long position in the bond and a short position in a zero coupon security up

to the forward delivery date. The current market value (at spot price) of the bond should be reported.

24. Swaps will be treated as two positions in securities with the relevant maturities. For example, an interest rate swap under which a bank is receiving floating rate interest and paying fixed will be treated as a long position in a floating rate instrument of maturity equivalent to the period until the next interest fixing and a short position in a fixed-rate instrument of maturity equivalent to the residual life of the swap. The market values of the 2 instruments should be reported. (Refer to example (4) in Annex A). For swaps that pay or receive a fixed or floating interest rate against some other reference price, e.g., an equity price, the interest rate component should be slotted into the appropriate maturity category, with the equity component being included in the equity framework. The separate legs of cross-currency swaps are to be reported in the relevant maturity ladders for the currencies concerned. (Refer to example (12) in Annex A).

25. As with the reporting under Part I.1 of the Report, banks can offset long and short positions in identical instruments with exactly the same issuer, coupon, currency and maturity for general market risk purposes. Similarly, a matched position in a futures or forward contract and its underlying may be fully offset. However, the leg representing the time to expiry of the futures or forward contract should be reported.

For example, a bank has a long position in a particular bond and sells forward (i.e., beyond the normal settlement period for the security) such a bond as at the reporting date. The long and short positions in the bond can be offset but a long position in a (notional) zero coupon security with maturity at the forward delivery date should be reported, at the current market value of

the bond. Similarly, if the bank has a short position in a bond future and a long position in the underlying bond, such positions can be offset. A long position up to the future's delivery date should, however, be reported.

When the futures contract comprises a range of deliverable instruments, offsetting of positions in the futures contract and its underlying is only permissible in cases where there is a readily identifiable underlying security which is most profitable for the trader with a short position to deliver, i.e., the "cheapest to deliver". This means that offsetting is only permitted between a short future and a long bond, not between a long future and a short bond; and the long bond must be the one that is "cheapest to deliver". The amount to be reported for the remaining long position up to the futures contract's delivery date will be the face value of the contract divided by the relevant conversion factor and multiplied by the current spot price of the "cheapest to deliver" bond.

26. Opposite positions in the same category of derivatives instruments (including the delta-equivalent value of options where the delta-plus approach for options is adopted – see Part IV of the Report) can in certain circumstances be regarded as matched and allowed to offset fully. The separate legs of different swaps may also be "matched" subject to the same conditions. To qualify for this treatment, the positions must relate to the same underlying instruments, be of the same nominal value and be denominated in the same currency. In addition:

(a) for futures: offsetting positions in the notional or underlying instruments to which the futures contract relates must be for identical products and mature within 7 days of each other;

(b) for swaps and forward rate agreements (FRAs): the reference rate (for

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floating rate positions) must be identical and the coupon closely matched (i.e., within 15 basis points); and

(c) for swaps, FRAs and forwards: the next interest fixing date or, for fixed coupon positions or forwards, the residual maturity must correspond within the following limits:

- if either of the instruments for offsetting has an interest fixing date or residual maturity up to 1 month, the interest fixing date or residual maturity must be the same for both instruments;
- if either of the instruments for offsetting has an interest fixing date or residual maturity greater than 1 month and up to 1 year, those dates or residual maturities must be within 7 days of each other; and
- if either of the instruments for offsetting has an interest fixing date or residual maturity over 1 year, those dates or residual maturities must be within 30 days of each other.

For example, a bought and a sold FRA in the same currency with the same face value and settlement date as well as notional deposit maturity date can be offset against each other and excluded from reporting if the contract rates are within 15 basis points of each other. Similarly, opposite swap positions in the same currency with the same face value and reference dates can be offset if, say, the floating rate in both cases is 6 months PHIBOR and the fixed rates are within 15 basis points of each other. The positions can still be offset if the reference dates (i. e., the next interest fixing date or remaining maturity) of the opposite positions are different but within the range as set out in (c) above. Opposite bond futures can, for example, be offset against each other if the deliverable bonds are of the same type and mature within 7 days of each other.

27. Banks with the necessary expertise and systems may use alternative formulae

(the so called “pre-processing” techniques) to calculate the positions to be included in the maturity ladder. This applies to all interest rate sensitive positions, arising from both physical and derivative instruments. One method is to first convert the payments required under each transaction into their present values. For that purpose, each cash flow should be discounted using zero-coupon yields. A single net figure of all of the cash flows within each time band may be reported. Banks wishing to adopt this or other methods for reporting should seek the BSP’s prior approval. The “pre-processing” models would be subject to review by the BSP.

Calculation of capital charges for interest rate exposures reported in Part I

28. The unadjusted minimum capital requirement is expressed in terms of two separately calculated charges, one applying to the “specific risk” of each trading book position in debt securities or debt derivatives, whether it is a short or long position, and the other to the overall interest rate risk in the trading book portfolio (termed “general market risk”) where long and short positions in different securities or derivatives can be offset subject to certain “disallowances”.

Specific risk

29. The unadjusted specific risk charge is graduated into five broad categories by types of issuer, as follows:

Government and multilateral development banks*	0.00%
Qualifying**	0.25% (residual maturity of 6 months or less)
	1.00% (residual maturity of over 6 months to 24 months)

* “Government and multilateral development banks” refers to the issuers as described under items 1.1 and 1.3 in Part I.1 of the Report.
** “Qualifying” refers to the issuers/issues as described under items 1.4 to 1.7 in Part I.1 of the Report.

	1.60% (residual maturity of over 24 months)
LGU bonds***	4.00%
Others	8.00%

30. Interest rate and currency swaps, FRAs, forward foreign exchange contracts and interest rate futures will not be subject to a specific risk charge. In the case of futures contracts where the underlying is a debt security, a specific risk charge will apply according to the issuer (and the remaining maturity) as set out in the above paragraph.

General market risk

31. General market risk applies to positions in all debt securities, debt derivatives and interest rate derivatives, subject only to an exemption for fully or very closely matched positions in identical instruments as described in paragraphs 25 to 26 above. The unadjusted capital charge is the sum of the following components:

- (a) the net short or long weighted position in the whole trading book;
- (b) a small proportion of the matched positions in each time band (the “vertical disallowance”); and
- (c) a larger proportion of the matched positions across different time-bands (the “horizontal disallowance”).

32. In the maturity ladder, first calculate the weighted positions by multiplying the positions reported in each time band by a risk-factor according to the following table:

Table 1
Maturity method: time bands and weights

Coupon 3% or more	Coupon less than 3%	Risk weight
1 month or less	1 month or less	0.00%
Over 1 month to 3 months	Over 1 month to 3 months	0.20%

Over 3 months to 6 months	Over 3 months to 6 months	0.40%
Over 6 months to 12 months	Over 6 months to 12 months	0.70%
Over 1 year to 2 years	Over 1.0 year to 1.9 years	1.25%
Over 2 years to 3 years	Over 1.9 years to 2.8 years	1.75%
Over 3 years to 4 years	Over 2.8 years to 3.6 years	2.25%
Over 4 years to 5 years	Over 3.6 years to 4.3 years	2.75%
Over 5 years to 7 years	Over 4.3 years to 5.7 years	3.25%
Over 7 years to 10 years	Over 5.7 years to 7.3 years	3.75%
Over 10 years to 15 years	Over 7.3 years to 9.3 years	4.50%
Over 15 years to 20 years	Over 9.3 years to 10.6 years	5.25%
Over 20 years	Over 10.6 years to 12 years	6.00%
	Over 12 years to 20 years	8.00%
	Over 20 years	12.50%

33. The weighted longs and shorts in each time band will be offset resulting in a single short or long position for each band. A 10% capital charge (“vertical disallowance”) will be levied on the smaller of the offsetting positions, be it long or short. Thus, if the sum of the weighted longs in a time band is P100.0 million and the sum of the weighted shorts is PHP90.0 million, the vertical disallowance would be 10% of PHP90.0 million (i.e., PHP9.0 million).

34. Two rounds of “horizontal offsetting” will then be conducted, first between the net positions in each of 3 zones (zero to 1 year, over 1 year to 4 years and over 4 years), and subsequently between the net positions in the 3 different zones. The offsetting will be subject to a scale of disallowances expressed as a fraction of the matched positions, as set out in Table 2 below. The weighted long and short positions in each of 3 zones may be offset,

*** "LGU bonds" refers to bonds issued by local government units (LGUs), covered by Deed of Assignment of Internal Revenue Allotment of the LGU and guaranteed by LGU Guarantee Corporation.

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subject to the matched portion attracting a disallowance factor that is part of the capital charge. The residual net position in each zone may be carried over and offset against opposite positions in other zones, subject to a second set of disallowance factors.

Table 2
Horizontal disallowances

Zones	Time-band	Within the zone	Between adjacent zones	Between zones 1 and 3	
Zone 1	1 month or less	40%	40%	100%	
	Over 1 month to 3 months				
	Over 3 months to 6 months				
	Over 6 months to 12 months				
Zone 2	Over 1 year to 2 years	30%	40%		
	Over 2 years to 3 years				
	Over 3 years to 4 years				
Zone 3	Over 4 years to 5 years	30%			
	Over 5 years to 7 years				
	Over 7 years to 10 years				
	Over 10 years to 15 years				
	Over 15 years to 20 years				
	Over 20 years				

Part II Equity Exposures

35. Report in this part the long and short positions in equities and equity derivatives in the trading book, including instruments that exhibit market behavior similar to equities. The instruments covered include common stock (whether voting or non-voting), convertible bonds (i.e., debt issues or preference shares that are convertible, at a stated price, into

common shares of the issuer) which trade like equities and commitments to buy or sell equity securities. For non-convertible preference shares and those convertible bonds which trade like debt securities, they should be reported under Part I. Equity derivatives include forwards, futures and swaps on both individual equities and or stock indices. Options should be included subject to the specific instructions set out in Part IV. Long and short positions in the same issue may be reported on a net basis.

36. The positions are to be reported on a market-by-market basis, i.e., under separate columns to indicate the exchange where the reported equities are listed/traded. For foreign markets, banks should indicate the country where the market is located. (Refer to example (9) in Annex A) Equities with listing in more than one market should be reported as positions in the market of their primary listing.

37. Equity derivatives are to be converted into positions in the relevant underlying. Futures and forward contracts relating to an individual equity should be reported at current market values. Futures relating to equity indices can be reported either as the current index value times the monetary value of one index point set by the exchange, i.e., the “tick” value, or the marked-to-market value of the notional underlying equity portfolio. (Refer to example (11) in Annex A).

38. Matched positions in each identical equity or index (same delivery months) in each market may be fully offset, resulting in a single net short or long position. A future in a given equity may be offset against an opposite cash position in the same equity but the interest rate exposure

arising out of the equity futures should be reported in Part I. For example, a short futures contract on a specific stock with delivery 3 months from the reporting date can be offset against a long position in the underlying stock. However, the interest rate exposure arising out of the equity futures should be reported as a long position in the “1 to 3 months” time band of the stock denominated currency in Part I. The position should be reported as the current market value of the stock.

39. An equity swap obligates a bank to receive an amount based on the change in value of a particular equity or equity index and also to pay an amount based on the change in value of a different equity or equity index. Accordingly, the receipt side and the payment side of an equity swap contract should be reported as a long and a short position, respectively. For an equity swap contract which involves a leg relating to a financial instrument other than equities or equity derivatives, for example, receiving/paying a fixed or floating interest rate, the exposure should be slotted into the appropriate maturity band in Part I. Where equities are part of a forward contract (equities to be received or to be delivered), any interest rate exposure from the other leg of the contract should be reported in Part I. The treatment is similar to that set out in paragraph 38. The same arrangement applies for index futures. (Refer to example (11) in Annex A).

40. As with interest rate exposures, the capital charge is levied to separately cover both the specific risk and the general market risk. Calculation is done on an individual market basis. The unadjusted capital charge for specific risk will be 8% on the gross (i.e., long plus short) positions. The unadjusted general market risk charge will be 8% on the net

position. Net long and short positions in different markets cannot be offset for the purpose of calculating general market risk charge.

Part III Foreign Exchange Exposures

41. Report in this part the amount in US dollars (USD) of net long or net short position in each currency. The net delta-based equivalent of foreign currency options should also be reported for each currency, subject to the specific instructions in Part IV. In addition, structural positions taken deliberately to hedge against the effects of exchange rate movements on the capital adequacy of the reporting bank may be excluded. This should be cleared with the BSP prior to reporting.

42. Net long/(short) position shall refer to FX assets (excluding FX items allowed under existing regulations to be excluded from FX assets in the computation of a bank’s net FX position limits) less FX liabilities (excluding FX items allowed under existing regulations to be excluded from FX liabilities in the computation of a bank’s net FX position limits), plus contingent FX assets less contingent FX liabilities, including net delta weighted long/(short) position of options (subject to a separately calculated capital charge for gamma and vega described in Part IV.2). Alternatively, if the bank engages in purchase of options only, the options shall be carved out and reported under Part IV.1. Delta-weighted long and short positions refer to potential purchases and sales of the underlying, respectively. For example, a short put option carries a potential purchase of the underlying, thus will be treated as a long delta-weighted position.

43. Banks which base their normal management accounting of forward currency positions on net present values

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shall use the net present values of each position, discounted using current interest rates, for measuring their positions. Otherwise, forward currency positions shall be measured based on notional amount.

44. The total USD amount of net long or net short position in each currency should then be converted at spot rates into Philippine peso. The overall net open position is the greater of the absolute value of the sum of net long position or sum of net short position.

45. The unadjusted capital charge will be 8% of the overall net open position.

Part IV Options

46. Report in this part the positions of option contracts which are related to the risk categories reported in Parts I to III, using either the Simplified Approach or the Delta Plus Approach.

1. For banks that purchase options only – Simplified Approach

47. Banks will be considered to be engaging only in purchase of options if at any time all their written option positions (if any) are hedged by perfectly matched long positions in exactly the same options. In this case such perfectly matched options need not be reported and only the outstanding long (purchased) options are covered by the following approach.

48. Treatments for purchased options with and without related cash positions are summarized in Table 3 below. The capital charge should be calculated separately for each individual option (together with the related cash position). Banks should then

report the sum of the capital charges calculated.

Table 3
Simplified approach: capital charge for purchased options only

Short cash and Long call or Long cash and Long put	The capital charge will be the market value of the underlying of the option multiplied by the sum of specific and general market risk charges for the underlying less the amount the option is in the money (if any), with the reduced capital charge bounded at zero*. (Refer to example (10) in Annex A).
Long call or Long put	The capital charge will be the lesser of: a. the market value of the underlying of the option multiplied by the sum of specific and general market risk charges for the underlying; and b. the market value of the option.**

49. The market risk capital charges to be applied for the purpose of the above paragraph are indicated in Table 4 below:

Table 4

Underlying	Specific risk charge	General market risk charge
Debt instruments***: Government and multi-lateral development banks Qualifying (with residual maturity) 6 months or less Over 6 months to 24 months Over 24 months	0.00% 0.25% 1.00% 1.60%	As per the risk weights in Table 1, according to the residual maturity (fixed rate) or next repricing (floating rate).

* For options with a residual maturity of more than 6 months, the strike price should be compared with the forward, not current, price. A bank unable to do this must take the in the money amount to be zero.
** Where the position does not fall within the trading book (i.e., options on certain foreign exchange position not belonging to the trading book), it is acceptable to use the book value instead.
*** Issuer/issues classifications as per Part I.1 of the Report.

LGU bonds	4.00%	
Others	8.00%	
Interest rate (non-debt related)	0.00%	
Equity	8.00%	8.00%
Foreign Exchange	0.00%	8.00%

50. In some cases such as foreign exchange where it may be unclear which currency is the “underlying” of the option, this should be taken to be the asset which would be received if the option is exercised. In addition, the nominal value should be used for items where the market value of the underlying instrument could be zero, e.g., caps and floors as well as swaptions.

2. For banks that write options – Delta Plus Approach

51. Banks that write options (apart from those described in paragraph 47) should report in Parts I to III the relevant delta-weighted positions of all their outstanding options, i.e., the market value of the underlying of the option multiplied by the option delta. The relevant negative gamma and vega sensitivities of these options should be reported in Parts IV.2(a) to IV.2(c) of the Report in order to capture the delta sensitivity and volatility risk of these options. Banks wishing to adopt alternate treatments for their options such as a scenario approach should seek prior approval from the BSP.

52. Delta-weighted option positions with *debt securities or interest rates as the underlying* will be slotted into the interest rate time bands, as set out in Part I.2 of the Report. A two-legged approach should be used as for other derivatives, requiring one entry at the time the underlying contract takes effect and a second at the time the underlying contract matures. In other words the reporting mechanism would be the same as those for the positions in the underlying instruments of the options as presented in Parts I to III, except that the market value of the

underlying instruments will be adjusted by the delta ratios of the relevant options for reporting under this approach. For instance:

(a) A bought call option on a June 3-month interest-rate future will in March be considered, on the basis of its delta-equivalent value, to be a long position with a maturity of 6 months and a short position with a maturity of 3 months. The written option will similarly be slotted as a long position with a maturity of 3 months and a short position with a maturity of 6 months.

(b) A 2-month purchased call option on a bond future where delivery of the bond takes place in September would be considered in March as being long the deliverable bond and short a 6-month government security in the same currency, both positions being delta-weighted.

(c) Floating rate instruments with caps or floors will be treated as a combination of floating rate securities and a series of European-style options, e.g., the holder of 2-year floating rate security indexed to 6 month LIBOR with a cap of 8% will treat it as:

(i) a debt security that reprices in 6 months; and

(ii) a series of 3 written call options on a FRA with a reference rate of 8%, each with a negative sign at the time the underlying FRA takes effect and a positive sign at the time the underlying FRA matures. (The rules applying to closely matched positions set out in paragraph 26 will also apply in this respect.) (Refer to example (7) in Annex A).

53. The reporting of *options with equities as the underlying* will also be based on the delta-weighted positions which will be incorporated in Part II of the Report. For purposes of this calculation, each national market is to be treated as a separate underlying. For options on foreign exchange position, the net delta-based equivalent of the foreign currency options will be incorporated into the measurement of the exposure for the respective currency position. These delta

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positions will be reported in Part III of the Report.

54. The net negative gamma positions and vega positions of all outstanding options (purchased or written) should also be reported in Part IV.2. This is in addition to the delta positions being reported in Parts I to III.

55. The net negative gamma positions should be reported in the following way:

(a) for each individual option, a “gamma impact” should be calculated by the following formula:

$$\text{Gamma impact} = \frac{1}{2} \times \text{Gamma} \times \text{VU}^2$$

where VU = Variation of the underlying of the option.

(b) VU will be calculated as follows:

- for debt and interest rate options of which the delta-equivalent position is reported in Part I, the market value of the underlying or notional underlying multiplied by the risk weights for the appropriate time bands set out in Table 1;
- for options on equities and equity indices, the market value of the underlying multiplied by 8%; and
- for options on foreign exchange, the market value of the underlying multiplied by 8%.

(c) For the purpose of this calculation the following positions should be treated as the same underlying:

- for interest rate instruments, each time band as set out in Table 1;
- for equities and equity indices, each national market; and
- for foreign currencies, each currency pair.

Banks with options relating to more underlyings than the space provided should report their positions in additional sheets.

(d) Each option on the same underlying will have a gamma impact that is either positive or negative. These individual

gamma impacts will be summed, resulting in a net gamma impact for each underlying that is either positive or negative. Only those net gamma impacts that are negative should be reported.

56. The vega charge should be reported in the following way:

(a) The vega positions should represent the risk in a proportional shift in volatility of $\pm 25\%$ for the underlying. For example, an increase in volatility carries a risk of loss for a short option of which the assumed current (implied) volatility is 20%. With a proportional shift of 25%, the vega position has to be calculated on the basis of an increase in volatility of 5 percentage points from 20% to 25%. If the vega is calculated as 1.68, i.e., a 1% increase in volatility increases the value of the option by 1.68, then the above change in volatility of 5 percentage points will increase the value of the option by 8.4 (1.68 x 5) which represents the vega position to be reported.

(b) Each option on the same underlying will have a vega position that is either positive or negative. These individual vega positions will be summed, resulting in a net vega position for each underlying that is either positive or negative. The total vega charge will be the sum of the absolute values of the net vega positions obtained for each underlying.

Part V Internal Models Approach

57. Only those banks which have obtained the BSP’s approval to adopt their internal value-at-risk (VaR) models to calculate their market risk capital charges in lieu of the standardized methodology are required to report in this part.

1. Value-at-risk results

58. Report in this part the value-at-risk (VaR) results as at the last trading day of the

reference quarter in column (a) and the average VaR over the most recent 60 trading days of the reference quarter in column (b), both for each individual market risk category using internal models approach, i.e., item 1.1 to 1.3, and for the aggregate of these risk categories, i.e., item 1.4.

59. Provided that the BSP is satisfied with the bank’s system for measuring correlations, recognition of empirical correlations across broad risk categories (e.g., interest rates, equity prices and exchange rates, including related options volatilities in each risk factor category) may be allowed. The VaR for the aggregate of all risk categories will therefore not necessarily be equal to an arithmetic sum of the VaR for the individual risk category.

60. Report also in this part the number of backtesting exceptions for the past 250 trading days (from the reference quarter-end going backwards), based on:

- actual daily changes in portfolio value, in item 1.4. column (c), and
- hypothetical changes in portfolio value that would occur were end-of-day positions to remain unchanged during the 1 day holding period, in item 1.4 column (d),

for the aggregate of the broad risk categories.

61. The multiplication factor to be reported in item 1.4 column (e) is the summation of the following 3 elements:

- (a) the minimum multiplication factor of 3;
- (b) the “plus” factor ranging from 0 to 1 based on the number of backtesting exceptions (i.e., the larger of item 1.4 column (c) or item 1.4 column (d)) for the past 250 trading days as set out in Table 5 below: and
- (c) any additional “plus” factor as may be prescribed by the BSP.

Table 5
“Plus” factor based on the number of backtesting exceptions for the past 250 trading days

Zone	Number of exceptions	“Plus” factor
Green zone	0	0.00
	1	0.00
	2	0.00
	3	0.00
	4	0.00
Yellow zone	5	0.40
	6	0.50
	7	0.65
	8	0.75
	9	0.85
Red zone	10 or more	1.00

62. Capital charge for general market risk calculated by internal models reported in item 1.6 is larger of:

- (a) Item 1.4 column (a), i.e., VaR for the aggregate of all risk categories, as at the last trading day of the reference quarter; or
- (b) Item 1.5, i.e., the average VaR for the last 60 trading days of the reference quarter [item 1.4 column (b)] times the multiplication factor [item 1.4 column (e)] set out in paragraph 61 above.

2. Specific risk

63. Capital charge for the specific risk of debt securities and other debt related derivatives, and equities and equity derivatives is to be reported using either of the following two methods:

- (a) For banks which incorporate the specific risk into their models, report the capital charge for the total specific risk calculated by the models in item 1.7 of Part V.1; or
- (b) For banks which do not incorporate the specific risk into their models, report the specific risk of debt securities and other debt related derivatives in Part I.1 according to the instructions in paragraphs 15-19 and 29-30. For equities and equity derivatives,

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report the specific risk in Part II according to the instructions in paragraphs 35 to 40.

3. Largest daily losses over the quarter

64. Report in this part in descending order (i.e., the largest loss first) the 5 largest daily losses over the reference quarter and their respective VaRs for the risk exposures which are measured by the internal models approach. If the number of daily losses during the quarter is less than 5, report only all such daily losses.

Part VI Adjusted Capital Adequacy Ratio

65. The market risk capital charges should be aggregated and converted to a market risk-weighted exposure. The total market risk capital charges is the sum of the capital charges for individual market risk categories computed using either (a) the standardized approach, or (b) the internal models approach. The total capital charges for individual market risk categories using the standardized approach should be multiplied by 125% (to be consistent with the higher capital charge

for credit risk, i.e., 10% as opposed to the BIS recommended 8%.)

66. The total market risk-weighted exposure is computed by multiplying the total market risk capital charges by 10. (The multiplier 10 is the reciprocal of the BSP required minimum capital ratio for credit risk of 10%). The qualifying capital and total credit risk-weighted exposures are extracted from Part V.A and Part V.B, respectively, of the Report on the Computation of Risk-Based Capital Adequacy Ratio covering credit risk.

67. For on-balance-sheet debt securities and equities in the trading book included in Parts I, II and V of this Report, the credit risk-weighted exposures reported in Part II of the Report on the Computation of the Risk-Based Capital Adequacy Ratio covering credit risk should be excluded in calculating the adjusted ratio covering combined credit risk and market risk. The market risk capital charges for these positions calculated in this Report cover all the capital requirements for absorbing potential losses arising from carrying such positions.

Suppose as at 31 December, 200X, ABC Bank Corporation has the following trading book positions:

- (1) Long position in US Treasury Bond (7.5% annual coupon) with face value equivalent to PHP507.000MM and residual maturity of 8 years. Market value based on quoted price: PHP518.914MM equivalent

(2) Long position in an unrated floating rate note (6.25% current annual coupon) issued by a US corporate with face value equivalent of PHP260.000MM and next repricing 9 months after. Market value based on quoted price: PHP264.758MM equivalent

(3) Long 10 futures contracts involving 5-year US Treasury Note (face value USD0.100MM per contract) for delivery 3 months after. Selected deliverable: US Treasury Note (coupon 6.375%) maturing 5.25 years, current price at 100.0625, conversion factor 0.9423.

(4) Single currency interest rate swap with face value PHP975.000MM and residual maturity of 2.5 years, bank receives annual floating rate interest and pays fixed at 8% per annum. The current floating rate is fixed at 5.5% with next repricing after 6 months.

(5) Long 10 futures contracts involving 3-month LIBOR interest rate (face value GBP6.500MM per contract) for delivery 6 months after.

(6) An FRA sold on 6-month PHIBOR with nominal amount PHP130.000MM and settlement date 9 months after.

(7) A GBP2.000MM 2 year cap written on GBP 6 month LIBOR at cap rate 8%, next repricing after 6 months and remaining maturity 2 years (i.e., the cap is written on the reporting date).

(8) Forward foreign exchange position of EUR5.000MM (long) against PHP250.000MM equivalent maturing in 3 months.
- (9) Long 1000 shares of a US listed company with current market price of PHP715.000MM equivalent.

(10) Long 50,000 shares of a Philippine listed company hedged by a long position in 25 put option contracts (each contract represents 1,000 shares) for the same share. The current market price for the share is PHP195.00 and the exercise price of all the option contracts is PHP214.50.

(11) Short one Hang Seng Index Futures for delivery 3 months after, current index at 10,000.

(12) Currency swap with residual maturity of 6 months. Bank receives USD19.500MM at 9.5% per annum and pays PHP975.000MM at 11% per annum.
- Treatments:**
- (1) Report market value (PHP518.914MM) of the long position in Part I.1, item I.2 and Part I.2, USD ladder, 7 to 10 years time band.

(2) Report market value (PHP264.758MM) of the long position in Part I.1, item 1.9' and Part I.2, USD ladder, 6 to 12 months time band.

(3) Report selected Treasury Note (long position) in Part I.1, item I.2 and Part I.2, USD ladder, 5 to 7 year time band. Report the same amount in short position, 1 to 3 months time band.
- Assume spot exchange rate PHP50.00
- Amount to be reported:
- USD0.100MM x 10 x 100.0625%/0.9423
= USD1.062MM

= P53.095MM

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(4) Report the fixed rate leg as a short 2.5-year bond in Part I.2, Peso ladder, 2 to 3 years time band. Report the floating rate leg as a long 6 months security in the 3 to 6 months time band.

Assume the Peso zero coupon yields are as follows:

Period	Zero Coupon (ZC)
1M	5.31
3M	5.63
6M	5.81
1Y	6.16
2Y	6.69
3Y	7.07

(Zero coupon yields within 1 year can be taken as cash rates, i.e., PHIBOR, zero coupon yields beyond 1 year can be constructed from, say, swap rates.)

Cash flows of Peso swap: 2 legs

Pay – fixed rate bond
8% of PHP975.000MM in 6 months
8% of PHP975.000MM in 18 months
108% of PHP975.000MM in 30 months
Receive – floating rate paper
105.5% of PHP975.000MM in 6 months

Zero-coupon rates at 18 months can be obtained from the linear interpolation between the 1Y and 2Y zero coupon rates.

ZC(18 months) = (6.16% + 6.69%)/2 = 6.425%

Similarly,

ZC(30 months) = (6.69% + 7.07%)/2 = 6.88%

PV of the fixed leg (i.e., pay side)
= PHP975.000MM x $\frac{0.08}{(1 + 0.0581 \times 0.5)} + \frac{0.08 + 1.08}{(1 + 0.06425)^{1.5}} + \frac{1.08}{(1 + 0.0688)^{2.5}}$
= PHP1,038.479MM

PV of the floating leg (i.e. receive side)

= PHP975.000MM x $\frac{1.055}{(1 + 0.0581 \times 0.5)}$

= PHP999.587MM

(5) Report a long 9 months zero coupon security in Part I.2, GBP ladder, 6 to 12 months time band and a short 6 months zero coupon security in 3 to 6 months time band.

Assume the GBP 6 months zero-coupon yield is 6.74% while the interpolated 9 months zero-coupon yield is 6.87%. Assume spot exchange rate is PHP75.00.

Amount to be reported:

9 months = GBP65.000MM/(1 + 0.0687 x 0.75)
= GBP65.000MM x 0.951
= PHP4,636.124MM equivalent

6 months = GBP65.000MM/(1 + 0.0674 x 0.5)
= GBP65.000MM x 0.9674
= PHP4,716.069MM equivalent

(6) Report a long 15 months zero coupon security in Part I.2, Peso ladder, 1.0 to 1.9 years time band and a short 9 months zero coupon security in 6 to 12 months time band.

Calculations similar to (4) above,
ZC(15 months) = 6.16% + (6.69%-6.16%)x 0.25
= 6.2925%

15 months = PHP130.000MM(1 + 0.062925)^{1.25}
= PHP121.000MM

9 months = PHP130.000MM x 0.957
= PHP124.410MM

(7) Report the cap as 3 written call options on 6-month FRA, i.e., 6 against 12, 12 against 18 and 18 against 24.

(The rate for the first 6 months is already set on the reporting date, i.e., the option already expires.)

Assume the delta ratios of the options are: 6 against 12 0.055 12 against 18 0.17 18 against 24 0.225	(For simplicity, gamma and vega positions are not presented in this example.)
Assume the discounting factors are: 6 month 0.9674 12 month 0.9346 18 month 0.9009 24 month 0.8673	(8) Report a long 3 months zero coupon security in Part I.2, EUR ladder, 1 to 3 months time band and a short 3 months zero coupon security in the Peso ladder, 1 to 3 months time band.
Assume spot exchange rate is PHP75.00	Calculations similar to (4) above and assume 3 months EUR cash rate at 3.25% and spot exchange rate is PHP46.00.
Report in Part I.2 GBP ladder:	EUR = EUR5.000MM/(1 + 0.0325 x 0.25) = PHP228.146MM equivalent
For the first option – A long position in the 6 to 12 months time band = GBP2.000MM x 0.055 x 0.9346 = PHP7.710MM equivalent A short position in the 3 to 6 months time band = GBP2.000MM x 0.055 x 0.9674 = PHP7.981MM equivalent	PHP = PHP250.000MM/(1 + 0.0563 x 0.25) = PHP246.530MM (For simplicity, Part III of the report is not presented in this example.)
For the second option – A long position in the 1.0 to 1.9 years time band = GBP2.000MM x 0.17 x 0.9009 = PHP22.973MM equivalent A short position in the 6 to 12 months time band = GBP2.000MM x 0.17 x 0.9346 = PHP23.832MM equivalent	(9) Report market value in Part II, item 1 (US column). (10) Report as a long position the market value for 25,000 shares (PHP4.875MM) in Part II, Item 1 (Philippine column). Report 25,000 shares covered by put option in Part IV.1 (a), item 2 Amount to be reported = (25,000 x PHP195.00 x 16%) – {25,000 x (PHP214.50 – PHP195.00)} = PHP0.293MM
For the third option – A long position in the 1.9 to 2.8 years time band = GBP2.000MM x 0.225 x 0.8673 = PHP29.271MM equivalent A short position in the 1.0 to 1.9 years time band = GBP2.000MM x 0.225 x 0.9009 = PHP30.405MM equivalent	(11) Report as a short position the market value for futures (HKD50.00 per index point) in Part II, item 5 (HKD column) and as a long position in Part I.2, HKD ladder, 1 to 3 months time band. Assume HKD to PHP exchange rate is PHP6.50. (12) Report the USD leg as a long 6-month zero coupon security in Part I.2, USD ladder, 3 to 6 months time band. Report

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the PHP leg as a short 6-month zero coupon security in Part I.2, PHP ladder, 3 to 6 months time band.

Assume the 6-month Peso and Dollar zero coupon yields are 5.81% and 4%, respectively, and the spot exchange rate is PHP50.00.

Cash flows of currency swap: two legs

Pay – PHP
111% of PHP975.000MM in 6 months

PV of PHP leg

$$= \frac{\text{PHP}975.000\text{MM} \times (1.11)}{(1 + 0.0581 \times 0.5)}$$

= PHP1,051.700MM

Receive – USD

109.5% of USD19.500MM in 6 months

PV of USD leg

$$= \frac{\text{USD}19.500\text{MM} \times (1.095)}{(1 + 0.04 \times 0.5)}$$

= PHP1,046.700MM equivalent

**INSTRUCTIONS FOR ACCOMPLISHING THE REPORT ON COMPUTATION OF
THE ADJUSTED RISK-BASED CAPITAL ADEQUACY RATIO COVERING
COMBINED CREDIT RISK AND MARKET RISK
(For Universal Banks and Commercial Banks with Expanded Derivatives Authority
But Without Options Transactions)**

General Instructions

- 1. All universal banks and commercial banks are required to complete this Report both on a solo basis (i.e., head office plus branches) and on a consolidated basis (i.e., parent bank plus subsidiary financial allied undertakings, but excluding insurance companies).
- 2. The Report should be submitted as follows:
 - (a) Solo report - within 15 banking days after the end of each reference quarter; and
 - (b) Consolidated report - within 30 banking days after the end of each reference quarter.
- 3. Current market value should be used for reporting. For leveraged instruments where the apparent notional amount differs from the effective notional amount, the bank should use the effective notional amount in calculating the market value for reporting, e.g., a swap contract with a stated notional amount of PHP1.0 million, the terms of which call for a quarterly settlement of the difference between 5% and PHIBOR multiplied by 10 has an effective notional amount of PHP10.0 million.
- 4. Securities transactions are to be reported on a “trade date” basis.

Definitions and Clarifications

- 5. Market risk is defined as the risk of losses in on- and off-balance sheet positions

- arising from movements in market prices. The risks subject to this reporting requirement are:
- (a) the risks pertaining to interest rate-related instruments and equities in the bank’s trading book; and
 - (b) foreign exchange risk throughout the bank.
- The Report should include the reporting bank’s positions in on-balance sheet financial instruments and off-balance sheet derivatives, the latter being defined as financial contracts whose values depend on the values of one or more underlying assets or indices.
- 6. For the purpose of the Report, the trading book of a bank shall consist of:
 - (a) its proprietary positions in financial instruments which are taken on with the intention of short-term resale or benefiting in the short term from actual or expected differences between the buying and selling prices or from other price or interest rate variations;
 - (b) positions which arise from the execution of trade orders from customers and market making; and
 - (c) positions taken in order to hedge other elements of the trading book.
 - 7. The financial instruments referred to in the preceding paragraph include:
 - (a) (i) transferable securities;
 - (ii) units in collective investment undertakings;
 - (b) certificates of deposit and other similar capital market instruments;
 - (c) financial futures contracts;

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- (d) forward contracts including forward rate agreements; and
- (e) swaps

8. Banks are expected to have an established policy for allocating transactions (including internal deals) to the trading or non-trading (i.e., banking) book, as well as procedures to ensure compliance with such policy. There must be a clear audit trail at the time each transaction is entered into and the BSP will examine the adequacy of such policy and procedures and their consistent implementation when it is considered necessary. For this purpose, banks which engage in trading activities should submit to the BSP a policy statement covering:

- (a) the definition of trading activities;
- (b) the financial instruments which can be traded or used for hedging the trading book portfolio; and
- (c) the principles for transferring positions between the trading and the banking books.

9. In general, the BSP will have regard to the bank's intention in entering into a particular transaction when determining whether such transaction should fall into the trading book. Transactions will likely be considered to carry a trading intent on the part of the bank if:

- (a) the positions arising from the transactions are marked to market on a daily basis as part of the internal risk management process;
- (b) the positions are not (or not intended to be) held to maturity; and
- (c) the positions satisfy other criteria the bank applies to its trading portfolio on a consistent basis.

10. Debt securities include both fixed-rate and floating-rate instruments, negotiable certificates of deposit, non-convertible preference shares, and also convertible bonds (i.e., debt issues or preference shares

that are convertible, at a stated price, into common shares of the issuer) which trade like debt securities. Debt related derivatives include bond futures.

11. Interest rate derivatives include all derivatives contracts and off-balance sheet instruments which react to changes in interest rates, e.g., interest rate futures, forward rate agreements (FRAs), interest rate and cross currency swaps, and forward foreign exchange positions.

12. Detailed offsetting rules applicable to the reporting of positions are set out in the relevant parts of Specific Instructions. These offsetting rules can be applied on both the solo and consolidated basis, provided that in the latter case there are no obstacles to the quick repatriation of profits from a foreign subsidiary to the Philippines and the bank performs daily management of risks on a consolidated basis. For this purpose, offsetting means the exclusion of matched positions of a bank from reporting and hence exclusion of such positions from the calculation of the adjusted capital adequacy ratio.

13. For avoidance of doubt, items that are deductible from the qualifying capital of the bank in the calculation of the risk-based capital adequacy ratio pursuant to Subsections X116.2.a to X116.2.c are excluded from market risk capital requirement.

14. In general, banks are only required to complete Parts I to III and V of the Report. Banks which have obtained the BSP's approval to adopt their internal value-at-risk (VaR) models to calculate their market risk capital charge (in all or individual risk categories) should complete Part IV (in lieu of Parts I to III). Where the internal model is used to calculate only selected risk categories, the capital charge for the risk

categories measured under the internal models approach should be reported in Part IV while that for the other risk categories measured under the standardized approach should be reported in the relevant sections of Parts I to III. This combination of the standardized approach and the internal models approach is allowed on a transitional basis. Banks which adopt the internal models approach will not be permitted, save in exceptional circumstances, to revert to the standardized approach.

Specific Instructions

Part I Interest Rate Exposures

1. Debt securities and debt related derivatives – specific risk

15. Report in this part the long and short positions in debt securities and debt derivatives (e.g., bond futures) in the trading book by category of the issuer. Offsetting will be allowed between long and short positions in identical issues (including positions in derivatives) with exactly the same issuer, coupon, currency and maturity. For items 1.4 to 1.7 of the Report, positions should be slotted into the appropriate time bands according to the residual maturities of the debt securities (or the underlying securities in case of debt derivatives). (Refer to examples (1) and (2) in Annex A).
16. A security, which is the subject of a repurchase agreement, will be treated as if it were still owned by the seller of the security, i.e., to be reported by the seller. This principle applies also in Part 1.2 of the Report. Commitments to buy and sell securities should be reported as long and short positions, respectively.

17. Foreign countries, foreign incorporated banks and Philippine incorporated banks/ QBs with the “highest credit quality”, as well as debt securities with the “highest credit quality” refer to ratees/debt securities given the minimum credit ratings as indicated below by any two of the following internationally accepted rating agencies:

Rating Agency	Credit Rating
(a) Moody’s	“Aa3” and above
(b) Standard and Poor’s	“AA-” and above
(c) Fitch IBCA	“AA-” and above

and such other recognized international rating agencies as may be approved by the Monetary Board.

The ratings of domestic rating agencies may likewise be used for this purpose provided that such rating agencies meet the criteria to be prescribed by the Monetary Board.

18. Multilateral development banks refer to the World Bank Group comprised of the International Bank for Reconstruction and Development (IBRD) and the International Finance Corporation (IFC), the Asian Development Bank (ADB), the African Development Bank (AfDB), the European Bank for Reconstruction and Development (EBRD), the Inter-American Development Bank (IADB), the European Investment Bank (EIB); the Nordic Investment Bank (NIB); the Caribbean Development Bank (CDB), the Council of Europe Development Bank (CEDB) and such others as may be recognized by the BSP.
19. Non-central government public sector entities of a foreign country refer to entities which are regarded as such by a recognized banking supervisory authority in the country in which they are incorporated.

2. Debt securities, debt related derivatives and interest rate derivatives – general market risk

20. Report in this part the long and short trading book positions in debt securities and debt derivatives described above, as well as interest rate derivatives. Report also interest rate exposures arising from futures contracts and forward positions in equities. A Maturity Method is adopted for the reporting of these positions as detailed below. Banks that possess the necessary capability to calculate the duration and price sensitivity of each position separately and wish to adopt such a duration approach for reporting in this part may seek approval from BSP.

21. Positions should be reported separately for each currency, i.e., banks should use separate sheets (Part I.2 of the Report) to report positions of different currencies. The unadjusted market risk capital charge is then calculated for each currency according to procedures set out in paragraphs 31 to 34 with no offsetting between different currencies.

22. Under the Maturity Method, positions are slotted into the time bands of the maturity ladder (as shown in Part I.2 of the Report) by remaining maturity if fixed rate and by the period to the next repricing date if floating rate. (Refer to examples (1) and (2) in Annex A). Derivatives should be treated as combinations of long and short positions. The maturity of an interest rate future or a forward rate agreement will be the period until delivery or exercise of the contract, plus – where applicable – the life of the underlying instrument. For example, a long position in a June 3-month interest rate future taken in December is to be reported at end of December as a long position in a zero coupon government security in that particular currency with a maturity of 9 months and a short position in a zero

coupon government security with a maturity of 6 months. (Refer to examples (5) and (6) in Annex A). The market values of the two positions should be reported. For forward foreign exchange positions in the trading book, they should be treated as long and as short positions in a zero coupon government security of the 2 currencies with the same maturity as the forward contract. (Refer to example (7) in Annex A).

23. For a bond future, where a range of deliverable instruments may be delivered to fulfill the contract, the bank has flexibility to elect which deliverable security goes into the maturity ladder but should take account of any conversion factor defined by the exchange. A two-leg approach will be adopted similar to the above. A long bond future will be taken as a long position in a deliverable bond and a short position in a zero coupon security maturing at the future's delivery date. For example, a long futures contract on a 5 year fixed rate security with delivery 3 months from the reporting date will be reported as a long position in say, a 5.25 year security, i.e., a specific security which is within the range of deliverables under the futures contract (as opposed to a notional/theoretical security), and a short position in a 3 months zero coupon security. (Refer to example (3) in Annex A).

The amount to be reported in the above example for both legs will be the contract face value divided by the relevant conversion factor and multiplied by the current cash price of the selected deliverable bond. A forward bond transaction (i.e., with a settlement period longer than the market norm) will be treated similarly, i.e., a long bond forward will be reported as long position in the bond and a short position in a zero coupon security up to the forward delivery date. The current market value (at spot price) of the bond should be reported.

24. Swaps will be treated as two positions in securities with the relevant maturities. For example, an interest rate swap under which a bank is receiving floating rate interest and paying fixed will be treated as a long position in a floating rate instrument of maturity equivalent to the period until the next interest fixing and a short position in a fixed-rate instrument of maturity equivalent to the residual life of the swap. The market values of the 2 instruments should be reported. (Refer to example (4) in Annex A). For swaps that pay or receive a fixed or floating interest rate against some other reference price, e.g., an equity price, the interest rate component should be slotted into the appropriate maturity category, with the equity component being included in the equity framework. The separate legs of cross-currency swaps are to be reported in the relevant maturity ladders for the currencies concerned. (Refer to example (10) in Annex A).

25. As with the reporting under Part I.1 of the Report, banks can offset long and short positions in identical instruments with exactly the same issuer, coupon, currency and maturity for general market risk purposes. Similarly, a matched position in a futures or forward contract and its underlying may be fully offset. However, the leg representing the time to expiry of the futures or forward contract should be reported.

For example, a bank has a long position in a particular bond and sells forward (i.e., beyond the normal settlement period for the security) such a bond as at the reporting date. The long and short positions in the bond can be offset but a long position in a (notional) zero coupon security with maturity at the forward delivery date should be reported, at the current market value of the bond. Similarly, if the bank has a short position in a bond future and a long position in the underlying bond, such positions can

be offset. A long position up to the future's delivery date should, however, be reported.

When the futures contract comprises a range of deliverable instruments, offsetting of positions in the futures contract and its underlying is only permissible in cases where there is a readily identifiable underlying security which is most profitable for the trader with a short position to deliver, i.e., the "cheapest to deliver". This means that offsetting is only permitted between a short future and a long bond, not between a long future and a short bond; and the long bond must be the one that is "cheapest to deliver". The amount to be reported for the remaining long position up to the futures contract's delivery date will be the face value of the contract divided by the relevant conversion factor and multiplied by the current spot price of the "cheapest to deliver" bond.

26. Opposite positions in the same category of derivatives instruments can in certain circumstances be regarded as matched and allowed to offset fully. The separate legs of different swaps may also be "matched" subject to the same conditions. To qualify for this treatment, the positions must relate to the same underlying instruments, be of the same nominal value and be denominated in the same currency. In addition:

(a) for futures: offsetting positions in the notional or underlying instruments to which the futures contract relates must be for identical products and mature within 7 days of each other;

(b) for swaps and forward rate agreements (FRAs): the reference rate (for floating rate positions) must be identical and the coupon closely matched (i.e., within 15 basis points); and

(c) for swaps, FRAs and forwards: the next interest fixing date or, for fixed coupon positions or forwards, the residual maturity must correspond within the following limits:

- if either of the instruments for offsetting has an interest fixing date or

residual maturity up to 1 month, the interest fixing date or residual maturity must be the same for both instruments;

- if either of the instruments for offsetting has an interest fixing date or residual maturity greater than 1 month and up to 1 year, those dates or residual maturities must be within 7 days of each other; and
- if either of the instruments for offsetting has an interest fixing date or residual maturity over 1 year, those dates or residual maturities must be within 30 days of each other.

For example, a bought and a sold FRA in the same currency with the same face value and settlement date as well as notional deposit maturity date can be offset against each other and excluded from reporting if the contract rates are within 15 basis points of each other. Similarly, opposite swap positions in the same currency with the same face value and reference dates can be offset if, say, the floating rate in both cases is 6 months PHIBOR and the fixed rates are within 15 basis points of each other. The positions can still be offset if the reference dates (i. e., the next interest fixing date or remaining maturity) of the opposite positions are different but within the range as set out in (c) above. Opposite bond futures can, for example, be offset against each other if the deliverable bonds are of the same type and mature within 7 days of each other.

27. Banks with the necessary expertise and systems may use alternative formulae (the so called “pre-processing” techniques) to calculate the positions to be included in the maturity ladder. This applies to all interest rate sensitive positions, arising from both physical and derivative instruments.

One method is to first convert the payments required under each transaction into their present values. For that purpose, each cash flow should be discounted using zero-coupon yields. A single net figure of all of the cash flows within each time band may be reported. Banks wishing to adopt this or other methods for reporting should seek the BSP’s prior approval. The “pre-processing” models would be subject to review by the BSP.

Calculation of capital charges for interest rate exposures reported in Part I

28. The unadjusted minimum capital requirement is expressed in terms of two separately calculated charges, one applying to the “specific risk” of each trading book position in debt securities or debt derivatives, whether it is a short or long position, and the other to the overall interest rate risk in the trading book portfolio (termed “general market risk”) where long and short positions in different securities or derivatives can be offset subject to certain “disallowances”.

Specific risk

29. The unadjusted specific risk charge is graduated into five broad categories by types of issuer, as follows:

Government and multilateral development banks*	0.00%
Qualifying**	0.25% (residual maturity of 6 months or less)
	1.00% (residual maturity of over 6 months to 24 months)
	1.60% (residual maturity of over 24 months)
LGU bonds***	4.00%
Others	8.00%

* “Government and multilateral development banks” refers to the issuers as described under items 1.1 and 1.3 in Part I.1 of the Report.
** “Qualifying” refers to the issuers/issues as described under items 1.4 to 1.7 in Part I.1 of the Report.
*** “LGU bonds” refers to bonds issued by local government units (LGUs), covered by Deed of Assignment of Internal Revenue Allotment of the LGU and guaranteed by LGU Guarantee Corporation.

30. Interest rate and currency swaps, FRAs, forward foreign exchange contracts and interest rate futures will not be subject to a specific risk charge. In the case of futures contracts where the underlying is a debt security, a specific risk charge will apply according to the issuer (and the remaining maturity) as set out in the above paragraph.

General market risk

31. General market risk applies to positions in all debt securities, debt derivatives and interest rate derivatives, subject only to an exemption for fully or very closely matched positions in identical instruments as described in paragraphs 25 to 26 above. The unadjusted capital charge is the sum of the following components:

- (a) the net short or long weighted position in the whole trading book;
- (b) a small proportion of the matched positions in each time band (the “vertical disallowance”); and
- (c) a larger proportion of the matched positions across different time-bands (the “horizontal disallowance”).

32. In the maturity ladder, first calculate the weighted positions by multiplying the positions reported in each time band by a risk-factor according to the following table:

Table 1		
Maturity method: time bands and weights		
Coupon 3% or more	Coupon less than 3%	Risk Weight
1 month or less	1 month or less	0.00%
Over 1 month to 3 months	Over 1 month to 3 months	0.20%
Over 3 months to 6 months	Over 3 months to 6 months	0.40%
Over 6 months to 12 months	Over 6 months to 12 months	0.70%
Over 1 year to 2 years	Over 1.0 year to 1.9 years	1.25%

Over 2 years to 3 years	Over 1.9 years to 2.8 years	1.75%
Over 3 years to 4 years	Over 2.8 years to 3.6 years	2.25%
Over 4 years to 5 years	Over 3.6 years to 4.3 years	2.75%
Over 5 years to 7 years	Over 4.3 years to 5.7 years	3.25%
Over 7 years to 10 years	Over 5.7 years to 7.3 years	3.75%
Over 10 years to 15 years	Over 7.3 years to 9.3 years	4.50%
Over 15 years to 20 years	Over 9.3 years to 10.6 years	5.25%
Over 20 years	Over 10.6 years to 12 years	6.00%
	Over 12 years to 20 years	8.00%
	Over 20 years	12.50%

33. The weighted longs and shorts in each time band will be offset resulting in a single short or long position for each band. A 10% capital charge (“vertical disallowance”) will be levied on the smaller of the offsetting positions, be it long or short. Thus, if the sum of the weighted longs in a time band is P100.0 million and the sum of the weighted shorts is P90.0 million, the vertical disallowance would be 10% of P90.0 million (i.e., P9.0 million).

34. Two rounds of “horizontal offsetting” will then be conducted, first between the net positions in each of 3 zones (zero to 1 year, over 1 year to 4 years and over 4 years), and subsequently between the net positions in the 3 different zones. The offsetting will be subject to a scale of disallowances expressed as a fraction of the matched positions, as set out in Table 2 below. The weighted long and short positions in each of 3 zones may be offset, subject to the matched portion attracting a disallowance factor that is part of the capital charge. The residual net position in each zone may be carried over and offset against opposite positions in other zones, subject to a second set of disallowance factors.

Table 2					
Horizontal disallowance					
Zones	Time-band	Within the zone	Between adjacent zones	Between zones 1 and 3	
Zone 1	1 month or less	40%	40%	100%	
	Over 1 month to 3 months				
	Over 3 months to 6 months				
	Over 6 months to 12 months				
Zone 2	Over 1 year to 2 years	30%	40%		
	Over 2 years to 3 years				
	Over 3 years to 4 years				
Zone 3	Over 4 years to 5 years	30%			
	Over 5 years to 7 years				
	Over 7 years to 10 years				
	Over 10 years to 15 years				
	Over 15 years to 20 years				
	Over 20 years				

Part II Equity Exposures

35. Report in this part the long and short positions in equities and equity derivatives in the trading book, including instruments that exhibit market behavior similar to equities. The instruments covered include common stock (whether voting or non-voting), convertible bonds (i.e., debt issues or preference shares that are convertible, at a stated price, into common shares of the issuer) which trade like equities and commitments to buy or sell equity securities. For non-convertible preference shares and those convertible bonds which trade like debt securities, they should be reported under Part I. Equity derivatives include forwards, futures and swaps on both individual equities and or

stock indices. Long and short positions in the same issue may be reported on a net basis.

36. The positions are to be reported on a market-by-market basis, i.e., under separate columns to indicate the exchange where the reported equities are listed/traded. For foreign markets, banks should indicate the country where the market is located. (Refer to example (8) in Annex A) Equities with listing in more than one market should be reported as positions in the market of their primary listing.

37. Equity derivatives are to be converted into positions in the relevant underlying. Futures and forward contracts relating to an individual equity should be reported at current market values. Futures relating to equity indices can be reported either as the current index value times the monetary value of one index point set by the exchange, i.e., the “tick” value, or the marked-to-market value of the notional underlying equity portfolio. (Refer to example (9) in Annex A).

38. Matched positions in each identical equity or index (same delivery months) in each market may be fully offset, resulting in a single net short or long position. A future in a given equity may be offset against an opposite cash position in the same equity but the interest rate exposure arising out of the equity futures should be reported in Part I. For example, a short futures contract on a specific stock with delivery 3 months from the reporting date can be offset against a long position in the underlying stock. However, the interest rate exposure arising out of the equity futures should be reported as a long position in the “1 to 3 months” time band of the stock denominated currency in Part I.

The position should be reported as the current market value of the stock.

39. An equity swap obligates a bank to receive an amount based on the change in value of a particular equity or equity index and also to pay an amount based on the change in value of a different equity or equity index. Accordingly, the receipt side and the payment side of an equity swap contract should be reported as a long and a short position, respectively. For an equity swap contract which involves a leg relating to a financial instrument other than equities or equity derivatives, for example, receiving/paying a fixed or floating interest rate, the exposure should be slotted into the appropriate maturity band in Part I. Where equities are part of a forward contract (equities to be received or to be delivered), any interest rate exposure from the other leg of the contract should be reported in Part I. The treatment is similar to that set out in paragraph 38. The same arrangement applies for index futures. (Refer to example (9) in Annex A).

40. As with interest rate exposures, the capital charge is levied to separately cover both the specific risk and the general market risk. Calculation is done on an individual market basis. The unadjusted capital charge for specific risk will be 8% on the gross (i.e., long plus short) positions. The unadjusted general market risk charge will be 8% on the net position. Net long and short positions in different markets cannot be offset for the purpose of calculating general market risk charge.

Part III Foreign Exchange Exposures

41. Report in this part the amount in US dollars (USD) of net long or net short

position in each currency. In addition, structural positions taken deliberately to hedge against the effects of exchange rate movements on the capital adequacy of the reporting bank may be excluded. This should be cleared with the BSP prior to reporting.

42. Net long/(short) position shall refer to FX assets (excluding FX items allowed under existing regulations to be excluded from FX assets in the computation of a bank’s net FX position limits) less FX liabilities (excluding FX items allowed under existing regulations to be excluded from FX liabilities in the computation of a bank’s net FX position limits), plus contingent FX assets less contingent FX liabilities.

43. Banks which base their normal management accounting of forward currency positions on net present values shall use the net present values of each position, discounted using current interest rates, for measuring their positions. Otherwise, forward currency positions shall be measured based on notional amount.

44. The total USD amount of net long or net short position in each currency should then be converted at spot rates into Philippine peso. The overall net open position is the greater of the absolute value of the sum of net long position or sum of net short position.

45. The unadjusted capital charge will be 8% of the overall net open position.

Part IV Internal Models Approach

46. Only those banks which have obtained the BSP’s approval to adopt their internal value-at-risk (VaR) models to

calculate their market risk capital charges in lieu of the standardized methodology are required to report in this part.

1. Value-at-risk results

47. Report in this part the value-at-risk (VaR) results as at the last trading day of the reference quarter in column (a) and the average VaR over the most recent 60 trading days of the reference quarter in column (b), both for each individual market risk category using internal models approach, i.e., item 1.1 to 1.3, and for the aggregate of these risk categories, i.e., item 1.4.

48. Provided that the BSP is satisfied with the bank’s system for measuring correlations, recognition of empirical correlations across broad risk categories (e.g., interest rates, equity prices and exchange rates) may be allowed. The VaR for the aggregate of all risk categories will therefore not necessarily be equal to an arithmetic sum of the VaR for the individual risk category.

49. Report also in this part the number of backtesting exceptions for the past 250 trading days (from the reference quarter-end going backwards), based on:

- actual daily changes in portfolio value, in item 1.4. column (c), and
- hypothetical changes in portfolio value that would occur were end-of-day positions to remain unchanged during the 1 day holding period, in item 1.4 column (d), for the aggregate of the broad risk categories.

50. The multiplication factor to be reported in item 1.4 column (e) is the summation of the following 3 elements:

- (a) the minimum multiplication factor of 3;
- (b) the “plus” factor ranging from 0 to 1 based on the number of backtesting exceptions (i.e., the larger of item 1.4 column (c) or item

1.4 column (d)) for the past 250 trading days as set out in Table 3 below: and

- (c) any additional “plus” factor as may be prescribed by the BSP.

Table 3
“Plus” factor based on the number of backtesting exceptions for the past 250 trading days

Zone	Number of exceptions	“Plus” factor
Green zone	0	0.00
	1	0.00
	2	0.00
	3	0.00
	4	0.00
Yellow zone	5	0.40
	6	0.50
	7	0.65
	8	0.75
	9	0.85
Red zone	10 or more	1.00

51. Capital charge for general market risk calculated by internal models reported in item 1.6 is larger of:

- (a) Item 1.4 column (a), i.e., VaR for the aggregate of all risk categories, as at the last trading day of the reference quarter; or
- (b) Item 1.5, i.e., the average VaR for the last 60 trading days of the reference quarter (item 1.4 column (b)) times the multiplication factor (item 1.4 column (e)) set out in paragraph 50 above.

2. Specific risk

52. Capital charge for the specific risk of debt securities and other debt related derivatives, and equities and equity derivatives is to be reported using either of the following two methods:

- (a) For banks which incorporate the specific risk into their models, report the capital charge for the total specific risk calculated by the models in item 1.7 of Part IV.1; or
- (b) For banks which do not incorporate the specific risk into their models, report the specific risk of debt securities and other

debt related derivatives in Part I.1 according to the instructions in paragraphs 15-19 and 29-30. For equities and equity derivatives, report the specific risk in Part II according to the instructions in paragraphs 35 to 40.

3. Largest daily losses over the quarter

53. Report in this part in descending order (i.e., the largest loss first) the 5 largest daily losses over the reference quarter and their respective VaRs for the risk exposures which are measured by the internal models approach. If the number of daily losses during the quarter is less than 5, report only all such daily losses.

Part V Adjusted Capital Adequacy Ratio

54. The market risk capital charges should be aggregated and converted to a market risk-weighted exposure. The total market risk capital charges is the sum of the capital charges for individual market risk categories computed using either (a) the standardized approach, or (b) the internal models approach. The total capital charges for individual market risk categories using the

standardized approach should be multiplied by 125% (to be consistent with the higher capital charge for credit risk, i.e., 10% as opposed to the BIS recommended 8%.)

55. The total market risk-weighted exposures is computed by multiplying the total market risk capital charges by 10. (The multiplier 10 is the reciprocal of the BSP required minimum capital ratio for credit risk of 10%.) The qualifying capital and total credit risk weighted exposures are extracted from Part V.A and Part V.B, respectively, of the Report on the Computation of Risk-Based Capital Adequacy Ratio covering credit risk.

56. For on-balance-sheet debt securities and equities in the trading book included in Parts I, II and IV of this Report, the credit risk-weighted exposures reported in Part II of the Report on the Computation of the Risk-Based Capital Adequacy Ratio covering credit risk should be excluded in calculating the adjusted ratio covering combined credit risk and market risk. The market risk capital charges for these positions calculated in this Report cover all the capital requirements for absorbing potential losses arising from carrying such positions.

Suppose as at 31 December, 200X, ABC Bank Corporation has the following trading book positions:

- (1) Long position in US Treasury Bond (7.5% annual coupon) with face value equivalent to PHP507.000MM and residual maturity of 8 years.
Market value based on quoted price: PHP518.914MM equivalent
- (2) Long position in an unrated floating rate note (6.25% current annual coupon) issued by a US corporate with face value equivalent of PHP260.000MM and next repricing 9 months after.
Market value based on quoted price: PHP264.758MM equivalent
- (3) Long 10 futures contracts involving 5-year US Treasury Note (face value USD0.100MM per contract) for delivery 3 months after.
Selected deliverable: US Treasury Note (coupon 6.375%) maturing 5.25 years, current price at 100.0625, conversion factor 0.9423.
- (4) Single currency interest rate swap with face value PHP975.000MM and residual maturity of 2.5 years, bank receives annual floating rate interest and pays fixed at 8% per annum. The current floating rate is fixed at 5.5% with next repricing after 6 months.
- (5) Long 10 futures contracts involving 3-month LIBOR interest rate (face value GBP6.500MM per contract) for delivery 6 months after.
- (6) An FRA sold on 6-month PHIBOR with nominal amount PHP130.000MM and settlement date 9 months after.
- (7) Forward foreign exchange position of EUR5.000MM (long) against

- PHP250.000MM equivalent maturing in 3 months.
- (8) Long 1000 shares of a US listed company with current market price of PHP715.000MM equivalent.
- (9) Short one Hang Seng Index Futures for delivery 3 months after, current index at 10,000.
- (10) Currency swap with residual maturity of 6 months. Bank receives USD19.500MM at 9.5% per annum and pays PHP975.000MM at 11% per annum.

Treatments:

- (1) Report market value (PHP518.914MM) of the long position in Part I.1, item I.2 and Part I.2, USD ladder, 7 to 10 years time band.
- (2) Report market value (PHP264.758MM) of the long position in Part I.1, item 1.9' and Part I.2, USD ladder, 6 to 12 months time band.
- (3) Report selected Treasury Note (long position) in Part I.1, item I.2 and Part I.2, USD ladder, 5 to 7 year time band. Report the same amount in short position, 1 to 3 months time band.

Assume spot exchange rate PHP50.00

Amount to be reported:

$$\begin{aligned} & \text{USD0.100MM} \times 10 \times 100.0625\% / 0.9423 \\ & = \text{USD1.062MM} \\ & = \text{P53.095MM} \end{aligned}$$

- (4) Report the fixed rate leg as a short 2.5-year bond in Part I.2, Peso ladder, 2 to 3

years time band. Report the floating rate leg as a long 6 months security in the 3 to 6 months time band.

Assume the Peso zero coupon yields are as follows:

Period	Zero Coupon (ZC)
1M	5.31
3M	5.63
6M	5.81
1Y	6.16
2Y	6.69
3Y	7.07

(Zero coupon yields within 1 year can be taken as cash rates, i.e., PHIBOR, zero coupon yields beyond 1 year can be constructed from, say, swap rates.)

Cash flows of Peso swap: 2 legs

Pay – fixed rate bond
8% of PHP975.000MM in 6 months
8% of PHP975.000MM in 18 months
108% of PHP975.000MM in 30 months
Receive – floating rate paper
105.5% of PHP975.000MM in 6 months

Zero-coupon rates at 18 months can be obtained from the linear interpolation between the 1Y and 2Y zero coupon rates.

ZC(18 months) = (6.16% + 6.69%)/2 = 6.425%

Similarly,

ZC(30 months) = (6.69% + 7.07%)/2 = 6.88%

PV of the fixed leg (i.e., pay side)

= PhP975.000MM x $\frac{0.08}{(1 + 0.0581 \times 0.5)} + \frac{0.08}{(1 + 0.06425)^{1.5}}$
+ $\frac{1.08}{(1 + 0.0688)^{2.5}}$
= PHP1,038.479MM

PV of the floating leg (i.e. receive side)

= PhP975.000MM x $\frac{1.055}{(1 + 0.0581 \times 0.5)}$
= PHP999.587MM

(5) Report a long 9 months zero coupon security in Part I.2, GBP ladder, 6 to 12 months time band and a short 6 months zero coupon security in 3 to 6 months time band.

Assume the GBP 6 months zero-coupon yield is 6.74% while the interpolated 9 months zero-coupon yield is 6.87%. Assume spot exchange rate is PHP75.00.

Amount to be reported:

9 months = GBP65.000MM/(1 + 0.0687 x 0.75)
= GBP65.000MM x 0.951
= PHP4,636.124MM equivalent
6 months = GBP65.000MM/(1 + 0.0674 x 0.5)
= GBP65.000MM x 0.9674
= PHP4,716.069MM equivalent

(6) Report a long 15 months zero coupon security in Part I.2, Peso ladder, 1.0 to 1.9 years time band and a short 9 months zero coupon security in 6 to 12 months time band.

Calculations similar to (4) above, ZC(15 months)
= 6.16% + (6.69% - 6.16%) x 0.25 = 6.2925%
15 months = PHP130.000MM/(1 + 0.062925)^{1.25}
= PHP121.000MM
9 months = PHP130.000MM x 0.957
= PHP124.410MM

(7) Report a long 3 months zero coupon security in Part I.2, EUR ladder, 1 to 3 months time band and a short 3 months zero coupon security in the Peso ladder, 1 to 3 months time band.

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Calculations similar to (4) above and assume 3 months EUR cash rate at 3.25% and spot exchange rate is PHP46.00.

EUR = EUR5.000MM/(1 + 0.0325 x 0.25)
= PHP228.146MM equivalent
PhP = PHP250.000MM/(1 + 0.0563 x 0.25)
= PHP246.530MM

(For simplicity, Part III of the report is not presented in this example.)

(8) Report market value in Part II, item 1 (US column).

(9) Report as a short position the market value for futures (HKD50.00 per index point) in Part II, item 5 (HKD column) and as a long position in Part I.2, HKD ladder, 1 to 3 months time band. Assume HKD to PHP exchange rate is PHP6.50.

(10)Report the USD leg as a long 6-month zero coupon security in Part I.2, USD ladder, 3 to 6 months time band. Report the PHP leg as a short 6-month zero coupon security in Part I.2, PHP ladder, 3 to 6 months time band.

Assume the 6-month Peso and Dollar zero coupon yields are 5.81% and 4%, respectively, and the spot exchange rate is PHP50.00.

Cash flows of currency swap: two legs

Pay – PHP
111% of PHP975.000MM in 6 months

PV of PHP leg

$$= \frac{\text{PHP975.000MM} \times (1.11)}{(1 + 0.0581 \times 0.5)}$$

= PHP1,051.700MM

Receive – USD
109.5% of USD19.500MM in 6 months

PV of USD leg

$$= \frac{\text{USD19.500MM} \times (1.095)}{(1 + 0.04 \times 0.5)}$$

= PHP1,046.700MM equivalent

(For simplicity, Part III of the report is not presented in this example.)

INSTRUCTIONS FOR ACCOMPLISHING THE REPORT ON COMPUTATION OF
THE ADJUSTED RISK-BASED CAPITAL ADEQUACY RATIO COVERING
COMBINED CREDIT RISK AND MARKET RISK
(For Universal Banks and Commercial Banks
Without Expanded Derivatives Authority)

General Instructions

1. All universal banks and commercial banks are required to complete this Report both on a solo basis (i.e., head office plus branches) and on a consolidated basis (i.e., parent bank plus subsidiary financial allied undertakings, but excluding insurance companies).
2. The Report should be submitted as follows:
 - (a) Solo report - within 15 banking days after the end of each reference quarter; and
 - (b) Consolidated report - within 30 banking days after the end of each reference quarter.
3. Current market value should be used for reporting. For leveraged instruments where the apparent notional amount differs from the effective notional amount, the bank should use the effective notional amount in calculating the market value for reporting, e.g., a swap contract with a stated notional amount of PhP1.0 million, the terms of which call for a quarterly settlement of the difference between 5% and PHIBOR multiplied by 10 has an effective notional amount of PhP10.0 million.
4. Securities transactions are to be reported on a "trade date" basis.

Definitions and Clarifications

5. Market risk is defined as the risk of losses in on- and off-balance sheet positions arising from movements in market prices.

The risks subject to this reporting requirement are:

- (a) the risks pertaining to interest rate-related instruments and equities in the bank's trading book; and
- (b) foreign exchange risk throughout the bank.

The Report should include the reporting bank's positions in on-balance sheet financial instruments and off-balance sheet derivatives, the latter being defined as financial contracts whose values depend on the values of one or more underlying assets or indices.

6. For the purpose of the Report, the trading book of a bank shall consist of:
 - (a) its proprietary positions in financial instruments which are taken on with the intention of short-term resale or benefiting in the short term from actual or expected differences between the buying and selling prices or from other price or interest rate variations;
 - (b) positions which arise from the execution of trade orders from customers and market making; and
 - (c) positions taken in order to hedge other elements of the trading book.
7. The financial instruments referred to in the preceding paragraph include:
 - (a) (i) transferable securities;
 - (ii) units in collective investment undertakings;
 - (b) certificates of deposit and other similar capital market instruments;
 - (c) currency forwards with tenor of one (1) year or less; and

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(d) currency swaps with tenor of one (1) year or less and which for this purpose refer to the simultaneous buying and selling of a currency in approximately equal amounts for different maturity dates with the same party.

8. Banks are expected to have an established policy for allocating transactions (including internal deals) to the trading or non-trading (i.e., banking) book, as well as procedures to ensure compliance with such policy. There must be a clear audit trail at the time each transaction is entered into and the BSP will examine the adequacy of such policy and procedures and their consistent implementation when it is considered necessary. For this purpose, banks which engage in trading activities should submit to the BSP a policy statement covering:

- (a) the definition of trading activities;
- (b) the financial instruments which can be traded or used for hedging the trading book portfolio; and
- (c) the principles for transferring positions between the trading and the banking books.

9. In general, the BSP will have regard to the bank's intention in entering into a particular transaction when determining whether such transaction should fall into the trading book. Transactions will likely be considered to carry a trading intent on the part of the bank if:

- (a) the positions arising from the transactions are marked to market on a daily basis as part of the internal risk management process;
- (b) the positions are not (or not intended to be) held to maturity; and
- (c) the positions satisfy other criteria the bank applies to its trading portfolio on a consistent basis.

10. Debt securities include both fixed-rate and floating-rate instruments, negotiable certificates of deposit, non-convertible preference shares, and also convertible

bonds (i.e., debt issues or preference shares that are convertible, at a stated price, into common shares of the issuer) which trade like debt securities.

11. Detailed offsetting rules applicable to the reporting of positions are set out in the relevant parts of Specific Instructions. These offsetting rules can be applied on both the solo and consolidated basis, provided that in the latter case there are no obstacles to the quick repatriation of profits from a foreign subsidiary to the Philippines and the bank performs daily management of risks on a consolidated basis. For this purpose, offsetting means the exclusion of matched positions of a bank from reporting and hence exclusion of such positions from the calculation of the adjusted capital adequacy ratio.

12. For avoidance of doubt, items that are deductible from the qualifying capital of the bank in the calculation of the risk-based capital adequacy ratio pursuant to Subsections X116.2.a to X116.2.c are excluded from market risk capital requirement.

13. In general, banks are only required to complete Parts I to III and V of the Report. Banks which have obtained the BSP's approval to adopt their internal value-at-risk (VaR) models to calculate their market risk capital charge (in all or individual risk categories) should complete Part IV (in lieu of Parts I to III). Where the internal model is used to calculate only selected risk categories, the capital charge for the risk categories measured under the internal models approach should be reported in Part IV while that for the other risk categories measured under the standardized approach should be reported in the relevant sections of Parts I to III. This combination of the standardized approach and the internal models approach is allowed on a transitional basis. Banks which adopt the internal

models approach will not be permitted, save in exceptional circumstances, to revert to the standardized approach.

Specific Instructions

Part I Interest Rate Exposures

1. Debt securities – specific risk

14. Report in this part the long and short positions in debt securities in the trading book by category of the issuer. Offsetting will be allowed between long and short positions in identical issues with exactly the same issuer, coupon, currency and maturity. For items 1.4 to 1.7 of the Report, positions should be slotted into the appropriate time bands according to the residual maturities of the debt securities. (Refer to examples (1) and (2) in Annex A).

15. A security, which is the subject of a repurchase agreement, will be treated as if it were still owned by the seller of the security, i.e., to be reported by the seller. This principle applies also in Part 1.2 of the Report.

16. Foreign countries, foreign incorporated banks and Philippine incorporated banks/ QBs with the “highest credit quality”, as well as debt securities with the “highest credit quality” refer to ratees/debt securities given the minimum credit ratings as indicated below by any two of the following internationally accepted rating agencies:

Rating Agency	Credit Rating
(a) Moody’s	“Aa3” and above
(b) Standard and Poor’s	“AA-” and above
(b) Fitch IBCA	“AA-” and above

and such other recognized international rating agencies as may be approved by the Monetary Board.
The ratings of domestic rating agencies may likewise be used for this purpose provided

that such rating agencies meet the criteria to be prescribed by the Monetary Board.

17. Multilateral development banks refer to the World Bank Group comprised of the International Bank for Reconstruction and Development (IBRD) and the International Finance Corporation (IFC), the Asian Development Bank (ADB), the African Development Bank (AfDB), the European Bank for Reconstruction and Development (EBRD), the Inter-American Development Bank (IADB), the European Investment Bank (EIB); the Nordic Investment Bank (NIB); the Caribbean Development Bank (CDB), the Council of Europe Development Bank (CEDB) and such others as may be recognized by the BSP.

18. Non-central government public sector entities of a foreign country refer to entities which are regarded as such by a recognized banking supervisory authority in the country in which they are incorporated.

2. Debt securities – general market risk

19. Report in this part the long and short trading book positions in debt securities and forward foreign exchange positions. A Maturity Method is adopted for the reporting of these positions as detailed below. Banks that possess the necessary capability to calculate the duration and price sensitivity of each position separately and wish to adopt such a duration approach for reporting in this part may seek approval from BSP.

20. Positions should be reported separately for each currency, i.e., banks should use separate sheets (Part 1.2 of the Report) to report positions of different currencies. The unadjusted market risk capital charge is then calculated for each currency according to procedures set out in paragraphs 28 to 31 with no offsetting between different currencies.

21. Under the Maturity Method, positions are slotted into the time bands of the maturity ladder (as shown in Part I.2 of the Report) by remaining maturity if fixed rate and by the period to the next repricing date if floating rate. (Refer to examples (1) and (2) in Annex A). For forward foreign exchange positions in the trading book, they should be treated as long and as short positions in a zero coupon government security of the 2 currencies with the same maturity as the forward contract. (Refer to example (3) in Annex A).

22. As with the reporting under Part I.1 of the Report, banks can offset long and short positions in identical instruments with exactly the same issuer, coupon, currency and maturity for general market risk purposes.

23. Opposite forward foreign exchange positions can in certain circumstances be regarded as matched and allowed to offset fully. The separate legs of different currency swaps may also be “matched” subject to the same conditions. To qualify for this treatment, the positions must relate to the same underlying currency and be of the same nominal value. In addition, the residual maturity must correspond within the following limits:

- if either of the instruments for offsetting has a residual maturity up to 1 month, the residual maturity must be the same for both instruments; and
- if either of the instruments for offsetting has a residual maturity greater than 1 month and up to 1 year, those residual maturities must be within 7 days of each other.

24. Banks with the necessary expertise and systems may use alternative formulae (the so called “pre-processing” techniques) to calculate the positions to be included in the maturity ladder. This applies to all interest rate sensitive positions, arising from physical

instruments and currency forwards and swaps. One method is to first convert the payments required under each transaction into their present values. For that purpose, each cash flow should be discounted using zero-coupon yields. A single net figure of all of the cash flows within each time band may be reported. Banks wishing to adopt this or other methods for reporting should seek the BSP’s prior approval. The “pre-processing” models would be subject to review by the BSP.

Calculation of capital charges for interest rate exposures reported in Part I

25. The unadjusted minimum capital requirement is expressed in terms of two separately calculated charges, one applying to the “specific risk” of each trading book position in debt securities, whether it is a short or long position, and the other to the overall interest rate risk in the trading book portfolio (termed “general market risk”) where long and short positions in different securities and currency forwards and swaps can be offset subject to certain “disallowances”.

Specific risk

26. The unadjusted specific risk charge is graduated into five broad categories by types of issuer, as follows:

Government and multilateral development banks*	0.00% 0.25% (residual maturity of 6 months or less)
Qualifying**	1.00% (residual maturity of over 6 months to 24 months) 1.60% (residual maturity of over 24 months) 4.00%
LGU bonds***	8.00%
Others	

* “Government and multilateral development banks” refers to the issuers as described under items 1.1 and 1.3 in Part I.1 of the Report.
** “Qualifying” refers to the issuers/issues as described under items 1.4 to 1.7 in Part I.1 of the Report.
*** “LGU bonds” refers to bonds issued by local government units (LGUs), covered by Deed of Assignment of Internal Revenue Allotment of the LGU and guaranteed by LGU Guarantee Corporation.

27. Currency swaps and forward foreign exchange contracts will not be subject to a specific risk charge.

General market risk

28. General market risk applies to positions in all debt securities and currency forwards and swaps subject only to an exemption for fully or very closely matched positions in identical instruments as described in paragraphs 22 to 23 above. The unadjusted capital charge is the sum of the following components:

- (a) the net short or long weighted position in the whole trading book;
- (b) a small proportion of the matched positions in each time band (the “vertical disallowance”); and
- (c) a larger proportion of the matched positions across different time-bands (the “horizontal disallowance”).

29. In the maturity ladder, first calculate the weighted positions by multiplying the positions reported in each time band by a risk-factor according to the following table:

Table 1		
Maturity method: time bands and weights		
Coupon 3% or more	Coupon less than 3%	Risk weight
1 month or less	1 month or less	0.00%
Over 1 month to 3 months	Over 1 month to 3 months	0.20%
Over 3 months to 6 months	Over 3 months to 6 months	0.40%
Over 6 months to 12 months	Over 6 months to 12 months	0.70%
Over 1 year to 2 years	Over 1.0 year to 1.9 years	1.25%
Over 2 years to 3 years	Over 1.9 years to 2.8 years	1.75%

Over 3 years to 4 years	Over 2.8 years to 3.6 years	2.25%
Over 4 years to 5 years	Over 3.6 years to 4.3 years	2.75%
Over 5 years to 7 years	Over 4.3 years to 5.7 years	3.25%
Over 7 years to 10 years	Over 5.7 years to 7.3 years	3.75%
Over 10 years to 15 years	Over 7.3 years to 9.3 years	4.50%
Over 15 years to 20 years	Over 9.3 years to 10.6 years	5.25%
	Over 10.6 years to 12 years	6.00%
	Over 12 years to 20 years	8.00%
	Over 20 years	12.50%

30. The weighted longs and shorts in each time band will be offset resulting in a single short or long position for each band. A 10% capital charge (“vertical disallowance”) will be levied on the smaller of the offsetting positions, be it long or short. Thus, if the sum of the weighted longs in a time band is P100.0 million and the sum of the weighted shorts is PhP90.0 million, the vertical disallowance would be 10% of PhP90.0 million (i.e., PhP9.0 million).

31. Two rounds of “horizontal offsetting” will then be conducted, first between the net positions in each of 3 zones (zero to 1 year, over 1 year to 4 years and over 4 years), and subsequently between the net positions in the 3 different zones. The offsetting will be subject to a scale of disallowances expressed as a fraction of the matched positions, as set out in Table 2 below. The weighted long and short positions in each of 3 zones may be offset, subject to the matched portion attracting a disallowance factor that is part of the capital charge. The residual net position in each zone may be carried over and offset against opposite positions in other zones, subject to a second set of disallowance factors.

Table 2
Horizontal disallowances

Zones	Time-band	Within the zone	Between adjacent zones	Between zones 1 and 3
Zone 1	1 month or less	40%	40%	100%
	Over 1 month to 3 months			
	Over 3 months to 6 months			
	Over 6 months to 12 months			
Zone 2	Over 1 year to 2 years	30%	40%	
	Over 2 years to 3 years			
	Over 3 years to 4 years			
Zone 3	Over 4 years to 5 years	30%		
	Over 5 years to 7 years			
	Over 7 years to 10 years			
	Over 10 years to 15 years			
	Over 15 years to 20 years			
	Over 20 years			

Part II Equity Exposures

32. Report in this part the long and short positions in equities in the trading book, including instruments that exhibit market behavior similar to equities. The instruments covered include common stock (whether voting or non-voting), and convertible bonds (i.e., debt issues or preference shares that are convertible, at a stated price, into common shares of the issuer) which trade like equities. For non-convertible preference shares and those convertible bonds which trade like debt

securities, they should be reported under Part I. Long and short positions in the same issue may be reported on a net basis.

33. The positions are to be reported on a market-by-market basis, i.e., under separate columns to indicate the exchange where the reported equities are listed/traded. For foreign markets, banks should indicate the country where the market is located. (Refer to example (4) in Annex A) Equities with listing in more than one market should be reported as positions in the market of their primary listing.

34. Matched positions in each identical equity in each market may be fully offset, resulting in a single net short or long position.

35. As with interest rate exposures, the capital charge is levied to separately cover both the specific risk and the general market risk. Calculation is done on an individual market basis. The unadjusted capital charge for specific risk will be 8% on the gross (i.e., long plus short) positions. The unadjusted general market risk charge will be 8% on the net position. Net long and short positions in different markets cannot be offset for the purpose of calculating general market risk charge.

Part III Foreign Exchange Exposures

36. Report in this part the amount in US dollars (USD) of net long or net short position in each currency. In addition, structural positions taken deliberately to hedge against the effects of exchange rate movements on the capital adequacy of the reporting bank may be excluded. This should be cleared with the BSP prior to reporting.

37. Net long/(short) position shall refer to FX assets (excluding FX items allowed under existing regulations to be excluded from FX assets in the computation of a bank’s net FX position limits) less FX liabilities (excluding FX items allowed under existing regulations to be excluded from FX liabilities in the computation of a bank’s net FX position limits), plus contingent FX assets less contingent FX liabilities.

38. Banks which base their normal management accounting of forward currency positions on net present values shall use the net present values of each position, discounted using current interest rates, for measuring their positions. Otherwise, forward currency positions shall be measured based on notional amount.

39. The total USD amount of net long or net short position in each currency should then be converted at spot rates into Philippine peso. The overall net open position is the greater of the absolute value of the sum of net long position or sum of net short position.

40. The unadjusted capital charge will be 8% of the overall net open position.

Part IV Internal Models Approach

41. Only those banks which have obtained the BSP’s approval to adopt their internal value-at-risk (VaR) models to calculate their market risk capital charges in lieu of the standardized methodology are required to report in this part.

1. Value-at-risk results

42. Report in this part the value-at-risk (VaR) results as at the last trading day of the

reference quarter in column (a) and the average VaR over the most recent 60 trading days of the reference quarter in column (b), both for each individual market risk category using internal models approach, i.e., items 1.1 to 1.3, and for the aggregate of these risk categories, i.e., item 1.4.

43. Provided that the BSP is satisfied with the bank’s system for measuring correlations, recognition of empirical correlations across broad risk categories (e.g., interest rates, equity prices and exchange rates) may be allowed. The VaR for the aggregate of all risk categories will therefore not necessarily be equal to an arithmetic sum of the VaR for the individual risk category.

44. Report also in this part the number of backtesting exceptions for the past 250 trading days (from the reference quarter-end going backwards), based on:

- actual daily changes in portfolio value, in item 1.4. column (c), and
- hypothetical changes in portfolio value that would occur were end-of-day positions to remain unchanged during the 1 day holding period, in item 1.4 column (d), for the aggregate of the broad risk categories.

45. The multiplication factor to be reported in item 1.4 column (e) is the summation of the following 3 elements:

- (a) the minimum multiplication factor of 3;
- (b) the “plus” factor ranging from 0 to 1 based on the number of backtesting exceptions (i.e., the larger of item 1.4 column (c) or item 1.4 column (d)) for the past 250 trading days as set out in Table 3 below: and
- (c) any additional “plus” factor as may be prescribed by the BSP.

Table 3
“Plus” factor based on the number of
backtesting exceptions for the past 250 trading
days

Zone	Number of exceptions	“Plus” factor
Green zone	0	0.00
	1	0.00
	2	0.00
	3	0.00
	4	0.00
Yellow zone	5	0.40
	6	0.50
	7	0.65
	8	0.75
	9	0.85
Red zone	10 or more	1.00

46. Capital charge for general market risk calculated by internal models reported in item 1.6 is larger of:

(a) Item 1.4 column (a), i.e., VaR for the aggregate of all risk categories, as at the last trading day of the reference quarter; or

(b) Item 1.5, i.e., the average VaR for the last 60 trading days of the reference quarter [(item 1.4 column (b)) times the multiplication factor [(item 1.4 column (e)) set out in paragraph 45 above.

2. Specific risk

47. Capital charge for the specific risk of debt securities and equities is to be reported using either of the following two methods:

(a) For banks which incorporate the specific risk into their models, report the capital charge for the total specific risk calculated by the models in item 1.7 of Part IV.1; or

(b) For banks which do not incorporate the specific risk into their models, report the specific risk of debt securities in Part I.1 according to the instructions in paragraphs 14-18 and 26-27. For equities, report the

specific risk in Part II according to the instructions in paragraphs 32 to 35.

3. Largest daily losses over the quarter

48. Report in this part in descending order (i.e., the largest loss first) the 5 largest daily losses over the reference quarter and their respective VaRs for the risk exposures which are measured by the internal models approach. If the number of daily losses during the quarter is less than 5, report only all such daily losses.

Part V Adjusted Capital Adequacy Ratio

49. The market risk capital charges should be aggregated and converted to a market risk-weighted exposure. The total market risk capital charge is the sum of the capital charges for individual market risk categories computed using either (a) the standardized approach, or (b) the internal models approach. The total capital charges for individual market risk categories using the standardized approach should be multiplied by 125% (to be consistent with the higher capital charge for credit risk, i.e., 10% as opposed to the BIS recommended 8%.)

50. The total market risk-weighted exposures is computed by multiplying the total market risk capital charges by 10. (The multiplier 10 is the reciprocal of the BSP required minimum capital ratio for credit risk of 10%.) The qualifying capital and total credit risk weighted exposures are extracted from Part V.A and Part V.B, respectively, of the Report on the Computation of Risk-Based Capital Adequacy Ratio covering credit risk.

51. For on-balance-sheet debt securities and equities in the trading book included in Parts I, II and IV of this Report, the credit

risk-weighted exposures reported in Part II of the Report on the Computation of the Risk-Based Capital Adequacy Ratio covering credit risk should be excluded in calculating the adjusted ratio covering combined credit

risk and market risk. The market risk capital charges for these positions calculated in this Report cover all the capital requirements for absorbing potential losses arising from carrying such positions.

Suppose as at 31 December, 200X, ABC Bank Corporation has the following trading book positions:

- (1) Long position in US Treasury Bond (7.5% annual coupon) with face value equivalent to PHP507.000MM and residual maturity of 8 years.
Market value based on quoted price: PHP518.914MM equivalent
- (2) Long position in an unrated floating rate note (6.25% current annual coupon) issued by a US corporate with face value equivalent of PHP260.000MM and next repricing 9 months after.
Market value based on quoted price: PHP264.758MM equivalent
- (3) Forward foreign exchange position of EUR5.000MM (long) against PHP250.000MM equivalent maturing in 3 months.
- (4) Long 1000 shares of a US listed company with current market price of PHP715.000MM equivalent.

Treatments:

- (1) Report market value (PHP518.914MM) of the long position in Part I.1, item I.2 and

- Part I.2, USD ladder, 7 to 10 years time band.
- (2) Report market value (PHP264.758MM) of the long position in Part I.1, item 1.9 and Part I.2, USD ladder, 6 to 12 months time band.
- (3) Report a long 3 months zero coupon security in Part I.2, EUR ladder, 1 to 3 months time band and a short 3 months zero coupon security in the Peso ladder, 1 to 3 months time band.
- Assume 3 months EUR cash rate at 3.25%, 3-month Peso zero-coupon yield at 5.63% and spot exchange rate is 46.
- PV of the EUR leg (i.e. receive side)
$$\text{EUR} = \text{EUR}5.000\text{MM} / (1 + 0.0325 \times 0.25)$$
$$= \text{P}228.146\text{MM equivalent}$$
- PV of the PHP leg (i.e. pay side)
$$\text{PHP} = \text{P}250.000\text{MM} / (1 + 0.0563 \times 0.25)$$
$$= \text{P}246.530\text{MM}$$
- (For simplicity Part III of the report is not presented in this example.)
- (4) Report market value in Part II, item 1 (US column).

PROCEDURES TO BE OBSERVED BY UNIVERSAL AND
COMMERCIAL BANKS APPLYING FOR BANGKO SENTRAL
RECOGNITION OF THEIR OWN INTERNAL MODELS FOR
CALCULATING MARKET RISK CAPITAL
[Appendix to Subsec. 1115.2 (2008 - 1116.5)]

A. Bank’s own self-assessment

A bank intending to use its own internal Value-at-Risk (VaR) models, in lieu of the standardized approach, for calculating market risk capital charge should conduct a self-assessment of its compliance with the requirements for the use of such models as prescribed in Appendix 46, using the attached questionnaire in Annex A.

B. Offsite assessment by BSP

If a bank believes that it is in compliance with the abovementioned requirements for the use of internal models, it should submit a written application to the appropriate supervision and examination department of the BSP, together with the following:

1. Accomplished questionnaire;
2. A listing of the products to be included in the risk models;
3. Details as of end of the preceding quarter, by each product listed above, of:
 - a. The size of positions in terms of market value; and
 - b. The currencies in which it is traded,
4. Organizational structure and personnel;

The bank should submit latest organizational chart showing the names, reporting lines, and responsibilities of key personnel in-charge of trading, and of functions supporting the trading operations such as risk control, back office, internal audit, etc., and those at board level to whom they report. For those responsible for trading, the bank should provide details of their relevant qualifications and experience in the area of trading. For those responsible for risk control, the bank should provide details of their relevant qualifications and experience, particularly on the use of bank’s models.

The bank should also provide information on the number of staff within the risk control unit¹, their internal reporting structure, responsibilities, qualifications and experience.

5. Full technical description of the model, indicating, among others, the following:
 - a. the type of VaR model used (e.g., variance-covariance matrix, historical simulation or Monte Carlo simulation);
 - b. the parameters which are integral to the VaR calculations, including assumptions regarding:
 - (1) confidence interval;
 - (2) holding period;
 - (3) length of historical data used to calculate volatility parameters;
 - (4) scaling factors applied to VaR numbers to convert shorter holding periods to longer holding periods;
 - (5) weighting scheme applied to historical data (e.g., giving recent observations more weight than less recent observations);
 - (6) probability distribution functions of input variables to the Monte Carlo simulation model;
 - (7) the frequency of input data updates (e.g., how often are historical data series updated, when are variance-covariance matrices revised, etc.);
 - (8) the other models which are used as inputs to the VaR model (e.g., option pricing models, interest rate sensitivity models, etc.) and how they interface with the model; and
 - (9) the frequency of VaR calculation;
 - c. an outline of the VaR risk measurement calculation and processes, including, where necessary, mathematical formulae. This should also include:

¹ Referring generally to the risk management group functions in the BAP Financial Markets Risk Reference Manual.

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(1) the manner in which non-linear products, like options, are incorporated in the model;

(2) the extent to which correlation is allowed both within and across risk categories (i.e., interest rates, equity prices, exchange rates); and

(3) the means by which specific risk is addressed within the VaR framework, if appropriate, and the explanation of the techniques by which this is achieved.

6. Policies and procedures for backtesting;

The bank should describe the methods of backtesting employed, including the treatment of intra-day trading profits and loss and fee income within the daily profit and loss figures. While the formal implementation of the BSP prescribed backtesting program should begin on the quarter following the date of BSP's recognition of the bank's internal model and thus implies that the formal accounting of exceptions under the BSP prescribed backtesting program would be a year later, the bank should, at initial assessment, submit at least the latest backtesting result based on its own backtesting program, including the confidence level used in calculating the VaR numbers. The confidence level used shall dictate the number of daily observations on which the backtesting will be applied (e.g., 250 number of observations for a ninety-nine percent (99%) confidence level, and a higher number of observations for a confidence level higher than ninety-nine percent (99%), subject to a minimum of 250 observations.

7. Policies and procedures for stress testing;

8. Internal validation reports which should include the following:

a. the latest review of the overall risk management process by the applicant bank's internal auditors; and

b. the latest validation of the formulae used in the calculation process, as well as for the pricing of options and other complex instruments by a qualified unit which is independent from the trading area; and

9. Validation reports of external auditor.

The bank should stand ready to make a presentation to the BSP on its compliance with the abovementioned requirements for the use of internal models.

C. On-site assessment by BSP

The BSP shall conduct an on-site assessment of the models to review both the technical details of the models and the risk management practices that govern their use.

During the on-site assessment, the bank should give a brief demonstration of how its models work. The demonstration should cover the following:

1. how model inputs are fed into the system including extent of manual inputs;
2. how VaR numbers are calculated;
3. how results are generated and interpreted;
4. accuracy in terms of back testing results;
5. stress testing capability;
6. use of model outputs in risk management; and
7. limitations of the model.

The onsite assessment shall also include interview with the concerned officers and personnel of the bank.

D. Assessment on an ongoing basis by the BSP.

After initial recognition of the models by the BSP, the bank should inform the BSP of any material change to the models, including change in the methodology or scope to cover new products and instruments. The BSP shall determine whether the models remain acceptable for calculating the market risk capital charge.

The BSP shall likewise conduct a periodic assessment of the models and the controls surrounding the models at least annually to ensure that they remain compliant with the minimum qualitative and quantitative requirements prescribed under *Appendix 46* on an ongoing basis. Non-compliance with the minimum requirements shall be ground for disallowing the use of such models.

(Name of Bank)

COMPLIANCE WITH THE REQUIREMENTS FOR THE USE OF INTERNAL MODELS

Criteria	Yes	No	Bank's Explanations ¹
I. General Criteria			
1. Is the bank’s risk management system conceptually sound and implemented with integrity?			
2. Does the bank have sufficient number of staff skilled in the use of sophisticated models not only in the trading area but also in the risk control, audit, and if necessary, back office area?			
3. Do the bank’s models have a proven track record of reasonable accuracy in measuring risk?			
4. Does the bank conduct stress tests along the lines discussed in Item V below?			
II. Qualitative Standards			
1. Does the bank have an independent risk control unit that is responsible for the design and implementation of the bank’s risk management system?			
• Does the unit produce and analyze daily reports on the output of the bank’s risk measurement model, including an evaluation of the relationship between measures of risk exposure and trading limits?			(Cite examples of reports produced by the unit and indicate what time of day these reports are calculated.)
• Is the unit independent from business trading units?			

¹ The questions in this checklist may already be addressed by other materials submitted by the Bank. In such cases, please indicate in this column the appropriate reference document.

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Criteria	Yes	No	Bank's Explanations ¹
Does the unit report directly to senior management of the bank?			
2. Does the risk control unit conduct a regular backtesting program, i.e., an expost comparison of the risk measure generated by the model against actual daily changes in portfolio value over longer periods of time, as well as hypothetical changes based on static positions?			
3. Are the board of directors (or equivalent management committee in the case of Philippine branches of foreign banks) and senior management actively involved in the risk control process?			
Do the board of directors (or equivalent management committee in the case of Philippine branches of foreign banks) and senior management regard risk control as an essential aspect of the business to which significant resources need to be devoted?			
Are daily reports prepared by the independent risk control unit reviewed by a level of management with sufficient seniority and authority to enforce both reductions of positions taken by individual traders and reductions in the bank’s overall risk exposure?			
4. Is the bank’s internal risk measurement model closely integrated into the day-to-day risk management process of the bank?			
Is the output of the internal risk measurement model accordingly an integral part of the process of planning, monitoring and controlling the bank’s market risk profile?			

¹ The questions in this checklist may already be addressed by other materials submitted by the Bank. In such cases, please indicate in this column the appropriate reference document.

Criteria	Yes	No	Bank's Explanations ¹
5. Is the risk measurement system used in conjunction with internal trading and exposure limits?			
· Are trading limits related to the bank’s risk measurement model in a manner that is consistent over time and that is well-understood by both traders and senior management?			
6. Is a routine and rigorous program of stress testing in place as a supplement to the risk analysis based on day-to-day output of the bank’s risk measurement model?			
· Are the results of stress testing exercises reviewed periodically by senior management and reflected in the policies and limits set by management and the board of directors (or equivalent management committee in the case of Philippine branches of foreign banks)?			
· Where stress tests reveal particular vulnerability to a given set of circumstances, are prompt steps taken to manage those risks appropriately (e.g., by hedging against that outcome or reducing the size of the bank’s exposures)?			
7. Does the bank have a routine in place for ensuring compliance with a documented set of internal policies, controls and procedures concerning the operation of the risk measurement system?			
· Is the bank’s risk measurement system well documented, i.e. through a risk management manual that describes the basic principles of the risk management system and that provides an explanation of the empirical techniques used to measure market risk?			

¹ The questions in this checklist may already be addressed by other materials submitted by the Bank. In such cases, please indicate in this column the appropriate reference document.

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Criteria	Yes	No	Bank's Explanations ¹
8. Is an independent review of the risk measurement system carried out regularly in the bank’s own internal auditing process?			
· Does this review include both the activities of the business trading units and of the independent risk control unit?			
· Does the review of the overall risk management process take place at regular intervals (ideally not less than once a year)?			
· Does the review address the following:			
- the adequacy of the documentation of the risk management system and process?			
- the organization of the risk control unit?			
- the integration of market risk measures into daily risk management?			
- the approval process for risk pricing models and valuation systems used by front and back-office personnel?			
- the validation of any significant change in the risk measurement process?			
- the scope of market risks captured by the risk measurement model?			
- the integrity of the management information system?			
- the accuracy and completeness of position data?			
- the verification of the consistency, timeliness and reliability of data sources used to run internal models, including the independence of such data sources?			

¹ The questions in this checklist may already be addressed by other materials submitted by the Bank. In such cases, please indicate in this column the appropriate reference document.

Criteria	Yes	No	Bank's Explanations ¹
- the accuracy and appropriateness of volatility and correlation assumptions?			
- the accuracy of valuation and risk transformation calculations?			
- the verification of the model’s accuracy through frequent backtesting as discussed In Item II.2 above?			
III. Specification of Market Risk Factors			
A. Interest Rates			
Is there a set of risk factors corresponding to interest rates in each currency in which the bank has interest rate-sensitive on- or off- balance sheet positions?			
· Does the risk measurement system model the yield curve using one (1) of a number of generally accepted approaches, e.g., by estimating forward rates of zero coupon yields?			
· Is the yield curve divided into various maturity segments in order to capture variation in the volatility of rates along the yield curve, with one (1) risk factor corresponding to each maturity segment?			
· For material exposures to interest rate movements in the major currencies and markets, does the bank model the yield curve using a minimum of six (6) risk factors?			
· Does the risk measurement system incorporate separate risk factors to capture spread risk (e.g., between bonds and swaps)?			

¹ The questions in this checklist may already be addressed by other materials submitted by the Bank. In such cases, please indicate in this column the appropriate reference document.

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Criteria	Yes	No	Bank's Explanations ¹
B. Equity Prices			
1. Are there risk factors corresponding to each of the equity markets in which the bank holds significant positions?			
· Is there, at a minimum, a risk factor that is designed to capture market-wide movements in equity prices (e.g., a market index)?			
2. Does the sophistication and nature of the modeling technique for a given market correspond to the bank’s exposure to the overall market as well as its concentration in individual equity issues in that market?			
C. Exchange Rates			
Does the risk measurement system incorporate risk factors corresponding to the individual foreign currencies in which the bank’s positions are denominated, i.e., are there risk factors corresponding to the exchange rate between the Philippine peso and each foreign currency in which the bank has a significant exposure?			
IV. Quantitative Standards			
1. Is “Value-at-risk” (VaR) computed on a daily basis?			
2. Is a 99 th percentile, one-tailed <i>confidence interval</i> used?			
3. Is an instantaneous price shock equivalent to a ten (10) day movement in prices used, i.e., is the minimum “ <i>holding period</i> ” ten (10) trading days?			
· If VaR numbers are calculated according to a shorter holding period, is this scaled up to ten (10) days by the square root of time?			

¹ The questions in this checklist may already be addressed by other materials submitted by the Bank. In such cases, please indicate in this column the appropriate reference document.

Criteria	Yes	No	Bank's Explanations ¹
4. Is the <i>historical observation period</i> (sample period) at least one (1) year?			
· If a weighting scheme or other methods for the historical observation period are used, is the “effective” observation period at least one (1) year (that is, the weighted average time lag of the individual observations is not less than six (6) months)?			
5. Are <i>data sets</i> updated no less frequently than once every three (3) months?			
· Are <i>data sets</i> reassessed whenever market prices are subject to material changes?			
6. For banks with option transactions			
· Does the bank’s model capture the <i>non-linear price characteristics</i> of options positions?			
· Is a ten (10)-day price shock applied to options positions or positions that display option-like characteristics?			
· Does the bank’s risk measurement system have a set of risk factors that captures the <i>volatilities of the rates and prices</i> underlying option positions, i.e., vega risk?			
· For banks with relatively large and/or complex options portfolios, does the bank have detailed specifications of the relevant options volatilities, i.e., does the bank measure the volatilities of options positions broken down by different maturities?			
V. Stress Testing			
1. Does the bank have a rigorous and comprehensive stress-testing program in place?			

¹ The questions in this checklist may already be addressed by other materials submitted by the Bank. In such cases, please indicate in this column the appropriate reference document.

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Criteria	Yes	No	Bank's Explanations ¹
2. Do the bank’s stress scenarios cover a range of factors that can create extraordinary losses or gains in trading portfolios, or to make the control of risks in those portfolios very difficult, e.g., low-probability events in all major types of risks, including the various components of market, credit, and operational risks?			
· Do the stress scenarios shed light on the impact of such events on positions that display both linear and non-linear price characteristics (i.e. options and instruments that have options-like characteristics)?			
3. Are the bank’s stress tests both of a qualitative and quantitative nature, incorporating both market risk and liquidity aspect of market disturbances?			
· Do quantitative criteria identify plausible stress scenarios to which banks could be exposed?			
4. Are the results of stress testing reviewed periodically by senior management?			
· Are the results of stress testing reflected in the policies and limits set out by management and the board of directors (or equivalent management committee in the case of Philippine branches of foreign banks)?			
· If the bank’s testing reveals particular vulnerability to a given set of circumstances, does the bank take prompt steps to manage those risks appropriately (e.g., by hedging against the outcome or reducing the size of its exposures)?			

¹ The questions in this checklist may already be addressed by other materials submitted by the Bank. In such cases, please indicate in this column the appropriate reference document.

Criteria	Yes	No	Bank's Explanations ¹
VI. External Validation			
Is the model accuracy validated by external auditor?			
· If yes, does the validation include -			
- Verification of the internal auditors' report on their review of the bank's overall risk management process?			
- Ensuring that the formula used in the calculation process, as well as for pricing of options and other complex instruments, are validated by a qualified unit, which is independent from the trading area?			
- Checking the adequacy of the structure of the internal models with respect to the bank's activities?			
- Checking the results of the backtesting to ensure that the internal model provides a reliable measure of potential loss over time?			
- Ensuring the transparency and accessibility of the data flows and processes associated with the risk measurement system?			

¹ The questions in this checklist may already be addressed by other materials submitted by the Bank. In such cases, please indicate in this column the appropriate reference document.

**GUIDELINES FOR THE ESTABLISHMENT AND ADMINISTRATION/
MANAGEMENT OF SINKING FUND FOR THE REDEMPTION OF
REDEEMABLE PRIVATE PREFERRED SHARES
(Appendix to Subsec. X126.5)**

Sinking fund shall refer to a fund set aside in order to accumulate the amount necessary for the redemption of redeemable preferred shares.

A. Establishment and Composition

1. Documentation
 - a. A resolution by the bank’s board of directors authorizing the Chief Executive Officer/President of the bank to establish a sinking fund equal to the reserve for retirement of preferred shares for the sole purpose of redemption of redeemable preferred shares at their maturity dates.
 - b. Investment Plan. The plan shall be approved by the board of directors and should indicate the types/classes of investments for the sinking fund. The amount of initial/periodic contributions set forth in the Investment Plan shall be in accordance with Section B par. 1 below. A copy of the Plan shall be submitted to the BSP within thirty (30) calendar days from approval thereof by the bank’s board of directors.
2. Eligible Securities and Investments

The sinking fund may be invested in the following:

 - a. Evidence of indebtedness of the Republic of the Philippines and/or the BSP, or any other evidence of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines;
 - b. Evidence of indebtedness or obligation of the central monetary authority of a foreign country, denominated in the national currency of the issuing country, the servicing and repayment of which are fully guaranteed by the government of such country;

- c. Deposits with private and/or government banks to the extent covered by deposit insurance; and
 - d. Such other securities as the Monetary Board may designate from time to time.
- Banks shall refrain from investing sinking fund resources in highly volatile, high-risk commercial instruments.

B. Operation

1. Amount of Annual Investment

The annual contribution to the sinking fund shall be equal to the reserve for retirement set up for the year, equivalent to the amount of redeemable shares issued divided by their respective terms, i.e., number of years from date of issue to date of maturity.
2. Accounting Entries - please refer to Annex “A”.
3. Administration
 - a. Responsible Officer. The sinking fund shall be administered by the Chief Executive Officer or his duly authorized representative, who shall be an employee of the bank with a rank not lower than manager or its equivalent, preferably with experience in treasury operations. The administrator shall be responsible for investment decisions and the maintenance of records of the sinking fund. He shall be responsible for the execution of the Investment Plan, and may deviate from the Plan only upon the approval of the board of directors.
 - In the case of RBs/Coop Banks, the bank president or the general manager or the officer-in-charge shall be designated as the administrator of the sinking fund.
 - b. Sinking Fund Manager. The board of directors shall delegate the management

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of the fund to an independent fund manager, e.g., trust company, where the amount of the fund is equivalent to five percent (5%) or more of the authorized redeemable private preferred shares, in case of UBs and KBs, or when such fund amounts to ₱1.0 million or more in the case of TBs and RBs/Coop Banks: *Provided*, That the sinking fund manager shall invest only in such securities as are prescribed in these guidelines: *Provided, further*, That a bank/financial institution acting as sinking fund manager may not designate the owner of the fund it manages as the sinking fund manager of its own sinking fund established for the same purpose.

c. Reports. The administrator shall submit to the Board a quarterly report on the status of the Fund. The report shall include the to-date balance of the fund, its composition, income earned for the period, a reasonable forecast for the various financial instruments into which the fund

has been placed, and the administrator’s/ fund manager’s recommendations or proposals regarding the fund. In its evaluation of the report the Board shall ascertain the degree of risk that the sinking fund is exposed to and prescribe the appropriate corrective actions.

The report of the administrator/fund manager shall be under oath and made available for examination by the BSP.

d. Review of the Investment Plan. The Board shall conduct an annual evaluation of the Investment Plan and the performance of the administrator/fund manager, and may introduce amendments to or revisions of the Plan, a copy of which shall be submitted to the BSP.

4. Sanctions. Failure to comply with the guidelines shall subject the bank and its directors and officers to the sanctions prescribed in Item “c” of Subsec. X126.5 and Sections 36 and 37 of R.A. No. 7653.

Summary of Pro-Forma Journal Entries to Record Sinking Fund Transactions

- a. Setting up the sinking fund. The initial contribution to the sinking fund shall be recorded as follows:

1. To set up Reserve for Retirement of Preferred Stock

Undivided Profits/Surplus Freexxx

Other Surplus Reserves – Reserve for Retirement of Preferred Stockxxx

To transfer from free to restricted Surplus the amount set up as reserve for redemption of preferred shares.

2. To set up the subsidiary account – Sinking Fund (classified as Other Non-Current Assets)

IBODI/Others – Sinking Fund for Redemption of Preferred Sharesxxx

Cash/Due from Banksxxx

To set up the Sinking Fund for the Redemption of Preferred Shares.
- b. Contributions to the sinking fund

1. To set up the periodic Reserve for Retirement

Undivided Profits/Surplus Freexxx

Other Surplus Reserves –Reserve for Retirement of Preferred Stockxxx

To transfer from free to restricted Surplus reserve for redemption of preferred shares.
- c. Income/loss from the sinking fund. The recognition of income/loss from the investments shall follow the existing accounting treatment/procedures prescribed in the Manual of Accounts for Banks

1. To record receipt or accrual of income due to the sinking fund

Cash/Due from Banks/ Accrued Other Income Receivablexxx

Other Income/Accrued Other Incomexxx

To record income earned from sinking fund assets.

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d. Redemption

1. Liquidation of sinking fund. Any gain or loss realized/incurred from liquidation of the sinking fund investments shall be credited/charged to operations.

Undivided Profits/ Surplus Free		
Cash		xxx
IBODI/Others – Sinking Fund for Redemption of Preferred Shares		xxx
Other Income – Gain on Sale of Sinking Fund Securities		xxx

To record the liquidation of sinking fund assets and recognize income therefrom.

or:

Cash		xxx
Loss from Sale of Sinking Fund Securities		xxx
IBODI/Others – Sinking Fund for Redemption of Preferred Shares		xxx

To record the liquidation of sinking fund assets and loss incurred therefrom.

2. Transfer to Undivided Profits/Surplus Free of the balance of the Restricted Surplus account
- | | |
|--|-----|
| Other Surplus Reserves – Reserve for Retirement of Preferred Stock | xxx |
| Undivided Profits/ Surplus Free | xxx |

To close the restricted surplus account ‘Other Surplus Reserves – Retirement of Preferred Stock’ and to revert the balance of the same to Undivided Profits/Surplus Free.

3. Redemption of preferred shares, declaration of stock dividend equal to amount of preferred shares redeemed and payment of such dividend through the issuance of new shares of stock

- (a)
- | | |
|----------------------------------|-----|
| Capital Stock – Preferred Shares | xxx |
| Cash/Due from Banks | xxx |

To record the redemption of redeemable preferred shares.

- (b)
- | | |
|--------------------------------|-----|
| Undivided Profits/Surplus Free | xxx |
| Dividends Distributable | xxx |

- (c)
- | | |
|--|-----|
| Dividends Distributable | xxx |
| Capital Stock – Common Stock/Preferred Stock | xxx |

To record payment of stock dividend (common stock).

- e. Treatment of changes in the market of the sinking fund portfolio. Gains and losses arising from changes in market values of component securities shall be deferred (not recognized) until the securities are liquidated.

**ACTIVITIES WHICH MAY BE CONSIDERED UNSAFE
AND UNSOUND BANKING PRACTICES**
(Appendix to Secs. X149 and X408)

The following activities are considered only as guidelines and are not irrebutably presumed to be unsafe or unsound. Conversely, not all practices which might under the circumstances be termed unsafe or unsound are mentioned here. The Monetary Board may consider any other acts/omissions as unsafe or unsound practices.

a. Operating with management whose policies and practices are detrimental to the bank and jeopardize the safety of its deposits.

b. Operating with total adjusted capital and reserves that are inadequate in relation to the kind and quality of the assets of the bank.

c. Operating in a way that produces a deficit in net operating income.

d. Operating with a serious lack of liquidity, especially in view of the asset and deposit/liability structure of the bank.

e. Engaging in speculative and hazardous investment policies.

f. Paying excessive cash dividends in relation to the capital position, earnings capacity and asset quality of the bank.

g. Excessive reliance on large, high-interest or volatile deposits/borrowings.

h. Excessive reliance on letters of credit either issued by the bank or accepted as collateral to loans advanced.

i. Excessive amounts of loan participations sold.

j. Paying interest on participations without advising participating institution that the source of interest was not from the borrower.

k. Selling participations without disclosing to the purchasers of those participations material, non-public information known to the bank.

l. Failure to limit, control and document contingent liabilities.

m. Engaging in hazardous lending and tax collection policies and practices, as evidenced by:

(1) An excessive volume of loans subject to adverse classification;

(2) An excessive volume of loans without adequate documentation, including credit information;

(3) Excessive net loan losses;

(4) An excessive volume of loans in relation to the total assets and deposits of the bank;

(5) An excessive volume of weak and self-serving loans to persons connected with the bank, especially if a significant portion of these loans are adversely classified;

(6) Excessive concentrations of credit, especially if a substantial portion of this credit is adversely classified;

(7) Indiscriminate participation in weak and undocumented loans originated by other institutions;

(8) Failing to adopt written loan policies;

(9) An excessive volume of past due or non-performing loans;

(10) Failure to diversify the loan portfolio/asset mix of the institution; and

(11) Failure to make provision for an adequate reserve for possible loan losses.

n. Permitting officers to engage in lending practices beyond the scope of their positions.

o. Operating the bank with inadequate internal controls.

p. Failure to keep accurate and updated books and records.

q. Operating the institution with excessive volume of out-of-territory loans.

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- r. Excessive volume of non-earning assets.
- s. Failure to heed warnings and admonitions of the supervisory authorities of the institution.
- t. Continued and flagrant violation of any law, rule, regulation or written agreement between the institution and the BSP.
- u. Any action likely to cause insolvency or substantial dissipation of assets or earnings of the institution or likely to seriously weaken its condition or otherwise seriously prejudice the interest of its depositors/investors/clients.
- v. Non-observance of the principles and the requirements for managing and monitoring large exposures and credit risk concentrations under Subsec. X301.6a and 6b.
- w. Improper or non-documentation of repurchase agreements covering government securities and commercial papers and other negotiable and non-negotiable securities or instruments.

CERTIFICATION OF COMPLIANCE WITH
SECTION 55.4 OF REPUBLIC ACT NO. 8791
(Appendix to Subsec. X262.3)

Name of Bank
Address of Head Office
Telefax/Fax Number

The Deputy Governor
Supervision and Examination Sector
Bangko Sentral ng Pilipinas
Manila, Philippines

Sir:

This is to certify that this bank, in the conduct of its business involving bank deposits, does not have in its employ any casual/non-regular personnel or employees/personnel, who are working after the probationary period of six (6) months, are still not being considered regular/permanent employees, personnel of the bank.

This certification is being submitted in compliance with the requirements of Circular No. 336 dated 02 July 2002 and Circular Letter dated 11 November 2003 implementing Section 55.4 of the General Banking Law of 2000.

Very truly yours,

Authorized Officer's Signature
Over Printed Name
Designation

**GUIDELINES ON RETENTION AND DISPOSAL OF
RECORDS OF RURAL AND COOPERATIVE BANKS**
[Appendix to Subsec. 3191.9 (2008 - 3161.9)]

The following guidelines shall govern the retention and disposal of records of RBs/Coop Banks.

A. Classification of Records and Documents	Retention Period
1. Accounting Records	
(a) Books of accounts, audited financial/annual reports	Permanent
(b) Tickets and supporting papers	10 years
(c) Official receipts (2 nd or 3 rd copy)	10 years
2. Organization papers for the establishment of RBs/ Coop Banks, branches/offices (organizational file), special license/authority granted by BSP (e.g. authority to accept D/Ds, government deposits, fringe benefit plan)	10 years
3. Manual of operations, including compliance system, policies on personnel, security and other related matters	Permanent
4. Stock and transfer book and related records and documents	Permanent
5. Minutes of meeting	
(a) Stockholders/general assembly, board of directors	Permanent
(b) Other committees	10 years
6. Human resource files	
(a) Documents pertaining to members of the board of directors and stockholders	Permanent
(b) Bank officers and staff	10 years from resignation/separation retirement
(c) Officers and staff with derogatory information	Permanent
7. Correspondence (to and from)	
(a) BSP on examination findings/exceptions and directives; rediscounting, loans and advances	Permanent
(b) Other government regulatory/supervisory authorities, e.g. PDIC, BIR, DOLE, SSS	Permanent
(c) All other correspondence	6 years
8. Reports to BSP (Financial and non-financial reports)	6 years

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9. Reports to other government and non-government institutions	Minimum of 6 years or as prescribed by the institution concerned
10. Records and documents on court cases/complaints	Permanent
11. Documents, certificates of ownership/titles on bank assets	Permanent
12. All other records/documents of all transactions, e.g. loans and investments, disposal of assets, deposit liabilities and borrowings, expenditures and income, disbursements, disposal of assets	10 years from dates when accounts were closed/disposed/settle

Notwithstanding the retention periods herein, RBs/Coop Banks may preserve for a longer period those records/documents they deem necessary.

B. Procedural requirements on disposal of banks records and documents

1. No RBs/Coop Banks shall dispose of any records without the prior approval of its board of directors.
2. Notice for disposal of records and documents in the prescribed form (Annex A) which shall include the proposed date of disposal and list of the records and documents to be disposed of in accordance with the above guidelines shall be submitted to the appropriate supervising and examining department within ten (10) banking days from date of approval of the board of directors. A copy of the afore-cited board resolution duly certified by the bank’s corporate/cooperative secretary should likewise be attached to the notice. The bank may proceed to dispose of the records and documents in the submitted list if after thirty (30) banking days from date the notice required herein shall have been received by the appropriate supervising and examining department, no advice against such notice has been received by the bank concerned.
3. All records and documents for disposal must be burned or shredded in the presence of a director of the bank duly designated by the board of directors, the Chief Operating Officer or equivalent rank and the Compliance Officer.
4. The designated director, the Chief Operating Officer (or its equivalent) and the Compliance Officer shall execute a joint affidavit (Annex B) attesting to the burning/shredding of the records/documents. The original and triplicate copies shall be kept permanently by the Treasurer or Cashier and the duplicate copy shall be submitted to the appropriate supervising and examining department within ten (10) banking days from date of actual disposal.

Name of Rural/Cooperative Bank

Address

NOTICE OF DISPOSAL OF RECORDS/DOCUMENTS

Date

The Director
Department of Rural Banks
Bangko Sentral ng Pilipinas
Manila

The Board of Directors of the _____ under
(Name of Rural/Cooperative Bank)

Board Resolution No. _____ dated _____ (copy of the resolution attached)
approved the disposal of the following records/documents:

Classification of Records and Documents	Dates of Transactions/Records/Documents	
	From	To
1. Accounting Records:		
a. Tickets and supporting papers	_____	_____
b. Official Receipts	_____	_____
2. Correspondence:	_____	_____
3. Reports to BSP	_____	_____
4. Other reports to government and non-government institutions	_____	_____
5. Other records/documents: (specify)	_____	_____
_____	_____	_____
_____	_____	_____

The above-stated records/documents are to be disposed of thru _____ in my presence and of _____ Director, and
(manner of disposal: shredding or burning)
_____, Compliance Officer, on _____ at _____.
(date) (time and place)

Signature over printed name of Chief
Operating Officer (COO) or its equivalent

REPUBLIC OF THE PHILIPPINES)
CITY/MUNICIPALITY OF _____) S.S
PROVINCE OF _____)

JOINT AFFIDAVIT

We, namely: _____, Director; _____, Chief Operating Officer (or Manager/equivalent rank); and _____, Compliance Officer, all of legal ages, representing the Rural/Cooperative Bank of _____, Inc. after having been sworn to in accordance with law do hereby depose and say:

- 1. That we are the bank officials of the Rural/Cooperative Bank of _____, Inc., duly designated under Board Resolution No. ____ dated _____, to ensure and witness the proper disposal of certain records, described in the attached Notice of Disposal of Bank Records/Documents dated _____ (“Annex A”).
- 2. That we have witnessed the burning/shredding of those records/documents described in the Notice of Disposal of Bank Records/Documents dated _____ that took place on _____ 20__ at _____ am/pm at the premises of the Rural/Cooperative Bank of _____.
- 3. That we have executed this Affidavit to attest to the truthfulness of the foregoing and in accordance with the rules prescribed by the Bangko Sentral ng Pilipinas (BSP) set forth under Circular-Letter No. ____ dated _____, 20__.

IN WITNESS WHEREOF, we have set our hands this _____ day of _____ 20__ at _____, Philippines.

SUBSCRIBED AND SWORN TO BEFORE ME, this _____ day of _____ 20__ at _____, the foregoing Affiants, exhibiting their respective Community Tax Certificates (CTC), to wit:

<u>Name</u>	<u>CTC No.</u>	<u>Date Issued</u>	<u>Place Issued</u>

NOTARY PUBLIC

My Commission expires on December 31, 20____
PTR No. _____ issued on _____ 20__ at _____

Doc. No. _____
Book No. _____
Page No. _____
Series of 20____.

FORMAT CERTIFICATION ON FOREIGN CURRENCY DEPOSIT UNIT
LENDING TO REGULAR BANKING UNIT
(Appendix to Subsec. X501.3c)

(Name of Bank)

CERTIFICATION

Pursuant to Subsec. X501.3c of the Manual of Regulations for Banks, we hereby certify¹ that on all banking days of the month ended _____, 200__ :

- a) There were no foreign currency borrowings by the Regular Banking Unit (RBU) from the Foreign Currency Deposit Unit (FCDU)/Expanded FCDU (EFCDU)
- b) RBU had foreign currency borrowings from FCDU/EFCDU and –
 - 1. Total outstanding balance of such foreign currency borrowings did not exceed the prescribed cap (i.e., lower of total outstanding balance on RBU’s on-balance sheet foreign currency trade assets or thirty percent (30%) of the level of FCDU/EFCDU deposit liabilities), and
 - 2. The borrowed foreign currency funds were utilized by RBU solely for its foreign currency trade transactions.

We further certify that, to the best of our knowledge, the foregoing statements are true and correct.

_____ President or Country Manager (for FX Banks) TIN: Com. Tax Cert No.: Issued on: Issued at:	_____ Compliance Officer TIN: Com. Tax Cert No.: Issued on: Issued at:	_____ Head of Treasury Department TIN: Com. Tax Cert No.: Issued on: Issued at:

Subscribed and sworn to before me, this _____day of _____, 200____,
affiants exhibiting their respective Community Tax Certificates as indicated above.

Person administering oath

¹ Check appropriate box.

Sample Computation on Foreign Currency Deposit Unit Lending to Regular
Banking Unit
(Appendix to Subsec. X501.3c)

FCDU LENDING to RBU
SAMPLE COMPUTATION - 30% CAP
(Amounts in Million USD)

		Average FCDU/EFCDU Deposit Liabilities ^{1/}		Average On- Balance Sheet Forex Trade Asset ^{2/}	Cap for the Week	“Borrowing-FCDU/EFCDU” Account		
		Amount	30%			Debit	Credit	Balance
August	2	140	42	30				
	9	120	36	45				
	12				30		10	10
	13						5	15
	14						5	20
	15						8	28
	16	110	33	36			2	30
	19				36		1	31
	20						2	33
	21						3	36
	22							36
	23	200	60	42				36
	26				33	3 ^{2/}		33
	27							33
Sept	28							33
	29							33
	30	170	51	27				33
	2				42		6	39
	3						2	41
	4					4		37
	5						3	40
	6	250	75	66			2	42
	9				27	15		27
	10					4		23
	11						4	27
	12							

^{1/} Computed using 2-month rolling data (i.e., for week ended 02 August, average of daily data from 03 June to 02 August; week ended 09 August, average of daily data from 10 June to 09 August, etc.).

Average daily balance for each observation period = Sum of daily balances/Total banking days

^{2/} RBU should pay off to reduce outstanding balance to within prescribed limit.

REVISED IMPLEMENTING RULES AND REGULATIONS
R.A. NO. 9160, AS AMENDED BY R.A. NO. 9194
[Appendix to Sec. X801 (2008 - X691)]

RULE 1 TITLE

Rule 1.a. Title. - These Rules shall be known and cited as the “Revised Rules and Regulations Implementing R.A. No. 9160”, [the Anti-Money Laundering Act of 2001 (AMLA)], as amended by R.A. No. 9194.

Rule 1.b. Purpose. - These Rules are promulgated to prescribe the procedures and guidelines for the implementation of the AMLA, as amended by R.A. No. 9194.

RULE 2 DECLARATION OF POLICY

Rule 2. Declaration of Policy. - It is hereby declared the policy of the State to protect the integrity and confidentiality of bank accounts and to ensure that the Philippines shall not be used as a money-laundering site for the proceeds of any unlawful activity. Consistent with its foreign policy, the Philippines shall extend cooperation in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed.

RULE 3 DEFINITIONS

Rule 3. Definitions. – For purposes of this Act, the following terms are hereby defined as follows:

Rule 3.a. Covered Institution refers to:

Rule 3.a.1. Banks, offshore banking units, QBs, trust entities, NSSLAs, pawnshops, and all other institutions, including their subsidiaries and affiliates supervised and/or regulated by the BSP.

(a) A *subsidiary* means an entity more than fifty percent (50%) of the outstanding voting stock of which is owned by a bank, QB, trust entity or any other institution supervised or regulated by the BSP.

(b) An *affiliate* means an entity at least twenty percent (20%) but not exceeding fifty percent (50%) of the voting stock of which is owned by a bank, QB, trust entity, or any other institution supervised and/or regulated by the BSP.

Rule 3.a.2. Insurance companies, insurance agents, insurance brokers, professional reinsurers, reinsurance brokers, holding companies, holding company systems and all other persons and entities supervised and/or regulated by the Insurance Commission (IC).

(a) An *insurance company* includes those entities authorized to transact insurance business in the Philippines, whether life or non-life and whether domestic, domestically incorporated or branch of a foreign entity. A contract of insurance is an agreement whereby one undertakes for a consideration to indemnify another against loss, damage or liability arising from an unknown or contingent event. Transacting insurance business includes making or proposing to make, as insurer, any insurance contract, or as surety, any contract of suretyship as a vocation and not as merely incidental to any other legitimate business or activity of the surety, doing any kind of business specifically recognized as constituting the doing of an insurance business within the meaning of Presidential Decree (P.D.) No. 612, as amended, including a reinsurance business and doing or proposing to do any business in substance equivalent to any

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of the foregoing in a manner designed to evade the provisions of P.D. No. 612, as amended.

(b) An *insurance agent* includes any person who solicits or obtains insurance on behalf of any insurance company or transmits for a person other than himself an application for a policy or contract of insurance to or from such company or offers or assumes to act in the negotiation of such insurance.

(c) An *insurance broker* includes any person who acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract or in placing risk or taking out insurance, on behalf of an insured other than himself.

(d) A *professional reinsurer* includes any person, partnership, association or corporation that transacts solely and exclusively reinsurance business in the Philippines, whether domestic, domestically incorporated or a branch of a foreign entity. A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance.

(e) A *reinsurance broker* includes any person who, not being a duly authorized agent, employee or officer of an insurer in which any reinsurance is effected, acts or aids in any manner in negotiating contracts of reinsurance or placing risks of effecting reinsurance, for any insurance company authorized to do business in the Philippines.

(f) A *holding company* includes any person who directly or indirectly controls any authorized insurer. A holding company system includes a holding company together with its controlled insurers and controlled persons.

Rule 3.a.3. (i) Securities dealers, brokers, salesmen, associated persons of brokers or dealers, IHs, investment agents and consultants, trading advisors, and other

entities managing securities or rendering similar services, (ii) mutual funds or open-end investment companies, close-end investment companies, common trust funds, pre-need companies or issuers and other similar entities; (iii) foreign exchange corporations, money changers, money payment, remittance, and transfer companies and other similar entities, and (iv) other entities administering or otherwise dealing in currency, commodities or financial derivatives based thereon, valuable objects, cash substitutes and other similar monetary instruments or property supervised and/or regulated by the Securities and Exchange Commission (SEC).

(a) A *securities broker* includes a person engaged in the business of buying and selling securities for the account of others.

(b) A *securities dealer* includes any person who buys and sells securities for his/her account in the ordinary course of business.

(c) A *securities salesman* includes a natural person, employed as such or as an agent, by a dealer, issuer or broker to buy and sell securities.

(d) An *associated person of a broker or dealer* includes an employee thereof who directly exercises control or supervisory authority, but does not include a salesman, or an agent or a person whose functions are solely clerical or ministerial.

(e) An *investment house* includes an enterprise which engages or purports to engage, whether regularly or on an isolated basis, in the underwriting of securities of another person or enterprise, including securities of the Government and its instrumentalities.

(f) A *mutual fund or an open-end investment company* includes an investment company which is offering for sale or has outstanding, any redeemable security of which it is the issuer.

(g) A *closed-end investment company* includes an investment company other than open-end investment company.

(h) A *common trust fund* includes a fund maintained by an entity authorized to perform trust functions under a written and formally established plan, exclusively for the collective investment and reinvestment of certain money representing participation in the plan received by it in its capacity as trustee, for the purpose of administration, holding or management of such funds and/or properties for the use, benefit or advantage of the trustor or of others known as beneficiaries.

(i) A *pre-need company or issuer* includes any corporation supervised and/or regulated by the SEC and is authorized or licensed to sell or offer for sale pre-need plans. *Pre-need plans* are contracts which provide for the performance of future service(s) or payment of future monetary consideration at the time of actual need, payable either in cash or installment by the planholder at prices stated in the contract with or without interest or insurance coverage and includes life, pension, education, internment and other plans, which the Commission may, from time to time, approve.

(j) A *foreign exchange corporation* includes any enterprise which engages or purports to engage, whether regularly or on an isolated basis, in the sale and purchase of foreign currency notes and such other foreign-currency denominated non-bank deposit transactions as may be authorized under its articles of incorporation.

(k) *Investment Advisor/Agent/Consultant* shall refer to any person:

(1) who for an advisory fee is engaged in the business of advising others, either directly or through circulars, reports, publications or writings, as to the value of any security and as to the advisability of trading in any security; or

(2) who for compensation and as part of a regular business, issues or promulgates, analyzes reports concerning the capital market, except:

- (a) any bank or trust company;
- (b) any journalist, reporter, columnist, editor, lawyer, accountant, teacher;
- (c) the publisher of any bonafide newspaper, news, business or financial publication of general and regular circulation, including their employees;
- (d) any contract market;
- (e) such other person not within the intent of this definition, provided that the furnishing of such service by the foregoing persons is solely incidental to the conduct of their business or profession.

(3) any person who undertakes the management of portfolio securities of investment companies, including the arrangement of purchases, sales or exchanges of securities.

(l) A *moneychanger* includes any person in the business of buying or selling foreign currency notes.

(m) A *money payment, remittance and transfer company* includes any person offering to pay, remit or transfer or transmit money on behalf of any person to another person.

(n) "*Customer*" refers to any person or entity that keeps an account, or otherwise transacts business, with a covered institution and any person or entity on whose behalf an account is maintained or a transaction is conducted, as well as the beneficiary of said transactions. A customer also includes the beneficiary of a trust, an investment fund, a pension fund or a company or person whose assets are managed by an asset manager, or a grantor of a trust. It includes any insurance policy holder, whether actual or prospective.

(o) "*Property*" includes any thing or item of value, real or personal, tangible or intangible, or any interest therein or any

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benefit, privilege, claim or right with respect thereto.

Rule 3.b. *Covered Transaction* is a transaction in cash or other equivalent monetary instrument involving a total amount in excess of PhP500,000.00 within one (1) banking day.

Rule 3.b.1. *Suspicious transactions* are transactions, regardless of amount, where any of the following circumstances exists:

- (1) There is no underlying legal or trade obligation, purpose or economic justification;
- (2) The client is not properly identified;
- (3) The amount involved is not commensurate with the business or financial capacity of the client;
- (4) Taking into account all known circumstances, it may be perceived that the client's transaction is structured in order to avoid being the subject of reporting requirements under the act;
- (5) Any circumstance relating to the transaction which is observed to deviate from the profile of the client and/or the client's past transactions with the covered institution;
- (6) The transaction is in any way related to an unlawful activity or any money laundering activity or offense under this act that is about to be, is being or has been committed; or
- (7) Any transaction that is similar, analogous or identical to any of the foregoing.

Rule 3.c. *Monetary Instrument* refers to:

- (1) Coins or currency of legal tender of the Philippines, or of any other country;
- (2) Drafts, checks and notes;
- (3) Securities or negotiable instruments, bonds, commercial papers, deposit certificates, trust certificates, custodial receipts or deposit substitute instruments, trading orders, transaction tickets and

confirmations of sale or investments and money market instruments;

(4) Contracts or policies of insurance, life or non-life, and contracts of suretyship; and

(5) Other similar instruments where title thereto passes to another by endorsement, assignment or delivery.

Rule 3.d. *Offender* refers to any person who commits a money laundering offense.

Rule 3.e. *Person* refers to any natural or juridical person.

Rule 3.f. *Proceeds* refers to an amount derived or realized from an unlawful activity. It includes:

- (1) All material results, profits, effects and any amount realized from any unlawful activity;
- (2) All monetary, financial or economic means, devices, documents, papers or things used in or having any relation to any unlawful activity; and
- (3) All moneys, expenditures, payments, disbursements, costs, outlays, charges, accounts, refunds and other similar items for the financing, operations, and maintenance of any unlawful activity.

Rule 3.g. *Supervising Authority* refers to the BSP, the SEC and the IC. Where the BSP, SEC or IC supervision applies only to the registration of the covered institution, the BSP, the SEC or the IC, within the limits of the AMLA, shall have the authority to require and ask assistance from the government agency having regulatory power and/or licensing authority over said covered institution for the implementation and enforcement of the AMLA and these Rules.

Rule 3.h. *Transaction* refers to any act establishing any right or obligation or giving rise to any contractual or legal relationship between the parties thereto. It also includes

any movement of funds by any means with a covered institution.

Rule 3.i. *Unlawful activity* refers to any act or omission or series or combination thereof involving or having relation, to the following:

(A) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code, as amended;

(1) Kidnapping for ransom

(B) Sections 4, 5, 6, 8, 9, 10, 12, 13, 14, 15 and 16 of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002;

- (2) Importation of prohibited drugs;
- (3) Sale of prohibited drugs;
- (4) Administration of prohibited drugs;
- (5) Delivery of prohibited drugs;
- (6) Distribution of prohibited drugs;
- (7) Transportation of prohibited drugs;
- (8) Maintenance of a Den, Dive or Resort for prohibited users;

- (9) Manufacture of prohibited drugs;
- (10) Possession of prohibited drugs;
- (11) Use of prohibited drugs;
- (12) Cultivation of plants which are sources of prohibited drugs; and
- (13) Culture of plants which are sources of prohibited drugs.

(C) Section 3 paragraphs b, c, e, g, h and i of R.A. No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act;

(14) Directly or indirectly requesting or receiving any gift, present, share, percentage or benefit for himself or for any other person in connection with any contract or transaction between the Government and any party, wherein the public officer in his official capacity has to intervene under the law;

(15) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself

or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any government permit or license, in consideration for the help given or to be given, without prejudice to Section 13 of R.A. 3019;

(16) Causing any undue injury to any party, including the government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence;

(17) Entering, on behalf of the government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby;

(18) Directly or indirectly having financial or pecuniary interest in any business contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest;

(19) Directly or indirectly becoming interested, for personal gain, or having material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which exercise of discretion in such approval, even if he votes against the same or he does not participate in the action of the board, committee, panel or group.

(D) Plunder under R.A. No. 7080, as amended;

(20) Plunder through misappropriation, conversion, misuse or malversation of public funds or raids upon the public treasury;

(21) Plunder by receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or

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entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;

(22) Plunder by the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies, instrumentalities or government-owned or controlled corporations or their subsidiaries;

(23) Plunder by obtaining, receiving or accepting, directly or indirectly, any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;

(24) Plunder by establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests;

(25) Plunder by taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

(E) Robbery and extortion under Articles 294, 295, 296, 299, 300, 301 and 302 of the Revised Penal Code, as amended;

(26) Robbery with violence or intimidation of persons;

(27) Robbery with physical injuries, committed in an uninhabited place and by a band, or with use of firearms on a street, road or alley;

(28) Robbery in an uninhabited house or public building or edifice devoted to worship.

(F) Jueteng and Masiao punished as illegal gambling under Presidential Decree No. 1602;

(29) Jueteng;

(30) Masiao.

(G) Piracy on the high seas under the Revised Penal Code, as amended and Presidential Decree No. 532;

(31) Piracy on the high seas;

(32) Piracy in inland Philippine waters;

(33) Aiding and abetting pirates and brigands.

(H) Qualified theft under Article 310 of the Revised Penal Code, as amended;

(34) Qualified theft.

(I) Swindling under Article 315 of the Revised Penal Code, as amended;

(35) Estafa with unfaithfulness or abuse of confidence by altering the substance, quality or quantity of anything of value which the offender shall deliver by virtue of an obligation to do so, even though such obligation be based on an immoral or illegal consideration;

(36) Estafa with unfaithfulness or abuse of confidence by misappropriating or converting, to the prejudice of another, money, goods or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property;

(37) Estafa with unfaithfulness or abuse of confidence by taking undue advantage of the signature of the offended party in blank, and by writing any document above such signature in blank, to the prejudice of the offended party or any third person;

(38) Estafa by using a fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits;

(39) Estafa by altering the quality, fineness or weight of anything pertaining to his art or business;

(40) Estafa by pretending to have bribed any government employee;

(41) Estafa by postdating a check, or issuing a check in payment of an obligation when the offender has no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check;

(42) Estafa by inducing another, by means of deceit, to sign any document;

(43) Estafa by resorting to some fraudulent practice to ensure success in a gambling game;

(44) Estafa by removing, concealing or destroying, in whole or in part, any court record, office files, document or any other papers.

(J) Smuggling under R.A. Nos. 455 and 1937;

(45) Fraudulent importation of any vehicle;

(46) Fraudulent exportation of any vehicle;

(47) Assisting in any fraudulent importation;

(48) Assisting in any fraudulent exportation;

(49) Receiving smuggled article after fraudulent importation;

(50) Concealing smuggled article after fraudulent importation;

(51) Buying smuggled article after fraudulent importation;

(52) Selling smuggled article after fraudulent importation;

(53) Transportation of smuggled article after fraudulent importation;

(54) Fraudulent practices against customs revenue.

(K) Violations under R.A. No. 8792, otherwise known as the Electronic Commerce Act of 2000;

K.1. *Hacking or cracking*, which refers to:

(55) unauthorized access into or interference in a computer system/server or information and communication system; or

(56) any access in order to corrupt, alter, steal, or destroy using a computer or other similar information and communication devices, without the knowledge and consent of the owner of the computer or information and communications system, including

(57) the introduction of computer viruses and the like, resulting in the corruption, destruction, alteration, theft or loss of electronic data messages or electronic document;

K.2. *Piracy*, which refers to:

(58) the unauthorized copying, reproduction,

(59) the unauthorized dissemination, distribution,

(60) the unauthorized importation,

(61) the unauthorized use, removal, alteration, substitution, modification,

(62) the unauthorized storage, uploading, downloading, communication, making available to the public, or

(63) the unauthorized broadcasting, of protected material, electronic signature or copyrighted works including legally protected sound recordings or phonograms or information material on protected works, through the use of telecommunication networks, such as, but not limited to, the internet, in a manner that infringes intellectual property rights;

K.3. Violations of the Consumer Act or R.A. No. 7394 and other relevant or pertinent laws through transactions covered by or using electronic data messages or electronic documents:

(64) Sale of any consumer product that is not in conformity with standards under the Consumer Act;

(65) Sale of any product that has been banned by a rule under the Consumer Act;

(66) Sale of any adulterated or mislabeled product using electronic documents;

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(67) Adulteration or misbranding of any consumer product;

(68) Forging, counterfeiting or simulating any mark, stamp, tag, label or other identification device;

(69) Revealing trade secrets;

(70) Alteration or removal of the labeling of any drug or device held for sale;

(71) Sale of any drug or device not registered in accordance with the provisions of the E-Commerce Act;

(72) Sale of any drug or device by any person not licensed in accordance with the provisions of the E-Commerce Act;

(73) Sale of any drug or device beyond its expiration date;

(74) Introduction into commerce of any mislabeled or banned hazardous substance;

(75) Alteration or removal of the labeling of a hazardous substance;

(76) Deceptive sales acts and practices;

(77) Unfair or unconscionable sales acts and practices;

(78) Fraudulent practices relative to weights and measures;

(79) False representations in advertisements as the existence of a warranty or guarantee;

(80) Violation of price tag requirements;

(81) Mislabeled consumer products;

(82) False, deceptive or misleading advertisements;

(83) Violation of required disclosures on consumer loans;

(84) Other violations of the provisions of the E-Commerce Act;

(L) Hijacking and other violations under R.A. No. 6235; destructive arson and murder, as defined under the Revised Penal Code, as amended, including those perpetrated by terrorists against non-combatant persons and similar targets;

(85) Hijacking;

(86) Destructive arson;

(87) Murder;

(88) Hijacking, destructive arson or murder perpetrated by terrorists against non-combatant persons and similar targets;

(M) Fraudulent practices and other violations under R.A. No. 8799, otherwise known as the Securities Regulation Code of 2000;

(89) Sale, offer or distribution of securities within the Philippines without a registration statement duly filed with and approved by the SEC;

(90) Sale or offer to the public of any pre-need plan not in accordance with the rules and regulations which the SEC shall prescribe;

(91) Violation of reportorial requirements imposed upon issuers of securities;

(92) Manipulation of security prices by creating a false or misleading appearance of active trading in any listed security traded in an Exchange or any other trading market;

(93) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that raises their prices to induce the purchase of a security, whether of the same or different class, of the same issuer or of a controlling, controlled or commonly controlled company by others;

(94) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that depresses their price to induce the sale of a security, whether of the same or different class, of the same issuer or of a controlling, controlled or commonly controlled company by others;

(95) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that creates active trading to induce such a purchase or sale through manipulative devices such as marking the close, painting the tape, squeezing the float, hype and dump, boiler room operations and such other similar devices;

(96) Manipulation of security prices by circulating or disseminating information that the price of any security listed in an Exchange will or is likely to rise or fall because of manipulative market operations of any one or more persons conducted for the purpose of raising or depressing the price of the security for the purpose of inducing the purchase or sale of such security;

(97) Manipulation of security prices by making false or misleading statements with respect to any material fact, which he knew or had reasonable ground to believe was so false and misleading, for the purpose of inducing the purchase or sale of any security listed or traded in an Exchange;

(98) Manipulation of security prices by effecting, alone or with others, any series of transactions for the purchase and/or sale of any security traded in an Exchange for the purpose of pegging, fixing or stabilizing the price of such security, unless otherwise allowed by the Securities Regulation Code or by the rules of the SEC;

(99) Sale or purchase of any security using any manipulative deceptive device or contrivance;

(100) Execution of short sales or stop-loss order in connection with the purchase or sale of any security not in accordance with such rules and regulations as the SEC may prescribe as necessary and appropriate in the public interest or the protection of the investors;

(101) Employment of any device, scheme or artifice to defraud in connection with the purchase and sale of any securities;

(102) Obtaining money or property in connection with the purchase and sale of any security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(103) Engaging in any act, transaction, practice or course of action in the sale and purchase of any security which operates or would operate as a fraud or deceit upon any person;

(104) Insider trading;

(105) Engaging in the business of buying and selling securities in the Philippines as a broker or dealer, or acting as a salesman, or an associated person of any broker or dealer without any registration from the Commission;

(106) Employment by a broker or dealer of any salesman or associated person or by an issuer of any salesman, not registered with the SEC;

(107) Effecting any transaction in any security, or reporting such transaction, in an Exchange or using the facility of an Exchange which is not registered with the SEC;

(108) Making use of the facility of a clearing agency which is not registered with the SEC;

(109) Violations of margin requirements;

(110) Violations on the restrictions on borrowings by members, brokers and dealers;

(111) Aiding and Abetting in any violations of the Securities Regulation Code;

(112) Hindering, obstructing or delaying the filing of any document required under the Securities Regulation Code or the rules and regulations of the SEC;

(113) Violations of any of the provisions of the implementing rules and regulations of the SEC;

(114) Any other violations of any of the provisions of the Securities Regulation Code.

(N) Felonies or offenses of a similar nature to the aforementioned unlawful activities that are punishable under the penal laws of other countries.

In determining whether or not a felony or offense punishable under the penal laws of other countries, is "of a similar nature", as to constitute the same as an unlawful

activity under the AMLA, the nomenclature of said felony or offense need not be identical to any of the predicate crimes listed under Rule 3.i.

**RULE 4 MONEY LAUNDERING
OFFENSE**

Rule 4.1. Money Laundering Offense. - Money laundering is a crime whereby the proceeds of an unlawful activity as herein defined are transacted, thereby making them appear to have originated from legitimate sources. It is committed by the following:

- (a) Any person knowing that any monetary instrument or property represents, involves, or relates to, the proceeds of any unlawful activity, transacts or attempts to transact said monetary instrument or property.
- (b) Any person knowing that any monetary instrument or property involves the proceeds of any unlawful activity, performs or fails to perform any act as a result of which he facilitates the offense of money laundering referred to in paragraph (a) above.
- (c) Any person knowing that any monetary instrument or property is required under this Act to be disclosed and filed with the Anti-Money Laundering Council (AMLC), fails to do so.

**RULE 5 JURISDICTION OF MONEY
LAUNDERING CASES AND MONEY
LAUNDERING INVESTIGATION
PROCEDURES**

Rule 5.1. Jurisdiction of Money Laundering Cases. - The Regional Trial Courts shall have the jurisdiction to try all cases on money laundering. Those committed by public officers and private persons who are in conspiracy with such public officers shall be under the jurisdiction of the Sandiganbayan.

Rule 5.2. Investigation of Money Laundering Offenses. - The AMLC shall investigate:

- (a) Suspicious transactions;
- (b) Covered transactions deemed suspicious after an investigation conducted by the AMLC;
- (c) Money laundering activities; and
- (d) Other violations of this act.

Rule 5.3. Attempts at Transactions. - Section 4 (a) and (b) of the AMLA provides that any person who attempts to transact any monetary instrument or property representing, involving or relating to the proceeds of any unlawful activity shall be prosecuted for a money laundering offense. Accordingly, the reports required under Rule 9.3 (a) and (b) of these Rules shall include those pertaining to any attempt by any person to transact any monetary instrument or property representing, involving or relating to the proceeds of any unlawful activity.

**RULE 6 PROSECUTION OF MONEY
LAUNDERING**

Rule 6.1. Prosecution of Money Laundering. -

- (a) Any person may be charged with and convicted of both the offense of money laundering and the unlawful activity as defined under Rule 3 (i) of the AMLA.
- (b) Any proceeding relating to the unlawful activity shall be given precedence over the prosecution of any offense or violation under the AMLA without prejudice to the application Ex-Parte by the AMLC to the Court of Appeals for a Freeze Order with respect to the monetary instrument or property involved therein and resort to other remedies provided under the AMLA, the rules of court and other pertinent laws and rules.

Rule 6.2. When the AMLC finds, after investigation, that there is probable cause to charge any person with a money laundering offense under Section 4 of the AMLA, it shall cause a complaint to be filed, pursuant to Section 7 (4) of the AMLA, before the Department of Justice or the Ombudsman, which shall then conduct the preliminary investigation of the case.

Rule 6.3. After due notice and hearing in the preliminary investigation proceedings before the Department of Justice, or the Ombudsman, as the case may be, and the latter should find probable cause of a money laundering offense, it shall file the necessary information before the Regional Trial Courts or the Sandiganbayan.

Rule 6.4. Trial for the money laundering offense shall proceed in accordance with the Code of Criminal Procedure or the Rules of Procedure of the Sandiganbayan, as the case may be.

Rule 6.5. Knowledge of the offender that any monetary instrument or property represents, involves, or relates to the proceeds of an unlawful activity or that any monetary instrument or property is required under the AMLA to be disclosed and filed with the AMLC, may be established by direct evidence or inferred from the attendant circumstances.

Rule 6.6. All the elements of every money laundering offense under Section 4 of the AMLA must be proved by evidence beyond reasonable doubt, including the element of knowledge that the monetary instrument or property represents, involves or relates to the proceeds of any unlawful activity.

Rule 6.7. No element of the unlawful activity, however, including the identity of the perpetrators and the details of the actual

commission of the unlawful activity need be established by proof beyond reasonable doubt. The elements of the offense of money laundering are separate and distinct from the elements of the felony or offense constituting the unlawful activity.

RULE 7 CREATION OF ANTI-MONEY LAUNDERING COUNCIL (AMLC)

Rule 7.1.a. Composition. - The Anti-Money Laundering Council is hereby created and shall be composed of the Governor of the BSP as Chairman, the Commissioner of the Insurance Commission and the Chairman of the Securities and Exchange Commission as members.

Rule 7.1.b. Unanimous Decision. - The AMLC shall act unanimously in discharging its functions as defined in the AMLA and in these Rules. However, in the case of the incapacity, absence or disability of any member to discharge his functions, the officer duly designated or authorized to discharge the functions of the Governor of the BSP, the Chairman of the SEC or the Insurance Commissioner, as the case may be, shall act in his stead in the AMLC.

Rule 7.2. Functions. - The functions of the AMLC are defined hereunder:

(1) to require and receive covered or suspicious transaction reports from covered institutions;

(2) to issue orders addressed to the appropriate Supervising Authority or the covered institution to determine the true identity of the owner of any monetary instrument or property subject of a covered or suspicious transaction report, or request for assistance from a foreign State, or believed by the Council, on the basis of substantial evidence, to be, in whole or in part, wherever located, representing, involving, or related to, directly or indirectly, in any manner or by any means, the proceeds of an unlawful activity;

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(3) to institute civil forfeiture proceedings and all other remedial proceedings through the Office of the Solicitor General;

(4) to cause the filing of complaints with the Department of Justice or the Ombudsman for the prosecution of money laundering offenses;

(5) to investigate suspicious transactions and covered transactions deemed suspicious after an investigation by the AMLC, money laundering activities and other violations of this Act;

(6) to apply before the Court of Appeals, Ex-Parte, for the freezing of any monetary instrument or property alleged to be proceeds of any unlawful activity as defined under Section 3(i) hereof;

(7) to implement such measures as may be inherent, necessary, implied, incidental and justified under the AMLA to counteract money laundering. Subject to such limitations as provided for by law, the AMLC is authorized under Rule 7 (7) of the AMLA to establish an information sharing system that will enable the AMLC to store, track and analyze money laundering transactions for the resolute prevention, detection and investigation of money laundering offenses. For this purpose, the AMLC shall install a computerized system that will be used in the creation and maintenance of an information database;

(8) to receive and take action in respect of any request from foreign states for assistance in their own anti-money laundering operations as provided in the AMLA. The AMLC is authorized under Sections 7 (8) and 13 (b) and (d) of the AMLA to receive and take action in respect of any request of foreign states for assistance in their own anti-money laundering operations, in respect of conventions, resolutions and other directives of the United Nations (UN), the UN Security Council, and other international organizations of which the Philippines is a

member. However, the AMLC may refuse to comply with any such request, convention, resolution or directive where the action sought therein contravenes the provisions of the Constitution, or the execution thereof is likely to prejudice the national interest of the Philippines.

(9) to develop educational programs on the pernicious effects of money laundering, the methods and techniques used in money laundering, the viable means of preventing money laundering and the effective ways of prosecuting and punishing offenders.

(10) to enlist the assistance of any branch, department, bureau, office, agency or instrumentality of the government, including government-owned and -controlled corporations, in undertaking any and all anti-money laundering operations, which may include the use of its personnel, facilities and resources for the more resolute prevention, detection and investigation of money laundering offenses and prosecution of offenders. The AMLC may require the intelligence units of the Armed Forces of the Philippines, the Philippine National Police, the Department of Finance, the Department of Justice, as well as their attached agencies, and other domestic or transnational governmental or non-governmental organizations or groups to divulge to the AMLC all information that may, in any way, facilitate the resolute prevention, investigation and prosecution of money laundering offenses and other violations of the AMLA.

(11) To impose administrative sanctions for the violation of laws, rules, regulations and orders and resolutions issued pursuant thereto.

Rule 7.3. Meetings. - The AMLC shall meet every first Monday of the month, or as often as may be necessary at the call of the Chairman.

**RULE 8 CREATION OF A
SECRETARIAT**

Rule 8.1. The Executive Director. - The Secretariat shall be headed by an Executive Director who shall be appointed by the AMLC for a term of five (5) years. He must be a member of the Philippine Bar, at least thirty-five (35) years of age, must have served at least five (5) years either at the BSP, the SEC or the IC and of good moral character, unquestionable integrity and known probity. He shall be considered a regular employee of the BSP with the rank of Assistant Governor, and shall be entitled to such benefits and subject to such rules and regulations, as well as prohibitions, as are applicable to officers of similar rank.

Rule 8.2. Composition. - In organizing the Secretariat, the AMLC may choose from those who have served, continuously or cumulatively, for at least five (5) years in the BSP, the SEC or the IC. All members of the Secretariat shall be considered regular employees of the BSP and shall be entitled to such benefits and subject to such rules and regulations as are applicable to BSP employees of similar rank.

Rule 8.3. Detail and Secondment. - The AMLC is authorized under Section 7 (10) of the AMLA to enlist the assistance of the BSP, the SEC or the IC, or any other branch, department, bureau, office, agency or instrumentality of the government, including government-owned and controlled corporations, in undertaking any and all anti-money laundering operations. This includes the use of any member of their personnel who may be detailed or seconded to the AMLC, subject to existing laws and Civil Service Rules and Regulations. Detailed personnel shall continue to receive their

salaries, benefits and emoluments from their respective mother units. Seconded personnel shall receive, in lieu of their respective compensation packages from their respective mother units, the salaries, emoluments and all other benefits to which their AMLC Secretariat positions are entitled to.

Rule 8.4. Confidentiality Provisions. - The members of the AMLC, the Executive Director, and all the members of the Secretariat, whether permanent, on detail or on secondment, shall not reveal, in any manner, any information known to them by reason of their office. This prohibition shall apply even after their separation from the AMLA. In case of violation of this provision, the person shall be punished in accordance with the pertinent provisions of the Central Bank Act.

**RULE 9 PREVENTION OF MONEY
LAUNDERING; CUSTOMER
IDENTIFICATION REQUIREMENTS AND
RECORD KEEPING**

**Rule 9.1. Customer Identification
Requirements**

Rule 9.1.a. Customer Identification. - Covered institutions shall establish and record the true identity of its clients based on official documents. They shall maintain a system of verifying the true identity of their clients and, in case of corporate clients, require a system of verifying their legal existence and organizational structure, as well as the authority and identification of all persons purporting to act on their behalf. Covered institutions shall establish appropriate systems and methods based on internationally compliant standards and adequate internal controls for verifying and recording the true and full identity of their customers.

Rule 9.1.b. Trustee, Nominee and Agent Accounts. - When dealing with customers who are acting as trustee, nominee, agent or in any capacity for and on behalf of another, covered institutions shall verify and record the true and full identity of the person(s) on whose behalf a transaction is being conducted. Covered institutions shall also establish and record the true and full identity of such trustees, nominees, agents and other persons and the nature of their capacity and duties. In case a covered institution has doubts as to whether such persons are being used as dummies in circumvention of existing laws, it shall immediately make the necessary inquiries to verify the status of the business relationship between the parties.

Rule 9.1.c. Minimum Information/Documents Required for Individual Customers. - Covered institutions shall require customers to produce original documents of identity issued by an official authority, bearing a photograph of the customer. Examples of such documents are identity cards and passports. The following minimum information/documents shall be obtained from individual customers:

- (1) Name;
- (2) Present address;
- (3) Permanent address;
- (4) Date and place of birth;
- (5) Nationality;
- (6) Nature of work and name of employer or nature of self-employment/business;
- (7) Contact numbers;
- (8) Tax identification number, Social Security System number or Government Service and Insurance System number;
- (9) Specimen signature;
- (10) Source of fund(s); and
- (11) Names of beneficiaries in case of insurance contracts and whenever applicable.

Rule 9.1.d. Minimum Information/Documents Required for Corporate and Juridical Entities. - Before establishing business relationships, covered institutions shall endeavor to ensure that the customer is a corporate or juridical entity which has not been or is not in the process of being, dissolved, wound up or voided, or that its business or operations has not been or is not in the process of being, closed, shut down, phased out, or terminated. Dealings with shell companies and corporations, being legal entities which have no business substance in their own right but through which financial transactions may be conducted, should be undertaken with extreme caution. The following minimum information/documents shall be obtained from customers that are corporate or juridical entities, including shell companies and corporations:

- (1) Articles of Incorporation/Partnership;
- (2) By-laws;
- (3) Official address or principal business address;
- (4) List of directors/partners;
- (5) List of principal stockholders owning at least two percent (2%) of the capital stock;
- (6) Contact numbers;
- (7) Beneficial owners, if any; and
- (8) Verification of the authority and identification of the person purporting to act on behalf of the client.

Rule 9.1.e. Prohibition Against Certain Accounts. Covered institutions shall maintain accounts only in the true and full name of the account owner or holder. The provisions of existing laws to the contrary notwithstanding, anonymous accounts, accounts under fictitious names, and all other similar accounts shall be absolutely prohibited.

Rule 9.1.f. Prohibition Against Opening of Accounts Without Face-to-face Contact. - No new accounts shall be opened and created without face-to-face contact and full compliance with the requirements under Rule 9.1.c of these Rules.

Rule 9.1.g. Numbered Accounts. - Peso and foreign currency non-checking numbered accounts shall be allowed: *Provided*, That the true identity of the customers of all peso and foreign currency non-checking numbered accounts are satisfactorily established based on official and other reliable documents and records, and that the information and documents required under the provisions of these Rules are obtained and recorded by the covered institution. No peso and foreign currency non-checking accounts shall be allowed without the establishment of such identity and in the manner herein provided. The BSP may conduct annual testing for the purpose of determining the existence and true identity of the owners of such accounts. The SEC and the IC may conduct similar testing more often than once a year and covering such other related purposes as may be allowed under their respective charters.

Rule 9.2. Record Keeping Requirements

Rule 9.2.a. Record Keeping: Kinds of Records and Period for Retention. – All records of all transactions of covered institutions shall be maintained and safely stored for five (5) years from the dates of transactions. Said records and files shall contain the full and true identity of the owners or holders of the accounts involved in the covered transactions and all other customer identification documents. Covered institutions shall undertake the necessary adequate security measures to ensure the confidentiality of such file. Covered institutions shall prepare and maintain documentation, in accordance with the

mentioned client identification requirements, on their customer accounts, relationships and transactions such that any account, relationship or transaction can be so reconstructed as to enable the AMLC, and/or the courts to establish an audit trail for money laundering.

Rule 9.2.b. Existing and New Accounts and New Transactions. - All records of existing and new accounts and of new transactions shall be maintained and safely stored for five (5) years from 17 October 2001 or from the dates of the accounts or transactions, whichever is later.

Rule 9.2.c. Closed Accounts. - With respect to closed accounts, the records on customer identification, account files and business correspondence shall be preserved and safely stored for at least five (5) years from the dates when they were closed.

Rule 9.2.d. Retention of Records in Case a Money Laundering Case has been Filed in Court. – If a money laundering case based on any record kept by the covered institution concerned has been filed in court, said file must be retained beyond the period stipulated in the three (3) immediately preceding sub-Rules, as the case may be, until it is confirmed that the case has been finally resolved or terminated by the court.

Rule 9.2.e. Form of Records. – Records shall be retained as originals in such forms as are admissible in court pursuant to existing laws and the applicable rules promulgated by the Supreme Court.

Rule 9.3. Reporting of Covered Transactions. -

Rule 9.3.a. Period of Reporting Covered Transactions and Suspicious Transactions. - Covered institutions shall report to the AMLC all covered transactions and

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suspicious transactions within five (5) working days from occurrence thereof, unless the supervising authority concerned prescribes a longer period not exceeding ten (10) working days.

Should a transaction be determined to be both a covered and a suspicious transaction, the covered institution shall report the same as a suspicious transaction.

The reporting of covered transactions by covered institutions shall be deferred for a period of sixty (60) days after the effectivity of R.A. No. 9194, or as may be determined by the AMLC, in order to allow the covered institutions to configure their respective computer systems; provided that, all covered transactions during said deferment period shall be submitted thereafter.

Rule 9.3.b. Covered and Suspicious Transaction Report Forms. - The Covered Transaction Report (CTR) and the Suspicious Transaction Report (STR) shall be in the forms prescribed by the AMLC.

Rule 9.3.b.1. Covered institutions shall use the existing forms for Covered Transaction Reports and Suspicious Transaction Reports, until such time as the AMLC has issued new sets of forms.

Rule 9.3.b.2. Covered Transaction Reports and Suspicious Transaction Reports shall be submitted in a secured manner to the AMLC in electronic form, either via diskettes, leased lines, or through internet facilities, with the corresponding hard copy for suspicious transactions. The final flow and procedures for such reporting shall be mapped out in the manual of operations to be issued by the AMLC.

Rule 9.3.c. Exemption from Bank Secrecy Laws. – When reporting covered or suspicious transactions to the AMLC,

covered institutions and their officers and employees, shall not be deemed to have violated R.A. No. 1405, as amended, R.A. No. 6426, as amended, R.A. No. 8791 and other similar laws, but are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person the fact that a covered or suspicious transaction report was made, the contents thereof, or any other information in relation thereto. In case of violation thereof, the concerned officer and employee of the covered institution, shall be criminally liable.

Rule 9.3.d. Confidentiality Provisions. – When reporting covered transactions or suspicious transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person, entity, or the media, the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. Neither may such reporting be published or aired in any manner or form by the mass media, electronic mail, or other similar devices. In case of violation hereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, or media shall be held criminally liable.

Rule 9.3.e. Safe Harbor Provisions. – No administrative, criminal or civil proceedings, shall lie against any person for having made a covered transaction report or a suspicious transaction report in the regular performance of his duties and in good faith, whether or not such reporting results in any criminal prosecution under this Act or any other Philippine law.

RULE 10 APPLICATION FOR FREEZE ORDERS

Rule 10.1. When the AMLC May Apply for the Freezing of Any Monetary Instrument or Property. -

(a) After an investigation conducted by the AMLC and upon determination that probable cause exists that a monetary instrument or property is in any way related to any unlawful activity as defined under Section 3 (i), the AMLC may file an Ex-Parte application before the Court of Appeals for the issuance of a freeze order on any monetary instrument or property subject thereof prior to the institution or in the course of, the criminal proceedings involving the unlawful activity to which said monetary instrument or property is any way related.

(b) Considering the intricate and diverse web of related and interlocking accounts pertaining to the monetary instrument(s) or property(ies) that any person may create in the different covered institutions, their branches and/or other units, the AMLC may apply to the Court of Appeals for the freezing, not only of the monetary instruments or properties in the names of the reported owner(s)/holder(s), and monetary instruments or properties named in the application of the AMLC but also all other related web of accounts pertaining to other monetary instruments and properties, the funds and sources of which originated from or are related to the monetary instrument(s) or property(ies) subject of the freeze order(s).

(c) The freeze order shall be effective for twenty (20) days unless extended by the Court of Appeals upon application by the AMLC.

Rule 10.2. Definition of Probable Cause.

- Probable cause includes such facts and circumstances which would lead a reasonably discreet, prudent or cautious man to believe that an unlawful activity

and/or a money laundering offense is about to be, is being or has been committed and that the account or any monetary instrument or property subject thereof sought to be frozen is in any way related to said unlawful activity and/or money laundering offense.

Rule 10.3. Duty of Covered Institution Upon Receipt Thereof. –

Rule 10.3.a. Upon receipt of the notice of the freeze order, the covered institution concerned shall immediately freeze the monetary instrument or property and related web of accounts subject thereof.

Rule 10.3.b. The covered institution shall likewise immediately furnish a copy of the notice of the freeze order upon the owner or holder of the monetary instrument or property or related web of accounts subject thereof.

Rule 10.3.c. Within twenty-four (24) hours from receipt of the freeze order, the covered institution concerned shall submit to the Court of Appeals and the AMLC, by personal delivery, a detailed written return on the freeze order, specifying all the pertinent and relevant information which shall include the following:

1. The account number(s);
2. The name(s) of the account owner(s) or holder(s);
3. The amount of the monetary instrument, property or related web of accounts as of the time they were frozen;
4. All relevant information as to the nature of the monetary instrument or property;
5. Any information on the related web of accounts pertaining to the monetary instrument or property subject of the freeze order; and
6. The time when the freeze thereon took effect.

Rule 10.4. Definition of Related Web of Accounts. -

Related Web of Accounts pertaining to the money instrument or property subject of the freeze order is defined as those accounts, the funds and sources of which originated from and/or are materially linked to the monetary instrument(s) or property(ies) subject of the freeze order(s).

Upon receipt of the freeze order issued by the court of appeals and upon verification by the covered institution that the related web of accounts originated from and/or are materially linked to the monetary instrument or property subject of the freeze order, the covered institution shall freeze these related web of accounts wherever these funds may be found.

The return of the covered institution as required under rule 10.3.c shall include the fact of such freezing and an explanation as to the grounds for the identification of the related web of accounts.

Rule 10.5. Extension of the Freeze Order

- Before the twenty (20) day period of the freeze order issued by the court of appeals expires, the AMLC may apply in the same court for an extension of said period. Upon the timely filing of such application and pending the decision of the Court of Appeals to extend the period, said period shall be deemed suspended and the freeze order shall remain effective.

However, the covered institution shall not lift the effects of the freeze order without securing official confirmation from the AMLC.

Rule 10.6. Prohibition Against Issuance of Freeze Orders Against Candidates for an Electoral Office During Election Period

- No assets shall be frozen to the prejudice of a candidate for an electoral office during an election period.

RULE 11 AUTHORITY TO INQUIRE INTO BANK DEPOSITS

Rule 11.1. Authority to Inquire into Bank Deposits with Court Order. -

Notwithstanding the provisions of R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791, and other laws, the AMLC may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution and their subsidiaries and affiliates upon order of any competent court in cases of violation of this Act, when it has been established that there is probable cause that the deposits or investments involved are related to an unlawful activity as defined in Section 3 (i) hereof or a money laundering offense under Section 4 hereof; except in cases as provided under Rule 11.2.

Rule 11.2. Authority to Inquire into Bank Deposits Without Court Order. -

The AMLC may inquire into or examine deposit and investments with any banking institution or NBFI and their subsidiaries and affiliates without a Court Order where any of the following unlawful activities are involved:

(a) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code, as amended;

(b) Sections 4,5,6, 8, 9, 10, 12, 13, 14, 15 and 16 of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002;

(c) Hijacking and other violations under R.A. No. 6235; destructive arson and murder, as defined under the Revised Penal Code, as amended, including those perpetrated by terrorists against non-combatant persons and similar targets.

Rule 11.2.a. Procedure For Examination Without A Court Order. -

Where any of the unlawful activities enumerated under the immediately preceding Rule 11.2 are

involved, and there is probable cause that the deposits or investments with any banking or NBFI and their subsidiaries and affiliates are in anyway related to these unlawful activities the AMLC shall issue a resolution authorizing the inquiry into or examination of any deposit or investment with such banking or NBFI and their subsidiaries and affiliates concerned.

Rule 11.2.b. Duty of the banking institution or non- banking institution upon receipt of the AMLC Resolution. - The banking institution or the NBFI and their subsidiaries and affiliates shall, immediately upon receipt of the AMLC Resolution, allow the AMLC and/or its authorized representative(s) full access to all records pertaining to the deposit or investment account.

Rule 11.3. - BSP Authority to Examine deposits and investments; Additional Exception to the Bank Secrecy Act. - To ensure compliance with this act, the BSP may inquire into or examine any particular deposit or investment with any banking institution or NBFI and their subsidiaries and affiliates when the examination is made in the course of a periodic or special examination, in accordance with the rules of examination of the BSP.

Rule 11.3.a. BSP Rules of Examination. - The BSP shall promulgate its rules of examination for ensuring compliance by banks and NBFIs and their subsidiaries and affiliates with the AMLA and these rules.
Any findings of the BSP which may constitute a violation of any provision of this act shall be transmitted to the AMLC for appropriate action.

RULE 12 FORFEITURE PROVISIONS

Rule 12.1. Authority to Institute Civil Forfeiture Proceedings. – The AMLC is authorized under Section 7 (3) of the AMLA to institute civil forfeiture proceedings and

all other remedial proceedings through the Office of the Solicitor General.

Rule 12.2. When Civil Forfeiture May be Applied. – When there is a Suspicious Transaction Report or a Covered Transaction Report deemed suspicious after investigation by the AMLC, and the court has, in a petition filed for the purpose, ordered the seizure of any monetary instrument or property, in whole or in part, directly or indirectly, related to said report, the Revised Rules of Court on civil forfeiture shall apply.

Rule 12.3. Claim on Forfeited Assets. - Where the court has issued an order of forfeiture of the monetary instrument or property in a criminal prosecution for any money laundering offense under Section 4 of the AMLA, the offender or any other person claiming an interest therein may apply, by verified petition, for a declaration that the same legitimately belongs to him, and for segregation or exclusion of the monetary instrument or property corresponding thereto. The verified petition shall be filed with the court which rendered the judgment of conviction and order of forfeiture within fifteen (15) days from the date of the order of forfeiture, in default of which the said order shall become final and executory. This provision shall apply in both civil and criminal forfeiture.

Rule 12.4. Payment in Lieu of Forfeiture. - Where the court has issued an order of forfeiture of the monetary instrument or property subject of a money laundering offense under Section 4 of the AMLA, and said order cannot be enforced because any particular monetary instrument or property cannot, with due diligence, be located, or it has been substantially altered, destroyed, diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly, attributable to the offender,

or it has been concealed, removed, converted or otherwise transferred to prevent the same from being found or to avoid forfeiture thereof, or it is located outside the Philippines or has been placed or brought outside the jurisdiction of the court, or it has been commingled with other monetary instruments or property belonging to either the offender himself or a third person or entity, thereby rendering the same difficult to identify or be segregated for purposes of forfeiture, the court may, instead of enforcing the order of forfeiture of the monetary instrument or property or part thereof or interest therein, accordingly order the convicted offender to pay an amount equal to the value of said monetary instrument or property. This provision shall apply in both civil and criminal forfeiture.

**RULE 13 MUTUAL ASSISTANCE
AMONG STATES**

Rule 13.1. Request for Assistance from a Foreign State. - Where a foreign state makes a request for assistance in the investigation or prosecution of a money laundering offense, the AMLC may execute the request or refuse to execute the same and inform the foreign state of any valid reason for not executing the request or for delaying the execution thereof. The principles of mutuality and reciprocity shall, for this purpose, be at all times recognized.

Rule 13.2. Powers of the AMLC to Act on a Request for Assistance from a Foreign State. - The AMLC may execute a request for assistance from a foreign state by: (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity under the procedures laid down in the AMLA and in these Rules; (2) giving information needed by the foreign state within the procedures laid down in the AMLA and in these Rules; and (3) applying for an order of forfeiture of any

monetary instrument or property in the court: *Provided*, That the court shall not issue such an order unless the application is accompanied by an authenticated copy of the order of a court in the requesting state ordering the forfeiture of said monetary instrument or property of a person who has been convicted of a money laundering offense in the requesting state, and a certification or an affidavit of a competent officer of the requesting state stating that the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

Rule 13.3. Obtaining Assistance from Foreign States. - The AMLC may make a request to any foreign state for assistance in (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity; (2) obtaining information that it needs relating to any covered transaction, money laundering offense or any other matter directly or indirectly related thereto; (3) to the extent allowed by the law of the foreign state, applying with the proper court therein for an order to enter any premises belonging to or in the possession or control of, any or all of the persons named in said request, and/or search any or all such persons named therein and/or remove any document, material or object named in said request: *Provided*, That the documents accompanying the request in support of the application have been duly authenticated in accordance with the applicable law or regulation of the foreign state; and (4) applying for an order of forfeiture of any monetary instrument or property in the proper court in the foreign state: *Provided*, That the request is accompanied by an authenticated copy of the order of the Regional Trial Court ordering the forfeiture of said monetary instrument or property of a convicted offender and an affidavit of the clerk of court stating that

the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

Rule 13.4. Limitations on Requests for Mutual Assistance. - The AMLC may refuse to comply with any request for assistance where the action sought by the request contravenes any provision of the Constitution or the execution of a request is likely to prejudice the national interest of the Philippines, unless there is a treaty between the Philippines and the requesting state relating to the provision of assistance in relation to money laundering offenses.

Rule 13.5. Requirements for Requests for Mutual Assistance from Foreign States. - A request for mutual assistance from a foreign state must (1) confirm that an investigation or prosecution is being conducted in respect of a money launderer named therein or that he has been convicted of any money laundering offense; (2) state the grounds on which any person is being investigated or prosecuted for money laundering or the details of his conviction; (3) give sufficient particulars as to the identity of said person; (4) give particulars sufficient to identify any covered institution believed to have any information, document, material or object which may be of assistance to the investigation or prosecution; (5) ask from the covered institution concerned any information, document, material or object which may be of assistance to the investigation or prosecution; (6) specify the manner in which and to whom said information, document, material or object obtained pursuant to said request, is to be produced; (7) give all the particulars necessary for the issuance by the court in the requested state of the writs, orders

or processes needed by the requesting state; and (8) contain such other information as may assist in the execution of the request.

Rule 13.6. Authentication of Documents. - For purposes of Section 13 (f) of the AMLA and Section 7 of the AMLA, a document is authenticated if the same is signed or certified by a judge, magistrate or equivalent officer in or of, the requesting state, and authenticated by the oath or affirmation of a witness or sealed with an official or public seal of a minister, secretary of state, or officer in or of, the government of the requesting state, or of the person administering the government or a department of the requesting territory, protectorate or colony. The certificate of authentication may also be made by a secretary of the embassy or legation, consul general, consul, vice consul, consular agent or any officer in the foreign service of the Philippines stationed in the foreign state in which the record is kept, and authenticated by the seal of his office.

Rule 13.7. Supplementary Application of the Revised Rules of Court. –

Rule 13.7.1. For attachment of Philippine properties in the name of persons convicted of any unlawful activity as defined in Section 3 (i) of the AMLA, execution and satisfaction of final judgments of forfeiture, application for examination of witnesses, procuring search warrants, production of bank documents and other materials and all other actions not specified in the AMLA and these Rules, and assistance for any of the aforementioned actions, which is subject of a request by a foreign state, resort may be had to the proceedings pertinent thereto under the Revised Rules of Court.

Rule 13.7.2. Authority to Assist the United Nations and other International Organizations and Foreign States. - The AMLC is authorized under Section 7 (8) and 13 (b) and (d) of the AMLA to receive and take action in respect of any request of foreign states for assistance in their own anti-money laundering operations. It is also authorized under Section 7 (7) of the AMLA to cooperate with the National Government and/or take appropriate action in respect of conventions, resolutions and other directives of the United Nations (UN), the UN Security Council, and other international organizations of which the Philippines is a member. However, the AMLC may refuse to comply with any such request, convention, resolution or directive where the action sought therein contravenes the provision of the Constitution or the execution thereof is likely to prejudice the national interest of the Philippines.

Rule 13.8. Extradition. – The Philippines shall negotiate for the inclusion of money laundering offenses as defined under Section 4 of the AMLA among the extraditable offenses in all future treaties. With respect, however, to the state parties that are signatories to the United Nations Convention Against Transnational Organized Crime that was ratified by the Philippine Senate on 22 October 2001, money laundering is deemed to be included as an extraditable offense in any extradition treaty existing between said state parties, and the Philippines shall include money laundering as an extraditable offense in every extradition treaty that may be concluded between the Philippines and any of said state parties in the future.

RULE 14 PENAL PROVISIONS

Rule 14.1. Penalties for the Crime of Money Laundering.

Rule 14.1.a. Penalties under Section 4 (a) of the AMLA. - The penalty of imprisonment ranging from seven (7) to fourteen (14) years and a fine of not less than Php3.0 Million but not more than twice the value of the monetary instrument or property involved in the offense, shall be imposed upon a person convicted under Section 4 (a) of the AMLA.

Rule 14.1.b. Penalties under Section 4 (b) of the AMLA. - The penalty of imprisonment from four (4) to seven (7) years and a fine of not less than Php1.5 Million but not more than Php3.0 Million, shall be imposed upon a person convicted under Section 4 (b) of the AMLA.

Rule 14.1.c. Penalties under Section 4 (c) of the AMLA. - The penalty of imprisonment from six (6) months to four (4) years or a fine of not less than Php100,000.00 but not more than Php500,000.00, or both, shall be imposed on a person convicted under Section 4(c) of the AMLA.

Rule 14.1.d. Administrative Sanctions. - (1) After due notice and hearing, the AMLC shall, at its discretion, impose fines upon any covered institution, its officers and employees, or any person who violates any of the provisions of R.A. No. 9160, as amended by R.A. No. 9194 and rules, regulations, orders and resolutions issued pursuant thereto. The fines shall be in amounts as may be determined by the council, taking into consideration all the attendant circumstances, such as the nature and gravity of the violation or irregularity, but in no case shall such fines be less than Php100,000.00 but not to exceed Php500,000.00. The imposition of the administrative sanctions shall be without prejudice to the filing of criminal charges against the persons responsible for the violations.

Rule 14.2. Penalties for Failure to Keep Records - The penalty of imprisonment from six (6) months to one (1) year or a fine of not less than Php100,000.00 but not more than Php500,000.00, or both, shall be imposed on a person convicted under Section 9 (b) of the AMLA.

Rule 14.3. Penalties for Malicious Reporting. - Any person who, with malice, or in bad faith, reports or files a completely unwarranted or false information relative to money laundering transaction against any person shall be subject to a penalty of six (6) months to four (4) years imprisonment and a fine of not less than Php100,000.00 but not more than Php500,000.00, at the discretion of the court: *Provided*, That the offender is not entitled to avail the benefits of the Probation Law.

Rule 14.4. Where Offender is a Juridical Person. - If the offender is a corporation, association, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or allowed by their gross negligence the commission of the crime. If the offender is a juridical person, the court may suspend or revoke its license. If the offender is an alien, he shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed. If the offender is a public official or employee, he shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

Rule 14.5. Refusal by a Public Official or Employee to Testify. - Any public official or employee who is called upon to testify and refuses to do the same or purposely fails to testify shall suffer the same penalties prescribed herein.

Rule 14.6. Penalties for Breach of Confidentiality. – The punishment of imprisonment ranging from three (3) to eight (8) years and a fine of not less than Php500,000.00 but not more than Php1.0 Million, shall be imposed on a person convicted for a violation under Section 9(c). In case of a breach of confidentiality that is published or reported by media, the responsible reporter, writer, president, publisher, manager and editor-in-chief shall be liable under this act.

RULE 15 PROHIBITIONS AGAINST POLITICAL HARASSMENT

Rule 15.1. Prohibition against Political Persecution. - The AMLA and these Rules shall not be used for political persecution or harassment or as an instrument to hamper competition in trade and commerce. No case for money laundering may be filed to the prejudice of a candidate for an electoral office during an election period.

Rule 15.2. Provisional Remedies Application; Exception. –

Rule 15.2.a. - The AMLC may apply, in the course of the criminal proceedings, for provisional remedies to prevent the monetary instrument or property subject thereof from being removed, concealed, converted, commingled with other property or otherwise to prevent its being found or taken by the applicant or otherwise placed or taken beyond the jurisdiction of the court. However, no assets shall be attached to the prejudice of a candidate for an electoral office during an election period.

Rule 15.2.b. - Where there is conviction for money laundering under Section 4 of the AMLA, the court shall issue a judgment of forfeiture in favor of the Government of the Philippines with respect to the

monetary instrument or property found to be proceeds of one or more unlawful activities. However, no assets shall be forfeited to the prejudice of a candidate for an electoral office during an election period.

RULE 16 RESTITUTION

Rule 16. Restitution. - Restitution for any aggrieved party shall be governed by the provisions of the New Civil Code.

RULE 17 IMPLEMENTING RULES AND REGULATIONS AND MONEY LAUNDERING PREVENTION PROGRAMS

Rule 17.1. Implementing Rules and Regulations. –

(a) Within thirty (30) days from the effectivity of R.A. No. 9160, as amended by R.A. No. 9194, the BSP, the Insurance Commission and the Securities and Exchange Commission shall promulgate the Implementing Rules and Regulations of the AMLA, which shall be submitted to the Congressional Oversight Committee for approval.

(b) The Supervising Authorities, the BSP, the SEC and the IC shall, under their own respective charters and regulatory authority, issue their Guidelines and Circulars on anti-money laundering to effectively implement the provisions of R.A. No. 9160, as amended by R.A. No. 9194.

Rule 17.2. Money Laundering Prevention Programs. –

Rule 17.2.a. Covered institutions shall formulate their respective money laundering prevention programs in accordance with Section 9 and other pertinent provisions of the AMLA and these Rules, including, but not limited to, information dissemination on money

laundering activities and their prevention, detection and reporting, and the training of responsible officers and personnel of covered institutions, subject to such guidelines as may be prescribed by their respective supervising authority. Every covered institution shall submit its own money laundering program to the supervising authority concerned within the non-extendible period that the supervising authority has imposed in the exercise of its regulatory powers under its own charter.

Rule 17.2.b. Every money laundering program shall establish detailed procedures implementing a comprehensive, institution-wide “know-your-client” policy, set-up an effective dissemination of information on money laundering activities and their prevention, detection and reporting, adopt internal policies, procedures and controls, designate compliance officers at management level, institute adequate screening and recruitment procedures, and set-up an audit function to test the system.

Rule 17.2.c. Covered institutions shall adopt, as part of their money laundering programs, a system of flagging and monitoring transactions that qualify as suspicious transactions, regardless of amount or covered transactions involving amounts below the threshold to facilitate the process of aggregating them for purposes of future reporting of such transactions to the AMLC when their aggregated amounts breach the threshold. All covered institutions, including banks insofar as non-deposit and non-government bond investment transactions are concerned, shall incorporate in their money laundering programs the provisions of these Rules and such other guidelines for reporting to the AMLC of all transactions that engender the reasonable belief that a money laundering offense is about to be, is being, or has been committed.

Rule 17.3. Training of Personnel. - Covered institutions shall provide all their responsible officers and personnel with efficient and effective training and continuing education programs to enable them to fully comply with all their obligations under the AMLA and these Rules.

Rule 17.4. Amendments. - These Rules or any portion thereof may be amended by unanimous vote of the members of the AMLC and submitted to the Congressional Oversight Committee as provided for under Section 19 of R.A. No. 9160, as amended by R.A. No. 9194.

**RULE 18 CONGRESSIONAL
OVERSIGHT COMMITTEE**

Rule 18.1. Composition of Congressional Oversight Committee. - There is hereby created a Congressional Oversight Committee composed of seven (7) members from the Senate and seven (7) members from the House of Representatives. The members from the Senate shall be appointed by the Senate President based on the proportional representation of the parties or coalitions therein with at least two (2) Senators representing the minority. The members from the House of Representatives shall be appointed by the Speaker also based on proportional representation of the parties or coalitions therein with at least two (2) members representing the minority.

Rule 18.2. Powers of the Congressional Oversight Committee. - The Oversight Committee shall have the power to promulgate its own rules, to oversee the implementation of this Act, and to review or revise the implementing rules issued by the Anti-Money Laundering Council within thirty (30) days from the promulgation of the said rules.

**RULE 19 APPROPRIATIONS FOR AND
BUDGET OF THE AMLC**

Rule 19.1. Budget. – The budget of Php25.0 million appropriated by Congress under the AMLA shall be used to defray the initial operational expenses of the AMLC. Appropriations for succeeding years shall be included in the General Appropriations Act. The BSP shall advance the funds necessary to defray the capital outlay, maintenance and other operating expenses and personnel services of the AMLC subject to reimbursement from the budget of the AMLC as appropriated under the AMLA and subsequent appropriations.

Rule 19.2. Costs and Expenses. - The budget shall answer for indemnification for legal costs and expenses reasonably incurred for the services of external counsel in connection with any civil, criminal or administrative action, suit or proceedings to which members of the AMLC and the Executive Director and other members of the Secretariat may be made a party by reason of the performance of their functions or duties. The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the AMLC in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the member to repay the amount advanced should it be ultimately determined that said member is not entitled to such indemnification.

RULE 20 SEPARABILITY CLAUSE

Rule 20. Separability Clause. - If any provision of these Rules or the application thereof to any person or circumstance is held to be invalid, the other provisions of these Rules, and the application of such provision or Rule to other persons or circumstances, shall not be affected thereby.

RULE 21 REPEALING CLAUSE

Rule 21. Repealing Clause. – All laws, decrees, executive orders, rules and regulations or parts thereof, including the relevant provisions of R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791, as amended, and other similar laws, as are inconsistent with the AMLA, are hereby repealed, amended or modified accordingly.

RULE 22 EFFECTIVITY OF THE RULES

Rule 22. Effectivity. – These Rules shall take effect after its approval by the Congressional Oversight Committee and fifteen (15) days after its complete

publication in the Official Gazette or in a newspaper of general circulation.

RULE 23 TRANSITORY PROVISIONS

Rule 23.1. - Transitory Provisions. - Existing freeze orders issued by the AMLC shall remain in force for a period of thirty (30) days after effectivity of this act, unless extended by the Court of Appeals.

Rule 23.2. - Effect of R.A. No. 9194 on Cases for Extension of Freeze Orders Resolved by the Court of Appeals. - All existing freeze orders which the Court of Appeals has extended shall remain effective, unless otherwise dissolved by the same court.

Anti-Money Laundering Council Resolution No. 292

RULES ON SUBMISSION OF COVERED TRANSACTION REPORTS AND
SUSPICIOUS TRANSACTION REPORTS BY COVERED INSTITUTIONS*

1. All covered institutions are required to file STRs on transactions involving all kinds of monetary instruments or property.

2. Banks shall file CTRs on transactions involving all kinds of monetary instruments or property, i.e., in cash or non-cash, whether in domestic or foreign currency.

3. Covered institutions, other than banks, shall file CTRs on transactions in cash or foreign currency or other monetary instruments (other than checks) or properties. Due to the nature of the transactions in the stock exchange, only the brokers-dealers shall be required to file CTRs and STRs. The PSE, PCD, SCCP and transfer agents are exempt from filing CTRs. They, are however, required to file STRs when the transactions that pass through them are deemed to be suspicious.

4. Where the covered institution engages in bulk transactions with a bank, i.e., deposits of premium payments in bulk or settlements of trade, and the bulk transactions do not distinguish clients and their respective transaction amounts, said
- covered institutions shall be required to file CTRs on its clients whose transactions exceed P500,000 and are included in the bulk transactions.

5. With respect to insurance companies, when the total amount of the premiums for the entire year, regardless of the mode of payment (monthly, quarterly, semi-annually or annually), exceeds P500,000, such amount shall be reported as a covered transaction, even if the amounts of the amortizations are less than the threshold amount. The CTR shall be filed upon payment of the first premium amount, regardless of the mode of payment. Under this rule, the insurance company shall file the CTR only once every year until the policy matures or rescinded, whichever comes first.

6. The submission of CTRs is deferred until the AMLC directs otherwise. Submission of STRs, however, are not deferred and covered institutions are mandated to submit such STRs when the circumstances so require.

*a. The Anti-Money Laundering Council (AMLC), in the exercise of its authority under Sections 7(1) and 9 of Republic Act No. 9160, otherwise known as the “Anti-Money Laundering Act of 2001”, as amended, and its Revised Implementing Rules and Regulations, resolved to:

(1) Defer reporting by covered institutions to AMLC of the following “non-cash, no/low risk covered transactions:

· Transactions between banks and the BSP;

· Transactions between banks operating in the Philippines;

· Internal operating expenses of the banks;

· Transactions between banks and government agencies;

· Transactions involving transfer of funds from one deposit account to another deposit account of the same person within the same bank;

· Roll-overs of placements of time deposits; and

· Loan interest/principal payment debited against borrower’s deposit account maintained with the lending bank.

(2) Request the BSP-supervised institutions, through the Association of Bank Compliance Officers (ABCOMP), to determine and report to AMLC the specific transactions falling within the purview of the aforesaid BSP-identified categories on “non-cash, no/low risk” covered transactions.

b. All covered institutions should:

(1) Submit corresponding electronic copy version, in the required format, of those STRs previously submitted in hard copy or the hard copy version of those submitted only in electronic form, as the case may be, retroactive to 05 January 2004; and

(2) Re-submit in required electronic form, those CTRs that have been submitted previously in hard copy or in diskette not in the required format, retroactive to 23 March 2003.

Anti-Money Laundering Council Resolution No. 10

It has come to the Council's attention that a number of banks failed to file Suspicious Transaction Reports (STRs) in cases involving deposit of fraudulent or spurious checks based on the impression that only either the original depository bank or drawee bank has the obligation to file the required STR.

Some banks are also of the impression that the filing to the BSP of Reports on Crimes and Losses involving deposit of fraudulent or spurious checks dispenses with the filing of STR with the AMLC.

A check deposit usually involves three (3) parties: the depositor, the depository bank and the drawee bank. In cases where the depository bank has no clearing facilities, the check is deposited to another bank (presenting bank) which has clearing facilities, which shall then present the check to the drawee bank for payment. Necessarily, each movement of the check creates a contractual relationship between the transacting parties, i.e., between the depositor and the depository bank; between the depository bank and the presenting bank; and between the presenting bank and the drawee bank. In other words, the initial deposit of a check with a depository bank, its deposit with another bank (in case the original depository bank has no clearing facilities), and its presentment to the drawee bank for payment are all deemed separate or individual "transactions", as defined under Section 3 (h) of R.A. 9160, as amended.

In case a fraudulent or spurious check is deposited and the drawee bank detects the fraudulent issuance and/or negotiation thereof, it necessarily informs the presenting bank of the dishonor of the check and the reason for such dishonor.

It becomes incumbent upon the drawee bank to report to the AMLC the fraudulent transaction. The presenting bank, in turn, informs the depository bank of the dishonor of the check. Evidently, all the transacting banks are actually informed of the fraudulent character of the check.

As the deposit and presentment of the fraudulent check are related to the unlawful activity of Estafa, such transactions are deemed suspicious and all transacting banks should file STRs with the AMLC within five (5) working days from occurrence thereof, or from the time they are notified or become aware of the fraudulent or spurious character of the check involved in the transactions, pursuant to Section 9 (c) of the AMLA.

The Council resolved to enjoin all banks to strictly comply with the requirement on reporting of suspicious transactions and remind them of the following:

1. A bank through which a fraudulent or spurious check passes, either as depository, presenting, or drawee bank, shall file the corresponding STR pursuant to Section 9 (c) of R.A. No. 9160, as amended.

2. The STR shall be filed within five (5) working days from the occurrence of the transaction, or from the time the concerned bank is notified or becomes aware of the spurious character of the check or the fraudulent nature of the transaction.

3. The filing with the BSP of a Report on Crimes and Losses relating to the deposit of a fraudulent or spurious check does not dispense with the filing of the STR with the AMLC pursuant to Section 9 (c) of R.A. 9160, as amended.

(CL-2007-010 dated 28 February 2007)

CUSTOMER DUE DILIGENCE FOR BANKS AND NON-BANK FINANCIAL
INTERMEDIARIES PERFORMING QUASI-BANKING FUNCTIONS

1. Customer acceptance policy

Banks should develop clear customer acceptance policies and procedures, including a description of the types of customer that are unacceptable to bank management. In preparing such policies, factors such as customers’ background, country of origin, public or high profile position, business activities or other risk indicators should be considered. Banks should develop graduated customer acceptance policies and procedures that require more extensive due diligence for high risk customers. For example, the policies may require the most basic account-opening requirements for a working individual with a small account balance, whereas quite extensive due diligence may be deemed essential for an individual with a high net worth whose source of funds is unclear. Decisions to enter into business relationships with high risk customers, *such as individuals holding important/prominent positions, public or private* (see below), should be taken exclusively at senior management level.

2. Customer identification

Customer identification is an essential element of KYC standards. A customer is defined as any person or entity that keeps an account with a bank and any person or entity on whose behalf an account is maintained, as well as the beneficiaries of transactions conducted by professional financial intermediaries. Specifically, a customer should include an account holder and the beneficial owner of an account. A customer should also include the beneficiary of a trust, an investment fund, a

pension fund or a company whose assets are managed by an asset manager, or the grantor of a trust.

Banks should establish a systematic procedure for verifying the identity of new customers and should never enter a business relationship until the identity of a new customer is satisfactorily established. Banks should “document and enforce policies for identification of customers and those acting on their behalf”.¹ The best documents for verifying the identity of customers are those most difficult to obtain illicitly and to counterfeit, *such as passport, driver’s license or alien certificate of registration*. Special attention should be exercised in the case of non-resident customers and in no case should a bank short-circuit identity procedures just because the new customer is unable to present himself for interview. The bank should always ask itself why the customer has chosen to open an account in a foreign jurisdiction.

The customer identification process applies naturally at the outset of the relationship, but there is also a need to apply KYC standards to existing customer accounts. Where such standards have been introduced only recently and do not as yet apply fully to existing customers, a risk assessment exercise can be undertaken and priority given to obtaining necessary information, where it is deficient, in respect of the higher risk cases. An appropriate time to review the information available on existing customers is when a transaction of significance takes place, or when there is a material change in the way that the account is operated. However, if a bank is aware that it lacks sufficient information about an

¹ Core Principles Methodology, Essential Criterion 2.

existing high-risk customer, it should take steps to ensure that all relevant information is obtained as quickly as possible. In addition, the supervisor needs to set an appropriate target date for completion of a KYC review and regularization of all existing accounts. In any event, a bank should undertake regular reviews of its customer base to establish that it has up-to-date information and a proper understanding of its account holders’ identity and of their business.

Banks that offer private banking services are particularly exposed to reputational risk. Private banking by nature involves a large measure of confidentiality. Private banking accounts can be opened in the name of an individual, a commercial business, a trust, an intermediary or a personalized investment company. In each case reputational risk may arise if the bank does not diligently follow established KYC procedures. In no circumstances should private banking operations function autonomously, or as a “bank within a bank”¹, and no part of the bank should ever escape the required procedures. This means that all new clients and new accounts should be approved by at least one person other than the private banking relationship manager. If particular safeguards are put in place internally to protect confidentiality of private banking customers and their business, banks must still ensure that at least equivalent scrutiny and monitoring of these customers and their business can be conducted, e.g., they must be open to review by compliance officers and auditors.

2.1 General identification requirements

Banks need to obtain all information necessary to establish to their full satisfaction the identity of each new

customer and the purpose and intended nature of the business relationship. The extent and nature of the information depends on the type of applicant (personal, corporate, etc.) and the expected size of the account. National supervisors are encouraged to provide guidance to assist banks in their designing their own identification procedures. Examples of the type of information that would be appropriate are set out in Annex B-1.

Banks should apply their full KYC procedures to applicants that plan to transfer an opening balance from another FI, bearing in mind that the previous account manager may have asked for the account to be removed because of a concern about dubious activities.

Banks should never agree to open an account or conduct ongoing business with a customer who insists on anonymity or “bearer” status or who gives a fictitious name. Nor should confidential numbered² accounts function as anonymous accounts but they should be subject to exactly the same KYC procedures as all other customer accounts, even if the test is carried out by selected staff. Whereas a numbered account can offer additional protection for the identity of the account-holder, the identity must be known to a sufficient number of staff to operate proper due diligence. Such accounts should in no circumstances be used to hide the customer identity from a bank’s compliance function or from the supervisors.

Banks need to be vigilant in preventing corporate business entities from being used by natural persons as a method of operating anonymous accounts. Personal asset holding vehicles, such as international business companies (IBCs), may make proper identification of customers or beneficial owners difficult.

¹ Some banks insulate their private banking functions or create Chinese walls as a means of providing additional protection for customer confidentiality.

² In a numbered account, the name of the beneficial owner is known to the bank but is substituted by an account number or code name in subsequent documentation.

A bank should take all steps necessary to satisfy itself that it knows the true identity of the ultimate owner of all such entities.

2.2 Specific identification issues

There are a number of more detailed issues relating to customer identification which need to be addressed. Particular comments are invited on the issues mentioned in this section. Several of these are currently under consideration by the FATF as part of a general review of its forty (40) recommendations, and the Working Group recognizes the need to be consistent with the FATF.

2.2.1 Trust, nominee and fiduciary accounts or client accounts opened by professional intermediaries

Trust, nominee and fiduciary accounts can be used to avoid customer identification procedures. While it may be legitimate under certain circumstances to provide an extra layer of security to protect the confidentiality of legitimate private banking customers, it is essential that the true relationship is understood. Banks should establish whether the customer is acting on behalf of another person as trustee, nominee or professional intermediary (e.g., a lawyer or an accountant). If so, a necessary precondition is receipt of satisfactory evidence of the identity of any intermediaries and of the persons upon whose behalf they are acting, as well as details of the nature of the trust or other arrangements in place.

Banks may hold “pooled” accounts (e.g., client accounts managed by law firms) or accounts opened on behalf of pooled entities, such as mutual funds and money managers. In such cases, banks have to decide, given the circumstances, whether the customer is the intermediary, or whether it would be more appropriate to look through the intermediary to the ultimate beneficial owners. In each case, the identity of the customer that is subject

to due diligence should be clearly established. The beneficial owners should be verified where possible. Where not, the banks should perform due diligence on the intermediary and establish to its complete satisfaction that the intermediary has a sound due diligence process for each of its clients.

Special care needs to be exercised in initiating business transactions with companies that have nominee shareholders or shares in bearer form. Satisfactory evidence of the identity of beneficial owners of all companies needs to be obtained.

The above procedures may prove difficult for banks in some countries to follow. In the case of professional intermediaries such as lawyers, there might exist professional codes of conduct preventing the dissemination of information concerning their clients. The FATF is currently engaged in a review of KYC procedures governing accounts opened by lawyers on behalf of clients. The Working Group has therefore not taken a definitive position on this issue.

2.2.2 Introduced business

The performance of identification procedures can be time consuming and there is a natural desire to limit any inconvenience for new customers. In some countries, it has therefore become customary for banks to rely on the procedures undertaken by other banks or introducers when business is being referred. In doing so, banks risk placing excessive reliance on the due diligence procedures that they expect the introducers to have performed. Relying on due diligence conducted by an introducer, however reputable, does not in any way remove the ultimate responsibility of the recipient bank to know its customers and their business. In particular, banks should not rely on introducers that are subject to

weaker standards than those governing the banks’ own KYC procedures or that are unwilling to share copies of due diligence documentation.

The FATF is currently engaged in a review of the appropriateness of eligible introducers, i.e., whether they should be confined to reputable banks only or should extend to other regulated institutions, whether a bank should establish a contractual relationship with its introducers and whether it is appropriate to rely on a third party introducer at all. The Working Group is still developing its thinking on this topic.

2.2.3 Reputational risk

Business relationship with individuals holding important/*prominent positions, public or private*, and with persons or companies clearly related to them may expose a bank to significant reputational and/or legal risks.

Accepting and managing funds from such persons could put at risk the bank’s own reputation and can undermine public confidence in the ethical standards of an entire financial centre, since such cases usually receive extensive media attention and strong political reaction, even if the illegal origin of the assets is often difficult to prove. In addition, the bank may be subject to costly information requests and seizure orders from law enforcement or judicial authorities (including international mutual assistance procedures in criminal matters) and could be liable to actions for damages by the state concerned or the victims of a regime. Under certain circumstances, the bank and/or its officers and employees themselves can be exposed to charges of money laundering, if they know or should have known that the funds stemmed from corruption or other serious crimes.

3. On-going monitoring of high risk accounts

On-going monitoring of accounts and transactions is an essential aspect of effective KYC procedures. Banks can only effectively control and reduce their risk if they have an understanding of normal and reasonable account activity of their customers. Without such knowledge, they are likely to fail in their duty to report suspicious transactions to the appropriate authorities in cases where they are required to do so. The on-going monitoring process includes the following:

- Banks should develop “clear standards on what records must be kept on customer identification and individual transactions and the retention period”.¹ As the starting point and natural follow-up of the identification process, banks should obtain and keep up to date customer identification papers and retain them for at least five (5) years after an account is closed. They should also retain all financial transaction records for at least five (5) years after the transaction has taken place.
- Banks should ensure that they have adequate management information systems to provide managers and compliance officers with timely information needed to identify, analyze and effectively monitor higher risk customer accounts. The types of reports that may be needed include reports of missing account opening documentation, transactions made through a customer account that are unusual, and aggregations of a customer’s total relationship with the bank.
- Senior management of a bank in charge of private banking business should know the personal circumstances of the bank’s large/important customers and be alert to sources of third party information. Every bank should draw its

¹ Core Principles Methodology, Essential Criterion 2.

own distinction between large/important customers and others, and set threshold indicators for them accordingly, taking into account the country of origin and other risk factors. Significant transactions by high-risk customers should be approved by a senior manager.

- Banks should have systems in place to detect unusual or suspicious patterns of activity. This can be done by establishing limits for a particular class or category of accounts. Particular attention should be paid to transactions that exceed these limits. Certain types of transactions should alert banks to the possibility that the customer is conducting undesirable activities. They may include transactions that do not make economic or commercial sense, or that involve large amounts of cash deposits that are not consistent with the normal and expected transactions of the customer. Very high account turnover, inconsistent with the size of the balance, may indicate that funds are being “washed” through the account. A list of suspicious activities drawn up by supervisors can be very helpful to banks.

- Bank should develop a clear policy and internal guidelines, procedures and controls and remain especially vigilant regarding business relationships with *individuals holding important/prominent positions, public or private*, and high profile individuals or with persons and companies that are clearly related to or associated with them.¹

4. Risk Management

Effective KYC procedures embrace routines for proper management oversight, systems and controls, segregation of

duties, training and other related policies. The board of directors of the bank should be fully committed to an effective KYC programme by establishing appropriate procedures and ensuring their effectiveness. Banks should appoint a senior officer with explicit responsibility for ensuring that the bank’s policies and procedures are, at a minimum, in accordance with local supervisory practice. Banks should have clear written procedures, communicated to all personnel, for staff to report suspicious transactions to a specified senior manager. That manager must then assess whether the bank’s statutory obligations under recognized suspicious activity reporting regimes require the transaction to be reported to the appropriate law enforcement and supervisory authorities.

All banks must have an ongoing employee-training programme so that bank staff is adequately trained in KYC procedures. The timing and content of training for various sectors of staff will need to be adapted by the bank for its own needs. Training requirements should have a different focus for new staff, front-line staff, compliance staff or staff dealing with new customers. New staff should be educated in the importance of KYC policies and the basic requirements at the bank. Front-line staff members who deal directly with the public should be trained to verify the customer identity for new customers, to exercise due diligence in handling accounts of existing customers on an ongoing basis and to detect patterns of suspicious activity. Regular refresher training should be provided to ensure that staff is reminded of their responsibilities

¹ It is unrealistic to expect the bank to know or investigate every distant family, political or business connection of a foreign customer. The need to pursue suspicions will depend on the size of the assets or turnover, pattern of transactions, economic background, reputation of the country, plausibility of the customer’s explanations etc. It should however be noted that individuals holding important/prominent positions, public or private (or rather their family members and friends) would not necessarily present themselves in that capacity, but rather as ordinary (albeit wealthy) business people, masking the fact they owe their high position in a legitimate business corporation only to their privileged relation with the holder of the public office.

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and is kept informed of new developments. It is crucial that all relevant staff fully understand the need for and implement KYC policies consistently. A culture within banks that promotes such understanding is the key to successful implementation.

Banks’ internal audit and compliance functions have important responsibilities in evaluating and ensuring adherence to KYC policies and procedures. As a general rule, the compliance function provides an independent evaluation of the bank’s own policies and procedures, including legal and regulatory requirements. Its responsibilities should include ongoing monitoring of staff performance through sample testing of compliance and review of exception reports to alert senior

management or the Board of Directors if it believes management is failing to address KYC procedures in a responsible manner.

Internal audit plays an important role in independently evaluating the risk management and controls, discharging its responsibility to the Audit Committee of the board of directors or a similar oversight body through periodic evaluations of the effectiveness of compliance with KYC policies and procedures. Management should ensure that audit functions are staffed adequately with individuals who are well-versed in such policies and procedures. In addition, internal auditors should be proactive in following-up their findings and criticisms.

GENERAL IDENTIFICATION REQUIREMENTS

This annex presents a suggested list of identification requirements for personal customers and corporates. National supervisors are encouraged to provide guidance to assist banks in designing their own identification procedures.

Personal customers

For personal customers, banks need to obtain the following information:

- 1. Name and/or names used;
- 2. Permanent residential address;
- 3. Date and place of birth;
- 4. Name of employer or nature of self-employment/business;
- 5. Specimen signature; and
- 6. Source of funds.

Additional information would relate to nationality or country of origin, public or high profile position, etc. Banks should verify the information against original documents of identity issued by an official authority (examples including identity cards and passports). Such documents should be those that are most difficult to obtain illicitly. In countries where new customers do not possess the prime identity documents, e.g., identity cards, passports or driving licenses,

some flexibility may be required. However, particular care should be taken in accepting documents that are easily forged or which can be easily obtained in false identities. Where there is face to face contact, the appearance should be verified against an official document bearing a photograph. Any subsequent changes to the above information should also be recorded and verified.

Corporate and other business customers

For corporate and other business customers, banks should obtain evidence of their legal status, such as an incorporation document, partnership agreement, association documents or a business licence. For large corporate accounts, a financial statement of the business or a description of the customer’s principal line of business should also be obtained. In addition, if significant changes to the company structure or ownership occur subsequently, further checks should be made. In all cases, banks need to verify that the corporation or business entity exists and engages in its stated business. The original documents or certified copies of certificates should be produced for verification.

General Guide to Account Opening and Customer Identification

1. The Basel Committee on Banking Supervision in its paper on *Customer Due Diligence for Banks* published in October 2001 referred to the intention of the Working Group on Cross-border Banking¹ to develop guidance on customer identification. Customer identification is an essential element of an effective customer due diligence programme which banks need to put in place to guard against reputational, operational, legal and concentration risks. It is also necessary in order to comply with anti-money laundering legal requirements and a prerequisite for the identification of bank accounts related to terrorism.

2. What follows is account opening and customer identification guidelines and a general guide to good practice based on the principles of the Basel Committee's *Customer Due Diligence for Banks* paper. This document, which has been developed by the Working Group on Cross-border Banking, does not cover every eventuality, but instead focuses on some of the mechanisms that banks can use in developing an effective customer identification programme.

3. These guidelines represent a starting point for supervisors and banks in the area of customer identification. This document does not address the other elements of the Customer Due Diligence for Banks paper, such as the ongoing monitoring of accounts. However, these elements should be considered in the development of effective customer due diligence, anti-money laundering and combating the financing of terrorism procedures.

4. These guidelines may be adapted for use by national supervisors who are seeking to develop or enhance customer identification programmes. However, supervisors should recognize that any customer identification programme should reflect the different types of customers (individual vs. institution) and the different levels of risk resulting from a customer's relationship with a bank. Higher risk transactions and relationships, such as those with politically exposed persons or organizations, will clearly require greater scrutiny than lower risk transactions and accounts.

5. Guidelines and best practices created by national supervisors should also reflect the various types of transactions that are most prevalent in the national banking system. For example, non-face-to-face opening of accounts may be more prevalent in one country than another. For this reason the customer identification procedures may differ between countries.

6. Some identification documents are more vulnerable to fraud than others. For those that are most susceptible to fraud, or where there is uncertainty concerning the validity of the document(s) presented, the bank should verify the information provided by the customer through additional inquiries or other sources of information.

7. Customer identification documents should be retained for at least five (5) years after an account is closed. All financial transaction records should be retained for at least five (5) years after the transaction has taken place.

¹ The Working Group on Cross-border Banking is a joint group consisting of members of the Basel Committee and of the Offshore Group of Banking Supervisors.

8. These guidelines are divided into two (2) sections covering different aspects of customer identification. Section A describes what types of information should be collected and verified for natural persons seeking to open accounts or perform transactions. Section B describes what types of information should be collected and verified for institutions and is in two (2) parts, the first relating to corporate vehicles and the second to other types of institutions.

9. All the terms used in these guidelines have the same meaning as in the Customer Due Diligence for Banks paper.

Section A. Natural Persons

10. For natural persons the following information should be obtained, where applicable:

- legal name and any other names used (such as maiden name);
- correct permanent address (the full address should be obtained; a Post Office box number is not sufficient);
- telephone number, fax number, and e-mail address;
- date and place of birth;
- nationality;
- occupation, public position held and/or name of employer;
- an official person identification number or other unique identifier contained in an unexpired official document (e.g., passport, identification card, residence permit, social security records, driving license) that bears a photograph of the customer;
- *type of account and nature* of the banking relationship;
- signature.

11. The bank should verify this information by at least one of the following methods:

- confirming the date of birth from an official document (e.g., birth certificate, passport, identity card, social security records);
- confirming the permanent address (e.g., utility bill, tax assessment, bank statement, a letter from a public authority);
- contacting the customer by telephone, by letter or by e-mail to confirm the information supplied after an account has been opened (e.g., a disconnected phone, returned mail, or incorrect e-mail address should warrant further investigation);
- confirming the validity of the official documentation provided through certification by an authorized person (e.g., embassy official, notary public).

12. The examples quoted above are not the only possibilities. In particular jurisdictions there may be other documents of an equivalent nature which may be produced as satisfactory evidence of customer's identity.

13. FIs should apply equally effective customer identification procedures for non-face-to-face customers as for those available for interview.

14. From the information provided in paragraph 10, FIs should be able to make an initial assessment of a customer's risk profile. Particular attention needs to be focused on those customers identified thereby as having a higher risk profile and additional inquiries made or information obtained in respect of those customers to include the following:

- evidence of an individual's permanent address sought through a credit reference agency search, or through independent verification by home visits;
- personal reference (i.e., by an existing customer of the same institution);
- prior bank reference and contact with the bank regarding the customer;
- source of wealth; and

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- verification of employment, public position held (where appropriate).

15. For one-off or occasional transactions where the amount of the transaction or series of linked transactions does not exceed an established minimum monetary value, it might be sufficient to require and record only name and address.

16. It is important that the customer acceptance policy is not so restrictive that it results in a denial of access by the general public to banking services, especially for people who are financially or socially disadvantaged.

Section B. Institutions

17. The underlying principles of customer identification for natural persons have equal application to customer identification for all institutions. Where in the following the identification and verification of natural persons is involved, the foregoing guidance in respect of such persons should have equal application.

18. The term institution includes any entity that is not a natural person. In considering the customer identification guidance for the different types of institutions, particular attention should be given to the different levels of risk involved.

I. Corporate Entities

19. For corporate entities (i.e., corporations and partnerships), the following information should be obtained:

- name of institution;
- principal place of institution’s business operations;
- mailing address of institution;
- contact telephone and fax numbers;
- some form of official identification number, if available (e.g., TIN);
- the original or certified copy of the Certificate of Incorporation and Memorandum and Articles of Association;

- the resolution of the Board of Directors to open an account and identification of those who have authority to operate the account; and

- nature and purpose of business and its legitimacy.

20. The bank should verify this information by at least one of the following methods:

- for established corporate entities - reviewing a copy of the latest report and accounts (audited if available);
- conducting an enquiry by a business information service, or an undertaking from a reputable and known firm of lawyers or accountants confirming the documents submitted;
- undertaking a company search and/or other commercial inquiries to see that the institution has not been, or is not in the process of being, dissolved, struck off, wound up or terminated;
- utilizing an independent information verification process, such as by accessing public and private databases;
- obtaining prior bank references;
- visiting the corporate entity, where practical; and
- contacting the corporate entity by telephone, mail or e-mail.

21. The bank should also take reasonable steps to verify the identity and reputation of any agent that opens an account on behalf of a corporate customer, if that agent is not an officer of the corporate customer.

Corporations/Partnerships

22. For corporations/partnerships, the principal guidance is to look behind the institution to identify those who have control over the business and the company’s/partnership’s assets, including those who have ultimate control. For corporations, particular attention should be paid to shareholders, signatories, or others who inject a significant proportion of the

capital or financial support or otherwise exercise control. Where the owner is another corporate entity or trust, the objective is to undertake reasonable measures to look behind that company or entity and to verify the identity of the principals. What constitutes control for this purpose will depend on the nature of a company, and may rest in those who are mandated to manage funds, accounts or investments without requiring further authorization, and who would be in a position to override internal procedures and control mechanisms. For partnerships, each partner should be identified and it is also important to identify immediate family members that have ownership control.

23. Where a company is listed on a recognized stock exchange or is a subsidiary of such a company then the company itself may be considered to be the principal to be identified. However, consideration should be given to whether there is effective control of a listed company by an individual, small group of individuals or another corporate entity or trust. If this is the case then those controllers should also be considered to be principals and identified accordingly.

II. Other Types of Institution

24. For the account categories referred to paragraphs 26 to 34, the following information should be obtained in addition to that required to verify the identity of the principals:

- name of account;
- mailing address;
- contact telephone and fax numbers;
- some form of official identification number, if available (e.g., TIN);
- description of the purpose/activities of the account holder (e.g., in a formal constitution); and

- copy of documentation confirming the legal existence of the account holder (e.g., register of charities).

25. The bank should verify this information by at least one of the following:

- obtaining an independent undertaking from a reputable and known firm of lawyers or accountants confirming the documents submitted;
- obtaining prior bank references; and
- accessing public and private databases or official sources.

Retirement Benefit Programmes

26. Where an occupational pension programme, employee benefit trust or share option plan is an applicant for an account the trustee and any other person who has control over the relationship (e.g., administrator, programme manager, and account signatories) should be considered as principals and the bank should take steps to verify their identities.

Mutuals/Friendly Societies, Cooperatives and Provident Societies

27. Where these entities are an applicant for an account, the principals to be identified should be considered to be those persons exercising control or significant influence over the organization’s assets. This will often include board members plus executives and account signatories.

Charities, Clubs and Associations

28. In the case of accounts to be opened for charities, clubs, and societies, the bank should take reasonable steps to identify and verify at least two signatories along with the institution itself. The principals who should be identified should be considered to be those persons exercising control or significant influence over the organization’s assets. This will often include members of a governing body

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or committee, the president, any board members, the treasurer, and all signatories.

29. In all cases, independent verification should be obtained that the persons involved are true representatives of the institution. Independent confirmation should also be obtained of the purpose of the institution.

Trusts and Foundations

30. When opening an account for a trust, the bank should take reasonable steps to verify the trustee(s), the settler(s) of the trust (including any persons settling assets into the trust) any protector(s), beneficiary(ies), and signatories. Beneficiaries should be identified when they are defined. In the case of a foundation, steps should be taken to verify the founder, the managers/directors and the beneficiaries.

Professional Intermediaries

31. When a professional intermediary opens a client account on behalf of a single client that client must be identified. Professional intermediaries will often open “pooled” accounts on behalf of a number of entities. Where funds held by the intermediary are not co-mingled but where there are “sub-accounts” which can be attributable to each beneficial owner, all beneficial owners of the account held by the intermediary should be identified. Where the funds are co-mingled, the bank should look through to the beneficial owners; however, there may be circumstances which should be set out in supervisory guidance where the bank may

not need to look beyond the intermediary (e.g., when the intermediary is subject to the same due diligence standards in respect of its client base as the bank).

32. Where such circumstances apply and an account is opened for an open or close-ended investment company, unit trust or limited partnership which is also subject to the same diligence standards in respect of its client base as the bank, the following should be considered as principals and the bank should take steps to identify:

- the fund itself;
- its directors or any controlling board where it is a company;
- its trustee where it is a unit trust;
- its managing (general) partner where it is a limited partnership;
- account signatories; and
- any other person who has control over the relationship, e.g., fund administrator or manager.

33. Where other investment vehicles are involved, the same steps should be taken as in paragraph 32 where it is appropriate to do so. In addition, all reasonable steps should be taken to verify the identity of the beneficial owners of the funds and of those who have control of the funds.

34. Intermediaries should be treated as individual customers of the bank and the standing of the intermediary should be separately verified by obtaining the appropriate information drawn from the itemized lists included in paragraphs 19-20 above.

(As amended by CL-2007-010 dated 28 February 2007)

**Anti-Money Laundering Council Resolution No. 02
Series of 2005**

Pursuant to Section 9-c of the Anti-Money Laundering Act, as amended, covered institutions (CIs) shall report to the AMLC all covered transactions and suspicious transactions within five (5) working days from occurrence thereof, subject to the circumstances described in Resolution No. 292 dated 24 October 2003 which remains in full force and effect.

WHEREFORE, the Council, resolves as it hereby resolved, to approve the following policies and guidelines in reckoning CIs' compliance with the prescribed reporting period:

1. The following non-working days are excluded from the counting of the prescribed reporting period:

- weekend (Saturday and Sunday)
- official regular national holiday
- officially declared national holiday (special non-working day nationwide)
- officially declared local holiday in the locality where AMLC Secretariat Office is located

2. A "non-reporting day" may be declared by the AMLC Secretariat when the File Transfer and Reporting Facility (FTRF), used by the CIs in transmitting their electronic reports to AMLC, is unavailable to all CIs for at least five (5) consecutive hours during the day

- AMLC-declared "non-reporting day" is excluded from the counting of the prescribed reporting period.
- The Executive Director of the AMLC Secretariat (or the Officer-in-charge) is authorized to declare such day as a "non-reporting" day upon notification and justification by the Deputy Director of IMAS AMLC Secretariat.

3. Local holidays, except for officially declared local holidays in the locality where the AMLC Secretariat Office is located, are treated as working days even for CIs located in such locality declared as on holiday, and hence, included in the counting of the prescribed reporting period. However, the CIs affected may file a deviation request with the AMLC Secretariat.

- CI's request for deviation shall be subject to approval of the Executive Director of the AMLC Secretariat (or the Officer-in-charge) upon recommendation of the Deputy Director of IMAS AMLC Secretariat. It shall be the basis of manually recomputing whatever penalties that would be automatically computed by TMAS.

4. Officially-declared non-working days in localities or regions affected by natural calamities such as flood, typhoon, earthquake, etc. may be excluded from the counting of the prescribed reporting period for CIs located in affected localities or regions subject to submission of deviation request by the CI.

- CI's request for deviation shall be subject to approval of the Executive Director of the AMLC Secretariat (or the Officer-in-charge) upon recommendation of the Deputy Director of IMAS AMLC Secretariat. It shall be the basis of manually recomputing whatever penalties that would be automatically computed by TMAS.

WHEREFORE, the Council, resolves as it hereby resolved, to consider and include the foregoing policies and guidelines in the ongoing development and implementation of AMLC's Transaction Monitoring and Analysis System (TMAS) and specifically, for the computation of the penalty for delayed reporting by the CIs.

CERTIFICATION OF COMPLIANCE WITH
ANTI-MONEY LAUNDERING REGULATIONS
(Appendix to Subsec. X801.6)

CERTIFICATION

Pursuant to the provisions of Section 2 of BSP Circular No. 279 dated 02 April 2001, we hereby certify:

- 1. That we have monitored (Name of Bank)’s compliance with R.A. No. 9160 (Anti-Money Laundering Act of 2001) as well as with BSP Circular Nos. 251, 253, 259 and 302;
- 2. That the Bank is complying with the required customer identification, documentation of all new clients, and continued monitoring of customer’s activities;
- 3. That the Bank is also complying with the requirement to record all transactions and to maintain such records including the record of customer identification for at least five (5) years;
- 4. That the Bank does not maintain anonymous or fictitious accounts; and
- 5. That we conduct regular anti-money laundering training sessions for all bank officers and selected staff members holding sensitive positions.

(Name of President or officer of equivalent rank)

(Name of Compliance Officer)

SUBSCRIBED AND SWORN to before me, this ____ day of _____, affiants exhibiting to me their Residence Certificates as follows:

<u>Name</u>	<u>Community Tax Cert. No</u>	<u>Date/Place Issued</u>

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 20____.

Notary Public

**DETAILS ON THE COMPUTATION OF QUARTERLY INTEREST PAYMENTS
CREDITED TO THE DEMAND DEPOSIT ACCOUNTS OF BANKS'
LEGAL RESERVE DEPOSITS WITH BSP
(Appendix to Subsec. X254.3)**

The following are the pertinent information on the computation of quarterly interest payments credited to the demand deposit accounts (DDAs) of banks' legal reserve deposits with BSP.

1. BSP Circular No. 262, as amended, (for regular DDA) and Memorandum to All Banks and Other Financial Intermediaries Performing Trust, Other Fiduciary Business and Investment Management Activities (for CTF and TOFA), as amended, both dated 18 October 2000 state that computation of quarterly interest payments due on banks/ non-banks' legal reserve deposits with the BSP is based on the lower of their outstanding daily DDA balance and forty percent (40%) of the reserve requirement (excluding liquidity reserve). Interest rate is at four percent (4%) per annum and interest base at 365 days.

2. The daily DDA balance used in the computation of interest may be obtained from the semi-monthly demand deposit statements of account balances that are available electronically to banks through EFTIS (for *PhilPaSS* participants) or monthly through the

DDA statements sent by mail (for non-*PhilPaSS* participants).

3. The data on reserve requirements are based on the institutions' Consolidated Daily Report of Condition (CDRC) (CBP7.16.01) submitted to the SRSO on a weekly basis that includes Schedule of Required and Available Reserves on Deposits and Deposit Substitutes Liabilities. Unless SRSO furnishes an amended data, the bank's computation in the Schedule is used in determining the forty percent (40%) of the reserve requirement that shall be compared with the outstanding daily balance, in arriving at the amount of interest credit.

4. The interest credit to each DDA is supported by a credit advice which indicates the period covered by the payment. For *PhilPaSS* participants, the credit advices are released through their authorized bank representatives together with the cancelled checks drawn against the institutions' DDA with the BSP while for non-*PhilPaSS* participants, the credit advices are sent by mail together with their DDA Statement of Accounts.

SMALL AND MEDIUM ENTERPRISE UNIFIED LENDING OPPORTUNITIES FOR
NATIONAL GROWTH BANK ACCREDITATION APPLICATION FOR RURAL AND
THRIFT BANKS ELIGIBILITY AND DOCUMENTARY REQUIREMENTS
(Appendix to Subsec. X342.15)

Requirements	Documents to be submitted
1. CAMELS rating should be at least “3.0”	Latest report of BSP bank examination
2. Compliance with the ten percent (10%) maximum ratio of DOSRI past due loans	Copy of quarterly report submitted to BSP
3. No loan with LBP and BSP, Quedancor, PBSP, SBGFC, PhilExim, DBP, and SSS in arrears. Rediscounting privileges with BSP and LBP not suspended	Credit investigation report by GFI credit and appraisal management unit or department
4. Past due loans and items in litigation is not in excess of the industry average plus two percent (2%) but not to exceed twenty five percent (25%) (based on latest quarterly report of BSP)	Copy of the Consolidated Statement of Condition and Income & Expense as submitted to BSP
5. Not deficient in loan loss provisions/reserves	Certification from BSP
6. Ratio of acquired assets to total assets is not more than industry average plus two percent (2%) but not to exceed fifteen percent (15%)	Copy of the latest computation of the risk-based capital adequacy ratio cover for credit risk under Sec. X116
7. Positive results of operations in the last preceding calendar year. If such is negative, the average income of the past two (2) or three (3) years should at least be positive	Copy of latest interim financial statements as submitted to BSP
8. Not deficient in bank reserves for the last six (6) months preceding the filing of application	Copy of weekly report submitted to BSP or BSP certification
9. Ratio of accrued interest receivables to surplus (free) plus undivided profits is less than 100%	Copy of latest interim financial statements as submitted to BSP
10. The bank is owned and managed by the same persons (key officers) at least for the last two (2) years	Applicant’s records
11. No derogatory information gathered on the officers and directors of the bank	GFI Credit and Appraisal Management Unit or Department
12. Compliance with corporate governance	Applicant’s reply to questionnaire on comparison of BSP mandated practices with actual practices

SMALL AND MEDIUM ENTERPRISE UNIFIED LENDING OPPORTUNITIES FOR
NATIONAL GROWTH
LENDING FEATURES OF SHORT-TERM LOANS

<u>Loan Purpose</u>	<u>Export Financing (Export Packing Credit)</u>	<u>Credit Line (Temporary Working Capital)</u>
Target Industries	All industries except trading of imported goods, of liquor and cigarettes, extractive industries	All industries except trading of imported goods, of liquor and cigarettes, in extractive industries
Eligible Enterprises	At least sixty percent (60%) Filipino-owned whose assets are not more than P100 million, excluding the value of the land	At least sixty percent (60%) Filipino-owned whose assets are not more than P100 million, excluding the value of the land
Maximum Financing	Seventy percent (70%) of the value of LC/PO; maximum of P5.0 million	Seventy percent (70%) of working capital requirement; maximum of P5.0 million
Interest Rate**	Nine percent (9.00%)	Nine percent (9.00%)
Repayment Term	Maximum of one (1) year	Maximum of one (1) year
Collateral*	Post dated check Registered/Unregistered REM/CHM Assignment of LC or PO Assignment of life insurance Guarantee cover	Post dated check Registered/Unregistered REM/CHM Assignment of life insurance Guarantee cover Corporate Guarantee (if franchisee) Assignment of lease rights (if franchisee)
Evaluation and Service Fees	P2,000 for every P1 million Plus front-end fee of one-half of one percent (½ of 1%) of approved loan	P2,000 for every P1 million Plus front-end fee of one-half of one percent (½ of 1%) of approved loan

Financial Profile of the Borrower:

Debt-Equity Ratio	At most 80:20 after the loan	At most 80:20 after the loan At most 70:30 (if franchisee)
Profitability	Positive income for last year. (If past year’s income is negative, the average income of past two (2) or three (3) years should be positive)	Positive income for last year. (If past year’s income is negative, the average income of past two (2) or three (3) years should be positive)
Other Ratios	Based on industry standards	Based on industry standards

* The Program will not decline a loan only on the basis of inadequate collateral. However, the borrower must be willing to mortgage all available business and personal collateral, including assets to be acquired from the loan to secure the borrowing.

** Applicable to all loan applications with complete requirements received up to 30 June 2003. A GFI committee shall be set up to review the pricing thereafter on a quarterly basis.

SMALL AND MEDIUM ENTERPRISE UNIFIED LENDING OPPORTUNITIES FOR
NATIONAL GROWTH
LENDING FEATURES OF LONG-TERM LOANS

Loan Purpose	a) Purchase of equipment b) Building construction c) Purchase of lot d) Purchase of inventories – permanent working capital
Target Industries	All industries except trading of imported goods, of liquor and cigarettes, in extractive industries and in housing projects
Eligible Enterprises	At least sixty percent (60%) Filipino-owned whose assets are not more than P100.0 million, excluding the value of the land
Maximum Financing	Eighty percent (80%) of the incremental project cost; maximum of P5.0 million
Interest Rate	3-year T-Bond rate + 2% (3-year loan)* 5-year T-Bond rate + 2% (5-year loan)*
Repayment Term	Maximum of five (5) years, inclusive of maximum one (1) year grace period on principal monthly amortization
Collateral**	Post dated check Registered/Unregistered REM/CHM Assignment of life insurance Corporate guarantee (if franchisee) Assignment of lease rights (if franchisee)
Evaluation and Service Fees	P2,000 for every P1.0 million Plus front-end fee of ½ of 1% of approved loan and commitment fee of 125% of unavailed balance

* Based on yield of bonds with three (3) or five (5) year remaining loan tenor as per MART 1 of Bloomberg. As of 22 January 2003, MART 1-Bloomberg, 3-year term loan has a yield of 9.25% and 5 year term loan has a yield of 10.75%. With a premium of 2%, the 3-year rate will be set at 11.25% and the 5-year rate at 12.75%.

** The Program will not decline a loan only on the basis of inadequate collateral. However, the borrower must be willing to mortgage all available business and personal collateral, including assets to be acquired from the loan to secure the borrowing.

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Financial Profile of the Borrower:

Debt-Equity Ratio	At most 80:20 after the loan At most 70:30 (if franchisee)
Profitability	Positive income for last year. (If past year’s income is negative, the average income of past two (2) or three (3) years should be positive)
Other Ratios	Based on industry standards

**TRANSFER/SALE OF NON-PERFORMING ASSETS TO A
SPECIAL PURPOSE VEHICLE OR TO AN INDIVIDUAL**
(Appendix to Subsec. X394.10)

The following procedures shall govern the transfer/sale of NPAs to a SPV or to an individual that involves a single family residential unit, or transactions involving *dacion en pago* by the borrower or third party of a non-performing loan (NPL), for the purpose of obtaining the COE which is required to avail of the incentives provided under R.A. No. 9182, as amended by R.A. No. 9343.

a. Prior to the filing of any application for transfer/sale of NPAs, a bank shall coordinate with the BSP through the SDC and the appropriate department of the SES to develop a reconciled and finalized master list of its eligible NPAs.

For this purpose, banks were requested to submit a complete inventory of their NPAs in the format prescribed under Circular Letter dated 07 January 2003. Only NPAs included in the master list that meet the definition of NPA, NPL and ROPA under R.A. No. 9182 may qualify for the COE. The banks shall be provided a copy of their reconciled and finalized master list for their guidance.

Only banks which have not yet submitted their master list of NPAs and intend to avail of the incentives and fee privileges of the SPV Act 2nd Phase implementation are allowed to submit a complete inventory of their NPAs in the format prescribed under Circular Letter dated 07 January 2003. Banks which have already submitted to BSP a master list of NPAs as of 30 June 2002 in the 1st Phase implementation of the SPV Act will not be allowed to submit a new/amended master list.

b. An application for eligibility of specific NPAs shall be filed in writing (hard copy) by the selling bank with the BSP

through the appropriate department of the SES for each proposed transfer of asset/s. Although no specific form is prescribed, the applicant shall describe in sufficient detail its proposed transaction, identifying its counterparty/ies and disclosing the terms, conditions and all material commitments related to the transaction.

c. For applications involving more than ten (10) NPA accounts, the list of NPAs to be transferred/sold shall be submitted in soft copy (by electronic mail or diskette) in excel format using the prescribed data structure/format for NPLs and ROPAs to the appropriate department of the SES of the applicant bank at the following addresses:

SEDI-SPV@bsp.gov.ph
SEDII-SPV@bsp.gov.ph
SEDI-SPV@bsp.gov.ph
SEDIV-SPV@bsp.gov.ph

For applications involving ten (10) NPA accounts or less, it is preferable that the list be submitted also in soft copy. The applicant may opt to submit the list in hard copy, provided all the necessary information shown in the prescribed data structure that are relevant to each NPL or ROPA to be transferred/sold will be indicated. The list to be submitted in hard copy would be ideal for the sale/transfer of NPAs that involve one (1) promissory note and/or one (1) asset item per account.

d. The application shall be accompanied by a written certification signed by a senior officer with a rank of at least senior vice president or equivalent, who is authorized by the board of directors, or by the country head, in the case of foreign banks, that:

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(1) the assets to be sold/transferred are NPAs as defined under the SPV Act of 2002;

(2) the proposed sale/transfer of said NPAs is under a true sale;

(3) the notification requirement to the borrowers has been complied with; and

(4) the maximum ninety (90)-day period for renegotiation and restructuring has been complied with.

Items "3" and "4" above shall not apply if the NPL has become a ROPA after 30 June 2002.

e. In the case of *dacion en pago* by the borrower or a third party to a bank, the application for COE on the NPL being settled shall be accompanied by a Deed of Dacion executed by the borrower, the third party, the registered owner of the property and the bank.

f. The appropriate department of the SES may conduct an on-site review of the NPLs and ROPAs proposed to be transferred/sold. After the on-site review, the application for transfer/sale shall be submitted to the Deputy Governor, SES for approval and for the issuance of the corresponding COE.

g. Upon the issuance of the SPV Application Number by the BSP, a bank shall be charged a processing fee, as follows:

(1) 1/100 of one percent (1%) of the book value of NPAs transferred or the

transfer price, whichever is higher, but not below ₱25,000 if the transfer is made to an SPV;

(2) 1/100 of 1% of the book value of the NPL but not below ₱5,000 in case of a *dacion en pago* arrangement by an individual or corporate borrower;

(3) ₱5,000 if the transfer involves a single family residential unit to an individual.

h. An SPV that intends to transfer/sell to a third party an NPA that is covered by a COE previously issued by the BSP shall file an application for such transfer/sale with the SEC which shall issue the corresponding COE based on the data base of COEs maintained at the BSP.

An individual who intends to transfer/sell an NPA that involves a single family residential unit he had acquired that is covered by a COE shall file an application for another COE with the BSP through the bank from which the NPA was acquired. The individual shall indicate in his application the previous COE issued for the NPA he had acquired and the name, address and TIN of the transferee/buyer of the NPA. A processing fee of ₱5,000 shall be collected by BSP upon issuance of the SPV Application Number by the BSP.

(As amended by M-2006-001 dated 11 May 2006)

ACCOUNTING GUIDELINES ON THE SALE OF NON-PERFORMING ASSETS TO
SPECIAL PURPOSE VEHICLES AND TO QUALIFIED INDIVIDUALS FOR
HOUSING UNDER “THE SPECIAL PURPOSE VEHICLE ACT OF 2002”
(Appendix to Subsec. X394.10)

General Principles

These guidelines set out alternative regulatory accounting treatment of the sale of non-performing assets (NPAs) by banks and other financial institutions (FIs) under BSP supervision to Special Purpose Vehicles (SPVs) and to qualified individuals for housing under R.A. No. 9182, otherwise known as “The Special Purpose Vehicle (SPV) Act of 2002”.

The guidelines recognize that banks/FIs may need temporary regulatory relief, in addition to tax relief under the SPV Law, particularly in the timing of recognition of losses, so that they may be encouraged to maximize the sale of their NPAs even at substantial discounts: *Provided, however*, That in the interest of upholding full transparency and sustaining market discipline, banks/FIs that avail of such regulatory relief shall fully disclose its impact in all relevant financial reports.

The guidelines cover the following areas:

- (1) Derecognition of NPAs sold/transferred to an SPV and initial recognition of financial instruments issued by the SPV to the selling bank/FI as partial or full settlement of the NPAs sold/transferred to the SPV;
- (2) Subsequent measurement of the carrying amount of financial instruments issued by the SPV to the selling bank/FI;
- (3) Capital adequacy ratio (CAR) calculation; and
- (4) Disclosure requirement on the selling bank/FI.

The sale/transfer of NPAs to SPV referred to in these guidelines shall be in the nature of a “true sale” pursuant to

Section 13 of the SPV Law and its Implementing Rules and Regulations.

I. Derecognition of NPAs Sold and Initial Recognition of Financial Instruments Received

A bank/FI should derecognize an NPA in accordance with the provisions of PAS 39 (for financial assets such as loans and securities) and PASs 16 and 40 (for non-financial assets such as land, building and equipment).

A sale of NPA qualifying as a true sale pursuant to Section 13 of the SPV Law and its Implementing Rules and Regulations but not qualifying for derecognition under PASs 39, 16 and 40 may nonetheless, be derecognized. *Provided:* That the bank/FI shall disclose such fact, in addition to all other disclosures provided in this Memorandum.

On derecognition, any excess of the carrying amount of the NPA (i.e., net of specific allowance for probable loss after booking the BSP recommended valuation reserve) over the proceeds received in the form of cash and/or financial instruments issued by the SPV represents an actual loss that should be charged to current period’s operations.

However, a bank/FI may use any existing specific allowance for probable losses on NPA sold:

- (1) to cover any unbooked (specific/general) allowance for probable losses; and
- (2) to apply the excess, if any, as additional (specific/general) allowance for probable losses, on remaining assets, in which case the carrying amount of the NPA (which is

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compared with the proceeds received for purposes of determining the actual loss) shall be the gross amount of the NPA: *Provided*, That the use of such existing specific allowance for probable losses on the NPA sold as provisions against remaining assets shall be properly disclosed

The loss may, moreover, be booked under “Deferred Charges” account which should be written down over the next ten (10) years based on the following schedule:

<u>End of Period From Date of Transaction</u>	<u>Cumulative Write-down of Deferred Charges</u>
Year 1	5%
Year 2	10%
Year 3	15%
Year 4	25%
Year 5	35%
Year 6	45%
Year 7	55%
Year 8	70%
Year 9	85%
Year 10	100%

Provided, That the staggered booking of actual loss on sale/transfer of the NPA shall be properly disclosed.

In case the face amounts of the financial instruments exceed the excess of the carrying amount of the NPA over the cash proceeds, the same shall be adjusted by setting up specific allowance for probable losses so that no gain shall be recognized from the transaction.

The carrying amount of the NPA shall be initially assumed to be the NPA's fair value. The excess of the carrying amount of the NPA over the cash proceeds or the face amounts of the financial instruments, whichever is lower, shall then be the initial cost of financial instruments received.

Banks/FIs shall book such financial instruments under the general ledger account "Unquoted Debt Securities Classified as Loans" for debt instruments or

"Investments in Non-Marketable Equity Securities (INMES)" for equity instruments.

Consolidation of SPV with Bank/FI Even if the sale of NPAs to SPV qualifies for derecognition, a bank/FI shall consolidate the SPV in the audited consolidated financial statements when the relationship between the bank/FI and the SPV indicates that the SPV is controlled by the bank/FI in accordance with the provisions of SIC (Standing Interpretations Committee) - 12 Consolidation - Special Purpose Entities."

II. Subsequent Measurement of Financial Instruments Received

(a) A bank/FI should assess at end of each fiscal year or more frequently whether there is any objective evidence or indication based on analysis of expected net cash inflows that the carrying amount of financial instruments issued by an SPV may be impaired. A financial instrument is impaired if its carrying amount (i.e., net of specific allowance for probable loss) is greater than its estimated recoverable amount. The estimated recoverable amount is determined based on the net present value of expected future cash flows discounted at the current market rate of interest for a similar financial instrument.

In applying discounted cash flow analysis, a bank/FI should use the discount rate(s) equal to the prevailing rate of return for financial instruments having substantially the same terms and characteristics, including the creditworthiness of the issuer.

(b) Alternatively, the estimated recoverable amount of the financial instruments may be determined based on an updated estimate of residual net present value (NPV) of the issuing SPV.

The estimated recoverable amount of the financial instrument shall be the present value of the excess of expected cash inflows (e.g., proceeds from the sale of collaterals and/or ROPAs, which in no case shall

exceed the contract price of the NPAs sold/ transferred, interest on the reinvestment of proceeds) over expected cash outflows (e.g., direct costs to sell, administrative expenses, principal and interest payments on senior obligations, interest payments on the financial instruments).

The fair market value of the collateral and/or ROPAs should under this method be considered only under the following conditions:

(1) The appraisal was performed by an independent appraiser acceptable to the BSP; and

(2) The valuation of the independent appraiser is based on current market valuation of similar assets in the same locality as underlying collateral rather than other valuation methods such as replacement cost, etc.

The assumptions regarding the timing of sale, the direct cost to sell, administrative expenses, reinvestments rate and current market rate should be disclosed in sufficient detail in the audited financial statements. The applicable discount rate should be based on the implied stripped yield of the Treasury note or bond for the tenor plus an appropriate risk premium.

(c) In case of impairment, the carrying amount of the financial instrument should be reduced to its estimated recoverable amount, through the use of specific allowance for probable losses account that should be charged to current period’s operations. However, at the end of the fiscal year the sale/ transfer of NPA occurred, such setting up of specific allowance for probable losses account may be booked on a staggered basis over the next ten (10) years based on the following schedule:

End of Period From Date of Transaction	Cumulative Booking of Allowance for Probable Losses
Year 1	5%

Year 2	10%
Year 3	15%
Year 4	25%
Year 5	35%
Year 6	45%
Year 7	55%
Year 8	70%
Year 9	85%
Year 10	100%

Provided, That the staggered booking of impairment, if any, upon remeasurement of financial instruments at end of the fiscal year the sale/transfer of the NPA occurred shall be properly disclosed.

After initially recognizing an impairment loss, the bank/FI should review the financial instruments for future impairment in subsequent financial reporting date.

If in a subsequent period, the estimated recoverable amount of the financial instrument decreases, the bank/FI should immediately book additional allowance for probable losses corresponding to the decrease. However, a bank/FI may stagger the booking of such additional allowance for probable losses in such a way that it catches up and keeps pace with the original deferral schedule (e.g., if the impairment occurred in Year 8, a bank/FI should immediately book seventy percent (70%) at end of Year 8, and thereafter, additional fifteen percent (15%) each at end of Year 9 and Year 10, respectively): *Provided,* That the staggered booking of impairment, if any, upon remeasurement of financial instruments shall be properly disclosed.

If in a subsequent period, the estimated recoverable amount of the financial instrument increases exceeding its carrying amount, and the increase can be objectively related to an event occurring after the write-down, the write-down of the financial instruments should be reversed by adjusting the specific allowance for probable losses account. The reversal should not result in a carrying amount of

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the financial instrument that exceeds what the cost would have been had the impairment not been recognized at the date the write-down of the financial instrument is reversed. The amount of the reversal should be included in the profit for the period.

Illustrative accounting entries for derecognition of NPAs, initial recognition of financial instruments issued by the SPV, and subsequent measurement of the carrying amount of the financial instrument are in Annex A.

III. Capital Adequacy Ratio (CAR) Calculation

Banks/FIs may, for purposes of calculating capital adequacy ratio (CAR), likewise stagger over a period of seven (7) years the recognition of:

- (1) actual loss on sale/transfer of NPAs; and
- (2) impairment, if any, upon re-measurement of financial instruments, in accordance with the following schedule:

<u>End of Period From Date of Transaction</u>	<u>Cumulative Recognition of Losses/Impairment</u>
Year 1	5%
Year 2	10%
Year 3	15%
Year 4	25%
Year 5	35%
Year 6	45%
Year 7	55%
Year 8	70%
Year 9	85%
Year 10	100%

The financial instruments received by the selling bank/FI shall be risk weighted in accordance with Sec. X116.

A bank/FI may declare cash dividend on common and/or preferred stock notwithstanding deferred recognition of loss duly authorized by the BSP.

IV. Disclosure

Banks/FIs should disclose as "Additional Information" in periodic reports submitted to the BSP, as well as in published reports and audited financial statements and all relevant financial reports the specific allowance for probable losses on NPAs sold used as provisions against remaining assets, the staggered recognition of actual loss on sale/transfer of NPAs" and/or impairment, if any, on the remeasurement of financial instruments.

In addition, banks/FIs which receive financial instruments issued by the SPVs as partial or full settlement of the NPAs transferred to the SPVs should disclose in the audited financial statements the method used and the significant assumptions applied in estimating the recoverable amount of the financial instruments, including the timing of the sale, the direct cost to sell, administrative expenses, reinvestment rate, current market rate, etc. (The pro-forma disclosure requirements on the staggered recognition of actual loss on sale/transfer of NPAs and/or impairment, if any, on the remeasurement of financial instruments are shown in Annex B.)

ILLUSTRATIVE ACCOUNTING ENTRIES TO RECORD SALE OF NPAs TO SPV UNDER THE SPV LAW OF 2002
UNDER DEFERRED RECOGNITION OF LOSS/IMPAIRMENT OF FINANCIAL INSTRUMENTS

Mode of Payment (Cash, Financial Instruments)					
	Cash Only (30, 0)	Financial Instruments Only (0, 120)	Part Cash, Part Financial Instruments ¹ (30, 100)	Part Cash, Part Financial Instruments ² (30, 90)	Part Cash, Part Financial Instruments (30, 70)
Assumptions:					
Loans/ROPAs, gross	120	120	120	120	120
Allowance for probable losses	20	20	20	20	20
Loans/ROPAs, net	100	100	100	100	100
Cash payment received	30	0	30	30	30
Financial instruments received	0	120	100	90	70
Unbooked valuation reserves on remaining assets	15	15	15	15	15

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Annex A

¹ Face amounts of financial instruments exceed the excess of the gross amount of the NPAs over the cash proceeds.
² Face amounts of financial instruments do not exceed the excess of the gross amount of the NPAs over the cash proceeds.

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Accounting Entries		Cash Only (30, 0)		Financial Instruments Only (0, 120)		Part Cash, Part Financial Instruments ¹ (30, 100)		Part Cash, Part Financial Instruments ² (30, 70)		Part Cash, Part Financial Instruments (30, 90)	
		Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit
1	Allowance for Probable Losses – NPAs sold Allowance For Probable Losses-Remaining Assets <i>(For unbooked provisions)</i> <i>(As additional provisions)</i> To record the reclassification of existing specific allowance for credit losses on NPAs sold as provisions against remaining assets.	20		20		20		20		20	
			15 5		15 5		15 5		15 5		15 5
2	Cash Unquoted Debt Securities Classified as Loans/INMES Deferred Charges Loans/ROPAs Allowance for Credit Losses - Unquoted Debt Securities Classified as Loans/INMES To record the sale of NPAs, receipt of cash and/or financial instruments, and deferred recognition of loss, if any.	30 0 90		0 120 0		30 100 0		30 90 0		30 70 20	
			120		120		120		120		120
			0		0		10		0		0
3	Amortization – Deferred Charges Deferred Charges To record annual write down of deferred charges based on schedule of staggered booking of losses.	xxx		0		0		0		xxx	
			xxx		0		0		0		xxx

¹ Face amounts of financial instruments exceed the excess of the gross amount of the NPAs over the cash proceeds.

² Face amounts of financial instruments do not exceed the excess of the gross amount of the NPAs over the cash proceeds.

Accounting Entries		Cash Only (30, 0)		Financial Instruments Only (0, 120)		Part Cash, Part Financial Instruments ¹ (30, 100)		Part Cash, Part Financial Instruments ² (30, 70)		Part Cash, Part Financial Instruments (30, 90)	
		Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit
4	Provision for Credit Losses Unquoted Debt Securities Classified as Loans/INMES	0		xxx		xxx		xxx		xxx	
	Allowance for Credit Losses – Unquoted Debt Securities Classified as Loans/INMES		0		xxx		xxx		xxx		xxx
To record annual build up of allowance for credit losses on financial instruments based on schedule of staggered booking of allowance for credit losses.											

¹ Face amounts of financial instruments exceed the excess of the gross amount of the NPAs over the cash proceeds.
² Face amounts of financial instruments do not exceed the excess of the gross amount of the NPAs over the cash proceeds.

PRO-FORMA DISCLOSURE REQUIREMENT

A. Statement of Condition

Particulars	Amount		
	Qualified for Derecognition Under PFRS/PAS	Not Qualified for Derecognition Under PFRS/PAS	Total
Additional Information:			
NPAs sold, gross	xxx	xxx	xxx
Allowance for credit losses (specific) on NPAs sold	xxx	xxx	xxx
Allowance for credit losses (specific) on NPAs sold applied to:			
Unbooked allowance for credit losses:			
Specific	xxx	xxx	xxx
General	xxx	xxx	xxx
Additional allowance for credit losses			
Specific	xxx	xxx	xxx
General	xxx	xxx	xxx
Cash received			
Financial instruments received, gross	xxx	xxx	xxx
Less: Allowance for credit losses (specific)	xxx	xxx	xxx
Carrying amount of financial instruments received	xxx	xxx	xxx
Less: Unbooked allowance for credit losses (specific)	xxx	xxx	xxx
Adj. carrying amount of financial instruments received	xxx	xxx	xxx
Deferred charges, gross	xxx	xxx	xxx
Less: Deferred charges written down	xxx	xxx	xxx
Carrying amount of deferred charges	xxx	xxx	xxx

B. Statement of Income and Expenses

Particulars	Amount		
	Qualified for Derecognition Under PFRS/PAS	Not Qualified for Derecognition Under PFRS/PAS	Total
Additional Information:			
Net income after income tax (with regulatory relief)			xxx
Less: Deferred charges not yet written down	xxx	xxx	xxx
Unbooked allowance for credit losses (specific) on financial instruments received	xxx	xxx	xxx
Total deduction	xxx	xxx	xxx
less: Deferred tax liability, if applicable	xxx	xxx	xxx
Net deductions	xxx	xxx	xxx
Net income/loss after income tax (without regulatory relief)			

SIGNIFICANT TIMELINES RELATIVE TO THE IMPLEMENTATION OF
R.A. NO. 9182, ALSO KNOWN AS THE “SPECIAL PURPOSE VEHICLE ACT”,
AS AMENDED BY R.A. NO. 9343
(Appendix to Subsec. X394.10)

A. Filing of Applications with the SEC for Establishing an SPV

Under Section 6 of R.A. No. 9182, as amended by R.A. No. 9343, applications for the establishment and registration of an SPV shall be filed with the SEC within eighteen (18) months from the effectivity of the amendatory Act (i.e., up to 14 November 2007).

B. Sale/Transfer of NPAs Entitled to Tax Exemptions and Fee Privileges

The following transactions enumerated as Items “1” to “6” of Section 15 of the IRR of the SPV Law are entitled to the tax exemptions and fee privileges under the same Section only if such transactions occur within two (2) years from the effectivity of the amendatory Act or from 14 May 2006 to 14 May 2008¹:

1. The transfer of the NPL by the bank to an SPV;

2. The transfer of the ROPA by the bank to an SPV;

3. The dation in payment (*dacion en pago*) of the NPL by the borrower to the bank;

4. The dation in payment (*dacion en pago*) of the NPL by a third party, on behalf of the borrower, to the bank;

5. The transfer of the NPL (secured by a real estate mortgage on a residential unit) by the bank to an individual; and

6. The transfer of the ROPA (single family residential unit) by the bank to an individual.

For purposes of determining whether a transaction occurred within the two (2)-year period or from 14 May 2006 to 14 May 2008; relevant documents to support the application (e.g., Asset Sale and Purchase Agreement, Deed of Assignment, Deed of Dation, etc.) should be notarized within the said two (2)-year period.

(M-2007 -013 dated 11 May 2007 as amended by M-2008-014 dated 17 March 2008)

¹ The Monetary Board authorized the SES to accept applications for Certificate of Eligibility (COE) until 13 June 2008, or up to 30 days after the 14 May 2008 deadline.

**REVISED GUIDELINES ON THE FLOTATION OF BONDS BY
LOCAL GOVERNMENT UNITS [WITHOUT
NATIONAL GOVERNMENT GUARANTEE]
(Appendix to Subsec. X425.3)**

Pursuant to Monetary Board Resolution No. 1151 dated 14 August 2003, the following guidelines shall govern the flotation of bonds by local government units (LGUs) under R.A. No. 7160 (Local Government Code of 1991) and R.A. No. 7653 (New Central Bank Act) dated 03 July 1993.

I. Legal Basis

A. UNDER THE LOCAL GOVERNMENT CODE OF 1991 (R.A. No. 7160)

Sec. 299. *Bonds and Other Long-Term Securities.* Subject to the rules and regulations of the Central Bank and the Securities and Exchange Commission, provinces, cities, and municipalities, are hereby authorized to issue bonds, debentures, securities, collaterals, notes and other obligations to finance self-liquidating, income-producing development or livelihood projects pursuant to the priorities established in the approved local development plan or the public investment program. The Sanggunian concerned shall, through an ordinance approved by a majority of all its members, declare and state the terms and conditions of the bonds and the purpose for which the proposed indebtedness is to be incurred.

B. UNDER THE NEW CENTRAL BANK ACT (R.A. No. 7653)

Section 123. *Financial Advice on Official Credit Operations.* – Before undertaking any credit operation abroad,

the Government, through the Secretary of Finance, shall request the opinion, in writing, of the Monetary Board on the monetary implications of the contemplated action. Such opinions must similarly be requested by all political subdivisions and instrumentalities of the Government before any credit operation abroad is undertaken by them.

The opinion of the Monetary Board shall be based on the gold and foreign exchange resources and obligations of the nation and on the effects of the proposed operation on the balance of payments and on monetary aggregates.

Whenever the Government, or any of its political subdivisions or instrumentalities, contemplates borrowing within the Philippines, the prior opinion of the Monetary Board shall likewise be requested in order that the Board may render an opinion on the probable effects of the proposed operation on monetary aggregates, the price level, and the balance of payments.

II. Coverage

This Circular shall govern the issuance of bonds by provinces, cities, and municipalities which do not carry the guarantee of the National Government. The LGUs concerned are advised to observe the existing rules and regulations of other government agencies (Department of Finance, Securities and Exchange Commission) relating to LGU bond flotation.

III. Procedures and Documentary Requirements

A. Manner of Request

An LGU proposal to issue bonds shall be submitted to the BSP, through the Secretary of Finance with a formal request for the Monetary Board’s opinion on the probable effects of the proposed operation on monetary aggregates, the price level, and the balance of payments.

B. Documentary Requirements

The proposal shall be accompanied by the following documents:

1. An original copy (or a certified true copy) of the ordinance duly signed by the appropriate officers pursuant to the Local Government Code. In accordance with the Local Government Code, the ordinance authorizing the bond flotation should:

- a) state the specific purpose/project(s) for which the proposed indebtedness is to be incurred;
- b) certify that the project(s) to be financed by the bond flotation is/are a self liquidating, income-producing development or livelihood project/s pursuant to the priorities established in the approved local development program or the public investment program; and
- c) state the terms and conditions of the bond flotation, including sinking fund or other funding arrangements.

2. A copy of the resolution designating the LGU representative, including the specific acts/services that the representative has been authorized to perform.

3. A waiver letter on the confidentiality of information (Annex 1) under Sections 2 and 3 of R.A. No. 1405, as amended, authorizing all banks and FIs under the supervision of the BSP and which have transactions with the concerned LGU to disclose to the BSP all information pertaining to the deposits, investments,

loans and other transactions of the concerned LGU (including the history or status of the LGU’s dealings with said banks and FIs); the waiver letter should be duly executed by the mayor or governor as the case may be.

4. A Department of Finance (DOF) certification that the debt service and borrowing capacity of the proponent LGU satisfies the legal requirements for a bond issue.

C. Monetary Board Opinion

1. Upon submission of all the above requirements, including other additional data or information it may deem necessary in the issuance of its opinion, and if the same are found to be in order, the Monetary Board shall, within a reasonable period of time, render an opinion on the probable effects of the proposed indebtedness on monetary aggregates, the price level, and the balance of payments.

2. The opinion of the Monetary Board shall be forwarded to the concerned LGU through the DOF.

3. The opinion of the Monetary Board does not constitute an endorsement by the BSP of the project since it is limited to the assessment of the monetary implications of the bond flotation. The said opinion is based on: (a) the information contained in the documents submitted by the LGU; and (b) the assumption that the proceeds of the bond flotation will actually be used for the intended projects described in the documents submitted. Hence, investors shall be responsible for assessing the quality of the bonds in terms of risks and returns.

D. Post-Issuance Reports

The LGU or its representative or its trustee bank, as the case may be, shall submit to the BSP a post flotation report (Annex 2) that will indicate the actual amount of the issue as well as the final terms

and conditions of the issue within 30 days from the date of the flotation; and such other reports as may be required by the BSP.

IV. Sanctions

Any violation of this Circular shall be subject to the sanctions provided under Sections 36 and 37 of R.A. No. 7653.

V. Repealing Clause

All BSP regulations or issuances or any provision thereof that may be inconsistent with the provisions of this

Circular, including Circular No. 41, dated 29 August 1994, are hereby repealed and superseded accordingly.

VI. Effectivity

This Circular shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Governor

4 September 2003
(Circular No. 402 dated 04 September 2003)

(Name of Local Government Unit)
(Address)

Hon. _____
Governor
Bangko Sentral ng Pilipinas

Dear Gov. _____:

This has reference to our request for the opinion of the Monetary Board (MB) on the probable effects on monetary aggregates, price level and balance of payments of the proposed bond flotation amounting to _____ by the Province/City/Municipality of _____.

Pursuant to the provisions of Sections 2 and 3 of Republic Act No. 1405 and other laws relating to the secrecy of bank deposits, Resolution No. ____ dated _____ (certified true copy attached) was passed by the Province/City/Municipality of _____ waiving our rights to confidentiality of information by authorizing _____, our trustee bank and all banks or financial institutions with which we have transactions to disclose to the Bangko Sentral ng Pilipinas all information pertaining to the deposits, investments, loans or other transactions including the history or status of our dealings with said banks or financial institutions and for the BSP to make all inquiries as may be necessary regarding the same. The BSP is likewise authorized to disclose and share any such information furnished or obtained from said banks or financial institutions to the Department of Finance in relation to the performance by said Department of its functions.

Thank you.

Very truly yours,

Mayor/Governor

_____ 20 ____

POST-BOND FLOTATION REPORT

Final Terms and Conditions of the Issue		
Issuer		
Bond Name/Label		
Amount of Proposed Bond Flotation		
Amount of Bonds Actually Sold		
Purpose of Bonds		
Issue Price		
Interest Rate (Actual)		
Date of Flotation		
Term		
Maturity Date		
Grace Period		
Denomination		
Medium of Sale		
Interest/Coupon Rate		
Interest Payment Dates		
Principal Payment Date		
Collateral Guarantee/Security		
Trustee Bank		
Fiscal Agent		
Trustee Fee		
Underwriter		
Underwriting Fee		
Guarantor		
Guarantee Fee		
Financial Advisor, if any		
Financial Advisor Fee		
List of Investors/Amount Purchased		
Settlement Mode		

**GUIDELINES AND MINIMUM DOCUMENTARY REQUIREMENTS FOR
FOREIGN EXCHANGE FORWARD AND SWAP TRANSACTIONS**
[Appendix to Subsecs. X625.3, X625.4 and X625.6 (2008 - X602.16 – X602.18)]

The following is a list of minimum documentary requirements for FX forward and swap transactions. Unless otherwise indicated, original documents* shall be presented on or before deal date to banks.

A. FORWARD SALE OF FX TO COVER OBLIGATIONS – DELIVERABLE AND NON-DELIVERABLE

1. FORWARD SALE OF FX – TRADE

1.1 Trade transactions

1.1.1 Under Letters of Credit (LC)

- a. Copy of LC opened; and
- b. Accepted draft, or commercial invoice/Bill of Lading

1.1.2 Under Documents against Acceptances (DA)/Open Account (OA) arrangements

- a. Certification of reporting bank on the details of DA/OA under Schedule 10 (Import Letters of Credits Opened and DA/OA Import Availments and Extensions) of FX Form 1 (Consolidated Report on Foreign Exchange Assets and Liabilities); and
- b. Copy of commercial invoice;

In addition to the above requirements, the bank shall require the customer to submit a Letter of Undertaking that:

- (i) Before or at maturity date of the forward contract, it (the importer) shall comply with the documentation requirements on sale of FX for trade transactions under existing regulations; and

- (ii) No double hedging has been obtained by the customer for the covered transactions.

1.1.3 Direct Remittance

Original shipping documents indicated in Item "II.a" of Circular Letter dated 24 January 2002.

2. NON-TRADE TRANSACTIONS

Only non-trade transactions with specific due dates shall be eligible for forward contracts, and shall be subject to the same documentation requirements under Circular No. 388 dated 26 May 2003 with the following additional guidelines for foreign currency loans and investments.

2.1 Foreign Currency Loans owed to non-residents or AABs

2.1.1 Deliverable Forwards

The maturing portion of the outstanding eligible obligation, i.e., those that are registered with the BSP registration letter, may be covered by a deliverable forward subject to the documentary requirements under Circular No. 388. A copy of the creditor's billing statement may be submitted only on or before the maturity date of the contract.

2.1.2 NDFs

The outstanding eligible obligation, i.e., those that are registered with the BSP, including interests and fees thereon as indicated in the BSP registration letter may be covered by a NDF, subject to the documentary requirements under Circular No. 388, except for the creditor's billing statement which need not be submitted.

The amount of the forward contract shall not exceed the outstanding amount of the underlying obligation during the term of the contract.

2.2 Inward Foreign Investments

The unremitted amount of sales/maturity proceeds due for repatriation to non-resident investors pertaining to BSP - registered investments in the following instruments issued by a Philippine resident:

- a. shares of stock listed in the PSE;
- b. government securities;

* If copy is indicated, it shall mean photocopy, electronic copy or facsimile of original.

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c. money market instruments; and
d. peso time deposits with a minimum tenor of ninety (90) days may be covered by FX forward contracts subject to the presentation of the original BSRD on or before deal date. However, for Item "2.2.a" above, original BSRD or BSRD Letter-Advice, together with the broker's sales invoice, shall be presented on or before maturity date of the FX forward contract, which date coincides with the settlement date of the PSE transaction.

Sales proceeds of BSP-registered investments in shares of stock that are not listed in the PSE may be covered by a deliverable FX forward contract only if determined to be outstanding as of the deal date for the contract and payable on a specific future date as may be indicated in the Contract To Sell/Deed of Absolute Sale and subject to the same documentary requirements under Circular No. 388.

B. FORWARD SALE OF FX TO COVER EXPOSURES– DELIVERABLE AND NON-DELIVERABLE

1. TRADE (DELIVERABLE AND NON-DELIVERABLE)

1.1 Under LC

- a. Copy of LC opened; and
- b. Proforma Invoice, or Sales Contract/Purchase Order

1.2 Under DA/OA, Documents Against Payment (DP) or Direct Remittance (DR)

Any of the following where delivery or shipment shall be made not later than one (1) year from deal date:

- a. Sales Contract
- b. Confirmed Purchase Order
- c. Accepted Proforma Invoice
- d. Shipment/Import Advice of the Supplier

In addition to the above requirements, the bank shall require the customer to submit a Letter of Undertaking that:

(i) At maturity of the forward contract, it shall comply with the documentation requirements on the sale of FX for trade transactions under Circular-Letter dated 24 January 2002, as amended; and

(ii) No double hedging has been obtained by the customer for the covered transactions.

2. NON-TRADE (NON-DELIVERABLE)

The outstanding balance of BSP-registered foreign investments without specific repatriation date, appearing in the covering BSRD may only be covered by an NDF contract, based on its market/book value on deal date, subject to prior BSP approval and if already with BSRD presentation of the covering BSRD and the proof that the investment still exists (e.g., stock certificate, or broker's buy invoice, or confirmation of sale, or certificate of investment in money market instruments, or certificate of peso time deposits). Hedging for permanently assigned capital of Philippine branches of foreign banks/firms is not allowed.

C. FORWARD PURCHASE OF FX

Such FX forward contracts shall be subject to the bank's "Know Your Customer" policy and existing regulations on anti-money laundering. In addition, counterparties must be limited to those that are manifestly eligible to engage in FX forwards as part of the normal course of their operations and which satisfy the bank's suitability and eligibility rules for such transactions.

D. FX SWAP TRANSACTIONS

1. FX SALE (first leg)/FORWARD FX PURCHASE (second leg)

The same minimum documentary requirements for sale of FX under BSP

Circular No. 388 for non-trade transactions, and Circular-Letter dated 24 January 2002, as amended, for trade transactions, shall be presented on or before deal date.

2. *FX PURCHASE (first leg)/FORWARD FX SALE (second leg)*

The first leg of the swap will be subject to the bank’s “Know Your Customer”

policy and existing regulations on anti-money laundering. The second leg of the swap transaction will be subject to the swap contract between the counterparties.

Swap contracts of this type intended to fund peso loans to be extended by non-residents in favor of residents shall require prior BSP approval.

(As amended by Circular No. 591 dated 15 October 2007)

CONVERSION/TRANSFER OF FOREIGN CURRENCY DEPOSIT UNIT LOANS TO REGULAR BANKING UNIT
(Appendix to Sec. X565)

Amount of FCDU Loans to be transferred:		US \$ 1 MM							
Prevailing exchange rate:		US \$ 1: PhP 53.00							
		FCDU Books				RBU Books			
		US \$				PhP		US\$	
		Dr	Cr	Dr		Cr		Dr	Cr
Transfer of a current FCDU Loan:									
Due from RBU		1,013,333.33							
FCDU Loan			1,000,000.00						
Accrued Interest Receivable			13,333.33						
Peso Loan				53,000,000.00					
Accrued Interest Receivable				706,666.50					
Due to FCDU								1,013,333.33	
Purchase of Foreign Exchange:									
Due from Foreign Banks								1,013,333.33	
Cash (or any mode of payment)						53,706,666.50			
Settlement:									
Due from Foreign Banks		1,013,333.33							
Due from RBU			1,013,333.33						
Due to FCDU								1,013,333.33	
Due from Foreign Banks								1,013,333.33	

	<u>FCDU Books</u>				<u>RBU Books</u>				
	<u>US \$</u>			<u>PhP</u>			<u>US\$</u>		
	<u>Dr</u>	<u>Cr</u>	<u>Dr</u>		<u>Cr</u>	<u>Dr</u>	<u>Cr</u>		
Transfer of a past due FCDU Loan:									
Due from RBU	763,333.33								
Allowance for Probable Loss	250,000.00								
FCDU Loan		1,000,000.00							
Accrued Interest Receivable		13,333.33							
Peso Loan			53,000,000.00						
Accrued Interest Receivable			706,666.50						
Due to FCDU							763,333.33		
Allowance for Probable Loss					13,250,000.00				
Purchase of Foreign Exchange:									
Due from Foreign Banks						763,333.33			
Cash (or any mode of payment)					40,456,666.50				
Settlement:									
Due from Foreign Banks	763,333.33								
Cash (or any mode of payment)		763,333.33							
Due to FCDU						763,333.33			
Due from Foreign Banks							763,333.33		
Transfer of ROPOA:									
Due from RBU	750,000.00								
Allowance for Probable Loss	250,000.00								
ROPOA		1,000,000.00							

	<u>FCDU Books</u>		<u>Dr</u>	<u>RBU Books</u>		<u>Dr</u>	<u>US\$</u>	
	<u>Dr</u>	<u>Cr</u>		<u>PhP</u>	<u>Cr</u>		<u>US\$</u>	<u>Cr</u>
ROPA			53,000,000.00					
Due to FCDU								750,000.00
Allowance for Probable Loss				13,250,000.00				
Purchase of Foreign Exchange:								
Due from Foreign Banks						750,000.00		
Cash (or any mode of payment)				39,750,000.00				
Settlement:								
Due from Foreign Banks	750,000.00							
Due from RBU		750,000.00						
Due to FCDU						750,000.00		
Due from Foreign Banks							750,000.00	

RULES AND REGULATIONS ON COMMON TRUST FUNDS¹
(Appendix to Sec. X410)

1. The administration of CTFs shall be subject to the provisions of Subsecs. X409.1 up to X409.6 and to the following regulations.

As an alternative compliance with the required prior authority and disclosure under Subsecs. X409.2 and X409.3, a list which shall be updated quarterly of prospective and/or outstanding investment outlets may be made available by the trustee for the review of all CTF clients. (Sec. X410).

2. Establishment of common trust funds. A bank authorized to engage in trust business may establish, administer and maintain one (1) or more CTFs. (Subsec. X410.1).

3. Minimum documentary requirements for common trust funds. In addition to the trust agreement or indenture required under Subsec. X409.1, each CTF shall be established, administered and maintained in accordance with a written declaration of trust referred to as the *plan*, which shall be approved by the board of directors of the trustee and a copy submitted to the appropriate supervising and examining department of the BSP within thirty (30) banking days prior to its implementation.

The plan shall make provisions on the following matters:

- a. Title of the plan;
- b. Manner in which the plan is to be operated;
- c. Investment powers of the trustee with respect to the plan, including the character and kind of investments which may be purchased;

d. Allocation, apportionment, distribution dates of income, profit and losses;

e. Terms and conditions governing the admission or withdrawal as well as expansion or contraction of participation in the plan including the minimum initial placement and account balance to be maintained by the trustor;

f. Auditing and settlement of accounts of the trustee with respect to the plan;

g. Detailed information on the basis, frequency, and method of valuing and accounting of CTF assets and each participation in the fund;

h. Basis upon which the plan may be terminated;

i. Liability clause of the trustee;

j. Schedule of fees and commissions which shall be uniformly applied to all participants in a fund and which shall not be changed between valuation dates; and

k. Such other matters as may be necessary or proper to define clearly the rights of participants under the plan.

The legal capacity of the bank administering a CTF shall be indicated in the plan and other related agreements or contracts as trustee of the fund and not in any other capacity such as *fund manager*, *financial manager*, or like terms.

The provisions of the plan shall control all participations in the fund and the rights and benefits of all parties in interest.

The plan may be amended by resolution of the board of directors of the trustee: *Provided, however,* That participants in the fund shall be immediately notified of such amendments and shall be allowed to withdraw their participation if they are not in conformity with the amendments made: *Provided, further,* That amendments to the

¹ The rules and regulations on common trust funds (CTFs) were previously under Sec. X410 and the Subsections enclosed in parentheses. The UIT Funds regulations which are now in said section/subsections took effect on 01 October 2004 (effectivity of Circular 447 dated 03 September 2004).

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plan shall be submitted to the appropriate supervising and examining department of the BSP within ten (10) banking days from approval of the amendments by the board of directors.

A copy of the plan shall be available at the principal office of the trustee during regular office hours for inspection by any person having an interest in a trust whose funds are invested in the plan or by his authorized representative. Upon request, a copy of the plan shall be furnished such person. (*Subsec. X410.2*)

4. Management of common trust funds. The trustee shall have the exclusive management and control of each CTF administered by it, and the sole right at any time to sell, convert, reinvest, exchange, transfer or otherwise change or dispose of the assets comprising the fund.

The trustee shall designate clearly in its records the trust accounts owning participation in the CTF and the extent of the interests of such account. The trustee shall not negotiate nor assign the trustor's beneficial interest in the CTF without prior written consent of the trustor or beneficiary. No trust account holding a participation in a CTF shall have or be deemed to have any ownership or interest in any particular asset or investment in the CTF but shall have only its proportionate beneficial interest in the fund as a whole. (*Subsec. X410.3*)

5. Trustee as participant in common trust funds. A trustee administering a CTF shall not have any interest in such fund other than in its capacity as trustee of the CTF nor grant any loan on the security of a participation in such fund: That a trustee which administers funds representing employee benefit plans under trust or investment management may invest funds in the CTF: *Provided, further,* That in the case of employee benefit plans under trust

belonging to employees of entities other than that of the trustee, the trustee may invest such funds in its own CTF only on a temporary basis in accordance with Subsec. X409.5. (*Subsec. X410.4*)

6. Exposure limit of common trust fund to a single person or entity. No investment for a CTF shall be made in stocks, bonds, bank deposits or other obligations of any one (1) person, firm or corporation, if as a result of such investment the total amount invested in stocks, bonds, bank deposits or other obligations issued or guaranteed by such person, firm or corporation shall aggregate to an amount in excess of fifteen percent (15%) of the market value of the CTF: *Provided,* That this limitation shall not apply to investments in government securities or other evidences of indebtedness of the Republic of the Philippines and of the BSP, and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines. (*Subsec. X410.5*)

7. Operating and accounting methodology. By its inherent nature, a CTF shall be operated and accounted for in accordance with the following:

a. The trustee shall have exclusive management and control of each CTF administered by it and the sole right at any time to sell, convert, reinvest, exchange, transfer or otherwise change or dispose of the assets comprising the fund;

b. The total assets and accountabilities of each fund shall be accounted for as a single account referred to as *pooled-fund accounting*;

c. Contributions to each fund by clients shall always be through participation in the fund;

d. All such participations shall be pooled and invested as one (1) account (referred to as collective investments); and

e. The interest of each participant shall be determined by a formal method of participation valuation established in the written plan of the CTF, and no participation shall be admitted to, or withdrawn from, the fund except on the basis of such valuation. (Subsec. X410.6)

8. Tax-exempt common trust funds

The following shall be the features/requirements of CTFs which may qualify for exemption from the twenty percent (20%) final tax under Section 24(B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997):

a. The tax exemption shall apply to CTFs established on or after January 3, 2000;

b. The CTF indenture or plan as well as evidences of participation shall clearly indicate that the participants shall be limited to individual trustors/investors who are Filipino citizens or resident aliens and that participation is non-negotiable and non-transferable;

c. The date of contributions to the CTF shall be clearly indicated in the evidence of participation to serve as basis for the trustee-bank to determine the period of participation for tax exemption purposes;

d. The CTF indenture/plan as well as the evidence of participation shall indicate that pursuant to Section 24(B)(1) of R.A. No. 8424, interest income of the CTF derived from investments in interest-bearing instruments (e.g., time deposits, government securities, loans and other debt instruments) which are otherwise subject to

the twenty percent (20%) final tax, shall be exempt from said final tax provided participation in the CTF is for a period of at least five (5) years. If participation is for a period less than five (5) years, interest income shall be subject to a final tax which shall be deducted and withheld based on the following schedule –

Participation Period	Rate of Tax
Four (4) years to less than five (5) years	5%
Three (3) years to less than four (4) years	12%
Less than three (3) years	20%

Necessarily, the date of contribution shall be clearly indicated in the evidence of participation which shall serve as basis for determining the participation period of each participant; and

e. Tax-exempt CTFs established under this Subsection shall be subject to the provisions of Subsecs. X409.1(c), X409.2 up to X409.7, and Items “2 to 7” of this Appendix.

Regarding the required prior authority and disclosure under Subsecs. X409.2 and X409.3, a list of prospective and/or outstanding investment outlets that is made available by the trustee for the review of all CTF clients may serve as an alternative compliance, which list shall be updated quarterly. (Subsec. X410.7)

9. Custody of securities. Investments in securities of all existing CTFs shall be delivered to a BSP-accredited third party custodian not later than 31 October 2004.

**CHECKLIST OF BANGKO SENTRAL REQUIREMENTS IN THE SUBMISSION OF
FINANCIAL AUDIT REPORT, ANNUAL AUDIT REPORT AND REPORTS
REQUIRED UNDER APPENDIX 43
*[Appendix to Subsec. X190.1 (2008 - X166.1)]***

The external auditor (Included in the List of BSP Selected External Auditors) shall start the audit not later than thirty (30) calendar days after the close of the calendar/fiscal year adopted by the bank. AFS of banks with subsidiaries shall be presented side by side on a solo basis and on a consolidated basis (banks and subsidiaries). The FAR shall be submitted by the bank to the appropriate department of the SES not later than 120 calendar days after the close of the calendar year or fiscal year adopted by the bank, together with the following:

<u>Information/Data required</u>	<u>Deadline for submission</u>
A. Financial Audit Report	
1. Certification by the external auditor on the following:	For submission together with the FAR not later than 120 calendar days after the close of the calendar year or fiscal year adopted by the bank.
a. The dates of commencement and termination of audit.	
b. The date when the FAR and certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the bank were submitted to the bank's board of directors or country head, in the case of foreign bank branches; and	
c. That the external auditor, partners, associates, auditor-in-charge of the engagement and the members of their immediate family do not have any direct or indirect financial interest with the bank, its subsidiaries and affiliates and that their independence is not considered impaired under the circumstances specified in the Code of Professional Ethics for CPA.	
2. Reconciliation statement for the differences in amounts between the audited and the submitted Balance Sheet and Income Statement for bank proper	For submission together with the FAR not later than 120 calendar days after the close of the calendar year or fiscal year adopted by the bank.

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<u>Information/Data required</u>	<u>Deadline for submission</u>
(regular and FCDU) and trust department, including copies of adjusting entries on the reconciling items. Note: Please see pro-forma comparative analysis (Annex A).	
3. LOC indicating the external auditor's findings and comments on the material weakness noted in the internal control and risk management systems and other aspects of operations. In case no material weakness is noted to warrant the issuance of an LOC, a certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the bank shall be submitted by the external auditor.	Within thirty (30) calendar days after the submission of the FAR. For submission together with the FAR not later than 120 calendar days after the close of the calendar year or fiscal year adopted by the bank.
4. Copies of the board resolutions showing the: a. Action taken on the FAR and, where applicable, on the certification under oath including the names of the directors present and absent, among other things; and b. Action taken on the findings and recommendations in the LOC, and the names of the directors present and absent, among other things.	Within thirty (30) banking days after the receipts of the financial audit report and certification under oath by the board of directors. Within thirty (30) banking days after the receipt of the LOC by the board of directors.
5. In case of foreign banks with branches in the Philippines, in lieu of the board resolution: a. A report by the country head on the action taken by management (head office, regional or country) on the FAR and, where applicable, on the certification under oath stating that no	Within thirty (30) calendar days after the receipt of the FAR and certification under oath by the country head.

<u>Information/Data required</u>	<u>Deadline for submission</u>
material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the bank.	
b. A report by the country head on the action taken by management (head office, regional or country) on the LOC.	Within thirty (30) banking days after the receipt of the LOC by the country head.
6. Certification of the external auditor on the date when the LOC was submitted to the board of directors or country head.	Within thirty (30) banking days after the receipt of the LOC by the board of directors or country head.
7. All the required disclosures in the AFS provided under Subsec. X190.4.	For submission together with the FAR not later than 120 calendar days after the close of the calendar year or fiscal year adopted by the bank.
8. Reports required to be submitted by the external auditor under <i>Appendix 43</i> :	
a. To enable the BSP to take timely and appropriate remedial action, the external auditor must report to the BSP, the following cases: (1) Any material finding involving fraud or dishonesty (including cases that were resolved during the period of audit); and (2) Any potential losses the aggregate of which amounts to at least one percent (1%) of the capital.	Within thirty (30) calendar days after the discovery.
b. The external auditor shall report directly to the BSP the following: (1) Termination or resignation as external auditor and stating the reason therefore; (2) Discovery of a material breach of laws or BSP rules and regulations such as, but not limited to:	Within fifteen (15) calendar days after the occurrence/discovery.

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Information/Data required	<u>Deadline for submission</u>
a. CAR; and b. Loans and other risk assets review and classification. (3) Findings on matters of corporate governance that may require urgent action by the BSP. c. In case there are no matters to report (e.g., fraud, dishonesty, breach of laws, etc.) a notarized certification that there is none to report.	Within fifteen (15) calendar days after the closing of the audit engagement.
B. Annual Audit Report (AAR)– For banks and other financial institutions under the concurrent jurisdiction of the BSP and COA. 1. Copy of the AAR accompanied by the: a. Certification by the institution concerned on the date of receipt of the AAR by the board of directors; b. Reconciliation statement between the AFS in the AAR and the balance sheet and income statement of bank proper (Regular and FCDU) and trust department submitted to the BSP, including copies of adjusting entries on the reconciling items; and c. Other information that may be required by the BSP.	Within thirty (30) banking days after receipt of the AAR by the board of directors.
2. Copy of the board resolution showing the action taken on the AAR, as well as on the comments and observations, including the names of the directors present and absent, among other things.	Within thirty (30) banking days after receipt of the AAR by the board of directors.

(As amended by Circular Nos. 554 dated 22 December 2006 and 540 dated 09 August 2006)

Name of Bank				
Comparison of Submitted Consolidated Balance Sheet and Income Statement and Audited Financial Statements (Parent and Subsidiaries) As of (end of calendar or fiscal year) (In Thousand Pesos)				
	Submitted Report	Audited Report	Variance/ Discrepancy	Reasons for Discrepancy
Cash and Other Cash Items				
Due from BSP				
Due from Other Banks				
Financial Assets Held for Trading (HFT)				
Held-to-Maturity (HTM) Financial Assets				
Available-for-Sale Financial Assets				
Loans and Receivables, net				
Interbank Loans Receivable				
Equity Investments in Subsidiaries, Associates & Joint Ventures				
Bank Premises, Furniture, Fixtures and Equipment, net				
Real and Other Properties Acquired (ROPA), net				
Other Assets				
Due from Head Office/Branches/Agencies Abroad				
Total Assets				
	=====	=====	=====	=====
Deposit Liabilities				
Bills Payable				
Bonds Payable				
Unsecured Subordinated Debt (UnSD)				
Redeemable Preferred Shares				
Accrued Interest, Taxes and Other Expenses				
Other Liabilities				
Due to Head Office/Branches/Agencies Abroad				
Total Liabilities				
	=====	=====	=====	=====
Paid-in Capital Stock				
Additional Paid-In Capital				
Retained Earnings				
Assigned Capital				
Total Capital				
	=====	=====	=====	=====
Total Liabilities and Capital				
	=====	=====	=====	=====
Total Income				
Total Expenses				
Net Income before Income Tax				
	=====	=====	=====	=====
(As amended by Circular Nos. 554 dated 22 December 2006 and 540 dated 09 August 2006)				

QUARTERLY INVESTMENT DISCLOSURE STATEMENT
(Appendix to Subsec. X410.7)

Name of Unit Investment Trust Fund:
For the quarter ended:
Net Asset Value, end of quarter:
Net Asset Value Per Unit (NAVPu):

Short Description:
(e.g., The Fund is a peso denominated _____ (fund classification, e.g., money market fund, bond fund, balanced fund and equity fund) suited for clients who _____. The investment objective of the Fund is to generate a steady stream of income by investing in a diversified portfolio of high-grade marketable securities)

Administrative Details:

Trust Fee¹: Pxxx/xx%
Minimum Investment:
Holding Period:
Participation/Redemption Conditions:
Special Reimbursable Expenses, if any: [Art V, Sec.3(b)]

Nature of Expense	Name of Third Party	Amount/Expense Ratio ²
Custodianship Fees	xxx	P xxx/xx%
External Audit Fees	xxx	xxx/xx%
Others (specify)	xxx	xxx/xx%

Outstanding Investments:

The Fund has investments in the following:

(may be in graph format showing weightings per investment type or class of security)

Prospective Investments:

The following names/securities are among the fund’s approved investment outlets where the Trustee intends to invest in depending on its availability or other market driven circumstances:

¹ Indicate either the (a) amount of trust fees charged to the UIT Fund or (b) the ratio/percentage of such amount to average daily net asset value of the UIT Fund, for the quarter.
² Indicate either the (a) amount of special reimbursable expense charged to the UIT Fund or (b) ratio/percentage of such expense to the average daily net asset value of the UIT Fund, for the quarter.
Average daily net asset value of the UIT Fund for the quarter ended _____: P_____.

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The UIT Fund is not a deposit and not insured by PDIC. Due to the nature of the investments yield and potential yields cannot be guaranteed. Any income or loss arising from market fluctuations and price volatility of the securities held by the UIT Fund, even if invested in government securities, is for the account of the investor. As such, the units of participation of the investor in the UIT Fund, when redeemed, may be worth more or be worth less than his/her initial investment/contributions. Historical performance, when presented, is purely for reference purposes and is not a guarantee of future results. The trustee is not liable for losses, unless upon willful default, bad faith or gross negligence.
(As amended by Circular No. 593 dated 08 January 2008)

(NAME OF TRUST ENTITY)-(TRUST BANKING GROUP/TRUST DEPARTMENT)
Unit Investment Trust Funds
RISK DISCLOSURE STATEMENT

Prior to making an investment in any of the (Name of Trust Entity) Unit Investment Trust Funds (UITFs), (Name of Trust Entity) is hereby informing you of the nature of the UITFs and the risks involved in investing therein. As investments in UITFs carry different degrees of risk, it is necessary that before you participate/invest in these funds, you should have: 1. Fully understood the nature of the investment in UITFs and the extent of your exposure to risks; 2. Read this Risk disclosure Statement completely; and 3. Independently determined that the investment in the UITFs is appropriate for you.

There are risks involved in investing in the UITFs because the value of your investment is based on the Net Asset Value per unit (NAVpu) of the Fund which uses a marked-to-market valuation and therefore may fluctuate daily. The NAVpu is computed by dividing the Net Asset Value (NAV) of the Fund by the number of outstanding units. The NAV is derived from the summation of the market value of the underlying securities of the Fund plus accrued interest income less liabilities and qualified expenses.

Investment in the UITF does not provide guaranteed returns even if invested in government securities and high-grade prime investment outlets. Your principal and earnings from investment in the Fund can be lost in whole or in part when the NAVpu at the time of redemption is lower than the NAVpu at the time of participation. Gains from investment is realized when the NAVpu at the time of redemption is higher than the NAVpu at the time of participation.

Your investment in any of the (Name of Trust Entity) UITFs exposes you to the various types of risks enumerated and defined hereunder:

Interest Rate Risk. This is the possibility for an investor to experience losses due to changes in interest rates. The purchase and sale of a debt instrument may result in profit or loss because the value of a debt instrument changes inversely with prevailing interest rates.

The UITF portfolio, being market-to-market, is affected by changes in interest rates thereby affecting the value of fixed income investments such as bonds. Interest rate changes may affect the prices of fixed income securities inversely, i.e., as interest rates rise, bond prices fall and when interest rates decline, bond prices rise. As the prices of bonds in a Fund adjust to a rise in interest rates, the Fund’s unit price may decline.

Market/Price Risk. This is the possibility for an investor to experience losses due to changes in market prices of securities (e.g., bonds and equities). It is the exposure to the uncertain market value of a portfolio due to price fluctuations.

It is the risk of the UITF to lose value due to a decline in securities prices, which may sometimes happen rapidly or unpredictably. The value of investments fluctuates over a given time period because of general market conditions, economic changes or other events that impact large portions of the market such as political events, natural calamities, etc. As a result, the NAVpu may increase to make profit or decrease to incur loss.

Liquidity Risk. This is the possibility for an investor to experience losses due to the inability to sell or convert assets into cash immediately or in instances where conversion to

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cash is possible but at a loss. These may be caused by different reasons such as trading in securities with small or few outstanding issues, absence of buyers, limited buy/sell activity or underdeveloped capital market.

Liquidity risk occurs when certain securities in the UITF portfolio may be difficult or impossible to sell at a particular time which may prevent the redemption of investment in UITF until its assets can be converted to cash. Even government securities which are the most liquid of fixed income securities may be subjected to liquidity risk particularly if a sizeable volume is involved.

Credit Risk/Default Risk. This is the possibility for an investor to experience losses due to a borrower's failure to pay principal and/or interest in a timely manner on instruments such as bonds, loans, or other forms of security which the borrower issued. This inability of the borrower to make good on its financial obligations may have resulted from adverse changes in its financial condition thus, lowering credit quality of the security, and consequently lowering the price (market/price risk) which contributes to the difficulty in selling such security. It also includes risk on a counterparty (a party the UITF Manager trades with) defaulting on a contract to deliver its obligation either in cash or securities.

This is the risk of losing value in the UITF portfolio in the event the borrower defaults on his obligation or in the case of a counterparty, when it fails to deliver on the agreed trade. This decline in the value of the UITF happens because the default/failure would make the price of the security go down and may make the security difficult to sell. As these happen, the UITFs NAVpu will be affected by a decline in value.

Reinvestment Risks. This is the risk associated with the possibility of having lower returns or earnings when maturing funds or the interest earnings of funds are reinvested.

Investors in the UITF who redeem and realize their gains run the risk of reinvesting their funds in an alternative investment outlet with lower yields. Similarly, the UITF manager is faced with the risk of not being able to find good or better alternative investment outlets as some of the securities in the fund matures.

In case of a foreign-currency denominated UITF or a peso denominated UITF allowed to invest in securities denominated in currencies other than its base currency, the UITF is also exposed to the following risks:

Foreign Exchange Risk. This is the possibility for an investor to experience losses due to fluctuations in foreign exchange rates. The exchange rates depend upon a variety of global and local factors, e.g., interest rates, economic performance, and political developments.

It is the risk of the UITF to currency fluctuations when the value of investments in securities denominated in currencies other than the base currency of the UITF depreciates. Conversely, it is the risk of the UITF to lose value when the base currency of the UITF appreciates. The NAVpu of a peso-denominated UITF invested in foreign currency-denominated securities may decrease to incur loss when the peso appreciates.

Country Risk. This is the possibility for an investor to experience losses arising from investments in securities issued by/in foreign countries due to the political, economic and social structures of such countries. There are risks in foreign investments due to the possible internal and external conflicts, currency devaluations, foreign ownership limitations and tax increases of the foreign country involved which are difficult to predict but must be taken into account in making such investments.

Likewise, brokerage commissions and other fees may be higher in foreign securities. Government supervision and regulation of foreign stock exchanges, currency markets, trading systems and brokers may be less than those in the Philippines. The procedures and rules governing foreign transactions and custody of securities may also involve delays in payment, delivery or recovery of investments.

Other Risks. Your participation in the UITFs may be further exposed to the risk of any actual or potential conflicts of interest in the handling of in-house or related party transactions by (Name of Trust Entity). These transactions may include own-bank deposits; purchase of own-institution or affiliate obligations (stock, mortgages); purchase of assets from or sales to own institution, directors, officers, subsidiaries, affiliates or other related interests/parties; or purchases or sales between fiduciary/managed accounts.

I/we have completely read and fully understood this risk disclosure statement and the same was clearly explained to me/us by a (Name of Trust Entity) UIT marketing personnel before I/we affixed my/our signature/s herein. I/we hereby voluntarily and willingly agree to comply with any and all laws, regulations, the plan rules, terms and conditions governing my/our investment in the (Name of Trust Entity) UITFs.

Signature over Printed Name

Date

I acknowledge that I have (1) advised the client to read this Risk Disclosure Statement, (2) encouraged the client to ask questions on matters contained in this Risk Disclosure Statement, and (3) fully explained the same to the client.

Signature over Printed Name/
Position of UIT Marketing Personnel

Date

(Circular No. 593 dated 08 January 2008)

**IMPLEMENTATION PLANS UNDER THE NEW INTERNATIONAL CAPITAL
STANDARDS AS CONTAINED IN THE BASEL COMMITTEE ON BANKING
SUPERVISION DOCUMENT INTERNATIONAL CONVERGENCE OF CAPITAL
MEASUREMENT AND CAPITAL STANDARDS**
(Appendix to Sec. X116)

A. General approach

UBs/KBs are expected to comply with the standardized approach for credit risk, and the basic indicator or standardized approaches for operational risk by 2007. By 2010, these banks may move to the foundation internal ratings based (IRB) or advanced IRB approaches for credit risk, and advanced measurement approaches for operational risk.

TBs, on the other hand, are classified into two (2). TBs are generally expected to be subject to an enhanced Basel 1-type approach by 2007. However, TBs affiliated with UBs/KBs should use the same approach used by the UBs/KBs.

RBs/Coop banks, meanwhile, are expected to be subject to an enhanced Basel 1-type approach also by 2007.

An enhanced Basel 1-type approach is basically the same as the current framework (Sec. X116) but with certain elements of Basel 2 already incorporated such as higher risk weight for past due accounts, and expanded disclosures.

B. Timetable

Between 2004 and 2007, certain provisions of Basel 2 will be gradually incorporated into the current risk-based capital adequacy framework. These would include:

- (1) Giving lower risk weights for highly-rated corporate exposures;
- (2) Giving higher risk weights for past due claims (net of specific provisions);
- (3) Adopting the standardized approach for investments in securitization structures (i.e., risk weights would depend on external ratings);

(4) Implementing a standard computation of liquidity risk and interest rate risk in the banking book; and

(5) Issuing broad guidelines on operational risk management.

The rest of the provisions of Basel 2 standardized approach for credit risk, and basic indicator and standardized approaches for operational risk will be implemented by 2007. Under the standardized approach for credit risk, risk weights would mainly depend on the external rating of the counterparty. Under the basic indicator approach for operational risk, capital charge is fifteen percent (15%) of the 3-year average of a bank's gross income. Under the standardized approach for operational risk, on the other hand, banks will compute capital charge separately for each business line. Business line operational risk charge is a fraction (between 12%-18%) of the 3-year average of a business line's gross income. Total operational risk charge is the sum of the operational risk charges for all business lines.

The expanded disclosure requirements prescribed under Basel 2, as may be appropriate, will also be implemented by 2007.

The draft implementation guidelines containing all these provisions will be exposed for comment by the BSP in the first quarter of 2005. The final implementation guidelines are expected to be issued by end-December 2005.

By 2010, banks may already be allowed to use the advanced approaches prescribed under Basel 2. For credit risk, banks may use the internal ratings based (IRB) approach, where the credit risk capital charge would

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depend on banks’ internal rating of the counterparty, including estimates of probability of default, loss given default, and other risk parameters. For operational risk, banks may use statistical modeling and other advanced measurement tools in determining the capital charge.

To facilitate a successful implementation of Basel 2, the BSP will continue to engage the banking community, particularly through the BAP’s Risk Management Committee, in

its preparations especially those involving the eventual implementation of the advanced approaches by 2010. The BSP likewise strongly encourages banks to assess the likely impact of this shift in risk-based capital framework on their capital adequacy ratio. Banks needing assistance in performing this self-analysis may contact the Office of the Assistant Governor, Supervision and Examination Sector at email address srso@bsp.gov.ph.

**QUALIFYING CAPITAL UNDER THE RISK BASED CAPITAL ADEQUACY
FRAMEWORK**
[Appendix to Subsec. X116.2 and X119.4 (2008 - X116.1 and X119.4)]

Qualifying Capital. The qualifying capital shall be the sum of :

- a. Tier 1 capital -
 - (1) Core Tier 1 capital
 - (a) Paid-up common stock;
 - (b) Paid-up perpetual and non-cumulative preferred stock;
 - (c) Common stock dividends distributable;
 - (d) Perpetual and non-cumulative preferred stock dividends distributable;
 - (e) Surplus;
 - (f) Surplus reserves;
 - (g) Undivided profits (for domestic banks only); and
 - (h) Minority interest in the equity of subsidiary financial allied undertakings which are less than wholly-owned: *Provided*, That a bank shall not use minority interests in the equity accounts of consolidated subsidiaries as avenue for introducing into its capital structure elements that might not otherwise qualify as Tier 1 capital or that would, in effect, result in an excessive reliance on preferred stock within Tier 1:

Provided, further, that the following items shall be deducted from the total of Tier 1 capital:

- (i) Common stock treasury shares;
- (ii) Perpetual and non-cumulative preferred stock treasury shares;
- (iii) Net unrealized losses on underwritten listed equity securities purchased (for domestic banks and Philippine branches of foreign banks);
- (iv) Unbooked valuation reserves and other capital adjustments based on the latest report of examination as approved by the Monetary Board;
- (v) Total outstanding unsecured credit accommodations, both direct and indirect, to DOSRI;

- (vi) Unsecured loans, other credit accommodations and guarantees granted to subsidiaries and affiliates;
- (vii) Deferred income tax; and
- (viii) Goodwill; and
- (2) Hybrid Tier 1 (HT1)
 - (a) With prior BSP approval, perpetual preferred stock and perpetual UnSD, subject to the following conditions:
 - (i) The HT1 must be issued and fully paid-up. Only the net proceeds received from the issuance of HT1 shall be included as capital;
 - (ii) The dividends/coupons on the HT1 must be non-cumulative. It is acceptable to pay dividends/coupons in scrip or shares of stock if a cash dividend/coupon is withheld: *Provided*, That this does not result on issuing lower quality capital: *Provided, further*, That where such dividend/coupon stock settlement feature is included, the bank should ensure that it has an appropriate buffer of authorized capital stock and appropriate stockholders and board authorization, if necessary, to fulfill their potential obligations under such issues;
 - (iii) The HT1 must be available to absorb losses of the bank without it being obliged to cease carrying on business. The agreement governing the issuance of the HT1 should specifically provide for the dividend/coupon and principal to absorb losses where the bank would otherwise be insolvent, or for the holders of the HT1 to be treated as if they were holders of a specified class of share capital in any proceedings commenced for the winding up of the bank. Issue documentation must disclose to prospective investors the manner by which the instrument is to be treated in loss situation.

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Alternatively, the agreement governing the issuance of the HT1 can provide for automatic conversion into common shares or perpetual and non-cumulative preferred shares upon occurrence of certain trigger events, as follows:

- (aa) Breach of minimum capital ratio;
- (bb) Commencement of proceedings for winding up of the bank; or
- (cc) Upon appointment of receiver for the bank.

The rate of conversion must be fixed at the time of subscription to the instrument. The bank must also ensure that it has appropriate buffer of authorized capital stock and appropriate stockholders and board authorization for conversion/issue to take place anytime;

(iv) The holders of the HT1 must not have a priority claim, in respect of principal and dividend/coupon payments of the HT1 in the event of winding up of the bank, which is higher than or equal with that of depositors, other creditors of the bank and holders of LT2 and UT2 capital instruments. The holder of the HT1 must waive his right to set-off any amount he owes the bank against any subordinated amount owed to him due to the HT1;

(v) The HT1 must be perpetual;

(vi) The HT1 must neither be secured nor covered by a guarantee of the issuer or related party or other arrangement that legally or economically enhances the priority of the claim of any holder of the HT1 as against depositors, other creditors of the bank and holders of LT2 and UT2 capital instruments;

(vii) The HT1 must not be redeemable at the initiative of the holder. It must not be repayable prior to maturity without the prior approval of the BSP: *Provided*, That repayment may be allowed only in connection with call option after a minimum of five (5) years from issue date: *Provided, however*, That a call option may be exercised within the first five (5) years from issue date when –

(aa) The HT1 was issued for the purpose of a merger with or acquisition by the bank and the merger or acquisition is aborted;

(bb) There is a change in tax status of the HT1 due to changes in the tax laws and/or regulations; or

(cc) The HT1 does not qualify as Hybrid Tier 1 capital as determined by the BSP:

Provided, further, That such repayment prior to maturity shall be approved by the BSP only if the preferred share/debt is simultaneously replaced with issues of new capital which is neither smaller in size nor of lower quality than the original issue, unless the bank's capital ratio remains more than adequate after redemption.

It must not contain any clause which requires acceleration of payment of principal, except in the event of insolvency. The agreement governing the issuance of the HT1 must not contain any provision that mandates or creates an incentive for the bank to repay the outstanding principal of the instrument, e.g., a cross-default or negative pledge or a restrictive covenant, other than a call option which may be exercised by the bank;

(viii) The main features of the HT1 must be publicly disclosed by annotating the same on the instrument and in a manner that is easily understood by the investor;

(ix) The proceeds of the HT1 must be immediately available without limitation to the bank;

(x) The bank must have full discretion over the amount and timing of dividends/coupons under the HT1 where the bank –

(aa) Has not paid or declared a dividend on its common shares in the preceding financial year; or

(bb) Determines that no dividend is to be paid on such shares in the current financial year.

The bank must have full control and access to waived payments;

(xi) Any dividend/coupon to be paid under the HT1 must be paid only to the extent that the bank has profits distributable determined in accordance with existing BSP regulations. The dividend/coupon rate, or the formulation for calculating dividend/coupon payments must be fixed at the time of issuance of the HT1 and must not be linked to the credit standing of the bank;

(xii) The HT1 may allow only one (1) moderate step-up in the dividend/coupon rate in conjunction with a call option, only if the step-up occurs at a minimum of ten (10) years after the issue date and if it results in an increase over the initial rate that is not more than –

(aa) 100 basis points less the swap spread between the initial index basis and the stepped-up index basis; or

(bb) Fifty percent (50%) of the initial credit spread less the swap spread between the initial index basis and the stepped-up index basis.

The swap spread should be fixed as of the pricing date and reflect the differential in pricing on that date between the initial reference security or rate and the stepped-up reference security or rate (Refer to Annex A for computation of dividend/coupon rate step-up);

(xiii) The HT1 must be underwritten or purchased by a third party not related to the issuer bank nor acting in reciprocity for and in behalf of the issuer bank;

(xiv) The HT1 must be issued in minimum denominations of at least P500,000.00 or its equivalent;

(xv) The HT1 must clearly state on its face that it is not a deposit and is not insured by the PDIC; and

(xvi) The bank must submit a written external legal opinion that the above mentioned requirements, including the subordination and loss absorption features, have been met:

Provided, That for purposes of reserve requirement regulation, the HT1 shall not

be treated as time deposit liability, deposit substitute liability or other forms of borrowings: *Provided, further*, That the total amount of HT1 that may be included in the Tier 1 capital shall be limited to a maximum of fifteen percent (15%) of total Tier 1 capital (net of deductions therefrom): *Provided, furthermore*, That the amount of HT1 capital in excess of the maximum allowable limit shall be eligible for inclusion in the Upper Tier 2 capital, subject to the limit on total Tier 2 capital. To determine the allowable amount of HT1, the amount of total Tier 1 capital (net of deductions therefrom) excluding the HT1 should be multiplied by seventeen and sixty five percent (17.65%), the number derived from the proportion of fifteen percent (15%) to eighty five percent (85%) (i.e., $15\%/85\% = 17.65\%$);

b. Tier 2 (supplementary) capital which shall be the sum of –

(1) *Upper Tier 2 capital* -

(a) Paid-up perpetual and cumulative preferred stock;

(b) Paid-up limited life redeemable preferred stock issued with the condition that redemption thereof shall be allowed only if the shares redeemed are replaced with at least an equivalent amount of newly paid-in shares so that the total paid-in capital stock is maintained at the same level prior to redemption;

(c) Perpetual and cumulative preferred stock dividends distributable;

(d) Limited life redeemable preferred stock with the replacement requirement upon redemption dividends distributable;

(e) Appraisal increment reserve - bank premises, as authorized by the Monetary Board;

(f) Net unrealized gains on underwritten listed equity securities purchased: *Provided*, That the amount thereof that may be included in upper Tier 2 capital shall be subject to a fifty five percent (55%) discount (for domestic banks and Philippine branches of foreign banks);

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(g) General loan loss provision: *Provided*, That the amount thereof that may be included in upper Tier 2 capital shall be limited to a maximum of one and one-fourth percent (1-1/4%) of gross risk-weighted assets, and any amount in excess thereof shall be deducted from the total risk-weighted assets in computing the denominator of the risk-based capital ratio;

(h) With prior BSP approval, unsecured subordinated debt with a minimum original maturity of at least ten (10) years, hereinafter referred to as “UT2”, subject to the following conditions:

(i) The UT2 must be issued and fully paid-up. Only the net proceeds received from the issuance of UT2 shall be included as capital;

(ii) The UT2 must be available to absorb losses of the bank without it being obliged to cease carrying on business. The agreement governing the issuance of the UT2 should specifically provide for the coupon and principal to absorb losses where the bank would otherwise be insolvent, or for the holders of the UT2 to be treated as if they were holder of a specified class of share capital in any proceedings commenced for the winding up of the bank. Issue documentation must disclose to prospective investors the manner by which the instrument is to be treated in loss situation.

Alternatively, the agreement governing the issuance of the UT2 can provide for automatic conversion into common shares or perpetual and non-cumulative shares or perpetual and cumulative preferred shares upon occurrence of certain trigger events, as follows:

(aa) Breach of minimum capital ratio;

(bb) Commencement of proceedings for winding up of the bank or

(cc) Upon appointment of receiver for the bank.

The rate of conversion must be fixed at the time of subscription to the instrument.

The bank must also ensure that it has appropriate buffer of authorized capital stock and appropriate stockholders and board authorization for conversion/issue to take place anytime;

(iii) The holders of the UT2 must not have a priority claim, in respect of principal and coupon payments of the UT2 in the event of winding up of the bank, which is higher than or equal with that of depositors, other creditors of the bank, and holders of LT2 capital instruments. The holder of the UT2 must waive his right to set-off any amount he owes the bank against any subordinated amount owed to him due to the UT2;

(iv) The UT2 must neither be secured nor covered by a guarantee of the issuer or related party or other arrangement that legally or economically enhances the priority of the claim of any holder of the UT2 as against depositors, other creditors of the bank and holders of LT2 capital instruments;

(v) The UT2 must not be redeemable at the initiative of the holder. It must not be repayable prior to maturity without the prior approval of the BSP: *Provided*, That repayment may be allowed only in connection with call option after a minimum of five (5) years from issue date: *Provided, however*, That a call option may be exercised within the first five (5) years from issue date when –

(aa) The UT2 was issued for the purpose of a merger with or acquisition by the bank and the merger or acquisition is aborted;

(bb) There is a change in tax status of the UT2 due to changes in the tax laws and/or regulations; or

(cc) The UT2 does not qualify as Upper Tier 2 capital as determined by the BSP:

Provided, further, That such repayment prior to maturity shall be approved by the BSP only if the debt is simultaneously replaced with issues of new capital which

is neither smaller in size nor of lower quality than the original issue, unless the bank's capital ratio remains more than adequate after redemption,

It must not contain any clause which requires acceleration of payment of principal, except in the event of insolvency. The agreement governing the issuance of the UT2 must not contain any provision that mandates or creates an incentive for the bank to repay the outstanding principal of the instrument, e.g., a cross-default or negative pledge or a restrictive covenant, other than a call option which may be exercised by the bank;

(vi) The main features of the UT2 must be publicly disclosed by annotating the same on the instrument and in a manner that is easily understood by the investor;

(vii) The proceeds of the UT2 must be immediately available without limitation to the bank;

(viii) The bank must have the option to defer any coupon payment on the UT2 where the bank –

(aa) Has not paid or declared a dividend on its common shares in the preceding financial year; or

(bb) Determines that no dividend is to be paid on such shares in the current financial year;

It is acceptable for the deferred coupon to bear interest but the interest rate payable must not exceed market rates;

(ix) The coupon rate, or the formulation for calculating coupon payments must be fixed at the time of issuance of the UT2 and must not be linked to the credit standing of the bank;

(x) The UT2 may allow only one (1) moderate step-up in the coupon rate in conjunction with a call option, only if the step-up occurs at a minimum of ten (10) years after the issue date and if it results in an increase over the initial rate that is not more than–

(aa) 100 basis points less the swap spread between the initial index basis and the stepped-up index basis; or

(bb) fifty percent (50%) of the initial credit spread less the swap spread between the initial index basis and the stepped-up index basis.

The swap spread should be fixed as of the pricing date and reflect the differential in pricing on that date between the initial reference security or rate and the stepped-up reference or rate (Refer to Annex A for computation of coupon rate step-up);

(xi) The UT2 must be underwritten or purchased by a third party not related to the issuer bank nor acting in reciprocity for and in behalf of the issuer bank;

(xii) The UT2 must be issued in minimum denominations of at least P500,000.00 or its equivalent;

(xiii) The UT2 must clearly state on its face that it is not a deposit and is not insured by the PDIC; and

(xiv) The bank must submit a written external legal opinion that the above-mentioned requirements, including the subordination and loss absorption features, have been met:

Provided, That the UT2 shall be subject to a cumulative discount factor of twenty percent (20%) per year during the last five (5) years to maturity [i.e., twenty percent (20%) if the remaining life is four (4) years to less than five (5) years, forty percent (40%) if the remaining life is three (3) years to less than four (4) years, etc.]: *Provided, further*, That where it is denominated in a foreign currency, it shall be revalued in accordance with PAS 21: *Provided, furthermore*, That for purposes of reserve requirement regulation, it shall not be treated as time deposit liability, deposit substitute liability or other forms of borrowings;

(i) Deposit for common stock subscription; and

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(j) Deposit for perpetual and non-cumulative preferred stock subscription:

Provided, That the following items shall be deducted from the total of Upper Tier 2 capital:

1. Perpetual and cumulative preferred stock treasury shares;
2. Limited life redeemable preferred stock treasury shares with the replacement requirement upon redemption; and
3. Sinking fund for redemption of limited life redeemable preferred stock with the replacement requirement upon redemption; and

(k) Hybrid Tier 1 capital instruments in excess of the maximum allowable limit of fifteen percent (15%) of total Tier 1 capital (net of deductions therefrom) referred to in Item “a(2)(a)” above on Hybrid Tier 1 (HT1) capital.

(2) *Lower Tier 2 capital* –

(a) Paid-up limited life redeemable preferred stock without the replacement requirement upon redemption: *Provided*, That it shall be subject to a cumulative discount factor of twenty percent (20%) per year during the last five (5) years to maturity [i.e., twenty percent (20%) if the remaining life is four (4) years to less than five (5) years, forty percent (40%) if the remaining life is three (3) years to less than four (4) years, etc.];

(b) Limited life redeemable preferred stock without the replacement requirement upon redemption dividends distributable;

(c) UnSD with a minimum original maturity of at least five (5) years, hereinafter referred to as “LT2”, subject to the following conditions:

(i) The LT2 must be issued and fully paid-up. Only the net proceeds received from the issuance of LT2 shall be included as capital;

(ii) The holders of the LT2 must not have a priority claim, in respect of principal and coupon payments of the LT2 in the event of winding up of the bank, which is

higher than or equal with that of depositors and other creditors of the bank. The holder of the LT2 must waive his right to set-off any amount he owes the bank against any subordinated amount owed to him due to the LT2;

(iii) The LT2 must neither be secured nor covered by a guarantee of the issuer or related party or other arrangement that legally or economically enhances the priority of the claim of any holder of the LT2 as against depositors and other creditors of the bank;

(iv) The LT2 must not be redeemable at the initiative of the holder. It must not be repayable prior to maturity without the prior approval of the BSP: *Provided*, That repayment may be allowed only in connection with call option after a minimum of five (5) years from issue date: *Provided, however*, That a call option may be exercised within the first five (5) years from issue date when –

(aa) The LT2 was issued for the purpose of a merger with or acquisition by the bank and the merger or acquisition is aborted;

(bb) There is a change in tax status of the LT2 due to changes in the tax laws and/or regulations; or

(cc) The LT2 does not qualify as Lower Tier 2 capital as determined by the BSP:

Provided, further, That such repayment prior to maturity shall be approved by the BSP only if the debt is simultaneously replaced with issues of new capital which is neither smaller in size nor of lower quality than the original issue, unless the bank’s capital ratio remains more than adequate after redemption.

It must not contain any clause which requires acceleration of payment of principal, except in the event of insolvency. The agreement governing the issuance of the LT2 must not contain any provision that mandates or creates an incentive for the bank to repay the

outstanding principal of the instrument, e.g., a cross-default or negative pledge or a restrictive covenant other than a call option which may be exercised by the bank;

(v) The main features of the LT2 must be publicly disclosed by annotating the same on the instrument and in a manner that is easily understood by the investor;

(vi) The proceeds of the LT2 must be immediately available without limitation to the bank;

(vii) The coupon rate, or the formulation for calculating coupon payments must be fixed at the time of issuance of the LT2 and must not be linked to the credit standing of the bank;

(viii) The LT2 may allow only one (1) moderate step-up in the coupon rate in conjunction with a call option, only if the step-up occurs at a minimum of five (5) years after the issue date and if it results in an increase over the initial rate that is not more than-

(aa) 100 basis points less the swap spread between the initial index basis and the stepped-up index basis; or

(bb) fifty percent (50%) of the initial credit spread less the swap spread between the initial index basis and the stepped-up index basis;

The swap spread should be fixed as of the pricing date and reflect the differential in pricing on that date between the initial reference security or rate and the stepped-up reference security or rate (Refer to Annex A for computation of coupon rate step-up);

(ix) The LT2 must be underwritten or purchased by a third party not related to the issuer bank nor acting in reciprocity for and in behalf of the issuer bank;

(x) The LT2 must be issued in minimum denominations of at least P500,000.00 or its equivalent;

(xi) The LT2 must clearly state on its face that it is not a deposit and is not insured by the PDIC; and

(xii) The bank must submit a written external legal opinion that the

abovementioned requirements, including the subordination feature have been met:

Provided, That the LT2 shall be subject to a cumulative discount factor of twenty percent (20%) per year during the last five (5) years to maturity [i.e., twenty percent (20%) if the remaining life is four (4) years to less than five (5) years, forty percent (40%) if the remaining life is three (3) years to less than four (4) years, etc.]: *Provided, further*, That where it is denominated in a foreign currency, it shall be revalued in accordance with PAS 21: *Provided, furthermore*, That, for purposes of reserve requirement regulation, it shall not be treated as time deposit liability, deposit substitute liability or other forms of borrowings;

(d) Deposit for perpetual and cumulative preferred stock subscription; and

(e) Deposit for limited life redeemable preferred stock subscription with the replacement requirement upon redemption:

Provided, That the following items shall be deducted from the total of Lower Tier 2 capital:

(i) Limited life redeemable preferred stock treasury shares without the replacement requirement upon redemption;

(ii) Sinking fund for redemption of limited life redeemable preferred stock without the replacement requirement upon redemption: *Provided*, That the amount to be deducted shall be limited to the balance of redeemable preferred stock after applying the cumulative discount factor:

Provided, That the total amount of Lower Tier 2 capital that may be included in the Tier 2 capital shall be limited to a maximum of fifty percent (50%) of total Tier 1 capital (net of deductions therefrom): *Provided, further*, That the total amount of Upper and Lower Tier 2 capital that may be included in the qualifying capital shall be limited to a maximum of 100% of total Tier 1 capital (net of deductions therefrom);

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c. Less deductions from the total of Tier 1 and Tier 2 capital, as follows:

(1) Investments in equity of unconsolidated subsidiary banks and other financial allied undertakings, but excluding insurance companies;

(2) Investments in debt capital instruments of unconsolidated subsidiary banks;

(3) Investments in equity of subsidiary insurance companies and non-financial allied undertakings; and

(4) Reciprocal investments in equity of other banks/enterprises:

(5) Reciprocal investments in unsecured subordinated term debt instruments of other banks/QBs qualifying as Hybrid Tier 1, Upper Tier 2 and Lower Tier 2, in excess of the lower of (i) an aggregate ceiling of five percent (5%) of total Tier 1 capital of the bank excluding Hybrid Tier 1; or (ii) ten percent (10%) of the total outstanding unsecured subordinated term debt issuance of the other bank/QBs.

Provided, That any asset deducted from the qualifying capital in computing the

numerator of the risk-based capital ratio shall not be included in the risk-weighted assets in computing the denominator of the ratio.

For foreign bank branches, Tier 1 capital elements shall consist of -

1. Assigned capital; and

2. Net due “to” head office, branches, subsidiaries and other offices outside the Philippines as defined under Subsec. X105.5.d (inclusive of earnings not remitted to head office per Subsec. X105.5.c): *Provided*, That the amount of “Net due to account” shall be limited to an amount prescribed under Subsec. X105.6: *Provided, further*, That should there be any “Net due from account”, the same shall be deducted from the Tier 1 capital.

All outstanding issues of unsecured subordinated term debt instruments qualifying as UT2 and LT2 capital shall continue to be governed by the provisions of regulations existing at the time of their issuance, except that premiums thereon may now be counted as part of capital.

(As amended by Circular Nos. 560 dated 31 January 2007 and 528 dated 03 May 2006)

Step-up Calculation

Case I. Change in Index Basis
(e.g., from 10-year US Treasury Notes to 10-year US Swap Rate)

Step 1. Determining the swap spread

A. Breakdown of Coupon Rate Based on Initial Index		
Index basis (10-year US Treasury Notes)	4.49%	
Credit spread	<u>5.00%</u>	
Coupon rate	<u>9.49%</u>	} Swap
spread of		
B. Breakdown of Coupon Rate Based on Stepped-up Index		
Index basis (10-year US swap rate at issuance)	5.05%	} 0.56%
Adjusted credit spread to achieve initial coupon rate of 9.49%	<u>4.44%</u>	
Coupon rate	<u>9.49%</u>	

Step 2. Calculating Stepped-Up Coupon Rate

A. Assuming a ceiling of not more than 100 b.p., less the swap spread between the initial index basis and the stepped-up index basis

Index basis (10-year US swap rate)	5.05%
Initial credit spread	<u>5.00%</u>
Total before step-up	10.05%
Step-up (100 b.p)	<u>1.00%</u>
Total after step-up but before swap spread	11.05%
Less: Swap spread	<u>0.56%</u>
Stepped-up coupon rate	<u>10.49%</u>

B. Assuming a ceiling of not more than 50% of the initial credit spread, less the swap spread between the initial index basis and the stepped-up index basis

Index basis (10-year US swap rate)	5.05%
Initial Credit spread	<u>5.00%</u>
Total before step-up	10.05%
Step-up (50% of the initial credit spread)	<u>2.50%</u>
Total after step-up but before swap spread	12.55%
Less: Swap spread	<u>0.56%</u>
Stepped-up coupon rate	<u>11.99%</u>

**RISK-BASED CAPITAL ADEQUACY FRAMEWORK
FOR THE PHILIPPINE BANKING SYSTEM
(Appendix to Sec. X115)**

Introduction

This Appendix outlines the BSP implementing guidelines of the revised *International Convergence of Capital Measurement and Capital Standards*, or popularly known as Basel II. Basel II is the new international capital standards set by the Basel Committee on Banking Supervision (BCBS)¹. It aims to replace Basel I, which was issued in 1988 with an amendment in 1996, to make the risk-based capital framework more risk-sensitive. Banks are enjoined to submit their group-wide (including subsidiary banks and QBs) Basel II implementation plans from 2007-2010, not later than 31 December 2006.

The guidelines contained in this Appendix shall take effect on 1 July 2007.
(As amended by M-2006-022 dated 24 November 2006)

Part I. Risk-based capital adequacy ratio

1. The risk-based CAR of UBs and KBs and their subsidiary banks and QBs, expressed as a percentage of qualifying capital to risk-weighted assets, shall not be less than ten percent (10%).
2. Qualifying capital is computed in accordance with the provisions of Part II. Risk-weighted assets is the sum of (1) credit risk-weighted assets (Parts III, IV, and V), (2) market risk-weighted assets (Parts IV and VI), and (3) operational risk-weighted assets (Part VII).
3. The CAR requirement will be applied to all UBs and KBs and their subsidiary banks, and QBs on both solo and consolidated bases. The application of the requirement on a consolidated basis is

the best means to preserve the integrity of capital in banks with subsidiaries by eliminating double gearing. However, as one of the principal objectives of supervision is the protection of depositors, it is essential to ensure that capital recognized in capital adequacy measures is readily available for those depositors. Accordingly, individual banks should likewise be adequately capitalized on a stand-alone basis.

4. To the greatest extent possible, all banking and other relevant financial activities (both regulated and unregulated) conducted by a bank and its subsidiaries will be captured through consolidation. Thus, majority-owned or-controlled financial allied undertakings should be fully consolidated on a line by line basis. Exemptions from consolidation shall only be made in cases where such holdings are acquired through debt previously contracted and held on a temporary basis, are subject to different regulation, or where non-consolidation for regulatory capital purposes is otherwise required by law. All cases of exemption from consolidation must be made with prior clearance from the BSP.

5. Banks shall comply with the minimum CAR at all times notwithstanding that supervisory reporting shall only be on quarterly basis. Any breach, even if only temporary, shall be reported to the bank’s Board of Directors and to BSP, SES within three (3) banking days. For this purpose, banks shall develop an appropriate system to properly monitor their compliance.

6. The BSP reserves the right, upon authority of the Deputy Governor, SES, to conduct on-site inspection outside of

¹ The Basel Committee on Banking Supervision is a committee of banking supervisory authorities that was established by the central bank governors of the Group of Ten countries in 1975. It consists of senior representatives of bank supervisory authorities and central banks from Belgium, Canada, France, Germany, Italy, Japan, Luxembourg, the Netherlands, Spain, Sweden, Switzerland, the United Kingdom, and the United States. It usually meets at the Bank for International Settlements in Basel, Switzerland where its permanent Secretariat is located.

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regular or special examination, for the purpose of ascertaining the accuracy of CAR calculations as well as the integrity of CAR monitoring and reporting systems.

Part II. Qualifying capital

1. Qualifying capital consists of Tier 1 (core plus hybrid) capital and Tier 2 (supplementary) capital elements, net of required deductions from capital.

A. Tier 1 Capital

2. Tier 1 capital is the sum of core Tier 1 capital and allowable amount of hybrid Tier 1 capital, as set in paragraph 12.

3. Core Tier 1 capital consists of:

- a) Paid-up common stock;
- b) Paid-up perpetual and non-cumulative preferred stock;
- c) Additional paid-in capital;
- d) Retained earnings;
- e) Undivided profits (for domestic banks only);

f) Net gains on fair value adjustment of hedging instruments in a cash flow hedge of available for sale equity securities;

g) Cumulative foreign currency translation; and

h) Minority interest in subsidiary financial allied undertakings which are less than wholly-owned: *Provided*, That a bank shall not use minority interests in the equity accounts of consolidated subsidiaries as avenue for introducing into its capital structure elements that might not otherwise qualify as Tier 1 capital or that would, in effect, result in an excessive reliance on preferred stock within Tier 1:

Less:

- i. Common stock treasury shares;
- ii. Perpetual and non-cumulative preferred stock treasury shares;
- iii. Net unrealized losses on available for sale equity securities purchased;
- iv. Gains (Losses) resulting from designating financial liabilities at fair value

through profit or loss that are due to own credit worthiness;

v. Unbooked valuation reserves and other capital adjustments based on the latest report of examination as approved by the Monetary Board;

vi. Total outstanding unsecured credit accommodations, both direct and indirect, to DOSRI and unsecured loans, other credit accommodations and guarantees granted to subsidiaries and affiliates;

vii. Deferred income tax;

viii. Goodwill, including that relating to unconsolidated subsidiary banks, financial allied undertakings, excluding subsidiary securities dealers/brokers and insurance companies, (on solo basis) and unconsolidated subsidiary securities dealers/brokers, insurance companies and non-financial allied undertakings (on solo and consolidated bases); and

ix. Gain on sale resulting from a securitization transaction.

4. Hybrid Tier 1 capital in the form of perpetual preferred stock and perpetual UnSD may be issued subject to prior BSP approval and to the conditions in paragraph 12.

5. In the case of foreign banks, Tier 1 capital is equivalent to:

a) Assigned capital including earnings not remitted to the head office which the bank elects to consider as part of assigned capital (in which case it can no longer be remitted to the head office); and

b) "Net due to" head office, branches, subsidiaries and other offices outside the Philippines as defined under Subsec. X105.5.d (inclusive of earnings not remitted to head office per Subsec. X105.5.c, unless considered as part of the assigned capital by the bank), subject to the limit prescribed under Subsec. X105.6,

Less:

i. Any balance in the "Net due from" account.

(As amended by Circular No. 560 dated 31 January 2007)

B. Tier 2 Capital

6. Tier 2 capital is the sum of upper Tier 2 capital and lower Tier 2 capital.
7. The total amount of lower Tier 2 (LT2) capital before deductions enumerated in paragraph 10 that may be included in total Tier 2 capital shall be limited to a maximum of fifty percent (50%) of total Tier 1 capital (net of deductions enumerated in paragraph 3). The total amount of upper and lower Tier 2 capital both before deductions enumerated in paragraph 10 that may be included in total qualifying capital shall be limited to a maximum of 100% of total Tier 1 capital (net of deductions enumerated in paragraph 3).
8. Upper Tier 2 capital consists of:
- a) Paid-up perpetual and cumulative preferred stock;
 - b) Paid-up limited life redeemable preferred stock issued with the condition that redemption thereof shall be allowed only if the shares redeemed are replaced with at least an equivalent amount of newly paid-in shares so that the total paid-in capital stock is maintained at the same level prior to redemption;
 - c) Appraisal increment reserve – bank premises, as authorized by the Monetary Board;
 - d) Net unrealized gains on available for sale equity securities purchased subject to a fifty five percent (55%) discount;
 - e) General loan loss provision, limited to a maximum of one percent (1%) of credit risk-weighted assets, and any amount in excess thereof shall be deducted from the credit risk-weighted assets in computing the denominator of the risk-based capital ratio;
 - f) With prior BSP approval, UnSD with a minimum original maturity of at least ten (10) years issued subject to the conditions in paragraph 13, in an amount equivalent to its carrying amount discounted by the following rates:

Remaining maturity	Discount factor
5 years & above	0%
4 years to < 5 years	20%
3 years to < 4 years	40%
2 years to < 3 years	60%
1 year to < 2 years	80%
< 1 year	100%

- g) Deposit for common stock subscription;
 - h) Deposit for perpetual and non-cumulative preferred stock subscription; and
 - i) Hybrid Tier 1 capital as defined in paragraph 4 in excess of the maximum allowable limit of fifteen percent (15%) of total Tier 1 capital (net of deductions enumerated in paragraph 3):
 - Less:
 - i. Perpetual and cumulative preferred stock treasury shares;
 - ii. Limited life redeemable preferred stock treasury shares with the replacement requirement upon redemption;
 - iii. Sinking fund for redemption of limited life redeemable preferred stock with the replacement requirement upon redemption; and
 - iv. Net losses in fair value adjustment of hedging instruments in a cash flow hedge of available for sale equity securities.
9. LT2 capital consists of:
- a) Paid-up limited life redeemable preferred stock without the replacement requirement upon redemption in an amount equivalent to its carrying amount discounted by the following rates:

Remaining maturity	Discount factor
5 years & above	0%
4 years to < 5 years	20%
3 years to < 4 years	40%
2 years to < 3 years	60%
1 year to < 2 years	80%
< 1 year	100%

- b) With prior BSP approval, UnSD with a minimum original maturity of at

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least five (5) years, issued subject to the conditions in paragraph 14, in an amount equivalent to its carrying amount discounted by the following rates:

Remaining maturity	Discount factor
5 years & above	0%
4 years to < 5 years	20%
3 years to < 4 years	40%
2 years to < 3 years	60%
1 year to < 2 years	80%
< 1 year	100%

- c) Deposit for perpetual and cumulative preferred stock subscription; and
- d) Deposit for limited life redeemable preferred stock subscription with the replacement requirement upon redemption.
Less:
 - i. Limited life redeemable preferred stock treasury shares without the replacement requirement upon redemption; and
 - ii. Sinking fund for redemption of limited life redeemable preferred stock without the replacement requirement upon redemption up to the extent of the balance of redeemable preferred stock after applying the cumulative discount factor.

C. Deductions from the total of Tier 1 and Tier 2 capital

10. The following items should be deducted fifty percent (50%) from Tier 1 and fifty percent (50%) from Tier 2 capital:
- a) Investments in equity of unconsolidated subsidiary banks and QBs, and other financial allied undertakings (excluding subsidiary securities dealers/brokers and insurance companies), after deducting related goodwill, if any (for solo basis);
 - b) Investments in other regulatory capital instruments of unconsolidated subsidiary banks and QBs (for solo basis);

- c) Investments in equity of unconsolidated subsidiary securities dealers/brokers, insurance companies, and non-financial allied undertakings, after deducting related goodwill, if any (for both solo and consolidated bases);
- d) Capital shortfalls of unconsolidated subsidiary securities dealers/brokers and insurance companies (for both solo and consolidated bases);
- e) Significant minority investments (20%-50% of voting stock) in banks and QBs, and other financial allied undertakings (for both solo and consolidated bases);
- f) Reciprocal investments in equity of other banks/enterprises;
- g) Reciprocal investments in other regulatory capital instruments of other banks and QBs;
- h) Materiality thresholds in credit derivative contracts purchased;
- i) Securitization tranches which are rated below investment grade or are unrated; and
- j) Credit enhancing interest only strips in relation to a securitization structure, net of the amount of “gain-on-sale” that must be deducted from core Tier 1 capital referred to in paragraph 3.

11. Any asset deducted from qualifying capital in computing the numerator of the risk-based capital ratio shall not be included in the risk-weighted assets in computing the denominator of the ratio. Available for sale debt securities shall be risk-weighted net of specific provisions as provided in paragraph 1 of Part III.A, but without considering accumulated market gains/losses.

D. Eligible instruments under hybrid Tier 1 capital

12. Perpetual preferred stock and perpetual UnSD issuances of banks should comply with the following minimum conditions in order to be eligible as hybrid Tier 1 (HT1) capital:

a) It must be issued and fully paid-up. Only the net proceeds received from the issuance shall be included as capital;

b) The dividends/coupons must be non-cumulative. It is acceptable to pay dividends/coupons in scrip or shares of stock if a cash dividend/coupon is withheld: *Provided*, That this does not result on issuing lower quality capital: *Provided, further*, That where such dividend/coupon stock settlement feature is included, the bank should ensure that it has an appropriate buffer of authorized capital stock and appropriate stockholders and board authorization, if necessary, to fulfill their potential obligations under such issues;

c) It must be available to absorb losses of the bank without it being obliged to cease carrying on business. The agreement governing its issuance should specifically provide for the dividend/coupon and principal to absorb losses where the bank would otherwise be insolvent, or for its holders to be treated as if they were holders of a specified class of share capital in any proceedings commenced for the winding up of the bank. Issue documentation must disclose to prospective investors the manner by which the instrument is to be treated in loss situation.

Alternatively, the agreement governing its issuance can provide for automatic conversion into common shares or perpetual and non-cumulative preferred shares upon occurrence of certain trigger events, as follows:

- i. Breach of minimum capital ratio;
- ii. Commencement of proceedings for winding up of the bank; or
- iii. Upon appointment of receiver for the bank.

The rate of conversion must be fixed at the time of subscription to the instrument. The bank must also ensure that it has appropriate buffer of authorized capital stock and appropriate stockholders

and board authorization for conversion/issue to take place anytime;

d) Its holders must not have a priority claim, in respect of principal and dividend/coupon payments in the event of winding up of the bank, which is higher than or equal with that of depositors, other creditors of the bank and holders of LT2 and UT2 capital instruments. Its holder must waive his right to set-off any amount he owes the bank against any subordinated amount owed to him due to the HT1 capital instrument;

e) It must neither be secured nor covered by a guarantee of the issuer or related party or other arrangement that legally or economically enhances the priority of the claim of any holder as against depositors, other creditors of the bank and holders of LT2 and UT2 capital instruments;

f) It must not be redeemable at the initiative of the holder. It must not be repayable without the prior approval of the BSP: *Provided*, That repayment may be allowed only in connection with call option after a minimum of five (5) years from issue date: *Provided, however*, That a call option may be exercised within the first five (5) years from issue date when –

i. It was issued for the purpose of a merger with or acquisition by the bank and the merger or acquisition is aborted;

ii. There is a change in tax status of the HT1 capital instrument due to changes in the tax laws and/or regulations; or

iii. It does not qualify as HT1 capital as determined by the BSP:

Provided, further, That such repayment shall be approved by the BSP only if the preferred share/debt is simultaneously replaced with issues of new capital which is neither smaller in size nor of lower quality than the original issue, unless the bank's capital ratio remains more than adequate after redemption.

It must not contain any clause which requires acceleration of payment of

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principal, except in the event of insolvency. The agreement governing its issuance must not contain any provision that mandates or creates an incentive for the bank to repay the outstanding principal of the instrument, e.g., a cross-default or negative pledge or a restrictive covenant, other than a call option which may be exercised by the bank;

g) Its main features must be publicly disclosed by annotating the same on the instrument and in a manner that is easily understood by the investor;

h) The proceeds of the issuance must be immediately available without limitation to the bank;

i) The bank must have full discretion over the amount and timing of dividends/coupons where the bank –

i. Has not paid or declared a dividend on its common shares in the preceding financial year; or

ii. Determines that no dividend is to be paid on such shares in the current financial year.

The bank must have full control and access to waived payments;

j) Any dividend/coupon to be paid must be paid only to the extent that the bank has profits distributable determined in accordance with existing BSP regulations. The dividend/coupon rate, or the formulation for calculating dividend/coupon payments must be fixed at the time of issuance and must not be linked to the credit standing of the bank;

k) It may allow only one (1) moderate step-up in the dividend/coupon rate in conjunction with a call option, only if the step-up occurs at a minimum of ten (10) years after the issue date and if it results in an increase over the initial rate that is not more than:

i. 100 basis points less the swap spread between the initial index basis and the stepped-up index basis; or

ii. fifty percent (50%) of the initial credit spread less the swap spread between

the initial index basis and the stepped-up index basis.

The swap spread should be fixed as of the pricing date and reflect the differential in pricing on that date between the initial reference security or rate and the stepped-up reference security or rate.

l) It must be underwritten by a third party not related to the issuer bank nor acting in reciprocity for and in behalf of the issuer bank;

m) It must be issued in minimum denominations of at least P500,000.00 or its equivalent;

n) It must clearly state on its face that it is not a deposit and is not insured by the PDIC; and

o) The bank must submit a written external legal opinion that the abovementioned requirements, including the subordination and loss absorption features, have been met:

Provided, That for purposes of reserve requirement regulation, it shall not be treated as time deposit liability, deposit substitute liability or other forms of borrowings: *Provided, further*, That the total amount of HT1 capital that may be included in the Tier 1 capital shall be limited to a maximum of fifteen percent (15%) of total Tier 1 capital (net of deductions enumerated in paragraph 3): *Provided, furthermore*, That the amount of HT1 capital in excess of the maximum limit shall be eligible for inclusion in the UT2 capital, subject to the limit in total Tier 2 capital. To determine the allowable amount of HT1 capital, the amount of total core Tier 1 capital (net of deductions enumerated in paragraph 3) should be multiplied by seventeen and sixty five percent (17.65%), the number derived from the proportion of fifteen percent (15%) to eighty five percent (85%), i.e., $15\%/85\% = 17.65\%$.

E. Eligible unsecured subordinated debt

13. UnSD issuances by banks should comply with the following minimum

conditions in order to be eligible as UT2 capital:

a) It must be issued and fully paid-up. Only the net proceeds received from the issuance shall be included as capital;

b) It must be available to absorb losses of the bank without it being obliged to cease carrying on business. The agreement governing its issuance should specifically provide for the coupon and principal to absorb losses where the bank would otherwise be insolvent, or for its holders to be treated as if they were holders of a specified class of share capital in any proceedings commenced for the winding up of the bank. Issue documentation must disclose to prospective investors the manner by which the instrument is to be treated in loss situation.

Alternatively, the agreement governing its issuance can provide for automatic conversion into common shares or perpetual and non-cumulative shares or perpetual and cumulative preferred shares upon occurrence of certain trigger events, as follows:

- i. Breach of minimum capital ratio;
- ii. Commencement of proceedings for winding up of the bank; or
- iii. Upon appointment of receiver for the bank.

The rate of conversion must be fixed at the time of subscription to the instrument. The bank must also ensure that it has appropriate buffer of authorized capital stock and appropriate stockholders and board authorization for conversion/issue to take place anytime;

c) Its holders must not have priority claim, in respect of principal and coupon payments in the event of winding up of the bank, which is higher than or equal with that of depositors, other creditors of the bank, and holders of LT2 capital instruments. Its holder must waive his right to set off any amount he owes the bank

against any subordinated amount owed to him due to the UT2 capital instrument;

d) It must neither be secured nor covered by a guarantee of the issuer or related party or other arrangement that legally or economically enhances the priority of the claim of any holder as against depositors, other creditors of the bank and holders of LT2 capital instruments;

e) It must not be redeemable at the initiative of the holder. It must not be repayable prior to maturity without the prior approval of the BSP: *Provided*, That repayment may be allowed only in connection with a call option after a minimum of five (5) years from issue date: *Provided, however*, That a call option may be exercised within the first five (5) years from issue date when:

i. It was issued for the purpose of a merger with or acquisition by the bank and the merger or acquisition is aborted;

ii. There is a change in tax status of the UT2 capital instrument due to changes in the tax laws and/or regulations; or

iii. It does not qualify as UT2 capital as determined by the BSP:

Provided, further, That such repayment prior to maturity shall be approved by the BSP only if the debt is simultaneously replaced with issues of new capital which is neither smaller in size nor of lower quality than the original issue, unless the bank's capital ratio remains more than adequate after redemption.

It must not contain any clause which requires acceleration of payment of principal, except in the event of insolvency. The agreement governing its issuance must not contain any provision that mandates or creates an incentive for the bank to repay the outstanding principal of the instrument, e.g., a cross-default or negative pledge or a restrictive covenant, other than a call option which may be exercised by the bank;

f) Its main features must be publicly disclosed by annotating the same on the

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instrument and in a manner that is easily understood by the investor;

g) The proceeds of the issuance must be immediately available without limitation to the bank;

h) The bank must have the option to defer any coupon payment where the bank:

i. has not paid or declared a dividend on its common shares in the preceding financial year; or

ii. determines that no dividend is to be paid on such shares in the current financial year;

It is acceptable for the deferred coupon to bear interest but the interest rate payable must not exceed market rates;

i) The coupon rate, or the formulation for calculating coupon payments must be fixed at the time of issuance and must not be linked to the credit standing of the bank;

j) It may allow only one (1) moderate step-up in the coupon rate in conjunction with a call option, only if the step-up occurs at a minimum of ten (10) years after the issue date and if it results in an increase over the initial rate that is not more than:

i. 100 basis points less the swap spread between the initial index basis and the stepped-up index basis; or

ii. fifty percent (50%) of the initial credit spread less the swap spread between the initial index basis and the stepped-up index basis.

The swap spread should be fixed as of the pricing date and reflect the differential in pricing on that date between the initial reference security or rate and the stepped-up reference security or rate;

k) It must be underwritten by a third party not related to the issuer bank nor acting in reciprocity for and in behalf of the issuer bank;

l) It must be issued in minimum denominations of at least P500,000.00 or its equivalent;

m) It must clearly state on its face that it is not a deposit and is not insured by the PDIC; and

n) The bank must submit a written external legal opinion that the abovementioned requirements, including the subordination and loss absorption features, have been met:

Provided, That it shall be subject to a cumulative discount factor of twenty percent (20%) per year during the last five (5) years to maturity [i.e., twenty percent (20%) if the remaining life is four (4) years to less than five (5) years, forty percent (40%) if the remaining life is three (3) years to less than four (4) years, etc.]; *Provided, further*, That where it is denominated in a foreign currency, it shall be revalued in accordance with PAS 21: *Provided, furthermore*, That for purposes of reserve requirement regulation, it shall not be treated as time deposit liability, deposit substitute liability or other forms of borrowings.

14. UnSD issuances by banks should comply with the following minimum conditions in order to be eligible as LT2 capital:

a) It must be issued and fully paid-up. Only the net proceeds received from the issuance shall be included as capital;

b) Its holders must not have priority claim, in respect of principal and coupon payments in the event of winding up of the bank, which is higher than or equal with that of depositors and other creditors of the bank. Its holder must waive his right to set-off any amount he owes the bank against any subordinated amount owed to him due to the LT2 capital instrument;

c) It must neither be secured nor covered by a guarantee of the issuer or related party or other arrangement that legally or economically enhances the priority of the claim of any holder as against depositors and other creditors of the bank;

d) It must not be redeemable at the initiative of the holder. It must not be

repayable prior to maturity without the prior approval of the BSP:

Provided, That repayment may be allowed only in connection with a call option after a minimum of five (5) years from issue date: *Provided, however*, That a call option may be exercised within the first five (5) years from issue date when:

- i. It was issued for the purpose of a merger with or acquisition by the bank and the merger or acquisition is aborted;
- ii. There is a change in tax status of the LT2 capital instrument due to changes in the tax laws and/or regulations; or
- iii. It does not qualify as LT2 capital as determined by the BSP:

Provided, further, That such repayment prior to maturity shall be approved by the BSP only if the debt is simultaneously replaced with issues of new capital which is neither smaller in size nor of lower quality than the original issue, unless the bank's capital ratio remains more than adequate after redemption.

It must not contain any clause which requires acceleration of payment of principal, except in the event of insolvency. The agreement governing its issuance must not contain any provision that mandates or creates an incentive for the bank to repay the outstanding principal of the instrument, e.g., a cross-default or negative pledge or a restrictive covenant, other than a call option which may be exercised by the bank;

e) Its main features must be publicly disclosed by annotating the same on the instrument and in a manner that is easily understood by the investor;

f) The proceeds of the issuance must be immediately available without limitation to the bank;

g) The coupon rate, or the formulation for calculating coupon payments must be fixed at the time of issuance and must not be linked to the credit standing of the bank;

h) It may allow only one (1) moderate step-up in the coupon rate in conjunction with a call option, only if the step-up occurs at a minimum of five (5) years after the issue date and if it results in an increase over the initial rate that is not more than:

i. 100 basis points less the swap spread between the initial index basis and the stepped-up index basis; or

ii. fifty percent (50%) of the initial credit spread less the swap spread between the initial index basis and the stepped-up index basis.

The swap spread should be fixed as of the pricing date and reflect the differential in pricing on that date between the initial reference security or rate and the stepped-up reference security or rate;

i) It must be underwritten by a third party not related to the issuer bank nor acting in reciprocity for and in behalf of the issuer bank;

j) It must be issued in minimum denominations of at least P500,000.00 or its equivalent;

k) It must clearly state on its face that it is not a deposit and is not insured by the PDIC; and

l) The bank must submit a written external legal opinion that the abovementioned requirements, including the subordination features, have been met:

Provided, That it shall be subject to a cumulative discount factor of twenty percent (20%) per year during the last five (5) years to maturity [i.e., twenty percent (20%) if the remaining life is four (4) years to less than five (5) years, forty percent (40%) if the remaining life is three (3) years to less than four (4) years, etc.]: *Provided, further*, That where it is denominated in a foreign currency, it shall be revalued in accordance with PAS 21: *Provided, furthermore*, That for purposes of reserve requirement regulation, it shall not be treated as time deposit liability, deposit substitute liability or other forms of borrowings.

Part III. Credit risk-weighted assets

A. Risk-weighting

1. Banking book exposures shall be risk-weighted based on third party credit assessment of the individual exposure given by eligible external credit assessment institutions listed in Part III.C.

The table below sets out the mapping of external credit assessments with the corresponding risk weights for banking book exposures. Exposures related to credit derivatives and securitizations are dealt with in Parts IV and V, respectively. Exposures should be risk-weighted net of specific provisions.

STANDARDIZED CREDIT RISK WEIGHTS								
Credit Assessment ¹	AAA	AA+ to AA-	A+ to A-	BBB+ to BBB-	BB+ to BB-	B+ to B-	Below B-	Unrated
Sovereigns	0%	0%	20%	50%	100%	100%	150%	100%
MDBs	0%	20%	50%	50%	100%	100%	150%	100%
Banks	20%	20%	50%	50%	100%	100%	150%	100% ²
Interbank call loans	20%							
Local government units	20%	20%	50%	50%	100%	100%	150%	100% ²
Government corporations	20%	20%	50%	100%	100%	150%	150%	100% ²
Corporates	20%	20%	50%	100%	100%	150%	150%	100% ²
Housing loans	50%							
MSME qualified portfolio	75%							
Defaulted exposures								
Housing loans	100%							
Others	150%							
ROPA	150%							
All other assets	100%							

Sovereign Exposures

2. These include all exposures to central governments and central banks. All Philippine peso (Php) denominated exposures to the Philippine National Government (NG) and the BSP shall be risk-weighted at zero percent (0%). Foreign currency denominated exposures to the NG and the BSP, however, shall be risk-weighted according to the table above: *Provided*, That only one-third (1/3) of the applicable risk weight shall be applied from 01 July 2007, two-thirds (2/3) from 01 January 2008, and the full risk weight from 01 January 2009³. Exposures to the Bank for International Settlements (BIS), the International Monetary Fund (IMF), and the European Central Bank (ECB) and the European

Community (EC) shall also receive zero percent (0%) risk weight.

(As amended by Circular No. 588 dated 11 December 2007)

MDB Exposures

3. These include all exposures to multilateral development banks. Exposures to the World Bank Group comprised of the IBRD and the IFC, the ADB, the AfDB, the EBRD, the IADB, the EIB, the European Investment Fund (EIF), the NIB, the CDB, the Islamic Development Bank (IDB), and the CEDB currently receive zero percent (0%) risk weight. However, it is the responsibility of the bank to monitor the external credit assessments of multilateral development banks to which they have an exposure to reflect in the risk weights any change therein.

¹ The notations follow the rating symbols used by Standard & Poor's. The mapping of ratings of all recognized external rating agencies is in Part III.C
² Or risk weight applicable to sovereign of incorporation, whichever is higher
³ The capital treatment of banks holdings of ROP Global Bonds paired with Warrants under the BSP's revised risk-based capital adequacy framework is contained in *Appendix 63b-1*.

Bank Exposures

4. These include all exposures to Philippine-incorporated banks/QBs, as well as foreign-incorporated banks.

Interbank Call Loans

5. Interbank call loans refer to interbank loans that pass through the Interbank Call Loan Funds Transfer System of the BSP, the BAP, and the PCHC.

Exposures to Local Government Units

6. These include all exposures to non-central government public sector entities. Bonds issued by Philippine local government units (LGU Bonds), which are covered by Deed of Assignment of Internal Revenue Allotment of the LGU and guaranteed by the LGU Guarantee Corporation shall be risk-weighted at the lower of fifty percent (50%) or the appropriate risk weight indicated in the table above.

Exposures to Government Corporations

7. These include all exposures to commercial undertakings owned by central or local governments. Exposures to Philippine GOCCs that are not explicitly guaranteed by the Philippine NG are also included in this category.

Corporate Exposures

8. These include all exposures to business entities, which are not considered as micro, small, or medium enterprises (MSME), whether in the form of a corporation, partnership, or sole-proprietorship. These also include all exposures to FIs, including securities dealers/brokers and insurance companies, not falling under the definition of *Bank* in paragraph 4.

Housing Loans

9. These include all current loans to individuals for housing purpose, fully secured by first mortgage on residential property that is or will be occupied by the borrower^{1\}.

(As amended by M-2008-015 dated 19 March 2008)

Micro, Small, and Medium Enterprises (MSME)

10. An exposure must meet the following criteria to be considered as an MSME exposure:

- a) The exposure must be to an MSME as defined under existing BSP regulations; and
- b) The exposure must be in the form of direct loans, or unavailed portion of committed credit lines and other business facilities such as outstanding guarantees issued and unused letters of credit: *Provided*, That the credit equivalent amounts thereof shall be determined in accordance with the methodology for off-balance sheet items.

Qualified portfolio

11. For a bank’s portfolio of MSME exposures to be considered as *qualified*, it must be a highly diversified portfolio, i.e., it has at least 500 borrowers that are distributed over a number of industries. In addition, all MSME exposures in the qualified portfolio must be current exposures. All non-current MSME exposures are excluded from count and are to be treated as ordinary non-performing loans. Current MSME exposures not qualifying under highly diversified MSME portfolio will be risk-weighted based on external rating and shall be risk-weighted in the same manner as corporate exposures.

Defaulted Exposures

12. A default is considered to have occurred in the following cases:
- a) If a credit obligation is considered non-performing under existing rules and regulations. For non-performing debt securities, they shall be defined as follows:
 - i. For zero-coupon debt securities, and debt securities with quarterly, semi-annual, or annual coupon payments, they shall be considered non-performing when principal and/or coupon payment, as

^{1\} Includes housing microfinance loans under Sec. X361.5

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may be applicable, is unpaid for thirty (30) days or more after due date; and

ii. For debt securities with monthly coupon payments, they shall be considered non-performing when three (3) or more coupon payments are in arrears: *Provided, however,* That when the total amount of arrearages reaches twenty percent (20%) of the total outstanding balance of the debt security, the total outstanding balance of the debt security shall be considered as non-performing.

b) If a borrower/obligor has sought or has been placed in bankruptcy, has been found insolvent, or has ceased operations in the case of businesses;

c) If the bank sells a credit obligation at a material credit-related loss, i.e., excluding gains and losses due to interest rate movements. Banks' board-approved internal policies must specifically define when a material credit-related loss occurs; and

d) If a credit obligation of a borrower/obligor is considered to be in default, all credit obligations of the borrower/obligor with the same bank shall also be considered to be in default.

Housing loans

13. These include all loans to individuals for housing purpose, fully secured by first mortgage on residential property that is or will be occupied by the borrower, which are considered to be in default in accordance with paragraph 12.

Others

14. These include the total amounts or portions of all other defaulted exposures, which are not secured by eligible collateral or guarantee as defined in Part III.B.

ROPA

15. All real and other properties acquired and classified as such under existing regulations.

Other Assets

16. The standard risk weight for all other assets, including bank premises, furniture, fixtures and equipment, will be 100%, except in the following cases:

a) Cash on hand and gold, which shall be risk-weighted at zero percent (0%); and

b) Checks and other cash items, which shall be risk-weighted at twenty percent (20%).

Accruals on a claim shall be classified and risk-weighted in the same way as the claim. Bills purchased shall be classified and risk-weighted as claims on the drawee bank. The treatments of credit derivatives and securitization exposures are presented separately in Parts IV and V, respectively. Investments in equity or other regulatory capital instruments issued by banks or other financial/non-financial allied/non-allied undertakings will be risk-weighted at 100%, unless deductible from the capital base as required in Part II.

Off-balance sheet items

17. For off-balance sheet items, the risk-weighted amount shall be calculated using a two-step process. First, the credit equivalent amount of an off-balance sheet item shall be determined by multiplying its notional principal amount by the appropriate credit conversion factor, as follows:

a) *100% credit conversion factor* - this shall apply to direct credit substitutes, e.g., general guarantees of indebtedness (including standby letters of credit serving as financial guarantees for loans and securities) and acceptances (including endorsements with the character of acceptances), and shall include:

i. Guarantees issued other than shipside bonds/airway bills;

ii. Financial standby letters of credit

b) *Fifty percent (50%) credit conversion factor* – this shall apply to certain transaction-related contingent items, e.g., performance bonds, bid bonds,

warranties and standby letters of credit related to particular transactions, and shall include:

i. Performance standby letters of credit (net of margin deposit), established as a guarantee that a business transaction will be performed;

This shall also apply to –

i. Note issuance facilities and revolving underwriting facilities; and

ii. Other commitments, e.g., formal standby facilities and credit lines with an original maturity of more than one (1) year, and this shall also include Underwritten Accounts Unsold.

c) *Twenty percent (20%) credit conversion factor* – this shall apply to short-term, self-liquidating trade-related contingencies arising from movement of goods, e.g., documentary credits collateralized by the underlying shipments, and shall include:

- i. Trade-related guarantees:
 - Shipperside bonds/airway bills
 - Letters of credit – confirmed
- ii. Sight letters of credit outstanding (net of margin deposit);
- iii. Usance letters of credit outstanding (net of margin deposit);
- iv. Deferred letters of credit (net of margin deposit); and
- v. Revolving letters of credit (net of margin deposit) arising from movement of goods and/or services;

This shall also apply to commitments with an original maturity of up to one (1) year, and shall include Committed Credit Line for Commercial Paper Issued.

d) *Zero percent (0%) credit conversion factor* – this shall apply to commitments which can be unconditionally cancelled at any time by the bank without prior notice, and shall include Credit Card Lines.

This shall also apply to those not involving credit risk, and shall include:

- i. Late deposits/payments received;
- ii. Inward bills for collection;
- iii. Outward bills for collection;

- iv. Travelers’ checks unsold;
- v. Trust department accounts;
- vi. Items held for safekeeping/custodianship;
- vii. Items held as collaterals;
- viii. Deficiency claims receivable; and
- ix. Others.

18. For derivative contracts, the credit equivalent amount shall be the sum of the current credit exposure (or replacement cost) and an estimate of the potential future credit exposure (or add-on). However, the following shall not be included in the computation:

a) Instruments which are traded in an exchange where they are subject to daily receipt and payment of cash variation margin; and

b) Exchange rate contract with original maturity of fourteen (14) calendar days or less.

19. The current credit exposure shall be the positive mark-to-market value of the contract (or zero if the mark-to-market value is zero or negative). The potential future credit exposure shall be the product of the notional principal amount of the contract multiplied by the appropriate potential future credit conversion factor, as indicated below:

Residual Maturity	Interest Rate Contract	Exchange Rate Contract	Equity Contract
One (1) year or less	0.0%	1.0%	6.0%
Over one (1) year to five (5) years	0.5%	5.0%	8.0%
Over five (5) years	1.5%	7.5%	10.0%

Provided, That:

a) For contracts with multiple exchanges of principal, the factors are to be multiplied by the number of remaining payments in the contract;

b) For contracts that are structured to settle outstanding exposure following specified payment dates and where the terms are reset such that the market value of the contract is zero on these specified dates, the residual maturity would be set

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equal to the time until the next reset date, and in the case of interest rate contracts with remaining maturities of more than one (1) year that meet these criteria, the potential future credit conversion factor is subject to a floor of one-half percent (1/2 %); and

c) No potential future credit exposure shall be calculated for single currency floating/floating interest rate swaps, i.e., the credit exposure on these contracts would be evaluated solely on the basis of their mark-to-market value.

20. The credit equivalent amount shall be treated like any on-balance sheet asset, and shall be assigned the appropriate risk weight, i.e., according to the third party credit assessment of the counterparty exposure.

B. Credit risk mitigation (CRM)

21. Banks use a number of techniques to mitigate the credit risks to which they are exposed. For example, exposures may be collateralized by first priority claims, in whole or in part with cash or securities, or a loan exposure may be guaranteed by a third party. Physical collateral, such as real estate, buildings, machineries, and inventories are not recognized at this time for credit risk mitigation purposes in line with Basel II recommendations.

22. In order for banks to obtain capital relief for any use of CRM techniques, all documentation used in collateralized transactions and for documenting guarantees must be binding on all parties and legally enforceable in all relevant jurisdictions. Banks must have conducted sufficient legal review to verify this and have a well-founded legal basis to reach this conclusion, and undertake such further review as necessary to ensure continuing enforceability.

23. The effects of CRM will not be double counted. Therefore, no additional supervisory recognition of CRM for regulatory capital purposes will be granted

on claims for which an issue-specific rating is used that already reflects that CRM. Principal-only ratings will not be allowed within the framework of CRM.

24. While the use of CRM techniques reduces or transfers credit risk, it simultaneously may increase other risks (residual risks). Residual risks include legal, operational, liquidity and market risks. Therefore, it is imperative that banks employ robust procedures and processes to control these risks, including strategy; consideration of the underlying credit; valuation; policies and procedures; systems; control of roll-off risks; and management of concentration risk arising from the bank's use of CRM techniques and its interaction with the bank's overall credit risk profile.

25. The disclosure requirements under Part VIII of this document must also be observed for banks to obtain capital relief (i.e., adjustments in the risk weights of collateralized or guaranteed exposures) in respect of any CRM techniques.

Collateralized transactions

26. A collateralized transaction is one in which:

- a) banks have a credit exposure or potential credit exposure; and
- b) that credit exposure or potential credit exposure is hedged in whole or in part by collateral posted by a counterparty¹ or by a third party in behalf of the counterparty.

27. In addition to the general requirement for legal certainty set out in paragraph 22, the legal mechanism by which collateral is pledged or transferred must ensure that the bank has the right to liquidate or take legal possession of it, in a timely manner, in the event of default, insolvency or bankruptcy (or one or more otherwise-defined credit events set out in the transaction documentation) of the counterparty (and, where applicable, of the

¹ Counterparty refers to a party to whom a bank has an on- or off-balance sheet credit exposure or a potential credit exposure.

custodian holding the collateral). Furthermore, banks must take all steps necessary to fulfill those requirements under the law applicable to the bank's interest in the collateral for obtaining and maintaining an enforceable security interest, e.g., by registering it with a registrar, or for exercising a right to net or set off in relation to title transfer collateral.

28. In order for collateral to provide protection, the credit quality of the counterparty and the value of the collateral must not have a material positive correlation. For example, securities issued by the counterparty – or by any related group entity – would provide little protection and so would be ineligible.

29. Banks must have clear and robust procedures for the timely liquidation of collateral to ensure that any legal conditions required for declaring the default of the counterparty and liquidating the collateral are observed, and that collateral can be liquidated promptly.

30. Where the collateral is required to be held by a custodian, the BSP will only recognize the collateral for regulatory capital purposes if it is held by BSP-authorized third party custodians.

31. A capital requirement will be applied to a bank on either side of the collateralized transaction: for example, both repos and reverse repos will be subject to capital requirements. Likewise, both sides of a securities lending and borrowing transaction will be subject to explicit capital charges, as will the posting of securities in connection with a derivative exposure or other borrowing.

Banking book

32. Where banks take eligible collateral, as listed in paragraph 34, and satisfies the requirements under paragraphs 27 to 31, they are allowed to apply the risk weight of the collateral to

the collateralized portion of the credit exposure (equivalent to the fair market value of recognized collateral), subject to a floor of twenty percent (20%). The twenty percent (20%) floor shall not apply and a zero percent (0%) risk weight can be applied when the exposure and the collateral are denominated in the same currency, and either:

- a) The collateral is cash as defined in paragraph 34.a; or
- b) The collateral is a sovereign debt security eligible for zero percent (0%) risk weight, or a Php-denominated debt obligation issued by the Philippine NG or the BSP, which fair market value has been discounted by twenty percent (20%).

33. For collateral to be recognized, however, the collateral must be pledged for at least the life of the exposure and it must be marked to market and revalued with a minimum frequency of every six (6) months.

34. The following are the eligible collateral instruments:

- a) Cash (as well as certificates of deposit or comparable instruments issued by the lending bank) on deposit with the bank which is incurring the counterparty exposure;
- b) Gold;
- c) Debt obligations issued by the Philippine NG or the BSP;
- d) Debt securities issued by central governments and central banks (and PSEs treated as sovereigns) of foreign countries as well as MDBs with at least investment grade external credit ratings;
- e) Other debt securities with external credit ratings of at least BBB- or its equivalent;
- f) Unrated senior debt securities issued by banks with an issuer rating of at least BBB- or its equivalent, or with other debt issues of the same seniority with a rating of at least BBB- or its equivalent;
- g) Equities included in the main index of an organized exchange; and

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h) Investments in Unit Investment Trust Funds (UITF) and the Asian Bond Fund 2 (ABF2) duly approved by the BSP.

Trading book

35. A credit risk capital requirement should also be applied to banks’ counterparty exposures in the trading book (e.g., repo-style transactions, OTC derivatives contracts). Where banks take eligible collateral for these trading book transactions, as listed in paragraph 34, and satisfies the requirements under paragraphs 27 to 31, they are to compute for the credit risk capital requirement according to the following paragraphs: *Provided, That*, for repo-style transactions in the trading book, all instruments which are included in the trading book may be used as eligible collateral.

36. For collateralized transactions in the trading book, the exposure amount after risk mitigation is calculated as follows:
$$E^* = \max \{0, [E \times (1 + H_e) - C \times (1 - H_c - H_{fx})]\}$$

Where:

- E* = the exposure value after risk mitigation
- E = the current value of the exposure
- H_e = haircut appropriate to the exposure
- C = the current value of the collateral received
- H_c = haircut appropriate to the collateral
- H_{fx} = haircut appropriate for currency mismatch between the collateral and exposure set at 8% (based on a 10-business day holding period and daily marking to market)

37. The treatment of transactions where there is a maturity mismatch between the maturity of the counterparty exposure and the collateral is given in paragraphs 50 to 54.

38. These are the haircuts to be used (based on a 10-business day holding

period, daily marking to market and daily remargining), expressed as percentages:

Issue rating for debt securities ¹	Residual maturity	Haircut	
		Sovereign (and PSEs treated as sovereign) and MDB (with 0% risk weight) issuers	Other Issuers
Php – denominated securities issued by the Philippine NG and BSP	≤ 1 year	0.5	
	> 1 yr. to ≤ 5 yrs.	2	
	> 5 years	4	
AAA to AA-	≤ 1 year	0.5	1
	> 1 yr. to ≤ 5 yrs.	2	4
	> 5 years	4	8
A+ to BBB-/Unrated bank debt securities as defined in paragraph 34.f	≤ 1 year	1	2
	> 1 yr. to ≤ 5 yrs.	3	6
	> 5 years	6	12
Equities included in the main index and gold		15	
UITF and ABF2		Highest haircut applicable to any security in which the fund can invest	
Cash per paragraph 34.a in the same currency		0	
Other financial instruments in the trading book (applies to repo-style transactions in the trading book only)		25	

39. Where the collateral is a basket of assets, the haircut on the basket will be $H = \sum a_i H_i$, where a_i is the weight of the asset in the basket and H_i is the haircut applicable to that asset.

40. For collateralized OTC derivatives transactions in the trading book, the credit equivalent amount will be computed according to paragraphs 18 to 19, but adjusted by deducting the volatility adjusted collateral amount as computed according to paragraphs 36 to 39.

¹ The notations follow the rating symbols used by Standard & Poor's. The mapping of ratings of all recognized external rating agencies is in Part III.C

41. The exposure amount after risk mitigation will be multiplied by the risk weight of the counterparty to obtain the risk-weighted asset amount for the collateralized transaction.

Guarantees

42. Where guarantees are direct, explicit, irrevocable and unconditional, banks may be allowed to take account of such credit protection in calculating capital requirements.

43. A guarantee must represent a direct claim on the protection provider and must be explicitly referenced to specific exposures or a pool of exposures, so that the extent of the cover is clearly defined and incontrovertible. Other than non-payment by a protection purchaser of money due in respect of the credit protection contract, the guarantee must be irrevocable; there must be no clause in the contract that would allow the protection provider unilaterally to cancel the credit cover or that would increase the effective cost of cover as a result of deteriorating credit quality in the hedged exposure. It must also be unconditional; there should be no clause in the protection contract outside the direct control of the bank that could prevent the protection provider from being obliged to pay out in a timely manner in the event that the original counterparty fails to make the payment(s) due.

44. In addition to the legal certainty requirement in paragraph 22, in order for a guarantee to be recognized, the following conditions must be satisfied:

a) On the qualifying default/non-payment of the counterparty, the bank may in a timely manner pursue the guarantor for any monies outstanding under the documentation governing the transaction. The guarantor may make one lump sum payment of all monies under such documentation to the bank, or the guarantor may assume the future payment obligations of the counterparty covered by

the guarantee. The bank must have the right to receive any such payments from the guarantor without first having to take legal actions in order to pursue the counterparty for payment;

b) The guarantee is an explicitly documented obligation assumed by the guarantor; and

c) The guarantee must cover all types of payments the underlying obligor is expected to make under the documentation governing the transaction, for example, notional amount, margin payments, etc. Where a guarantee covers payment of principal only, interests and other uncovered payments should be treated as an unsecured amount.

45. Where the bank's exposure is guaranteed by an eligible guarantor, as listed in paragraph 47, and satisfies the requirements under paragraphs 42 to 44, the bank is allowed to apply the risk weight of the guarantor to the guaranteed portion of the credit exposure.

46. The treatment of transactions where there is a mismatch between the maturity of the counterparty exposure and the guarantee is given in paragraphs 50 to 54.

47. The following are the eligible guarantors:

- a) Philippine NG and the BSP;
- b) Central governments and central banks and PSEs of foreign countries as well as MDBs with a lower risk weight than the counterparty;
- c) Banks with a lower risk weight than the counterparty; and
- d) Other entities with external credit assessment of at least A- or its equivalent.

48. Where a bank provides a credit protection to another bank in the form of a guarantee that a third party will perform on its obligations, the risk to the guarantor bank is the same as if the bank had entered into the transaction as a principal. In such circumstances, the guarantor bank will be required to calculate capital requirement on the guaranteed amount according to the

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risk weight corresponding to the third party exposure. In this instance, and provided the credit protection is deemed to be legally effective, the credit risk is considered transferred to the bank providing credit protection. However, the bank receiving credit protection on its exposure to a third party shall recognize a corresponding risk-weighted credit exposure to the bank providing credit protection.

49. An exposure that is covered by a guarantee that is counter-guaranteed by the Philippine NG or BSP, may be considered as covered by the guarantee of the Philippine NG or BSP: *Provided, That:*

- a) the counter-guarantee covers all credit risk element of the exposure;
- b) both the original guarantee and the counter-guarantee meet all operational requirements for guarantees, except that the counter guarantee need not be direct and explicit to the original exposure; and
- c) the cover is robust and that no historical evidence suggests that the coverage of the counter-guarantee is less than effectively equivalent to that of a direct guarantee of the Philippine NG and BSP.

Currently, Php-denominated exposures to the extent guaranteed by Industrial Guarantee and Loan Fund (IGLF), Home Guaranty Corporation (HGC)^{1\}, and Trade and Investment Development Corporation of the Philippines (TIDCORP), which guarantees are counter-guaranteed by the Philippine NG receive zero percent (0%) risk weight.

(As amended by M-2008-015 dated 19 March 2008)

Maturity mismatch

50. For collateralized transactions in the trading book and guaranteed transactions, the credit risk mitigating effects of such transactions will still be recognized even if a maturity mismatch occurs between the hedge and the underlying exposure, subject to appropriate adjustments.

51. For purposes of calculating risk-weighted assets, a maturity mismatch

occurs when the residual maturity of a hedge is less than that of the underlying exposure.

52. The maturity of the hedge and the maturity of the underlying exposure should both be defined conservatively. For the hedge, embedded options which may reduce the term of the hedge should be taken into account so that the shortest possible effective maturity is used. Where a call is at the discretion of the guarantor/protection seller, the maturity will always be at the first call date. If the call is at the discretion of the protection buying bank but the terms of the arrangement at origination of the hedge contain a positive incentive for the bank to call the transaction before contractual maturity, the remaining time to the first call date will be deemed to be the effective maturity. For example, where there is a step-up in cost in conjunction with a call feature or where the effective cost of cover increases over time even if credit quality remains the same or increases, the effective maturity will be the remaining time to the first call. The effective maturity of the underlying, on the other hand, should be gauged as the longest remaining time before the counterparty is scheduled to fulfill its obligation, taking into account any applicable grace period.

53. Hedges with maturity mismatches are only recognized when their original maturities are greater than or equal to one year. As a result, the maturity of hedges for exposures with original maturities of less than one (1) year must be matched to be recognized. In all cases, hedges will no longer be recognized when they have a residual maturity of three months or less.

54. When there is a maturity mismatch with recognized credit risk mitigants, the following adjustment will be applied.

$$Pa = P \times (t - 0.25)/(T - 0.25)$$

Where:

Pa = value of the credit protection adjusted for maturity mismatch

^{1\} Housing microfinance loans under Sec. X361.5 to the extent guaranteed by the HGC, shall be subject to a zero percent (0%) risk weight.

- P = credit protection (e.g., collateral amount, guarantee amount) adjusted for any haircuts

t = min (T, residual maturity of the credit protection arrangement) expressed in years

T = min (5, residual maturity of the exposure) expressed in years
- International credit assessment agencies:
a) Standard & Poor’s;
b) Moody’s;
c) Fitch Ratings; and
d) Such other rating agencies as may be approved by the Monetary Board.

Domestic credit assessment agencies:
a) PhilRatings; and
b) Such other rating agencies as may be approved by the Monetary Board.

C. Use of third party credit assessments

55. The following third party credit assessment agencies are recognized by the BSP for regulatory capital purposes:

56. The tables below set out the mapping of ratings given by the recognized credit assessment agencies for purposes of determining the appropriate risk weights:

Agency	INTERNATIONAL RATINGS						
S&P	AAA	AA +	AA	AA-	A +	A	A-
Moody's	Aaa	Aa1	Aa2	Aa3	A1	A2	A3
Fitch	AAA	AA +	AA	AA-	A +	A	A-
Agency	DOMESTIC RATINGS						
PhilRatings	AAA	Aa +	Aa	Aa-	A +	A	A-
Agency	INTERNATIONAL RATINGS						
S&P	BBB +	BBB	BBB-	BB +	BB	BB-	B +
Moody's	Baa1	Baa2	Baa3	Ba1	Ba2	Ba3	B1
Fitch	BBB +	BBB	BBB-	BB +	BB	BB-	B +
Agency	DOMESTIC RATINGS						
PhilRatings	Baa +	Baa	Baa-	Ba +	Ba	Ba-	B +

Agency	INTERNATIONAL RATINGS		
S&P	B	B-	
Moody's	B2	B3	
Fitch	B	B-	
Agency	DOMESTIC RATINGS		
PhilRatings	B	B-	

57. The BSP will issue the mapping of ratings of other rating agencies as soon as it is recognized by the BSP for regulatory capital purposes.

the Philippine sovereign as reference highest credit quality anchor.

Multiple Assessments

National Rating Systems

58. With prior BSP approval, international credit rating agencies may have national rating systems developed exclusively for use in the Philippines using

59. If an exposure has only one rating by any of the BSP recognized credit assessment agencies, that rating shall be used to determine the risk weight of the exposure; in cases where there are two or more ratings which map into different risk

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weights, the higher of the two lowest risk weights should be used.

Issuer versus issue assessments

60. Any reference to credit rating shall refer to issue-specific rating; the issuer rating may be used only if the exposure being risk-weighted is:

- a) an unsecured senior obligation of the issuer and is of the same denomination applicable to the issuer rating (e.g., local currency issuer rating may be used for risk weighting local currency denominated senior claims);
- b) short-term; and
- c) in cases of guarantees.

61. For loans, risk weighting shall depend on either the rating of the borrower or the rating of the unsecured senior obligation of the borrower: *Provided*, That in case of the latter, the loan is of the same currency denomination as the unsecured senior obligation.

Domestic versus international debt issuances

62. Domestic debt issuances may be rated by BSP-recognized domestic credit assessment agencies or by international credit assessment agencies which have developed a national rating system acceptable to the BSP. Internationally-issued debt obligations shall be rated by BSP-recognized international credit assessment agencies only.

Level of application of the assessment

63. External credit assessments for one entity within a corporate group cannot be used to proxy for the credit assessment of other entities within the same group. Such other entities should secure their own ratings.

Part IV. Credit Derivatives

1. This Part sets out the capital treatment for credit derivatives. Banks may

use credit derivatives to mitigate its credit risks or to acquire credit risks. For credit derivatives that are used as credit risk mitigants (CRM), the general requirements for the use of CRM techniques in paragraphs 21 to 25, Part III.B, have to be satisfied, in addition to the specific operational requirements for credit derivatives in paragraphs 8 to 14.

2. The contents of this Part are just the general rules to be followed in computing capital requirements for credit derivatives. A bank, therefore, is expected to consult the BSP-SES when there is uncertainty about the computation of capital requirements, or even about whether a given transaction should be treated under the credit derivatives framework.

A. Definitions and general terminology

3. *Credit derivative* – a contract wherein one party called the *protection buyer* or *credit risk seller* transfers the credit risk of a reference asset or assets issued by a reference entity or entities, which it may or may not own, to another party called the *protection seller* or *credit risk buyer*. In return, the protection buyer pays a premium or interest-related payments to the protection seller reflecting the underlying credit risk of the reference asset/s. Credit derivatives may refer to credit default swaps (CDS), total return swaps (TRS), and credit-linked notes (CLN) and similar products.

4. *Credit default swap* – a credit derivative wherein the protection buyer may exchange the reference asset or any deliverable obligation of the reference entity for cash equal to a specified amount, or get compensated to the extent of the difference between the par value and market value of the asset upon the occurrence of a defined credit event.

5. *Total return swap* – a credit derivative wherein the protection buyer exchanges the actual collections and

variations in the prices of the reference asset with the protection seller in return for a fixed premium.

6. *Credit-linked note* – a pre-funded credit derivative wherein the note holder acts as a protection seller while the note issuer is the protection buyer. As such, the repayment of the principal to the note holder is contingent upon the non-occurrence of a defined credit event. All references to CLNs shall be taken to generically include similar instruments, such as credit-linked deposits (CLDs).

7. *Special purpose vehicle* – refers to an entity specifically established to issue CLNs of a single, homogeneous risk class that are fully collateralized as to principal by eligible collateral instruments listed in paragraph 34, Part III.B, and which are purchased out of the proceeds of the note issuance.

B. Operational requirements for credit derivatives

8. A credit derivative must represent a direct claim on the protection seller and must be explicitly referenced to specific exposures or a pool of exposures, so that the extent of the cover is clearly defined and incontrovertible. Other than non-payment by a protection buyer of money due in respect of the credit derivative contract, it must be irrevocable; there must be no clause in the contract that would allow the protection seller unilaterally to cancel the credit cover or that would increase the effective cost of cover as a result of deteriorating credit quality in the hedged exposure. It must also be unconditional; there should be no clause in the credit derivative contract outside the direct control of the protection buyer that could prevent the protection seller from being obliged to pay out in a timely manner in the event of a defined credit event.

9. The credit events specified by the contracting parties must at a minimum cover:

a) failure to pay the amounts due under terms of the underlying obligation that are in effect at the time of such failure (with a grace period that is closely in line with the grace period in the underlying obligation);

b) bankruptcy, insolvency or inability of the obligor to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due, and analogous events; and

c) restructuring of the underlying obligation involving forgiveness or postponement of principal, interest or fees that results in a credit loss event (i.e., charge-off, specific provision or other similar debit to the profit and loss account).

10. The credit derivative shall not terminate prior to expiration of any grace period required for a default on the underlying obligation to occur as a result of a failure to pay, subject to the provisions of paragraph 52 of Part III.B.

11. Credit derivatives allowing for cash settlement are recognized for capital purposes insofar as a robust valuation process is in place in order to estimate loss reliably. There must be a clearly specified period for obtaining post-credit event valuations of the underlying obligation.

12. If the protection buyer's right or ability to transfer the underlying obligation to the protection seller is required for settlement, the terms of the underlying obligation must provide that any required consent to such transfer may not be unreasonably withheld.

13. The identity of the parties responsible for determining whether a credit event has occurred must be clearly defined. This determination must not be the sole responsibility of the protection seller. The bank as protection buyer must have the right/ability to inform the protection seller of the occurrence of a credit event.

14. Asset mismatches (underlying obligation is different from the obligation

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used for purposes of determining cash settlement or the deliverable obligation, or from the obligation used for purposes of determining whether a credit event has occurred) are permissible if:

a) the obligation used for purposes of determining cash settlement or the deliverable obligation, or the obligation used for purposes of determining whether a credit event has occurred ranks *pari passu* with or is junior to the underlying obligation; and

b) both obligations share the same obligor (i.e., the same legal entity) and legally enforceable cross-default or cross-acceleration clauses are in place.

C. Capital treatment for protection buyers

15. A bank that enters into a credit derivative transaction as a protection buyer in order to hedge an existing exposure in the banking book may only get capital relief if all the general requirements for the use of CRM techniques in paragraphs 21 to 25, Part III.B and the conditions in paragraphs 8 to 14 are satisfied. In addition, only the eligible guarantors listed in paragraph 47, Part III.B are considered as eligible protection sellers.

16. If all of the conditions in paragraph 15 are satisfied, banks that are protection buyers may apply the risk weight of the protection seller to the protected portion of the exposure being hedged. The risk weight of the protection seller should therefore be lower than the risk weight of the exposure being hedged for capital relief to be recognized. Exposures that are protected through the issuance of CLNs will be treated as transactions collateralized by cash and a zero percent (0%) risk weight is applied to the protected portion. The uncovered portion shall retain the risk weight of the bank's underlying counterparty.

17. The protected portion of an exposure is measured as follows:

a) The fixed amount, if such is to be paid upon the occurrence of a credit event; or

b) The notional value of the contract if either (1) par is to be paid in exchange for physical delivery of the reference asset, or (2) par less market value of the asset is to be paid upon the occurrence of a credit event.

18. A bank may obtain credit protection for a basket of reference entities where the contract terminates and pays out on the first entity to default. In this case, the bank may substitute the risk weight of the protection seller for the risk weight of the asset within the basket with the lowest risk-weighted amount, but only if the notional amount is less than or equal to the notional amount of the credit derivative.

19. Where the contract terminates and pays out on the n^{th} (other than the first) entity to default, the bank will only be able to recognize any reductions in the risk weight of the underlying asset if $(n-1)^{\text{th}}$ default-protection has also been obtained or when $n-1$ of the assets within the basket has already defaulted.

20. Where the contract is referenced to entities in the basket proportionately, reductions in the risk weight will only apply to the extent of the underlying asset's share of protection in the contract.

21. When a bank conducts an internal hedge using a credit derivative (i.e., hedging the credit risk of an exposure in the banking book with a credit derivative booked in the trading book), in order for the bank to receive any reduction in the capital requirement for the exposure in the banking book, the credit risk in the trading book must be transferred to an outside third party (i.e., an eligible protection seller).

22. Where a bank buys credit protection through a TRS and records the net payments received on the swap as net

income, but does not record offsetting deterioration in the value of the asset that is protected (either through reductions in fair value or by an addition to reserves), the credit protection will not be recognized.

23. Materiality thresholds on payments below which no payment is made in the event of loss are equivalent to retained first loss positions and must be deducted in full from the capital of the bank buying the credit protection.

24. Where the credit protection is denominated in a currency different from that in which the exposure is denominated – i.e., there is a currency mismatch – the protected portion of the exposure will be reduced by the application of a haircut, as follows:

$$Ga = G \times (1 - H_{fx})$$

Where:

- Ga = adjusted protected portion of the exposure
- G = protected portion of the exposure prior to haircut
- H_{fx} = haircut appropriate for currency mismatch between the credit protection and underlying obligation set at eight percent (8%) (based on a 10-business day holding period and daily marking to market)

25. Where a maturity mismatch occurs between the credit protection and the underlying exposure, the protected portion of the exposure adjusted for maturity mismatch will be computed according to paragraph 50 to 54, Part III.B.

D. Capital treatment for protection sellers

26. Where a bank is a protection seller in a CDS or TRS transaction, it must calculate a capital requirement on the reference asset as if it were a direct investor in the reference asset. The risk weight of the reference asset is multiplied by the nominal amount of the protection provided by the credit derivative to obtain the risk-weighted exposure.

27. For a bank holding a CLN, credit exposure is acquired on two fronts. As such, the on-balance sheet exposure arising from the note should be weighted by adding the risk weights of the reference entity and the risk weight of the note issuer. The amount of exposure is the carrying amount of the note. If the CLN principal is fully collateralized by an eligible collateral listed in paragraph 34, Part III.B, and which satisfies the requirements in paragraphs 27 to 31, Part III.B, the risk weight of the note issuer is substituted with the risk weight associated with the relevant collateral.

28. When the credit derivative is referenced to a basket of reference entities and the contract terminates and pays out on the first entity to default in the basket, capital should be held to consider the cumulative risk of all the reference entities in the basket. This means that the risk weights of all the reference entities are added up and multiplied by the amount of the protection provided by the credit derivative to obtain the risk-weighted exposure to the basket. However, the risk-weighted exposure is capped at ten (10) times the protection provided under the contract. Accordingly, the maximum capital charge is 100% of the protection provided under the contract. The multiplier ten (10) is the reciprocal of the BSP-required minimum CAR of ten percent (10%). For CLNs, the risk weight of the issuer is likewise included in the summing of the risk weights.

29. When the contract terminates and pays out on the nth (other than the first) entity to default, the treatment above shall apply except that in aggregating the risk weights of the reference entities, the risk weight/s of the n-1 lowest risk-weighted entity/ies is/are excluded from the computation. For CLNs, the risk weight of the issuer is likewise included in the summing of the risk weights.

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30. When a first or an nth-to-default credit derivative has an external credit rating acceptable to the BSP, the risk weight in paragraph 21, Part V.F will be applied.

31. A contract that is referenced to entities in the basket proportionately should be risk-weighted according to each reference entity's share of protection under the contract.

E. Credit derivatives in the trading book

32. The following describes the positions to be reported for credit derivative transactions for purposes of calculating specific risk and general market risk charges under the standardized approach.

33. A CDS creates a notional position in the specific risk of the reference obligation. A TRS creates notional positions on the specific and general market risks of the reference obligation, and an opposite notional position on a zero coupon government security representing the fixed payments or premium under the TRS. A CLN creates a notional position in the specific risk of the reference obligation, a position on the specific risk associated with the issuer, and a position on the general market risk of the note.

Specific risk

34. The specific risk position/s on the reference obligation/s created by credit derivatives are reported as short positions by protection buyers and long positions by protection sellers. In addition, holders of CLNs should report a long position on the specific risk of the note issuer.

35. The protection buyer in a first-to-default transaction should report a short position in the reference obligation with the lowest specific risk charge. A protection buyer in an nth (other than the first)-to-default transaction shall only be allowed to report a short position in a reference obligation only if n-1 obligations in the

reference basket has/have already defaulted.

36. When a credit derivative is referenced to multiple entities and the contract terminates and pays out on the first obligation to default in the basket, the transaction should be reported by the protection seller as long positions in each of the reference obligations in the basket. A CLN should likewise be reported as a long position on the note issuer. The total capital charge is capped at the notional amount of the derivative or, in the case of a CLN, the carrying amount of the note.

37. When the contract terminates and pays out on the nth (other than the first) entity to default in the basket, the treatment above shall apply except that the protection seller may exclude the long position/s on n-1 reference obligations with the lowest risk-weighted exposures in its report. A CLN should likewise be reported as a long position on the note issuer. The total capital charge is capped at the notional amount of the derivative or, in the case of a CLN, the carrying amount of the note.

38. When an nth-to-default credit derivative has an external credit rating acceptable to the BSP, the specific risk weights in Part VI.B will be applied.

39. When the contract is referenced to multiple obligations under a proportionate structure, positions in the reference obligations should be reported according to their respective proportions in the contract.

General market risk

40. A protection buyer/seller in a TRS should report a short/long notional position on the reference obligation and a long/short notional position on a zero coupon government security representing the fixed payment under the contract.

41. A protection buyer/seller in a CLN should report a short/long position on the note.

Counterparty credit risk

42. CDS and TRS transactions in the trading book attract counterparty credit risk charges. A five percent (5%) add-on factor for the computation of the potential future credit exposure shall be used by both protection buyers and protection sellers if the reference obligation has an external credit rating of at least BBB- or its equivalent. A ten percent (10%) add-on factor applies to all other reference obligations. However, a protection seller in a CDS shall only be subject to the add-on factor if it is subject to closeout upon the insolvency of the protection buyer while the underlying is still solvent. The add-on in this case should be capped to the amount of unpaid premiums.

43. Where the credit derivative is a first to default transaction, the add-on will be determined by the lowest credit quality underlying in the basket, i.e., if there are any non-investment grade or unrated items in the basket, the ten percent (10%) add-on should be used. For second and subsequent to default transactions, underlying assets should continue to be allocated according to the credit quality, i.e., the second lowest credit quality will determine the add-on for a second to default transaction, etc.

44. Where the credit derivative is referenced proportionately to multiple obligations, the add-on factor will follow the add-on factor applicable for the obligation with the biggest share. If the protection is equally proportioned, the highest add-on factor should be used.

Part V. Securitization

1. Banks must apply the securitization framework for determining regulatory capital requirements on their securitization exposures. Securitization exposures can include but are not restricted to the following: asset-backed securities, mortgage-backed securities, credit enhancements, liquidity facilities, interest

rate or currency swaps, and credit derivatives. Underlying instruments in the pool being securitized may include but are not restricted to the following: loans, commitments, asset-backed and mortgage-backed securities, corporate bonds, equity securities, and private equity investments.

2. Since securitizations may be structured in many different ways, the capital treatment of a securitization exposure must be determined on the basis of its economic substance rather than its legal form. The contents of this Part are just the general rules to be followed in computing capital requirements for securitization exposures. A bank should therefore consult the BSP-SES when there is uncertainty about the computation of capital requirements, or even about whether a given transaction should be considered a securitization.

A. Definitions and general terminology

3. *Traditional securitization* – a structure where the cash flow from an underlying pool of exposures is used to service at least two (2) different stratified risk positions or tranches reflecting different degrees of credit risk. Payments to the investors depend upon the performance of the specified underlying exposures, as opposed to being derived from an obligation of the entity originating those exposures. The stratified/tranched structures that characterize securitizations differ from ordinary senior/subordinated debt instruments in that junior securitization tranches can absorb losses without interrupting contractual payments to more senior tranches, whereas subordination in a senior/subordinated debt structure is a matter of priority of rights to the proceeds of liquidation.

4. *Synthetic securitization* – a structure with at least two (2) different stratified risk positions or tranches that reflect different degrees of credit risk where credit risk of an underlying pool of

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exposures is transferred, in whole or in part, through the use of funded (e.g., credit-linked notes) or unfunded (e.g., credit default swaps) credit derivatives or guarantees that serve to hedge the credit risk of the portfolio. Accordingly, the investors' potential risk is dependent upon the performance of the underlying pool.

5. *Originating bank* – a bank that originates directly or indirectly underlying exposures included in the securitization.

6. *Clean-up call* – an option that permits the securitization exposures to be called before all of the underlying exposures or securitization exposures have been repaid. In the case of traditional securitizations, this is generally accomplished by repurchasing the remaining securitization exposures once the pool balance or outstanding securities have fallen below some specified level. In the case of a synthetic transaction, the clean-up call may take the form of a clause that extinguishes the credit protection.

7. *Credit enhancement* – a contractual arrangement in which the bank retains or assumes a securitization exposure and, in substance, provides some degree of added protection to other parties to the transaction.

8. *Early amortization provisions* – mechanisms that, once triggered, allow investors to be paid out prior to the originally stated maturity of the securities issued. For risk-based capital purposes, an early amortization provision will be considered either controlled or non-controlled. A controlled early amortization provision must meet all of the following conditions:

a) The bank must have an appropriate capital/liquidity plan in place to ensure that it has sufficient capital and liquidity available in the event of an early amortization;

b) Throughout the duration of the transaction, including the amortization period, there is the same pro rata sharing of interest, principal, expenses, losses and recoveries based on the bank's and

investors' relative shares of the receivables outstanding at the beginning of each month;

c) The bank must set a period for amortization that would be sufficient for at least ninety percent (90%) of the total debt outstanding at the beginning of the early amortization period to have been repaid or recognized as in default; and

d) The pace of repayment should not be any more rapid than would be allowed by straight-line amortization over the period set out in criterion (c).

An early amortization provision that does not satisfy the conditions for a controlled early amortization provision will be treated as non-controlled early amortization provision.

9. *Eligible liquidity facilities* – an off-balance sheet securitization exposure shall be treated as an eligible liquidity facility if the following minimum requirements are satisfied:

a) The facility documentation must clearly identify and limit the circumstances under which it may be drawn. Draws under the facility must be limited to the amount that is likely to be repaid fully from the liquidation of the underlying exposures and any seller-provided credit enhancements. In addition, the facility must not cover any losses incurred in the underlying pool of exposures prior to a draw, or be structured such that draw-down is certain (as indicated by regular or continuous draws);

b) The facility must be subject to an asset quality test that precludes it from being drawn to cover credit risk exposures that are considered non-performing under existing BSP regulations. In addition, liquidity facilities should only fund exposures that are externally rated investment grade at the time of funding;

c) The facility cannot be drawn after all applicable (e.g., transaction-specific and program-wide) credit enhancements from which the liquidity would benefit have been exhausted; and

d) Repayment of draws on the facility (i.e., assets acquired under a purchase agreement or loans made under a lending agreement) must not be subordinated to any interests of any note holder in the program or subject to deferral or waiver.

10. *Eligible servicer cash advance facilities* – cash advance that may be provided by servicers to ensure an uninterrupted flow of payments to investors. The servicer should be entitled to full reimbursement and this right is senior to other claims on cash flows from the underlying pool of exposures.

11. *Excess spread* – generally defined as gross finance charge collections and other income received by the trust or special purpose entity (SPE, specified in paragraph 13) minus certificate interest, servicing fees, charge-offs, and other senior trust or SPE expenses.

12. *Implicit support* – arises when a bank provides support to a securitization in excess of its predetermined contractual obligation.

13. *Special purpose entity* – a corporation, trust, or other entity organized for a specific purpose, the activities of which are limited to those appropriate to accomplish the purpose of the SPE, and the structure of which is intended to isolate the SPE from the credit risk of an originator or seller of exposures. SPEs are commonly used as financing vehicles in which exposures are sold to a trust or similar entity in exchange for cash or other assets funded by debt issued by the trust.

B. Operational requirements for the recognition of risk transference in traditional securitizations

14. An originating bank may exclude securitized exposures from the calculation of risk-weighted assets only if all of the following conditions have been met. Banks meeting these conditions, however, must still hold regulatory capital against any securitization exposures they retain.

a) Significant credit risk associated with the securitized exposures has been transferred to third parties.

b) The transferor does not maintain effective or indirect control over the transferred exposures. The assets are legally isolated from the transferor in such a way (e.g., through the sale of assets or through subparticipation) that the exposures are put beyond the reach of the transferor and its creditors, even in bankruptcy or receivership. These conditions must be supported by an opinion provided by a qualified legal counsel.

The transferor is deemed to have maintained effective control over the transferred credit risk exposures if it:

- i. is able to repurchase from the transferee the previously transferred exposures in order to realize their benefits; or
- ii. is obligated to retain the risk of the transferred exposures.

The transferor's retention of servicing rights to the exposures will not necessarily constitute indirect control of the exposures.

c) The securities issued are not obligations of the transferor. Thus, investors who purchase the securities only have claim to the underlying pool of exposures.

d) The transferee is an SPE and the holders of the beneficial interests in that entity have the right to pledge or exchange them without restriction.

e) Clean-up calls must satisfy the conditions set out in paragraph 17.

f) The securitization does not contain clauses that (i) require the originating bank to alter systematically the underlying exposures such that the pool's weighted average credit quality is improved unless this is achieved by selling assets to independent and unaffiliated third parties at market prices; (ii) allow for increases in a retained first loss position or credit enhancement provided by the originating bank after the transaction's inception; or (iii) increase the yield payable to parties other than the originating bank, such as investors

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and third-party providers of credit enhancements, in response to a deterioration in the credit quality of the underlying pool.

C. Operational requirements for the recognition of risk transference in synthetic securitizations

15. For synthetic securitizations, the use of CRM techniques (i.e., collateral, guarantees and credit derivatives) for hedging the underlying exposure may be recognized for risk-based capital purposes only if the conditions outlined below are satisfied:

a) Credit risk mitigants must comply with the requirements as set out in Part III.B and Part IV of this Framework.

b) Eligible collateral is limited to that specified in paragraph 34, Part III.B. Eligible collateral pledged by SPEs may be recognized.

c) Eligible guarantors are defined in paragraph 47, Part III.B. SPEs are not recognized as eligible guarantors in the securitization framework.

d) Banks must transfer significant credit risk associated with the underlying exposure to third parties.

e) The instruments used to transfer credit risk must not contain terms or conditions that limit the amount of credit risk transferred, such as those provided below:

i. Clauses that materially limit the credit protection or credit risk transference (e.g., significant materiality thresholds below which credit protection is deemed not to be triggered even if a credit event occurs or those that allow for the termination of the protection due to deterioration in the credit quality of the underlying exposures);

ii. Clauses that require the originating bank to alter the underlying exposures to improve the pool's weighted average credit quality;

iii. Clauses that increase the banks' cost of credit protection in response to deterioration in the pool's quality;

iv. Clauses that increase the yield payable to parties other than the originating bank, such as investors and third-party providers of credit enhancements, in response to a deterioration in the credit quality of the reference pool; and

v. Clauses that provide for increases in a retained first loss position or credit enhancement provided by the originating bank after the transaction's inception.

f) An opinion must be obtained from a qualified legal counsel that confirms the enforceability of the contracts in all relevant jurisdictions.

g) Clean-up calls must satisfy the conditions set out in paragraph 17.

16. For synthetic securitizations, the effect of applying CRM techniques for hedging the underlying exposure are treated according to Part III.B and Part IV of this Framework. In case there is a maturity mismatch, the capital requirement will be determined in accordance with paragraphs 50 to 54, Part III.B. When the exposures in the underlying pool have different maturities, the longest maturity must be taken as the maturity of the pool. Maturity mismatches may arise in the context of synthetic securitizations when, for example, a bank uses credit derivatives to transfer part or all of the credit risk of a specific pool of assets to third parties. When the credit derivatives unwind, the transaction will terminate. This implies that the effective maturity of the tranches of the synthetic securitization may differ from that of the underlying exposures. Originating banks of synthetic securitizations with such maturity mismatches must deduct all retained positions that are unrated or rated below investment grade. Accordingly, when deduction is required, maturity mismatches are not taken into account. For all other securitization exposures, the bank must apply the maturity mismatch treatment set forth in paragraphs 50 to 54, Part III.B.

D. Operational requirements and treatment of clean-up calls

17. For securitization transactions that include a clean-up call, no capital will be required due to the presence of a clean-up call if the following conditions are met: (i) the exercise of the clean-up call must not be mandatory, in form or in substance, but rather must be at the discretion of the originating bank; (ii) the clean-up call must not be structured to avoid allocating losses to credit enhancements or positions held by investors or otherwise structured to provide credit enhancement; and (iii) the clean-up call must only be exercisable when ten percent (10%) or less of the original underlying portfolio, or securities issued remain, or, for synthetic securitizations, when ten percent (10%) or less of the original reference portfolio value remains.

18. Securitization transactions that include a clean-up call that does not meet all of the criteria stated in paragraph 17 result in a capital requirement for the originating bank. For a traditional securitization, the underlying exposures must be treated as if they were not securitized. Additionally, banks must not recognize in regulatory capital any gain-on-sale, as defined in paragraph 23. For synthetic securitization, the bank purchasing protection must hold capital against the entire amount of the securitized exposures as if they did not benefit from any credit protection. Same treatment applies for synthetic securitization that incorporates a call, other than a clean-up call, that effectively terminates the transaction and the purchased credit protection on a specified date.

19. If a clean-up call, when exercised, is found to serve as a credit enhancement, the exercise of the clean-up call must be considered a form of implicit support provided by the bank and must be treated in accordance with paragraph 26.

E. Operational requirements for use of external credit assessments

20. The following operational criteria concerning the use of external credit assessments apply in the securitization framework:

a) To be eligible for risk-weighting purposes, the external credit assessment must take into account and reflect the entire amount of credit risk exposure the bank has with regard to all payments owed to it. For example, if a bank is owed both principal and interest, the assessment must fully take into account and reflect the credit risk associated with timely repayment of both principal and interest.

b) The external credit assessments must be from an eligible ECAI as recognized by the bank's national supervisor in accordance with Part III.C. An eligible credit assessment must be publicly available. In other words, a rating must be published in an accessible form and included in the ECAI's transition matrix. Consequently, ratings that are made available only to the parties to a transaction do not satisfy this requirement.

c) Eligible ECAs must have a demonstrated expertise in assessing securitizations, which may be evidenced by strong market acceptance.

d) A bank must apply external credit assessments from eligible ECAs consistently across a given type of securitization exposure. Furthermore, a bank cannot use the credit assessments issued by one ECAI for one or more tranches and those of another ECAI for other positions (whether retained or purchased) within the same securitization structure that may or may not be rated by the first ECAI. Where two or more eligible ECAs can be used and these assess the credit risk of the same securitization exposure differently, paragraph 59 of Part III.C will apply.

e) Where CRM is provided directly to an SPE by an eligible guarantor defined in

paragraph 47 of Part III.B and is reflected in the external credit assessment assigned to a securitization exposure(s), the risk weight associated with that external credit assessment should be used. In order to avoid any double counting, no additional capital recognition is permitted. If the CRM provider is not an eligible guarantor, the covered securitization exposures should be treated as unrated.

f) In the situation where a credit risk mitigant is not obtained by the SPE but rather applied to a specific securitization exposure within a given structure (e.g., ABS tranche), the bank must treat the exposure as if it is unrated and then use the CRM treatment outlined in Part III.B to recognize the hedge.

F. Risk-weighting

21. The risk-weighted asset amount of a securitization exposure is computed by multiplying the amount of the position by the appropriate risk weight determined in accordance with the following table. For off-balance sheet exposures, banks must apply a credit conversion factor (CCF) and then risk weight the resultant credit equivalent amount.

Credit assessment ¹	AAA to AA-	A+ to A-	BBB+ to BBB-	Below BBB- and unrated
Risk weight	20%	50%	100%	Deduction from capital (50% from Tier 1 and 50% from Tier 2)

22. The capital treatment of implicit support, liquidity facilities, securitizations of revolving exposures, and credit risk mitigants are identified separately.

23. Banks must deduct from Tier 1 capital any increase in equity capital resulting from a securitization transaction, such as that associated with expected future margin income resulting in a

gain-on-sale that is recognized in regulatory capital. Such an increase in capital is referred to as a “gain-on-sale” for the purposes of the securitization framework.

24. Credit enhancing IOs (interest only), net of the amount that must be deducted from Tier 1 as in paragraph 23, are to be deducted fifty percent (50%) from Tier 1 capital and fifty percent (50%) from Tier 2 capital.

25. Deductions from capital may be calculated net of any specific provisions taken against the relevant securitization exposures.

26. When a bank provides implicit support to a securitization, it must, at a minimum, hold capital against all of the exposures associated with the securitization transaction as if they had not been securitized. Additionally, banks would not be permitted to recognize in regulatory capital any gain-on-sale, as defined in paragraph 23. Furthermore, the bank is required to disclose publicly that (a) it has provided non-contractual support and (b) the capital impact of doing so.

27. As a general rule, off-balance sheet securitization exposures will receive a CCF of 100%, except in the cases below.

28. A CCF of twenty percent (20%) and fifty percent (50%) will be applied to eligible liquidity facilities as defined in paragraph 9 above with original maturity of one year or less and more than one year, respectively. However, if an external rating of the facility itself is used for risk weighting the facility, a 100% CCF must be applied. A zero percent (0%) CCF may be applied to eligible liquidity facilities that are only available in the event of a general market disruption (i.e., whereupon more than one SPE across different transactions are unable to roll

¹ The notations follow the rating symbols used by Standard & Poor's. The mapping of ratings of all recognized external rating agencies is in Part III.C

over maturing commercial paper, and that inability is not the result of an impairment in the SPE's credit quality or in the credit quality of the underlying exposures). To qualify for this treatment, the conditions provided in paragraph 9 must be satisfied. Additionally, the funds advanced by the bank to pay holders of the capital market instruments (e.g., commercial paper) when there is a general market disruption must be secured by the underlying assets, and must rank at least *pari passu* with the claims of holders of the capital market instruments.

29. A CCF of zero percent (0%) will be applied to undrawn amount of eligible servicer cash advance facilities, as defined in paragraph 10 above, that are unconditionally cancellable without prior notice.

30. An originating bank is required to hold capital against the investors' interest (i.e., against both the drawn and undrawn balances related to the securitized exposures) when:

- a) It sells exposures into a structure that contains an early amortization feature; and
- b) The exposures sold are of a revolving nature. These involve exposures where the borrower is permitted to vary the drawn amount and repayments within an agreed limit under a line of credit (e.g., credit card receivables and corporate loan commitments).

31. Originating banks, though, are not required to calculate a capital requirement for early amortizations in the following situations:

- a) Replenishment structures where the underlying exposures do not revolve and the early amortization ends the ability of the bank to add new exposures;
- b) Transactions of revolving assets containing early amortization features that

mimic term structures (i.e., where the risk of the underlying facilities does not return to the originating bank);

c) Structures where a bank securitizes one or more credit line(s) and where investors remain fully exposed to future draws by borrowers even after an early amortization event has occurred; and

d) The early amortization clause is solely triggered by events not related to the performance of the securitized assets or the selling bank, such as material changes in tax laws or regulations.

32. As described below, the CCFs depend upon whether the early amortization repays investors through a controlled or non-controlled mechanism. They also differ according to whether the securitized exposures are uncommitted retail credit lines (e.g., credit card receivables) or other credit lines (e.g., revolving corporate facilities). A line is considered uncommitted if it is unconditionally cancelable without prior notice.

33. For uncommitted retail credit lines (e.g., credit card receivables) that have either controlled or non-controlled early amortization features, banks must compare the three-month average excess spread defined in paragraph 11 to the point at which the bank is required to trap excess spread as economically required by the structure (i.e., excess spread trapping point). In cases where such a transaction does not require excess spread to be trapped, the trapping point is deemed to be 4.5 percentage points.

34. The bank must divide the excess spread level by the transaction's excess spread trapping point to determine the appropriate segments and apply the corresponding conversion factors, as outlined in the following tables:

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	Controlled		Non-controlled	
	3-month average excess spread-credit conversion factor (CCF)	Credit conversion factor (CCF)	3-month average excess spread-credit conversion factor (CCF)	Credit conversion factor (CCF)
	Uncommitted	Committed	Uncommitted	Committed
Retail credit lines	133.33% of trapping point or more – 0% CCF less than 133.33% to 100% of trapping point – 1% CCF less than 100% to 75% of trapping point – 2% CCF less than 75% to 50% of trapping point - 10% CCF less than 50% to 25% of trapping point - 20% CCF less than 25% of trapping point - 40%	90% CCF	133.33% of trapping point or more – 0% CCF less than 133.33% to 100% of trapping point – 5% CCF less than 100% to 75% of trapping point – 15% CCF less than 75% to 50% of trapping point - 50% CCF less than 50% of trapping point - 100% CCF	100% CCF
Non-retail credit lines	90% CCF	90% CCF	100% CCF	100%CCF

35.All other securitized revolving exposures with controlled and non-controlled early amortization features will be subject to CCFs of ninety percent (90%) and 100%, respectively, against the off-balance sheet exposures.

36. The CCF will be applied to the amount of the investors’ interest. The resultant credit equivalent amount shall then be applied a risk weight applicable to the underlying exposure type, as if the exposures had not been securitized.

37. For a bank subject to the early amortization treatment, the total capital charge for all of its positions will be subject to a maximum capital requirement (i.e., a ‘cap’) equal to the greater of (i) that required for retained securitization exposures, or (ii) the capital requirement that would apply had the exposures not been securitized. In addition, banks must deduct the entire amount of any gain-on-sale and credit enhancing IOs arising from the securitization transaction in accordance with paragraphs 23 and 25.

G. Credit risk mitigation

38. The treatment below applies to a bank that has obtained or given a credit risk mitigant on a securitization exposure. Credit risk mitigants include collateral, guarantees, and credit derivatives. Collateral in this context refers to that used to hedge the credit risk of a securitization exposure rather than the underlying exposures of the securitization transaction.

Collateral

39. Eligible collateral is limited to that recognized in paragraph 34, Part III.B. Collateral pledged by SPEs may be recognized.

Guarantees and credit derivatives

40. Credit protection provided by the entities listed in paragraph 47, Part III.B may be recognized. SPEs cannot be recognized as eligible guarantors.

41. Where guarantees or credit derivatives fulfill the minimum operational requirements as specified in Part III.B and Part IV, respectively, banks can take account of such credit protection in calculating capital requirements for securitization exposures.

42. Capital requirements for the collateralized or guaranteed/protected portion will be calculated according to Part III.B and Part IV.

43. A bank other than the originator providing credit protection to a securitization exposure must calculate a capital requirement on the covered exposure as if it were an investor in that securitization. A bank providing protection to an unrated credit enhancement must treat the credit protection provided as if it were directly holding the unrated credit enhancement.

Maturity mismatches

44. For the purpose of setting regulatory capital against a maturity mismatch, the capital requirement will be determined in accordance with paragraphs 50 to 54, Part III.B, except for synthetic

securitizations which will be determined in accordance with paragraph 16.

Part VI. Market risk-weighted assets

1. Market risk is defined as the risk of losses in on- and off-balance sheet positions arising from movements in market prices. The risks addressed in these guidelines are:

- a) The risks pertaining to interest rate-related instruments and equities in the trading book; and
- b) Foreign exchange risk throughout the bank.

A. Definition of the trading book

2. A trading book consists of positions in financial instruments held either with trading intent or in order to hedge other elements of the trading book. To be eligible for trading book capital treatment, financial instruments must either be free of any restrictive covenants on their tradability or able to be hedged completely. In addition, positions should be frequently and accurately valued, and the portfolio should be actively managed.

3. A financial instrument is any contract that gives rise to both a financial asset of one entity and a financial liability or equity instrument of another entity. Financial instruments include both primary financial instruments (or cash instruments) and derivative financial instruments. A financial asset is any asset that is cash, the right to receive cash or another financial asset; or the contractual right to exchange financial assets on potentially favorable terms, or an equity instrument. A financial liability is the contractual obligation to deliver cash or another financial asset or to exchange financial liabilities under conditions that are potentially unfavorable.

4. Positions held with trading intent are those held intentionally for short-term resale and/or with the intent of benefiting from actual or expected short-term price movements or to lock in arbitrage profits,

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and may include for example proprietary positions, positions arising from client servicing (e.g. matched principal brokering) and market making.

5. The following will be the basic requirements for positions eligible to receive trading book capital treatment:

- a) Clearly documented trading strategy for the position/instrument or portfolios, approved by senior management (which would include expected holding horizon);
- b) Clearly defined policies and procedures for the active management of the position, which must include:
 - i. positions are managed on a trading desk;
 - ii. position limits are set and monitored for appropriateness;
 - iii. dealers have the autonomy to enter into/manage the position within agreed limits and according to the agreed strategy;
 - iv. positions are marked to market at least daily, and when marking to model the parameters must be assessed on a daily basis;
 - v. positions are reported to senior management as an integral part of the institution’s risk management process; and
 - vi. positions are actively monitored with reference to market information sources (assessment should be made of the market liquidity or the ability to hedge

positions or the portfolio risk profiles). This would include assessing the quality and availability of market inputs to the valuation process, level of market turnover, sizes of positions traded in the market, etc.

c) Clearly defined policy and procedures to monitor the positions against the bank’s trading strategy including the monitoring of turnover and stale positions in the bank’s trading book.

6. The documentations of the basic requirements of paragraph 5 should be submitted to the BSP.

7. In addition to the above documentation requirements, the bank should also submit to the BSP a documentation of its systems and controls for the prudent valuation of positions in the trading book including the valuation methodologies.

B. Measurement of capital charge

8. The market risk capital charge shall be computed according to the methodology set under Subsec. 1115.2, subject to certain modifications as outlined in the succeeding paragraphs.

9. The specific risk weights for trading book positions in debt securities and debt derivatives shall depend on the third party credit assessment of the issue or the type of issuer, as may be appropriate, as follows:

Credit ratings of debt securities/derivatives issued by sovereigns ¹	Credit ratings of debt securities/derivatives issued by MDBs	Credit ratings of debt securities/derivatives issued by other entities	Unadjusted specific risk weight
Php-denominated debt securities/derivatives issued by the Philippine NG and BSP			0.00%
LGU Bonds covered by Deed of Assignment of Internal Revenue Allotment and guaranteed by LGU Guarantee Corporation			4.00%
AAA to AA-	AAA		0.00%
A+ to BBB-	AA+ to BBB-	AAA to BBB-	
Residual maturity ≤ 6 months	Residual maturity ≤ 6 months	Residual maturity ≤ 6 months	0.25%
Residual maturity > 6 months, ≤ 24 months	Residual maturity > 6 months, ≤ 24 months	Residual maturity > 6 months, ≤ 24 months	1.00%
Residual maturity > 24 months	Residual maturity > 24 months	Residual maturity > 24 months	1.60%
		All other debt securities/derivatives	8.00%

¹ The notations follow the rating symbols used by Standard & Poor’s. The mapping of ratings of all recognized external rating agencies is in Part III.C. For purposes of this framework, debt securities/derivatives issued by sovereigns include foreign currency denominated debt securities/derivatives issued by the Philippine NG.

10. Foreign currency denominated debt securities/derivatives issued by the Philippine NG and BSP¹ shall be risk-weighted according to the table above: *Provided*, That only one-third (1/3) of the applicable risk weight shall be applied from 01 July 2007, two-thirds (2/3) from 01 January 2008, and the full risk weight from 01 January 2009.

11. A security, which is the subject of a repo-style transaction, shall be treated as if it were still owned by the seller/lender of the security, i.e., to be reported by the seller/lender.

12. In addition to capital charge for specific and general market risk, a credit risk capital charge should be applied to banks' counterparty exposures in repo-style transactions and OTC derivatives contracts. The computation of the credit risk capital charge for counterparty exposures arising from trading book positions are discussed in paragraphs 35 to 41 of Part III.B.

(As amended by Circular No. 605 dated 05 March 2008)

C. Measurement of risk-weighted assets

13. Market risk-weighted assets are determined by multiplying the market risk capital charge by ten (10) [i.e., the reciprocal of the minimum capital ratio of ten percent (10%)].

Part VII. Operational risk-weighted assets

A. Definition of operational risk

1. Operational risk is defined as the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events. This definition includes legal risk, but excludes strategic and reputational risk.

2. Banks should be guided by the Basel Committee on Banking Supervision's recommendations on *Sound Practices for*

the Management and Supervision of Operational Risk (February 2003). The same may be downloaded from the BIS website (www.bis.org).

B. Measurement of capital charge

3. In computing for the operational risk capital charge, banks may use either the basic indicator approach or the standardized approach.

4. Under the basic indicator approach, banks must hold capital for operational risk equal to fifteen percent (15%) of the average gross income over the previous three (3) years of positive annual gross income. Figures for any year in which annual gross income is negative or zero should be excluded from both the numerator and denominator when calculating the average.

5. Banks that have the capability to map their income accounts into the various business lines given in paragraph 7 may use the standardized approach subject to prior BSP approval². In order to qualify for use of the standardized approach, a bank must satisfy BSP that, at a minimum:

- a) Its board of directors and senior management are actively involved in the oversight of the operational risk management framework;
- b) It has an operational risk management system that is conceptually sound and is implemented with integrity; and
- c) It has sufficient resources in the use of the approach in the major business lines as well as the control and audit areas.

6. Operational risk capital charge is calculated as the three (3)-year average of the simple summation of the regulatory capital charges across each of the business lines in each year. In any given year, negative capital charges (resulting from negative gross income) in any business line may offset positive capital charges in other

¹ Warrants paired with ROP Global Bonds shall be exempted from capital charge for market risk only to the extent of bank's holdings of bonds paired with warrants equivalent to not more than fifty percent (50%) of total qualifying capital, as defined under Part II of this Appendix.

² Refer to Appendix 63b-2 for the Guidelines on the Use of the Standardized Approach in Computing the Capital Charge for Operational Risk

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business lines without limit. However, where the aggregate capital charge across all business lines within a given year is negative, then figures for that year shall be excluded from both the numerator and denominator.

7. The business lines and their corresponding beta factors are listed below:

Business lines		Activity Groups	Beta factors
Level 1	Level 2		
Corporate finance	Corporate Finance	Mergers and acquisitions, underwriting, privatization, securitization, research, debt (government, high yield), equity, syndications, IPO, secondary private placements	18 %
	Municipal/Government Finance		
	Advisory Services		
Trading and Sales	Sales	Fixed income, equity, foreign exchanges, commodities, credit, funding, own position securities, lending and repos, brokerage, debt, prime brokerage	18 %
	Market Making		
	Proprietary Positions		
	Treasury		
Retail Banking	Retail Banking	Retail lending and deposits, banking services, trust and estates	12 %
	Private Banking	Private lending and deposits, banking services, trust and estates, investment advice	
	Card Services	Merchant/commercial/corporate cards, private labels and retail	
Commercial Banking	Commercial Banking	Project finance, real estate, export finance, trade finance, factoring, leasing, lending, guarantees, bills of exchange	15 %
Payment and Settlement	External Clients	Payments and collections, funds transfer, clearing and settlement	18 %
Agency Services	Custody	Escrow, depository receipts, securities lending (customers) corporate actions	15 %
	Corporate Agency	Issuer and paying agents	
	Corporate Trust		
Asset Management	Discretionary Fund Management	Discretionary and non-discretionary fund management, whether pooled, segregated, retail, institutional, closed, open, private equity	12 %
	Non-Discretionary Fund Management		
Retail Brokerage	Retail brokerage	Execution and full service	12 %

8. Gross income, for the purpose of computing for operational risk capital charge, is defined as net interest income plus non-interest income. This measure should:
- a) be gross of any provisions for losses on accrued interest income from financial assets;
 - b) be gross of operating expenses, including fees paid to outsourcing service providers;
 - c) include fees and commissions;
 - d) exclude gains/(losses) from the sale/redemption/derecognition of non-trading financial assets and liabilities;
 - e) exclude gains/(losses) from sale/derecognition of non-financial assets; and

- f) include other income (i.e., rental income, miscellaneous income, etc.)
- (As amended by M-2007-019 dated 21 June 2007)

C. Measurement of risk-weighted assets

9. The resultant operational risk capital charge is to be multiplied by 125% before multiplying by ten (10) [i.e., the reciprocal of the minimum capital ratio of ten percent (10%)].

Part VIII. Disclosures in the Annual Reports and Published Statement of Condition

1. This section lists the specific information that banks have to disclose, at

a minimum, in their Annual Reports, except Item "h", paragraph 4 which should also be disclosed in banks' quarterly Published Statement of Condition. These enhanced disclosures shall commence with Annual Reports for financial year 2007 and quarterly published statement of condition from end-September 2007.

2. Full compliance of these disclosure requirements is a prerequisite before banks can obtain any capital relief (i.e., adjustments in the risk weights of collateralized or guaranteed exposures) in respect of any credit risk mitigation techniques.

A. Capital structure and capital adequacy

3. The following information with regard to banks' capital structure and capital adequacy shall be disclosed in banks' Annual Reports, except Item "h" below which should also be disclosed in banks' quarterly published statement of condition:

- a) Tier 1 capital and a breakdown of its components (including deductions solely from Tier 1);
- b) Tier 2 capital and a breakdown of its components;
- c) Deductions from Tier 1 fifty percent (50%) and Tier 2 fifty percent (50%) capital;
- d) Total qualifying capital;
- e) Capital requirements for credit risk (including securitization exposures);
- f) Capital requirements for market risk;
- g) Capital requirements for operational risk; and
- h) Total and Tier 1 CAR on both solo and consolidated bases.

B. Risk exposures and assessments

4. For each separate risk area (credit, market, operational, interest rate risk in the banking book), banks must describe their risk management objectives and policies, including:

- a) Strategies and processes;
- b) The structure and organization of the relevant risk management function;

c) The scope and nature of risk reporting and/or measurement systems; and

d) Policies for hedging and/or mitigating risk, and strategies and processes for monitoring the continuing effectiveness of hedges/mitigants.

Credit risk

5. Aside from the general disclosure requirements stated in paragraph 4, the following information with regard to credit risk have to be disclosed in banks' Annual Reports:

- a) Total credit risk exposures (i.e., principal amount for on-balance sheet and credit equivalent amount for off-balance sheet, net of specific provision) broken down by type of exposures as defined in Part III;
- b) Total credit risk exposure after risk mitigation, broken down by:
 - i. type of exposures as defined in Part III; and
 - ii. risk buckets, as well as those that are deducted from capital;
- c) Total credit risk-weighted assets broken down by type of exposures as defined in Part III;
- d) Names of external credit assessment institutions used, and the types of exposures for which they were used;
- e) Types of eligible credit risk mitigants used including credit derivatives;
- f) For banks with exposures to securitization structures, aside from the general disclosure requirements stated in paragraph 4, the following minimum information have to be disclosed:
 - i. Accounting policies for these activities;
 - ii. Total outstanding exposures securitized by the bank; and
 - iii. Total amount of securitization exposures retained or purchased broken down by exposure type;
- g) For banks that provide credit protection through credit derivatives, aside

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from the general disclosure requirements stated in paragraph 4, total outstanding amount of credit protection given by the bank broken down by type of reference exposures should also be disclosed; and

h) For banks with investments in other types of structured products, aside from the general disclosure requirements stated in paragraph 4, total outstanding amount of other types of structured products issued or purchased by the bank broken down by type should also be disclosed.

Market risk

6. Aside from the general disclosure requirements stated in paragraph 4, the following information with regard to market risk have to be disclosed in banks’ Annual Reports:

a) Total market risk-weighted assets broken down by type of exposures (interest rate, equity, foreign exchange, and options); and

b) For banks using the internal models approach, the following information have to be disclosed:

- i. The characteristics of the models used;
- ii. A description of stress testing applied to the portfolio;
- iii. A description of the approach used for backtesting/validating the accuracy and consistency of the internal models and modeling processes;
- iv. The scope of acceptance by the BSP; and
- v. A comparison of VaR estimates with actual gains/losses experienced by the bank, with analysis of important outliers in backtest results.

Operational risk

7. Aside from the general disclosure requirements stated in paragraph 4, banks

have to disclose their operational risk-weighted assets in their Annual Reports.

Interest rate risk in the banking book

8. Aside from the general disclosure requirements stated in paragraph 4, the following information with regard to interest rate risk in the banking book have to be disclosed in banks’ Annual Reports:

a) Internal measurement of interest rate risk in the banking book, including assumptions regarding loan prepayments and behavior of non-maturity deposits, and frequency of measurement; and

b) The increase (decline) in earnings or economic value (or relevant measure used by management) for upward and downward rate shocks according to internal measurement of interest rate risk in the banking book.

Part IX. Enforcement

A. Sanctions for non-reporting of CAR breaches

1. It is the responsibility of the bank CEO to cause the immediate reporting of CAR breaches both to its Board and to the BSP. It is likewise the CEO’s responsibility to ensure the accuracy of CAR calculations and the integrity of the associated monitoring and reporting system. Any willful violation of the above will be considered as a serious offense for purposes of determining the appropriate monetary penalty that will be imposed on the CEO. In addition, the CEO shall be subject to the following non-monetary sanctions:

- a) First offense – warning;
- b) Second offense – reprimand;
- c) Third offense – 1 month suspension without pay; and
- d) Further offense – disqualification.

B. Sanctions for non-compliance with required disclosures

2. Willful non-disclosure or erroneous disclosure of any item required to be disclosed under this framework in either the Annual Report or the Published Statement of Condition shall be considered as a serious offense for purposes of determining the appropriate monetary penalty that will be imposed on the bank. In addition, the CEO and the Board shall be subject to the following non-monetary sanctions:

- a) First offense – warning on CEO and the Board;
 - b) Second offense – reprimand on CEO and the Board;
 - c) Third offense – 1 month suspension of CEO without pay; and
 - d) Further offense – possible disqualification of the CEO and/or the Board.
- (Circular No. 538 dated 04 August 2006, as amended by M-2008-015 dated 25 March 2008, Circular Nos. 605 dated 05 March 2008, 588 dated 11 December 2007, M-2007-019 dated 21 June 2007, Circular No. 560 dated 31 January 2007 and M-2006-022 dated 24 November 2006)*

**GUIDELINES ON THE CAPITAL TREATMENT OF BANKS’ HOLDINGS OF
REPUBLIC OF THE PHILIPPINES GLOBAL BONDS PAIRED WITH WARRANTS**
(Appendix to Sec. X116)

A bank’s holdings of ROP Global Bonds that are paired with Warrants (paired Bonds), which give the bank the option or right to exchange its holdings of ROP Global Bonds into Peso-denominated government securities upon occurrence of a predetermined credit event, shall be risk	weighted at zero percent (0%): <i>Provided</i> , That the zero percent (0%) risk weight shall be applied only to bank’s holdings of paired Bonds equivalent to not more than fifty percent (50%) of the total qualifying capital, as defined under <i>Appendix 63-b</i> . <i>(Circular 588 dated 11 December 2007)</i>

**GUIDELINES ON THE USE OF THE STANDARDIZED APPROACH IN
COMPUTING THE CAPITAL CHARGE FOR OPERATIONAL RISKS**
(Appendix to Sec. X116)

Banks applying for the use of the Standardized Approach (TSA) must satisfy the following requirements/criteria:

General Criteria

1. The use of TSA shall be conditional upon the explicit prior approval of the BSP.
2. The BSP will only give approval to an applicant bank if at a minimum:
 - a. Its board of directors (or equivalent management committee in the case of foreign bank branches) and senior management are actively involved in the oversight of the operational risk management framework;
 - b. It has an operational risk management system that is conceptually sound and is implemented with integrity; and,
 - c. It has sufficient resources in the use of the approach in the major business lines as well as in the control and audit areas.
3. The above criteria should be supported by a written documentation of the board-approved operational risk management framework of the bank which should cover the following:
 - a. Overall objectives and policies
 - b. Strategies and processes
 - c. Operational risk management structure and organization
 - d. Scope and nature of risk reporting/assessment systems
 - e. Policies and procedure for mitigating operational risk
4. This operational risk management framework of the bank should be disclosed in its annual report, as provided under *Appendix 63b*.

Mapping of Gross Income

5. Banks using TSA in computing operational risk capital charge must develop specific written policies and criteria for mapping gross income of their current business lines into the standard business lines prescribed under *Appendix 63b*. They must also put in place a review process to adjust these policies and criteria for new or changing business activities or products as appropriate.
6. Banks must adopt the following principles for mapping their business activities to the appropriate business lines:
 - (a) Activities or products must be mapped into only one (1) of the eight (8) standard business lines, as follows:
 - (1) *Corporate finance*- This includes banking arrangements and facilities [e.g., mergers and acquisitions, underwriting, privatizations, securitization, research, debt (government, high yield), equity, syndications, Initial Public Offering (IPO), secondary private placements] provided to large commercial enterprises, multinational companies, NBFIs, government departments, etc.
 - (2) *Trading and sales*- This includes treasury operations, buying and selling of securities, currencies and others for proprietary and client account.
 - (3) *Retail banking*- This includes financing arrangements for private individuals, retail clients and small businesses such as personal loans, credit cards, auto loans, etc. as well as other facilities such as trust and estates and investment advice.
 - (4) *Commercial banking*- This includes financing arrangements for commercial enterprises, including project

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finance, real estate, export finance, trade finance, factoring, leasing, guarantees, bills of exchange, etc.

(5) *Payment and settlement* - This includes activities relating to payments and collections, inter-bank funds transfer, clearing and settlement.

(6) *Agency services* - This refers to activities of the banks acting as issuing and paying agents for corporate clients, providing custodial services, etc.

(7) *Asset management* - This includes managing funds of clients on a pooled, segregated, retail, institutional, open or closed basis under a mandate.

(8) *Retail brokerage* - This includes brokering services provided to customers that are retail investors rather than institutional investors.

(a) Any activity or product which cannot be readily mapped into one (1) of the standardized business lines but which is ancillary¹ to a business line shall be allocated to the business line to which it is ancillary. If the activity is ancillary to two (2) or more business lines, an objective criteria or qualification must be made to allocate the annual gross income derived from that activity to the relevant business lines.

(b) Any activity that cannot be mapped into a particular business line and is not an ancillary activity to a business line shall be mapped into one (1) of the business lines with the highest associated beta factor eighteen percent (18%). Any ancillary activity to that activity will follow the same business line treatment.

(c) Banks may use internal pricing methods to allocate gross income between business lines: *Provided*, That the sum of gross income for the eight (8) business lines must still be equal to the gross income as would be recorded if the bank uses the Basic Indicator Approach (BIA).

(d) The process by which banks map their business activities into the standardized business lines must be regularly reviewed by party independent from that process.

7. In computing the gross income of the bank, the amounts of the income accounts reported in the operational risk template² must be equal to the year-end balance reported in the FRP. Any discrepancy must be properly accounted and supported by a reconciliation statement

Application Process for the Use of TSA

8. Banks applying for the use of TSA should submit the following documents to their respective Central Points of Contact (CPCs) of the BSP:

(a) An application letter signed by the president/CEO (or equivalent management committee in the case of foreign bank branches) of the bank signifying its intention to use TSA in computing the capital charge for operational risk;

(b) Written documentation of the Board-approved operational risk management framework as described in paragraph 3.

(c) Written policies and criteria for mapping business activities and their corresponding gross income into the standard business lines as described in paragraphs 5 to 7.

(d) An overall roll-out plan of the bank including project plans and execution processes, with the appropriate time lines.

Initial Monitoring Period

9. The BSP may require a six (6)-month period of initial monitoring of a bank's TSA before it is used for supervisory capital purposes.

Reversion from TSA to BIA

10. A bank which has been approved to use TSA in computing its capital charge

¹ Ancillary function is an activity/function that is not the main activity of a given business line but only as a support activity
² Part V of the revised CAR report template

for operational risk will not be allowed to revert to the simpler approach, i.e., the BIA. However, if the BSP determines that the bank no longer meets the qualifying criteria for TSA, it may require the bank to revert to BIA. The bank shall be required to repeat

the whole application process should it opt to return to the use of TSA, but only after a year of using the BIA.

These guidelines shall take effect on 21 July 2007.

(M-2007-019 dated 21 June 2007)

**BANGKO SENTRAL RULES OF PROCEDURE ON ADMINISTRATIVE CASES
INVOLVING DIRECTORS AND OFFICERS OF BANKS**
(Appendix to Sec. X150)

RULE I – GENERAL PROVISIONS

Section 1. Title. These rules shall be known as the BSP Rules of Procedure on Administrative Cases Involving Directors and Officers of Banks.

Sec. 2. Applicability. These rules shall apply to administrative cases filed with or referred to the Office of Special Investigation (OSI), BSP, involving directors and officers of banks pursuant to Section 37 of Republic Act No. 7653 (The New Central Bank Act) and Sections 16 and 66 of Republic Act No. 8791 (The General Banking Law of 2000).

The disqualification of directors and officers under Section 16 of R.A. No. 8791 shall continue to be covered by existing BSP rules and regulations.

Sec. 3. Nature of proceedings. The proceedings under these rules shall be summary in nature and shall be conducted without necessarily adhering to the technical rules of procedure and evidence applicable to judicial trials. Proceedings under these rules shall be confidential and shall not be subject to disclosure to third parties, except as may be provided under existing laws.

RULE II – COMPLAINT

Sec. 1. Complaint. The complaint shall be in writing and subscribed and sworn to by the complainant. However, in cases initiated by the appropriate department of the BSP, the complaint need not be under oath. No anonymous complaint shall be entertained.

Sec. 2. Where to file. The complaint shall be filed with or referred to the OSI.

Sec. 3. Contents of the complaint. The complaint shall contain the ultimate facts of the case and shall include:

- a. full name and address of the complainant;
- b. full name and address of the person complained of;
- c. specification of the charges;
- d. statement of the material facts;
- e. statement as to whether or not a similar complaint has been filed with the BSP or any other public office.

The complaint shall include copies of documents and affidavits of witnesses, if any, in support of the complaint.

**RULE III – DETERMINATION OF
PRIMA FACIE CASE
AND PROSECUTION OF THE CASE**

Sec. 1. Action on complaint. Upon determination that the complaint is sufficient in form and substance, the OSI shall furnish the respondent with a copy thereof and require respondent to file within ten (10) days from receipt thereof, a sworn answer, together with copies of documents and affidavits of witnesses, if any, copy furnished the complainant.

Failure of the respondent to file an answer within the prescribed period shall be considered a waiver and the case shall be deemed submitted for resolution.

Sec. 2. Preliminary investigation. Upon receipt of the sworn answer of the respondent, the OSI shall determine whether there is a *prima facie* case against

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the respondent. If a *prima facie* is established during the preliminary investigation, the OSI shall file the formal charge with the Supervised Banks Complaints Evaluation Group (SBCEG), BSP. However, in the absence of a *prima facie* case, the OSI shall dismiss the complaint without prejudice or take appropriate action as may be warranted.

Sec. 3. Formal charge. The formal charge shall contain the name of the respondent, a brief statement of material or relevant facts, the specific charge, and the pertinent provisions of banking laws, rules or regulations violated.

Sec. 4. Prosecution. The OSI shall prosecute the case. The complainant may be assisted or represented by counsel, who may be deputized for such purpose, under the direction and control of the OSI.

**RULE IV – PROCEEDING BEFORE
THE HEARING PANEL OR HEARING
OFFICER**

Sec. 1. Filing of the formal charge. The OSI shall file the formal charge before the SBCEG. It shall also furnish the SBCEG with supporting documents relevant to the formal charge.

Sec. 2. Hearing officer and composition of the hearing panel. The case shall be heard either by a hearing officer or a hearing panel, which shall be composed of a chairman and two (2) members, all of whom shall be designated by the SBCEG. The SBCEG shall determine whether the case shall be heard either by a hearing panel or a hearing officer.

Sec. 3. Answer. The hearing panel or hearing officer shall furnish the respondent with a copy of the formal charge, with

supporting documents relevant thereto, and shall require him to submit, within ten (10) days from receipt thereof, a sworn answer, copy of which shall be furnished the prosecution.

The respondent, in his answer, shall specifically admit or deny all the charges specified in the formal charge, including the attachments. Failure of the respondent to comment, under oath, on the documents attached thereto shall be deemed an admission of the genuineness and due execution of said documents.

Sec. 4. Waiver. In the event that the respondent, despite due notice, fails to submit an answer within the prescribed period, he shall be deemed to have waived his right to present evidence. The hearing panel or hearing officer shall issue an order to that effect and direct the prosecution to present evidence *ex parte*. Thereafter, the hearing panel or hearing officer shall submit a report on the basis of available evidence.

Sec. 5. Preliminary conference. Upon receipt of the answer of respondent, the hearing panel or hearing officer shall set the case for preliminary conference for the parties to consider and agree on the admission or stipulation of facts and of documents, simplification of issues, identification and marking of evidence and such other matters as may aid in the prompt and just resolution of the case. Any evidence not presented and identified during the preliminary conference shall not be admitted in subsequent proceedings.

Sec. 6. Submission of position papers After the preliminary conference, the hearing panel or hearing officer shall issue an order stating therein the matters taken up, admissions made by the parties and issues for resolution. The order shall also direct the parties to simultaneously submit,

within ten (10) days from the receipt of said order, their respective position papers which shall be limited to a discussion of the issues as defined in the order.

Sec. 7. Hearing. After the submission by the parties of their position papers, the hearing panel or hearing officer shall determine whether or not there is a need for a hearing for the purpose of cross-examination of the affiant(s). If the hearing panel or hearing officer finds no necessity for conducting a hearing, he shall issue an order to the effect.

In cases where the Hearing Panel or Hearing Officer deems it necessary to allow the parties to conduct cross-examination, the case shall be set for hearing. The affidavits of the parties and their witnesses shall take the place of their direct testimony.

RULE V – PROHIBITED MOTIONS

Sec. 1. Prohibited Motions. No motion to dismiss or quash, motion for bill of particulars and such other dilatory motions shall be allowed in the cases covered by these rules.

RULE VI – RESOLUTION OF THE CASE

Sec. 1. Contents and period for submission of report. Within sixty (60) days after the hearing panel or hearing officer has issued an order declaring that the case is submitted for resolution, a report shall be submitted to the Monetary Board. The report of the hearing panel or hearing officer shall contain clearly and distinctly the findings of facts and conclusions of law on which it is based.

Sec. 2. Rendition and notice of resolution After consideration of the report, the Monetary Board shall act thereon and

cause true copies of its resolution to be served upon the parties.

Sec. 3. Finality of the resolution. The resolution of the Monetary Board shall become final after the expiration of fifteen (15) days from receipt thereof by the parties, unless a motion for reconsideration shall have been timely filed.

Sec. 4. Motion for reconsideration. A motion for reconsideration may only be entertained if filed within fifteen (15) days from receipt of the resolution by the parties. No second motion for reconsideration shall be allowed.

RULE VII – APPEAL

Sec. 1. Appeal. An appeal from the Resolution of the Monetary Board may be taken to the Court of Appeals within the period and in the manner provided under Rule 43 of the Revised Rules of Court.

RULE VIII – EXECUTION OF RESOLUTION

Sec. 1. Resolution becoming executory The resolution of the Monetary Board shall become executory upon the lapse of fifteen (15) days from receipt thereof by the parties or from the receipt of the denial of the motion for reconsideration.

Sec. 2. Effect of appeal. The appeal shall not stay the resolution sought to be reviewed unless the Court of Appeals shall direct otherwise upon such terms as it may deem just.

Sec. 3. Enforcement of resolution. When the resolution orders the imposition of fines, suspension or removal from office of respondent, the enforcement thereof shall be referred to the appropriate department of the BSP.

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**RULE IX - MISCELLANEOUS
PROVISIONS**

Sec. 1. Repeal. All existing rules, regulations, orders or circulars or any part thereof inconsistent with these rules are

hereby repealed, amended or modified accordingly.

Sec. 2. Separability Clause. If any part of these rules is declared unconstitutional or illegal, the other parts or provisions shall remain valid.

FORMAT CERTIFICATION
(Appendix to Subsec. X235.12)

Name of Bank

CERTIFICATION

Pursuant to the requirements of Subsec. X235.12, I hereby certify that on all banking days of the semester ended _____ that the _____ (bank) did not enter into any repurchase agreement covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing BSP regulations and that it has strictly complied with the pertinent rules of the SEC and the BSP on the proper sale of securities to the public and performed the necessary representations and disclosures on the securities particularly the following:

1. Informed and explained to the client all the basic features of the security being sold on a without recourse basis, such as, but not limited to:
 - a. Issuer and its financial condition;
 - b. Term and maturity date;
 - c. Applicable interest rate and its computation;
 - d. Tax features (whether taxable, tax paid or tax-exempt);
 - e. Risk factors and investment considerations;
 - f. Liquidity feature of the instrument:
 - (1) Procedures for selling the security in the secondary market (e.g., OTC or exchange);
 - (2) Authorized selling agents; and
 - (3) Minimum selling lots.
 - g. Disposition of the security
 - (1) Registry (address and contact numbers)
 - (2) Functions of the registry
 - (3) Pertinent registry rules and procedures
 - h. Collecting and Paying Agent of the principal and interest
 - i. Other pertinent terms and conditions of the security and if possible, a copy of the prospectus or information sheet of the security.
2. Informed the client that pursuant to BSP Circular No. 392 dated 23 July 2003 –
 - a. Securities sold under repurchase agreements shall be physically delivered, if certificated, to a BSP accredited custodian that is mutually acceptable to the client and the bank, or by means of book-entry transfer to the appropriate securities account of the BSP accredited custodian in a registry for said securities, if immobilized or dematerialized, and
 - b. Securities sold on a without recourse basis are required to be delivered physically to the purchaser, or to his designated custodian duly accredited by the BSP, if

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certificated, or by means of book-entry transfer to the appropriate securities account of the purchaser or his designated custodian in a registry for said securities if immobilized or dematerialized

3. Clearly stated to the client that:
- a. The bank does not guarantee the payment of the security sold on a “without recourse basis” and in the event of default by the issuer, the sole credit risk shall be borne by the client; and
 - b. The bank is not performing any advisory or fiduciary function.

Name of Officer
Position

Date _____

SUBSCRIBED AND SWORN to before me, this _____ day of _____, affiant exhibiting his Community Tax Certificate as indicated below:

<u>Name</u>	Community Tax <u>Cert. No.</u>	Date/Place <u>Issued</u>
		<u>Notary Public</u>

FORMAT CERTIFICATION

Name of Bank

CERTIFICATION

Pursuant to the requirements of Subsec. X235.12_____ dated _____, I hereby certify that as of 31 January 2005, the _____ (name of bank) does not have any outstanding repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing BSP regulations.

Name of Officer
Position

SUBSCRIBED AND SWORN to before me, this _____ day of _____, affiant exhibiting his Community Tax Certificate as indicated below:

Name

Community Tax
Cert. No.

Date/Place
Issued

Notary Public

**REGULATORY REQUIREMENTS IN INVESTING IN CREDIT-LINKED NOTES,
STRUCTURED PRODUCTS AND SECURITIES OVERLYING SECURITIZATION
STRUCTURES BY UNIVERSAL BANKS AND COMMERCIAL BANKS**
[Appendix to Secs. 1628 (2008 - 1633), 1635, 1636 and 1648]

a. Banks shall: submit the following documents to the appropriate department of the SES within five (5) banking days after the date of its initial investment in credit-linked notes, structured products and/or securities overlying securitization structures -

(1) A notarized certification in the prescribed formats (Annexes “A” and “B”) duly signed by the President/Chief Executive Officer or its equivalent, the Treasurer and Compliance Officer, stating that the bank’s investments are in compliance with relevant BSP rules and regulations, and that the bank has an adequate risk management system in place; and

(2) Terms and conditions and/or product manuals on the credit-linked notes, structured products and/or securities overlying securitization structures, which as a minimum should cover the following:

(a) Description of the relevant financial product;

(b) Analysis of the proposed investments’ –

i. reasonableness vis-à-vis the institution’s overall financial condition and capital levels; and

ii. consistency with the institution’s business strategies and objectives;

(c) Analysis of the risks that may arise from the investments and the corresponding impact on the bank’s risk profile;

(d) Procedures/methodologies that the bank will implement to measure, monitor and control the risks inherent in the financial products;

(e) Relevant accounting guidelines, including pro-forma accounting entries;

(f) Relevant tax treatment;

(g) Analysis of any legal/regulatory restrictions and whether the investment is permissible for the institution; and

(h) Process flow chart, from deal initiation to risk reporting, indicating the departments and personnel involved in the identified processes.

UBs/KBs failing to submit the required certification within the prescribed deadline shall be subject to monetary penalties applicable for delayed reporting under existing regulations. For purposes of imposing monetary penalties, the required certification shall be classified as a *Category A-1 report*. Further, failure to comply with the above requirements shall subject the erring bank to the imposition of administrative sanctions under Section 37 of R.A. 7653.

The certification and the terms and conditions and/or product manual need not be submitted for a bank’s subsequent investments in the same issue of credit-linked note or structured product, or securities overlying the same tranche of a securitization structure.

b. The certification shall be subject to post-verification by the appropriate supervision and examination department of the BSP.

Should the BSP subsequently determine that the investments do not fully comply with the provisions of Secs. 1628, 1635, 1636 and 1648, as applicable, and other relevant BSP regulations, the UB/KB shall be considered to have submitted a false certification, subject to the sanctions prescribed under -

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- (1) Sec. 1636 for investments in structured products by UBs and KBs without expanded derivatives authority, or
- (2) Section 37 of R.A. No. 7653 for investments in structured products by UBs and KBs with expanded derivatives authority, and for investments in credit-

linked notes and similar products and in securities overlying securitization structures by all UBs and KBs.

Monetary penalties shall be reckoned from the date of the investment until the date that the erring bank shall have fully complied with the requirements under Secs. 1628, 1635, 1636 and 1648.

Annex A

For investments in (1) structured products by UBs and KBs with expanded derivatives authority and
(2) credit-linked notes and securities overlying securitization structures by all UBs and KBs

(Name of Bank)

CERTIFICATION

We certify, in relation to _____ (Name of Bank) _____'s investment
in _____ (name of financial product) _____ on _____ (date), _____ that –

1. The bank is allowed to invest in the product cited above under existing rules and regulations of the Bangko Sentral ng Pilipinas and the investment was approved by the Board of Directors in its Resolution No. _____ dated _____; and
2. The bank has an adequate risk management system, which includes, among others, the following:

a. Written policies and procedures that provide for adequate identification, measurement, monitoring and control of all risks in the investment;

b. Pertinent risk measurement system/methodologies that effectively measure on a timely basis all risks inherent in the investment;

c. Limit structure that addresses all risk factors and is consistent with the board-approved risk appetite and business strategy;

d. Internal controls; and

e. Management information system that efficiently provides accurate and timely monitoring and reporting of risk exposures and limit compliance.

President/CEO

Treasurer

Compliance Officer

SUBSCRIBED AND SWORN to before me this _____ day of _____ at _____, with affiants exhibiting to me the following Community Tax Certificate Nos. –

Name	Date Issued	Place Issued
President/CEO	_____	_____
Treasurer	_____	_____
Compliance Officer	_____	_____

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Not. Reg. No. _____

Doc. No. _____

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Series of _____

For investments in structured products by UBs and KBs without expanded derivatives authority

(Name of Bank)

CERTIFICATION

We certify, in relation to _____ (Name of Bank) _____'s investment
in _____ (name of financial product) _____ on _____ (date) _____, that –

1. The bank is allowed to invest in the product cited above under existing rules and regulations of the Bangko Sentral ng Pilipinas;
2. The bank’s investment is in compliance with the conditions set out in Circular No. 466 dated 05 January 2005, as follows:
 - a. The revenue stream of the structured product is linked only to interest rate indices and/or foreign exchange rates other than those that involve the Philippine Peso, and that the minimum all-in return of such investments is not lower than zero.
 - b. The contractual maturity of the instrument does not exceed 5 years.
 - c. The product is issued by a bank or special purpose vehicle (SPV) collateralized by securities rated at least “A” or its equivalent by an international rating agency acceptable to the Monetary Board.
 - d. The investment is booked in the “Held to Maturity” (HTM) Securities” account, or for instruments with put options, in the “Available for Sale (AFS) Securities” account.
 - e. The total carrying value of all the bank’s investments in structured products does not exceed 20% of the total investment portfolio of its EFCDU.
 - f. The bank has established internal processes to identify, evaluate, monitor and manage the risk exposures (e.g. credit risk, market risk, liquidity risk, operational risk, legal risk, compliance risk), created by its investment in the above-cited product. Further to this:
 - (i) The investment was specifically approved by the Board of Directors in its Resolution No. _____ dated _____, and is subject to appropriate internal limits and periodic reporting to the Board.

- (ii) The bank complies with generally accepted accounting and disclosure standards and/or rules and regulations prescribed by the BSP.
- (iii) An independent risk management function is in place.
- (iv) The bank has the ability to value the investments on a continuing and consistent basis and to measure its sensitivity to market movements.
- (v) The risks of the investments can be accurately aggregated in risk reports on a timely basis.

Further, we undertake to –

- (i) Perform, at regular intervals, stress tests that reflect extreme market conditions; and
- (ii) Obtain, on a monthly basis, bid prices from the issuer(s) of the investment instruments, to supplement the valuation exercise in Item 2.f.iv above.

President/CEO

Treasurer

Compliance Officer

SUBSCRIBED AND SWORN to before me this _____ day of _____ at _____, with affiants exhibiting to me the following Community Tax Certificate Nos. –

Name	Date Issued	Place Issued
President/CEO	_____	_____
Treasurer	_____	_____
Compliance Officer	_____	_____

NOTARY PUBLIC

Not. Reg. No. _____
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GUIDELINES ON THE ACCOUNTING TREATMENT FOR INVESTMENTS IN
CREDIT-LINKED NOTES AND OTHER STRUCTURED PRODUCTS
(Appendix to Sec. 1389)

In line with the policy of promoting fairness and accuracy in reporting financial transactions, banks are enjoined to observe the following guidelines on accounting for investments in credit-linked notes (CLNs) and other structured products (SPs) in addition to those prescribed under PAS 39:

CLNs and other SPs are financial instruments which consist of the host contract (e.g., debt or equity contract) and one or more embedded derivatives. Said financial instruments may be accounted for as compound financial instruments or as bifurcated financial instruments where the embedded derivatives shall be separated from the host contracts. PAS 39 provides the conditions on when the embedded derivative may be bifurcated from the host contract.

Booking of CLNs and other SPs as a compound instrument

1. CLNs may be booked under the “Held for Trading” (HFT) or “Designated at Fair Value through Profit or Loss” (DFVPL) category according to intention as provided under Circular No. 494 dated 20 September 2005.

2. Other SPs, shall also be booked under the HFT or DFVPL category according to intention as provided in PAS 39.

In either case, the compound instrument (host contract and embedded derivatives) shall be carried at fair value with fair value changes reflected in profit or loss.

Booking of CLNs and other SPs as bifurcated financial instrument

Investment in CLNs and other SPs that are not intended to be traded (i.e., not to

be booked as HFT) or to be designated at fair value through profit or loss shall be accounted for as bifurcated financial instruments.

Accounting for host contracts. When the embedded derivatives are bifurcated (separated) from the host contract, the host contract shall be accounted for as follows:

1. In the case of CLN, the host contract shall be booked under the “Available for Sale” (ASS) but not under the “Held to Maturity” (HTM) nor under the “Unquoted Debt Securities Classified as Loans” (UDSCL) category in accordance with Circular No. 494.

2. In the case of other SPs, the host contract shall be booked under the ASS, HTM or UDSCL category in accordance with X388.5.

Host contracts of investments in CLNs and Other SPs shall in no case be booked under the “Due from Other Banks” or “Interbank Loans Receivable” accounts.

Accounting for embedded derivatives
The bifurcated embedded derivatives shall be accounted for as “Derivatives Held for Trading” with fair value changes reflected in profit or loss, except in cases where the bifurcated embedded derivatives are designated and effective hedging instruments, which shall be booked under the “Derivatives Held for Hedging” account. The following shall be observed for purposes of FRP reporting of bifurcated embedded derivatives:

- The entire notional amount (or leveraged notional amount in cases of leveraged exposures) of the hybrid contract

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and the corresponding positive/(negative) fair value of the embedded derivatives shall be reported in Schedule 4 (Derivatives Held for Trading – Embedded Derivatives) of the FRP.

- In the case of CLNs and Other SPs that have more than one embedded derivatives (multiple embedded derivatives) that are required to be separated from the hybrid contract, the entire notional amount (or leveraged notional amount in cases of leveraged exposures) of the hybrid contract and the corresponding positive/(negative) fair value of the embedded derivatives shall be reported in Schedule 4 (Derivatives Held for Trading – Embedded Derivatives) of the FRP for each type of bifurcated derivatives.

Generally, multiple embedded derivatives in a single instrument are treated as a single compound embedded derivative. However, embedded derivatives that are classified as equity are accounted for separately from those classified as assets or liabilities. In addition, if an instrument has more than one embedded derivatives and those derivatives relate to different risk exposures and are readily separable and independent of each other, they are accounted for separately from each other.

Marking to market guidance

In addition to the marking to market guidelines provided under PAS 39, banks should likewise consider apart from the carrying amount of the host contract the notional amount (or leveraged notional amount in cases of leveraged exposures) of embedded derivatives in marking to market the hybrid financial instrument.

For this purpose, the term CLN shall include similar instruments such as credit linked deposits (CLDs) and credit linked loans (CLLs) where the repayment of the principal to the note holder is contingent upon the occurrence of a defined credit event. On the other hand, other SPs (as defined under X625.2) shall refer to a financial instrument where the total return is a function of one or more underlying indices, such as interest rates, equities and exchange rates. It is composed of a host contract (e.g., plain vanilla debt or equity securities) and an embedded derivative (e.g., swaps, forwards or options) that re-shape the risk-return pattern of the hybrid instrument. The term SP does not include asset-backed securities.

(M-2008-010 dated 07 March 2008)

THE GUIDELINES FOR THE IMPOSITION OF MONETARY PENALTY FOR VIOLATIONS/OFFENSES WITH SANCTIONS FALLING UNDER SECTION 37 OF R.A. NO. 7653 ON BANKS, DIRECTORS AND/OR OFFICERS
(Appendix to Secs. X199, X299, X399, X499, X599, X699, X799,X899,X999)

The schedule of penalty, categorized based on: (1) the nature of offenses such as minor, less serious, and/or serious, and (2) the asset size of the bank, shall be as follows:

A. For Serious Offense

Asset Size	Up to P200.0 million	Above P200.0 million but not exceeding P500.0 million	Above P500.0 million but not exceeding P1.0 Billion	Above P1.0 Billion but not exceeding P10.0 Billion	Above P10.0 Billion but not exceeding P50.0 Billion	Above P50.0 Billion
Penalty Range						
Minimum	P 500	P 1,000	P 3,000	P 10,000	P 18,000	P 25,000
Medium	750	1,500	5,000	12,500	20,000	27,500
Maximum	1,000	2,000	7,000	15,000	22,000	30,000

B. For Less Serious Offense

Asset Size	Up to P200.0 million	Above P200.0 million but not exceeding P500.0 million	Above P500.0 million but not exceeding P1.0 Billion	Above P1.0 Billion but not exceeding P10.0 Billion	Above P10.0 Billion but not exceeding P50.0 Billion	Above P50.0 Billion
Penalty Range						
Minimum	P 300	P 600	P 1,000	P 3,000	P 7,000	P 15,000
Medium	350	700	1,250	4,000	8,500	17,500
Maximum	400	800	1,500	5,000	10,000	20,000

C. For Minor Offense

Asset Size	Up to P200.0 million	Above P200.0 million but not exceeding P500.0 million	Above P500.0 million but not exceeding P1.0 Billion	Above P1.0 Billion but not exceeding P10.0 Billion	Above P10.0 Billion but not exceeding P50.0 Billion	Above P50.0 Billion
Penalty Range						
Minimum	P 150	P 300	P 600	P 1,000	P 3,000	P 6,000
Medium	200	400	700	1,500	4,000	8,000
Maximum	250	500	800	2,000	5,000	10,000

For purposes of this Regulation, the following definition of terms shall mean:

1. **Serious Offense** - This refers to unsafe or unsound banking practice. An unsafe or unsound practice is one (1) in which there has been some conduct, whether act or omission, which is contrary to accepted standards of prudent banking operation and may result to the exposure of the bank and its shareholders to abnormal risk or loss.

- (a) In determining the acts or omissions included under the unsafe or unsound banking practice, an analysis of the impact thereof on the banks/quasi-banks/trust entities' operations and financial condition must be undertaken, including evaluation of capital position, asset condition, management, earnings posture and liquidity position. The following circumstances shall be considered:
- (b) The act or omission has resulted or may result in material loss or damage, or

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abnormal risk or danger to the safety, stability, liquidity or solvency of the institution;

(c) The act or omission has resulted or may result in material loss or damage or abnormal risk to the institution’s depositors, creditors, investors, stockholders or to the Bangko Sentral or to the public in general;

(d) The act or omission has caused any undue injury, or has given unwarranted benefits, advantage or preference to the bank or any party in the discharge by the director or officer of his duties and responsibilities through manifest partiality, evident bad faith or gross inexcusable negligence; or

(e) The act or omission involves entering into any contract or transaction manifestly and grossly disadvantageous to the bank, QB or trust entity, whether or not the director or officer profited or will profit thereby.

Certain acts or omissions as falling under this classification maybe determined based on the guidelines provided under *Appendix 48*.

2. Less Serious Offense - These include major acts or omissions defined as bank/individual’s failure to comply with the requirements of banking laws, rules and regulations, provisions of Manual of Regulations (MOR)/Circulars/Memorandum as well as Monetary Board directives/instructions having material^{1/} impact on Bank’s solvency, liquidity or profitability and/or those violations classified as major offenses under the Report of Examination, except those classified under unsafe or unsound banking practice.

3. Minor Offense - These include acts or omissions which are procedural in

nature, can be corrected immediately and do not have material impact on the solvency, liquidity and profitability of the Bank. All other acts or omissions that cannot be classified under the major offenses/violations will be classified under this category.

4. Minimum refers to the range of penalties to be imposed if the mitigating factor(s) outweigh the aggravating circumstances.

5. Medium refers to the penalty to be imposed in the absence of any mitigating and aggravating circumstances or if the mitigating factor(s) offset the aggravating factor(s).

6. Maximum refers to the penalty to be imposed if the aggravating circumstances outweigh the mitigating factor(s).

In determining the amount of penalty, a two-stage assessment shall be conducted as follows:

Step 1: Determine the nature of offense whether it is: (a) Serious; (b) Less Serious; or (c) Minor Offense; and

Step 2: Determine whether there are aggravating and/or mitigating factors (as listed and defined in Annex A).

Both the aggravating and mitigating factors shall be considered for initial penalty imposition and subsequent requests for reconsideration thereto.

The foregoing monetary penalties shall be without prejudice to the imposition of non-monetary sanctions, if and when deemed applicable by the Monetary Board. Violations of banking laws and Bangko Sentral regulations with specific penal clause are not covered by this Regulation.

^{1/} SFAS/IAS defines materiality as any information, which if omitted or misstated, could influence the economic decisions of users taken on the basis of the financial statements. Per Financial Accounting Standard Board (FASB), it is defined as the magnitude of an omission or misstatement of accounting information xxx.

Aggravating and Mitigating Factors to be Considered in the Imposition of Penalty

1. Aggravating Factors

(a) Frequency of the commission of specific violation. This pertains to commission or omission of a specific offense involving either the *same or different transaction*. This will also refer to a violation which may have been corrected in the past but found repeated in another transaction/account in the subsequent examination.

In determining frequency, the number of times of commission or omission of a specific offense during the preceding three (3) - year period shall also be considered.

The word *offense* pertains to a violation that connotes infraction of existing BSP rules and regulations as well as non-compliance with BSP/MB directives.

(b) Duration of violations prior to notification. This pertains to the length of time prior to the latest notification on the violation. Violations that have been existing for a long time before it was revealed/ discovered in the regular examination or are under evaluation for a long time due to pending requests or correspondences from banks on whether a violation has actually occurred shall be dealt with through this criterion. Violations outstanding for more than one (1) year prior to notification, at the minimum, will qualify as violations outstanding for a long time.

(c) Continuation of offense or omission after notification. This pertains to the persistence of an act or offense *after the latest notification on the existence of the violation, either from the appropriate department of the SES or from the Monetary Board and/or Deputy Governor, in cases where the violation has been elevated accordingly*. This covers the period after the final notification of the existence of the violation

until such time that the violation has been corrected and/or remedied. The corrective action shall be reckoned with from the date of notification.

(d) Concealment. This factor pertains to the cover up of a violation. In evaluating this factor, one shall consider the intention of the party(ies) involved and whether pecuniary benefit may accrue accordingly.

Intention precedes concealment. The act of concealing an offense or omission carries with it the intention to defraud regulators. Moreover, the amount of pecuniary benefit, which may or may not accrue from the offense or omission, shall also be considered under this factor.

Concealment may be apparent in cases when bank officers purposely complicates the transaction to make it difficult to uncover or refuse to provide information/ documents that would support the violation/offense committed.

Inasmuch as concealment and intention are speculative matters and may be difficult to establish, appropriate support of facts or circumstantial evidence in this factor shall be considered.

(e) Loss or risk of loss to bank. In assessing this factor, *potential loss* refers to any time at which the bank was in danger of sustaining a loss.

Substantial actual loss. The Bank has been exposed to a significant loss of earnings and capital. The volume of accounts involved in the loss is substantial/ significant in relation to the institution's assets and capital. The bank/individual may have substantial/serious violations that could impact the reputation and earnings of the bank.

Minimal actual loss or substantial risk of loss. The Bank has incurred minimal loss or will be exposed to substantial risk of loss of earnings or capital although both do not materially impact financial condition. The volume of accounts involved for minimal

loss or substantial risk of loss is reasonable and manageable. While a loss was incurred, the bank could absorb the loss in the normal course of business. Substantial risk of loss includes *any potential losses the aggregate of which amounts to at least one percent (1%) of the capital of the bank*^{1/}.

Minimal risk of loss. The risk exposure on earnings or capital is minimal. Bank is not vulnerable to significant loss. The volume of accounts involved for potential loss/risk is minimal/negligible. The risk of loss would have little impact on the bank or its financial condition. The risk of loss aggregating to less than one percent (1%) of the capital of the bank will fall under this classification.

(f) Impact to bank/banking industry. In assessing this factor, it is appropriate to consider any possible negative impact or harm to the bank. (e.g. A violation of law involving insider abuse may result in adverse publicity for the institution, possibly causing a run on deposits and affecting the bank’s liquidity). Resulting effect on the banking industry on the violation/offenses committed by the bank, if any, will also be considered. Sources of data may come from news reports.

Substantial impact on bank. No impact on banking industry. This may involve reputational risk of the bank as a result of negative publicity generated for example, by involvement of bank’s director/officer in activities not acceptable to the regulatory bodies, e.g. pyramiding, investment scams etc. This may also involve insider abuse of authority/power. However, the banking industry is not affected for this isolated case.

Moderate impact on banking industry or on public perception of banking industry. This may involve poor corporate governance and mismanagement of bank that may result to erosion of public confidence leading to bank run in various branches. This may also trigger a bank run in other subsidiaries.

Substantial impact on banking industry or on public perception of banking industry. This is a worst-case scenario. The violations/irregular activities of the bank may totally erode the trust and confidence of the banking public resulting to a nationwide bank run. Pessimistic perception of the banking public on the banking industry is highly observed.

2. Mitigating Factors

(a) Good faith. Good faith is the absence of intention of the of the erring individual/entity in the commission of a violation.

Full cooperation. This is determined by the actions of the individual and/or bank towards the regulators after or even before notification of the offense and/or omission. Assistance rendered by the Bank during the investigation and/or examination conducted relative to the cited offense and/or omission may be viewed favorably when computing the amount of penalty to be imposed on the Bank/individual.

With positive measures/action undertaken although not corrected immediately. The bank is willing to remedy/correct the violation but is being restrained of its capacity to take immediate action thus, will undertake a Memorandum of Undertaking/Commitment for a specified period as a sign of good faith. The bank has started to rectify the infraction by instituting reforms in their operations or systems.

Voluntary disclosure of offense. Voluntary disclosure of the bank of the offense committed before it is discovered by BSP examiners in the regular/special examination or in the supervisory work (e.g. submission of reports to the BSP disclosing the violation committed by the bank based on the internal auditor's findings) may be considered as the highest level of mitigation under this factor.

The burden of proof, however, falls on the bank/individual to support its/his/her claim of good faith and may be used as basis to mitigate the amount of penalty that may be imposed.

^{1/} Circular 410 dated 29 October 2003 provides that external auditors of banks must report to BSP, among others, any potential losses the aggregate of which amounts to at least one percent (1%) of the capital to enable the BSP to take timely and appropriate remedial action.

**IMPLEMENTATION OF THE DELIVERY BY THE SELLER OF SECURITIES TO THE
BUYER OR TO HIS DESIGNATED THIRD PARTY CUSTODIAN**
(Appendix to Sec. X441 and Subsecs. X235.5 & X238.1)

Section 1. Statement of Policy. Pursuant to the policy of the BSP to promote the protection of investors in order to gain their confidence in the securities market as enunciated under Circular Nos. 392 and 428 dated 23 July 2003 and 27 April 2004, respectively, the following rules/guidelines shall be observed by banks and NBFIs under BSP supervision in their dealings in securities whether they are acting as seller, buyer, agent or custodian.

The disposition of compliance issues of this Appendix is shown in *Appendix 68a*.

The guidelines on the delivery of government securities by the selling bank to an investor's Principal Securities Account with the RoSS through the Client Interface System facility are in *Appendix 68b*.

Sec. 2. Distinction Between a Custodian and a Registry. A securities custodian is a BSP-accredited bank or NBFIs designated by the investor to perform the functions of safekeeping, holding title to the securities either in a nominee or trustee capacity, reports rendition, mark-to-market valuation, administration of dividends or interest earnings and representation of clients in corporate actions. It may also perform value added services such as collecting and paying and securities borrowing and lending as agent. A BSP-accredited custodian is considered a third party if it has no subsidiary or affiliate relationship with the issuer or seller of securities.

On the other hand, a securities registry, other than the Bureau of Treasury, is a BSP-accredited bank or NBFIs designated or appointed by the issuer to maintain the securities registry book either

in electronic or in printed form. It records the initial issuance of the securities and subsequent transfer of ownership and issues registry confirmation to the buyers/holders. Except as otherwise provided in existing BSP regulations, a BSP-accredited securities registry is considered a third party if it has no subsidiary or affiliate relationship with the issuer of securities.

Sec. 3. Registry of Scripless Securities of the Bureau of Treasury. The Bureau of Treasury, as operator of the RoSS, which serves as the official registry for government securities, is not subject to BSP accreditation and is exempted from the independence requirement under the existing BSP regulations.

Sec. 4. Delivery of Securities. Pursuant to existing BSP regulations, securities sold on a without recourse basis shall be delivered by the seller to the purchaser, or to his designated BSP-accredited custodian which must not be a subsidiary or affiliate of the issuer or seller.

Sec. 5. Mode of Delivery. If the securities sold are certificated, delivery shall be effected physically to the purchaser, or to his designated BSP-accredited custodian. The certificate must be transferred to and registered under the name of the purchaser and properly recorded in the registry book. On the other hand, delivery of immobilized or dematerialized securities shall be effected by means of book entry transfer to the appropriate securities account of either: (1) the purchaser in a registry of said securities; or (2) the purchaser's designated custodian in a registry of said securities. Book-entry

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transfer to a sub-account for clients under the primary account of the seller will not be deemed compliant with this requirement. The delivery must be supported by a confirmation of book-entry transfer to be issued by the securities registry in case of name on registry or by a confirmation receipt to be issued by the custodian in case of delivery to the purchaser's designated custodian.

Sec. 6. Client Information. Selling or dealing banks shall inform their clients of the requirements under Secs. 3 and 4 above, together with the complete list of all BSP-accredited custodians. The selling or dealing bank or NBFIs must inform their clients that the choice of custodian is the sole prerogative of the securities purchaser. The seller or dealer may, however, indicate to their clients their preferred custodian. Attached as *Annex "A"* is a suggested template of the letter to the client.

Sec. 7. Custodianship Agreement. The securities owner/purchaser shall enter into a custodianship agreement with a BSP-accredited third-party custodian of his choice. However, the securities purchasers/owners may designate/appoint through a special power of attorney (SPA) a representative or agent for the purpose of opening and maintaining an account with the BSP-accredited third-party custodian: *Provided*, That if the securities seller or dealer is appointed as an agent, its authority shall be limited to the opening of the custodianship account and the execution of trade transactions (i.e. buying and selling instructions including relaying of instructions to the custodian to receive or deliver securities in order to consummate the buy/sell transactions). It shall be the responsibility of the custodian to protect the interest of the client by ensuring that the agent is acting within the scope of his authority.

Sec. 8. Authority of the Securities Owner/Purchaser to Revoke Special Power of Attorney (SPA). Whenever a securities owner/purchaser executes an SPA designating/appointing an agent to open and maintain a custodianship account with a BSP-accredited third party custodian pursuant to Sec. 6 above, said SPA shall clearly stipulate that the appointment of the agent is revocable at the instance of the securities owner/purchaser or his agent. Any revocation by either party shall be made in writing and must be given to the other party and to the custodian. The custodian is hereby enjoined to acknowledge and respect said right of the client. It is, however, understood that the revocation of the SPA shall be without prejudice to any transaction executed by the agent or custodian prior to said party's knowledge of the revocation. Upon revocation of the SPA, the custodian shall deal directly with the securities owner or his newly appointed agent. However, the custodian has the right to impose additional reasonable conditions similar to those being imposed on separate custody accounts maintained directly by individual or corporate clients.

Sec. 9. Reports of the Custodian. Periodic reports of the custodian on account balances shall be rendered at least quarterly and shall reflect the mark-to-market valuation of the security in accordance with existing BSP regulations. It shall be delivered, mailed or electronically transmitted directly to the securities owner unless the securities owner gives a written request or instruction directly to the custodian to deliver said reports to a person/entity named therein. Said request/instruction of the securities owner shall indicate that he is appointing an agent/ representative for the purpose, notwithstanding contrary advice of the BSP.

Aside from the periodic reports, the custodian shall also issue confirmation of transfers of ownership as they occur in either electronic or printed form delivered directly to the securities owner, unless the securities owner gives a written request or instruction directly to the custodian to deliver the confirmation reports to a person/entity named therein.

Sec. 10. Right of the Securities Owner to Sell his Securities. Subject to the requirements of existing laws and regulations, securities owners shall have the right to choose the best buyers of his securities in the secondary market, without limiting himself to the original selling or dealing bank that he transacted with. The securities seller or dealer shall not impose any condition that will impair this right of the securities owner or leave him no alternative except to sell his securities exclusively to the selling or dealing bank.

Sec. 11. Undelivered Securities. In cases where banks or NBFIs under BSP supervision maintain custody of securities which were sold prior to the effectivity of Circular No. 457 dated 14 October 2004 to clients who are unable or unwilling to take delivery of said securities pursuant to the provisions of Circular No. 392 dated 23 July 2003 but who declined to deliver their existing securities to a BSP-accredited third party custodian, said banks/FIs shall:

- a. report on a quarterly basis to the appropriate department of the SES the volume of said securities broken down into maturity dates, type of security, ISIN or applicable certificate or reference number, and registry; and
- b. ensure that said securities under custody are segregated from their proprietary holdings.

Sec. 12. Compliance with the Anti-Money Laundering Act of 2001. For purposes of compliance with the requirements of R.A. No. 9160, otherwise known as the “Anti-Money Laundering Act of 2001”, as amended, particularly the provisions regarding customer identification, recordkeeping and reporting of suspicious transactions, a BSP-accredited custodian may rely on referral by the seller/issuer of securities, in lieu of the face-to-face contact with client, subject to the following conditions:

- a. the seller/issuer is also a covered institution;
- b. the seller/issuer certifies to the custodian that it has performed its own KYC screening on the client;
- c. the custodian has unchallenged access to the KYC records/documents of the referring seller/issuer pertaining to the referral client;
- d. the custodian maintains a record of the referral together with the minimum information/documents required under the law and its implementing rules and regulations; and
- e. the seller/issuer must provide the custodian with the following minimum information/documents:

For individual clients:

- 1. Name;
- 2. Present address;
- 3. Permanent address;
- 4. Date and place of birth;
- 5. Nationality;
- 6. Nature of work and name of employer or nature of self-employment/business;
- 7. Contact numbers;
- 8. Tax identification number, SSS number or GSIS number;
- 9. Specimen signature; and
- 10. Source of fund(s);

For corporate clients:

- 1. Articles of Incorporation/ Partnership;

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- 2. By-laws;
- 3. Official address or principal business address;
- 4. List of directors/partners;
- 5. List of principal stockholders owning at least two percent (2%) of the capital stock;
- 6. Contact numbers;
- 7. Beneficial owners, if any;
- 8. Authorized signatories;
- 9. Board/Partnership Resolution on the authority of the signatories; and
- 10. Verification of the identification and authority of the person purporting to act on behalf of the client.

Sec. 13. Safekeeping of Customers’ Identification Documents. The BSP accredited third-party custodian may entrust to the referring seller/dealer the safekeeping and maintenance of the

customer identification documents supporting its KYC certification: *Provided, That:*

- a. The BSP accredited custodian has received a certification from the seller/dealer that it has in its possession all required KYC documents and the custodian shall maintain a list of such documents;
- b. The accredited custodian shall have unhampered access to the KYC documents for its own verification; and
- c. KYC or customer identification documents shall be made available to regulators for verification upon request.

Notwithstanding Secs. 12 and 13, the custodian is not precluded from conducting its own KYC activities and maintaining direct custody of the KYC documents of its clients.

(Circular No. 524 dated 31 March 2006 and as amended by M-2007-002 dated 23 January 2007)

TEMPLATE OF LETTER TO INVESTOR

Dear Investor:

We wish to inform you that the Bangko Sentral ng Pilipinas (BSP), in July of 2003 issued **Circular No. 392, Series of 2003**, which requires all securities sold by banks on a **“without recourse basis”** (i.e. the bank has no liability to the buyer of securities in paying the obligation due on the security) to be delivered to the buyer/purchaser of securities through any of the following means:

- (a) **If the security is evidenced by a certificate of indebtedness**, the certificate must be transferred in the name of the purchaser/buyer and physically delivered to the purchaser/buyer or to his designated BSP-accredited third party custodian.
- (b) **If the security is immobilized or dematerialized** (i.e., that the security is not evidenced by a certificate of indebtedness and instead security account is created in the electronic books of the registry in the name of the purchaser/buyer or his designated custodian):
 - i. The security must be delivered by book-entry transfer to the appropriate securities account of the buyer in the registry of said securities which must be evidenced by a confirmation in writing by the registrar to the buyer. The confirmation of sale or document of conveyance shall be physically delivered by the seller or dealer to the buyer, or
 - ii. The security must be delivered by book-entry transfer to the appropriate securities account of the BSP-accredited third party custodian designated by the buyer/purchaser in the registry of said securities which must be evidenced by a confirmation in writing by the registrar to the said BSP-accredited third party custodian, who shall in turn issue to the securities owner a delivery receipt acknowledging receipt of the securities

Circular No. 392 is part of a package of reforms to support the development of the domestic capital market through enhanced investor protection and greater market transparency. It provides for a more defined role and responsibilities for the custodians and registrars and a stricter supervision and regulation thereof by the BSP. It aims to provide the client with the following benefits:

- a. Full control and possession of the securities purchased;
- b. Independent validation of the existence of securities purchased;
- c. Regular reporting of securities holdings; and
- d. Capability to choose most competitive counter-parties in case of sale, pledge, transfer, and lending of securities.

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Moreover, Circular No. 392, which amends CBP Circular 437-74, seeks to address the changes in the legal framework brought by the developments in the market, i.e., where purchase of securities may be evidenced not only by transfer of certificates but also by electronic book-entry transfer of ownership in the books of the registrar for said security.

As an investor, therefore, of securities which is dematerialized or scripless, you have **the option** to require your dealer/broker to deliver the securities to you by requiring them to have the securities registered directly in **your name in the registry** of said securities **or** by requiring them to have the securities registered in the name of the BSP **accredited third party custodian** of your choice who in turn will credit your securities account with them.

The **registry** is a BSP-accredited bank or non-bank financial institution (NBFI) designated or appointed by the Issuer to (1) maintain the securities registry book; (2) record the (a) issuance of the securities and (b) subsequent transfers of ownership thereof; and (3) issue registry confirmation to the buyers/holders of security.

The **custodian**, on the other hand, is a BSP-accredited bank or NBFI designated by the investor to safekeep the security by allowing it to hold title to the security, either in a nominee or trustee capacity, to enable it to perform the following administrative functions/services related to investing in a security or various securities: i) Mark to market valuation of security that will enable the client to know the value of his investment at any period in time; ii) compute and collect the interest due on the security; iii) render statements on outstanding securities under safekeeping; iv) represents the client (per its instruction) in the events of default or breach of contract of the issuer; and v) lend the security of the clients as “agent” that will enable the client to earn additional income on the security.

The registrars and custodians underwent a rigorous evaluation process by the BSP to determine whether they have the following: i) adequate capital to cover for potential operating risks related to performing its custody functions; ii) competent management team to manage the company with responsibility and proper corporate ethics; iii) robust technology system to operate the custody business efficiently; and iv) favorable track record or significant experience in the custody business or related business. They will also undergo regular audit by the BSP to ensure that they comply with BSP rules and regulations and will be subject to penalties and administrative sanctions for any violation thereof.

As of date, BSP has accredited the following registrars and custodians: Bank of the Philippine Islands, CITIBANK N.A., Deutsche Bank, Hongkong and Shanghai Banking Corporation, Philippine Depository and Trust Corporation, and Standard Chartered Bank.

The Registry of Scripless Securities (RoSS) operated by the Bureau of Treasury (BTR) which is acting as a registry for government securities, is automatically accredited as securities registry. However, the BTR, as registry, cannot act as custodian of government securities pursuant to the opinion of the Secretary of Justice rendered on 17 January 2005 due to irreconcilable conflict of loyalties that is anathema to agency if the same institution were to act as registrar and custodian at the same time.

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The custodian shall render periodic reports on your account balances on a quarterly basis, or at such interval as you may require. Moreover, the custodian shall issue to you a confirmation of any transfer of ownership as it occurs, in either electronic or printed forms. Said reports shall be delivered/mailed directly at your address unless you give a written instruction directly to the custodian to deliver the said reports to your designated person/entity. You are, however, required to acknowledge in the written instruction that you are designating another person/entity to receive the periodic reports from the custodian, notwithstanding contrary advice of the BSP.

Please note that the abovementioned arrangements may change once the BSP issues more detailed implementing rules and guidelines to the abovementioned circulars. We will update you if and when these developments occur.

Please fill up and sign the required documentation of your chosen custodian and we will forward the same to them so that your securities account can be opened as soon as possible. You may, however, designate/appoint an agent for this purpose. In either case, the custody arrangement may or may not entail additional fees.

If you have any further questions, please call us so that we can refer the matter to the appropriate custodian/registrar.

Very truly yours,

(Circular No. 524 dated 31 March 2006 and as amended by M-2007-002 dated 23 January 2007)

DISPOSITION OF COMPLIANCE ISSUES ON APPENDIX 68
(Appendix to Sec. X441 and Subsecs. X235.5 & X238.1)

A. The Monetary Board, in its Resolution No. 581 dated 5 May 2006 approved a thirty (30) calendar day period from 05 June 2006 within which banks/non-banks will effect revisions to non-conforming SPAs issued by investor-clients to strictly conform to the limited authority provisions of Section 7 of *Appendix 68*, subject to the following conditions:

1. The clean-up of SPAs will cover those issued by clients prior to Circular No. 524 dated 31 March 2006;
2. Custodians will allow transfers of securities from proprietary accounts of dealers to their omnibus principal custody accounts within the period;
3. There will be no penalties imposed for dealer-banks and accredited securities custodians that allowed non-compliant SPAs prior to Circular No. 524 dated 31 March 2006 or those issued under Circular Letter dated 4 August 2005 if corrected within the thirty (30)-day period; and
4. Non-compliance with other provisions of *Appendix 68* are not covered/qualified to be corrected within the thirty (30)-day period and are therefore subject to the usual penalty/sanctions under existing regulations.

B. The Monetary Board, in its Resolution No. 876 dated 06 July 2006 approved the following disposition of compliance issues for the period of 05 July 2006 - 04 August 2006:

1. The sending by a dealing bank to all its clients of:
 - (a) a notice indicating a limitation on the authority of the dealing bank pursuant to Section 7 of *Appendix 68*; and
 - (b) compliant SPA for execution will be deemed substantial compliance only as of 05 July 2006. Proof thereof should be preserved for examination purposes.
2. Custodians will be deemed in substantial compliance as of 05 July 2006 if they have obtained confirmation from the

dealing banks that notifications on the limitation of the dealing bank's authority, together with a compliant SPA for the clients' signature, have been sent to all their clients. Absent confirmation from the dealing bank of the sending of notices and the revised SPA, the custodian should immediately freeze (i.e., no new movements in the security, except sale or disposition thereof) the account to be considered in substantial compliance.

3. Absent a compliant SPA, the dealing bank and custodian should "freeze" the account of the client. Accordingly, if a client wants to transact with securities, the dealing bank must require the submission of an executed compliant SPA before any new transaction can be entered into. Otherwise, the dealing bank will be subject to the appropriate penalties prescribed under Subsec. X441.29. However, for the period of 05 July 2006 - 04 August 2006, transactions by the dealing bank with its clients, absent a compliant SPA but to which an advice on the limitation of the authority of the dealing bank and a compliant SPA for signature have been sent, will be subject to a fine of ₱10,000.00 per transaction/day: *Provided*, That the total penalty arising from that class of violation for the said period shall not exceed ₱100,000.00, computed in accordance with Section 37 of R.A. No. 7653 (The New Central Bank Act). Furthermore, the Custodian will not be subject to any penalties for accepting securities subject of the transaction.

4. Starting on 05 August 2006, the penalties under Subsec. X441.29 shall be applied for any violation of the provisions of *Appendix 68*. Custodians shall be required to freeze the securities account for those without a compliant SPA from the investor.

(M-2006-009 dated 06 July 2006 and M-2006-002 dated 05 June 2006)

DELIVERY OF GOVERNMENT SECURITIES TO THE INVESTOR'S PRINCIPAL SECURITIES ACCOUNT WITH THE REGISTRY OF SCRIPLESS SECURITIES
(Appendix to Sec. X441, and Subsecs. X235.5 and X238.1)

The following are the guidelines on the delivery of government securities by the selling bank and/or NBFI under the supervision of the BSP to an investor's Principal Securities Account with the Registry of Scripless Securities (RoSS) through the Client Interface System facility as compliance with the requirement of effective delivery under Sec. X441 and Subsecs. X235.5, X238.1, X238.3 and X441.12:

(a) Banks/NBFIs, acting either as accredited government securities eligible dealers (GSEDs) or licensed government securities dealers, shall execute the attached Memorandum of Agreement (MOA) with the BTr regarding the creation of the Principal Securities Account with the RoSS on or before 31 January 2007. The MOA between the BTr and the GSED is attached as Annex A.

(b) If the dealing bank/NBFI is designated as the agent of the client/investor, the authority of the dealing bank/NBFI under the Special Power of Attorney (SPA) executed by the client/investor shall be limited to the opening of the Principal Securities Account with the RoSS and the execution of trade transactions (i.e., buying and selling instructions, including relaying of instructions to the BTr, as operator of the RoSS, to receive and deliver securities in order to consummate the buy/sell transaction).

(c) Banks/NBFIs shall require their clients/investors who have manifested the desire to have their own Principal Securities Account with the RoSS to execute (1) an SPA pursuant to Sec. X441 and Subsecs. X235.5, X238.1 and X238.3 and (2) the revised Investor's Undertaking (attached as Annex B) on or before 28 February 2007.

(d) Absent a compliant Investor's Undertaking and SPA as of 01 March 2007,

the dealing bank/NBFI should freeze the account of the client/investor (i.e., no new movements in the account, except sale/disposition upon written instruction by the client/investor): *Provided*, That starting 01 March 2007 no new Investors Principal Securities Account shall be created unless the investor submits a compliant Investor's Undertaking and SPA. Otherwise, the dealing bank/NBFI will be subject to the appropriate penalties prescribed under Sec. X441 and Subsecs. X235.5, X238.1, X238.3 and X441.12.

(e) The sub-accounts in the RoSS maintained by dealing banks/NBFI for their client/investor who either (1) declined in writing the delivery of his/its securities to a direct registry account under his/its name or a third-party custodian or (2) have not responded to the dealer's letter to the client/investor as regards the disposition of his/its securities shall be frozen. However, sale/disposition of securities in the sub-accounts shall be allowed upon written instruction by the client/investor to dispose the same: *Provided*, That in case of a client/investor who as of 04 November 2004 has not responded to the dealer's letter regarding the disposition of his/its securities, the dealer should be able to obtain from the said client/investor the written instruction regarding the client/investor's inability to take delivery of existing securities. For clarity, the sub-accounts maintained by the dealing banks/NBFIs shall not be considered a violation of Subsecs. X235.5, X238.1, X238.3 and X441.12: *Provided*, That (1) the same were created on or before 04 November 2004; and (2) no additional securities have been lodged thereon since 04 November 2004.

(M-2007-002 dated 23 January 2007)

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This agreement made and entered into this _____ at _____, Philippines by and between:

The **BUREAU OF THE TREASURY**, a duly constituted government bureau under the Department of Finance, Republic of the Philippines, with principal office at Palacio del Gobernador Building, Gen. Luna corner A. Soriano Avenue, Intramuros, Manila, represented herein by the Treasurer of the Philippines, _____, and hereinafter referred to as “**BTr**”;

-and-

_____, a domestic/
international banking/financial institution organized and existing pursuant to the laws of the Republic of the Philippines/*(country of incorporation)*, duly licensed by the Securities and Exchange Commission (SEC) to deal in securities, represented herein by _____ in her/his capacity as _____, and hereinafter referred to as the “**Dealer**”;

(the “BTr” and the “Dealer” may be referred to as a “Party” in the singular tense, as “Parties” in the plural/collective tense)

WITNESSETH: THAT

WHEREAS, the Registry of Scripless Securities (“RoSS”) is the official registry of government securities issued by the National Government through the Bureau of the Treasury;

WHEREAS, the RoSS is an electronic registry of recording ownership of or interest in and transfers of government securities;

WHEREAS, the delivery of government securities sold by the Dealer, on a without recourse basis, to the investor’s Principal Securities Account with the RoSS through the Client Interface System (“CIS”) Facility shall be sufficient compliance with the delivery requirement under Subsec. X238.1, of the Bangko Sentral ng Pilipinas (“BSP”) Manual of Regulations for Banks (MORB) and Circular No. 524 dated 31 March 2006.

WHEREAS, the Dealer is a government securities eligible dealer, accredited by the BTr to participate in the primary auction of government securities pursuant to Finance

Department Order No. 141-95, as amended, and/or a bank/financial institution licensed by the SEC to deal in government securities in the secondary market;

WHEREAS, investors of government securities purchase/trade the same in the secondary market through any of the dealers;

WHEREAS, recording of ownership of, or interest in government securities requires the creation/opening of a Principal Securities Account with the RoSS through the CIS Facility;

WHEREAS, to promote transparency, investor confidence and deepening of the government bond market, investors must be given adequate assistance in the opening/creation of his/its Principal Securities Account with the RoSS (“Name-on- Registry”);

NOW, THEREFORE, in view of the foregoing premises and the mutual covenants hereinafter provided, the parties hereby agree as follows:

Section 1. Obligations of BTr.

The BTr shall:

1. Receive instruction from the Dealer through the RoSS-CIS for the creation/opening of the Principal Securities Account, as indicated in the Special Power of Attorney executed by the investor in favor of the Dealer for that purpose;
2. Create/open in the RoSS a Principal Securities Account for the requesting investor of scripless government securities through which all transactions affecting said securities will be recorded;
3. Provide and forward to the investor an electronic confirmation of his/its RoSS Principal Securities Account Number and notices and statements of account under any of the modes indicated in the Investor’s Oath of Undertaking submitted to the BTr;
4. On relevant coupon/maturity payment dates and for payments made through the BSP, instruct the BSP to credit the regular demand deposit account (DDA) of the investor’s settlement bank: *Provided*, That if the coupon/maturity payment date falls on a Saturday, Sunday, or Holiday or on a day during which business operations of the BTr is suspended, payment/s shall be made by the BTr on the next business day, without adjustment in the amount of interest to be paid.
5. Ensure that all government securities bought by investors from the Dealer are accurately recorded under the investor’s Principal Securities Account or to the Securities Custody Account of the investor’s designated third-party custodian.
6. Furnish the investor with Statement(s) of Securities Account, at least quarterly and whenever there is a movement in the investor’s Principal Securities Account, through the investor’s preferred mode of receipt of notice and/or statement;

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7. Consistent with BTr Memoranda dated 28 December 2005, 12 January 2006 and 31 January 2006 and applicable BSP regulations, disallow any increase in the holdings of beneficial owners of securities recorded in the sub-account of the Dealer, if any, existing as of 02 February 2006, for beneficial owners of securities who have either (a) declined in writing the delivery of his/its securities to a direct registry account under his or its name or a third-party custodian or (b) not responded to the Dealer's letter to the investor as regards the disposition of his/its securities. Any withdrawal or sale of the securities, either partial or total, under the sub-account of the Dealer for the beneficial owners may only be allowed if the Dealer is authorized in writing by the client/Investor. Such written authority shall be furnished by the Dealer to the BTr prior to the execution of the transaction.

Sec. 2. Obligations of the Dealer

The Dealer shall:

1. Assist the investor to open his/its individual Principal Securities Account (Name-On-Registry) with the RoSS through the CIS facility;
2. Conduct the Know your Client ("KYC") screening of its investors/clients referred to the BTr for the creation of the Principal Securities Account (Name-On-Registry) with the RoSS. In this connection it shall: (a) issue a certification to the BTr that it has conducted the necessary "KYC" screening; (b) maintain client identification records; (c) report any suspicious transaction in accordance with the provisions of R.A. No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001", as amended, and its implementing rules and regulations; and whenever necessary, (d) afford BTr unchallenged access to said KYC records/documents. The same KYC or customer identification documents shall likewise be made available to regulators for verification upon request.
3. Transmit the investor's instructions to the RoSS for the creation/opening of a Principal Securities Account. For this purpose, the Dealer shall submit and/or inform the investor to submit to the BTr his/her settlement account maintained in a settlement bank of his/her choice, through which all relevant payments on the securities will be made by the BTr;
4. Upon the creation of the investor's Principal Securities Account with the BTr's RoSS to which the securities subject of a sale will be credited, immediately furnish the investor with the BTr's electronic confirmation of its creation. The Dealer shall also provide to the investor the BTr electronic confirmation that includes a statement on the credited amount of securities;
5. Ensure that Special Power of Attorney (SPA) executed by client investors in their favor as agents of the former be limited, pursuant to BSP Circular No. 524;
6. Ensure that all government securities sold to investors are delivered to their appropriate Principal Securities Account with the RoSS, or to the account of the investor's designated custodian;

7. Undertake not to misuse the investor's RoSS Account No., which may come into its possession upon the creation of a Principal Securities Account for the investor or on previous transactions with the investor;

8. Acquaint/apprise investors on the rules and procedure prescribed by the BTr in connection with investment and trading of scripless government securities, including but not limited to coupon payment, redemption value/proceeds of the investor's securities, legal encumbrances, and other relevant information relative to investor's security holdings. As a minimum, investors must be apprised of the Revised RoSS Procedure on Buy and Sell of Securities and recording of transfers through the RoSS-CIS facility found in the BTr website, with particular emphasis on the feature of non-tagging of securities to GSEDs, or non-exclusivity of the selling GSEDs for subsequent transactions;

9. Whenever designated as authorized agent, provide BTr upon reasonable request, all evidence of authority to transact on the securities issued by investor to such authorized agent;

10. Whenever designated as authorized agent and/or settlement bank, ensure confidentiality and prompt delivery of all notices and statements of securities account/s to investors;

11. Ensure that all instructions transmitted to BTr concerning the securities account of clients-investors are legal, valid and duly authorized pursuant to an agreement, a special power of attorney, or any written authority executed by the client-investor in favor of the dealer; and

12. Disallow any increase in the securities holdings of clients recorded in its sub-account in the RoSS, with respect to clients who have either (a) declined in writing the delivery of his/its securities to a direct registry account under his or its name or a third-party custodian or (b) have not responded to the Dealer's letter to the investor as regards the disposition of his/its securities. The Dealer shall allow the client/investor to withdraw or sell, whether partial or total, from the said securities holdings recorded in the Dealer's sub-account only upon written request/instruction by the investor/client: *Provided*, That in case of investors who have not responded to the Dealer's letter regarding the disposition of his/its securities, the Dealer should be able to obtain from such investor a written advice that he is neither willing to take delivery nor have his securities delivered to a third-party custodian. The dealer shall furnish BTr such written request/instruction prior to the execution of the transaction.

Sec. 3. Cut Off Period. No transfer of securities shall be allowed (i) during the period of two (2) business days ending on (and including) the due date of any redemption payment of principal and (ii) during the period of two (2) business days ending on (and including) the due date of any coupon payment date (the "Closed Period"). BTr shall prevent any transfer of the securities to be recorded in the RoSS during any Closed Period. Bondholders of record as appearing in the RoSS as of the Closed Period will be treated by BTr as the beneficial owners of such securities for any relevant payment.

Sec. 4. Settlement Bank. Whenever the Dealer is designated by the investor as his/its settlement bank, it shall confirm receipt of payments from BTr intended for the investor and shall promptly and punctually credit the investor’s bank account all said relevant payments on the securities. Upon the crediting of the regular DDA of the Dealer with BSP for the applicable payments, the investor shall be considered as having been fully paid on his/its securities and the Dealer shall then be responsible to the investor. The BTr, its officers and employees and agents shall not be made liable for any claim, liability, or responsibility for damages or injury incurred by the investor on account of the Dealer’s failure to pay/credit the investor’s settlement account.

Sec. 5. Compliance with Anti-Money Laundering Law. The Dealer shall be responsible for compliance with the requirements of Anti-Money Laundering Law and other banking laws, rules and regulations relative to reporting of suspicious accounts and deposits.

Sec. 6. Limitation of Liability. The BTr, its officers, employees and agents shall not be held liable for any claim, liability or responsibility for damages or injury incurred by the investor on account of the loss of his/its securities holdings unless the loss or injury was caused by the act or omission of the BTr. Likewise, the BTr, its officers, employees and agents shall be rendered free and harmless from any liability on account of effecting instruction/s transmitted by the Dealer to the RoSS which the latter believed in good faith to have emanated from the Dealer.

Sec. 7. Sanctions for Fraudulent Transactions. In case the Dealer commits any fraudulent act or transaction in connection with government securities or violates any of its undertakings herein, the BTr shall have the right to impose administrative sanctions such as but not limited to dis-accreditation and/or suspension of accreditation as a government securities eligible dealer, and other administrative sanctions as may be prescribed by competent authorities without prejudice to civil or criminal prosecution in accordance with law.

Sec. 8. Amendment and Repeal. This agreement may be amended, modified or repealed by the parties in writing, by giving 30 days prior written notice.

Sec. 9. Effectivity. This agreement shall take effect immediately.

IN WITNESS WHEREOF, the parties have hereunto signed these presents this _____ at _____.

BUREAU OF THE TREASURY

[Dealer]

By:

By:

Treasurer of the Philippines

President & CEO

Signed in the presence of:

Republic of the Philippines)
_____) S.S

ACKNOWLEDGMENT

BEFORE ME, a Notary Public for and in the City of _____, personally appeared:

Name	CTC No.	Date & Place Issued
Bureau of the Treasury Rep. by the Treasurer of the Philippines	_____	_____
[Dealer] Rep. by _____	_____	_____

known to me to be the same persons who executed the foregoing instrument consisting of ____ () pages, including this page where this Acknowledgment is written, and acknowledge to me that the same is their free and voluntary act and deed and of the agency/institution they represent.

WITNESS MY HAND AND NOTARIAL SEAL this _____ at
_____, Philippines.

NOTARY PUBLIC

Doc. No.: _____
Page No.: _____
Book No.: _____
Series of _____

NOTE: TO BE SUBMITTED TO THE
BUREAU OF THE TREASURY

INVESTOR'S UNDERTAKING

I/We,

For Individual Investors
of legal age

Name:
Address:
Civil Status:

For Juridical Entity
authorized to do business
in the Philippines

Name:
Principal Office Address:
Place of Incorporation:
Name of Representative:
Capacity/Position of Representative:

- A. Hereby agree to execute, pursuant to BSP Circular 524, a limited Special Power of Attorney in favor of either the dealing Government Securities Eligible Dealer¹ (GSED) or Securities Dealer² for the creation of a Principal Securities Account with the RoSS or for the execution of trade transactions (i.e. buying and selling instructions, including relaying of instructions to “the CUSTODIAN” to receive or deliver securities in order to consummate the buy/sell transactions) and to be bound by the provisions of a written Authority or a special power of attorney, or any relevant agreement I/we have entered into concerning my/our government security holdings, thereby confirming my/our authority for BTr-RoSS to carry out and execute the acts or instructions referred to in the aforesaid documents;
- B. It is understood that the RoSS administered by the BTr is the official registry of ownership of or interest in government securities; that all government securities floated/originated by NG under its scripless policy are recorded in the RoSS as well as subsequent transfer of the same; and that I/we will abide by the rules and regulations of BTr-RoSS concerning government securities.

And further undertake as follows:

- 1. To create/open through the Client Interface System a Principal Securities Account with the RoSS to ensure that title of said scripless securities is officially recorded in my/our name and under my/our control.
- 2. That as a condition for the creation/opening of my/our Principal Securities Account with the RoSS, I/we have opened a bank account with (_____ as Settlement Bank) to which coupon and maturity proceeds and any other payments to be made on my/our government securities holdings will be credited; undertake to furnish the RoSS of said bank

¹ Accredited by the Bureau of the Treasury
² Licensed by the Securities and Exchange Commission

account number; and give notice at least three (3) business days prior to any coupon and/or maturity payment of any change in the Settlement Bank and/or bank account number.

- 3. That no transfer of securities shall be made (i) during the period of two (2) business days ending on (and including) the due date of any redemption payment of principal and (ii) during the period of two (2) business days ending on (and including) the due date of any coupon payment date (the “Closed Period”). I/We further acknowledge that the BTr shall prevent any transfer of the securities to be recorded in the RoSS during any Closed Period.
- 4. That in the case of outright sale transactions of government securities, including that of RTBs, I/we undertake to sell the same to any of the GSEDs or Securities Dealers, save those provided for under existing rules and regulations on government securities applicable to tax-exempt institutions, government-owned or controlled corporations and local government units. Otherwise, I/we shall have the said securities delivered to my/our agent/custodian for trading or any other transactions pursuant to a relevant written instruction/authority.
- 5. To receive notices and/or statements of account on a quarterly basis or whenever there is a movement in my Principal Securities Account from the RoSS through any of the following modes:
(Please indicate choice)

- ☐ Pick-up at the RoSS
- ☐ Registered Mail to Home/Office Address _____
- ☐ Deliver electronically to Agent
- ☐ Deliver electronically to Settlement Bank (for pick up)
- ☐ Email - email address_____

In the absence of an indicated choice, I/we understand that the BTr shall electronically deliver all Notices and Statements to my/our designated settlement bank.

Note: In addition to the indicated manner of receiving notice(s) and statement(s), Investor can directly secure from the BTr written copy of any notice, statement of account, or confirmation report, subject to prior notice to and in accordance with the procedures of the BTr.

I/We hereby agree to abide with the Schedule of Fees and the manner of collection, as may be prescribed by the BTr from time to time.

- 6. That I/we expressly agree and acknowledge that the crediting to the regular DDA of my/our settlement bank of coupons and/or redemption value due my/our scripless securities, shall constitute actual receipt of payment by me/us.
- 7. To hold the BTr, its officers, employees and agents free and harmless against all suits, actions, damages or claims arising from failure of my/our Settlement Bank to credit my/our bank account for coupons and maturity values on due date.

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- 8. That all instructions affecting my/our scripless securities which are transmitted to or received in good faith the RoSS from myself/ourselves or my/our designated agent/custodian are covered by relevant documentation indicating my/our express consent and authority.
- 9. That I/we expressly warrant and authorize the delivery of copies of all evidence of authority granted to my/our designated agent/custodian to transact on my/our scripless securities upon reasonable demand by BTr.
- 10. That I/we undertake to immediately notify the RoSS of any unauthorized trade of my/our scripless securities, and until receipt of such notice, transactions effected by BTr in good faith are deemed valid.
- 11. To render free and harmless the BTr, its officers, employees and agents for any claim or damages with respect to trade instructions carried out in good faith.
- 12. That while it is understood that BTr shall maintain the strict confidentiality of records in the RoSS, I/we hereby expressly waive and authorize BTr, to the extent allowed by law, to disclose relevant information in compliance with Anti-Money Laundering laws, rules and regulations.
- 13. To submit to the BTr the relevant special power of attorney or authorizations issued to my/our agent, upon demand of BTr.

IN WITNESS WHEREOF, I/We hereunto affix our hands this _____ day of _____ at _____, Philippines.

Conforme:

Settlement Bank

Name & Signature of Investor

ACKNOWLEDGMENT

BEFORE ME, a Notary Public for and in the City of _____, personally appeared:

Name:	CTC No.	Date:	Place of Issue:
_____	_____	_____	_____

(Investor or Representative of Juridical Entity)

known to me to be the same person who executed the foregoing instrument and he/she acknowledged to me that the same is his/her free and voluntary act and deed (and the free act and deed of the entity they represent).

WITNESS MY HAND AND NOTARIAL SEAL this _____ at _____ ,
Philippines.

NOTARY PUBLIC

Doc. No.: _____
Page No.: _____
Book No.: _____
Series of _____

PROMPT CORRECTIVE ACTION FRAMEWORK
[Appendix to Sec. X193 (2008 - X106.4)]

In carrying out its primary objective of maintaining price stability conducive to a balanced and sustainable growth of the economy¹, the BSP must necessarily maintain stability of the financial system through preservation of confidence therein. While preservation of confidence in the financial system may call for closure of mismanaged banks and/or financial entities under its jurisdiction, such closure is not the only option available to the BSP. When a bank’s closure, for instance, is adjudged by the Monetary Board to have adverse systemic consequences, the State may act in accordance with law to avert potential financial system instability or economic disruption.²

It is recognized that the closure of a bank or its intervention can be a costly and painful exercise. For this reason, the BSP, as supervisor, can enforce PCA³ as soon as a bank’s condition indicates higher-than normal risk of failure.

PCA essentially involves the BSP directing the board of directors of a bank, prior to an open outbreak of crisis, to institute strong measures to restore the entity to normal operating condition within a reasonable period, ideally within one (1) year. These measures may include any or all of the following components:

- (1) Implementation of a capital restoration plan;
- (2) Implementation of a business improvement plan; and
- (3) Implementation of corporate governance reforms.

Capital restoration plan – this component contains the schedule for building up a bank’s capital base (primarily through an increase in Tier 1 capital) to a

level commensurate to the underlying risk exposure and in full compliance with minimum capital adequacy requirement. In conjunction with this plan, the BSP may also require any one (1), or a combination of the following:

- 1. Limit or curtail dividend payments to common stockholders;
- 2. Limit or curtail dividend payments to preferred stockholders; and
- 3. Limit or curtail fees and/or other payments to related parties.

Business improvement plan - this component contains the set of actions to be taken immediately to bring about an improvement in the entity’s operating condition, including but not limited to any one (1), or a combination of the following:

- 1. Reduce risk exposures to manageable levels;
- 2. Strengthen risk management;
- 3. Curtail or limit the bank’s scope of operations including those of its subsidiaries or affiliates where it exercises control;
- 4. Change or replace management officials;
- 5. Reduce expenses; and
- 6. Other measures to improve the quality of earnings.

Corporate governance reforms - this component contains the actions to be immediately taken to improve the composition and/or independence of the board of directors and to enhance the quality of its oversight over the management and operation of the entity. This also includes measures to minimize potential shareholder conflicts of interest detrimental to its creditors, particularly, depositors in a bank. This likewise lays down measures to provide an acceptable level of financial

¹ Section 3 of Republic Act No. 7653
² Section 17 and 18 of Republic Act No. 3591, as amended
³ Section 4.6 of Republic Act No. 8791

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transparency to all stakeholders. Such actions could include, but are not limited to, any one (1), or a combination of the following:

- 1. A change in the composition of the board of directors or any of the mandatory committees (under the MORB);
- 2. An enhancement to the frequency and/or depth of reporting to the board of directors;
- 3. A reduction in exposures to and/or a termination or reduction of business relationships with affiliates that pose excessive risk or are inherently disadvantageous to the supervised financial institution; and
- 4. A change of external auditor.

A bank may be subject to PCA whenever any or all of the following conditions obtain:

- (1) When either of the Total Risk-Based Ratio¹, Tier 1 Risk-Based Ratio, or Leverage Ratio² falls below ten percent (10%), six percent (6%) and five percent (5%), respectively, or such other minimum levels that may be prescribed for the said ratios under relevant regulations, and/or the combined capital account falls below the minimum capital requirement prescribed under Subsec. X106.1;
- (2) The CAMELS composite rating is less than “3” or a Management component rating of less than “3” ;
- (3) A serious supervisory concern has been identified that places a bank at more-than-normal risk of failure in the opinion of the director of the Examination Department concerned, which opinion is confirmed by the Monetary Board. Such concerns could include, but are not limited, to any one (1) or a combination of the following:
 - a. Finding of unsafe and unsound activities that could adversely affect the interest of depositors and/or creditors;
 - b. A finding of repeat violations of law or the continuing failure to comply with Monetary Board Directives; and

c. Significant reporting errors that materially misrepresent the bank’s financial condition.

The initiation of PCA shall be recommended by the Deputy Governor, SES to the Monetary Board for approval. Any initiation of PCA shall be reported to the PDIC for notation. Upon PCA initiation, the BSP shall require the bank to enter into a MOU committing to the PCA plan. The MOU shall be subject to confirmation by the MB.

In order to monitor compliance with the PCA, quarterly progress reports shall be made. The BSP reserves the right to conduct periodic on-site visits outside of regular examination to validate compliance with the PCA plan.

Subject to Monetary Board approval, sanctions may be imposed on any bank subject to PCA whenever there is unreasonable delay in entering into a PCA plan or when PCA is not being complied with. These may include any or all of the following:

- (1) monetary penalty on or curtailment or suspension of privileges enjoyed by the board of directors or responsible officers;
- (2) restriction on existing activities that the supervised financial institution may undertake;
- (3) denial of application for branching and other special authorities;
- (4) denial or restriction of access to BSP credit facilities; and
- (5) restriction on declaration of dividends.

On the other hand, if the bank subject to PCA promptly implements a PCA plan and substantially complies with its conditions, it may continue to have access to BSP credit facilities notwithstanding non-compliance with standard conditions of access to such facilities. The Deputy Governor, SES shall recommend such

¹ Otherwise known as Capital Adequacy Ratio (“CAR”)
² Total Capital /Total Assets

exemption to the Monetary Board for approval.

In cases where a bank’s problems are deemed to be exceptionally serious from the outset, or when a bank is unwilling to submit to the PCA or unable to substantially comply with an agreed PCA plan, the Deputy Governor, SES may immediately recommend to the Monetary Board more drastic actions as prescribed under Section 29 (conservatorship) and Section 30 (receivership) of R.A. 7653.

Subject to Monetary Board approval, the PCA status of a bank may be lifted: *Provided*, That the bank fully complies with the terms and conditions of its MOU and: *Provided, further*, That the Deputy Governor, SES has determined that the financial and operating condition of the bank no longer presents a risk to itself or the financial system. Such improved assessment shall be immediately reported to the PDIC.

(Circular No. 523 dated 23 March 2006)

(RESERVED)

AUTOMATED TELLER MACHINE SAFETY MEASURES

To minimize/prevent ATM frauds and crimes, banks should, at a minimum, implement the following security measures with respect to their ATM facilities:

1. Locate ATM's in highly visible areas;
2. Provide sufficient lighting at and around the ATMs;
3. Where ATM crimes (e.g., robbery, vandalism) are high in a specific area or location, banks should install surveillance camera or cameras which shall view and record all persons entering the facility. Such recordings shall be preserved by the banks for at least thirty (30) days;
4. Implement ATM programming enhancements like masking/non-printing of card numbers;
5. Educate customers by advising them regularly of risks associated with using the ATM and how to avoid these risks;
6. Conduct and document periodic security inspection at the ATM location, and make the pertinent information available to their clients;

7. Educate bank personnel to be responsive and sensitive to customer concerns and to communicate them immediately to the responsible bank officer; and
8. Post near the ATM facility a clearly visible sign which, at a minimum, provides the telephone numbers of the bank as well as other banks' hotline numbers for other cardholders who are allowed to transact business in the ATM, and police hotlines for emergency cases.

Banks must study and assess ATM crimes to determine the primary problem areas. Procedures for reporting ATM crime should also be established. Knowing what crimes have occurred will aid the banks in recognizing the particular crime problem and to what degree it exists so that they can implement specific prevention measures to mitigate the risk. In this connection, banks are encouraged to share information involving ATM fraud cases to deter and prevent proliferation of the crime.

(Circular No. 542 dated 01 September 2006)

INTERNET AND WIRELESS BANKING SECURITY MEASURES

1. Network controls

a. Implement adequate security measures on the internal networks and network connections to public network or remote parties. Segregate internal networks into different segments having regard to the access control needed for the data stored in, or systems connected to, each segment.

b. Properly design and configure the servers and firewalls used for the e-banking services either internet-based or delivered through wireless communication networks (e.g., install firewalls between internal and external networks as well as between geographically-separate sites).

c. Deploy strong and stringent authentication and controls especially in remote access or wireless access to the internal network.

d. Implement anti-virus software, network scanners and analyzers, intrusion detectors and security alert as well as conduct regular system and data integrity checks.

e. Maintain access security logs and audit trails. These should be analyzed for suspicious traffic and/or intrusion attempts.

f. Ensure that wireless software for wireless communication network includes appropriate audit capabilities (e.g., recording dropped transactions).

g. Develop built-in redundancies for single points of failure which can bring down the entire network.
2. Operating Systems Controls

a. Harden operating systems by configuring system software and firewall to the highest security settings consistent with the level of protection required, keeping abreast of enhancements, updates and patches recommended by system vendors.

b. Change all default passwords for new systems immediately upon installation as they provide the most common means for intruders to break into systems.
3. Encryption

a. Implement encryption technologies that are appropriate to the sensitivity and importance of data to protect confidentiality of information while it is stored or in passage over external and internal networks.

b. Choose encryption technologies that make use of internationally recognized cryptographic algorithms where the strengths of the algorithms have been subjected to extensive tests.

c. Apply strong “end-to-end” encryption to the transmission of highly sensitive data (e.g., customer passwords) so that the data are encrypted all the way between customers’ devices and bank’s internal systems for processing the data. This would ensure that highly sensitive data would not be compromised even if the banks’ web servers or internal networks were penetrated.
4. Website and Mobile Banking Authentication

a. Authenticate official website to protect bank customers from spoofed or faked websites. Banks should determine what authentication technique to use to provide protection against these attacks.

b. For wireless applications, adopt authentication protocols that are separate and distinct from those provided by the wireless network operator.
5. Physical Security

a. House all critical or sensitive computers and network equipment in

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physically secure locations (e.g., away from environmental hazards, unauthorized entry and public disclosure, etc.).

b. Implement physical security measures such as security barriers (e.g., external walls, windows); entry controls (e.g., biometric door locks, manual or electronic logging, security guards) and physical protection facilities/devices (e.g., water and fire detectors, uninterruptible power supply [UPS], etc.) to prevent unauthorized physical access, damage to and interference with the e-banking services.

6. Development and Acquisition

a. Separate physical/logical environments for systems development, testing and production.

b. Provide separate environments for the development, testing, staging and production of internet facing web-based applications; connect only the production environment to the internet.

7. IT Personnel Training

Provide appropriate and updated training to IT personnel on network, application and security risks and controls so that they understand and can respond to potential security threats.

8. Service Providers

a. Perform due diligence regularly to evaluate the ability of the service providers (e.g., internet service provider, telecommunication provider) to maintain an adequate level of security and to keep abreast of changing technology.

b. Ensure that the contractual agreements with the service providers have clearly defined security responsibilities.

9. Independent Audit, Vulnerability Test and Penetration Testing

a. Conduct regular audit to assess the adequacy and effectiveness of the risk management process and the attendant controls and security measures.

b. Perform vulnerability test or assessment to evaluate the information security policies, internal controls and procedures, as well as system and network security of the bank. Assessment should also include latest technological developments and security threats, industry standards and sound practices.

c. Conduct penetration testing at least annually.

d. The audit and tests should be conducted by security professionals or internal auditors who are independent in the development, implementation or operation of the e-banking services, and have the required skills to perform the evaluation.

e. For e-banking services provided by an outside vendor or service provider, ensure that the above tests and audit are performed and the bank is provided with the results and actions taken on system security weaknesses.

10. Incident Response

Establish an incident management and response plan and test the predetermined action plan relating to security incidents.

(Circular No. 542 dated 01 September 2006)

ELECTRONIC BANKING CONSUMER AWARENESS PROGRAM

To ensure security in their e-banking transactions and personal information, consumers should be oriented of their roles and responsibilities which, at a minimum, include the following:

1. Internet Products and Services

- a. Secure Login ID and Password or PIN
 - (1) Do not disclose Login ID and Password or PIN.
 - (2) Do not store Login ID and Password or PIN on the computer.
 - (3) Regularly change password or PIN and avoid using easy-to-guess passwords such as names or birthdays. Password should be a combination of characters (uppercase and lowercase) and numbers and should be at least 6 digits in length.
- b. Keep personal information private.
Do not disclose personal information such as address, mother’s maiden name, telephone number, social security number, bank account number or e-mail address - unless the one collecting the information is reliable and trustworthy.
- c. Keep records of online transactions.
 - (1) Regularly check transaction history details and statements to make sure that there are no unauthorized transactions.
 - (2) Review and reconcile monthly credit card and bank statements for any errors or unauthorized transactions promptly and thoroughly.
 - (3) Check e-mail for contacts by merchants with whom one is doing business. Merchants may send important information about transaction histories.
 - (4) Immediately notify the bank if there are unauthorized entries or transactions in the account.

- d. Check for the right and secure website.
 - (1) Before doing any online transactions or sending personal information, make sure that correct website has been accessed. Beware of bogus or “look alike” websites which are designed to deceive consumers.
 - (2) Check if the website is “secure” by checking the Universal Resource Locators (URLs) which should begin with “https” and a closed padlock icon on the status bar in the browser is displayed. To confirm authenticity of the site, double-click on the lock icon to display security certificate information of the site.
 - (3) Always enter the URL of the website directly into the web browser. Avoid being re-directed to the website, or hyperlink it from a website that may not be as secure.
 - (4) If possible, use software that encrypts or scrambles the information when sending sensitive information or performing e-banking transactions online.
- e. Protect personal computer from hackers, viruses and malicious programs.
 - (1) Install a personal firewall and a reputable anti-virus program to protect personal computer from virus attacks or malicious programs.
 - (2) Ensure that the anti-virus program is updated and runs at all times.
 - (3) Always keep the operating system and the web browser updated with the latest security patches, in order to protect against weaknesses or vulnerabilities.
 - (4) Always check with an updated anti-virus program when downloading a program or opening an attachment to ensure that it does not contain any virus.
 - (5) Install updated scanner softwares to detect and eliminate malicious programs

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capable of capturing personal or financial information online.

(6) Never download any file or software from sites or sources, which are not familiar or hyperlinks sent by strangers. Opening such files could expose the system to a computer virus that could hijack personal information, including password or PIN.

f. Do not leave computer unattended when logged-in.

(1) Log-off from the internet banking site when computer is unattended, even if it is for a short while.

(2) Always remember to log-off when e-banking transactions have been completed.

(3) Clear the *memory cache* and *transaction history* after logging out from the website to remove account information. This would avoid incidents of the stored information being retrieved by unwanted parties.

g. Check the site’s privacy policy and disclosures.

(1) Read and understand website disclosures specifically on refund, shipping, account debit/credit policies and other bank terms and conditions.

(2) Before providing any personal financial information to a website, determine how the information will be used or shared with others.

(3) Check the site’s statements about the security provided for the information divulged.

(4) Some websites’ disclosures are easier to find than others — look at the bottom of the home page, on order forms or in the “About” or “FAQs” section of a site. If the customer is not comfortable with the policy, consider doing business elsewhere.

h. Other internet security measures:

(1) Do not send any personal information particularly password or PIN via ordinary e-mail.

(2) Do not open other browser windows while banking online.

(3) Avoid using shared or public personal computers in conducting e-banking transactions.

(4) Disable the “file and printer sharing” feature on the operating system if conducting banking transactions online.

(5) Contact the banking institution to discuss security concerns and remedies to any online e-banking account issues.

2. Other Electronic Products

a. ATM and debit cards

(1) Use ATMs that are familiar or that are in well-lit locations where one feels comfortable. If the machine is poorly lit or is in a hidden area, use another ATM.

(2) Have card ready before approaching the ATM. Avoid having to go through the wallet or purse to find the card.

(3) Do not use ATMs that appear to have been tampered with or otherwise altered. Report such condition to the bank.

(4) Memorize ATM PIN and never disclose it to anyone. Do not keep those numbers or passwords in the wallet or purse. Never write them on the cards themselves. Avoid using easily available personal information like a birthday, nickname, mother’s maiden name or consecutive numbers.

(5) Be mindful of “shoulder surfers” when using ATMs. Stand close to the ATM and shield the keypad with hand when keying in the PIN and transaction amount.

(6) If the ATM is not working correctly, cancel the transaction and use a different ATM. If possible, report the problem to the bank.

(7) Carefully secure card and cash in the wallet, handbag, or pocket before leaving the ATM.

(8) Do not leave the receipt behind. Compare ATM receipts to monthly statement. It is the best way to guard against fraud and it makes record-keeping easier.

(9) Do not let other people use your card. If card is lost or stolen, report the incident immediately to the bank.

b. Credit cards

(1) Never disclose credit card information to anyone. The fraudulent use of credit cards is not limited to the loss or theft of actual credit cards. A capable criminal only needs to know the credit card number to fraudulently make numerous charges against the account.

(2) Endorse or sign all credit cards as soon as they are received from the bank.

(3) Like ATM card PINs, secure credit card PINs. Do not keep those numbers or passwords in the wallet or purse and never write them on the cards themselves.

(4) Photocopy both the front and back of all credit cards and keep the copies in a safe and secure location. This will facilitate in the immediate cancellation of the card if lost or stolen.

(5) Carry only the minimum number of credit cards actually needed and never leave them unattended.

(6) Never allow credit card to be used as reference (credit card number) or as an identification card.

(7) Never give your credit card account number over the telephone unless dealing with a reputable company or institution.

(8) When using credit cards, keep a constant eye on the card and the one handling it. Be aware of the “swipe and theft” scam using card skimmers. A skimmer is a machine that records the information from the magnetic stripe on a credit card to be downloaded onto a personal computer later. The card can be swiped on a skimmer by a dishonest person and that data can then be used to make duplicate copies of the credit card.

(9) Do not leave documents like bills, bank and credit card statements in an

unsecure place since these documents have direct access to credit card and/or deposit account information. Consider shredding sensitive documents rather than simply throwing them away. (Some people will go through the garbage to find this information).

(10) Notify the bank in advance of a change in address.

(11) Open billing statements promptly and reconcile card amounts each month.

(12) Do not let other people use your card. If card is lost or stolen, report the incident immediately to the bank.

c. Mobile Banking

(1) Do not disclose your Mobile Banking Pin (MPIN) to anyone.

(2) Regularly change the MPIN.

(3) Do not let other people use your mobile phone enrolled in a mobile banking service. If the phone is lost or stolen, report the incident immediately to the bank.

(4) Be vigilant. Refrain from doing mobile banking transactions in a place where you observe the presence of “shoulder surfers”.

(5) Keep a copy of the transaction reference number provided by the bank whenever you perform a mobile banking transaction as evidence that the specific transaction was actually executed.

Since customers may find it difficult to take in lengthy and complex advice, banks should devise effective methods and channels for communicating with them on security precautions. Banks may make use of multiple channels (e.g., banks’ websites, alert messages on customers mobile phone, messages printed on customer statements, promotional leaflets, circumstances when banks’ frontline staff communicate with their customers) to enforce these precautionary measures.

(Circular No. 542 dated 01 September 2006)

DISCLOSURE REQUIREMENTS

1. General Requirement

Banks offering e-banking services have to adopt responsible privacy policies and information practices. They should provide disclosures that are clear and readily understandable, in writing, or in a form the consumers may print and keep.

Banks should also ensure that consumers who sign-up for a new banking service are provided with disclosures (e.g., pamphlet) informing them of their rights as a consumers. At a minimum, the following disclosures should be provided to protect consumers and inform them of their rights and responsibilities:

- a. Information on the duties of the banking institution and customers.
- b. Information on who will be liable for unauthorized or fraudulent transactions.
- c. Mode by which customers will be notified of changes in terms and conditions.
- d. Information relating to how customers can lodge a complaint, and how a complaint may be investigated and resolved.
- e. Disclosures that will help consumers in their decision-making (e.g., PDIC-insured, etc.)
- f. For internet environment, information that prompt in the bank's website to notify customers that they are leaving the banking institutions' website and hence they are not protected by the privacy policies and security measures of the banking institutions when they hyperlink to third party's website.

2. Disclosure Responsibility

a. Compliance officers should review bank's disclosure statements to determine whether they have been designed to meet the general and specific requirements set in this circular.

b. For banks that advertise deposit products and services on-line, they must verify that proper advertising disclosures are made (e.g. whether the product is insured or not by the PDIC; fees and charges associated with the product or services, etc.). Advertisements should be monitored to determine whether they are current, accurate, and compliant.

c. For banks that issue various products like stored value cards, e-wallets, debit cards and credit cards, they must provide information to consumers regarding the features of each of these products to enable consumers to meaningfully distinguish them. Additionally, consumers would find it beneficial to receive information about the terms and conditions associated with their usage. Example of these disclosures include: PDIC-insured or non-insured status of the product; fees and charges associated with the purchase, use or redemption of the product; liability for loss; expiration dates, or limits on redemption; and toll-free telephone number for customer service, malfunction and error resolution.

d. Whenever e-banking services are outsourced to third parties or service providers, banks should ensure that the vendors comply with the disclosure requirements of the BSP.

(Circular No. 542 dated 01 September 2006)

**GUIDELINES FOR THE CHANGE IN THE MODE OF COMPLIANCE WITH THE
LIQUIDITY RESERVE REQUIREMENT
(Appendix to Subsecs. X253.2 & X405.5)**

The following guidelines shall be observed in implementing the change in the mode of compliance with the liquidity reserve requirement from holding government securities bought directly from the BSP:

1. Government securities previously bought from the BSP in compliance with the liquidity reserve requirement shall remain eligible for such purpose until these mature or are sold back to the BSP at yields quoted by the BSP Treasury Department (TD). Only the outstanding ERAP and PEACe bonds shall qualify as eligible securities for liquidity reserves. Future issuances will no longer carry the liquidity reserve eligibility under this Section.

2. The interest rates applied to the reserve deposit account (RDA) shall be set by the TD at one-half percent (1/2%) below the prevailing market rate for comparable government securities;

3. Pre-termination of RDAs shall be allowed subject to a reduction in applicable interest rates, as prescribed by the TD;

4. Banks and QBs shall submit on placement date a written authority (see *Annex A*) to the TD to debit their demand deposit account with the BSP as payment for the RDA;

5. Principal and interest payments at maturity net of applicable tax shall be made by the BSP through automatic credit to the institution's demand deposit account with the BSP. Full or partial rollover of placements in the RDA shall be settled on a gross basis;

6. Any deficiency in the liquidity reserves shall continue to be in the forms or modes prescribed under existing regulations for the composition of required reserves;

7. Banks and QBs shall continue to specify in the prescribed reports to the SDC of the BSP the balance of government securities held for liquidity reserve purposes. Said balance shall decline over time as government securities previously bought from the BSP mature or are sold back to the BSP; and

8. To facilitate the adoption of the change in the mode of compliance with the liquidity reserve requirement, the TD (while starting to accept placements in the reserve deposit account) shall continue to sell government securities for liquidity reserve purposes until 29 September 2006.

The above guidelines shall take effect on 25 August 2006.

(Circular Nos. 551 dated 17 November 2006 and 539 dated 09 August 2006)

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Annex A

DEBIT/CREDIT AUTHORITY FORMAT ORDINARY WHITE PAPER 2 COPIES

(COUNTERPARTY'S LETTERHEAD)

DATE: _____

TREASURY DEPARTMENT
TREASURY SERVICES GROUP – DOMESTIC
BANGKO SENTRAL NG PILIPINAS

GENTLEMEN:

THIS IS TO CONFIRM OUR RESERVE DEPOSIT ACCOUNT (RDA) PLACEMENT WITH YOUR OFFICE, DETAILED AS FOLLOWS:

VALUE DATE	
TERM	
MATURITY DATE	
RATE	
PRINCIPAL AMOUNT	
GROSS INTEREST	
WITHHOLDING TAX	
LIQUIDITY RESERVES FOR (PLEASE CHECK ONE)	☐ Deposit Liabilities & Deposit Substitute ☐ TOFA - Others ☐ CTF

ACCORDINGLY, PLEASE DEBIT OUR REGULAR DEMAND DEPOSIT ACCOUNT WITH YOURSELVES ON VALUE DATE FOR THE PRINCIPAL AMOUNT OF (AMOUNT IN WORDS) _____ (P) _____ AND CREDIT THE SAME ACCOUNT ON MATURITY DATE THE AMOUNT OF (AMOUNT IN WORDS) _____ (P) _____ REPRESENTING FULL PAYMENT OF THE PRINCIPAL PLUS INTEREST (NET OF APPLICABLE WITHHOLDING TAX) THEREON.

VERY TRULY YOURS,

(AUTHORIZED SIGNATORY)1

(AUTHORIZED SIGNATORY)2

(Circular Nos. 551 dated 17 November 2006 and 539 dated 09 August 2006)

GUIDELINES ON SUPERVISION BY RISK
(Appendix to Sec. X173)

I. Background

It must be recognized that banking is a business of taking risks in order to earn profits. While banking risks historically have been concentrated in traditional banking activities, the financial services industry has evolved in response to market-driven, technological, and legislative changes. These changes have allowed FIs to expand product offerings, geographic diversity, and delivery systems. They have also increased the complexity of the FI's consolidated risk exposure. Because of this complexity, FIs must evaluate, control, and manage risk according to its significance. The FI's evaluation of risk must take into account how non-bank activities within a banking organization affect the FI. Consolidated risk assessments should be a fundamental part of managing the FI. Large FIs assume varied and complex risks that warrant a risk-oriented supervisory approach.

II. Statement of policy

The existence of risk is not necessarily a reason for concern. Likewise, the existence of high risk in any area is not necessarily a concern, so long as management exhibits the ability to effectively manage that level of risk. Under this approach, the BSP will not necessarily attempt to restrict risk-taking but rather ensure that FIs identify, understand, and control the risks they assume. As an organization grows more diverse and complex, the FI's risk management processes must keep pace. When risk is not properly managed, BSP will direct FI management to take corrective action such as reducing exposures, increasing capital, strengthening risk management processes or a combination of these actions. In all

cases, the primary concern of the BSP is that the FI operates in a safe and sound manner and maintains capital commensurate with its risks. Further guidance on risk management issues will be addressed in subsequent issuances that are part of the overall risk assessment program.

III. Guidelines for risk management

For purposes of the discussion of risk, the BSP will evaluate banking risk relative to its impact on capital and earnings. From a supervisory perspective, risk is the potential that events, expected or unanticipated, may have an adverse impact on the FI's capital or earnings.

The BSP-SES has defined eight (8) categories of risk for FI supervision purposes. These risks are: credit, market, interest rate, liquidity, operational, compliance, strategic, and reputation. These categories are not mutually exclusive; any product or service may expose the FI to multiple risks. In addition, they can be interdependent. Increased risk in one (1) category can increase risk in other categories.

Types and definitions of risk

1. *Credit risk* arises from a counterparty's failure to meet the terms of any contract with the FI or otherwise perform as agreed. Credit risk is found in all activities where success depends on counterparty, issuer, or borrower performance. It arises any time FI funds are extended, committed, invested, or otherwise exposed through actual or implied contractual agreements, whether reflected on or off the balance sheet. Credit risk is not limited to the loan portfolio.

2. *Market risk* is the risk to earnings or capital arising from changes in the value of traded portfolios of financial instruments.

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This risk arises from market-making, dealing, and position-taking in interest rate, foreign exchange, equity and commodities markets.

3. *Interest rate risk* is the current and prospective risk to earnings or capital arising from movements in interest rates. Interest rate risk arises from differences between the timing of rate changes and the timing of cash flows (repricing risk); from changing rate relationships among different yield curves affecting FI activities (basis risk); from changing rate relationships across the spectrum of maturities (yield curve risk); and from interest-related options embedded in FI products (options risk).

4. *Liquidity risk* is the current and prospective risk to earnings or capital arising from an FI's inability to meet its obligations when they come due without incurring unacceptable losses. Liquidity risk includes the inability to manage unplanned decreases or changes in funding sources. Liquidity risk also arises from the failure to recognize or address changes in market conditions that affect the ability to liquidate assets quickly and with minimal loss in value.

5. *Operational risk* is the current and prospective risk to earnings or capital arising from fraud, error, and the inability to deliver products or services, maintain a competitive position, and manage information. Risk is inherent in efforts to gain strategic advantage, and in the failure to keep pace with changes in the financial services marketplace. Operational risk is evident in each product and service offered. Operational risk encompasses: product development and delivery, operational processing, systems development, computing systems, complexity of products and services, and the internal control environment.

6. *Compliance risk* is the current and prospective risk to earnings or capital arising from violations of, or non-conformance with, laws, rules, regulations, prescribed practices, internal policies and procedures,

or ethical standards. Compliance risk also arises in situations where the laws or rules governing certain FI products or activities of the FI's clients may be ambiguous or untested. This risk exposes the FI to fines, payment of damages, and the voiding of contracts. Compliance risk can lead to diminished reputation, reduced franchise value, limited business opportunities, reduced expansion potential, and lack of contract enforceability.

7. *Strategic risk* is the current and prospective impact on earnings or capital arising from adverse business decisions, improper implementation of decisions, or lack of responsiveness to industry changes. This risk is a function of the compatibility of an organization's strategic goals, the business strategies developed to achieve those goals, the resources deployed against these goals, and the quality of implementation. The resources needed to carry out business strategies are both tangible and intangible. They include communication channels, operating systems, delivery networks, and managerial capacities and capabilities. The organization's internal characteristics must be evaluated against the impact of economic, technological, competitive, regulatory, and other environmental changes.

8. *Reputation risk* is the current and prospective impact on earnings or capital arising from negative public opinion. This affects the FI's ability to establish new relationships or services or continue servicing existing relationships. This risk may expose the FI to litigation, financial loss, or a decline in its customer base. In extreme cases, FIs that lose their reputation may suffer a run on deposits. Reputation risk exposure is present throughout the organization and requires the responsibility to exercise an abundance of caution in dealing with customers and the community.

IV. FI management of risk

Because market conditions and company structures vary, there is no

single risk management system that works for all FIs. Each FI should tailor its risk management program to its needs and circumstances. Sound risk management systems, however, have several things in common; for example, they are independent of risk-taking activities. Regardless of the risk management program's design, each program should:

1. *Identify risk*: To properly identify risks, an FI must recognize and understand existing risks or risks that may arise from new business initiatives, including risks that originate in non-bank subsidiaries and affiliates. Risk identification should be a continuing process, and should occur at both the transaction and portfolio level.

2. *Measure risk*: Accurate and timely measurement of risk is essential to effective risk management systems. An FI that does not have a risk measurement system has limited ability to control or monitor risk levels. Further, the more complex the risk, the more sophisticated should be the tools that measure it. An FI should periodically conduct tests to make sure that the measurement tools it uses are accurate. Good risk measurement systems assess the risks of both individual transactions and portfolios. During the transition process in FI mergers and consolidations, the effectiveness of risk measurement tools is often impaired because of the technological incompatibility of the merging systems or other problems of integration. Therefore, the resulting FI must make a strong effort to ensure that risks are appropriately measured across the consolidated entity. Larger, more complex FIs must assess the impact of increased transaction volume across all risk categories.

3. *Monitor risk*: FIs should monitor risk levels to ensure timely review of risk positions and exceptions. Monitoring

reports should be frequent, timely, accurate, and informative and should be distributed to appropriate individuals to ensure action, when needed. For large, complex FIs, monitoring is essential to ensure that management's decisions are implemented for all geographies, products, and legal entities.

4. *Control risk*: The FI should establish and communicate risk limits through policies, standards, and procedures that define responsibility and authority. These control limits should be valid tools that management should be able to adjust when conditions or risk tolerances change. The FI should have a process to authorize exceptions or changes to risk limits when warranted. In merging or consolidating FIs, the transition should be tightly controlled; business plans, lines of authority, and accountability should be clear. Large, diversified FIs should have strong risk controls covering all geographies, products, and legal entities.

The Board must establish the FI's strategic direction and risk tolerances. In carrying out these responsibilities, the Board should approve policies that set operational standards and risk limits. Well-designed monitoring systems will allow the Board to hold management accountable for operating within established tolerances. Capable management and appropriate staffing are also essential to effective risk management. FI management is responsible for the implementation, integrity, and maintenance of risk management systems. Management also must keep the directors adequately informed. Management must:

- a. Implement the FI's strategy;
- b. Develop policies that define the FI's risk tolerance and ensure that they are compatible with strategic goals;
- c. Ensure that strategic direction and risk tolerances are effectively

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communicated and adhered to throughout the organization;

d. Oversee the development and maintenance of management information systems to ensure that information is timely, accurate, and pertinent.

V. Assessment of risk management

When assessing risk management systems, the BSP will consider the FI's policies, processes, personnel, and control systems. Significant deficiencies in any one of these areas will cause the BSP to expect the FI to compensate for these deficiencies in their overall risk management process.

1. *Policies* are statements of the FI's commitment to pursue certain results. Policies often set standards (on risk tolerances, for example) and recommend courses of action. Policies should express an FI's underlying mission, values, and principles. A policy review should always be triggered when an FI's activities or risk tolerances change.

2. *Processes* are the procedures, programs, and practices that impose order on the FI's pursuit of its objectives. Processes define how daily activities are carried out. Effective processes are consistent with the underlying policies, are efficient, and are governed by checks and balances.

3. *Personnel* are the staff and managers that execute or oversee processes. Good staff and managers perform as expected, are qualified, and competent. They understand the FI's mission, values, policies, and processes. Compensation programs should be designed to attract, develop, and retain qualified personnel. In addition, compensation should be structured to reward contributions to effective risk management.

4. *Control systems* include the tools and information systems (e.g., internal/external audit programs) that FI managers use to measure performance, make

decisions about risk, and assess the effectiveness of processes. Feedback should be timely, accurate, and pertinent.

VI. Supervision by Risk

Using the core assessment standards of the BSP as guide, an examiner will obtain both a current and prospective view of an FI's risk profile. When appropriate, this profile will incorporate potential material risks to the FI from non-bank affiliates' activities conducted by the FI. Subsidiaries and branches of foreign FIs should maintain sufficient documentation onsite to support the analysis of their risk management. This risk assessment drives supervisory strategies and activities. It also facilitates discussions with FI management and directors and helps to ensure more efficient examinations. The core assessment complements the RAS. Examiners document their conclusions regarding the quantity of risk, the quality of risk management, the level of supervisory concern (measured as aggregate risk), and the direction of risk using the RAS. Together, the core assessment and RAS give the appropriate department of the SES the means to assess existing and emerging risks in FIs, regardless of size or complexity.

Specifically, supervision by risk allocates greater resources to areas with higher risks. The appropriate department of the SES will accomplish this by:

1. Identifying risks using common definitions. The categories of risk, as they are defined, are the foundation for supervisory activities.

2. Measuring risks using common methods of evaluation. Risk cannot always be quantified in pesos. For example, numerous internal control deficiencies may indicate excessive operational risk.

3. Evaluating risk management to determine whether FI systems and

processes permit management to manage and control existing and prospective levels of risk.

The appropriate department of the SES will discuss preliminary conclusions regarding risks with FI management. Following these discussions, the appropriate department of the SES will adjust conclusions when appropriate. Once the risks have been clearly identified and communicated, the appropriate department of the SES can then focus supervisory efforts on the areas of greater risk within the FI, the

consolidated banking organization, and the banking system.

To fully implement supervision by risk, the appropriate department of the SES will also assign CAMELS ratings to the lead FI and all affiliated FIs. It may determine that risks in individual FIs are increased, reduced, or mitigated in light of the consolidated risk profile of the FI as a whole. To perform a consolidated analysis, it will obtain pertinent information from FIs and affiliates, and verify transactions flowing between FIs and affiliates.

(Circular No. 510 dated 03 February 2006)

GUIDELINES ON MARKET RISK MANAGEMENT
(Appendix to Sec. X174)

I. Background

The globalization of financial markets, increased transaction volume and volatility, and the introduction of complex products and trading strategies have made market risk management take on a more important role in risk management. FIs now use a wide range of financial products and strategies, ranging from the most liquid fixed income securities to complex derivative instruments and structured products. The risk dimensions of these products and strategies must be fully understood, monitored, and controlled by an FI.

II. Statement of policy

For purposes of these guidelines, FIs refer to banks and NBFIs supervised by the BSP and their respective financial subsidiaries.

The level of market risk assumed by an FI is not necessarily a concern, so long as the FI has the ability to effectively manage the risk. Therefore, the BSP will not restrict the level of risk assumed by an FI, or the scope of its financial market activities, so long as the FI is authorized to engage in such activities and:

- Understands, measures, monitors and controls the risk assumed,
- Adopts risk management practices whose sophistication and effectiveness are commensurate to the risk being monitored and controlled, and
- Maintains capital commensurate with the risk exposure assumed.

If the BSP determines that an FI's risk exposures are excessive relative to the FI's capital, or that the risk assumed is not well managed, the BSP will direct the FI to reduce its exposure to an appropriate level and/or strengthen its risk management systems.

In evaluating the above parameters, the BSP expects FIs to have sufficient knowledge, skills and appropriate system and technology necessary to understand and effectively manage their market risk exposures. The principles set forth in these guidelines shall be used in determining the adequacy and effectiveness of an FI's market risk management process, the level and trend of market risk exposure and adequacy of capital relative to exposure. The BSP shall consider the following factors:

1. The major sources of market risk exposure and the complexity and level of risk posed by the assets, liabilities, and off-balance-sheet activities of the FI;
2. The FI's actual and prospective level of market risk in relation to its earnings, capital, and risk management systems;
3. The adequacy and effectiveness of the FI's risk management practices and strategies as evidenced by:
 - The adequacy and effectiveness of Board and senior management oversight;
 - Management's knowledge and ability to identify and manage sources of market risk as measured by past and projected financial performance;
 - The adequacy of internal measurement, monitoring, and management information systems;
 - The adequacy and effectiveness of risk limits and controls that set tolerances on income and capital losses;
 - The adequacy and frequency of the FI's internal review and audit of its market risk management process.

Further, an FI's market risk management system shall be assessed under the FI's general risk management framework, consistent with the guidelines on supervision by risk as set forth under *Appendix 72*.

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III. Market risk management process

An FI's market risk management process should be consistent with its general risk management framework and should be commensurate with the level of risk assumed. Although there is no single market risk management system that works for all FIs, an FI's market risk management process should:

1. *Identify market risk.* Identifying current and prospective market risk exposures involves understanding the sources of market risk arising from an FI's existing or new business initiatives. An FI should have procedures in place to identify and address the risk posed by new products and activities prior to initiating the new products or activities.

Identifying market risk also includes identifying an FI's desired level of risk exposure based on its ability and willingness to assume market risk. An FI's ability to assume market risk depends on its capital base and the skills/capabilities of its management team. In any case, market risk identification should be a continuing process and should occur at both the transaction and portfolio level.

2. *Measure market risk.* Once the sources and desired level of market risk have been identified, market risk measurement models can be applied to quantify an FI's market risk exposures. However, market risk cannot be managed in isolation. Market risk measurement systems should be integrated into an FI's general risk measurement system and results from models should be interpreted in coordination with other risk exposures. Further, the more complex an FI's financial market activities are, the more sophisticated the tools that measure market risk exposures arising from such complex activities should be.

3. *Control market risk.* Quantifying market risk exposures help an FI align existing exposures with the identified desired level of exposures. Controlling market risk

usually involves establishing market risk limits that are consistent with an FI's market risk measurement methodologies. Limits may be applied through an outright prohibition on exposures above a pre-set threshold, by restraining activities or deploying strategies that alter the risk-return characteristics of on- and off- balance sheet positions. Appropriate pricing strategies may likewise be used to control market risk exposures.

4. *Monitor market risk.* Ensuring that market risk exposures are adequately controlled requires the timely review of market risk positions and exceptions. Monitoring reports should be frequent, timely and accurate. For large, complex FIs, consolidated monitoring should be employed to ensure that management's decisions are implemented for all geographies, products, and legal entities.

IV. Definition and sources of market risk

Market risk is the risk to earnings or capital arising from adverse movements in factors that affect the market value of instruments, products, and transactions in an institution's overall portfolio, both on or off-balance sheet. Market risk arises from market-making, dealing, and position-taking in interest rate, foreign exchange, equity and commodities markets.

Interest rate risk is the current and prospective risk to earnings or capital arising from movements in interest rates.

Foreign exchange risk refers to the risk to earnings or capital arising from adverse movements in foreign exchange rates.

Equity risk is the risk to earnings or capital arising from movements in the value of an institution's equity-related holdings.

Commodity risk is the risk to earnings or capital due to adverse changes in the value of an institution's commodity-related holdings.

While there are generally four sources of market risk, as defined herein, the focus

of this Appendix is *interest rate risk* and *foreign exchange risk*. Nevertheless, the principles set forth in the market risk management process and sound risk management practices are generally applicable to all sources of market risk.

a. *Interest rate risk*

Interest rate risk is the risk that changes in market interest rates will reduce current or future earnings and/or the economic value of an FI. Accepting interest rate risk is a normal part of financial intermediation and is a major source of profitability and shareholder value. Excessive or inadequately understood and controlled interest rate risk, however, can pose a significant threat to an FI's earnings and capital. Thus, an effective risk management process that maintains interest rate risk within prudent levels is essential to the safety and soundness of FIs.

1. Sources of interest rate risk

a. *Re-pricing risk*

This is the most common type of interest rate risk and arises from differences in the maturity (for fixed-rate instruments) and re-pricing (for floating-rate instruments) of an FI's assets, liabilities and off-balance sheet (OBS) positions. While such re-pricing mismatches are fundamental to the business of financial intermediation, they also expose an FI's earnings and underlying economic value to changes based on fluctuations in market interest rates.

b. *Basis risk*

Basis risk arises from imperfect correlations among the various interest rates earned and paid on financial instruments with otherwise similar re-pricing characteristics. A shift in the relationship between these rates or interest rates in different markets can give rise to unexpected changes in the cash flows and earnings spread between assets, liabilities and OBS instruments of similar maturities or re-pricing frequencies.

c. *Yield curve risk*

Yield curve risk is the risk that rates of different maturities may change by a different magnitude. It arises from variations in the movement of interest rates across the maturity spectrum of the same index or market. Yield curves can steepen, flatten or even invert. Unanticipated shifts of the yield curve may have adverse effects on an FI's earnings or underlying economic value.

d. *Option risk*

Option risk is the risk that the payment patterns of assets and liabilities will change when interest rates change. Formally, an option gives the option holder the right, but not the obligation to buy, sell, or in some manner alter the cash flow of an instrument or financial contract. Options may be stand-alone instruments or may be embedded within otherwise standard instruments. Examples of instruments with embedded options include various types of bonds, notes, loans or even deposits which give a counterparty the right to prepay or even extend the maturity of an instrument or to change the rate paid. In some cases, the holder of an option can force a counterparty to pay additional notional, or to forfeit notional already paid.

The option holder's ability to choose to alter cash flows creates an asymmetric performance pattern. If not adequately managed, the asymmetrical payoff characteristics of instruments with optionality can pose significant risk particularly to those who sell the options, since the options held, both explicit and embedded, are generally exercised to the advantage of the holder and the disadvantage of the seller.

2. Measuring the effects of interest rate risk.

Changes in interest rates affect both earnings and the economic value of an FI. This has given rise to two separate, but complementary, perspectives for evaluating an FI's exposure to interest rate risk.

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Exposure to earnings typically receives the most attention. Many FIs use a modified interest rate gap or earnings simulation model to forecast earnings over a running next twelve (12) month time horizon under a variety of interest rate scenarios. Given that a large portion of a typical FI's liabilities and even assets re-price in less than one (1) year, there is value in such a system. For example, earnings are a key measure in determining if the board of directors is creating value for the shareholders.

However, earnings over the next twelve (12) months do not present a complete picture of an FI's exposure to interest rate risk. Many FIs hold assets such as bonds and fixed rate loans with extended terms. The full effect of changes in interest rates on the value of these assets cannot be fully captured by a short-term earnings model. Thus, it is also important to consider a more comprehensive picture of the FI's exposure to interest rate risk through an assessment of the FI's economic value.

The BSP will not consider market risk to be "well managed" unless the FI has fully implemented an effective risk measurement system whose sophistication is commensurate with the nature and complexity of the risk assumed. Smaller FIs with non-complex single currency balance sheets may be able to use a single non-complex measurement methodology, such as re-pricing gap analysis to manage their interest rate risk. However, large commercial or universal banks with complex, multi-currency balance sheets, or FIs that accept large exposures of interest rate risk relative to capital will be expected to measure interest rate risk through a combination of earnings simulation and economic value. Trading activities should continue to be managed through the use of an effective, and independently validated Value-at-Risk (VaR) methodology.

a. *Earnings perspective*

An FI should consider how changes in interest rates may affect future earnings.

The focus of analysis under the earnings perspective is the impact of changes in interest rates on accrual or reported earnings. Volatility in earnings should be monitored and controlled because reduced earnings or outright losses can threaten the financial stability of an FI by undermining its capital adequacy. Further, unexpected volatility in earnings can undermine an FI's reputation and result in an erosion of public confidence.

Fluctuations in interest rates generally have the greatest impact on reported earnings through changes in net interest income (i.e., the difference between total interest income and total interest expense). Thus, the BSP will expect FIs to adopt systems that are capable of estimating changes to net interest income under a variety of interest rate scenarios. For example, non-complex FIs with traditional business lines and balance sheets could potentially limit their simulations to a single ± 100 basis point parallel rate shock. However, FIs that hold significant levels of derivatives and structured products relative to capital should incorporate more severe rate movements (e.g. ± 100 , 200 and 300 basis points) to determine what happens if strike prices are breached or "events" are triggered. Further, the BSP will expect an FI to employ alternative scenarios such as changes to the shape of the yield curve if the FI is exposed to significant levels of yield curve or basis risk.

Changes in market interest rates may also affect the volume of activities that generate fee income and other non-interest income. Thus, FIs should incorporate a broader focus on overall net income – incorporating both interest and non-interest income and expenses – if the FI reports significant levels of interest rate sensitive non-interest income.

b. *Economic value perspective*

The economic value of an FI can be viewed as the present value of an FI's

expected net cash flows, defined as the expected cash flows from assets minus the expected cash flows from liabilities plus the expected net cash flows on OBS positions. As such, it provides a more comprehensive view of the potential long-term effects of changes in interest rates than is offered by the earnings perspective.

While a variety of models are available, the BSP expects that economic value models will incorporate all significant classes of assets, liabilities and OBS. As with earnings at risk, the FI should incorporate a variety of interest rate scenarios to ensure that any strike prices, caps, limits, or “events” are breached in the simulation. Also, FIs with significant levels of basis or yield curve risk are expected to add scenarios such as alternative correlations between interest rates and/or a flatter or steeper yield curve.

Managing earnings and economic exposures

Management must make certain tradeoffs when immunizing earnings and economic value from interest rate risk. When earnings are immunized, economic value becomes more vulnerable, and vice versa. The economic value of equity, like that of other financial instruments, is a function of the discounted net cash flows it is expected to earn in the future. If an FI has immunized earnings, such that expected earnings remain constant for any change in interest rates, the discounted value of those earnings will be lower if interest rates rise. Hence, its economic value will fluctuate with rate changes. Conversely, if an FI fully immunizes its economic value, its periodic earnings must increase when rates rise and decline when interest rates fall.

b. Foreign exchange risk

Foreign exchange risk (FX risk) is the risk to earnings or capital arising from changes in foreign exchange rates.

In contracting to meet clients’ foreign currency needs or simply buying and

selling foreign exchange for its own account, an FI undertakes a risk that exchange rates might change subsequent to the time the contract is consummated. Foreign exchange risk may also arise from maintaining an open foreign exchange (FX) position. Thus, managing FX risk includes monitoring an FI’s net FX position.

An FI has a net position in a foreign currency when its assets, including spot and future contracts to purchase, and its liabilities, including spot and future contracts to sell, in that currency are not equal. An excess of assets over liabilities is called a net “long” position and liabilities in excess of assets, a net “short” position.

It should be noted that when engaging in FX activities, FIs are also exposed to other risks including liquidity and credit risks, particularly related to the settlement of FX contracts. FIs should have an integrated approach to risk management in relation to its FX activities: FX risk should be reviewed together with other risks to determine the FI’s overall risk profile. Liquidity and settlement risks related to FX activities are outside the scope of these guidelines. Nevertheless, future guidelines may be issued on these risk areas.

V. Sound market risk management practices

When assessing an FI’s market risk management system, the BSP expects an FI to address the four (4) basic elements of a sound risk management system:

1. Active and appropriate Board and senior management oversight;
2. Adequate risk management policies and procedures;
3. Appropriate risk measurement methodologies, limits structure, monitoring and management information systems; and
4. Comprehensive internal controls and independent audits.

The specific manner in which an FI applies these elements in managing its market risk will depend upon the

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complexity and nature of its activities, as well as the level of market risk exposure assumed. What constitutes adequate market risk management practices can therefore vary considerably. Regardless of the systems used, the BSP will not consider market risk to be well managed unless all four of the above elements are deemed to be at least “satisfactory”.

As with other risk factor categories, banking groups (banks and subsidiaries/affiliates) should monitor and manage market risk exposures of the group on a consolidated and comprehensive basis. At the same time, however, FIs should fully recognize any legal distinctions and possible obstacles to cash flow movements among affiliates and adjust their risk management practices accordingly. While consolidation may provide a comprehensive measure in respect of market risk, it may also underestimate risk when positions in one affiliate are used to offset positions in another affiliate. This is because a conventional accounting consolidation may allow theoretical offsets between such positions from which an FI may not in practice be able to benefit because of legal or operational constraints.

A. Active and appropriate board and senior management oversight¹

Effective board and senior management oversight of an FI’s market risk activities is critical to a sound market risk management process. It is important that these individuals are aware of their responsibilities with regard to market risk management and how market risk fits within the organization’s overall risk management framework.

Responsibilities of the board of directors

The board of directors has the ultimate responsibility for understanding the

nature and the level of market risk taken by the FI. In order to carry out its responsibilities, the Board should:

1. Establish and guide the FI’s strategic direction and tolerance for market risk. While it is not possible to provide a comprehensive list of documents to consider, the BSP should see a clear and documented pattern whereby the Board reviews, discusses and approves strategies and policies with respect to market risk management. In addition, there should be evidence that the Board periodically reviews and discusses the overall objectives of the FI with respect to the level of market risk acceptable to the FI.

2. Identify senior management who has the authority and responsibility for managing market risk and ensure that senior management takes the necessary steps to monitor and control market risk consistent with the approved strategies and policies. The BSP should be able to discern a clear hierarchal structure with a clear assignment of responsibility and authority.

3. Monitor the FI’s performance and overall market risk profile, ensuring that the level of market risk is maintained within tolerance and at prudent levels supported by adequate capital. The Board should be regularly informed of the market risk exposure of the FI and any breaches to established limits for appropriate action. Reporting should be timely and clearly presented. In assessing an FI’s capital adequacy for market risk, the Board should consider the FI’s current and potential market risk exposure as well as other risks that may impair the FI’s capital, such as credit, liquidity, operational, strategic, and reputation risks.

¹ This section refers to a management structure composed of a board of directors and senior management. The BSP is aware that there may be differences in some FIs as regards the organizational framework and functions of the board of directors and senior management. For instance, branches of foreign banks have board of directors located outside of the Philippines and are overseeing multiple branches in various countries. In this case, “board-equivalent” committees are appointed. Owing to these differences, the notions of the board of directors and the senior management are used in these guidelines not to identify legal constructs but rather to label two decision-making functions within a FI.

4. Ensure that the FI implements sound fundamental principles that facilitate the identification, measurement, monitoring and control of market risk. The board of directors should encourage discussions among its members and senior management – as well as between senior management and others in the FI – regarding the FI’s market risk exposures and management process.

5. Ensure that adequate resources, both technical and human resources, are devoted to market risk management. While board members need not have detailed technical knowledge of complex financial instruments, legal issues or sophisticated risk management techniques, they have the responsibility to ensure that the FI has personnel available who have the necessary technical skills to evaluate and control market risk. This responsibility includes ensuring that there is continuous training of personnel on market risk management and providing competent technical staff for the internal audit function.

Responsibilities of senior management

Senior management is responsible for ensuring that market risk is adequately managed for both long-term and day-to-day basis. In managing the FI’s activities, senior management should:

1. Develop and implement policies, procedures and practices that translate the board’s goals, objectives and risk tolerances into operating standards that are well understood by personnel and that are consistent with the board’s intent. Senior management should also periodically review the organization’s market risk management policies and procedures to ensure that they remain appropriate and sound.

2. Ensure adherence to the lines of authority and responsibility that the board has established for measuring, managing, and reporting market risk exposures.

3. Maintain appropriate limits structure, adequate systems for measuring market risk, and standards for measuring performance.

4. Oversee the implementation and maintenance of management information and other systems to identify, measure, monitor, and control the FI’s market risk.

5. Establish effective internal controls over the market risk management process.

6. Ensure that adequate resources are available for evaluating and controlling market risk. Senior management of FIs, including branches of foreign banks, should ensure that analysis and market risk management activities are conducted by competent staff with technical knowledge and experience consistent with the nature and scope of the FI’s activities. There should be sufficient depth in staff resources to manage these activities and to accommodate the temporary absence of key personnel and normal succession.

In evaluating the quality of oversight, the BSP shall evaluate how the board and senior management carry out the above functions/responsibilities. Further, sound management oversight is highly related to the quality of other areas/elements of an FI’s risk management system. Thus, even if board and senior management exhibit active oversight, the FI’s policies, procedures, measurement methodologies, limits structure, monitoring and information systems, controls and audit must be considered adequate before quality of board and senior management can be considered at least “satisfactory”.

Lines of responsibility and authority

FIs should clearly define the individuals and/or committees responsible for managing market risk and should ensure that there is adequate separation of duties in key elements of the risk management process to avoid potential conflicts of interest.

Management should ensure that sufficient safeguards exist to minimize the potential that individuals initiating risk-taking

positions may inappropriately influence key control functions of the market risk management process. FIs should therefore have risk measurement, monitoring, and control functions with clearly defined duties that are sufficiently independent from position-taking functions of the FI and which report risk exposures directly to the board of directors.

The nature and scope of safeguards to minimize potential conflicts of interest should be in accordance with the size and structure of an FI. Larger or more complex FIs should have a designated independent unit responsible for the design and administration of the FI’s market risk measurement, monitoring and control functions.

B. Adequate risk management policies and procedures

An FI’s market risk policies and procedures should be clearly defined, documented and duly approved by the board of directors. Policies and procedures should be consistent with the nature and complexity of the FI’s activities. When reviewing banking groups, the BSP will assess whether adequate and effective policies and procedures have been adopted and implemented across all levels of the organization.

Policies and procedures should delineate lines of responsibility and accountability and should clearly define authorized instruments, hedging strategies, position-taking opportunities, and the market risk models used to quantify market risk. Market risk policies should also identify quantitative parameters that define the acceptable level of market risk for the FI. Where appropriate, limits should be further specified for certain types of instruments, portfolios, and activities. All market risk policies should be reviewed periodically and revised as needed. Management should define the specific procedures to be used for identifying,

reporting and approving exceptions to policies, limits, and authorizations.

It is important that FIs identify market risk, as well as other risks, inherent in new products and activities and ensure these are subject to adequate procedures and controls before the new products and activities are introduced or undertaken. Specifically, new products and activities should undergo a careful pre-acquisition review to ensure that the FI understands their market risk characteristics and can incorporate them into its risk management process. Major hedging or risk management initiatives should be approved in advance by the board or its appropriate delegated committee.

Proposals and the subsequent new product/activity review should be formal and written. For purposes of managing market risk inherent in new products, proposals should, at a minimum, contain the following features:

1. Description of the relevant product or strategy;
2. Use/purpose of the new product/activity;
3. Identification of the resources required and unit/s responsible for establishing sound and effective market risk management of the product or activity;
4. Analysis of the reasonableness of the proposed activities in relation to the FI’s overall financial condition and capital levels; and
5. Procedures to be used to measure, monitor, and control the risks of the proposed product or activity.

C. Appropriate risk measurement methodologies, limits structure, monitoring, and management information system

Market risk measurement models/methodologies

It is essential that FIs have market risk measurement systems that capture all material sources of market risk and that assess the effect of changes in market risk

factors in ways that are consistent with the scope of their activities. Depending upon the size, complexity, and nature of activities that give rise to market risk, the ability to capture all material sources of market risk in a timely manner may require an FI's market risk measurement system to be interfaced with other systems, such as the treasury system or loan system. The assumptions underlying the measurement system should be clearly understood by risk managers and senior management.

Market risk measurement systems should:

1. Assess all material market risk associated with an FI's assets, liabilities, and OBS positions;
2. Utilize generally accepted financial concepts and risk measurement techniques; and
3. Have well-documented assumptions and parameters.

There are a number of methods/techniques for measuring market risks. Complexity ranges from simple marking-to-market or valuation techniques to more advanced static simulations using current holdings to highly sophisticated dynamic modeling techniques that reflect potential future business activities. In designing market risk measurement systems, FIs should ensure that the degree of detail regarding the nature of their positions is commensurate with the complexity and risk inherent in those positions.

At a minimum, smaller non-complex FIs should have the ability to mark-to-market or revalue their investment portfolio and construct a simple re-pricing gap. When using gap analysis, the precision of interest rate risk measurement depends in part on the number of time bands into which positions are aggregated. Clearly, aggregation of positions/cash flows into broad time bands implies some loss of precision. In addition, the use of reasonable and valid assumptions is important for a measurement system to be precise. In

practice, the FI must assess the significance of the potential loss of precision in determining the extent of aggregation and simplification to be built into the measurement approach. Assumptions and limitations of the measurement approach, such as the loss of precision, should be documented.

On the other hand, banks holding an expanded derivatives license and FIs engaging in options or structured products with embedded options cannot capture all material sources of market risk by using static models such as the re-pricing gap. These FIs should have interest rate risk measurement systems that assess the effects of rate changes on both earnings and economic value. These systems should provide meaningful measures of an FI's current levels of interest rate risk exposure, and should be capable of identifying any excessive exposures that might arise. Pricing models and simulation techniques will probably be required.

There is also a question on the extent to which market risk should be viewed on a whole institution basis or whether the trading book, which is marked to market, and the accrual book, which is often not, should be treated separately. As a general rule, it is desirable for any measurement system to incorporate market risk exposures arising from the full scope of an FI's activities, including both trading and non-trading sources. A single measurement system can facilitate analysis of market risk exposure. However, this does not preclude different measurement systems and risk management approaches being used for similar or different activities. For example, a bank with expanded derivatives license will use pricing models as basic tools in valuing position from its derivatives activities and structured products. In addition, the bank should use simulation models to assess the potential effects of changes in market risk factors by simulating the future path of market risk factors and their impact on cash flows from these activities.

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Different methodologies may also be applied to the trading and accrual books. Regardless of the number of models or measurement systems used, management should have an integrated view of market risk across products and business lines.

Regardless of the measurement system used, the BSP will expect the FI to ensure that input data are timely and correct, assumptions can be supported and are valid, the methodologies used produce accurate results, and the results can be easily understood by senior management and the board.

(1) Model input. All market risk measurement methodologies require various types of inputs, including hard data, readily observable parameters such as asset prices, and both quantitatively and qualitatively-derived assumptions. This applies equally to simple gap as well as complex simulation models.

The integrity and timeliness of data is a key component of the market risk measurement process. The BSP expects that adequate controls will be established to ensure that all material positions and cash flows from on- and off- balance sheet positions are incorporated into the measurement system on a consistent and timely basis. Inputs should be verified through a process that validates data integrity. Assumptions and inputs should be subject to control and oversight review. Any manual adjustments to underlying data should be documented, and the nature and reasons for the adjustments should also be clearly understood.

Critical to model accuracy is the validity of underlying assumptions. Assumptions regarding maturity of deposits, for example, are critical in measuring interest rate risk. The treatment of positions where behavioral maturity is different from contractual maturity requires the use of assumptions and may complicate the measurement of interest rate risk exposure, particularly when using the

economic value approach. The validity of correlation assumptions to aggregate market risk exposures is likewise important as breakdowns in correlations may significantly affect the validity of model results. Key assumptions should therefore be subject to rigorous documentation and review. Any significant changes should be approved in advance by the board of directors.

(2) Model risk. While accuracy is key to an effective market risk measurement system, methodologies cannot be expected to flawlessly predict potential losses arising from market risk. The use of models introduces the potential for model risk. Thus, model risk is the risk of loss arising from inaccurate or incorrect quantification of market risk exposures due to weaknesses in market risk methodologies. It may arise from relying on assumptions that are inconsistent with market realities, from employing input parameters that are unreliable, or from calibrating, applying and implementing models incorrectly.

Model risk is more likely to arise for instruments that have non-standard or option-like features. The use of proprietary models that employ unconventional techniques that are not widely agreed upon by market participants is likewise more sensitive to model risk. Even the use of standard models may lead to errors if the financial tools are not appropriate for a given instrument.

The BSP expects FIs to implement effective policies and procedures to manage model risk. The scope of policies and procedures will depend upon the type and complexity of models developed or purchased. However, FIs holding an expanded license or significant levels of complex investments including structured products, should at a minimum implement the following controls:

a. Model development/acquisition, implementation and revisions. The BSP expects larger, complex FIs to adopt policies

governing development/acquisition, implementation and revision of market risk models. These policies should clearly define the responsibilities of staff involved in the development/acquisition process. FIs should ensure that modeling techniques and assumptions are consistent with widely accepted financial theories and market practices. Policies and procedures should be duly approved by the board of directors and properly documented. An inventory of the models in use should be maintained along with documentation explaining how they operate.

The BSP also expects that revisions to models will be performed in a controlled environment by authorized personnel and changes should be made or verified by a control function. Written policies should specify when changes to models are acceptable and how those revisions should be accomplished.

b. Model validation. Before models are authorized for use, they should be validated by individuals who are neither directly involved in the development process nor responsible for providing inputs to the model. Independent model validation is a key control in the model development process and should be specifically addressed in an FI's policies. Further, the BSP expects that the staff validating the models will have the necessary technical expertise.

A sound validation process should rigorously and comprehensively evaluate the sensitivity of the model to material sources of model risk and includes the following:

1. Tests of internal logic and mathematical accuracy;
2. Development of empirical support for the model's assumptions;
3. Back-testing. The BSP expects FIs to conduct backtesting of model results. Back-testing is a method of periodically evaluating the accuracy and predictive capability of an FI's market risk measurement system by monitoring and comparing actual movements

in market prices or market risk factors with projections produced by the model. To be more effective, back-testing should be conducted by parties independent of those developing or using the model. Policies should address the scope of the back-testing process, frequency of back-testing, documentation requirements, and management responses. Complex models should be back-tested continually while simple models can be back-tested periodically. Significant discrepancies should prompt a model review.

4. Periodic review of methodologies and assumptions. The BSP expects that FIs will periodically review or reassess their modeling methodologies and assumptions. Again, the frequency of review will depend on the model but complex models should be reviewed at least once a year, when changes are made, or when a new product or activity is introduced. Model review could also be prompted when there is a need for the model to be updated to reflect changes in the FI or market. The review process should be performed by an independent group as it is considered to be part of the risk control and audit function.

The use of vendor models can present special challenges, as vendors often claim proprietary privilege to avoid disclosing information about their models. Thus, FIs may be constrained from performing validation procedures related to internal logic, mathematical accuracy and model assumptions. However, vendors should provide adequate information on how the models were constructed and validated so that FIs have reasonable assurances that the model works as intended.

c. Stress testing. The underlying statistical models used to measure market risk summarize the exposures that reflect the most probable market conditions. Regardless of size and complexity of activities, the BSP expects FIs to supplement their market risk measurement models with stress tests. Stress testing are simulations that show how a

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portfolio or balance sheet might perform during extreme events or highly volatile markets.

Stress testing should be designed to provide information on the kinds of conditions under which the FI's strategies or positions would be most vulnerable. Thus stress tests must be tailored to the risk characteristics of the FI. Possible stress scenarios might include abrupt changes in the general level of interest rates, changes in the relationships among key market rates (i.e., basis risk), changes in the slope and the shape of the yield curve (i.e., yield curve risk), changes in the liquidity of key financial markets, or changes in the volatility of market rates.

In addition, stress scenarios should include conditions under which key business assumptions and parameters break down. The stress testing of assumptions used for illiquid instruments and instruments with uncertain contractual maturities are particularly critical to achieving an understanding of the FI's risk profile. When conducting stress tests, special consideration should be given to instruments or markets where concentrations exist. FIs should consider also "worst case" scenarios in addition to more probable events.

Further, the BSP will expect FIs with material market risk exposure, particularly from derivatives and/or structured products to supplement their stress testing with an analysis of their exposure to "interconnection risk." While stress testing typically considers the movement of a single market factor (e.g., interest rates), interconnection risk considers the linkages across markets (e.g., interest rates and foreign exchange rates) and across the various categories of risk (e.g., credit, and liquidity risk). For example, stress from one market may transmit shocks to other markets and give rise to otherwise dormant risks, such as liquidity risk. Evaluating

interconnected risk involves assessing the total or aggregate impact of singular events.

Guidelines for performing stress testing should be detailed in the risk management policy statement. Management and the board of directors should periodically review the design, major assumptions, and the results of such stress tests to ensure that appropriate contingency plans are in place.

(3) Model output. Reports should be provided to senior management and the board as a basis for making decisions. Report content should be clear and straightforward, indicating the purpose of the model, significant limitations, the quantitative level of risk estimated by the simulation, a comparison to Board approved limits and a qualitative discussion regarding the appropriateness of the FI's current exposures. Sophisticated simulations should be used carefully so that they do not become "black boxes" producing numbers that have the appearance of precision but may not be very accurate when their specific assumptions and parameters are revealed.

Market limits structure

The FI's board of directors should set the institution's tolerance for market risk and communicate that tolerance to senior management. Based on these tolerances, senior management should establish appropriate risk limits, duly approved by the Board, to maintain the FI's exposure within the set tolerances over a range of possible changes in market risk factors such as interest rates.

Limits represent the FI's actual willingness and ability to accept real losses. In setting risk limits, the board and senior management should consider the nature of the FI's strategies and activities, past performance, and management skills. Most importantly, the board and senior management should consider the level of the FI's earnings and capital and ensure that

both are sufficient to absorb losses equal to the proposed limits. Limits should be approved by the board of directors. Furthermore, limits should be flexible to changes in conditions or risk tolerances and should be reviewed periodically.

An FI's limits should be consistent with its overall approach to measuring market risk. At a minimum, FIs using simple gap should establish limits on mismatches in each time bucket on a stand-alone and cumulative basis. In addition, limits should be adopted to control potential losses in the investment portfolio to a pre-set percentage of capital.

Larger, more complex FIs should establish limits on the potential impact of changes in market risk factors on reported earnings or/and the FI's economic value of equity. Market risk limits may include limits on net and gross positions, volume limits, stop-loss limits, value-at-risk limits, re-pricing gap limits, earnings-at-risk limits and other limits that capture either notional or (un)expected loss exposures. In assigning interest rate risk limits under the earnings perspective, FIs should explore limits on the variability of net income as well as net interest income in order to fully assess the contribution of non-interest income to the interest rate risk exposure of the FI. Such limits usually specify acceptable levels of earnings volatility under specified interest rate scenarios.

For example, interest rate risk limits may be keyed to specific scenarios of movements in market interest rates such as an increase or decrease of a particular magnitude. The rate movements used in developing these limits should represent meaningful stress situations taking into account historic rate volatility and the time required for management to address exposures. Limits may also be based on measures derived from the underlying statistical distribution of interest rates, such as earnings at risk or economic value-at-risk techniques. Moreover, specified scenarios should take

account of the full range of possible sources of interest rate risk to the FI including re-pricing, yield curve, basis, and option risks. Simple scenarios using parallel shifts in interest rates may be insufficient to identify such risks. This is particularly important for FIs with significant exposures to these sources of market risk.

The form of limits for addressing the effect of rates on an FI's economic value of equity should be appropriate for the size and complexity of its underlying positions. For FIs engaged in traditional banking activities, relatively simple limits may suffice. However, for FIs with significant holdings of long-term instruments, options, instruments with embedded options, or other structured instruments, more detailed limit systems may be required.

Depending on the nature of an FI's holdings and its general sophistication, limits can also be identified for individual business units, portfolios, instrument types, or specific instruments. The level of detail of risk limits should reflect the characteristics of the FI's holdings including the various sources of market risk the FI is exposed to.

The BSP also expects that the limits system will ensure that positions that exceed predetermined levels receive prompt management attention. Limit exceptions should be communicated to appropriate senior management without delay. Policies should include how senior management will be informed and what action should be taken by management in such cases. Particularly important is whether limits are absolute in the sense that they should never be exceeded or whether, under specific circumstances, breaches of limits can be tolerated for a short period of time. The circumstances leading to a tolerance of breaches should be clearly described.

Market risk monitoring and reporting

An accurate, informative, and timely management information system is

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essential for managing market risk exposures both to inform management and to support compliance with board policy. Reporting of risk measures should be done regularly and should clearly compare current exposure to policy limits. In addition, past forecasts or risk estimates should be compared with actual results to identify any modeling shortcomings.

Reports detailing the market risk exposure of the FI should be reviewed by the board on a regular basis. While the types of reports prepared for the board and for various levels of management will vary based on the FI's market risk profile, they should at a minimum include the following:

1. Summaries of the FI's aggregate exposures;
2. Reports demonstrating the FI's compliance with policies and limits;
3. Summary of key assumptions, for example, non-maturity deposit behavior, prepayment information, and correlation assumptions;
4. Results of stress tests, including those assessing breakdowns in key assumptions and parameters; and
5. Summaries of the findings of reviews of market risk policies, procedures, and the adequacy of the market risk measurement systems, including any findings of internal and external auditors and retained consultants.

D. Risk controls and audit

Adequate internal controls ensure the integrity of an FI's market risk management process. These internal controls should be an integral part of the institution's overall system of internal control and should promote effective and efficient operations, reliable financial and regulatory reporting, and compliance with relevant laws, regulations, and institutional policies. An effective system of internal control for market risk includes:

1. A strong control environment;
2. An adequate process for identifying and evaluating risk;

3. The establishment of control activities such as policies, procedures, and methodologies;

4. Adequate information systems;

5. Continual review of adherence to established policies and procedures; and

6. An effective internal audit and independent validation process.

Policies and procedures should specify the approval processes, exposure limits, reconciliations, reviews, and other control mechanisms designed to provide a reasonable assurance that the institution's market risk management objectives are achieved. Many attributes of a sound risk management process, including risk measurement, monitoring, and control functions, are actually key aspects of an effective system of internal control. FIs should ensure that all aspects of the internal control system are effective, including those aspects that are not directly part of the risk management process.

An important element of an FI's internal control system is regular evaluation and review. The BSP expects that FIs will establish a process to ensure that its personnel are following established policies and procedures, and that its procedures are actually accomplishing their intended objectives. Such reviews and evaluations should also address any significant change that may impact the effectiveness of controls, and that appropriate follow-up action was implemented when limits were breached. Management should ensure that all such reviews and evaluations are conducted regularly by individuals who are independent of the function they are assigned to review. When revisions or enhancements to internal controls are warranted, there should be a mechanism in place to ensure that these are implemented in a timely manner.

Independent reviews of the market risk measurement system should also include assessments of the assumptions,

parameters, and methodologies used. Such reviews should seek to understand, test, and document the current measurement process, evaluate the system’s accuracy, and recommend solutions to any identified weaknesses. If the measurement system incorporates one or more subsidiary systems or processes, the review should include testing aimed at ensuring that the subsidiary systems are well-integrated and consistent with each other in all critical respects. The results of this review, along with any recommendations for improvement, should be reported to senior management and/or the board.

The BSP expects that FIs with complex risk exposures should have their measurement, monitoring, and control functions reviewed on a regular basis by an independent party (such as an internal or external auditor). In such cases, reports written by external auditors or other outside parties should be available to the BSP. It is essential that any independent reviewer ensures that the FI’s risk measurement system is sufficient to capture all material elements of market risk, whether arising from on- or off-balance-sheet activities. Among the items that an audit should review and validate are:

1. The appropriateness of the FI’s risk measurement system(s) given the nature, scope, and complexity of its activities.
2. The accuracy and completeness of the data inputs - This includes verifying that balances and contractual terms are

correctly specified and that all major instruments, portfolios, and business units are captured in the model. The review should also investigate whether data extracts and model inputs have been reconciled with transactions and general ledger systems.¹

3. The reasonableness and validity of scenarios and assumptions – This includes a review of the appropriateness of the interest rate scenarios as well as customer behaviors and pricing/volume relationships to ensure that these assumptions are reasonable and internally consistent.²

4. The validity of the risk measurement calculations - The scope and formality of the measurement validation will depend on the size and complexity of the FI. At large FIs, internal and external auditors may have their own models against which the FI’s model is tested. FIs with more complex risk profiles and measurement systems should have the model or calculations audited or validated by an independent source. At smaller and less complex FIs, periodic comparisons of actual performance with forecasts may be sufficient.³

The frequency and extent to which an FI should re-evaluate its risk measurement methodologies and models depend, in part, on the particular market risk exposures created by holdings and activities, the pace and nature of market rate changes, and the pace and complexity of innovation with respect to measuring and managing market risk.

¹ It is acceptable for parts of the reconciliation to be automated; e.g., routines may be programmed to investigate whether the balances being extracted from various transaction systems match the balances recorded on the FI’s general ledger. Similarly, the model itself often contains various audit checks to ensure, for example, that maturing balances do not exceed original balances.

² Key areas of review include the statistical methods that were used to generate scenarios and assumptions (if applicable), and whether senior management reviewed and approved key assumptions. The review should also compare actual pricing spreads and balance sheet behavior to model assumptions. For some instruments, estimates of value changes can be compared with market value changes. Unfavorable results may lead the FI to revise model relationships.

³ The validity of the model calculations is often tested by comparing actual with forecasted results. When doing so, FIs can compare projected net income results with actual earnings. Reconciling the results of economic valuation systems can be more difficult because market prices for all instruments are not always readily available, and the FI does not routinely mark all of its balance sheet to market. For instruments or portfolios with market prices, these prices are often used to benchmark or check model assumptions.

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VI. Capital adequacy

In addition to adequate risk management systems and controls, capital has an important role to play in mitigating and supporting market risk. FIs must hold capital commensurate with the level of market risk they undertake. As part of sound market risk management, FIs must translate the level of market risk they undertake whether as part of their trading or non-trading activities, into their overall evaluation of capital adequacy. Where market risk is undertaken as part of an FI’s trading activities, existing capital adequacy ratio requirements shall prevail.

The BSP will periodically evaluate the market risk measurement system for the accrual book to determine if the FI’s capital is adequate to support its exposure to market risk and whether the internal measurement systems of the FI are adequate. In performing this assessment, the BSP may require information regarding the market risk exposure of the FI, including re-pricing gaps, earnings and economic value simulation estimates, and the results of stress tests. This information will typically be found in internal management reports.

If an FI’s internal measurement system does not adequately capture the level of market risk, the BSP may require an FI to

improve its system. In cases where an FI accepts significant market risk in its accrual book, the BSP expects that a portion of capital will be allocated to cover this risk.

When performing these evaluations, the BSP will determine if:

(a) All material market risk associated with an institution’s assets, liabilities, and OBS positions in the accrual book are captured by the risk management systems;

(b) Generally accepted financial concepts and risk measurement techniques are utilized. For larger, complex FIs, internal systems must be capable of measuring risk using both an earnings and economic value approach.

(c) Data inputs are adequately specified (commensurate with the nature and complexity of an FI’s holdings) with regard to rates, maturities, re-pricing, embedded options, and other details;

(d) The system’s assumptions (used to transform positions into cash flows) are reasonable, properly documented, and stable over time.¹

(e) Market risk measurement systems are integrated into the institution’s daily risk management practices. The output of the systems should be used in characterizing the level of market risk to senior management and board of directors.

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¹ This is especially important for assets and liabilities whose behavior differs markedly from contractual maturity or re-pricing, and for new products. Material changes to assumptions should be documented, justified, and approved by management.

GUIDELINES ON LIQUIDITY RISK MANAGEMENT
(Appendix to Sec. X175)

I. Background

The on-going viability of institutions, particularly financial organizations, is heavily influenced by their ability to manage liquidity. Innovations in investment and funding products, growth in off-balance sheet activities and continuous competition for consumer funds have affected the way FI do business and intensified the need for proactive liquidity risk management. FIs need to fully understand, measure and control the resulting liquidity risk exposures.

II. Statement of Policy

For purposes of these guidelines, FI include banks, NBFIs supervised by the BSP and their financial subsidiaries. The BSP recognizes the liquidity risk inherent in FI activities and how these activities expose an FI to multiple risks which may increase liquidity risk.

The BSP will not restrict risk-taking activities as long as FIs are authorized to engage in such activities and:

1. Understand, measure, monitor and control the risk they assume;
2. Adopt risk management practices whose sophistication and effectiveness is commensurate to the risk assumed; and
3. Maintain capital commensurate with their risk exposures.

The principles set forth in these guidelines shall be used to determine the level and trend of liquidity risk exposure and adequacy and effectiveness of an FI's liquidity risk management process. In evaluating the adequacy of an FI's liquidity position, the BSP shall consider the FI's current level and prospective sources of liquidity as compared to its funding needs. Further, the BSP will evaluate the adequacy of funds management practices

relative to the FI's size, complexity, and risk profile.

In general, liquidity risk management practices should ensure that an institution is able to maintain a level of liquidity sufficient to meet its financial obligations in a timely manner and to fulfill the legitimate funding needs of its community. Practices should reflect the ability of the institution to manage unplanned changes in funding sources, as well as react to changes in market conditions that affect the ability to quickly liquidate assets with minimal loss. In addition, funds-management practices should ensure that liquidity is not consistently maintained at a high cost, from concentrated sources, or through undue reliance on funding sources that may not be available in times of financial stress or adverse changes in market conditions.

In evaluating the above parameters, the BSP shall consider the following factors:

1. The actual and potential level of liquidity risk posed by the FI's products and services, balance sheet structure and off-balance sheet activities;
2. The cost of an FI's access to money markets and other alternative sources of funding;
3. The diversification of funding sources (on and off-balance sheet);
4. The adequacy and effectiveness of board and senior management oversight, particularly the Board's ability to recognize the effects of interrelated risk areas, such as market and reputation risks, to liquidity risk;
5. The reasonableness of liquidity risk limits and controls in relation to earnings, as affected by the cost of access to money markets and other alternative sources of funding, and capital;
6. The adequacy of measurement methodologies, monitoring and management information systems;

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7. The adequacy of foreign currency liquidity management;

8. The appropriateness and reasonableness of contingency plans for handling liquidity crises;

9. The adequacy of internal controls and audit of liquidity risk management process.

The sophistication of liquidity risk management shall depend on the size, nature and complexity of an FI's activities. However, in all instances, FIs are expected to measure their liquidity position on an ongoing basis, analyze net funding requirements under alternative scenarios, diversify funding sources and adopt contingency funding plans.

An FI's liquidity risk management system shall be assessed under the FI's general risk management framework, consistent with the guidelines on supervision by risk as set forth under *Appendix 72*. If an FI's risk exposures are deemed excessive relative to the FI's capital, or that the risk assumed is not well managed, the BSP will direct the FI to reduce its exposure and/or strengthen its risk management system.

III. Liquidity Risk Management Process

Liquidity risk management process should be tailored to an FI's structure and scope of operations and application can vary across institutions. Regardless of the structure, an FI's liquidity risk management process should be consistent with its general risk management framework and should be commensurate with the level of risk assumed. At a minimum, the process should:

1. *Identify liquidity risk*. Proper identification of liquidity risk requires that management understand both existing risk and prospective risks from new products and activities. It involves determining the volume and trends of liquidity needs and the sources of liquidity available to meet these needs. Identifying liquidity risk necessitates expressing the FI's desired level of risk exposure based on its ability and willingness to assume risk which may primarily depend

on the FI's capital base and access to funds providers. Liquidity risk identification should be a continuing process and should occur at both the transaction, portfolio and entity level.

2. *Measure liquidity risk*. Adequate measurement systems enable FIs to quantify liquidity risk exposures on a per entity basis and across the consolidated organization. A relatively large organization with extensive scope of operations would generally require a more robust management information system to properly measure risk in a timely and comprehensive manner.

3. *Control liquidity risk*. The FI should establish policies and standards on acceptable product types, activities, counterparties and set risk limits on a transactional, portfolio and aggregate/consolidated basis to control liquidity risk. In setting limits, the FI should recognize any legal distinctions and possible obstacles to cash flow movements among affiliates or across separate books. Lines of authority and accountability should be clearly defined to ensure liquidity risk exposures remain reasonable and within the risk tolerance expressed by the board.

4. *Monitor liquidity risk*. Monitoring liquidity risk requires timely review of liquidity risk positions and exceptions, including day-to-day liquidity management. Monitoring reports should be frequent, timely, and accurate and should be distributed to appropriate levels of management.

IV. Definition of Liquidity Risk

Liquidity risk is generally defined as the current and prospective risk to earnings or capital arising from an FI's inability to meet its obligations when they come due without incurring unacceptable losses or costs. Liquidity risk includes the inability to manage unplanned decreases or changes in funding sources. Liquidity risk also arises from the failure to recognize or address changes in market conditions that affect the ability to liquidate assets quickly and with minimal loss in value.

In terms of capital markets and trading activities, FIs face two (2) types of liquidity risk: *funding liquidity risk* and *market liquidity risk*. *Funding liquidity risk* refers to the inability to meet investment and funding requirements arising from cash flow mismatches without incurring unacceptable losses or costs. This is synonymous with the general definition of liquidity risk.

Market liquidity risk, on the other hand, refers to the risk that an institution cannot easily eliminate or offset a particular position because of inadequate liquidity in the market. The size of the bid/ask spread of instruments in a market provides a general indication of its depth, hence its liquidity, under normal circumstances. Market liquidity risk is also associated with the probability that large transactions may have a significant effect on market prices in markets that lack sufficient depth. In addition, market liquidity risk is associated with structured or complex investments as the market of potential buyers is typically small. Finally, FIs are exposed to the risk of an unexpected and sudden erosion of market liquidity. This could be the result of sharp price movement or jump in volatility, or internal to the FI such as that posed by a general loss of market confidence. Understanding market liquidity risk is particularly important for institutions with significant holdings of instruments traded in financial markets.

Market and liquidity risks are highly interrelated, particularly during times of uncertainty when there is a high correlation between the need for liquidity and market volatility. Likewise, an FI's exposure to other risks such as reputation, strategic, and credit risks, can likewise significantly affect an institution's liquidity risk. It is therefore important that an FI's liquidity risk

management system is consistent with its general risk management framework.

V. Sound Liquidity Risk Management Practices

When assessing an FI's liquidity risk management system, the BSP shall consider how an FI address the four basic elements of a sound risk management system:

1. Active and appropriate board and senior management oversight;
2. Adequate risk management policies and procedures;
3. Appropriate risk measurement methodologies, limits structure, monitoring and management information system; and
4. Comprehensive internal controls and independent audits

Evaluation of the adequacy of the FI's application of the above elements will be relative to the FI's risk profile. FIs with less complex operations may generally use more basic practices while larger, and/or more complex institutions will be expected to adopt more formal and sophisticated practices. Large organizations should likewise take a comprehensive perspective to measuring and controlling liquidity risk by understanding how subsidiaries and affiliates can raise or lower the consolidated risk profile.

A. Active and appropriate Board and senior management oversight¹

Effective liquidity risk management requires that the Board and senior management be fully informed of the level of liquidity risk assumed by the FI and ensure that the activities undertaken are within the prescribed risk tolerance. Senior management should have a thorough understanding of how other risks such as credit, market, operational and reputation risks impact the FI's overall liquidity strategy.¹

¹ This section refers to a management structure composed of a board of directors and senior management. The BSP is aware that there may be differences in some financial institutions as regards the organizational framework and functions of the board of directors and senior management. For instance, branches of foreign banks have board of directors located outside of the Philippines and are overseeing multiple branches in various countries. In this case, "board-equivalent" committees are appointed. Owing to these differences, the notions of the board of directors and the senior management are used in these guidelines not to identify legal constructs but rather to label two decision-making functions within a financial institution.

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Responsibilities of the board of directors

The Board has the ultimate responsibility for understanding the nature and level of liquidity risk assumed by the FI and the processes used to manage it.

The board of directors should:

1. Establish and guide the FI’s strategic direction and tolerance for liquidity risk by adopting a formal written liquidity/funding policy that specifies quantitative and qualitative targets;
2. Approve policies that govern or influence the FI’s liquidity risk, including reasonable risk limits and clear guidelines which are adequately documented and communicated to all concerned;
3. Identify the senior management staff who has the authority and responsibility for managing liquidity risk and ensure that this staff takes the necessary steps to monitor and control liquidity risk;
4. Monitor the FI’s performance and overall liquidity risk profile in a timely manner by requiring frequent reports that outline the liquidity position of the FI along with information sufficient to determine if the FI is complying with established risk limits;
5. Mandate and track the implementation of corrective action in instances of breaches in policies and procedures;
6. Establish, review and to the extent possible, test contingency plans for dealing with potential temporary and long-term liquidity disruptions; and
7. Ensure that the FI has sufficient competent personnel, including internal audit staff, and adequate measurement systems to effectively manage liquidity risk.

Responsibilities of senior management

Senior management is responsible for effectively executing the liquidity strategy and overseeing the daily and long-term management of liquidity risk. In managing the FI’s activities, senior management should:

1. Develop and implement procedures and practices that translate the Board’s goals, objectives, and risk tolerances into operating standards that are transmitted to and well understood by personnel. Operating standards should be consistent with the Board’s intent;
 2. Plan for adequate sources of liquidity to meet current and potential funding needs and establish guidelines for the development of contingency funding plans;
 3. Adhere to the lines of authority and responsibility that the Board has established for managing liquidity risk;
 4. Oversee the implementation and maintenance of management information and other systems that identify, measure, monitor, and control the FI’s liquidity risk; and
 5. Establish effective internal controls over the liquidity risk management process.
- In evaluating the quality of oversight provided by the Board and senior management, the BSP will evaluate how the Board and senior management carry out the above functions/responsibilities. Further, sound management practices are highly related to the quality of other areas/elements of risk management system. Thus, even if Board and senior management exhibit active oversight, the FI’s policies, procedures, measurement methodologies, limits structure, monitoring and information systems, controls and audit should be adequate before quality of Board and senior management can be considered “satisfactory”.

Lines of Responsibility and Authority

Management of liquidity risk generally requires collaboration from various business areas of the FI, thus a clear delineation of responsibilities is necessary. The management structure should clearly define the duties of senior level committees, members of which have authority over the units responsible for executing liquidity-related transactions. There should be a clear

delegation of day-to-day operating responsibilities to particular departments such as the Treasury Department.

To ensure proper management of liquidity risk, the FI should designate an independent unit responsible for measuring, monitoring and controlling liquidity risk. Said unit should take a comprehensive approach and directly report to the board of directors or a committee thereof.

B. Adequate risk management policies and procedures

An FI's liquidity risk policies and procedures should be comprehensive, clearly defined, documented and duly approved by the board of directors. Policies and procedures should cover the FI's liquidity risk management system in order to provide appropriate guidance to management. These policies should be applied on a consolidated basis and, as appropriate, at the level of individual affiliates, especially when recognizing legal distinctions and possible obstacles to cash movements among affiliates.

Liquidity risk policies should identify the quantitative parameters used by the FI to define the acceptable level of liquidity risk such as risk limits and financial ratios as well as describe the measurement tools and assumptions used. Qualitative guidelines should include description of the FI's acceptable products and activities, including off-balance sheet transactions, desired composition of assets and liabilities, and approach towards managing liquidity in different currencies, geographies and across subsidiaries and affiliates. Where appropriate, a large FI should apply these policies on a consolidated basis to address risk exposures resulting from inter-connected funding structures and operations among members of an FI's corporate group.

It is essential that policies include the development of a formal liquidity risk

measurement system that addresses business-as-usual scenarios and a contingency funding plan that addresses a variety of stress scenarios. FIs should likewise have specific procedures for addressing breaches in policies and implementation of corrective actions.

Management should periodically review its liquidity risk policies and ensure that these remain consistent with the level and complexity of the FI's operations. Policies should be updated to incorporate effects of new products/activities, changes in corporate structure and in light of its liquidity experience.

C. Appropriate risk measurement methodologies, limits structure, monitoring, and management information system

Liquidity risk measurement models/ methodologies

An FI should have a measurement system in place capable of quantifying and capturing the main sources of liquidity risk in a timely and comprehensive manner. Liquidity management requires ongoing measurement, from intra-day liquidity to long-term liquidity positions. Depending on its risk profile, an FI can use techniques of simple calculations, static simulations based on current holdings or sophisticated models. What is essential is that the FI should be able to identify and avoid potential funding shortfalls such that the FI can consistently meet investment, funding and/or strategic targets.

FIs with simple operations can generally use a static approach to liquidity management. Static models are based on positions at a given point in time. While an exact definition of "simple operations" will not be provided, the BSP expects that banks using a static approach to liquidity management would limit their operations to core banking activities such as accepting plain vanilla deposits and making traditional loans. Such banks would not have active Treasury Departments, would not hold or

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offer structured products and would not be exposed to significant levels of FX risk. Board reporting could be less frequent than in more complex banks but in no event should be less than quarterly.

Complex FIs, on the other hand, will be expected to adopt more robust approaches such as a dynamic maturity/liquidity gap reporting or even simulation modeling. At a minimum, universal banks should use maximum cash outflow/liquidity or maturity gap models. FIs engaged in holding or offering significant levels of structured products and/or derivatives will be expected to have the capability to model the cash flows from these instruments under a variety of scenarios. Specifically, scenarios should be designed to measure the effects of a breach of the triggers (strike price) on these instruments.

Where the FI's organizational structure and business practices indicate cash flow movements and liquidity support among corporate group members, the FI should adopt consolidated risk measurement tools to help management assess the group's liquidity risk exposure. Depending on the degree of inter-related funding, non-complex measurement and monitoring systems may be acceptable. However, large, complex FIs that display a high degree of inter-related and inter-dependent funding will be expected to utilize more sophisticated monitoring and management systems. These systems should enable the Board of the consolidated entity to simulate and anticipate the funding needs of the FIs on both a consolidated basis and in each of its component parts.

Liquidity risk measurement methodologies/models should be documented and approved by the board and should be periodically independently reviewed for reasonableness and tested for accuracy and data integrity. Assumptions used in managing liquidity should be periodically revisited to ensure that these remain valid.

Liquidity models require projecting all relevant cash flows. As such, FIs engaged in complex activities should have the capability to model the behavior of all assets, liabilities, and off-balance sheet items both under normal/business-as usual and a variety of stressed conditions. Stressed conditions may include liquidity crisis confined within the institution, or a systemic liquidity crisis, in which all FIs are affected. For FIs operating in a global environment, cash flow projections should reflect various foreign-currency funding requirements.

When projecting cash flows, management should also estimate customer behavior in addition to contractual maturities. Many cash flows are uncertain and may not necessarily follow contractual maturities. Cash flows may be influenced by interest rates and customer behavior, or may simply follow a seasonal or cyclical pattern. When modeling liquidity risk, it is important that assumptions be documented. Assumptions should be reasonable and should be based on past experiences or with consideration of the potential impact of changes in business strategies and market conditions. Measurement tools should include a sufficient number of time bands to enable effective monitoring of both short- and long-term exposures. This expectation applies not only to complex simulation modeling, but to the construction of simple liquidity GAP models as well.

To sufficiently measure an FI's liquidity risk, management should analyze how its liquidity position is affected by changes in internal (company-specific) and external (market-related) conditions. Management will need to assess how a shift from a normal scenario to various levels of liquidity crisis can affect its ability to source external funds and at what cost, liquidate certain assets at expected prices within expected timeframes, or hasten the need to settle obligations (e.g., limited ability to roll-over deposits).

Management should, at a minimum, consider stress scenarios where securities are sold at prices lower than anticipated and credit lines are partially or wholly cancelled.

Regardless of the liquidity risk models used, an FI should adopt an appropriate contingency plan for handling liquidity crisis. Well before a liquidity crisis occurs, management should carefully plan how to handle administrative matters in a crisis. Management credibility, which is essential to maintaining the public's confidence and access to funding, can be gained or lost depending on how well or poorly some administrative matters are handled. A contingency funding/liquidity plan ensures that an FI is ready to respond to liquidity crisis.

The sophistication of a contingency plan should be commensurate with the FI's complexity and risk exposure, activities, products and organizational structure. The plan should identify the types of events that will trigger the contingency plan, quantify potential funding needs and sources and provide the specific administrative policies and procedures to be followed in a liquidity crisis.

Specifically, the contingency plan should:

1. Clearly identify, quantify and rank all sources of funding by preference including, but not limited to:
 - Reducing assets
 - Modifying the liability structure or increasing liabilities
 - Using off-balance-sheet sources, such as securitizations
 - Using other alternatives for controlling balance sheet changes
2. Consider asset and liability strategies for responding to liquidity crisis including, but not limited to:
 - Whether to liquidate surplus money market assets
 - When (if at all) HTM securities might be liquidated
 - Whether to sell liquid securities in the repo markets

- When to sell longer-term assets, fixed assets, or certain lines of business
- Coordinating lead bank funding with that of the FI's other banks and non-bank affiliates
- Developing strategies on how to interact with non-traditional funding sources (e.g., whom to contact, what type of information and how much detail should be provided, who will be available for further questions, and how to ensure that communications are consistent)

3. Address administrative policies and procedures that should be used during a liquidity crisis:

- The responsibilities of senior management during a funding crisis
- Names, addresses, and telephone numbers of members of the crisis team
- Where, geographically, team members will be assigned
- Who will be assigned responsibility to initiate external contacts with regulators, analysts, investors, external auditors, press, significant customers, and others
- How internal communications will flow between management, ALCO, investment portfolio managers, traders, employees, and others
- How to ensure that the ALCO receives management reports that are pertinent and timely enough to allow members to understand the severity of the FI's circumstances and to implement appropriate responses.

The above outline of the scope of a good contingency plan is by no means exhaustive. FIs should devote significant time and consideration to scenarios that are most likely, given their activities. Regardless of the strategies employed, an FI should consider the effects of such strategies on long-term liquidity positions and take appropriate actions to ensure that level of risk exposures shall remain or be brought down within the risk tolerance of the Board.

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Limits structure

The Board and senior management should establish limits on the nature and amount of liquidity risk they are willing to assume. In setting limits, management should consider the nature of the FI's strategies and activities, its past performance, the level of earnings and capital available to absorb potential losses and costs of an FI's access to money markets and other alternative sources of funding.

Limits can take various forms. FIs should address limits on types of funding sources and uses of funds, including off-balance sheet positions. In addition, policies should set targets for minimum holdings of liquid assets relative to liabilities. Complex FIs, or FIs engaged in complex activities should set maximum cumulative cash-flow mismatches over particular time horizons and establish counterparty limits. Such limits should be applied to all currencies to which the FI has a significant exposure. In particular, FIs should take into consideration any legal distinctions and possible obstacles to cash flow movements between the RBU and the FCDU.

When evaluating a bank's liquidity position, the BSP will consider low levels of liquid assets relative to liabilities, and significant negative funding gaps to be indicative of high liquidity risk exposure. Further, negative cash-flow mismatches in the short term time buckets will receive heightened scrutiny by the BSP and should also receive the attention of senior management and the board of directors.

Before accepting negative funding gaps, or setting limits that allow negative funding gaps, the board and senior management should consider the FI's ability to fund these negative gaps. Factors include, but are not limited to: the availability of on-balance sheet liquidity, the amount of firm credit lines available

from commercial sources that can be drawn to fund the shortfall, and the amount of unencumbered on-balance sheet assets that can be sold without excessive loss and in a reasonable time-frame.

Further, actual positions and limits should reflect the outcome of possible stress scenarios caused by internal and external factors, particularly those related to reputation risk. Stress scenarios should consider the possibility that securities may be sold at a greater discount and/or may take more time to sell than expected or that credit lines and other off-balance sheet sources of funding may be cancelled or may be unavailable at reasonable cost.

Management should define specific procedures for the prompt reporting and documentation of limit exceptions and the management approval and action required in such cases.

Liquidity risk monitoring and reporting

An adequate management information system is critical in the risk monitoring process. The system should be able to provide the Board, senior management and other personnel with timely information on the FI's liquidity position in all the major currencies it deals in, on an individual and aggregate basis, and for various time periods.

Effective liquidity risk monitoring requires frequent routine liquidity reviews and more in-depth and comprehensive reviews on a periodic basis. In general, monitoring should include sufficient information and a clear presentation such that the reader can determine the FI's ongoing degree of compliance with risk limits. For example, reports should address funding concentrations, funding costs, projected funding needs and available funding sources.

Monitoring and board reporting should be robust. It is not unreasonable to expect complex FIs or FIs engaged in complex

activities to monitor liquidity on a daily basis. Board reporting should be no less frequent than monthly. However, the BSP would expect Board-level committees or sub-committees to receive more frequent reporting.

Comprehensive and accurate internal reports analyzing an FI's liquidity risk should be regularly prepared and reviewed by senior management and submitted to the board of directors.

D. Risk controls and audit

An FI should have adequate internal controls in place to protect the integrity of its liquidity risk management process. Fundamental to the internal control system is for the Board to prescribe independent reviews to evaluate the effectiveness of the risk management system and check compliance with established limits, policies and procedures.

An effective system of internal controls for liquidity risk includes:

1. A strong internal control environment;
2. An adequate process for identifying and evaluating liquidity risk;
3. Adequate information systems; and
4. Continual review of adherence to established policies and procedures.

To ensure that risk management objectives are achieved, management needs to focus on the following areas: appropriate approval processes, limits monitoring, periodic reporting, segregation of duties, restricted access to information systems and the regular evaluation and review by independent competent personnel.

Internal audit reviews should cover all aspects of the liquidity risk management process, including determining the appropriateness of the risk management system, accuracy and completeness of measurement models, reasonableness of assumptions and stress testing methodology. Audit staff should have the skills commensurate with the sophistication of the FI's risk management systems. Audit results should be promptly reported to the board. Deficiencies should be addressed in a timely manner and monitored until resolved/corrected.

E. Foreign currency liquidity management

The principles described in this Appendix also apply to the management of any foreign currency to which the FI maintains a significant exposure. Specifically, management should ensure that its measurement, monitoring and control systems account for these exposures as well. Management needs to set and regularly review limits on the size of its cash flow mismatches for each significant individual currency and in aggregate over appropriate time horizons. In addition, an FI should consider effects of other risk areas, particularly settlement risks from its off-balance sheet activities. An FI should also conservatively assess its access to foreign exchange markets when setting up its risk limits. As with overall liquidity risk management, foreign currency liquidity should be analyzed under various scenarios, including stressful conditions.

(Circular No. 545 dated 15 September 2006)

GUIDELINES ON TECHNOLOGY RISK MANAGEMENT
(Appendix to Sec. X176)

I. Background

Banks using technology-related products, services, delivery channels, and processes can be exposed to all types of risks enumerated under the BSP risk supervision framework more particularly operational, strategic, reputation, and compliance risk. With banks’ increased reliance on technology, it is important for the banks to understand how specific technologies operate and how their use or failure may expose banks to risk. The BSP expects banks to have the knowledge and skills necessary to understand and effectively manage their technology-related risks. The BSP will evaluate technology-related risks in terms of the categories of risks identified in its risk assessment system.

II. Description of technology related risks

Operational risk - This is the risk to earnings or capital arising from problems with service or product delivery. This risk is a function of internal controls, information systems, employee integrity, and operating processes. Operational risk exists in all products and services.

Technology can give rise to operational risk in many ways. Operational risk often results from deficiencies in system design, implementation, or ongoing maintenance of systems or equipment. For example, incompatible internal and external systems and incompatible equipment and software expose a bank to operational risk. Operational risk can increase when a bank hires outside contractors to design products, services, delivery channels, and processes that do not fit with the bank’s systems or customer demands. Similarly, when a bank uses vendors to perform core bank functions, such as loan underwriting and credit scoring, and does not have adequate controls in place to monitor the activities of

those vendors, operational risk may increase. Also, when banks merge with other banks or acquire new businesses, the bank’s combined computer systems may produce inaccurate or incomplete information or otherwise fail to work properly. The failure to establish adequate security measures, contingency plans, testing, and auditing standards also increases operational risk.

Strategic risk - This is the risk to earnings or capital arising from adverse business decisions or improper implementation of those decisions. This risk is a function of the compatibility of an organization’s strategic goals, the business strategies developed to achieve those goals, the resources deployed against these goals, and the quality of implementation. The resources needed to carry out business strategies are both tangible and intangible. They include communication channels, operating systems, delivery networks, and managerial capacities and capabilities.

Use of technology can create strategic risk when management does not adequately plan for, manage, and monitor the performance of technology-related products, services, processes, and delivery channels. Strategic risk may arise if management fails to understand, support, or use technology that is essential for the bank to compete or if it depends on a technology that is not reliable. In seeking ways to control strategic risk, a bank should consider its overall business environment, including: the knowledge and skills of senior management and technical staff; its existing and planned resources; its ability to understand and support its technologies; the activities and plans of suppliers of technology and their ability to support the technology; and the anticipated life cycle of technology-related products and services.

Reputation risk - This is the risk to earnings or capital arising from negative public opinion. This affects the institution’s ability to establish new relationships or services, or to continue servicing existing relationships. This risk can expose the institution to litigation, financial loss, or damage to its reputation. Reputation risk exposure is present throughout the organization and that is why banks have the responsibility to exercise an abundance of caution in dealing with its customers and community. This risk is present in activities such as asset management and regulatory compliance.

Reputation risk arises whenever technology-based banking products, services, delivery channels, or processes may generate adverse public opinion such that it seriously affects a bank’s earnings or impairs capital. Examples may include: flawed security systems that significantly compromise customer privacy; inadequate contingency and business resumption plans that affect a bank’s ability to maintain or resume operations and to provide customer services following system failures; fraud that fundamentally undermines public trust; and large-scale litigation that exposes a bank to significant liability and results in severe damage to a bank’s reputation. Adverse public opinion may create a lasting, negative public image of overall bank operations and thus impair a bank’s ability to establish and maintain customer and business relationships.

Compliance risk - This is the risk to earnings or capital arising from violations of, or nonconformance with laws, rules, regulations, prescribed practices, or ethical standards. Compliance risk also arises in situations where the laws or rules governing certain bank products or activities of the bank’s clients may be ambiguous or untested. Compliance risk exposes the institution to fines, civil money penalties, payment of damages, and the voiding of contracts. Compliance risk can lead to a

diminished reputation, reduced franchise value, limited business opportunities, lessened expansion potential, and the lack of contract enforceability.

Compliance risk may arise in many different ways. For example, it may arise when a bank fails to comply with applicable disclosure requirements or when it discloses information to outside party that it is required to keep confidential. Compliance risk also may arise when a bank does not have systems in place to ensure compliance with mandatory reporting statutes. The use of technology to automate lending decisions also could expose a bank to compliance risks if the programs are not properly tested or if the quality of the data is not verified. For example, the use of credit scoring models to automate lending decisions could expose a bank to compliance risk if the data upon which the program rely are flawed or if the program design itself is flawed.

As banks move increasingly from paper to electronic-based transactions and information exchanges, they need to consider how laws designed for paper-based transactions apply to electronic-based transaction and information exchanges. Some new technologies raise unexpected compliance issues. Transactions conducted through the internet also can raise novel questions regarding jurisdictional authority over those transactions. Therefore, banks should be careful to monitor and respond to changes to relevant laws and regulations arising from these developments.

III. Technology risk management process

The technology risk management process is designed to help the bank to identify, measure, monitor, and control its risk exposure. The process involves three (3) essential elements, namely:

- 1. Planning
- 2. Implementing
- 3. Measuring and monitoring performance

It is the responsibility of bank's board of directors and a senior management committee to ensure that an effective planning process exists, that technology is implemented properly with appropriate controls, and that measurement and monitoring efforts effectively identify ways to manage risk exposure. The process should be more complex for larger institutions, particularly for those with major technology-related initiatives.

For each IT project, the bank should adopt specific milestones and corresponding timelines up to the full implementation of the IT project.

A. Planning

Technology planning often involves strategic, business, and project planning;

- Strategic plan establishes the overall role of technology as it relates to the bank's mission and assesses the type of technology that a bank needs to fulfill that role;
- Business plan integrates the new technology into existing lines of business and determines the level of technology best suited to meet the needs of particular business lines;
- Project plan establishes resource needs, time lines, benchmarks, and other information necessary to convert the business plan into operation.

The review and planning cycle may vary depending on the type of institution and its uses of different types of technologies. Proper planning minimizes the likelihood of computer hardware and software systems incompatibilities and failures, and maximizes the likelihood that a bank's technology is flexible enough to adapt to future needs of the bank and its customers.

Because technology is constantly changing, bank management should periodically assess its uses of technology as part of its overall business planning. Such an enterprise-wide and ongoing approach helps to ensure that all major technology

projects are consistent with the bank's overall strategic goals. Planning should consider issues such as:

- Cost of designing, developing, testing and operating the systems whether internally or externally;
- Ability to resume operations swiftly and with all data intact in the event of system failure or unauthorized intrusions;
- Adequacy of internal controls, including controls for third party providers; and
- Ability to determine when a specific risk exposure exceeds the ability of an institution to manage and control that risk.

In cases when specialized expertise is needed to design, implement, and service new technologies, vendors may provide a valuable means to acquire expertise and resources that a bank cannot provide on its own. However, in planning on whether and how to contract for its technology needs, a bank should assess how it will manage the risks associated with these new relationships. Without adequate controls, the use of vendors to design or support new bank technologies and systems could increase a bank's exposure to risk. While a bank can outsource many functions, management remains responsible for the performance and actions of its vendors while the vendors are performing work for the bank.

To have an effective planning process for technology-related applications, bank's planning process should at least have the following basic components:

1. *Involvement of the board of directors and senior management*

The board of directors and a senior management committee play an important role in managing bank's IT risks. Both should have knowledge of and involvement in the technology planning process.

The board of directors and the senior management committee should review, approve, and monitor technology projects that may have a significant impact on the

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bank’s operations, earnings or capital. In addition, senior management is expected to have more involvement in and more knowledge about the day to day operations of these projects than the board of directors. At least one (1) key senior manager should have knowledge and skills to evaluate critically the design, operation and oversight of technology projects. The board should be fully informed by the senior management committee, on an ongoing basis, of the risks that technology projects may pose to the bank.

Banks that use technology extensively, particularly large banks, should have sufficient expertise and knowledge among managers and staff to provide critical review and oversight of technology projects and to manage risks associated with them. Projects should be coordinated to ensure that they adhere to appropriate policies, standards, and risk management controls. In addition, senior managers with knowledge of the bank’s technology initiatives should report periodically to the board of directors on technology-related initiatives.

2. *Gathering and analysis of relevant information*

Banks should consider existing systems, consumer expectations, and competitive forces in their planning for new or enhanced uses of technology. In the process of gathering and analyzing information, a bank should:

- a. Make an inventory of the existing systems and operations. A bank should review their existing systems to determine whether they satisfy current and projected bank needs. They should also evaluate how new technologies will fit into existing systems and whether additional changes to those systems will be necessary to accommodate the new technologies.
- b. Review industry standards. Bank management should assess current and developing industry standards in determining whether to implement

specific technologies. Technical standards help to ensure that systems are compatible and inter-operable.

- c. Determine when to deploy new technology. Timing is critical because there are risks in deploying new technologies too slowly or too rapidly.

3. *Assessment and Review*

Bank management should carefully assess its technology needs and review its options within the context of overall planning. Management should consider whether the necessary resources, time, and project management expertise is available to successfully complete any new technology proposal. Prior to adopting new technologies, bank management should identify weaknesses or deficiencies in the bank’s ability to use them. Management should also consider whether staff can operate both new and existing systems simultaneously. These considerations will help management to choose the type and level of technology best suited to support its key business needs and objectives.

Banks should be cautious in establishing project objectives and should ensure that the objectives are neither too ambiguous nor too ambitious. Management should control the bank’s risk exposure through practical planning. This planning may include dividing projects into manageable segments and establishing specific decision points as to whether a project should be modified or terminated. Planning should also establish contingency and exit plans in the event a new project does not proceed as planned.

Management should assess and, where possible, attempt to quantify the costs and benefits of adopting new technology when reviewing its options. As part of this assessment, management should evaluate the risks, financial consequences, and likelihood that certain risks may occur. This review should also include assessment of the cost to start, run, and terminate a project.

B. *Implementation*

Proper implementation of projects and initiatives is needed to convert plans into better products and services, delivery channels, and processes. Banks should establish the necessary controls to avoid operational failures and unauthorized intrusions which could result in increased losses and damaged reputation. At a minimum, management should establish technology standards that set the direction for the bank in terms of the overall structure or architecture of its technology systems.

Management should establish priorities to ensure proper coordination and integration of projects among managers, work units, and team members. It should provide clearly defined expectations, including user and resource requirements, cost estimates, project benchmarks, and expected deliver dates. Proper project monitoring by all relevant parties is important. Project managers should inform the senior management committee of obstacles as early as possible to ensure that proper controls are in place and corrective action can be taken to manage risk exposure.

Proper project implementation should include the following:

a. *Controls*

Controls comprises of policies, procedures, practices and organizational structures designed to provide reasonable assurance that business objectives will be achieved and undesired events will be prevented or detected and corrected. Banks should adopt adequate controls based on the degree of exposure and the potential risk of loss arising from the use of technology. Controls should include clear and measurable performance goals, the allocation of specific responsibilities for key project implementation, and independent mechanisms that will both measure risks and minimize excessive risk-taking. These controls should be re-evaluated periodically.

Bank information system security controls are particularly important. Security measures should be clearly defined with measurable performance standards. Responsible personnel should be assigned to ensure a comprehensive security program. Bank management should take necessary steps to protect mission-critical systems from unauthorized intrusions. Systems should be safeguarded, to the extent possible, against risks associated with fraud, negligence, and physical destruction of bank property. Control points should include facilities, personnel, policies and procedures, network controls, system controls, and vendors. For example, security access restrictions, background checks on employees, separation of duties, and audit trails are important precautions to protect system security within the bank and with vendors. As technologies and systems change or mature, security controls may need to change periodically as well.

b. *Policies and procedures*

Bank management should adopt and enforce appropriate policies and procedures to manage risk related to bank's use of technology. The effectiveness of these policies and procedures depends greatly on whether they are in practice among bank personnel and vendors. Testing compliance with these policies and procedures often helps banks correct problems before they become serious. Clearly written and frequently communicated policies can establish clear assignments of duties, help employees to coordinate and perform their tasks effectively and consistently, and aid in the training of new employees. Bank management should ensure that policies, procedures, and systems are current and well-documented.

c. *Expertise and training*

Bank management should ensure that key employees and vendors have the expertise and skills to perform necessary

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functions and that they are properly trained. Management should allocate sufficient resources to hire and train employees and to ensure that there is succession planning particularly for the critical officers of the bank. Training may include technical course work, attendance at industry conferences, participation in industry working groups, as well as time allotment for appropriate staff to keep abreast of important technological and market developments. Training also includes customer orientations to ensure that bank's customers understand how to use or access bank's technology products and services and that they are able to do so in an appropriate and sound manner.

d. Testing

Bank management should thoroughly test new technology systems and products. Testing validates that equipment and systems function properly and produce the desired results. As part of the testing process, management should verify whether new technology systems operate effectively with the bank's existing systems and, where appropriate, should include vendors. Pilot programs or prototypes can be helpful in developing new technology applications before they are used on a broad scale. Testing should be conducted periodically to help manage risk exposure.

e. Contingency planning and business resumption planning

Bank's systems should be designed to reduce bank's vulnerability to system failures, unauthorized intrusions, and other problems. Bank should have back-up systems in place and they should be maintained and tested on a regular basis to make sure that they will be readily available when the need arises. The risk of equipment failure and human error is possible in all systems. This risk may result from sources both within and beyond bank's control. System failures and unauthorized intrusions may result from design defects, insufficient system capacity, and destruction of a

facility by natural disasters or fires, security breaches, inadequate staff training, or uncontrolled reliance on vendors.

A bank should have business continuity plans in place before the bank implements new technology. They should establish a bank's course of action in the event of a system failure or unauthorized intrusions and should be integrated with all other business continuity plans for bank operations. The plan may address data recovery, alternate data-processing capabilities, emergency staffing, and customer service support. Management should establish a communication plan that designates key personnel and outlines a program for employee notification. The plan should include a public relations and outreach strategy to respond promptly to customer and media reaction to system failure or unauthorized intrusions. Management should also plan for how it may respond to events outside the bank that may substantially affect customer confidence, such as an operational failure experienced by a competitor that relies on similar technology.

Additional reference should also be made to BSP Memorandum dated 22 January 2004 and 03 April 2003 on Back-up Operations Centers and Data Recovery Sites and Updated Business Continuity Plan, respectively.

f. Proper oversight of outsourcing activities

Bank management should ensure that all necessary controls are in place to manage risks associated with outsourcing and external alliances. Management should ensure that vendors have the necessary expertise, experience, and financial strength to fulfill their obligations. They also should ensure that the expectations and obligations of each party are clearly defined, understood and otherwise enforceable. Management should make certain that the bank has audit rights for vendors so that the bank can

monitor performance under the vendor contract.

The key elements of proper project implementation apply whether a bank relies on employees, vendors, or both to develop and implement projects. Failure to establish necessary controls may result in compromised security, substandard service, and the installation of incompatible equipment, system failure, uncontrolled costs, and the disclosure of private customer information. If a bank joins or forms alliances with other banks or companies, management should perform adequate due diligence to ensure that the joint-venture partners are competent and have the financial strength to fulfill their obligations. Adequate bank resources will be required to monitor and measure performance under the terms of any third-party agreement. Additional reference should be made to Sec. X162 on Outsourcing.

C. Measurement and monitoring

As part of both planning and monitoring, banks must establish clearly defined measurement objectives and conduct periodic reviews to ensure that goals and standards established by bank management are met. Goals and standards should include an emphasis on data integrity, which is essential to any effective use of technology. Information should be complete and accurate both before and after it is processed. This is a particular concern in any significant merger with other institutions or acquisition of other businesses. Control of technology projects is complex because of the difficulty in measuring progress and determining actual costs. It is important that bank management establish benchmarks that are appropriate for particular applications. Ultimately, the success of technology depends on whether it delivers the intended results.

Management should monitor and measure the performance of technology related products, services, delivery

channels, and processes in order to avoid potential operational failures and to mitigate the damage that may arise if such failures occur. Bank management should establish controls that identify and manage risks so that the bank can adequately manage them. To ensure accountability, management should specify which managers are responsible for the business goals, objectives, and results of specific technology projects or systems and should establish controls, which are independent of the business unit, to ensure that risks are properly managed. Technology processes should be reviewed periodically for quality and compliance with control requirements.

Auditing

Auditors provide an important control mechanism for detecting deficiencies and managing risks in the implementation of technology. They should be qualified to assess the specific risks that arise from specific uses of technology. Bank management should provide auditors with adequate information regarding standards, policies, procedures, applications, and systems. Auditors should consult with bank management during the planning process to ensure that technology-related systems are audited thoroughly and in a cost-effective manner.

Quality assurance

Bank management should establish procedures to ensure that quality assurance efforts take place and that the results are incorporated into future planning in order to manage and limit excessive risk taking. These procedures may include, for example, internal performance measures, focus groups and customer surveys. Bank should conduct quality assurance reviews whenever it engages in a significant combination with another institution or acquires another business.

(Circular No. 511 dated 03 February 2006)

AUTHORIZATION FORM FOR QUERYING THE BANGKO SENTRAL
WATCHLIST FILES FOR SCREENING APPLICANTS AND CONFIRMING
APPOINTMENTS OF DIRECTORS AND OFFICIALS
(Appendix to Subsec. X143.5)

A U T H O R I Z A T I O N

I, _____, after being sworn in accordance with law, do hereby authorize the following, pursuant to the provisions of Subsec. X143.5(c), of the MORB:

- a) _____ (Name of Bank) _____, to conduct a background investigation on myself relative to my application for or appointment to the position of (position) in _____ (Name of Bank) _____ which include, among others, inquiring from the Watchlist Files of the BSP; and
- b) The BSP to disclose its findings pertinent to the aforementioned inquiry on the said watchlist files to _____ (Name of Bank) _____.

With the above authorization, I hereby waive my right to the confidentiality of the information that will be obtained as a result of the said inquiry, provided that disclosure of said information will be limited for the purpose of ascertaining my qualification or non-qualification for the said position.

IN WITNESS WHEREOF, I have hereunto set my hand this _____.

(Signature Over Printed Name)

SIGNED IN THE PRESENCE OF:

(Witness)

(Witness)

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ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES } S.S.
_____CITY }

BEFORE ME, this ____ day of _____ 200 ____ in _____
personally appeared the following person:

Name	Community Tax Certificate	Place	Date

known to me to be the same person who executed the foregoing instrument and he
acknowledged to me to be the same person who executed the foregoing instrument and
he acknowledged to me that the same is his free act and deed.

This instrument, consisting of two (2) pages, including the page on which this
acknowledgment is written, has been signed on the left margin of each and every page
thereof by _____, and his witnesses, and sealed with my notarial seal.

IN WITNESS WHEREOF, I have hereunto set my hand, the day, year and place
above written.

Notary Public

Doc. No.: _____
Page No.: _____
Book No.: _____
Series of 200 _____

(CL-2006-046 dated 21 December 2006, as amended by CL-2007-001 dated 04 January 2007)

FINANCIAL REPORTING PACKAGE
[Appendix to Subsection X191.2 (2008 - X162.16)]

The *Financial Reporting Package (FRP)* is a set of financial statements for prudential reporting purposes composed of the Balance Sheet, Income Statement and Supporting Schedules. The FRP is primarily designed to align the BSP reportorial requirements with the (1) provisions of the Philippine Financial Reporting Standards (PFRS)/Philippine Accounting Standards (PAS) and (2) Basel 2 Capital Adequacy Framework. It is also designed to meet BSP statistical requirements.

Organization of the Instructions of the FRP

This instruction is divided into the following sections:

- (1) The General Instructions, which describe the overall reporting requirements;
- (2) Structure of the FRP;
- (3) Manual of Accounts, which provides in the order presented in the Balance Sheet and the Income Statement the definitions of the accounts in the FRP;
- (4) Line Item Instructions for the Balance Sheet; Income Statements and Supporting Schedules; and
- (5) Report Formats, for solo and consolidated reports

In determining the required treatment of particular transactions or in determining the definitions of the various items, the General Instructions, the Structure of the FRP, Manual of Accounts and Line Item Instructions must be used jointly. A single section does not necessarily give the complete instructions for accomplishing the main report and schedules.

GENERAL INSTRUCTIONS

Who must Report on What Forms/ Schedules

All banks are required to prepare the FRP. The FRP shall be prepared on a solo and consolidated basis. Solo basis shall refer to the combined financial statements of the head office and branches/other offices. Consolidated basis shall refer to the combined financial statements of parent bank and subsidiaries consolidated on a line by line basis. Only banks with financial allied subsidiaries, excluding insurance subsidiaries, shall submit the report on consolidated basis.

The solo and consolidated FRP shall be prepared on a quarterly basis, except for the solo balance sheet and the following selected schedules which shall be prepared on a monthly basis.

- (1) Schedule 1 : Checks and Other Cash Items
- (2) Schedule 2 : Due from Other Banks
- (3) Schedule 3 : Financial Assets Held for Trading
- (4) Schedule 4a : Derivatives Held for Trading, Matrix of Counterparty and Type of Derivative Contracts
- (5) Schedule 5 : Financial Assets Designated at Fair Value Through Profit or Loss
- (6) Schedule 6 : Available for Sale Financial Assets
- (7) Schedule 7 : Held to Maturity Financial Assets
- (8) Schedule 8 : Unquoted Debt Securities Classified as Loans
- (9) Schedule 9 : Investment in Non Marketable Equity Securities

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- (10) Schedule 10 : Interbank Loans Receivables
- (11) Schedule 11 : Loans and Receivables – Others
- (12) Schedule 11a : Loans and Receivables – Others, Classified as to Status to 11a4
- (13) Schedule 11b : Restructured Loans and Receivables, Classified as to Status to 11b4
- (14) Schedule 11d : Loans and Receivables – Others, at Amortized Cost, Classified as to Type of Business/ Industry to 11d4
- (15) Schedule 11f :Schedule of Agri/Agra, SME, Development Loans Incentives and Microfinance Loans and Receivables, Classified as to Counterparty
- (15) Schedule 12 :Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/ Participation with Recourse and Securities Lending and Borrowing Transactions, By Counterpart
- (16) Schedule 15 :Equity Investment in Subsidiaries, Associates and Joint Ventures
- (17) Schedule 19 :Other Assets
- (19) Schedule 20 :Breakdown of Due from/to HO/Branches/ Agencies Abroad – Philippine Branch of a Foreign Bank
- (20) Schedule 22 :Deposit Liabilities Classified as to Type of Deposit
- (21) Schedule 23 :Due to Other Banks
- (18) Schedule 24 :Bills Payable
- (19) Schedule 28 :Other Liabilities

Solo and consolidated income statement shall be prepared quarterly on a cumulative basis, i.e., first quarter report shall cover results of operations during the first quarter, second quarter report shall cover results of operations during the first and second quarters, etc.

All schedules shall be available to any type of reporting bank. Hence, schedules that do not apply to a particular bank should only be left blank when submitted.

Frequency of Reporting

The solo FRP, shall be submitted quarterly within fifteen (15) banking days after the end of the reference quarter. The solo balance sheet and the selected schedules listed above shall be submitted monthly within fifteen (15) banking days after the end of the reference month. The consolidated FRP, on the other hand, shall be submitted quarterly within thirty (30) banking days after end of reference quarter.

The following schedules or columns of particular schedules of the solo and/or consolidated FRP, however, are required to be submitted and/or accomplished only annually (i.e. end December of each year):

- (1) Schedule 6b : Available for Sale to 6b(3) Financial Assets ("Collateral and Other Credit Enhancements Received as Security for the Related Impaired and Past Due Assets" column)
- (2) Schedule 6c : Available for Sale to 6c(3) Financial Assets Movements in Allowances for Credit Losses
- (3) Schedule 7b : Fair Value of Held to Maturity Financial Assets

- (4) Schedule 7c : Held to Maturity
to 7c(3) Financial Assets
("Collateral and
Other Credit
Enhancements
Received as Security
for the Related
Impaired and Past Due
Assets" column)
- (5) Schedule 7d : Held to Maturity
to 7d(3) Financial Assets
Movements in
Allowances for Credit
Losses
- (6) Schedule 8a : Fair Value of Unquoted
Debt Securities
Classified as Loans
- (7) Schedule 8b : Unquoted Debt
to 8b(3) Securities Classified as
Loans ("Collateral and
Other Credit
Enhancements
Received as Security
for the Relate
Impaired and Past Due
Assets" column)
- (8) Schedule 8c : Unquoted Debt
to 8c(3) Securities Classified as
Loans Movements in
Allowances for Credit
Losses
- (9) Schedule 11e : Loans and
to 11e(3) Receivables-Others
Classified as to Status
Per PAS 39
- (10) Schedule 15a : Investment in
Subsidiaries,
Associates and Joint
Ventures
(Fair Value Column)
- (11) Schedule 18 : Tax Assets and
Liabilities
- (12) Schedule 26 : Fair Value of Financial
Liabilities

Rules of Consolidation

In preparing consolidated financial statements, only investments in financial allied subsidiaries except insurance subsidiaries shall be consolidated on a line-by-line basis in accordance with

PAS 27 "Consolidated and Separate Financial Statements", while insurance and non-financial allied subsidiaries shall be accounted for using the equity method. Financial/non-financial allied/non-allied associates shall be accounted for using the equity method in accordance with the provisions of PAS 28 "Investments in Associates".

For purposes of preparing solo financial statements, financial/non-financial allied/non-allied subsidiaries/associates, including insurance subsidiaries/associates, shall also be accounted for using the equity method.

For purposes of preparing consolidated reports, the "Peso accounts", "Foreign accounts", "FCDU/EFCDU" and "Foreign Offices", and their supporting schedules shall not be filled-up/accomplished.

Amounts Reported

All amounts reported in the FRP must be in absolute figures including two (2) decimal places, except for "Losses" columns/rows which shall be reported in negative figures, i.e., enclosed in parentheses.

STRUCTURE OF THE FRP

(1) The FRP is designed to reflect the two (2) types of books as follows': (1) regular banking book, which shall be comprised of (a) peso accounts; and (b) foreign accounts and (2) FCDU/EFCDU as allowed under Circular No. 1389 dated 13 April 1993, as amended. Transactions in the foreign regular and FCDU/EFCDU books shall be recorded at their foreign currency amounts and their local currency equivalent using the Philippine Dealing System (PDS) Peso/US Dollar closing rate and the New York US Dollar/Third Currencies closing rate.

(2) The FRP generally groups transactions into the different counterparties of the reporting bank. Foreign offices and

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branches of local banks abroad shall classify their counterparties from the perspective of the Head Office. Counterparties are broadly classified as to residents and non-residents and further sub-classified into the different sectors and institutional units defined as follows:

(a) *Residents* – This refers to individuals or institutional units that have a center of economic interest in the economic territory of the Philippines.

(a.1) Government

(i) *National Government* – This refers to the Philippine National Government and its agencies such as departments, bureaus, offices, and instrumentalities, but excluding local government units and government-owned and controlled corporations.

(ii) *Local Government Units (LGUs)* – This refers to the Philippine government units below the level of national government, such as city, provincial and municipal governments.

(iii) *Government-Owned and Controlled Corporations (GOCCs)* – This refers to any agency organized as a stock or non-stock corporation vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the government directly or indirectly or through its instrumentalities either wholly, or where applicable as in the case of stock corporations to the extent of at least fifty-one percent (51 %) of its capital stock: *Provided, That* GOCCs may be further categorized by the DBM, the Civil Service Commission and the COA for the purpose of the exercise and discharge of their respective powers, functions and responsibilities with respect to such corporations.

- *Social Security Institutions (SSIs)* – This refers to the social security agencies such as the Employees Compensation Commission (ECC), Government Service Insurance System (GSIS), Philippine Health

Insurance Corporation (PhilHealth) and Social Security System (SSS).

- *Other FIs* – This refers to GOCCs that are primarily engaged in financial intermediation or in auxiliary financial activities that are closely related to financial intermediation but are not classified as banks such as the Home Guaranty Corporation (HGC), Trade and Investment Development Corporation (TIDCORP) and Small Business Corporation (SBC)

- *Non-FIs* – This refers to GOCCs that may not be classified as a social security institution nor other FIs.

(a.2) BSP

(a.3) Banks

- *UBs/KBs* – This refers to UBs and KBs as defined under existing laws and regulations.

- *Government Banks* – This refers to UBs/KBs owned or controlled by the national government such as the DBP, the LBP and the Al-Amanah Islamic Investment Bank of the Philippines.

- *Non-Government Banks* – This refers to private UBs/KBs, which are neither owned nor controlled by the national government, including branches of foreign banks licensed as UBs/KBs operating in the Philippines.

(ii) *Other Banks* – This refers to banks other than UBs/KBs i.e., TBs, RBs and Coop. Banks.

(a.4) Private Corporations

(i) *Financial* - This refers to private corporations that are primarily engaged in financial intermediation or in auxiliary financial activities that are closely related to financial intermediation but are not classified as banks. This shall include among others, insurance corporations, pension funds that are constituted as separate from the units that have created them, NSSLAs and QBs. Except in the case of “Loans and Receivables – Interbank Loans and Receivables” where QBs shall be a separate line item.

¹ Provide Columns (in US\$ and Peso Equivalent) for foreign accounts, where applicable.

(ii) *Non-Financial* – This refers to private corporations whose principal activity is the production of goods or non-financial services for sale.

(b) *Non-Residents* – This refers to individuals or institutional units that have a center of economic interest outside the economic territory of the Philippines.

(b.1) Central Government/Central Bank – *Central Government* refers to the central government of a foreign country which is regarded as such by a recognized banking supervisory authority in that country. *Central Bank* refers to the national FI (or institutions) that exercises control over key aspects of the financial system and carries out such activities as issuing currency, managing international reserves, and providing credit to other depository corporations.

(b.2) *Public Sector Entities* – This refers to entities which are regarded as such by a recognized banking supervisory authority in the country in which they are incorporated.

(b.3) Banks

(i) *Off-Shore Banking Units (OBUs)* – This refers to a branch, subsidiary or affiliate of a foreign banking corporation which is duly authorized by the BSP to transact offshore banking business in the Philippines.

(ii) *Other Banks* – This refers to the non-resident banks other than OBUs.

(b.4) Corporations – This refers to non-resident corporations.

(c) *Multilateral Agencies* – This refers to the World Bank Group comprised of the IBRD and the IFC, ADB, AfDB, the EBRD, the IADB, the EIB, the NIB; the CDB, the CEDB and such others as may be recognized by the BSP.

(3) The supporting schedules in the FRP contain an Additional Information section which requires disclosure of information necessary for validating compliance with other BSP requirements

and for statistical purposes. Among the information required to be disclosed are the following:

(a) Classification as to Original Term, which shall be reported only for solo reports

(a.1) Short Term (1 year or less)

(a.2) Medium Term (> 1 year to 5 years)

(a.3) Long Term (> 5 years)

(b) Geographic Regions of Non-Resident Counterparties

(b.1) Advanced Economies – Australia; Austria; Belgium; Canada; Cyprus; Denmark; Finland; France; Germany; Greece; Hong Kong SAR; Iceland; Ireland; Israel; Italy; Japan; Korea; Luxembourg; Netherlands; New Zealand; Norway; Portugal; Singapore; Slovenia; Spain; Sweden; Switzerland; Taiwan Province of China; United Kingdom and United States

(b.2) Regions Excluding Advanced Economies

(i) Africa – Algeria; Morocco; Tunisia and Sub-Sahara

Of which; Sub-Sahara – South Africa; Djibouti; Ethiopia; Sudan; Burundi; Congo, Democratic Republic of; Kenya; Rwanda; Tanzania; Uganda; Angola; Botswana; Comoros; Lesotho; Madagascar; Malawi; Mauritius; Mozambique, Republic of; Namibia; Seychelles; Swaziland; Zambia; Zimbabwe; Cape Verde; Gambia, The; Ghana; Guinea; Mauritania; Nigeria; Sao Tome and Principe; Sierra Leone; Benin; Burkina Faso; Cameroon; Central African Republic; Chad; Congo, Republic of; Cote d'Ivoire; Equatorial Guinea, Gabon; Guinea – Bissau; Mali; Niger; Senegal; and Togo.

(ii) Central and Eastern Europe - Albania; Bulgaria; Croatia; Czech Republic; Estonia; Hungary; Latvia; Lithuania; Macedonia, FYR; Malta; Poland; Romania; Slovak Republic and Turkey.

(iii) Commonwealth of Independent States – Armenia; Azerbaijan; Belarus; Georgia; Kazakhstan; Kyrgyz Republic;

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Moldova; Mongolia; Russia; Tajikistan; Turkmenistan; Ukraine and Uzbekistan.

(iv) Developing Asia – Bangladesh; Bhutan; Cambodia; China; Fiji; India; Indonesia; Kiribati; Lao PDR; Malaysia; Maldives; Myanmar; Nepal; Pakistan; Papua New Guinea; Samoa; Solomon Islands; Sri Lanka; Thailand; Tonga; Vanuatu and Vietnam.

(v) Middle East – Bahrain; Iran I.R.; Kuwait; Libya; Oman; Qatar; Saudi Arabia; United Arab Emirates; Yemen, Republic of; Egypt; Jordan; Lebanon and Syrian Arab Republic.

(vi) Western Hemisphere – Mexico; Argentina; Brazil; Bolivia; Chile; Colombia;

Ecuador; Paraguay; Peru; Uruguay; Venezuela; Costa Rica; El Salvador; Guatemala; Honduras; Nicaragua; Panama; Antigua and Barbuda; Bahamas, The; Barbados; Belize; Dominica; Dominican Republic; Grenada; Guyana; Haiti; Jamaica; St. Kitts and Nevis; St. Lucia; St. Vincent and the Grenadines; Suriname and Trinidad and Tobago.

Definition of the other items and instructions for filling-out the Additional Information section of each supporting schedule are presented in the Line Item Instructions.

(Circular No. 512 dated 03 February 2006 as amended by M-2008-012 dated 14 March 2008 and Circular No. 568 dated 08 May 2007)

GUIDELINES FOR TRUST DEPARTMENTS’ PLACEMENTS IN THE SPECIAL
DEPOSIT ACCOUNT FACILITY OF THE BANGKO SENTRAL
(Appendix to Subsec. X409.2)

The following are the guidelines governing the trust departments’ placements in the SDA facility of BSP.

1. Access to the subject BSP facility shall be granted upon receipt by the BSP Treasury Department (BSP-TD) of a letter of request (*Appendix 78 Annex 1*) for account opening together with the following requirements:
 - a. Internal approvals allowing the trust department to invest in the BSP SDA facility;
 - b. A list of authorized signatories;
 - c. A list of authorized traders; and
 - d. Contact details for the front and back offices.
2. The trust department shall use a depository institution that is a PhilPASS member when placing its funds in the SDA facility. On transaction date, the trust department shall instruct said depository institution to debit their account in favor of their SDA with the BSP. Similarly, the trust department shall specify a PhilPASS member to which its principal and interest will be credited at maturity of the SDA placement.
3. Trading hours shall be from 10:00 am to 3:00 pm for all business days. All trades shall settle on trade date.
4. Applicable tenors and pricing shall be based on published rates (i.e., in Bloomberg’s CBPHI and Reuters BANGKO page).
5. The existing tiering scheme, as detailed below shall be applied to the SDA placements of the trust departments separately from the placements of their bank proper.

<u>Tier</u>	<u>Tiered Rate</u>
Amounts less than or equal to P5.0 billion	BSP published rate

<u>Tier</u>	<u>Tiered Rate</u>
Amounts in excess of P5.0 billion up to P10.0 billion	BSP published rate less 2%
Amounts in excess of P10.0 billion	BSP published rate less 4%

6. The minimum placement is P10.0 million with the additional amounts in increments of P1.0 million.
7. Trust departments may place only once per tenor per day
8. Trust departments may pre-terminate their SDA placements, either fully or partially. If the holding period of the SDA placement when it is rate pre-terminated is less than fifty percent (50%) of the original tenor of the said placement, the applicable interest rate for the pre-terminated amount will be the rate dealt on value date less two percent (2%) p.a. If the holding period is fifty percent (50%) or more of the original tenor, the applicable interest rate for the pre-terminated amount will be the rate dealt on value date less one percent (1%) p.a. The pre-termination rate shall apply only to the amount pre-terminated.
9. The income from the SDA is subject to a twenty percent (20%) final withholding tax
10. Depository institution shall generally follow the existing settlement process for SDA placements with BSP of banks. The trust department will be required to send the transaction confirmation directly to the BSP-TD back office. A sample confirmation is attached as *Appendix 78 Annex 1* and *Annex 2*.
11. Trust departments may request a statement from the BSP-TD for their outstanding SDA placement as of a specified date.

(M-2007-011 dated 08 May 2007)

(Institution’s Letterhead)

Date: _____

Mrs. Ma. Ramona GDT Santiago
Managing Director
Treasury Department
Bangko Sentral ng Pilipinas

Dear Madam:

Pursuant to Monetary Board Resolution Nos. 433 and 518 dated 19 April 2007 and 3 May 2007, allowing trust departments to place their funds in the BSP’s Special Deposit Account (SDA) facility, the trust department of (name of institution) respectfully request the creation of an account for the said facility.

Please find attached the following documents, as required:

- a. Internal approvals allowing the trust department to invest in the SDA facility;
- b. A list of authorized signatories;
- c. A list of authorized traders; and
- d. Contract details for the front and back offices.

For your kind attention.

Very truly yours,

(AUTHORIZED SIGNATORY)1

(AUTHORIZED SIGNATORY)2

(Institution’s Letterhead)

Date:_____

TREASURY DEPARTMENT
Treasury Services Group - Domestic
Bangko Sentral ng Pilipinas

Gentlemen:

This is to confirm our **Special Deposit Account** placement to yourselves as follows:

VALUE DATE	
TERM	
MATURITY DATE	
RATE	
PRINCIPAL AMOUNT	
GROSS INTEREST	
WITHHOLDING TAX	
NET MATURITY VALUE	

On value date, our funds will come from Regular Demand Deposit account of (name of depository bank).

Accordingly, please **CREDIT** the Regular Demand Deposit Account of (name of depository bank) on maturity date the amount of _____ PESOS (P_____), representing full payment of the principal plus interest (net of applicable withholding tax) thereon.

Very truly yours,

(AUTHORIZED SIGNATORY)1

(AUTHORIZED SIGNATORY)2

**SPECIAL DEPOSIT ACCOUNT PLACEMENTS OF TRUST DEPARTMENTS/
ENTITIES AS AGENT FOR TAX-EXEMPT INSTITUTIONS AND ACCOUNTS**
(Appendix to Subsection X409.2)

Section 1. Placement of tax-exempt accounts in the SDA facility should comply with existing minimum placement and incremental requirements for the SDA facility.

Sec. 2. On transaction date, the trust department/entity must inform the BSP the exact amount of the tax-exempt placement in the SDA and submit the following supporting documents:

- a. Copy of the relevant ruling from the BIR, duly certified by the latter, affirming the exemption from taxes of the income earned by concerned TELs or accounts from their investments;
- b. Copy of the board resolution duly certified by the corporate secretary authorizing the placement (directly for managed funds or indirectly through designated trustee bank/FI in the case of managed trust funds) in the SDA facility;

c. Copy of the covering trust agreement; and

d. Certification from the trust department that such placements, for as long as these are outstanding, are owned by the specified TELs and are accordingly exempt from said twenty percent (20%) final withholding tax (FWT). Shown in Annex 1.

Advance copies may be sent through facsimile (facsimile number 523-3348) or electronic mail of BSP-Treasury Back Office personnel (jsiguenza@bsp.gov.ph).

Absent the supporting documents by end of the business day, the tax-exempt placement will be cancelled.

Sec. 3. For outstanding tax-exempt SDA placements as of 01 November 2007, trust departments must submit the documents specified in *Item "2"* hereof on or before 04 December 2007 to avail of the exemption from withholding tax.

(M-2007-038 dated 29 November 2007)

(Trust Entity/Department’s Letterhead)

Date: _____

Ms. Ma. Ramona GDT Santiago
Managing Director
Treasury Department
Bangko Sentral ng Pilipinas
A. Mabini corner P. Ocampo Sts.
Manila 1004

Dear Ms. Santiago:

This refers to the placement/s amounting to ***(Peso Amount)*** placed in the BSP’s SDA facility at ***(SDA rate)*** % per annum for value ***(Value date)*** to mature on ***(Maturity date)***.

This is to certify that the above placement/s is/are transacted on behalf of the following Tax-Exempt Institutions (TEI) or tax-exempt funds and interest income thereon are exempt from the twenty percent (20%) final withholding tax based on the corresponding BIR rulings:

Tax Exempt Institutions	Basis (BIR Ruling No. and date)	Amount
1.		
2.		
3.		
(rows may be increased depending on number of placements)		
TOTAL		

This is to further certify that above placements will be owned by the specified TEIs/tax-exempt funds for as long as these placements are outstanding.

In the event that the BSP is assessed for deficiency final withholding tax on the above placements by the Bureau of Internal Revenue (BIR), (Bank name) shall be liable for and pay such deficiency taxes and surcharges, and/or indemnify/reimburse the BSP for such deficiency taxes and surcharges that the latter may eventually pay to the BIR as a result thereof. Further, (Bank name) hereby authorizes the BSP to automatically debit its regular demand deposit account with the BSP for payment or reimbursement of any such deficiency taxes and surcharges.

Sincerely yours,

HEAD OF TRUST DEPARTMENT

SUBSCRIBED AND SWORN to before me this ____ day of _____ 2007 at _____, affiant exhibiting to me his Community Tax Certificate/Passport No. _____, issued at _____, on _____.

Notary Public

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 200____

**GUIDELINES IN DETERMINING COMPLIANCE WITH CEILINGS
ON EQUITY INVESTMENTS**
(Appendix to Secs. X378, X380, 1381, and X383, Subsecs. X379.1, 1381.1, and 1381.2)

The following are the guidelines in determining compliance with ceilings on equity investments prescribed under Sections/Subsections X378¹, X379.1, X380, 1381, 1381.1, 1381.2 and X383, in view of the adoption of the PFRS/PAS:

a. Components of equity investment. Equity securities booked under the Designated at Fair Value Through Profit or Loss (DFVPL), Available-For-Sale, Investment in Non-Marketable Equity Securities (INMES) and Equity Investments in Subsidiaries/Associates/Joint Ventures categories shall all be considered in computing for compliance with the ceilings on equity investments prescribed under Sec. X383 and Subsec. X379.1: *Provided*, That Underwritten equity securities booked under the Available-For-Sale category shall be excluded from total equity investments for a period of two (2) years from the date of acquisition thereof: *Provided, further*, That upon prescription of the two (2) year period, such equity securities shall be booked according to intention and shall then be included in the computation of compliance with the prescribed ceilings.

For this purpose, the following financial instruments shall likewise be included in the computation of compliance with the prescribed ceilings:

(1) Equity securities including those accounted for as debt instruments booked under the Held for Trading (HFT) category, which remain unsold for more than one (1) year.

(2) Mandatorily redeemable preferred shares and preferred shares of similar nature that are accounted for as debt instruments, which may also be booked under the HTM or Unquoted Debt Securities Classified as Loans (UDSCL) categories.

(3) Investments in Hybrid Tier 1 securities that are issued in the form of perpetual preferred shares.

b. Shares of stock acquired in settlement of loans. Shares of stock of another corporation acquired in settlement of loans shall be excluded from total equity investments for purposes of determining compliance with the prescribed ceilings on equity investments: *Provided*, That confirmation of the Monetary Board shall be required in the following cases within thirty (30) days from the date of acquisition:

(1) Acquisition of shares of stock of non-allied enterprises by banks without universal banking authority, otherwise prohibited in Sec. 1381;

(2) Acquisition of shares of stock of non-allied enterprises other than those specified under Subsec. 1381.1 by banks with universal banking authority, otherwise requiring prior Monetary Board approval;

(3) Acquisition of shares of stock of non-allied enterprises by UBs in excess of limits provided in Subsec. 1381.2;

(4) Acquisition of shares of stock of financial allied enterprises by banks, in excess of limits provided in Sec. X378; and

(5) Acquisition of shares of stock of non-financial allied enterprises by TBs and RBs in excess of limit provided in Sec. X380.

Provided, further, That said confirmation shall be subject, among others, to the condition that such shares of stock shall be disposed of within a reasonable period not to exceed five (5) years from the date of acquisition thereof.

c. Basis of computation. Compliance with the prescribed ceilings on equity investments shall be determined at each time additional equity securities are acquired or shall be considered in the

¹ amended by Circular No. 530 dated 19 May 2006

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computation as in the case of prescription of the two (2) year period for underwritten equity securities or in the case of equity securities booked under the HFT category, which remain unsold for more than one (1) year. Further, this shall be computed using the carrying amount of the equity securities, which shall be the fair value (marked-to-market amount) for those investments booked under HFT, DFVPL and Available- For-Sale, amortized cost for those investments booked under HTM and UDSCl or the cost and adjusted cost for those booked under INMES and Equity Investment in Subsidiaries/Associates/Joint Ventures, respectively, net of Allowance for Credit Losses where applicable.

For this purpose, adjusted cost shall refer to the acquisition cost of Investments in Subsidiaries/Associates/Joint Ventures adjusted for the investor's share of the profit or loss of investee after the date of acquisition and other adjustments to the carrying amount of the investment.

d. Transitory Provisions. Banks with acquired shares of stock in settlement of loans that fall under any of the following cases, which have not been previously confirmed by the Monetary Board, shall seek confirmation by the Monetary Board of such acquisition not later than ninety (90) banking days from 5 October 2007.

(1) Those without universal banking authority with acquired shares of stocks of non-allied enterprises in settlement of loans prohibited in Sec. 1381;

(2) Those with universal banking authority with acquired shares of stock non-allied enterprises in settlement of loans other than those specified under Subsec. 1381.1;

(3) Those with universal banking authority with acquired shares of stock of non-allied enterprises in settlement of loans that are in excess of limits prescribed in Subsec. 1381.2;

(4) Those with acquired shares of stock of financial allied enterprises in settlement of loans that are in excess of limits provided in Sec. X378; and

(5) TBs and RBs with acquired shares of stock of non-financial allied enterprises in settlement of loans that are in excess of limit provided in Sec. X380.

Provided, That said confirmation shall be subject, among others, to the condition that such shares of stock shall be disposed of within a reasonable period not to exceed five (5) years from 05 October 2007.

e. Sanctions. Any violation of the provisions of this Appendix shall subject the bank and the director/s and/or officer/s concerned to the sanctions provided under Section 37 of R.A. No. 7653.

(Circular No. 581 dated 14 September 2007)

**GUIDELINES AND PROCEDURES GOVERNING CURRENCY DEPOSITS AND
WITHDRAWALS OF BANKS FOR CREDIT TO AND DEBIT FROM THEIR
DEMAND DEPOSIT ACCOUNTS WITH THE BSP**
[Appendix to Section X950 (2008 - X610)]

Currency notes/coins are classified as fit, unfit and mutilated pursuant to Sec. X950. The BSP Cash Department (CD) and Regional Offices/Branches shall accept all types of currency notes/coins for deposit except mutilated currency notes/coins, which must be presented directly for determination of redemption/exchange value to CD or the nearest BSP Regional Office/Branch in accordance with Subsec. X950.6(f).

Banks are encouraged to arrange direct exchange of their accumulated excess fit currency notes/coins with other banks to optimize circulation of said notes/coins and to deposit only unfit currencies to their DDAs with BSP.

To facilitate the expeditious receipt of banks' cash deposits and servicing of their cash withdrawals by BSP, all banks, including their provincial branches shall observe the following guidelines and procedures when making cash deposits and/or withdrawals with BSP CD or any of the BSP Regional Offices/Branches:

- a. Receiving/releasing of banks' cash deposits/withdrawals shall start at 9:00 A.M. and end at 2:00 P.M.
- b. Banks should pre-sort all their currency notes/coins for fitness to ensure that only pre-counted fit or unfit currency is deposited with BSP to effect an expeditious servicing of banks' cash withdrawals and retirement of unfit currency notes pursuant to the "Clean Note Policy" of BSP under Subsec. X950.5.
- c. The BSP shall accept fit and unfit note deposits only after conducting package and bundle count. Fit notes need not be verified piece-by-piece by the BSP before the same shall be re-issued to service cash withdrawals of banks.

d. Bank deposits of fit currency notes referred to in Item "c" above not withdrawn by the banks shall be verified piece-by-piece by the BSP on scheduled dates.

e. The BSP shall accept coin deposits in standard quantity per denomination in containers prescribed by BSP.

CURRENCY DEPOSITS

f. Head Offices/Cash Centers of banks in Metro Manila or their designated cash center/main branch in the provinces shall make direct deposits of currency notes and coins with the BSP CD or the nearest BSP Regional Office/Branch, respectively. The currency notes shall be duly classified as fit or unfit in accordance with the "Currency Guide for Bank Tellers, Money Counters and Cash Custodians" prepared by BSP CD, and by denomination pursuant to Subsec. X950.5 (a).

g. In areas where there are no BSP Regional Offices/Branches, provincial branches of banks shall arrange with their respective Head Offices the shipment of their unfit notes/coins for deposit with BSP CD. Cost of shipment and other related expenses to be incurred shall be solely for the account of the bank concerned.

h. Banks shall provide securely sealed transparent plastic bags prescribed by the BSP for their deposits at BSP CD; separately for the fit and unfit notes. Each plastic bag shall have uniform capacity of twenty (20) full bundles accompanied by a deposit slip for each type/category. The deposit slip for each type/category of currency notes shall be clearly labeled as "FIT" or "UNFIT" as the case may be.

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At the BSP Regional Offices/Branches, banks shall provide securely sealed portable metal sheet or GI sheet boxes measuring 15” in length x 12” in width x 14” in height for their deposits, separately for the fit and unfit notes. Each prescribed container shall have uniform capacity of twenty (20) full bundles, accompanied by a deposit slip for each type/category. The deposit slip for each type/category of currency notes shall be clearly labeled as “Fit” or “Unfit” as the case may be.

i. To facilitate handling of cash deposits, notes and coins shall be arranged and placed in prescribed containers in the following manner:

- (1) Fit and Unfit Currency Notes
 - (a) Notes of a single denomination must be arranged face and top up in packages of 100 pieces each;
 - (b) The wrapper of each package shall be plainly marked with:
 - (i) the denomination and amount of currency in the package;
 - (ii) the date of verification;
 - (iii) the printed name(s) and signature(s) of depositing bank’s employee(s) who performed the verification; and
 - (iv) the name of the depositing bank,
 - (c) Pins, clips and staple wires, if any, must be removed prior to deposit in order to avoid possible injury to employees and damage to equipment;
 - (d) Individual packages of 100 notes each shall be strapped/bundled in standard units as follows:

Denomination	Standard Unit No. of Package (Per 1 Bundle)	Value
1000-Piso	10	P 1,000,000.00
500-Piso	10	500,000.00
200-Piso	10	200,000.00
100-Piso	10	100,000.00
50-Piso	10	50,000.00
20-Piso	10	20,000.00

(e) Notes of different denominations shall not be mixed in a single package/bundle/container;

(f) Bundled notes shall be packed in sealed plastic containers in uniform quantity of twenty (20) complete bundles per denomination (each bundle containing 1,000 notes in ten equal packages, each package containing 100 notes); and

g. A packing list/tag of the currency in each plastic container shall be placed inside the container. Another tag shall be attached to the container.

- (2) Coins
 - (a) The coin container bearing the name of the bank shall be prescribed by the BSP;
 - (b) A tag shall be attached to each bag indicating the denomination, quantity, amount, and date deposited;
 - (c) Individual bags shall contain standard quantities per denomination as follows:

Denomination	Quantity (Pieces)	Value
10-Piso	1,200	P12,000.00
5-Piso	1,500	7,500.00
1-Piso	2,000	2,000.00
25-Sentimo	3,000	750.00
10-Sentimo	4,500	450.00
5-Sentimo	5,000	250.00
1-Sentimo	5,000	50.00

j. Upon delivery of the currency notes/coins to the BSP CD/Regional Office/Branch, the representative of the depositing bank shall witness the package and bundle count for notes and bag count for coins made by the BSP CD/Regional Office/Branch Accountable Officer concerned. If found in order, said BSP officer shall acknowledge receipt of the currency note/coin deposits.

k. Deposits of currency notes at BSP CD need not be taken out of the container

since contents are seen and can be counted through the transparent plastic bag. For deposits at BSP Regional Offices/Branches, the bundles of currency notes shall be returned by the authorized bank representative to the containers, duly sealed with the depositor banks logo and padlocked with the key/s controlled by the said representatives.

l. The CD/Regional Office/Branch shall schedule piece-by-piece verification of cash deposits at a later date or whenever it deems necessary, to be duly witnessed by the bank's authorized representatives.

m. The CD/Regional Offices/Branches of BSP may refuse acceptance of cash deposits that do not conform to the foregoing guidelines and procedures.

CURRENCY WITHDRAWALS

n. The BSP shall service cash withdrawals of banks from their respective unverified fit currency deposits and/or from verified/new currencies in stock.

o. Only authorized representative of the depositor-bank shall open the sealed container(s) of unverified fit currency note deposits from which the BSP shall service the cash withdrawal of the same bank. It is understood that said representative shall have all the keys to the containers' padlock of the bank's currency fit note deposits whenever assigned to BSP CD/Regional Office/Branch to effect cash withdrawals.

p. At BSP CD, cash withdrawals of banks shall be effected using the Electronic

Cash Withdrawal System. A Cash Order Slip (COS), shall be sent by banks through FAX to CD not later than 12:00 noon one (1) day prior to actual cash withdrawal. Cash withdrawal shall be settled through the PhilPaSS before release of the cash withdrawal to banks.

q. At the BSP Regional Offices/Branches, cash withdrawal shall be made using the Integrated Regional Information System (IRIS). BSP demand deposit checks presented by banks for withdrawal after 12:00 noon shall be accepted for processing purposes only and the servicing thereof shall be effected the following banking day.

r. The authorized representative of the withdrawing bank shall conduct:

(1) bag/bundle/package count of the notes and bag count of the coins withdrawn from the bank's unverified fit currency note/coin deposits; and

(2) box/bundle/package/piece count of the notes and bag count of the coins withdrawn from reissued/new currency note/coin witnessed by authorized representative of the BSP.

Any overage/shortage found in the verification of cash withdrawn from reissued currency verified by BSP CD/Regional Office/Branch shall be for the account of BSP. The BSP shall not honor any shortage/overage found after the authorized bank representatives shall have left the BSP teller's counter/cash withdrawal area.

(M-2007-027 dated 19 September 2007)

**APPRAISAL AND LOAN VALUATION FRAMEWORK
FOR RIGHTS-BASED SECURE TENURE ARRANGEMENTS
AS COLLATERAL SUBSTITUTES
(Appendix to Subsec. X361.5)**

In the appraisal of real properties or rights offered as collateral substitutes under the housing microfinance program, the form of the secure tenure instrument must be considered. Generally, two (2) appraisal methodologies or approaches may be applied: the market value must be determined using the market data or sales comparison approach for properties under freehold and right to occupy and/or build (in respect of the housing unit or improvement to be used as collateral substitute), and for properties under Lease agreement and usufruct, the value of the Leasehold interest of the borrower must be determined.

Market value

Market value is the most probable price that a property should obtain in a competitive and open market under all conditions requisite of a fair sale, with the buyer and seller each acting prudently and knowledgeably, and assuming that the price is not affected by undue stimulus. In determining the market value of the property, the appraiser must use the Market Data or Sales Comparison approach. This approach attempts to compare the subject property’s value with similar properties and adjust its value according to the presence or absence of value determining characteristics. This approach is based upon the principles of supply and demand and upon the principle of substitution.

Valuation of leasehold

A leasehold is the real right of the lessee acquired from an owner (the lessor) of a piece of real estate to occupy and use it for a fixed term or period at a stipulated rental rate, and subject to conditions set forth in a written document of lease. The lease may include the right of the lessee to improve the land, mortgage the building, sublet all or part of the property, and assign or sell his leasehold.

The task of the appraiser is to estimate the present worth or “market value” of the imputed rental income of the lessee derived from the property over and above the rent required to be paid by him to the lessor under the terms of the lease and his interest in any improvements made by him. In evaluating a leasehold, the appraiser must have a thorough knowledge of all the salient terms and conditions of the primary or main lease and any subleases, for these affect the value of the leasehold considerably, such as:

- a. Rental. If the rental to be paid under the terms of the lease is below the rental prevailing in the market, the leasehold may have a substantial value. Where the rental actually paid is the prevailing rental value of the property, the leasehold may have no value. Prevailing rental rates refer to the rental rates of comparable properties within comparable locations.
- b. Term of Lease. A long-term lease or the right of the lessee to renew the lease at the expiration of the original term of the lease may add value to the leasehold.
- c. Payment for Improvement
- d. Option to Purchase
- e. Leasehold Restrictions

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Loan Valuation Based on Appraisal
Valuation Framework or Methodology

The valuation of properties under the housing microfinance loan program will be based on prevailing market values of real estate properties (freehold and right to

occupy and/or build) or prevailing rental rates (leasehold/usufruct). The standard practice of participating banks in determining the loan to collateral ratios shall be adopted.The following terms provided in the table below may be applied:

FORM OF SECURE TENURE OR PROPERTY RIGHT	NATURE AND DESCRIPTION OF ACCEPTABLE INSTRUMENT	TERMS AND CONDITIONS	APPRAISAL METHODOLOGY	LOAN VALUATION
Usufruct	<i>Usufruct agreement or contract</i> – Duly executed contract executed by the owner of the property granting the usufructuary/ beneficiary/ client the right to use, possess, and enjoy the real property including its fruits and other rights or benefits	The Term of Lease must not be less than the term of the loan.	Valuation of Leasehold Interest	70% of the appraised value of the collateral
Lease	<i>Lease agreement or contract</i> – Duly executed contract granting the lessee the right to use and possess the real property for a fixed long-term period in consideration of rental payments	The Term of Lease must not be less than the term of the loan	Valuation of Leasehold Interest	70% of the appraised value of the collateral
Freehold	<i>OCT/TCT</i> – Torrens title issued by the Register of Deeds evidencing absolute ownership of real property <i>Interim Title, Contract to Sell or Conditional Sale</i> – Duly executed contract or other legal instrument issued by the appropriate government agency indicating full payment for the purchase of the property or its conditional sale or conveyance to be perfected upon full payment of the purchase price and/or the fulfillment of other conditions	Adjustment of appraisal value due to documentary nature or status of instrument must be taken into account	Market Data Approach	90% of the appraised value of the collateral

FORM OF SECURE TENURE OR PROPERTY RIGHT	NATURE AND DESCRIPTION OF ACCEPTABLE INSTRUMENT	TERMS AND CONDITIONS	APPRAISAL METHODOLOGY	LOAN VALUATION
Right to occupy and/or build	(1) Certification validly issued by the appropriate government agency stating that the borrower/client has the right to occupy, build and/or acquire the property he/she is possessing being an eligible beneficiary of a public or private social housing program or a Presidential proclamation, or (2) certification or written acknowledgment from the owner of the property that the borrower/client has the owner's consent and permission to occupy and build on such property	Adjustment of appraisal value due to documentary nature or status of instrument must be taken into account	Market Data Approach (as to the improvement or housing unit)	70% of the appraised value of the collateral

(MAB-2008-015 dated 19 March 2008)

FORMAT CERTIFICATION ON DEPOSIT/CASH DELIVERY SERVICES
(Appendix to Sec. X266)

Name of Bank

CERTIFICATION

We, _____, Executive Vice President (or its equivalent position) and _____, Compliance Officer, certify that the (Name of Bank) shall render deposit pick-up/cash delivery services beyond regular banking hours/days to the following clients:

Servicing Banking Unit ^{1/}	Client Name and Address ^{2/}	Deposit Pick-up/Cash Delivery services	
		Days	Hours

1/ The name of the branch or banking unit that will render the Deposit Pick-up/Cash Delivery Services
2/ Name and address of client requesting deposit pick-up/cash delivery services

We further certify that in the performance of deposit pick-up/cash delivery services to the above clients, the (Name of Bank) shall comply with all the conditions provided under Section X266 of the Manual of Regulations for Banks on Deposit Pick-up/Cash Delivery Services.

This certification executed on _____ is being submitted in compliance with the requirements of abovementioned regulation.

Signed:

Signed:

(Name of Executive Vice President)
Position:

(Name of Compliance Officer)
Position:

Subscribed and sworn to before me, this _____ day of _____, affiants exhibiting their valid identifications indicated below:

Name Government ID/Passport No. Date/Place Issued

Notary Public

(Circular No. 614 dated 14 July 2008)

**BASIC STANDARDS IN THE ADMINISTRATION OF TRUST, OTHER FIDUCIARY
AND INVESTMENT MANAGEMENT ACCOUNTS**
(Appendix to Subsec. X401)

I. Introduction

Trust and other fiduciary business and investment management activities have evolved with the changes in the financial market and advancement in technology. These innovations have allowed trust entities to expand the scope of trust products and services offered to customers, thus increasing their exposure to various risks. As trust entities grow more diverse, necessarily policies and procedures as well as risk management practices must keep pace. The basic standards would provide common processes for an efficient operation and administration of trust, other fiduciary and investment management activities across the trust industry.

II. Statement of policy

It is the policy of the BSP to provide adequate level of protection to investors who, under a fiduciary arrangement, engage the services or avail of products of trust entities which are required to observe prudence in the exercise of their fiduciary responsibility. Along this line, the BSP prescribes basic standards for the efficient administration and operation of trust and other fiduciary business and investment management activities.

III. Standards

The basic standards in the administration of trust, other fiduciary and investment management accounts are meant to address the significant areas of operations and provide minimum set of requirements and procedures:

A. Account acceptance and review processes

1. Pre-acceptance account review

This review must document that the trust entity (TE) can effectively administer

the account. It shall be covered by a written policy which shall contain, among other things, the types of trust, other fiduciary and investment management accounts that are desirable and consistent with the TE's risk strategies and the specific conditions for accepting new accounts, and approved by the Trust Committee, or the Trust Officer, or subordinate officer of the trust department, authorized by the board of directors or its functional oversight equivalent, in the case of foreign banks and institutions.

The review process entails the thorough and complete review of the client's/account's characteristics and investment profile, including the assets/properties to be contributed/delivered. Non-financial/non-traditional assets (i.e., real estate and the like) which are more likely to be illiquid shall be carefully reviewed prior to acceptance to ensure that the TE only accepts accounts which hold assets it may be able to properly manage.

Prior to the acceptance of a fiduciary account, the TE shall review the underlying instrument (trust agreement or contract) for potential conflicts of interest. If such conflict exists, the TE shall take appropriate action to address such condition before the account is accepted.

In cases where the TE is chosen as a successor trustee or investment manager, the TE shall perform a review and evaluation of all assets to be delivered to the TE to determine how these would serve the client's objectives, whether the TE can properly handle such assets and to assess any possible issue/problem which may arise with respect to such assets before acceptance of such assets and/or assumption of the trust, fiduciary or investment management relationship.

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2. Establishment and post-acceptance review

Acceptance policies for new accounts shall, at a minimum, include the following processes and/or requirements:

(1) *Account opening process.* This process defines the TE’s policies and procedures for client/account identification, consistent with the TE’s KYC policy for compliance with anti-money laundering regulations; identification of the needs of the client; the objective(s) of the engagement; the vehicle to be used; and the account’s investment parameters. The trust officer or other authorized personnel of the trust department shall conduct the account opening process for trust, fiduciary and investment management accounts. In the case of UIT Funds, only authorized branch managers/officers as well as UIT marketing personnel, who have all successfully undergone the required certification/accreditation/licensing process, may perform said process for UIT Fund clients. The account opening process shall at least involve the following:

a. Client profiling shall be performed for all UIT Fund and regular trust, other fiduciary and investment management accounts (except court trusts) via a duly acknowledged Client Suitability Assessment (CSA), which aims to provide the TE with information leading to the prudent design of investment packages, suited to a particular client or investment account. The profiling process, to be documented through a CSA Form signed by the concerned parties¹, shall be undertaken on a per client basis, which shall emphasize the level of risk tolerance of the client.

- Client suitability assessment

The TE shall obtain adequate information from the client to determine the appropriateness of the fiduciary product/service to be provided and ensure the suitability of the investment product/

portfolio/strategy to be recommended to each client. It shall provide prospective clients with client suitability questionnaire and require them to accomplish the same prior to the acceptance of the account and execution of a transaction.

For this purpose, the TE shall make an assessment of the client’s level of financial sophistication and consider factors relevant to the creation and management of, or participation in, an investment portfolio, such as but not limited to, the specific needs and unique circumstances of the client and/or beneficiary/(ies), basic characteristics of the clients’ investment and experience, financial constraints, risk tolerance, tax considerations and regulatory requirements.

The same client suitability assessment process shall be applied by the TE for directional accounts.

- Minimum information required for CSA:

i. Personal/Institutional data. Minimum personal/institutional information that are unique to a natural or juridical client, which shall also cover demographics and KYC information; the identity of beneficiaries, where applicable, and approximate portion of total assets administered/managed.

ii. Investment objective. A clear statement or definition of the client’s investment goals/purposes to be achieved through a particular trust, fiduciary or investment product or service. The client may opt to open several accounts, each one with specific investment objectives separate and distinct from the other accounts.

iii. Investment experience. A list of various types of investment the prospective client is familiar with, acquired from actual/personal investment experience, or of similar investment circumstances.

iv. Knowledge and financial situation. For complex transactions where the level of risk involved is greater, the TE must take

¹ i.e., the client, the UIT accredited marketing personnel or the officer of the trust department conducting the client profiling. The CSA Form shall be acknowledged or confirmed by the trust officer or other officer of the trust department authorized by the board of directors.

into account the knowledge, experience and financial situation of the client or potential client to assess the level of investment sophistication. This may include the careful assessment whether the specific type of financial instrument/service/portfolio/strategy is in line with the client's disclosed financial capacity.

Such assessment is necessary as there are significant risks involved on financial investments (e.g., derivatives), the type of transaction (e.g. sale of options), the characteristics of the order (e.g., size or price specifications) or the frequency of the trading.

v. Investment time frame and liquidity requirement. The TE is able to organize the portfolio in a manner that will provide for anticipated liquidity requirement through redemption of principal contribution or earnings.

vi. Risk tolerance. Allow the TE to classify clients in accordance with its own pre-set internal risk classification.

Based on the results of the CSA, classification of clients by the TE may include, but need not be limited to the following:

i. *Conservative*. Client wants an investment strategy where the primary goal is to prevent the loss of principal at all times, and where the client prefers investment grade and highly liquid assets, government securities, Republic of the Philippines' bonds (ROPs), deposits with local banks/branches of foreign banks operating in the Philippines, and deposits with FIs in any foreign country: *Provided*, That said FI has at least an investment grade credit rating from a reputable international credit rating agency. For purposes of investing in a UIT Fund, a client wants an investment strategy where the primary objective is to prevent the loss of principal at all times and where the fund is invested in deposits with local banks/branches of foreign banks operating in the Philippines and with FI in any foreign country: *Provided*, That said FI has at least an

investment grade credit rating from a reputable international credit rating agency.

ii. *Moderate*. Client wants a portfolio which may provide potential returns on investment that are higher than the regular traditional deposit products and client is aware that a higher return is accompanied by a higher level of risk. Client is willing to expose the funds to a certain level of risks in consideration for higher returns.

iii. *Aggressive*. Client wants a portfolio which may provide appreciation of capital over time and client is willing to accept higher risks involving volatility of returns and even possible loss of investment in return for potential higher long-term results.

- Investment policy statement

The TE shall have in place a method by which suitability of investment is determined based on the results of the CSA and formulated via an Investment Policy Statement (IPS). It shall communicate to prospective clients the results of the assessment, recommend the investment product/portfolio/strategy, and explain the reasons why, on the basis of the given information, its recommendation is to the best interest of the client as of a defined timeframe. The TE shall make a recommendation only after having reasonably determined that the proposed investment is suitable to the client's and/or beneficiary's financial situation, investment experience, and investment objectives.

The IPS is a clear reference frame for investment decisions and must be based on the investment objectives and risk tolerance of the client. It must include, at a minimum, a description of the following:

- i. Investment objective;
- ii. Investment strategy-indicating how assets will be allocated indicating the agreed portfolio mix;
- iii. Investment performance review – indicating proposed market benchmarks, if any and the desired frequency of the performance review/reporting;

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iv. Investment limits – identifies any limitation which the client may have for the portfolio such as investment restrictions (e.g., prohibited investments) and client's consent for taking losses.

For UIT Fund, the IPS is equivalent to the investment objective of the fund specifically stated in the Declaration of Trust.

- Option of client to re- classification

Generally, the TE shall recommend the investment product/portfolio/strategy suitable to the client based on the results of the CSA. The TE may, however, provide a process for allowing clients to invest in investment products/ portfolio/strategy with a higher risk than those corresponding to the CSA profile results. A client who exercises the option to be re-classified outside the CSA process thereby waives some of the protection afforded by these guidelines. Such re-classification may be allowed subject to the observance of the following:

i. The client shall state in writing to the TE that -

- He does not agree with or accept the recommendation of the TE on the investment product/portfolio/strategy appropriate to the client's profile based on the results of the CSA;

- He would like to avail of the investment product/portfolio/strategy other than that which is consistent with the results of the CSA;

- He requests/intends to be re-classified, either generally or in respect to a particular investment/service/ transaction/ product; and

- He fully understands and is willing to take the risks incidental to the investment product/portfolio/strategy to be availed of.

ii. The TE shall issue a clear written warning to the client of the protections he may lose and conversely, of the risks that he is exposed to.

iii. The TE shall have taken all reasonable steps to ensure that the client

meets all relevant requirements as provided for in the TE's written policies.

- Frequency of CSA and IPS

i. The CSA shall be performed and the IPS shall be formulated and executed prior to the opening of the account;

ii. The TE shall update the CSA and the IPS at least every three (3) years except in the following instances;

- Whenever updates are necessitated by the client, upon notice/ advise to the TE, on account of a change in personal/financial circumstances or preferences, the TE shall adjust/modify its investment strategy/portfolio and recommendation, subject to the conformity of the client;

- Whenever managed trust, other fiduciary, and investment management accounts express intention to invest in complex investment products such as financial derivatives, the TE shall ensure that the CSA and the IPS are updated at least annually. Otherwise, the TE shall not make new/additional investments in complex investment products.

iii. The TE shall ensure that periodic written notices given to clients reminding them of such updates are received/ acknowledged by clients or their authorized representatives;

iv. Updated CSA and IPS shall be acknowledged by the client;

v. The frequency of review shall be included as a provision in the written agreement; and

vi. The latest CSA and IPS will continue to be applied for any subsequent principal contributions to the account, until these are amended or updated by the client.

b. Identification of degree of discretion granted by client to the TE. This process involves the determination of the extent of discretion granted to the TE to manage the client's portfolio.

1) Discretionary. The TE has authority or discretion to invest the funds/property

of the client in accordance with the parameters set forth by the client. Such authority of the TE which obtained a composite Trust Rating of “4” in the latest BSP examination will not be subject to the investment limitations provided under Subsecs. X409.2 and X409.3 for trust and other fiduciary accounts and Subsecs. X411.4 and X411.5 for investment management accounts, respectively; and

(2) Non-discretionary. Investment activity of the TE is directed by the client or limited only to specific securities or properties and expressly stipulated in the agreement or upon written instruction of the client.

(3) Documentation. The trust, fiduciary or investment management relationship shall be formally established through a written legal document such as the trust or investment management agreement. The engagement documents shall clearly specify the extent of fiduciary assignments/responsibilities of the TE and articulate the nature and limits of each party’s status as trustor/principal or trustee/agent. Policies and procedures shall provide that trust or investment management agreements are signed by the trust officer or , subordinate officer of the trust department, or in the case of UIT Funds, branch managers/officers duly authorized by the board of directors.

The documentation process must also consider the following:

a. The Agreement must conform to the requirements provided under Subsec. X409.1 for trust and other fiduciary accounts and Subsec. X411.1 for investment management accounts. In addition, the Agreement shall contain the following provisions:

i. A description of the services to be provided;

ii. All charges relating to the services or instruments envisaged and how the charges are calculated;

iii. The obligations of the client with respect to the transactions envisaged, in particular his financial commitments towards the TE; and

iv. For engagements involving management of assets or properties, the degree of discretion granted to the trustee or agent must be clearly defined and stated in the agreement;

b. The Agreement shall be in plain language understandable by the client and/or personnel of the TE responsible for explaining the contents of the agreement to the client.

c. For complex investment products such as financial derivatives instruments or those that use synthetic investment vehicles, the TE shall disclose to the client and require client’s prior written conformity to the following:

i. Key features of investment services and financial instruments envisaged, according to the nature of such instruments and services;

ii. The type(s) of instruments and transactions envisaged;

iii. The obligations of the TE with respect to the transactions envisaged, in particular, its reporting and notice obligations to the clients; and

iv. An appropriate disclosure bringing to the client’s attention the risks involved in the transactions envisaged.

d. In order to give a fair and adequate description of the investment service or financial instrument, the TE shall provide a clearly stated and easily understood Risk Disclosure Statement to its clients, which forms part of or attached to the trust, fiduciary or investment management agreement. The Risk Disclosure Statement shall contain, among other things, the following provisions:

i. Cautionary statement on the general risks of investing or associated with financial instruments, i.e., if the market is not good, an investor may not be able to

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get back his principal or original investment. Such statement must be given due prominence, and not to be concealed or masked in any way by the wording, design or format of the information provided;

ii. If the investment outlet is exposed to any major or specific risks, a description and explanation of such risks shall be clearly stated; and

iii. Advisory statement that for complex investment products, said instruments can be subject to sudden and sharp falls in value such that the client may lose its/his entire investment, and, whenever applicable, be obligated to provide extra funding in case it/he is required to pay more later.

Additional risk disclosures may be provided as appropriate.

The TE must ensure that the trust, fiduciary and investment management agreements and documents have been reviewed and found to be legally in order.

B. Account administration

It is the fundamental duty of a fiduciary to administer an account solely in the interest of clients. The duty of loyalty is a paramount importance and underlies the entire administration of trust, other fiduciary and investment management accounts. A successful administration will meet the needs of both clients and beneficiaries in a safe and productive manner.

Account administration basically involves three processes, namely; (1) periodic review of existing accounts, (2) credit process and (3) investment process.

(1) Periodic review of existing accounts

The board of directors and Trust Committee shall formulate and implement a policy to ensure that a comprehensive review of trust, fiduciary and investment management accounts (including collective investment schemes such as UIT Funds) shall be conducted. The periodic review

of managed accounts shall be aligned with the provisions on the review and updating of the CSA and IPS. The board of directors may delegate the conduct of account review to the Trust Officer or Trust Department Committee created for that purpose. The policy shall likewise indicate the scope of the account review depending upon the nature and types of trust, fiduciary and investment management accounts managed.

A comprehensive accounts review, which shall entail an administrative as well as investments review, shall be performed on a periodic basis to ascertain that the account is being managed in accordance with the instrument creating the trust and other fiduciary relationship. The administrative review of an account is taken to determine whether the portfolio/assets are appropriate, individually and collectively, for the account, while an investment review is used to analyze the investment performance of an account and reaffirm or modify the pertinent investment policy statement, including asset allocation guidelines. Whether the administrative and investment review are performed separately or simultaneously, the reviewing authority shall be able to determine if certain portfolio/assets are no longer appropriate for the account, (i.e., not consistent with the requirements of the client) and to take proper action through prudent investment practices to change the structure or composition of the assets.

The periodic review process also involves disclosure of information on the investment portfolio and the relevant investing activities. Regardless of the degree of discretion granted by the client to the TE, the former assumes full risk on the investment and related activities, and counterparties. Relevant changes in the TE's organization or investment policies that may affect the client's decision to continue the services of the TE shall be disclosed to the client.

In the case of non-discretionary public interest accounts such as employee benefit/retirement or pension funds, due diligence review of the investment portfolio by the TE shall include providing investors with appropriate information needed to make an informed investment decision and avoid possible conflict of interest and self-dealing situations.

The TE should be able to show (in addition to the specific written directive from the client) what it has done in the exercise of due diligence and prudence on its part to protect the interest of the client and/or beneficiaries, especially for accounts of public interest like retirement/pension fund accounts.

The TE shall keep its clients informed of the investment and related activities by rendering periodic reports and financial statements prescribed under Subsec. X425.1 and as necessary. The types of reports and statements and the frequency of their submission must be clearly specified in the TE's written policies and procedures.

The TE shall also establish a system that enables a trust account representative or officer to periodically contact clients and/or beneficiaries to determine whether their financial objectives and circumstances have changed.

(2) Credit process

Each trust entity shall define its credit process in relation to the discharge of the TE's investment function. The process ensures credit worthiness of investment undertakings including dealings and relationship with counterparties. It also serves to institutionalize the independence of the credit process of the TE. The credit process must at least cover the following:

a. Credit policies. Trust entities must clearly define its credit policies and processes, including the use of internal and external credit rating and approval process relative to the delivery of its instrument

function. The TE can share credit information with the bank proper subject to proper delineation and documentation. The credit process shall show the following at the minimum:

- i. Clear credit process flow, from initiation of the lending activities envisioned by the TE up to the execution of actual investment;
- ii. Credit criteria and rating used;
- iii. Manner by which the TE handles the information, including confidential and material data, which is shared between and among the departments, subsidiaries or affiliates of the TE; and
- iv. Clear delineation of duties and responsibilities of each of the departments, subsidiaries and affiliates of the TE, where such groups or entities share the credit process.

b. Counterparty accreditation process. The TE must clearly define the policies and the processes it will undertake to accredit counterparties, including the bank proper, and its subsidiaries and affiliates, for their investment trading functions. It may use or avail itself of the accreditation process of its bank proper provided there is proper delineation of functions. The counterparty accreditation process shall show the following at the minimum:

- i. Clear accreditation process flow from the initiation of credit activities up to the actual usage of lines;
- ii. Credit criteria and rating used;
- iii. Manner by which the TE handles the information, including confidential and material data, which are shared between and among the departments, subsidiaries or affiliates of the TE;
- iv. Usage, duties and responsibilities of each of the department, subsidiaries and affiliates of the TE, where there is sharing of credit lines between and among these concerned groups/ entities; and
- v. Clear delineation of duties and responsibilities of each of the departments,

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subsidiaries and affiliates of the TE, where such groups or entities share the accreditation credit process.

(3) Investment process

This process defines the investment policies and procedures, including decision-making processes, undertaken by the TE in the execution of its fund/asset management function. The primary objective of such process is to create a structure that will assure TEs observe prudence in investment activities at all levels, preservation of capital, diversification, a reasonable level of risk as well as undivided loyalty to each client and adherence to established structure for the TE's investment undertakings. The investment process covers a broad range of activities; thus, the investment policies shall clearly outline the parameters that, at a minimum, include the following:

a. Overall investment philosophy, standards and practices. A general statement of principles that guides the portfolio manager in the management of investments outlined in the board-approved policy, along with a discussion on the practices and standards to be implemented to achieve the desired result.

b. Investment Policies and Processes. Defines the policies and the processes undertaken to create the portfolio to ensure the proper understanding of the client's preferences.

i. Profiling of client. Aims to understand the level of maturity of the client relevant to the creation of an appropriate portfolio.

ii. Portfolio construction for custom-made portfolios. Includes the process of researching and selecting recommended portfolio and setting objectives or strategies for diversification by types and classes of securities into general and specialized portfolios.

- Asset allocation. Outlines the process and criteria for selecting and evaluating different asset classes identified

to be appropriate for the client's profile and investment objective. It includes the allocation of desired tenors in conjunction with the client or portfolio profile based on the CSA or IPS. The asset allocation may be based on percentage to total funds managed by the TE or stated in absolute amount whichever is preferred by the client.

- Security selection. Policies and procedures on the selection of investment outlets, including investment advisory, must be in place. This involves the selection of issuers for each of the identified asset classes. The process provides for the review of investment performance using risk parameters and comparison to appropriate benchmarks. It shall also identify the documentation required for all investment decisions.

If the TE uses approved lists of investments, there shall be an outline of the criteria for the selection and monitoring of such investments, as well as a description of the overall process for addition to and deletion from the lists.

- Benchmark selection/creation. Selects or crafts the benchmarks to reflect the desired return of the portfolio and to measure the performance of the portfolio manager. The TE shall be required to measure performance based on benchmarks to gauge or measure the performance of the account. The TE must have clear definition of its benchmarking policy.

- Limits. Identifies any limitations on portfolio management which the client may impose on the TE. These limitations have to be specific as to the nature of the portfolio, such as but not limited to, core holdings, investment in competitor companies, and companies engaged in vices.

- Risk disclosure statement. A clear and appropriately worded statement/s to disclose different risks to clients of the various investment undertakings of the investment manager done in behalf of the client.

iii. Internal policies on trade allocation. Defines the institution's policies in ensuring timely, fair and equitable allocation of investments across investing portfolios.

iv. Diversification of discretionary investments. The TE shall have a policy on the general diversification requirements for asset administration, as well as the process implemented to monitor and control deviations from policy guidelines.

v. A TE shall have access to timely and competent economic analyses and forecasts for the capital markets and other products in which its clients will be investing. TEs engaged in more complex transactions may consider providing an economic and securities research unit that continually monitors global trends and capital markets. This unit provides necessary forecasts of capital market expectations, currency relationships, interest rate movements, commodity prices, and expected returns of asset classes and individual investment instruments, which help the TE establish appropriate investment policies and strategies, select appropriate investments, and manage risks effectively.

vi. The TE shall have a process that will confirm trust personnel with investment functions know and follow the BOD-approved investment policies and processes.

c. Selection and use of brokers/dealers. The quality of execution is an important determinant in broker selection. In selecting brokers/dealers, a TE must consider the following minimum standards and criteria:

i. Execution capability and ability to handle specialized transactions;

ii. Commission rates and other compensation;

iii. Financial strength, including operating results and adequacy of capital and liquidity;

iv. Past record of good and timely delivery and payment on trades;

v. Value of services provided, including research; and

vi. Available information about the broker from other broker customers, regulators, and self-regulated organizations authorized by the SEC.

The TE with large portfolio may opt to evaluate broker performance using a formalized point scoring system. A list of approved brokers shall be made available by the TE, reviewed periodically and updated at least annually.

d. Best practices. The TE shall document best practices policies and processes to institutionalize proper safeguards for the protection of its clients and itself. At a minimum, the policies must include the following standards:

i. Best execution. The TE shall use reasonable diligence to ensure that investment trades are executed in a timely manner and on the best available terms that are favorable to the client under prevailing market conditions as can be reasonably obtained elsewhere with an acceptable counterparty. For related counterparties, no purchase/sale must be made for discretionary accounts without considering at least two (2) competitive quotes from other sources. The policy on best execution must document processes to warrant such execution is readily and operationally verifiable.

ii. Chinese wall. A clear policy on Chinese Wall aims to protect the institution from conflict of interest arising from varying functions carried by the TE in relation to credit (debt), shareholder, and investment position taking. The policy shall state the duties and responsibilities of the TE and each department including that of the bank proper and subsidiaries and affiliates should transactions involve the concerned departments and entities.

iii. Personnel investment policies. These policies aim to ensure honest and fair discharge of investment trading functions of all qualified personnel.

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Qualified personnel are those that may have access to information on clients and investment position-taking of clients, investment manager or portfolios. The use of such information may be abused and detrimental to the clients. The policy shall state the duties and responsibilities of each qualified personnel in relation to trading and portfolio management activities including allowed and not allowed transactions as well as sanctions in case of violations.

iv. Confidentiality and materiality of Information. The TE must keep information about past, current and prospective clients confidential, unless disclosure is authorized in writing by the client or required by law and the information involve illegal activities perpetrated by the client. It must ensure safekeeping of confidential and material information and prevent the abuse of such information to the detriment of the institution or its clients.

v. Fair dealing. The TE shall document dealing practices to ensure fair, honest and professional practices in accordance with the best interest of the client and counterparties at all times and for the integrity of the market. It must ensure that any representations or other communications made and information provided to the client are accurate and not misleading. The TE must also take care not to discriminate against any client but treat all clients in a fair and impartial manner.

vi. Diligence and reasonable basis. In conducting its investment services, the TE shall act with skill, and care and diligence, and in the best interests of its clients and the integrity of the market. The duty of due diligence is intertwined with the duty to maintain independence and objectivity in providing investment recommendations or taking investment actions. When providing advice to a client, the TE shall act diligently and make certain that its

advice and recommendations to clients are based on thorough analysis and take into account available alternatives.

- The TE shall take all reasonable steps to execute promptly client orders in accordance with the instruction of clients.
- The TE, when acting for or with clients, shall always execute client orders on the best available terms.
- The TE shall ensure that transactions executed on behalf of clients are promptly and fairly allocated to the accounts of the clients on whose behalf the transactions were executed.

Where a client opts not to accept the recommendation of the TE and chooses to purchase another investment product which is not recommended, the TE may proceed with the client's request/instruction, provided it shall document the decision of the client and highlight to him/her that it is his/her responsibility to ensure the suitability of the product selected.

vii. In-House or related party transactions handling. The TE shall define the policies in handling related-interest transaction to ensure that the best interest of clients prevails at all times and all dealings are above board. It must conform to the requirements of Subsecs. X409.3 and X411.5.

viii. Valuation. The TE shall document the institution's valuation process to show the sources of prices, either market or historical value, and the formula used to derive the NAV of investment portfolios. Valuation shall be understood, compliant with written policies and operating procedures, and used consistently within the TE. The TE must ensure that the valuation processes of service providers, custodians, and other subcontractors are compatible with those of the TE and in compliance with relevant statutory or regulatory valuation standards.

Risk officers shall document the accuracy and reliability of all valuation processes and data sources and ensure that

valuations are completed as required by internal policies and procedures and regulatory reporting standards.

e. Conflicts of interests. These may arise when the TE exercises any discretion where mutually opposing interests are involved. The most serious conflict of interest is self-dealing, which could include transactions such as an investment in related interests of the TE or purchase of securities from or through an affiliate. Such transactions must be fully disclosed and authorized in writing by clients. Because of the complexity and sensitivity of the issue, a TE must develop policies and procedures to identify and deal with conflicts of interest situations.

3. Account termination

Accounts may be terminated for a variety of reasons, including the occurrence of a specified event or upon written notice of either the client or the TE. The trust or investment management agreement shall provide for the terms and manner of liquidation, return and delivery of assets/portfolio to the client. Generally, the TE's responsibilities include distribution to the client, the successor trustee and/or beneficiaries of the remaining assets held under trusteeship/agency arrangement,

preparation and filing of required reports. The TE must ensure the risk control processes are observed when terminating accounts just as when accepting them.

The TE must have a general policy with respect to the termination of trust accounts, which policy shall take into consideration the general processes to be observed in the return or delivery of different types of assets, the possible modes of distribution, fees to be paid, taxes to be imposed, the documentation required to effect the transfer of assets, the provision of terminal reports, and whenever applicable, the timing of distribution, needs and circumstances of the beneficiaries. Should the TE anticipate possible issues or problems with respect to the termination of the account, such as the liquidation of certain assets or the partition or division of assets, these issues shall be disclosed to the client for proper disposition. The policy on the termination of trust, fiduciary and investment management accounts shall likewise include the approval process to be observed for the termination of these accounts as well as the reporting requirements for accounts terminated and closed.

(Circular No. 618 dated 20 August 2008)

GUIDELINES FOR DAYS DECLARED AS PUBLIC SECTOR HOLIDAYS
(Appendix to Secs. X207, X256 and X601.6)

Time of receipt of Public Holiday Announcement by the BSP		Bangko Sentral ng Pilipinas							Reserve Position	Bureau of the Treasury		PCHC	
		Treasury Department				PDS	PhilPASS	Cash Dept Withdrawal		Auction	Sec. Mkt.	Manila	Regional
		Overnight RP/RRP		Term RP& RRP/GS/ SDA/RDA									
		Trading	Settlement	Trading	Settlement								
1. On an ordinary business day prior to the date of effectivity		Closed	Closed	Closed	Closed	Closed	Closed	Closed	Non-Reserve	Closed	Closed	No clearing; no settlement. PCHC will issue an advisory to its members that it will continue accepting and processing checks	To be decided in coordination with Head Office
2. On a Saturday or Sunday to take effect the following Monday or on a non-working holiday to take effect the next business day													
a. Under good weather condition		No change in trading hours	No change in settlement time	No change in trading hours	No change in settlement time	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office
b. Under unfavorable conditions such as bad weather, (e.g. Typhoon signal no. 3), natural calamities or civil disturbances		Closed	Closed	Closed	Closed	Closed	Closed	Closed	Non-Reserve	Closed	Closed	No clearing; no settlement. PCHC will issue an advisory to its members that it will continue accepting and processing checks	To be decided in coordination with Head Office

Time of receipt of Public Holiday Announcement by the BSP		Bangko Sentral ng Pilipinas							Reserve Position	Bureau of the Treasury		PCHC	
		Treasury Department				PDS	PhilPASS	Cash Dept Withdrawal		Auction	Sec. Mkt.	Manila	Regional
		Overnight RP/RRP		Term RP& RRP/GS/ SDA/RDA									
		Trading	Settlement	Trading	Settlement								
3. Before 9:00 a.m. on the date of effectivity		Closed	Closed	Closed	Closed	Closed	Closed	Closed	Non-Reserve	Closed	Closed	No clearing; no settlement. PCHC will issue an advisory to its members that it will continue accepting and processing checks	To be decided in coordination with Head Office
4. After 9:00 a.m. on the date of effectivity	Day 1	Suspended to be resumed the following day at 9:01a.m. to 9:45 a.m.		No change in trading hours	No change in settle-ment time	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office
	Day 2	Resumed from 9:01 a.m. to 9:45 am (for value Day 1) then, 4:45p.m. to 5:30p.m. for same day transaction	9:01 a.m. to 10:00 a.m. 4:45p.m. to 5:45p.m.	No change in trading hours	No change in settlement time	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office
5. In case of suspension of work is extended to Day 2													
a. Before 9:00 a.m. of Day 2	Day 2	closed; Day 1 transactions will be moved to Day 3 (for value Day 1)	Closed	Closed	Closed	Closed	Closed	Closed	Non-Reserve	Closed	Closed	No clearing; no settlement PCHC will issue an advisory to its members that it will continue accepting and processing checks	To be decided in coordination with Head Office

Time of receipt of Public Holiday Announcement by the BSP		Bangko Sentral ng Pilipinas							Reserve Position	Bureau of the Treasury		PCHC	
		Treasury Department				PDS	PhilPASS	Cash Dept Withdrawal					
		Overnight RP/RRP		Term RP& RRP/GS/ SDA/RDA									
		Trading	Settlement	Trading	Settlement								
	Day 3	Resumed from 9:01 a.m. to 9:45 am (for value Day 1) then, 4:45p.m. to 5:30p.m. for same day transaction	9:01 a.m. to 10:00 am 4:45p.m. to 5:45p.m.	No change in trading hours	No change in settle- ment time	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office
b. After 9:00 a.m. of Day 2	Day 2	Resumed from 9:01 a.m. to 9: 45 a.m. (for value Day 1) then, Day 2 transactions suspended to be resumed the following day from 9:01a.m. to 9:45 a.m.	9:01 a.m. to 10:00 a.m. 4:45p.m. to 5:45p.m.	No change in trading hours	No change in settlement time	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office

Time of receipt of Public Holiday Announcement by the BSP		Bangko Sentral ng Pilipinas							Reserve Position	Bureau of the Treasury		PCHC	
		Treasury Department				PDS	PhilPASS	Cash Dept Withdrawal					
		Overnight RP/RRP		Term RP& RRP/GS/ SDA/RDA									
		Trading	Settlement	Trading	Settlement								
	Day 3	Resumed from 9:01 a.m. to 9:45 am (for value Day 2) then, 4:45p.m. to 5:30p.m. for same day transaction	9:01 a.m. to 10:00 a.m. 4:45p.m. to 5:45p.m.	No change in trading hours	No change in settlement time	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office
6. In case the suspension of work does not apply to all government offices (Manila Day, Quezon City Day, etc.)		4:45 p.m. to 5:30 p.m. for same day transaction	4:45 p.m. to 5:45 p.m.	No change in trading hours	No change in settlement time	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office

(M-2008-025 dated 13 August 2008)

ILLUSTRATIVE ACCOUNTING ENTRIES

(Appendix to Section X564)

I. Transfer of Net Realized Profits

	E/FCDU Account Balances					
	Undivided Profits/(Losses)	Retained Earnings - Free ¹	Net Unrealized Gains/(Losses) Recognized in Equity	Due to RBU - E/FCDU Realized Losses from Operations	Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity	Due from Other Banks/ Cash Inflow (Outflow)
To record net realized profits						
Dr Asset/Liability 100						
Cr Income 100						
To close net realized profits to Undivided Profits/(Losses)						
Dr Income 100						
Cr Undivided Profits/(Losses) 100	100					
Balance as of year-end before transfer of net realized profits and assets to RBU	100					-
To close Undivided Profits/(Losses) to Retained Earnings - Free - EFCDU						
Dr Undivided Profits/(Losses) 100	(100)					
Cr Retained Earnings - Free - EFCDU 100		100				
The undivided Profits/(Losses) shall be closed to Retained Earnings - Free - E/FCDU at the end of the calendar fiscal year adopted by the bank pending transfer of eligible assets to the RBU which shall be made within 1 month after the end of the reference year						
To transfer assets to RBU representing net realized profits						
Dr Retained Earnings - Free - E/FCDU 100		(100)				
Cr Due from other Banks/Cash 100						(100)
The corresponding journal entry in the RBU for the transfer of net realized profits from E/FCDU is as follows:						
Dr Due from Other Banks/Cash 100						
Cr Retained Earnings - Free - RBU 100						
Balance as of year-end after transfer of net realized profits and assets to RBU	-	-				(100)

¹ For branches of foreign banks the account to be used is Net Due to/from HO/Branches/Agencies Abroad

ILLUSTRATIVE ACCOUNTING ENTRIES

II. Transfer of Net Realized Losses

	E/FCDU Account Balances					
	Undivided Profits/(Losses)	Retained Earnings - Free ¹	Net Unrealized Gains/(Losses) Recognized in Equity	Due to RBU - E/FCDU Realized Losses from Operations	Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity	Due from Other Banks/ Cash Inflow (Outflow)
Month 1 (M1)						
To record M1 net realized losses						
Dr. Expense 10						
Cr. Asset/Liability 10						
To close M1 net realized losses to Undivided Profits/(Losses)						
Dr. Undivided Profits/(Losses) 10	(10)					
Cr. Expense 10						
Balance as of M1 before transfer of assets from RBU	(10)					
To close transfer assets from RBU representing net realized losses						
Dr. Due from Other Banks/Cash 10						10
Cr. Due to RBU - E/FCDU Realized Losses from Operations 10				10		
The "Due to RBU - E/FCDU Realized Losses from Operations" shall not be subject to E/FCDU cover requirements						
Balance as of M1 after transfer of assets from RBU	(10)			10		10
Month 2 (M2)						
To record M2 net realized losses						
Dr. Expense 5						
Cr. Assets/Liability 5						
To close M2 net realized losses to Undivided Profits/(Losses)						
Dr. Undivided Profits/(Losses) 5	(5)					
Cr. Expense 5						
Balance as of M2 before transfer of assets from RBU	(15)			10		10

¹For branches of foreign banks the account to be used is Net Due to/from HO/Branches/Agencies Abroad

ILLUSTRATIVE ACCOUNTING ENTRIES

II. Transfer of Net Realized Losses

	E/FCDU Account Balances					
	Undivided Profits/(Losses)	Retained Earnings - Free ¹	Net Unrealized Gains/(Losses) Recognized in Equity	Due to RBU - E/FCDU Realized Losses from Operations	Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity	Due from Other Banks/ Cash Inflow (Outflow)
<u>To transfer assets from RBU representing net realized losses</u> Dr. Due from Other Banks/Cash 5 Cr. Due to RBU - E/FCDU Realized Losses from Operations 5				5		5
<u>Computation of amount to be transferred from RBU</u> Cumulative net realized losses from operations incurred from beginning of year 15 Due to RBU - E/FCDU Realized Losses from Operations 10 <u>Amount to be transferred from RBU 5</u>						
The "Due to RBU - E/FCDU Realized Losses from Operations" shall not be subject to E/FCDU cover requirements						
Balance as of M2 after transfer of assets from RBU	(15)			15		15
Month 3 (M3) <u>To record M3 net realized profits</u> Dr. Asset/Liability 3 Cr. Income 3						
<u>To close M3 net realized profits to Undivided Profits/(Losses)</u> Dr. Income 3 Cr. Undivided Profits/(Losses) 3						
Balance as of M3 before settlement of excess Due to RBU (12)				15		15

¹ For branches of foreign banks the account to be used is Net Due to/from HO/Branches/Agencies Abroad

ILLUSTRATIVE ACCOUNTING ENTRIES

II. Transfer of Net Realized Losses

	E/FCDU Account Balances					
	Undivided Profits/(Losses)	Retained Earnings - Free ¹	Net Unrealized Gains/(Losses) Recognized in Equity	Due to RBU - E/FCDU Realized Losses from Operations	Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity	Due from Other Banks/ Cash Inflow (Outflow)
<u>To settle express Due to RBU-E/FCDU Realized Losses from Operations</u> Dr. Due to RBU - E/FCDU Realized Losses from Operations 3 Cr. Due from Other Banks/Cash 3 <u>Computation of amount to be settled to RBU</u> Cumulative net realized losses from operations incurred from beginning of year 12 Due to RBU - E/FCDU Realized Losses from Operations 15 Excess amount to be settled to RBU ¹ (3)				(3)		(3)
¹ Whenever the balance of "Due to RBU - E/FCDU Realized Losses from Operations" exceeds the cumulative net realized losses incurred from the beginning of the year the excess shall be settled to the RBU.						
Balance as of M3 after settlement of excess Due to RBU	(12)			12		12
Balance as of year - end before transfer of net realized losses to RBU	(12)			12		12
<u>To close Undivided Profits/(Losses) to Due to RBU - E/FCDU Realized Losses from Operations</u> Dr. Due to RBU - E/FCDU Realized Losses from Operations 12 Cr. Undivided Profits/(Losses) 12 <u>The corresponding journal entry in the RBU for the transfer of unrealized losses from E/FCDU is as follows:</u> Dr. Retained Earnings - Free - RBU 12 Cr. Due from E/FCDU - E/FCDU Realized Losses from Operations 12				(12)		
Balance as of year-end after transfer of net realized losses to RBU			-		-	12

¹ For branches of foreign banks the account to be used is Net Due to/from HO/Branches/Agencies Abroad

ILLUSTRATIVE ACCOUNTING ENTRIES

III. Transfer of Net Unrealized Gains/(Losses)

			E/FCDU Account Balances					
			Undivided Profits/ (Losses)	Retained Earnings - Free ¹	Net Unrealized Gains/(Losses) Recognized in Equity	Due to RBU - E/FCDU Realized Losses from Operations	Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity	Due from Other Banks/ Cash Inflow (Outflow)
Dr.	Cr.							
Month 1 (M1) Case A								
To record M1 MTM adjustment on derivatives								
Dr. Gains/(Losses) on Financial Assets/Liabilities HFT	20							
Cr. Derivatives with Negative Fair Value HFT		20						
<u>To close net unrealized losses to Undivided Profits/(Losses)</u>								
Dr. Undivided Profits/(Losses)	20		(20)					
Cr. Gains/(Losses) on Financial Assets/Liabilities HFT		20						
<u>To record MTM adjustment on AFS Financial Assets</u>								
Dr. Net Unrealized Gains/(Losses) on AFS Financial Assets (Equity Account)	50				(50)			
Cr. Accumulated Market Gains/(Losses) on AFS Financial Assets (Contra Asset Account)		50						
Balance as of M1 before transfer of assets from RBU			(20)		(50)			
To transfer assets from RBU representing net unrealized losses								
Dr. Due from Other Banks/Cash	70							70
Cr. Due to RBU - E/FCDU Unrealized Losses Recognized Profit or Loss and in Equity		70					70	
<u>Computation of amount to be transferred from RBU</u>								
Net Unrealized Gains/(Losses) from Operations (debit balance)	20							
Net Unrealized Gains/(Losses) on AFS Financial Assets (debit balance)	50							
Net Unrealized Losses (net debit balance)	70							
The "Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity" shall not be subject to E/FCDU cover requirements								
Balance as of M1 after transfer of assets from RBU			(20)	-	(50)		70	70

¹ For branches of foreign banks the account to be used is Net Due to/from HO/Branches/Agencies Abroad

ILLUSTRATIVE ACCOUNTING ENTRIES

III. Transfer of Net Unrealized Gains/(Losses)

			E/FCDU Account Balances						
		Dr.	Cr.	Undivided Profits/ (Losses)	Retained Earnings - Free ¹	Net Unrealized Gains/(Losses) Recognized in Equity	Due to RBU - E/FCDU Realized Losses from Operations	Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity	Due from Other Banks/ Cash Inflow (Outflow)
Month 2 (M2)									
<u>To record M2 MTM adjustment on derivatives</u>									
Dr. Derivatives with Positive Fair Value HFT		80							
Cr. Gains/(Losses) on Financial Assets/Liabilities HFT			80						
<u>To close net unrealized gains to Undivided Profits/(Losses)</u>									
Dr. Gains/(Losses) on Financial Assests/Liabilities HFT		80							
Cr. Undivided Profits/(Losses)			80	80					
<u>To record MTM adjustment on AFS Financial Assets</u>									
Dr. Accumulated Market Gains/(Losses) on AFS Financial Assets (Contra Asset Account)		30							
Cr. Net Unrealized Gains/(Losses) on AFS Financial Assets (Equity Account)			30				30		
Balance as of M2 before settlement of excess due to RBU				60	-		(20)	70	70
<u>To settle excess Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity</u>									
		70							
Dr. Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity								(70)	
Cr. Due from Other Banks/Cash			70						(70)
<u>Computation of amount to be settled to RBU</u>									
Cumulative net unrealized losses recognized in profit or loss and in equity ¹			0						
Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity			70						
Excess amount to be settled to RBU ¹			(70)						
¹ Computation of cumulative net unrealized losses recognized in profit or loss and in equity									
(1) Net unrealized gains from operations			(60)						
(2) Net unrealized losses on AFS Financial Assets			20						
Cumulative net unrealized gains			(40)						

¹For branches of foreign banks the account to be used is Net Due to/from HO/Branches/Agencies Abroad

ILLUSTRATIVE ACCOUNTING ENTRIES

III. Transfer of Net Unrealized Gains/(Losses)

		E/FCDU Account Balances				

¹ For branches of foreign banks the account to be used is Net Due to/from HO/Branches/Agencies Abroad

ILLUSTRATIVE ACCOUNTING ENTRIES

III. Transfer of Net Realized Losses

		E/FCDU Account Balances					
Dr.	Cr.	Undivided Profits/ (Losses)	Retained Earnings - Free ¹	Net Unrealized Gains/(Losses) Recognized in Equity	Due to RBU - E/FCDU Realized Losses from Operations	Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity	Due from Other Banks/ Cash Inflow (Outflow)
Case B							
Assume the following computation of cumulative net unrealized losses recognized in profit and loss and in equity requiring transfer of assets from RBU							
(1) Net unrealized losses from operations							
	100						
(2) Net unrealized losses on AFS Financial Assets							
	20						
Cumulative net unrealized losses							
	<u>120</u>						
Assume the balance of "Due to RBU - E/FCDU Unrealized losses recognized in Profit or Loss and in Equity " is 0 before transfer of assets at year-end from RBU							
Balance as of year-end before closing Undivided Profits/(Losses) to Retained Earnings Free - E/FCDU and transfer of assets from RBU		(100)		(20)		-	-
To close Undivided Profits/(Losses) to Retained Earnings - Free - E/FCDU							
Dr. Retained Earnings Free-E/FCDU	100		(100)				
Cr. Undivided Profits(Losses)		100					
To transfer assets from RBU representing net unrealized losses							
Dr. Due from Other Banks/Cash	(120)						120
Cr. Due to RBU - E/FCDU Unrealized Losses Recognized in Profit or Loss and in Equity		(120)				(120)	
Balance as of year-end after closing Undivided Profits/(Losses) to Retained Earnings - Free - E/FCDU Unrealized and transfer of assets from RBU		-	(100)	(20)		(120)	120

¹ For branches of foreign banks the account to be used is Net Due to/from HO/Branches/Agencies Abroad

(Circular No. 601 dated 13 February 2008)

**GUIDELINES ON THE AVAILMENT OF US DOLLAR DENOMINATED
REPURCHASE AGREEMENT FACILITY WITH THE BANGKO SENTRAL
(Appendix to Subsec. X601.1)**

The guidelines on the availment of USD denominated repo agreement facility of banks with the BSP are as follows:

A. Eligible borrowers

RBU's or FCDU/EFCDU's of banks with FCDU/EFCDU authority who can demonstrate legitimate funding needs can avail of this facility.

B. Qualifying purposes

Proceeds from the borrowings shall be used for legitimate liquidity requirements of FCDU/EFCDU or RBU for local operations as follows:

1. Compliance with FCDU/EFCDU cover requirements;
2. Servicing of withdrawals of FCDU/EFCDU; and
3. Servicing trade-related requirements.

Borrowing shall be for the account of the applicant bank and shall not be used to fund liquidity requirements of foreign head office, foreign branches, affiliates, or subsidiaries

C. Acceptable collateral

Eligible securities shall cover USD-denominated evidences of indebtedness issued directly by the Government of the Philippines (ROP Bonds) held by the applicant bank. These can be lodged in FCDU/EFCDU's or RBU's Available-for-Sale, HFT and HTM portfolios.

ROP Bonds to be pledged have to be transferred/credited to BSP's designated securities account before availment of the USD repo agreement facility.

The tenor of the underlying security should not be shorter than the overlying instrument.

D. Valuation of securities

The haircut on the underlying securities shall be determined by the Treasury Department, with the concurrence of the Governor. Collateral cover will be maintained through periodic margin calls as specified in the repo agreement.

Said valuation will be subject to periodic review and will be modified when necessary.

E. Available credit line

Credit lines shall be based on outstanding USD-denominated evidences of indebtedness issued directly by the Government of the Philippines (ROP Bonds) held by the applicant bank as of 30 September 2008.

F. Rate, term and trading time

The rates of the USD denominated repo agreement facility shall be set by the Treasury Department, with the concurrence of the Governor, taking into account prevailing liquidity/market conditions.

The term of the USD denominated repo agreement facility shall be set by the Treasury Department, with the concurrence of the Governor: *Provided*, That, should a bank become disqualified for the repo agreement facility, the outstanding repo agreement shall immediately become due and payable.

Trading time for the USD repo agreement transactions shall be set from 10:00 AM to 12 Noon, then from 1:00 PM to 2:00 PM.

G. Application requirements

Applicant bank shall submit the following information/documents, and

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such other documents as may be deemed necessary, to the Treasury Department, copy furnished the appropriate CPCD and SES, to aid BSP evaluate applications:

1. Application for availment of the facility stating therein the amount, requested term, specific purpose of the borrowing, including disclosure of the specific collateral, including source, i.e. RBU or FCDU/EFCDU;

2. Notarized undertaking/certification signed by the bank's president or country manager (in the case of local branch of a foreign bank), compliance officer and head of treasury, indicating the following:

(a) Specific purpose of fund utilization;

(b) Proceeds of borrowing shall be used exclusively to fund liquidity requirements of FCDU/EFCDU or RBU local operations;

(c) That the Bank is not a conduit for another bank nor will the Bank take arbitrage positions on the availment of the repo agreement facility.

H. Reportorial requirements

Banks with outstanding USD denominated repo agreement with the BSP are required to submit to the appropriate CPCD of the SES the following:

1. Report on the deployment/utilization of USD repo borrowing and other documents and supplemental information, as may be required, to enable BSP to assess the legitimacy of the utilization of such funds, within three (3) banking days from release of the proceeds of the repo agreement; and

2. All documents and records relative to the Bank's availment and use of proceeds of the USD denominated repo agreement facility shall be made available to the BSP upon request.

I. Pre-termination

1. The repo agreement may be paid at any time before maturity, subject to mutual agreement of both parties.

2. The BSP may unilaterally pre-terminate the borrowing arrangements under the following conditions:

(a) Funds are found to have been used for ineligible purposes

(b) Collateral margins, if any, are not met.

J. Documentation

The repo agreement between the bank and the BSP shall be covered by a master repo agreement, repo agreement confirmation and such other documentation as may be necessary to facilitate the transaction.

K. Accounting treatment

The USD denominated repo agreement facility shall be treated as collateralized borrowings from the BSP and shall be accounted for in accordance with the FRP issued under Subsection X161.3.

Eligible securities booked under the HTM category shall be subject to the tainting provision provided under Subsection X388.5 upon default/non-payment of the amount due three (3) banking days after the maturity of the repo agreement or disqualification of borrowers.

L. Penalty clauses

Violations of the terms and conditions of the USD repo agreement facility are governed by sanctions provided under X601.2, including but not limited, to termination of eligibility and pre-termination of any outstanding balance through repayment and/or sale of the collateral.

(M-2008-031 dated 23 October 2008 as amended/superseded by M-2008-034 dated 12 November 2008)