



# Manual of Regulations on Foreign Exchange Transactions

## FOREWORD

The Manual of Regulations on Foreign Exchange Transactions, hereinafter referred to as the “Manual”, is a consolidation of all regulations governing foreign exchange transactions. This Manual replaces Circular No. 1389 dated 13 April 1993, as amended, which was the first consolidation of foreign exchange regulations. This is an enhanced and complete version of Circular No. 1389, as amended, as it incorporates all amendments made since 1993 and consolidates all regulations on foreign exchange and related transactions.

The Manual, which shall be updated upon effectivity of subsequent amendments made thereto as approved by the Monetary Board, is posted at the BSP website ([www.bsp.gov.ph](http://www.bsp.gov.ph)) and has hyperlink features to allow users easy access to different sections, appendices, annexes, reports, relevant laws and issuances, and related websites.

In providing users easy access to information, the Manual is expected to facilitate compliance with existing regulations and requirements governing foreign exchange and related transactions.

AMANDO M. TETANGCO, JR.  
Governor

## MANUAL OF REGULATIONS ON FOREIGN EXCHANGE TRANSACTIONS

### List of Acronyms/Abbreviations

AABs	Authorized Agent Banks
AAB-forex corps	subsidiary/affiliate foreign exchange corporations of AABs
AFS	Available for Sale Financial Assets
ASEAN	Association of Southeast Asian Nations
AWB	airway bill
BIR	<a href="#">Bureau of Internal Revenue</a>
B/L	bill of lading
BOI	<a href="#">Board of Investments</a>
BOT	Build-Operate-Transfer
BSP	<a href="#">Bangko Sentral ng Pilipinas</a>
BSRD	Bangko Sentral Registration Document
BT	Build and Transfer
BTRCP	Bureau of Trade Regulation and Consumer Protection
CIR	certificate of inward remittance
Coop Banks	cooperative banks
D/A	documents against acceptance
DFP	Duty Free Philippines, Inc.
DOF	<a href="#">Department of Finance</a>
DOSRI	directors, officers, stockholders and their related interests
D/P	documents against payment
DR	direct remittance
DTI	Department of Trade and Industry
EFCDU	Expanded Foreign Currency Deposit Unit
FCDU	Foreign Currency Deposit Unit
HO	Head Office
HTM	Held to Maturity
IPOs	initial public offerings
IPP	<a href="#">Investment Priorities Plan</a>
KBs	commercial banks
L/C	letter of credit
MORB	<a href="#">Manual of Regulations for Banks</a>
MORNBFIs	Manual of Regulations for Non-Bank Financial Institutions
MTPIP	<a href="#">Medium-Term Public Investment Program</a>
NEDA	<a href="#">National Economic and Development Authority</a>
NBBSEs	non-bank BSP-supervised entities
NBFIs	non-bank financial institutions
NBQBs	non-bank financial institutions with quasi-banking functions
O/A	open account
OBU	offshore banking unit
PAS	Philippine Accounting Standards
PDIC	<a href="#">Philippine Deposit Insurance Corporation</a>

PSE	<a href="#">Philippine Stock Exchange</a>
QIs	qualified investors
RBs	rural banks
SEC	<a href="#">Securities and Exchange Commission</a>
SES	Supervision and Examination Sector
TBs	thrift banks
UBs	universal banks

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<sup>1</sup> Template effective until 31 December 2017 pursuant to Circular No. 946 dated 17 February 2017

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## PART ONE. RULES ON FOREIGN EXCHANGE TRANSACTIONS

### Chapter I

#### GENERAL PROVISIONS

1. Regulations governing foreign exchange transactions are hereby consolidated in this Manual of Regulations on Foreign Exchange Transactions hereinafter referred to as the “Manual”.
2. All foreign exchange transactions, including those of authorized agent banks (AABs)/AAB-subsidiary/affiliate forex corporations (AAB-forex corps), must be compliant with applicable laws, rules and regulations, including the “Know Your Customer” policy.
3. The sale of foreign exchange may be freely made: (a) between and among AABs; (b) by AAB-forex corps to AABs; and (c) between and among individuals/entities other than AABs/AAB-forex corps: *Provided*, that the sale of foreign exchange by non-bank BSP-supervised entities (NBBSEs), including qualified entities operating as foreign exchange dealers/money changers (FXDs/MCs) and remittance agents (RAs) that are neither AABs nor AAB-forex corps, shall be governed by other applicable BSP regulations, including Circular No. 471 dated 24 January 2005, as amended, and shall not be covered by this Manual.
4. The rules on foreign exchange that may be sold and the related documentary requirements shall apply to the sale of foreign exchange by AABs/AAB-forex corps to individuals/entities that are not AABs.
5. All sales of foreign exchange by AABs/AAB-forex corps under this Manual for settlement of foreign exchange transactions are subject to the submission by the purchaser of a duly accomplished Application To Purchase Foreign Exchange using the prescribed form ([Annex A](#)).

6. The seller/remitter of foreign exchange shall ensure that applicable Philippine taxes related to the foreign exchange transactions [including those applicable to the following: (a) sale of foreign exchange; (b) remittance of foreign exchange; and (c) the underlying foreign exchange transaction] have been paid and the remittance is net of such taxes. For this purpose, the seller/remitter of foreign exchange shall require submission by the purchaser of foreign exchange of receipt(s)/evidence of payment of taxes, where applicable.
7. The terms used herein are as defined in the “[Glossary of Terms](#)” hereof unless otherwise indicated in specific sections of this Manual.

*(As introduced by Circular No. 925 dated 13 September 2016)*

## Chapter II

### RESIDENT TO RESIDENT TRANSACTIONS

1. [AABs/AAB-forex corps](#) may sell foreign exchange (regardless of amount) to non-bank [residents](#) for their foreign exchange transactions<sup>4</sup> with other [residents](#) subject to the submission to the foreign exchange selling institution of a duly accomplished Application To Purchase Foreign Exchange ([Annex A](#)) and supported by documents listed under [Appendix 1](#).
2. All foreign exchange purchases shall either be:
  - a. remitted directly to the intended [resident](#) beneficiary’s account (including payment/treasury centers/hubs of a group of companies) on the date of purchase; or
  - b. credited to the [resident](#) purchaser’s [FCDU](#) account (with the same or another AAB) for eventual remittance by the depository AAB to the intended beneficiary for the declared purpose: *Provided*, that if the depository bank is different from the foreign exchange selling institution: (i) the foreign exchange selling institution shall directly transfer the foreign exchange purchases to the depository bank of the purchaser; and (ii) the depository bank shall also be the foreign exchange remitting AAB.
3. [Foreign currency loans](#) obtained from banks operating in the Philippines shall also be governed by the provisions of [Part Three, Chapter I](#) of this Manual.

*(As introduced by Circular No. 925 dated 13 September 2016)*

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<sup>4</sup> Trade and [non-trade transactions](#) (including loans and investments) requiring settlement in foreign currency

## PART TWO. CURRENT ACCOUNT TRANSACTIONS

### Chapter I

#### NON-TRADE FOREIGN EXCHANGE RECEIPTS AND DISBURSEMENTS, CROSS-BORDER TRANSFER OF LOCAL AND FOREIGN CURRENCIES, AND GOLD TRANSACTIONS

**Section 1. Disposition of Foreign Exchange Receipts.** Foreign exchange receipts, acquisitions or earnings of **residents** from non-trade sources may be used freely for any purpose. Such proceeds may, at the option of said **residents**, be sold for pesos, retained or deposited in foreign currency accounts, whether in the Philippines or abroad.

**Resident** shall refer to:

- a. an individual citizen of the Philippines residing therein; or
- b. an individual who is not a citizen of the Philippines but is permanently residing<sup>5</sup> therein; or
- c. a corporation or other juridical person organized under the laws of the Philippines; or
- d. 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 **OBU**s.

**Non-resident** shall refer to an individual, a corporation or other juridical person not included in the definition of **resident**.

**Section 2. Sale of Foreign Exchange to Residents by AABs and AAB-Forex Corps for Non-Trade Current Account Transactions with Non-Residents.** **AABs** and **AAB-forex corps** may sell foreign exchange to **residents** to cover payments to **non-resident** beneficiaries for non-trade current account purposes (e.g., education, medical and travel expenses, salaries of foreign expatriates), other than those relating to **foreign/foreign currency loans** and investments, without need for prior BSP approval, subject to the submission of the following to the foreign exchange selling institution:

1. For sale not exceeding USD500,000 (for individuals) and USD1,000,000 (for corporates/other entities) or its equivalent in other foreign currency per client per day

Duly accomplished Application To Purchase Foreign Exchange ([Annex A](#));

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<sup>5</sup> Residents include any individual, citizen or otherwise, who has resided in the Philippines for a year or longer, as defined in Section 83 of the International Monetary Fund (IMF) Balance of Payments Textbook, 1996.

2. For sale exceeding USD500,000 (for individuals) and USD1,000,000 (for corporates/other entities) or its equivalent in other foreign currency per client per day

Duly accomplished Application To Purchase Foreign Exchange ([Annex A](#)) and documents listed under [Appendix 1](#).

All foreign exchange purchases for [non-trade current account transactions](#) shall either be:

- a. remitted directly to the intended [non-resident](#) beneficiary's account (including payment/treasury centers/hubs of a group of companies) on the date of purchase; or
- b. credited to the [resident](#) purchaser's [FCDU](#) account (with the same or another AAB) for eventual remittance by the depository AAB to the [non-resident](#) beneficiary (including payment/treasury centers/hubs of a group of companies) for the declared purpose: *Provided*, that if the depository bank is different from the foreign exchange selling institution:
  - (i) the foreign exchange selling institution shall directly transfer the foreign exchange sold to the depository bank of the purchaser; and
  - (ii) the depository bank shall also be the foreign exchange remitting AAB.

Foreign exchange purchased for travel and medical expenses abroad not yet incurred, and sales proceeds of emigrant's domestic assets where the emigrant is still in the country, may be held in cash, or directly remitted to the intended [non-resident](#) beneficiary or credited to the [resident](#) purchaser's [FCDU](#) account in accordance with items (a) and (b) above.

*(As amended by Circular Nos. 698 dated 5 November 2010, 794 dated 18 April 2013, 874 dated 8 April 2015 and 925 dated 13 September 2016)*

### **Section 3. Peso Accounts of, and Sale of Foreign Exchange to, Non-Residents**

1. Peso Accounts of [Non-residents](#). All peso deposit accounts of [non-residents](#), including [foreign banks](#), opened/maintained with [AABs](#) operating in the Philippines, shall be funded only by the following, subject to the provisions of [Appendix 1.1](#):

- a. inward remittances of convertible foreign exchange<sup>6</sup>;

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<sup>6</sup> Refer to convertible currencies indicated in the BSP reference exchange rate bulletin

- b. peso income of **non-residents** from, or peso sales proceeds of, properties in the Philippines allowed to be owned by **non-residents** under existing laws;
- c. onshore peso receipts of **non-residents** from **residents** for services rendered by the former to the latter, for which the **resident** would have been entitled to buy foreign exchange from **AABs** and **AAB-forex corps** for remittance to the **non-resident** service provider;
- d. peso receipts of expatriates working in the Philippines with contracts of less than one (1) year representing salary/allowance/other benefits;
- e. onshore peso funds of: (i) foreign students enrolled for at least one semester in the Philippines; and (ii) **non-resident** Filipinos; and
- f. peso proceeds from the onshore sale by **non-resident** issuers of their PSE-listed equity securities<sup>7</sup>.

## 2. Sale of FX to **Non-Residents**

a. **Non-residents**. Depository **AABs** may sell FX up to an amount equivalent to the balance of peso deposit accounts of **non-residents** referred to above that are funded by Item nos. 1(b) to 1(e) of this Section without need for prior BSP approval, subject to the submission of a duly accomplished Application to Purchase FX using the prescribed format ([Annex A](#)).

Peso deposits funded by Item no. 1(a) must have been used onshore to fund foreign direct investment/s and/or investments in eligible portfolio instruments, which are registered with the BSP or custodian banks, subject to the provisions of [Part Three, Chapter II](#) (Foreign Investments) hereof and applicable appendices/annexes, to allow full conversion of peso funds to foreign exchange; otherwise, prior BSP approval shall be required.

b. **Non-resident** issuers of PSE-listed equity securities. Depository **AABs** may sell the equivalent foreign exchange to **non-resident** issuers or their authorized representative up to the amount deposited in the peso account that are funded by Item no. 1(f) upon presentation to the AAB of the original BSP letter-authority to purchase foreign exchange and submission of a duly accomplished Application To Purchase Foreign Exchange ([Annex A](#)).

**Non-resident** issuers or their authorized representative shall submit to the BSP, through the International Operations Department (IOD), the request to purchase foreign exchange from their depository AAB, supported by the photocopies of documents listed under item no. 7 of [Appendix 1.1](#).

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<sup>7</sup> Refer to equity securities of **non-residents** primarily listed at the PSE

All remitting depository [AABs](#) shall duly accomplish and submit to the BSP-IOD a report on such remittances using the prescribed form ([Annex Y](#)) within two (2) banking days from date of actual remittance, together with a copy each of the BSP letter-authority and the duly accomplished schedule attached thereto. The repatriation of proceeds from the onshore sale of PSE-listed equity securities and remittance of interest earned, if any, shall comply with procedures in [Appendix 1.2](#).

c. [Non-resident Tourists/Balikbayan](#). [AABs](#) and [AAB-forex corps](#) may sell foreign exchange to [non-resident](#) tourists or [balikbayan](#) to the extent of the amount of FX shown to have been sold for pesos by the [non-residents](#) to [AABs](#) and [AAB-forex corps](#). Departing [non-resident](#) tourists or [balikbayan](#) may reconvert at airports or other ports of exit unspent pesos up to a maximum of USD10,000 or its equivalent in other foreign currency, calculated at prevailing exchange rates, without showing proof of previous sale of foreign exchange for pesos.

*(As amended by Circular Nos. 698 dated 5 November 2010, 794 dated 18 April 2013, 815 dated 18 October 2013, 925 dated 13 September 2016 and 984 dated 22 December 2017)*

#### **Section 4. Cross-Border Transfer of Local and Foreign Currencies**

1. Local Currency. A person may import or export, or bring with him into or take out of the country, or electronically transfer, [legal tender](#) Philippine notes and coins, checks, money order and other bills of exchange drawn in pesos against banks operating in the Philippines in an amount not exceeding PHP50,000 without prior authorization by the BSP. Amounts in excess of said limit shall require prior written authorization from the BSP.

The term “[electronic transfer](#)” as used herein shall mean a system where the authority to debit or credit an account (bank, business or individual) is provided by wire, with or without a source document being mailed to evidence the authority.

The peso amount of the International Passenger Service Charge (IPSC) refunded to outbound exempt passengers<sup>8</sup> shall not be included in the aforementioned limit during the implementation of said IPSC refund.

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<sup>8</sup> Those passengers exempted under Philippine laws from payment of travel tax, airport tax and other travel related taxes or fees, which include the following:

- a. Philippine Sports Commission and its delegations or representatives to any international sports convention, conference and meeting, and athletes, coaches and other officials to any international competition under Republic Act (R.A.) No. 6847 (The Philippine Sports Commission Act); and
- b. Overseas Filipino Workers (OFWs) under R.A. No. 10022 (Migrant Workers and Overseas Filipinos Act of 1995);

Provided that, refund is made prior to departure at airports or other ports of exit.

2. Foreign Currency. Any person, who brings into or takes out of the Philippines foreign currency, as well as other foreign currency-denominated bearer monetary instruments, in excess of USD10,000 or its equivalent is required to declare the same in writing and to furnish information on the source and purpose of the transport of such currency or monetary instrument ([Annex K](#)).

As used herein, “other foreign currency-denominated bearer monetary instruments” shall refer to the following foreign exchange-denominated instruments in bearer form whereby title thereto passes to another by endorsement, assignment or delivery: travelers’ checks, other checks, drafts, notes, money orders, bonds, deposit certificates, securities, commercial papers, trust certificates, custodial receipts, deposit substitute instruments, trading orders, transaction tickets and confirmation of sale/investment.

*(As amended by Circular Nos. 794 dated 18 April 2013, 874 dated 8 April 2015 and 922 dated 23 August 2016)*

## **Section 5. Buying and Selling of Gold by Residents**

1. Except as provided in this Manual, gold and gold-bearing metals may be bought and sold without specific approval of the BSP.

2. Gold from [small-scale mining](#), including panned-gold, shall be sold to the BSP pursuant to [Republic Act No. 7076](#) (People’s Small-Scale Mining Act of 1991) dated 27 June 1991. All other forms or types of gold may, at the option of the owner or producer thereof and with the consent of the BSP, be sold and delivered to the BSP.

The BSP may sell gold grains/pellets/bars and sheets to local jewelry manufacturers and other industrial users upon application, or to banks exclusively for re-sale to jewelry manufacturers/industrial users, at the BSP’s gold-selling price plus a service fee to cover costs including cost of conversion and packaging.

## **Chapter II**

### **FOREIGN MERCHANDISE TRADE TRANSACTIONS**

#### **A. IMPORT TRADE TRANSACTIONS**

**Section 6. General Policy.** As a general rule, all kinds of merchandise imports are allowed. However, the importation of certain commodities are regulated or prohibited for reasons of public health and safety, national security, international commitments, and development/rationalization of local industry.

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AABs and AAB-forex corps may sell foreign exchange to residents for payment of importations, subject to submission of the following to the foreign exchange selling institution:

- a. For sale not exceeding USD500,000 (for individuals) and USD1,000,000 (for corporates/other entities) or its equivalent in other foreign currency per client per day
  - Duly accomplished Application To Purchase Foreign Exchange ([Annex A](#))
- b. For sale exceeding USD500,000 (for individuals) and USD1,000,000 (for corporates/other entities) or its equivalent in other foreign currency per client per day
  - Duly accomplished Application To Purchase Foreign Exchange ([Annex A](#)) and documents listed under Appendices [4](#) and [7](#)
- c. For sale of foreign exchange (regardless of amount) to settle net payables under intercompany netting arrangement [Open Account (O/A)] among non-bank related parties
  - Duly accomplished Application To Purchase Foreign Exchange ([Annex A](#)) and documents listed under [Appendix 6.1](#)

Foreign exchange purchased from AABs/AAB-forex corps for payment of importations shall either be:

- a. remitted directly to the intended non-resident beneficiary's account (including payment/treasury centers/hubs of a group of companies) on the date of purchase; or
- b. credited to the resident importer's FCDU (with the same or another AAB) for eventual remittance by the depository AAB to the intended non-resident beneficiary (including payment/treasury centers/hubs of a group of companies) for settlement of import obligation: *Provided*, that if the depository bank is different from the foreign exchange selling institution: (i) the foreign exchange selling institution shall directly transfer the foreign exchange purchases to the depository bank of the purchaser; and (ii) the depository bank shall also be the foreign exchange remitting AAB.

*(As amended by Circular Nos. 742 dated 21 November 2011, 818 dated 6 November 2013 and 925 dated 13 September 2016)*

**Section 7. Classification of Imports.** Imports are classified as follows:

1. Freely Importable Commodities. These are commodities the importation of which is neither regulated nor prohibited as defined under (2) and (3) hereunder. The importation may be effected without the prior approval of or clearance from any government agency.

2. Regulated Commodities. These are commodities, listed in [Appendix 2](#), the importation of which requires clearances/permits from appropriate government agencies including the BSP.

3. Prohibited Commodities. These are commodities, listed in [Appendix 3](#), the importation of which is not allowed under existing laws.

*(As amended by Circular No. 794 dated 18 April 2013)*

**Section 8. Modes of Payment for Imports.** AABs and/or AAB-forex corps may sell foreign exchange to service payments for imports under any of the following arrangements subject to the provisions of Sections 9 to 13 and the guidelines covering the sale of foreign exchange for [trade transactions](#) under Appendices [4](#), [6.1](#) and [7](#):

1. [Letter of Credit \(L/C\)](#);
2. [Documents Against Payment \(D/P\)](#);
3. [Documents Against Acceptance \(D/A\)](#);
4. [Direct Remittance \(DR\)](#);
5. [Advance Payment](#); and
6. [Open Account \(O/A\)](#) including intercompany netting arrangement among non-bank related parties.

Intercompany netting arrangement may also be used as settlement for trade in services but not for settlement of [foreign/foreign currency loans](#) and investments. For this purpose, the following definitions are adopted:

- i. **Related parties** refer to non-bank parent/subsidiaries/affiliates/head office/branch, provided that the intercompany netting arrangement is between a [resident](#) and a [non-resident](#).
- ii. **Affiliate (of a non-bank)** refers to a non-bank entity linked directly or indirectly to a non-bank by means of any of the following:
  1. Ownership, control or power to vote, of ten percent (10%) to fifty percent (50%) of the outstanding voting stock of the entity, or vice-versa;

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2. Interlocking directorship<sup>9</sup> or officership, except in cases involving independent directors as defined under existing regulations;
3. Common stockholders owning ten percent (10%) to fifty percent (50%) of the outstanding voting stock of each non-bank entity;
4. Management contract or any arrangement granting power to the non-bank to direct or cause the direction of management and policies of the non-bank counterpart, or vice-versa; and
5. Permanent proxy or voting trusts in favor of the non-bank constituting ten percent (10%) to fifty percent (50%) of the outstanding voting stock of the non-bank entity, or vice-versa.

*(As amended by Circular No. 874 dated 8 April 2015)*

#### **Section 9. Letter of Credit (L/C)**

1. All [L/Cs](#) must be opened on or before the date of shipment and only one [L/C](#) should be opened for each import transaction. For purposes of opening an [L/C](#), importers shall submit to the [AAB](#) the documents listed in [Appendix 5](#). Amendments of [L/Cs](#) need not be referred to the BSP for prior approval. [L/Cs](#) shall be negotiated in accordance with the terms and conditions set forth in the [L/C](#) and shall be governed by the Uniform Customs and Practices on Documentary Credits.

2. Deferred [L/Cs](#) shall be governed by the pertinent provisions of [Part Three, Chapter 1](#) (Loans and Guarantees) hereof. For this purpose, deferred [L/Cs](#) shall refer to those with payment terms of more than one year reckoned from initial shipment date.

*(As amended by Circular Nos. 742 dated 21 November 2011 and 925 dated 13 September 2016)*

#### **Section 10. Documents Against Payment (D/P)**

1. Under the [D/P](#) arrangement, [AABs](#) shall advise the importer of the receipt of the complete original shipping documents and effect the release of said documents to the importer upon receipt of payment.

2. [AABs](#) shall remit payment to the supplier through the correspondent bank abroad.

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<sup>9</sup> When at least one of the directors of one corporation/entity is also the director of the other corporation/entity.

**Section 11. Documents Against Acceptance (D/A) and Open Account (O/A) Arrangements.** Under a [D/A](#) arrangement, the original shipping documents are released to the importer by the AAB concerned at the instance of the seller's bank upon the importer's acceptance of the seller's bill of exchange obligating the importer to pay for the shipment at some future date. Under an [O/A](#) arrangement, the said documents are released by the seller directly to the importer without coursing the documents through the banks, upon the importer's promise to pay at some future date. As used herein, an import transaction to be considered under [D/A](#) or [O/A](#) must be payable at least 30 days after bill of lading (B/L) or airway bill (AWB) shipment date.

The guidelines for reporting, payments and extensions of maturity of importations under [D/A](#) or [O/A](#) arrangements are shown in [Appendix 6](#). For importations which shall be settled via intercompany netting arrangement under Section 8.6 hereof, the guidelines for sale, remittance and reporting are contained in [Appendix 6.1](#).

*(As amended by Circular No. 874 dated 8 April 2015)*

**Section 12. Direct Remittance (DR).** AABs and [AAB-forex corps](#) may service within twenty nine (29) calendar days after B/L or AWB shipment date applications for [direct remittance](#) of import payments upon presentation of the complete original shipping documents, in accordance with existing rules, and if applicable, import clearance, for regulated items issued by concerned government agencies. If the 29<sup>th</sup> day falls on a non-banking day, the following banking day shall apply and the importation will still be considered [DR](#).

**Section 13.** [AABs](#) and [AAB-forex corps](#) may sell foreign exchange to importers without prior BSP approval for [advance payment](#) for importations subject to the guidelines under [Appendix 7](#) hereof, including documents prescribed thereunder. The foreign exchange selling/remitting AAB shall report these transactions to the BSP-IOD using the prescribed forms (Annexes [B](#) and [C](#))

*(As amended by Circular Nos. 698 dated 5 November 2010, 742 dated 21 November 2011 and 925 dated 13 September 2016)*

**Section 14. Other Import Arrangements.** The following import arrangements are also allowed without prior BSP approval:

1. Self-Funded/"No Dollar" Imports. These are imports funded by importer's own foreign currency deposit accounts or those sent by suppliers abroad for which no payment in foreign exchange will be made whether immediate or potential.

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2. Importations on [Consignment](#) Basis. These are importations by export producers of raw materials and accessories/supplies from foreign suppliers/buyers abroad for the manufacture or processing of products destined for export to said foreign suppliers/buyers. These shall also include machinery/equipment and spare parts consigned to the local manufacturer/processor for eventual re-export to the consignor: *Provided*, That the equipment involved shall be used only in connection with the processing of products for export.

## B. EXPORT TRADE TRANSACTIONS

**Section 15. General Policy.** It is the policy of the BSP to encourage commodity exports which generate foreign exchange earnings for the country. Accordingly, commodity exports are allowed without restriction except for certain commodities which are regulated or prohibited for reasons of national interest or by provision of law.

### **Section 16. Classification of Exports**

1. Freely Exportable Commodities. These are commodities the exportation of which is neither regulated nor prohibited. They may be effected without prior approval of or clearance from any government agency.

2. Regulated Commodities. These are commodities the exportation of which requires clearances/permits from appropriate government agencies. The list of these products with the appropriate government agencies/offices is shown in [Appendix 8](#).

3. Prohibited Exports. These are commodities the exportation or sale of which is prohibited/penalized by law ([Appendix 9](#)).

### **Section 17. Export Declaration**

All export shipments shall be covered by an Export Declaration using the prescribed form. [AABs](#) or [OBUs](#) shall require submission, for record purposes, of a copy of the duly accomplished Export Declaration form if the export negotiation or payment of the pertinent export shipment is coursed through them.

## Section 18. Modes and Currency of Payment

1. Authorized Modes. Payments for exports may be made under any of the following modes without prior BSP approval:

- a. Letter of Credit (L/C);
- b. Documents Against Payment (D/P)/Cash Against Documents (CAD);
- c. Documents Against Acceptance (D/A);
- d. Open Account (O/A) arrangement including intercompany netting among non-bank related parties;

For this purpose, the following definitions are adopted:

- i. **Related parties** refer to non-bank parent/subsidiaries/affiliates/head office/branch, provided that the intercompany netting arrangement is between a **resident** and a **non-resident**.
- ii. **Affiliate (of a non-bank)** refers to a non-bank entity linked directly or indirectly to a non-bank by means of any of the following:
  1. Ownership, control or power to vote, of ten percent (10%) to fifty percent (50%) of the outstanding voting stock of the entity, or vice-versa;
  2. Interlocking directorship<sup>10</sup> or officership, except in cases involving independent directors as defined under existing regulations;
  3. Common stockholders owning ten percent (10%) to fifty percent (50%) of the outstanding voting stock of each non-bank entity;
  4. Management contract or any arrangement granting power to the non-bank to direct or cause the direction of management and policies of the non-bank counterpart, or vice-versa; and
  5. Permanent proxy or voting trusts in favor of the non-bank constituting ten percent (10%) to fifty percent (50%) of the outstanding voting stock of the non-bank entity, or vice-versa; and

- e. **Consignment**.

2. Other Authorized Modes. Payments for exports may also be made through export advances without prior approval of the BSP. Export advances shall refer to all

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<sup>10</sup> When at least one of the directors of one corporation/entity is also the director of the other corporation/entity.

payments/remittances received before shipment, including prepayments and [Red Clause](#) advances.

Bank draft/telegraphic transfer, buyer's checks, traveler's checks or acceptable foreign currency notes may be used in prepayment/export advance, but for buyer's checks, the same shall be cleared before shipment.

### 3. Acceptable Currencies

a. Payments for exports may be made in the following currencies:

- 1) U.S. dollar
- 2) Japanese yen
- 3) Pound sterling
- 4) Hong Kong dollar
- 5) Swiss franc
- 6) Canadian dollar
- 7) Singapore dollar
- 8) Australian dollar
- 9) Bahrain dinar
- 10) Kuwait dinar
- 11) Saudi riyal
- 12) Brunei dollar
- 13) Indonesian rupiah
- 14) Thai baht
- 15) United Arab Emirates dirham
- 16) Euro
- 17) Korean won
- 18) Chinese renminbi or yuan
- 19) Such other currencies that may be declared convertible by the

BSP"

b. Payments may, however, be made in Philippine pesos for the following:

- 1) Exports to ASEAN countries: *Provided*, That the BSP shall not be asked to intervene in the clearing of any balances from this payments scheme; and
- 2) Gold sales to the BSP which are considered as constructive exports.

*(As amended by Circular Nos. 794 dated 18 April 2013 and 874 dated 8 April 2015)*

### **Section 19. Negotiation Procedures**

The exporter shall negotiate his bill of exchange/account with the AAB or [OBU](#) together with the bill of lading (B/L)/airway bill (AWB), signed commercial invoice and other documents as required.

In case of availments of export advances, the AAB through which the availment was made must also be the same bank to negotiate the export documents.

**Section 20. Disposition of Export Proceeds.** Foreign exchange receipts, acquisitions or earnings of [residents](#) from exports may be used freely for any purpose. Such proceeds may, at the option of the exporter, be sold for pesos, retained, or deposited in foreign currency accounts, whether in the Philippines or abroad.

### **Section 21. Gold and Constructive Exports**

1. Gold. All exports of gold in any form may be allowed except for gold from [small-scale mining](#), including panned gold, which is required to be sold to the BSP pursuant to [Republic Act No. 7076](#).

2. Constructive Exports. The following sales of [residents](#) paid for in foreign currency shall be considered as constructive exports:

- a. Gold sales to the BSP even if paid for in Philippine currency;
- b. Sales of [residents](#) paid for in foreign currency to the following entities:
  - 1) Bonded manufacturing warehouses of export producers/manufacturers;
  - 2) Export processing zones;
  - 3) [Board of Investments](#) (BOI)-registered export traders operating bonded trading warehouses supplying raw materials used in the manufacture of export products;
  - 4) Diplomatic missions in the Philippines;
  - 5) Duty Free Philippines, Inc. (DFP); and
  - 6) Foreign buyers of goods/products to be delivered directly to local consumers at the instruction of the former and paid for in foreign currency.

An Export Declaration for each sale shall be accomplished: *Provided*, That the exporter shall submit a delivery receipt signed by the buyer in lieu of the B/L or AWB.

## PART THREE. CAPITAL ACCOUNT TRANSACTIONS

### Chapter I

#### LOANS AND GUARANTEES

**Section 22. General Policy.** The BSP shall regulate [foreign/foreign currency loans](#)/borrowings (including those in the form of bonds/notes/other debt instruments) so that these can be serviced in an orderly manner and with due regard to the economy's overall debt servicing capacity.

1. Projects/programs/purposes to be funded by the [foreign/foreign currency loans](#)/borrowings (including those in the form of bonds/notes/other debt instruments) must be legitimate and not contrary to laws, regulations, public order, public health, public safety, or public policy.

2. [Foreign loans](#)/borrowings (including those in the form of bonds/notes/other debt instruments and those covered by derivatives transactions<sup>11</sup>) as well as [foreign currency](#) loans from banks operating in the Philippines to be obtained by the public sector as well as the private sector that will be publicly-guaranteed shall require prior BSP approval unless otherwise indicated in the FX Manual.

3. [Foreign loans](#)/borrowings (including those in the form of bonds/notes/other debt instruments and those covered by derivatives transactions<sup>11</sup>) of the private sector<sup>12</sup> that are not publicly-guaranteed shall be registered with the BSP if these will ultimately be serviced with FX resources of [AABs/AAB forex corps](#).

4. All foreign currency loans (whether in favor of [residents](#) or [non-residents](#)) extended by banks operating in the Philippines shall be reported by the creditor bank to the BSP using the prescribed forms (Annexes [E.4](#) and [E.5](#)). For loans extended to [non-residents](#), these cannot be serviced with FX resources of [AABs/AAB forex corps](#).

5. [Foreign loans](#)/borrowings (including those in the form of bonds/notes/other debt instruments)/[foreign currency](#) loans (including interbank loans) that are not publicly-guaranteed obtained by private sector banks operating in the Philippines, as well as those obtained by private sector non-bank financial institutions with quasi-banking functions, shall not be subject to prior BSP approval and subsequent registration but shall comply with: (a) Sections 22.7 and 22.8, and Appendices [1](#) and [1.3](#)

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<sup>11</sup> Refer to [foreign loans](#)/borrowings that are hedged/funded by derivatives.

<sup>12</sup> But excluding [foreign loans](#)/borrowings of the following private sector entities: (a) banks; and (b) non-bank financial institutions with quasi-banking functions covered by Section 22.5 of the FX Manual

(as may be applicable) of the FX Manual; (b) pertinent provisions of the MORB/MORNBF; and (c) other applicable laws, rules and regulations.

6. Applications for BSP approval/registration of loans shall be filed through the BSP's online system and shall be assessed the applicable fee as indicated under [Appendix 20](#) of the FX Manual.

7. All [resident](#) entities (public<sup>13</sup> and private sectors) intending to obtain [medium- and long-term foreign loans](#), including offshore issuances of debt instruments shall submit to the BSP-IOD their annual foreign borrowings plan (FBP) using the prescribed form ([Annex D.3](#)) every end-September for borrowings for the following year. Proposed onshore issuances by [residents](#) of debt instruments that require settlement in foreign currency shall likewise be reported in the FBP.

Any changes to the submitted plans shall be communicated in writing to the BSP-IOD within two (2) weeks from availability of information for monitoring purposes.

8. For statistical purposes, all foreign loans/borrowings (including those in the form of bonds/notes/other debt instruments), whether BSP-approved/registered or not, shall be regularly reported to the BSP-IOD, using the prescribed forms (Annexes [E.1](#), [E.2](#), and [E.3](#)<sup>14</sup>) within the prescribed deadline until the obligations are fully extinguished.

*(As amended by Circular No. 984 dated 22 December 2017)*

### **Section 23. Public Sector<sup>13</sup> Loans/Borrowings –**

1. Prior Monetary Board approval shall be obtained for public sector [foreign/foreign currency loans](#)/borrowings, including issuances of the following except those covered by Section 23.2:

- a. FX-denominated bonds/notes/other debt instruments, whether to be issued onshore or offshore; and
- b. Peso-denominated bonds/notes/other debt instruments issued offshore, whether to be settled in foreign or local currency.

2. The following public sector loans shall not require prior BSP approval:

- a. [Short-term](#) interbank borrowings; and

<sup>13</sup> Public sector entities include the following: (a) National Government, its agencies and instrumentalities; (b) government-owned and controlled corporations (GOCCs); (c) government financial institutions (GFIs); and (d) local government units (LGUs).

<sup>14</sup> [Annex E.3](#) shall be submitted for initial reporting of [foreign loans](#) obtained without prior BSP approval/registration.

b. [Short-term foreign currency loans](#) of the following from banks operating in the Philippines that are duly reported to the BSP using the prescribed forms (Annexes [E.4](#) and [E.5](#)):

i. Commodity and service exporters: *Provided*, That these loans are used to finance export-related import costs of goods and services as well as peso cost requirements.

Service exporters shall refer to Philippine [residents](#) engaged or proposing to engage in rendering technical, professional or other services which are paid for in FX.

Indirect exporters may likewise borrow in foreign currency from banks operating in the Philippines to fund export-related costs in FX and pesos. Indirect exporters shall refer to cottage/small and medium industries (producers/manufacturers) that have supply arrangements with direct exporters who are holders of an export [letter of credit](#) or a confirmed purchase order/sales contract from a foreign buyer.

ii. Producers/manufacturers, including oil companies and public utility firms: *Provided*, That the loans are used to finance import costs of goods and services necessary in the production of goods by the borrower concerned. Producers/manufacturers shall refer to Philippine [residents](#) that undertake the processing/conversion of raw materials into marketable form through physical, mechanical, chemical, or other means, or by special treatment, or a series of actions that result in a change in the nature or state of the products.

Public utility firms shall refer to business organizations that regularly supply the public with commodities or services such as electricity, gas, water, transportation, telegraph/telephone services and the like.

3. Applications for approval of [foreign/foreign currency loans](#)/borrowings shall be submitted using the prescribed form ([Annex D.1](#)), supported by required documents/information:

a. For approval-in-principle: Requests shall be filed before commencement of actual negotiations or issuance of mandate/commitment to foreign funders/arrangers; and

- b. For final approval: Requests shall be filed after signing of the loan/borrowing documents but before drawdown/receipt of proceeds from loans and issuances of bonds/notes/other debt instruments.

Signed loan/borrowing documents/agreements submitted for final approval shall not be notarized.

4. Proceeds of [foreign/foreign currency loans](#)/borrowings (including those from issuances of bonds/notes/other debt instruments) of the National Government, its political subdivisions and instrumentalities, and GOCCs<sup>15</sup> shall be deposited with the BSP pending utilization, pursuant to Section 113 of Republic Act (R.A.) No. 7653 (The New Central Bank Act) dated 14 June 1993.

*(As amended by Circular No. 984 dated 22 December 2017)*

#### **Section 24. Private Sector Loans/Borrowings –**

1. Prior BSP approval, and registration with the BSP if to be serviced with FX resources of [AABs/AAB forex corps](#), shall be obtained for [publicly-guaranteed private sector foreign/foreign currency loans](#)/borrowings, including issuances of the following:

- a. FX-denominated bonds/notes/other debt instruments, whether issued onshore or offshore; and
- b. Peso-denominated bonds/notes/other debt instruments issued offshore, whether to be settled in foreign or local currency.

Applications for loan approval and registration ([Annex D.2](#)) shall be in the prescribed BSP form, supported by the required documents/information and filed with the BSP as follows:

a. For loan approval — at least 30 banking days before the target signing date of the loan/borrowing documents. Loan/borrowing agreements which have been signed and/or drawn/availed of prior to securing the requisite BSP approval shall not be eligible for approval and registration.

b. For registration — within six (6) months from utilization of proceeds. Covering loan/borrowing documents/agreements shall not be notarized.

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<sup>15</sup> For the purpose of this provision, GOCCs shall refer to those created by special laws. The term excludes government financial institutions such as Development Bank of the Philippines, Land Bank of the Philippines and Al-Amanah Islamic Investment Bank of the Philippines, corporations created under the provisions of the Corporation Law (Act No. 1459, as amended) or the Corporation Code of the Philippines (Batas Pambasa Blg. 68, as amended), and private corporations taken over by the GOCCs.

2. [Private sector foreign loans](#)/borrowings (including those in the form of bonds/notes/other debt instruments issued offshore) that are not publicly-guaranteed<sup>16</sup> and not covered by Section 24.3 hereof shall be subject to registration with the BSP if these will ultimately be serviced with FX resources of [AABs/AAB forex corps](#). The borrower shall:

- a. Submit a Notice to the BSP ([Annex E.3](#)), supported with a copy of the signed covering agreement(s)/document(s), within 30 calendar days from date of signing;
- b. Send a written notification to BSP-IOD for change/s in the loan's financial terms and conditions<sup>17</sup>, or for the cancellation of the loan/commitment/agreement within two (2) weeks from availability of information, for monitoring purposes; and
- c. Apply for loan registration with the BSP within 30 calendar days from drawdown date (for [short-term loans](#)) and within six (6) months<sup>18</sup> from utilization of proceeds (for [medium- and long-term loans](#)), using the prescribed form ([Annex D.2](#)), if these will ultimately be serviced with FX resources of [AABs/AAB forex corps](#).

3. The following private sector loans shall not require prior BSP approval and subsequent registration; *Provided*, these are duly reported to the BSP by the borrower/creditor using the prescribed forms:

- a. [Foreign currency loans](#) of [resident](#) borrowers from banks operating in the Philippines: *Provided*, that the obligations: (a) are not publicly-guaranteed; and (b) are reported by the creditor bank to the BSP using the prescribed forms (Annexes [E.4](#) and [E.5](#));
- b. [Short-term loans](#) in the form of export advances from buyers abroad of [resident](#) exporters/borrowers ([Annex E.1](#) for the exporter/borrower and [Schedule 3](#) – “FX Acquisition from Loans” of FX Form 1 for creditor banks);
- c. Foreign obligations of [residents](#) under deferred letters of credit ([L/Cs](#)) or under [documents against acceptance](#) or open account ([D/A-O/A](#)) arrangements with a term of more than one (1) year that are not

<sup>16</sup> Including those that do not involve any exposure of a government-owned/controlled entity

<sup>17</sup> Financial terms and conditions refer to committed amount, purpose, currency, interest rate, fees/charges, tenor, amortization schedule, default rate, prepayment, availability/closing date and financial ratios/covenants. Changes in borrower/issuer/creditor/guarantor shall also be included in the notice to BSP.

<sup>18</sup> Applications for registration of loans contracted prior to the effectivity of this Circular may be submitted to the BSP – IOD within six (6) months from effectivity of this Circular.

guaranteed by foreign governments/official export credit agencies ([Annex E.2](#) for the resident borrower); and

- d. Short-term trade loans of **resident** exporters/importers from **OBU**s and **non-resident** non-bank creditors that have been granted under BSP-reported lending programs; *Provided*, that the following reports shall be submitted to the BSP:
  - i. By the borrower – monthly report on transactions and status of their **short-term loans** within five (5) banking days after end of reference month using the prescribed form ([Annex E.1](#)) until the obligations are fully settled;
  - ii. By the creditor **OBU** – [Schedule 4A \(Part I\)](#) & [4B \(Part II\)](#) – “Consolidated Report on Loans Granted by **OBU**s to Residents” of the “Statement of Assets and Liabilities” report of **OBU**s; and
  - iii. By the **non-resident** non-bank creditor – loans to **residents** granted under a short-term lending program for trade purposes (duly reported by the creditor to the BSP).

*(As amended by Circular Nos. 742 dated 21 November 2011, 794 dated 18 April 2013, 818 dated 6 November 2013, 874 dated 8 April 2015, 925 dated 13 September 2016 and 984 dated 22 December 2017)*

## **Section 25. Servicing**

1. Prepayment of public sector/**publicly-guaranteed private sector loans** shall be subject to prior BSP approval.

2. Written notification shall be sent to the BSP for the following payments at least one (1) month prior to target payment date [except for prepayment of BSP-registered **short-term** private sector loans/borrowings (including bonds/notes/other debt instruments) that are not publicly-guaranteed]:

- a. Prepayment of BSP-registered loans/borrowings of the **private sector** that are not publicly-guaranteed; and
- b. Payments related to loans/borrowings that are past due for more than 30 calendar days from original due dates.

3. All prepayments shall be subject to the following:

- a. The FX selling AAB/AAB forex corp shall require documents prescribed in [Appendix 1.3](#) of the FX Manual to support sale of FX for debt servicing;

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- b. The FX sold/outwardly remitted shall be duly reported by the FX selling/remitting AAB under the appropriate schedules of FX Form 1, based on instructions of, and declared purpose by, the FX purchaser.

4. **AABs/AAB forex corps** may sell FX for servicing of **foreign/foreign currency loans/borrowings** (including those in the form of bonds/notes/other debt instruments) of the public and private sectors upon submission to the FX selling institution of a duly accomplished and signed Application To Purchase FX ([Annex A](#)), supported by documents listed under Appendices [1](#) and [1.3](#) (as applicable).

5. FX sold by **AABs/AAB forex corps** for payments on loans/borrowings (including those in the form of bonds/notes/other debt instruments) and related fees/charges shall either be:

- a. remitted directly to the account of the creditor/intended beneficiary on the date of purchase; or
- b. credited to the **FCDU** account of the **resident** borrower (or the guarantor in case payment will be made by the guarantor) with the FX selling AAB (or another AAB) for eventual remittance on or before due date to the intended beneficiary; *Provided*, that the applicant purchaser shall certify that: (i) the FX shall be used for the declared purpose; (ii) funds credited to the **FCDU** account shall eventually be remitted to the intended beneficiary on or before due date; and (iii) the **resident** borrower shall disclose to the remitting bank the intended purpose of remittance.

The remitting bank shall report to the BSP the outward remittance of FX under the applicable schedule/s of FX Form 1, based on instructions of, and purpose declared by, the FX purchaser.

6. All loan payments (including prepayments) made, irrespective of the source of FX funding, shall be reported by the borrower to BSP-IOD using the prescribed forms (Annexes [E.1](#) and [E.2](#)).

*(As amended by Circular No. 984 dated 22 December 2017)*

## **Section 26. (Reserved)**

*(As amended by Circular No. 984 dated 22 December 2017)*

**Section 27. (Reserved)**

*(As amended by Circular Nos. 925 dated 13 September 2016 and 984 dated 22 December 2017)*

**Section 28. (Reserved)**

*(As amended by Circular Nos. 742 dated 21 November 2011, 925 dated 13 September 2016 and 984 dated 22 December 2017)*

**Section 29. (Reserved)**

*(As amended by Circular Nos. 698 dated 5 November 2010, 794 dated 18 April 2013, 818 dated 6 November 2013, 925 dated 13 September 2016 and 984 dated 22 December 2017)*

**Section 30. Guarantees and other similar arrangements**

1. Guarantees for account of the public sector or similar arrangements (other than those covered by Section 30.3 hereof) that may give rise to actual foreign obligations of the public sector to [non-residents](#), as well as those to be issued by government-owned and controlled corporations (excluding public sector banks and non-bank financial institutions with quasi-banking functions) in favor of [non-residents](#), shall require prior BSP approval.

2. The following guarantees (including risk take-over and similar arrangements) and related payments for account of the private sector shall neither require prior BSP approval nor registration but shall be reported to the BSP by [AABs](#) as issuer/beneficiary using the prescribed form ([Annex G](#) if AAB is issuer or [Annex H](#) if AAB is beneficiary) to allow servicing of the resulting FX obligation using FX resources of [AABs/AAB forex corps](#) in the event of default by the principal obligor:

- a. Guarantees to be issued by [resident](#) banks and other financial institutions, including public sector banks and non-bank financial institutions with quasi-banking functions, in favor of [non-residents](#) such as:
  - i. Payment guarantees (e.g., bid bonds, performance bonds, [advance payment](#) bonds); and
  - ii. Guarantees to secure foreign obligations of [residents](#) which do not partake the nature of a foreign loan.

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- b. Guarantees to be issued by **non-resident** banks/financial institutions as well as other **non-resident** entities to secure peso loans/**foreign currency** loans of the private sector from banks operating in the Philippines.

3. Guarantees that are related to **foreign/foreign currency loans**/borrowings that require BSP approval/registration must already form part of the loan terms submitted for BSP approval/registration (as applicable). In case of a call on such guarantee:

- a. The borrower/guarantor shall submit a written notification to the BSP at least 10 banking days before target date of settlement of the call on the guarantee to allow servicing using FX resources of **AABs/AAB forex corps**; and
- b. The borrower shall comply with pertinent rules covering the underlying obligation (including reportorial requirements).

4. Guarantees or similar arrangements which may give rise to actual foreign obligations to **non-residents** and not falling under Sections 30.1 – 30.3 hereof shall require BSP registration to allow servicing of the resulting foreign obligation using FX resources of **AABs/AAB forex corps**.

5. Any foreign obligation of a **resident** obligor resulting from a call on the guarantee issued by a **non-resident**, not falling under Sections 30.3 and 30.4, shall be reported to the BSP using the prescribed form ([Annex E.3](#)).

6. **AABs/AAB forex corps** may sell FX to settle the obligations under the guarantees, upon submission to the FX selling institution of a duly accomplished and signed Application To Purchase FX ([Annex A](#)), supported by documents listed under [Appendix 1.3](#).

7. Any remittance of payments relative to the underlying obligation covered by the guarantees under items 1-5 hereof may be made as these fall due without prior BSP approval.

*(As amended by Circular Nos. 925 dated 13 September 2016 and 984 dated 22 December 2017)*

### **Section 31. Other Financing Schemes/Arrangements**

1. Financing schemes which will involve option to purchase arrangement or transfer of ownership after a certain period of time, as in the case of Build-Operate-Transfer (BOT), Build and Transfer (BT) arrangements, shall be registered

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with the BSP to be eligible for servicing using FX resources of [AABs/AAB forex corps.](#) Applications for registration shall be filed by the implementing agency/proponent with the BSP within one (1) month from contract signing.

Implementing agencies/proponents of projects under BOT/similar financing arrangements shall submit the following reports to BSP:

- a. Yearly Projected Funding Requirements for BOT/Other Similar Financing Schemes ([Annex I](#)), on or before September 30 of the year preceding the reference period; and
- b. Monthly Report on payment under BOT/Other Similar Financing Schemes ([Annex J](#)) within ten (10) banking days from end of reference month.

2. Offshore issuances by [non-residents](#) of peso-denominated bonds/notes and similar debt instruments (whether to be settled in foreign or local currency) shall be registered with the BSP to be eligible for servicing using FX resources of [AABs/AAB forex corps](#), where the transaction will involve:

- a. inward remittance of FX to the Philippines by the [non-resident](#) issuer/investor; or
- b. participation of a [resident](#) enterprise or any of its offshore offices,-branches, subsidiaries and affiliates as issuer, guarantor or beneficiary under the transaction.

The transaction shall comply with rules on cross border transfer (import and export) of Philippine currency as well as pertinent rules and regulations of other government agencies/entities. Issuances which are not covered by item 2(a-b) shall require prior BSP approval.

The issuer shall: (a) submit to the BSP a notice on: (i) the bond transactions using the prescribed form ([Annex E.3](#)), together with copies of the signed covering agreements/documents and final offering circular (if any) within 30 calendar days from issue date; and (ii) change/s in the financial terms and conditions<sup>19</sup> of the issuance within two (2) weeks from availability of information for monitoring purposes; and (b) register with the BSP within 30 calendar days from issue date if same will be serviced using FX resources of [AABs/AAB forex corps](#).

3. [Non-resident](#) issuances of notes/bonds or similar instruments in the domestic market shall require BSP approval before execution.

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<sup>19</sup> Financial terms and conditions refer to committed amount, purpose, currency, interest rate, fees/charges, tenor, amortization schedule, default rate, prepayment, availability/closing date and financial ratios/covenants. Changes in borrower/issuer/creditor/guarantor shall also be included in the notice to BSP.

4. **AABs** may extend peso financing to **non-residents** to fund the following:
  - a. Without prior BSP approval – specific cases allowed under the MORB; or
  - b. Subject to prior BSP approval – for use in projects/programs/purposes that are: (i) not covered by item (a) above; and (ii) legitimate and not contrary to laws, regulations, public order, public health, public safety, or public policy. The creditor-bank shall submit to the BSP-IOD its application for approval of proposed peso financing program to **non-residents**.

*(As amended by Circular Nos. 794 dated 18 April 2013 and 984 dated 22 December 2017)*

## **Chapter II**

### **FOREIGN INVESTMENTS**

**Section 32. General Policy.** The BSP supports the country's policy to encourage inward foreign investments. Said investments need not be registered with the BSP unless the foreign exchange needed to service the repatriation of capital and the remittance of dividends, profits and earnings which accrue thereon shall be purchased from **AABs** or **AAB-forex corps**.

As a matter of policy, **non-residents** are not allowed to invest, whether directly or indirectly, in the Special Deposit Account (SDA) facility of the BSP.<sup>20</sup>

*(As amended by Circular No. 794 dated 18 April 2013)*

**Section 33.** Categories of Inward Foreign Investments. For purposes of registration, foreign investments may be in the form of: (1) direct investments in Philippine firms or enterprises; and (2) portfolio investments as enumerated in Section 35 hereof.

*(As amended by Circular No. 794 dated 18 April 2013)*

**Section 34.** Inward Foreign Direct Investments. Inward foreign direct investments may be in cash or in kind. For registration purposes, foreign exchange funding for the cash investments must be inwardly remitted but need not be converted

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<sup>20</sup> Pursuant to BSP Memorandum No. 2012-034 dated 13 July 2012

to pesos, except for investments in foreign bank branches' permanently assigned capital where the foreign exchange funding must be inwardly remitted and converted to pesos at the exchange rate prevailing at the time of remittance, pursuant to the pertinent provisions of the Manual of Regulations for Banks (MORB).

Assets eligible for registration as investment in kind shall include: (1) machinery and equipment; (2) raw materials, supplies, spare parts and other items including intangible assets necessary for the operations of the investee firm. The value of these investments in kind shall be assessed and appraised by the BSP before their registration.

Expenses incurred by foreign firms pursuant to government-approved service contracts/other contracts for oil, gas, and geothermal energy exploration/developments may be capitalized and registered as foreign investment with the BSP.

*(As amended by Circular No. 742 dated 21 November 2011 and Circular No. 937 dated 27 December 2016)*

**Section 35. Inward Foreign Portfolio Investments.** Inward foreign portfolio investments shall refer to the following instruments:

1. Peso-denominated securities issued onshore by the National Government and other public sector entities.
2. Securities of **resident** enterprises listed at the Philippine Stock Exchange (PSE).
3. Peso time deposits with an AAB with a maturity of at least ninety (90) days.
4. Other peso-denominated debt instruments issued onshore by private **resident** firms (such as bonds/notes, bills payables, non-participating preferred shares) and not covered by **Section 23**.

For registration purposes, the foreign exchange funding for the portfolio investments must be inwardly remitted and converted to pesos.

*(As amended by Circular No. 742 dated 21 November 2011 and Circular No. 794 dated 18 April 2013)*

**Section 36. Registration with the BSP.** The following inward foreign investments shall be registered with the BSP:

1. Inward foreign direct investments under Section 34; and
2. Inward foreign portfolio investments in other peso-denominated debt instruments under Item No. 4 of Section 35.

All applications<sup>21</sup> for registration of foreign direct investments ([Annex W](#)) under Section 34 shall be filed with the BSP, through the International Operations Department, within one (1) year to be reckoned from the following dates:

Particulars	Reckoning date
a. Cash Investment	Date of inward remittance of foreign exchange
b. Investments in Kind	Date of actual transfer of assets to the Philippines
c. Foreign direct investments whose funding are recorded under the "Deposits for Stock Subscription" (DSS) account	<p>If DSS is recorded as equity in the investee firm's books pursuant to SEC rules: Date of SEC approval of the increase in authorized capital stock (ACS) of the investee firm that will accommodate the number of shares covered by the investment for registration.</p> <p>If DSS is recorded as liability in the investee firm's books:</p> <ol style="list-style-type: none"> <li>i. Date of SEC's action (approval of the increase in ACS; confirmation of valuation of liability; or confirmation of exempt transaction) if the investee firm is a corporation;</li> <li>ii. Date of Partnership Resolution approving the conversion if the investee firm is a partnership; and</li> <li>iii. Date of the covering agreement/effectivity date of the conversion if the investee firm is a branch/representative office/regional headquarter/regional operating headquarter.</li> </ol>
d. Transfers between <b>non-residents</b> of previously registered FDIs where payment was made offshore in foreign exchange	Date of signing of the Deed of Sale/Assignment covering the transfer

A Bangko Sentral Registration Document (BSRD) shall be issued by the BSP evidencing registration of such investments.

*(As amended by Circular No. 743 dated 15 December 2011, Circular No. 794 dated 18 April 2013, Circular No. 818 dated 6 November 2013 and Circular No. 918 dated 2 August 2016 and Circular No. 925 dated 13 September 2016)*

<sup>21</sup> Applications for registration of foreign direct investments, which have not yet been filed with the BSP-IOD after the expiration of the prescriptive period for filing of such applications, may be filed with the BSP-IOD from 1 September 2016 up to 1 September 2017, subject to compliance with the registration requirements under this Manual and payment of a fixed processing fee of PHP10,000.00 per Bangko Sentral Registration Document to be issued.

**Section 37. Registration with Custodian Banks.** The following [non-resident](#) investments shall be registered with the investor's designated custodian bank, on behalf of the BSP:

1. Inward foreign investments in peso-denominated government securities, PSE-listed securities issued by [residents](#), and peso time deposits (Item nos. 1, 2 and 3, respectively of Section 35); and
2. Investments in PSE-listed equity securities issued by [non-residents](#).

A custodian bank may be an AAB or [OBU](#) appointed by the foreign investor to register his investments and to hold shares and other investment instruments for and in his behalf, and to represent him in all necessary actions in connection with his investments in the Philippines.

The BSRD to be issued by a custodian bank on behalf of the BSP shall be in the prescribed pre-numbered form purchased by the custodian bank from the BSP. BSRDs issued directly by custodian banks for registered investments in peso time deposits shall be (a) annotated with roll-overs of the investment; or (b) cancelled if such deposits are preterminated before ninety (90) days.

The investor or his duly authorized representative shall submit a duly accomplished "Authority to Disclose Information"<sup>22</sup> in the prescribed format ([Appendix 10.4](#)) relative to all investments registered/held by each custodian bank for the account of the investor.

*(As amended by Circular No. 794 dated 18 April 2013, Circular No. 815 dated 18 October 2013 and Circular No. 838 dated 20 June 2014)*

**Section 38. Registration Procedures.** The procedures for registration of foreign investments including the supporting documents are outlined in [Appendix 10](#).

**Section 39. Import/Export of Stock Certificates of Philippine Firms.** No prior BSP authority shall be required for the import/export of stock certificates of Philippine firms issued to foreign investors, including investments prior to 15 March 1973 under [Section 43](#).

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<sup>22</sup> A duly accomplished "Authority to Disclose Information" submitted to a custodian bank shall cover all existing investments (as of 20 June 2014) and subsequent investments of a [non-resident](#) held by a custodian bank.

#### **Section 40. Repatriation and Remittance Privileges**

1. Inward foreign investments duly registered with the BSP or with a custodian bank duly designated by the foreign investor, shall be entitled to full and immediate repatriation of capital and remittance of dividends, profits and earnings using foreign exchange to be purchased from [AABs](#) and [AAB-forex corps](#).

2. Foreign exchange may be purchased from [AABs/AAB-forex corps](#) in an amount equivalent to the peso sales/divestments proceeds (including dividends, profits or earnings thereon) of BSP-registered foreign investments in accordance with the procedures outlined in [Appendix 11](#) and supported by the documents listed under [Appendix 1](#) hereof.

3. Registering banks for foreign investments may sell the equivalent foreign exchange of: (a) excess pesos funded with inward remittance of foreign exchange computed as follows: peso proceeds of foreign exchange inwardly remitted less the peso amount actually used for BSP-registered investment/s; plus (b) interest earned on the excess pesos, if any, subject to the following conditions:

- a. the investor shall comply with the documents listed under [Appendix 1](#) hereof;
- b. at least fifty percent (50%) of the funds brought in were invested in the country and duly registered with the BSP/custodian banks;
- c. such excess pesos should not have been utilized to fund any investment; and
- d. the outward remittance of the equivalent foreign exchange shall be reported to the BSP-IOD by the remitting AAB within two (2) banking days from the date of remittance, with copies of the prescribed supporting documents.

4. The reporting requirements under [Appendix 11](#) shall be complied with.

5. The foreign exchange purchases may be made by the [resident](#) agent/authorized representative on behalf of the [non-resident](#) investor for direct remittance to the [non-resident](#) beneficiary on the date of purchase.

*(As amended by Circular No. 698 dated 5 November 2010, Circular No. 794 dated 18 April 2013 and Circular No. 925 dated 13 September 2016)*

**Section 41. Deposit of Peso Divestment/Sales Proceeds.** Pending reinvestment or repatriation, peso divestment/sales proceeds of duly registered foreign

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investments, as well as related dividends, profits, and earnings may be deposited temporarily with any [AAB](#). The eventual repatriation of such peso proceeds in equivalent foreign exchange, including interest earned (net of taxes), shall be remittable in full through any [AAB](#) without prior BSP approval in accordance with the procedures outlined in [Appendix 11](#).

*(As amended by Circular No. 794 dated 18 April 2013)*

**Section 42. Reinvestment.** Foreign investors may reinvest peso divestment/sales proceeds or remittable dividends/profits or earnings of duly registered investments. The reinvestments shall be registered with the BSP or the investors' designated custodian banks, as provided under Sections 36 and 37, if the foreign exchange needed to service the repatriation of capital and the remittance of dividends, profits and earnings which accrue thereon shall be purchased from [AABs](#) and [AAB-forex corps](#).

*(As amended by Circular No. 794 dated 18 April 2013)*

**Section 43. Inward Foreign Investments Prior to 15 March 1973.** Repatriation of divestment proceeds and remittance of dividends, profits and earnings from foreign investments certified by stock transfer agents to have been made prior to 15 March 1973 may be serviced using foreign exchange purchased from [AABs](#) and [AAB-forex corps](#), without prior BSP approval. In the absence of said certification, such investments may be registered with the BSP subject to submission of documentary requirements under [Appendix 12](#).

#### **Section 44. Investments by Philippine Residents**

1. General policy –
  - a. [Residents](#) may invest in instruments enumerated in item 2 hereof, without prior BSP approval funded by:
    - (i) their foreign currency deposit account/s (whether offshore or onshore); and/or
    - (ii) FX purchased from [AABs/AAB-forex corps](#) of up to USD60 million or its equivalent in other foreign currency per investor per year, or per fund per year for qualified investors (QIs).
  - b. Investments by [residents](#) (except [AABs](#)) funded with foreign exchange purchased from [AABs](#) or [AAB-forex corps](#) in excess of the USD60 million limit

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per investor per year shall require prior approval by the BSP: *Provided*, That the purchase of foreign exchange for investments by managed or trustee accounts (other than pooled funds) shall be considered as part of the foreign exchange purchases by the principal or trustor of such accounts for determining compliance with the limits.

- c. QIs may apply with the BSP for a higher annual investment limit. For purposes of this section, QIs shall be limited to the following: insurance and pre-need companies; collective/pooled funds, whether in a corporate or contractual structure, such as mutual funds, Unit Investment Trust Funds (UITFs) and variable insurance; public or private pension or retirement or provident funds and such other entities and funds as the BSP may determine as QIs on the basis of such factors as financial sophistication, size and regularity of financial transactions, net worth and size of assets being managed. The application of collective/pooled funds and pension, retirement and provident funds for a higher annual investment limit may be effected through its governing board or through its trustee.
- d. Investments of banks shall be subject to existing prudential regulations of the BSP and other applicable laws, rules and regulations.
- e. Foreign exchange received by [residents](#) as dividends/earnings or divestment proceeds from investments under this Section need not be inwardly remitted and sold for pesos.
- f. All foreign exchange purchases for investments by [residents](#) shall be:
  - i. remitted directly to the account of the intended beneficiary (e.g., [non-resident](#) investee firm, fund manager, broker/dealer, and/or [non-resident parent company/subsidiary](#)); or
  - ii. credited to the [resident](#) investor's [FCDU](#) account (with the same or another AAB) for eventual remittance by the depository AAB to the intended beneficiary for funding of investment: *Provided*, that if the depository bank is different from the foreign exchange selling institution:
    - (i) the foreign exchange selling institution shall directly transfer the foreign exchange purchases to the depository bank of the purchaser; and
    - (ii) the depository bank shall also be the foreign exchange remitting AAB.
- g. [AABs](#) and [AAB-forex corps](#) shall submit a monthly report ([Annex V](#)) to the BSP-IOD on the sale of foreign exchange for investments enumerated in this Section as well as investments by [residents](#) falling under resident to resident transactions under Part I, Chapter II hereof, within the required deadline.

- h. All foreign exchange purchases by **residents** for investments enumerated under this Section shall require the submission of a duly accomplished Application to Purchase Foreign Exchange (**Annex A**) and documents listed under **Appendix 1**. Foreign exchange purchases shall be consolidated for purposes of determining compliance with the allowable limit prescribed in Item 1.a.ii.
  - i. Other investments by **residents**<sup>23</sup> which will require settlement in foreign currency in favor of another **resident** shall be governed by the rules on resident to resident transactions under Part I, Chapter II hereof.
2. Outward investments by **residents** –
- a. Debt and equity securities issued offshore by **non-residents**, including depositary receipts
  - b. Offshore foreign currency-denominated mutual funds and UITFs
  - c. Foreign currency-denominated intercompany loans to offshore **parent companies/subsidiaries** of **residents** with an original tenor of at least one (1) year
  - d. Investments in real property abroad, including condominium units
  - e. Foreign currency-denominated investment instruments issued onshore by **non-residents**

*(As amended by Circular No. 698 dated 5 November 2010, Circular No. 742 dated 21 November 2011, Circular No. 794 dated 18 April 2013 and Circular No. 925 dated 13 September 2016)*

## **PART FOUR. OFFSHORE BANKING UNITS, REPRESENTATIVE OFFICES AND FOREIGN CURRENCY DEPOSIT UNITS**

### **Chapter I**

#### **OFFSHORE BANKING UNITS OF FOREIGN BANKS**

**Section 45. Definition of Terms.** As used in this Chapter, the following terms shall have the meaning indicated unless the context clearly indicates otherwise:

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<sup>23</sup> Such as (a) bonds/notes by the Republic of the Philippines or other Philippine and/or **residents**; (b) Instruments held for sale/trading by banks operating in the Philippines: (i) bond/notes issued offshore by the Republic of the Philippines or other Philippine **resident** entities; and (ii) debt securities issued by **non-residents** that are payable in foreign currency, provided the required license/approval/clearance/other requirements of the Securities and Exchange Commission and other government agencies have been obtained/complied with; and (c) equity securities issued by **residents** and listed abroad

1. “Offshore Banking” shall refer to the conduct of banking transactions in foreign currencies involving the receipt of funds principally from external sources and, as allowed in this Manual, from internal sources and utilization of such funds, as provided herein.

2. “Offshore Banking Unit” or “OBU” shall refer to a branch a foreign banking corporation which is duly authorized by the BSP to transact offshore banking business in the Philippines.

3. “Net office funds” shall refer to the net credit balance of the “Due to Head Office (HO)/Branches” after deducting the “Due from HO/Branches”, as shown in the following computation:

Due to HO/Branches

Remittances/Advances/Deposits to OBU by HO/Branches	x x x x x x x
--	---------------

Unremitted earnings of OBU	x x x x x x x
T o t a l	USD x x x x x x x

Less: Due from HO/Branches

Remittances/Advances/Deposits of OBU with its HO/Branches	x x x x x x x
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Net Office Funds	USD x x x x x x x
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4. “Deposits” shall refer to funds in foreign currencies which are accepted and held by an OBU in the regular course of business, with the obligation to return an equivalent amount to the owner thereof, with or without interest.

5. “Resident” shall refer to –

- a) an individual citizen of the Philippines residing therein; or
- b) an individual who is not a citizen of the Philippines but is permanently residing<sup>24</sup> therein; or
- c) a corporation or other juridical person organized under the laws of the Philippines; or
- d) 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.

<sup>24</sup> Residents include any individual, citizen or otherwise, who has resided in the Philippines for a year or longer, as defined in Section 83 of the IMF Balance of Payments Textbook, 1996.

6. “Non-resident” shall refer to an individual, a corporation or other juridical person not included in the definition of [resident](#).

7. “Foreign Currency Deposit Unit” or “FCDU” shall refer to that 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 [Republic Act No. 6426](#) (Foreign Currency Deposit Act) dated 4 April 1974, as amended.

8. “Local bank” shall refer to a rural bank (RB)/cooperative bank (Coop Bank), thrift bank (TB), commercial bank (KB) or universal bank (UB) organized under the laws of the Republic of the Philippines.

9. “Local branch of a [foreign bank](#)” shall refer to a branch of a foreign bank doing business in the Philippines, pursuant to the provisions of [Republic Act No. 7653](#), [Republic Act No. 8791](#), and [Republic Act No. 7721](#), as amended.

10. “Acceptable foreign exchange” comprise those foreign currencies which are acceptable to and exchangeable at the BSP and which form part of the international reserves of the country.

*(As amended by Circular No. 937 dated 27 December 2016)*

**Section 46. Approvals Required.** A [foreign bank](#) may operate an [OBU](#) in the Philippines, upon issuance of a Certificate of Authority to operate by the [Monetary Board](#) and registration with the [SEC](#).

**Section 47. Criteria for Selection.** The following factors shall serve as basis for the issuance of certificate of authority to operate an [OBU](#): (1) liquidity and solvency positions; (2) net worth and resources; (3) managerial and international banking expertise of applicant bank; (4) contribution to the Philippine economy; and (5) other relevant factors, such as participation in the equity of local UBs/KBs and appropriate geographic representations.

**Section 48. Pre-Operation Requirements.** Upon advice from the BSP, a qualified bank shall submit a sworn undertaking of its head office through any of its duly authorized officers, supported by an appropriate resolution of its board of directors, to the effect that it shall:

1. provide, on demand, the necessary currencies to cover liquidity needs that may arise or other shortfall that its [OBU](#) may incur;

2. manage the operations of its **OBU** soundly and with prudence;
3. continually train a specific number of Filipinos in international banking and foreign exchange trading with a view to reducing the number of expatriates;
4. provide and maintain in its **OBU** at all times net office funds in the minimum amount of USD1 million;
5. start operations of its **OBU** within 180 days from receipt of its certificate of authority to operate such unit;
6. comply with all applicable local laws relating to labor and employment; and
7. submit, before start of operations, other documents as may be required by the BSP such as certification or similar documents showing that it is duly authorized by the proper government entity of its country to engage in offshore banking business in the Philippines.

**Section 49. Annual Fee.** Upon issuance of a certificate of authority to operate an **OBU** in the Philippines, and yearly thereafter, the authorized bank shall pay the BSP a fee of not less than USD20,000.00.

**Section 50. Transactions with Non-Residents and/or with Other OBUs.** An **OBU** may freely engage in all normal banking transactions with **non-residents** and/or with other **OBUs**, involving any currency other than the Philippine peso.

**Section 51. Transactions with Foreign Currency Deposit Units (FCDUs)/ Expanded Foreign Currency Deposit Units (EFCDUs).** Subject to BSP regulations, an **OBU** may engage in the following transactions with FCDUs/EFCDUs of local banks in any currency other than the Philippine peso:

1. Accept time, savings and demand deposits or issue negotiable certificates of time deposit;
2. Borrow with maturities not exceeding 360 days;
3. Deposit;
4. Extend loans and advances;
5. Deal in foreign currency financial instruments;

6. Discount bills, acceptances, and negotiable certificates of deposits;
7. Engage in foreign exchange trading;
8. Engage in foreign currency, foreign currency swap; and
9. Engage in such other transactions as authorized under this Section between **OBU**s and **resident** banks authorized to accept foreign currency deposits under the provisions of **Republic Act No. 6426**, as amended.

Interbank short-term transactions of not exceeding 360 days such as credit lines of Philippine banks with correspondent banks, interbank call loans and interbank loans for general liquidity purposes shall not require prior BSP approval.

**Section 52. Transactions with Residents which are not Banks.** An **OBU** may engage in the following transactions with **residents** which are not banks:

1. Deal in foreign currency financial instruments;
2. Extend **foreign currency loans** and advances, subject to existing regulations on foreign borrowings;
3. Service importations through **L/C, D/A, O/A** and **D/P** of **resident**-borrowers: *Provided*, That such importations shall be funded by a BSP-authorized **OBU foreign currency loan** to the **resident**-borrower involved; and *Provided, further*, That **D/A-O/A** imports coursed through and serviced by **OBU**s shall be subject to the reporting requirements under [Appendix 6](#);
4. Negotiate inward (export) **L/Cs** and handle other export transactions (including **D/P, D/A** and **O/A**) coursed through their worldwide network of branches and correspondents: *Provided*, That **OBU**s share in the total export **L/C** negotiation business shall be limited to ½ of the growth (incremental) element in the country's total annual export. This limit shall be observed yearly until this equals ten percent (10%) of total exports. Exports not covered by **L/Cs**, i.e., done through **D/A-O/A** arrangements shall be considered subject to this overall limit;
5. Provide full foreign exchange service for all foreign currency non-trade and trade remittances resulting from or related to their own negotiation of export **L/Cs**;
6. Render financial, advisory and related services; and
7. Refinance trust receipts without prior BSP approval arising from import transactions of Philippine **residents** in U.S. dollars or in other acceptable foreign currencies. The refinancing shall be evidenced by banker's acceptances.

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However, **OBU**s may hold peso-denominated assets arising from restructuring or other repayment scheme of outstanding loans, subject to the terms and conditions of the approval of such restructuring/other repayment scheme and to the following clarifications and conditions:

a. That term 'assets' as used in this Section shall refer to bonds or other certificates of indebtedness, shares of stocks and other properties;

b. That bonds or other certificates of indebtedness issued by a third party as well as shares of stocks and other properties acquired as a result of restructuring/other payment scheme shall be accounted for in accordance with Philippine Accounting Standards (PAS) 39; and

c. That shares of stock and other properties acquired as a result of restructuring/other repayment scheme shall be sold/disposed of within a period of five (5) years from date of acquisition.

**Section 53. Peso Deposits.** **OBU**s may open and maintain peso deposit accounts with **AABs** exclusively for the following purposes:

1. To meet administrative and other operating expenses, such as salaries, rentals and the like;

2. To pay the peso equivalent of foreign exchange sold by beneficiaries of inward remittances of Filipino overseas workers or of Filipino or multinational companies, coursed through the **OBU**s' correspondent banks abroad;

3. To pay the designated beneficiaries in the Philippines the peso equivalent of foreign exchange inward remittances other than those related to (a) trade, or (b) inward foreign investments that are intended to be serviced using foreign exchange purchased from **AABs** or **AAB-forex corps**; and

4. To pay the peso equivalent of foreign exchange sold by beneficiaries of export **L/Cs** negotiated with the **OBU**s.

The peso deposit accounts shall be funded exclusively by inward remittances of foreign exchange eligible to form part of the Philippine international reserves.

**OBU**s may also sell inward remittances of foreign exchange for pesos to the BSP through the Treasury Department, for credit to the demand deposit account of the designated **AABs** for the account of the **OBU**.

**Section 54. Financial Assistance to Officers/Employees.** [OBUs](#) may extend financial assistance (real estate, car, personal loans, etc.) in local or foreign currency to their Filipino officers and employees as part of their fringe benefit program.

They may likewise grant [foreign currency loans](#) to their expatriate officers without need for BSP approval.

**Section 55. Secrecy of Deposits.** The provisions of [Republic Act No. 6426](#), as amended, shall apply to deposits in [OBUs](#); *Provided*, That numbered deposit accounts shall not be used.

**Section 56. Exemption from Certain Laws.** The provisions of Republic Act No. 2655 (Usury Law) dated 1 May 1915, as amended<sup>25</sup>, and [Republic Act No. 3591](#) (An Act Establishing the Philippine Deposit Insurance Corporation) dated 22 June 1963, as amended, shall not apply to transactions and/or deposits in [OBUs](#) in the Philippines.

**Section 57. Accounting and Reporting.** [OBUs](#) shall maintain an accounting system in accordance with guidelines prescribed by the BSP. Periodically or as required, existing reports shall continue to be submitted in the prescribed forms to the BSP.

**Section 58. Supervision.** The operations and activities of [OBUs](#) shall be conducted under the supervision of the BSP.

**Section 59. Taxes, Customs Duties.** Transactions of [OBUs](#) in the Philippines shall be subject to such taxes as are prescribed in [Presidential Decree No. 1034](#) (Authorizing the Establishment of an Offshore Banking System in the Philippines) dated 30 September 1976, as implemented by regulations of the [BIR](#).

**Section 60. Revocation/Suspension.** The [Monetary Board](#), upon recommendation of the [Governor](#), may revoke or suspend the authority of an [OBU](#) to operate in the Philippines for violation of [Presidential Decree No. 1034](#) or relevant provisions of this Manual.

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<sup>25</sup> Suspended by CBP Circular No. 905-82 dated 10 December 1982, effective 1 January 1983.

## Chapter II

### REPRESENTATIVE OFFICES OF FOREIGN BANKS

**Section 61. Definition of Terms.** As used in this Chapter, the following terms shall have the meaning indicated unless the context clearly indicates otherwise:

1. “**Foreign Bank**” shall refer to a bank or banking corporation formed, organized and existing under any foreign law.

2. “**Representative Office**” shall refer to a liaison office of a **foreign bank** which deals directly with the public by promoting and giving information about the services offered by the **foreign bank**. It does not include the regional or area headquarters of a **foreign bank** registered and licensed under existing laws.

**Section 62. Criteria for Approval.** The **Monetary Board** may authorize qualified **foreign banks** to open **representative offices** in the Philippines if, in its judgment, the public interest and economic conditions, both general and local, justify the establishment of such office. The following factors, among others, shall serve as basis for issuance of authority to open a **representative office** in the Philippines: (1) liquidity and solvency positions; (2) net worth and resources; (3) financial and credit standing in the international banking community; (4) exposure in the Philippines; and (5) other relevant factors, such as Philippine commercial and financial relationships with the country where applicant bank is based.

**Section 63. Authorized Activities of Representative Offices.** Authorized **representative offices** may promote and provide information about the services/products offered by the **foreign banks** but may not transact banking business, such as acceptance of deposits, issuance of letters of credit and foreign exchange trading. Transactions generated through the promotional efforts of the **representative office** may be booked only by the **foreign bank** abroad.

**Section 64. Fees.** **Foreign banks** intending to establish a **representative office** shall, upon issuance by the BSP of a Certificate of Authority, pay the BSP a license fee of USD2,000.

**Section 65. Use of the term “Representative Office”.** **Foreign banks** authorized to operate representative offices shall, in their representation with the public, carry with their name the additional term “Representative Office” to properly guide the public on the nature and extent of their activities.

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**Section 66. Licensing.** The licensing and operations of [representative offices](#) including the implementation of these regulations and such other rules and regulations that may be issued from time to time shall be the responsibility of the BSP-Supervision and Examination Sector (SES).

**Section 67. Visitorial Power.** The BSP may, from time to time, look into the affairs of the [representative offices](#) to determine the extent of their compliance with these regulations and/or other related BSP issuances.

**Section 68. Reporting.** [Representative offices](#) shall submit to the BSP annual reports of their Head Office and, periodically as may be required, reports on the transactions of their Head Office in the Philippines in such form as may be prescribed for the purpose.

**Section 69. Revocation of License.** The [Monetary Board](#) may revoke the license of a [representative office](#) if it finds after due investigation that: (1) the [representative office](#) or its officers have violated the provisions of this Manual and any other applicable rules and regulations of the BSP; or (2) its Head Office is found to be in imminent danger of insolvency or that its continuance in business will involve probable loss to those transacting business with it, pursuant to Section 37 of [Republic Act No. 7653](#), and Section 78 of [Republic Act No. 8791](#).

### Chapter III

#### FOREIGN CURRENCY DEPOSIT SYSTEM

**Section 70. Definition of Terms.** As used in this Chapter, the following terms shall have the meaning indicated unless the context clearly indicates otherwise:

1. “Foreign Currency Deposit Unit” (FCDU) and “Expanded Foreign Currency Deposit Unit” (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 [Republic Act No. 6426](#), as amended.

2. “Local bank” shall refer to an RB/Coop Bank, TB, KB or UB organized under the laws of the Republic of the Philippines.

3. “Local branch of a [foreign bank](#)” shall refer to a branch of a foreign bank doing business in the Philippines, pursuant to the provisions of [Republic Act No. 7653](#), [Republic Act No. 8791](#), and [Republic Act No. 7721](#), as amended.

4. “Short-term” loans and securities shall refer to those with maturities of one (1) year or less.

5. “Medium-term” loans and securities shall refer to those with maturities of more than one (1) year but not more than five (5) years.

6. “Long-term” loans and securities shall refer to those with maturities of more than five (5) years.

The definition of such other terms used in this Chapter shall be consistent with the definition of terms used under the Chapters on [OBUs](#) and [Representative Offices of Foreign Banks](#).

*(As amended by Circular No. 937 dated 27 December 2016)*

#### **Section 71. Qualification Requirements**

1. UBs/KBs may be authorized to operate an FCDU or EFCDU: *Provided*, That they meet the minimum capital requirements prescribed for local banks and subsidiaries/branches of [foreign banks](#) under the pertinent provisions of the [MORB](#).

In addition, the following standard pre-qualification requirements as prescribed under Appendix 5a of the MORB shall be complied with:

- a. The bank has complied, during the period indicated immediately preceding the date of application, with the following:
  - 1) Risk-based capital adequacy ratio for the last 60 days;
  - 2) Ceilings on credit accommodation to directors, officers, stockholders and related interests (DOSRI); and
  - 3) Liquidity floor on government deposits.
- b. The bank has not incurred net weekly reserve deficiencies for the last eight (8) weeks;
- c. The bank has generally complied with banking laws, rules and regulations, orders or instructions of the [Monetary Board](#) and/or BSP Management;

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- d. The bank's past due loans do not exceed twenty percent (20%) of its total loan portfolio as of the date of application;
- e. The bank has corrected as of date of application the major violations noted in its latest examination particularly relating to –
  - 1) single borrower's limit; and
  - 2) total investment in real estate and improvements thereon, including bank equipment, which shall not exceed fifty percent (50%) of net worth;
- f. The bank's accounting records, systems, procedures and internal control systems are satisfactorily maintained;
- g. The bank does not have float items outstanding for more than 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;
- h. The bank has no past due obligation with the BSP or with any financial institution as of date of application;
- i. The bank's facilities pertinent to the authority applied for are adequate;
- j. 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;
- k. 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; and
- l. The bank has complied with the mandatory allocation of credit resources to micro, small and medium enterprises for two (2) quarters immediately preceding the date of application.

2. TBs with net worth or combined capital accounts of at least PHP325 million for those with head offices located within Metro Manila and PHP52 million for those with head offices 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 BSP-SES. The application shall be signed by the bank

president or officer of equivalent rank and shall be accompanied by the following documents:

- a. Certified true copy of the resolution of the bank's board of directors authorizing the application; and
- b. 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.

A TB applying for authority to operate FCDU must 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 capital adequacy ratio 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 have at least one (1) year of actual experience in another bank as in-charge or assistant in-charge of the same operations, or have attended a specialized training course on FCDU transactions or operations conducted by the BSP or an institution 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 the 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 items outstanding for more than 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 obligations with the BSP or with any government financial institution;
- 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 of not lower than “3”; and
- k. The bank is a member of the [Philippine Deposit Insurance Corporation \(PDIC\)](#) in good standing.

3. An RB/Coop Bank desiring to operate an FCDU shall file an application with the BSP-SES. The application shall be signed by the bank president or officer of equivalent rank and shall be accompanied by the following documents:

- a. Certified true copy of the resolution of the bank’s board of directors authorizing the application; and
- b. 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.

An RB/Coop Bank applying for authority to operate an FCDU must comply with the following requirements:

- a. Minimum capital under Subsection X151.2 of the [MORB](#) or PHP20 million, whichever is higher;
- b. Risk-based capital adequacy ratio at the time of filing the application of at least twelve percent (12%);

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- 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 financial institution
  - 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](#)

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 an individual (a) with actual experience in another bank as in-charge or assistant in-charge of the same operations for at least one (1) year, or (b) who has attended a specialized training course on FCDU transactions or operations conducted by the Bangko Sentral ng Pilipinas 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 No. 937 dated 27 December 2016)*

## Section 72. Authorized Transactions

1. TBs and RBs/Coop 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:

a. Accept deposits and trust accounts (for banks authorized to engage in trust operations) from [residents](#) and [non-residents](#);

b. Deposit, regardless of maturity, with [foreign banks](#) abroad, [OBUs](#) and other FCDUs/EFCDUs;

c. 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;

d. Grant [short-term foreign currency loans](#) as may be allowed by BSP regulations: *Provided*, That FCDUs of RBs/Coop Banks shall not grant loans to producers/manufacturers, including oil companies and public utility concerns;

e. Borrow, subject to existing rules on [foreign/foreign currency](#) borrowings, (i) from EFCDUs, [foreign banks](#) abroad and [OBUs](#), regardless of maturity; and (ii) from other FCDUs, on [short-term](#) maturity;

f. Engage in foreign currency-foreign currency swaps with the BSP, [OBUs](#) and other FCDUs/EFCDUs;

g. Engage in securities lending activities as lender subject to the following conditions:

1) The securities to be lent shall be limited to securities lodged under the account Held for Trading (HFT) Financial Assets and Available for Sale (AFS) Financial Assets.

The use of Held to Maturity (HTM) Financial Assets holdings shall also be allowed in securities lending subject to the following conditions:

a) The lending bank had the positive intention and ability to maintain or recover control of the same or substantially similar securities as those lent;

b) 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; and

c) 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 or 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.

2) 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 said board;

3) 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;

4) 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:

- a) relationship as well as the respective duties and responsibilities of each counterparty;
- b) obligation of the borrower to redeliver a like quantity of the same issue or series as the loaned securities;
- c) 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
- d) lending fee or compensation;

5) 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:

Rating Agencies	Highest Rating
Moody's	"Aa3"
Standard and Poor'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 accrued interest thereon during the course of the loan;

6) The lender shall do daily mark-to-market on the loaned securities and on the securities where cash collateral is invested/reinvested;

7) The lender shall require from the lending agent/intermediary timely and comprehensive reports on the lending activity;

8) For proper identification and monitoring, the outstanding book balance on the loaned securities shall be reclassified to the sub-account Government Securities (GS)/Debt Securities (DS) Lent under Securities Lending and Borrowing Transactions under the HFT/AFS/HTM Financial Asset accounts;

9) 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;

10) 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

11) 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.

h. Engage in repurchase agreements involving foreign currency denominated government securities subject to the following conditions:

1) Such repurchase agreements shall be limited to:

a) HFT and AFS securities held under the FCDU/EFCDU books;

b) HTM securities holdings, subject to the following conditions:

i. The selling bank had the positive intention and ability to maintain or recover control of the same or substantially similar securities as those sold;

ii. 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;

iii. 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:

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.

2) For proper identification and monitoring, the outstanding book balance of the government securities sold under repurchase agreements are to be reclassified to the sub-account GS Sold under Repurchase Agreement under the HFT/AFS/HTM Financial Asset accounts;

3) The borrowings shall only be from FCDUs/EFCDUs, [non-resident](#) financial institutions and [OBUs](#);

4) The maximum term of the repurchase agreements shall be one (1) year;

5) The borrowings shall be booked under “Bills Payable” and included in the computation of the total FCDU/EFCDU liabilities subject to the mandatory 100 percent asset cover and thirty percent (30%) liquidity cover;

6) The foreign currency-denominated debt securities sold or used as additional collateral in repurchase agreement 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;

7) Banks shall, at all times, comply with the 100% FCDU/EFCDU asset cover and thirty percent (30%) liquid asset cover; and

8) Banks shall monitor and assess the risks inherent in these repurchase transactions.

The provisions/requirements under *Item g* which are not inconsistent with the foregoing shall be strictly observed by the bank concerned.

i. Purchase foreign currency denominated government securities under resale agreements from other banks’ FCDU/EFCDU, [non-resident](#) financial institutions and [OBUs](#), subject to the following conditions:

1) 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 internationally accepted rating agencies (i.e., currently the equivalent of [Standard and Poor’s](#) AA- or [Moody’s](#) Aa3 or better);

2) That the maximum term of the resale agreements shall be one (1) year; and

3) That such government securities purchased under resale agreements shall be classified as Loans and Receivables Arising from Repurchase Agreements/Certificates of Assignment/Participation with Recourse and Securities Lending and Borrowing Transactions.

j. Issue Hybrid Tier 1 (HT1) capital instruments subject to the requirements under existing regulations;

k. Engage in USD-denominated repurchase agreements (R/P) with the BSP as provided under Subsection X601.1 of the MORB, subject to the guidelines under [Appendix 13](#).

*Sanctions.* Without prejudice to the criminal and administrative sanctions provided for under Sections 36 and 37, respectively, of [Republic Act No. 7653](#), violation of any provision of Items “1.g.1” and “1.h.1.b” of this Section pertaining to HTM financial assets, shall be considered a violation of the “tainting” provision under Subsection X388.5(b) of the MORB in relation to Section 3.a of Appendix 33 of the MORB. In such a case, the entire HTM portfolio shall be reclassified to the AFS category and the financial institution shall be prohibited from using the HTM account during the year the violation was committed and for the succeeding two (2) full financial years. Failure to reclassify the HTM portfolio to AFS shall subject the bank and concerned officers to the penalties and sanctions provided under Subsection X388.5(c) of the MORB.

Moreover, 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 Item “k” of this Subsection:

- a. Termination of eligibility and pre-termination of any outstanding balance through repayment and/or sale of the collateral;
- b. Fine of up to PHP30,000 per transaction per day of violation reckoned from the time the violation was committed up to the date it is corrected;
- c. Suspension of interbank clearing privileges/immediate exclusion from clearing;
- d. Suspension of access to the BSP rediscounting facilities;
- e. Suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;
- f. Revocation of authority to perform trust operations;
- g. Revocation of quasi-banking license;
- h. Suspension for 120 days without pay of the officers and/or directors responsible for the violation; and
- i. Other sanctions as may be provided by law.

2. 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:

- a. Accept deposits and trust accounts (for banks authorized to engage in trust operations) from **residents** and **non-residents**;
- b. Deposit with **foreign banks** abroad, **OBUs** and other FCDUs/EFCDUs;
- c. Invest in foreign currency-denominated debt instruments;
- d. Grant **foreign currency loans** as may be allowed by the BSP;
- e. Borrow from other FCDUs/EFCDUs and from **non-residents** and **OBUs**, subject to existing rules on foreign borrowings;
- f. Engage in foreign currency-foreign currency swap;
- g. Engage in foreign exchange trading, and with prior BSP approval, engage in financial futures and options trading;
- h. On request/instructions of its foreign correspondent bank, it may:
  - 1) issue letters of credit for a **non-resident** importer in favor of a **non-resident** exporter;
  - 2) pay, accept, or negotiate drafts/bills of exchange drawn under the letter of credit; and
  - 3) 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.
- i. Engage in direct purchase of export bills of **resident** exporters subject to the following conditions:
  - 1) Export transactions covered by usance or sight letters of credit, shall be allowed to be purchased by EFCDUs; and
  - 2) Export bills negotiated/purchased by the bank's Regular Banking Unit (RBU) and outstanding in its books shall not be allowed to be purchased by its EFCDUs.
- j. Engage in securities lending activities as lender subject to the conditions as enumerated in Item 1.g of this Section;

k. Engage in repurchase agreements involving foreign currency denominated government securities subject to the conditions as enumerated in Item 1.h of this Section, except Item 1.h(4);

l. Invest in foreign currency denominated structured products issued by banks and special purpose vehicles (SPVs) of high credit quality subject to the provisions in Section 1636 of the MORB;

m. Purchase foreign currency denominated government securities under resale agreements from other banks' FCDU/EFCDU, [non-resident](#) financial institutions and [OBUs](#), subject to the following conditions:

1) 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 internationally accepted rating agencies (i.e., currently the equivalent of [Standard and Poor's](#) AA- or [Moody's](#) Aa3 or better); and

2) That such government securities purchased under resale agreements shall be classified as Loans and Receivables Arising from Repurchase Agreements, Certificates of Assignment/Participation with Recourse, and Securities Lending and Borrowing Transactions.

n. Issue Hybrid Tier 1 (HT1) capital instruments subject to the requirements under existing regulations;

o. Engage in USD-denominated repurchase agreements (R/P) with the BSP as provided under Subsection X601.1 of the MORB, subject to the guidelines under [Appendix 13](#).

*Sanctions.* Without prejudice to the criminal and administrative sanctions provided for under Sections 36 and 37, respectively, of [Republic Act No. 7653](#), violation of any provision of Items "2.j", and "2.k" of this Section pertaining to HTM financial assets, shall be considered a violation of the "tainting" provision under Subsection X388.5(b) of the MORB in relation to Section 3.a of Appendix 33 of the MORB. In such a case, the entire HTM portfolio shall be reclassified to the AFS category and the financial institution shall be prohibited from using the HTM account during the year the violation was committed and for the succeeding two (2) full financial years. Failure to reclassify the HTM portfolio to AFS shall subject the bank and concerned officers to the penalties and sanctions provided under Subsection X388.5(c) of the MORB.

Moreover, 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 Item “o” of this Subsection:

- a. Termination of eligibility and pre-termination of any outstanding balance through repayment and/or sale of the collateral;
- b. Fine of up to PHP30,000 per transaction per day of violation reckoned from the time the violation was committed up to the date it is corrected;
- c. Suspension of interbank clearing privileges/immediate exclusion from clearing;
- d. Suspension of access to the BSP rediscounting facilities;
- e. Suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;
- f. Revocation of authority to perform trust operations;
- g. Revocation of quasi-banking license;
- h. Suspension for 120 days without pay of the officers and/or directors responsible for the violation; and
- i. Other sanctions as may be provided by law.

3. Excess FCDU/EFCDU funds of UBs/KBs may be lent to the regular banking unit (RBU) to fund the latter’s on-balance sheet foreign exchange [trade transactions](#), subject to the following conditions:

- a. FCDU/EFCDU may lend funds to the RBU only after it has fully complied with the prescribed 100% asset cover/thirty percent (30%) liquid asset cover on FCDU/EFCDU liabilities;
- b. FCDU/EFCDU lending to the RBU shall be -

1) Capped at the lower of total outstanding balance on the RBU’s on-balance sheet foreign currency trade assets<sup>26</sup> 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. Total outstanding balance of FCDU/EFCDU lending to the RBU shall, at all times, be within the prescribed cap. Any breach thereon shall be subject to the imposition of a monetary penalty of

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<sup>26</sup> 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.

PHP30,000 per calendar day, commencing on the day the cap was breached until the same is corrected;

2) Charged interest at prevailing market rates, computed monthly at the average daily balance of the receivable from the RBU; and

3) On short-term maturity, or for a period of one (1) year or less. Balances shall be settled, within a year from availment, by way of actual transfer of foreign currency assets from the RBU books to the FCDU/EFCDU books.

c. The lending transaction shall be booked as “Loans to RBU by FCDU/EFCDU” in the FCDU/EFCDU books and “Loans by RBU from FCDU/EFCDU” in the RBU books;

d. The “Loans to RBU by FCDU/EFCDU” 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;

e. Banks shall establish and maintain systems to–

1) 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

2) 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.

f. Banks shall submit to the appropriate BSP supervising department, within five (5) banking days from end of reference month, a certification under oath ([Appendix 14](#)), 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 the RBU solely for foreign currency [trade transactions](#).

The foregoing rule shall be subject to quarterly review by the BSP.

**Section 73. 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 for USD-denominated repurchase agreements (R/P) with the BSP. *Provided,* That violation of the terms and conditions of the USD-denominated R/P facility shall subject the borrowings of the bank under the R/P facility 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 their branches located therein shall be considered as a single unit. The foreign currency cover shall consist of the net carrying amount of the following:

1. For banks authorized to operate an FCDU:
  - a. Foreign currency cash on hand;
  - b. Foreign currency checks and other cash items;
  - c. Due from BSP – Foreign Currency;
  - d. Due from other banks (other FCDUs/EFCDUs, [OBUs](#), and [non-resident banks](#));
  - e. 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);
  - f. Investments in readily marketable foreign currency-denominated debt instruments, booked under the following control accounts: (i) Held for Trading (HFT); (ii) Designated at Fair Value through Profit or Loss (DFVPL); (iii) Available for Sale (AFS); and (iv) Held to Maturity (HTM).
  - Foreign currency-denominated debt securities sold/lent in repurchase agreement/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 repurchase agreements or as collateral by borrowing bank in securities lending and borrowing transactions.
  - g. [Foreign currency loans](#) and receivables maturing within one (1) year authorized by the BSP, booked under the following:
    - i. Loans to BSP
    - ii. Interbank loans receivable
    - iii. Loans and receivables – others

Loans and receivables authorized by the BSP shall refer to those granted pursuant to this Manual and shall include the following: (a) loans with specific approval by the BSP under Section 23 (Loans Requiring Prior BSP Approval); (b) **short-term** loans of **resident** private and public sector borrowers which are not subject to prior BSP approval under Section 24 (Loans Not Requiring Prior BSP Approval); and (c) loans of **resident private sector** borrowers under Section 24.1.a not to be serviced using foreign exchange purchased from **AABs/AAB-forex corps**: *Provided*, that all applicable banking rules and regulations are complied with, including the single borrower's limit as provided in the MORB;

h. Loans and receivables arising from repurchase agreements, certificates of assignment/participation with recourse, and securities lending and borrowing transactions, maturing within one (1) year;

i. Foreign currency accrued interest income from financial assets;

j. 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);

k. Loans to RBU (net of transactions outstanding for more than one (1) year): *Provided*, That the conditions under Subsection X501.3(c) of the MORB are complied with;

l. Due From Head Office/Branches/Agencies Abroad – FCDU up to the extent of the Due To Head Office/Branches/Agencies Abroad – FCDU. Any resulting balance of *Net Due From Head Office/Branches/Agencies Abroad – FCDU* shall not be eligible for 100% asset cover; and

m. Such other assets as may be determined by the Monetary Board as eligible asset cover.

2. 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 are not subject to prior BSP approval shall have **short-term** maturities.

In addition, the following shall also be considered as eligible asset cover:

a. Loans and Receivables granted by EFCDU pursuant to Section 24, i.e., those loans of **non-residents** from EFCDUs, to be serviced using foreign exchange purchased from entities that are not **AABs** or **AAB-forex corps** under Section 24.1.b: *Provided*, That all applicable banking rules and regulations are complied with including single borrower's limit as provided in Section X303 of the MORB;

b. Outstanding Export Bills Purchased in the EFCDU books, booked under the following control accounts:

- i. Interbank loans receivable - if without recourse
- ii. 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 AFS financial assets; and (iii) any allowance for credit losses determined based on existing regulations.

3. 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 until 31 December 2017. Effective 01 January 2018, the liquid asset cover requirement for FCDU/EFCDU liabilities shall be as follows:

	Liquid asset cover
UBs/KBs	0%
TBs and RBs/Coop Banks	30%

Assets eligible as liquid asset cover for FCDU/EFCDU liabilities shall be as follows:

- a. Foreign currency cash on hand;
- b. Foreign currency checks and other cash items;
- c. 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;
- d. Due from other banks (other FCDUs/EFCDUs, **OBUs** and **non-resident banks**);
- e. Investments in readily marketable foreign currency denominated debt instruments, booked under the following control accounts: (i) HFT; (ii) DFVPL; (iii) AFS; and (iv) HTM; except for the following: (a) those which are sold/lent in repurchase agreement/securities lending and borrowing

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transactions and those used as additional collateral in repurchase agreements or as collateral by borrowing bank in securities lending and borrowing transactions; and (b) those investments in structured products;

f. Loans and receivables authorized by the BSP booked under the following:

- i. Loans to BSP maturing within one (1) year;
- ii. Interbank loans receivable maturing within one (1) year;
- iii. Loans and receivables – others that is any of the following:
  - 1) Outstanding export bills purchased in the EFCDU books.
  - 2) **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 Trade and Investment Development Corporation of the Philippines (TIDCORP) or Small Business Guarantee and Finance Corporation (SBGFC): *Provided*, That these credits are not overdue.

g. Loans and receivables arising from repurchase agreements, certificates of assignment/participation with recourse and securities lending and borrowing transactions, maturing within one (1) year;

h. 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

i. Due From Head Office/Branches/Agencies Abroad – FCDU up to the extent of the Due To Head Office/Branches/Agencies Abroad – FCDU. Any resulting balance of *Net Due From Head Office/Branches/Agencies Abroad – FCDU* shall not be eligible for thirty percent (30%) liquid asset cover.

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 f of Section 73.1.

The report on compliance with FCDU/EFCDU cover requirements shall no longer be submitted separately by banks. The bank shall continue to submit to the BSP-Supervisory Data Center (SDC) a certification under oath and signed by the bank's President or Country Manager, in the case of local branch of foreign banks, Compliance Officer and Head of Treasury, to the effect that the bank has fully complied with the FCDU/EFCDU cover requirements on all banking days of the reference quarter.

The applicable template on certification of compliance with the FCDU/EFCDU cover requirements shall be as follows:

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- [Appendix 15.1](#), which shall be in effect until 31 December 2017;
- [Appendix 15a](#) for UBs/KBs starting 01 January 2018; and
- [Appendix 15b](#) for TBs, RBs and Coop Banks starting 01 January 2018.

*Sanctions:* Non-compliance with the prescribed 100% FCDU/EFCDU asset cover and/or thirty percent (30%) liquid asset cover requirements 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 PHP30,000 per deficiency, per calendar day. Compliance for at least six (6) months of the FCDU/EFCDU cover requirement is a pre-condition for the following:

- a. Declaration of cash dividends;
- b. Bank's application for branching; and
- c. In the case of [foreign banks](#), remittance of profits to their Head Office abroad.

Issuance by a bank of false/erroneous certification that it has fully complied with the FCDU/EFCDU cover requirements any days of the reference month shall be subject to a maximum monetary penalty of PHP30,000 per day (reckoned from the date the deficiency started until it is corrected) 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 [Republic Act No. 7653](#).

4. 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 regular banking unit (RBU).

*(As amended by Circular No. 925 dated 13 September 2016 and Circular No. 946 dated 17 February 2017)*

**Section 74. Foreign Currency Deposits 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 [Republic Act No. 6426](#), as amended, shall be optional on FCDUs/EFCDUs of UBs/KBs and FCDUs of TBs and RBs/Coop Banks. The BSP may pay interest on the foreign currency deposit and if requested, shall exchange the foreign currency notes and coins into foreign currency instruments drawn on its depository banks.

**Section 75. Currency Composition of the Cover.** FCDUs of TBs and RBs/Coop Banks shall maintain the foreign currency cover in the same currency as that of the corresponding foreign currency deposit liability.

FCDUs/EFCDUs of UBs/KBs 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 until 31 December 2017. Starting 01 January 2018, UBs/KBs may maintain the foreign currency cover in any foreign currency acceptable with the BSP.

*(As amended by Circular No. 946 dated 17 February 2017)*

**Section 76. Secrecy of Deposits.** Pursuant to [Republic Act No. 6426](#), as amended, all foreign currency deposits are declared as and considered of an absolutely confidential nature and, 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.

The absolutely confidential nature of foreign currency deposits under Republic Act No. 6426, as amended, shall not apply in instances expressly provided under other special laws, including the following:

1. Directors, officers, stockholders, and related interests who contract a loan or any form of financial accommodation from their bank or related bank, and are required to execute a written waiver of secrecy of deposits of whatever nature in all banks in the Philippines, in accordance with Section 26 of Republic Act No. 7653 (New Central Bank Act);
2. A covered institution that reports foreign currency deposits in covered transaction reports or suspicious transaction reports to the Anti-Money Laundering Council (AMLC), pursuant to Section 9(c) of Republic Act No. 9160, as amended (The Anti-Money Laundering Act of 2001);
3. Upon order by the Court of Appeals, the AMLC may inquire into or examine foreign currency deposits, including related accounts, with any banking institution or non-bank financial institution in cases of violation of Republic Act No. 9160, as amended, when it has been established that the foreign currency deposits, including the related accounts involved, are related to an unlawful activity as defined in Section 3(i) of Republic Act No. 9160 or a money laundering offense defined under Section 4 thereof, pursuant to Section 11 of Republic Act No. 9160, as amended by Republic Act No. 10167;

4. Without need of court order, the AMLC may inquire into or examine foreign currency deposits with any banking institution or non-bank financial institution when probable cause exists that a particular foreign currency deposit, including related accounts involved, with any banking institution or non-bank financial institution is related to:

- a. Section 3(i)(1), (2) and (12) of Republic Act No. 9160, as amended, (i.e., kidnapping for ransom, violation of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act, hijacking and other violations under Republic Act No. 6235, destructive arson and murder as defined under the Revised Penal Code, including those perpetrated by terrorists against noncombatant persons and similar targets);
- b. Felonies and offenses of a nature similar to those mentioned in Section 3(i)(1), (2) and (12) of Republic Act No. 9160, as amended, which are punishable under the penal laws of other countries; and
- c. Terrorism and conspiracy to commit terrorism as defined and penalized under Republic Act No. 9372 (Human Security Act of 2007).

The inquiry into or examination of foreign currency deposits by the AMLC in the abovesaid instances are in accordance with Section 11 of Republic Act No. 9160, as amended by Republic Act No. 10167.

5. The BSP may, to ensure compliance with Republic Act No. 9160, as amended, and in the course of periodic or special examination, check the compliance of a covered institution with the requirements of the Anti-Money Laundering Act and its implementing rules and regulations, pursuant to Section 11 of Republic Act No. 9160, as amended by Republic Act No. 10167;

6. The BSP is authorized to inquire into or examine foreign currency deposits when it conducts an annual testing solely limited to the determination of the existence and true identity of the owners of foreign currency non-checking numbered accounts, pursuant to Section 9 of Republic Act No. 9160, as amended;

7. The Philippine Deposit Insurance Corporation and the BSP are authorized to inquire into or examine foreign currency deposits and all information related thereto in case there is a finding of unsafe or unsound banking practices, in accordance with Section 8(8) of Republic Act No. 3591 (Philippine Deposit Insurance Corporation Charter), as amended;

8. The Commissioner of the Bureau of Internal Revenue, as provided in Section 3 of Republic Act No. 10021 (Exchange of Information on Tax Matters Act), is authorized to inquire into the foreign currency deposits and other related information held by financial institutions of:

- a. a decedent to determine his gross estate;
- b. any taxpayer who has filed an application for compromise of his tax liability by reason of financial incapacity to pay. In case a taxpayer files an application to compromise the payment of his tax liabilities, his application shall not be considered unless and until he waives in writing his privilege under Republic Act No. 6426, and such waiver shall constitute the authority of the Commissioner to inquire into the foreign currency deposits of the taxpayer; and
- c. a specific taxpayer or taxpayers subject of a request for the supply of tax information from a foreign tax authority pursuant to an international convention or agreement on tax matters to which the Philippines is a signatory or a party.

9. Without a court order, the Anti-Money Laundering Council is authorized to inquire into or examine foreign currency deposits with any banking institution or non-bank financial institution and their subsidiaries and affiliates, for purposes of investigating any property or funds that are in any way related to financing of terrorism or acts of terrorism, as well as property or funds of any person or persons in relation to whom there is probable cause to believe that such person or persons are committing or attempting or conspiring to commit, or participating in or facilitating the financing of terrorism or acts of terrorism as defined in Republic Act No. 10168 (Terrorism Financing Prevention and Suppression Act of 2012), pursuant to Section 10 of said law.

Additionally, the Commission on Audit, pursuant to its mandate under Section 2(1) Article IX-D of the 1987 Constitution, is authorized to examine and audit government deposits or funds and properties, owned or held in trust by, or pertaining to the Government or any of its subdivisions, agencies or instrumentalities, subdivisions, government-owned and –controlled corporations with original charters. The Presidential Commission on Good Government, in accordance with its statutory authority under Section 3(e), Executive Order No. 1, S. 1986, in the conduct of its investigations to recover ill-gotten wealth, may issue *subpoena* requiring the production of books, records, and other statement of accounts and other documents.

*(As amended by Circular No. 794 dated 18 April 2013)*

**Section 77. Numbered Accounts.** Pursuant to Section 9 of [Republic Act No. 9160](#) (The Anti-Money Laundering Act of 2001) dated 29 September 2001, as amended, and its Revised Implementing Rules and Regulations, foreign currency non-checking numbered accounts shall be allowed: *Provided*, that the true identity of the customers of all foreign currency non-checking numbered accounts

are satisfactorily established based on official and other reliable documents and records and the information and documents required are obtained and recorded by the bank.

**Section 78. 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.

**Section 79. Insurance Coverage.** Foreign currency deposits shall be insured under the provisions of [Republic Act No. 3591](#), as amended. Depositors are entitled to receive payment in the same currency in which the insured deposits are denominated.

**Section 80. Rates of Interest.** Foreign currency deposits shall not be subject to interest rate ceilings.

**Section 81. 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](#).

**Section 82. Taxes.** Pursuant to the National Internal Revenue Code of 1997, as amended and its Implementing Rules and Regulations, any income of [non-residents](#) (whether individuals or corporations) from transactions with depository banks covered under this Chapter shall be exempt from income tax. Interest income derived by [residents](#) (whether individuals or corporations) from depository banks covered under this Chapter shall be subject to a final income tax at the rate of seven and one-half percent (7.5%) of such interest income. The transactions of FCDUs/EFCDUs shall, however, be subject to such taxes as provided under the National Internal Revenue Code, as amended and its Implementing Rules and Regulations.

**Section 83. Exemption from Court Order or Process.** Subject to the provisions of [Republic Act No. 9160](#), as amended, 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.

**Section 84. 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 [AABs](#). [AABs](#) shall maintain a separate accounting for

transactions covered by these rules that will enable preparation of the Balance Sheet and Income 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).

The transfer of net realized/unrealized losses recognized in profit or loss and in equity' and Undivided Profits/(Losses) from FCDU/EFCDU to the Regular Banking Unit (RBU) shall be subject to the guidelines and conditions under [Appendix 16](#).

The policy guidelines on the conversion and transfer of foreign currency-denominated loans, and Real and Other Properties Acquired (ROPA) in the books of the FCDU/EFCDU to peso loans and ROPA in the books of the RBU shall be subject to the conditions provided under [Appendix 17](#).

Banks which are authorized to operate under this Chapter shall submit to the BSP-SES a separate audited financial statement (category B report) of the FCDU/EFCDU for the past year within ninety (90) calendar days after the start of the audit which audit shall start not later than thirty (30) calendar days after the close of the calendar/fiscal year adopted by the bank in accordance with the provisions of Section X166 of the MORB.

**Section 85. 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 [AAB](#), 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.

**Section 86. Prospective Effect of Regulations.** In the event a new enactment or regulation is issued decreasing the rights hereunder granted, such new enactment or regulation shall not apply to foreign currency deposits already made or existing at the time of issuance of such new enactment or regulation, but such new enactment or regulation shall apply only to foreign currency deposits made after its issuance.

#### **Section 87. Sanctions**

1. Any willful violation of [Republic Act 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 Five Thousand Pesos (PHP5,000.00) nor more

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than Twenty-Five Thousand Pesos (PHP25,000.00), 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 [Republic Act No. 6426](#), as amended, or these regulations, or if such bank ceases to possess the minimum qualifications required.

2. Delayed submission of report by a bank and/or submission of erroneous/incomplete report shall be subject to the monetary penalties under Section 103.

3. Any violation of the provisions of this Chapter shall be subject to Section 37 of [Republic Act No. 7653](#). The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of [Republic Act No. 7653](#) on banks, their directors and/or officers are shown in [Appendix 67 of the MORB](#).

## **PART FIVE. FOREIGN EXCHANGE FORWARDS AND SWAPS AND OPEN FOREIGN EXCHANGE POSITION OF BANKS**

### **Chapter I**

#### **FOREIGN EXCHANGE FORWARDS AND SWAPS INVOLVING THE PHILIPPINE PESO**

**Section 88. General Policy.** It is the policy of the BSP to support the deepening of the Philippine financial markets. In line with this policy, customers may, through foreign exchange forwards, hedge their market risks arising from foreign exchange obligations and/or exposures: *Provided*, That forward sale of foreign exchange (deliverable and non-deliverable) may only be used when the underlying transaction is eligible for servicing using foreign exchange purchased from [AABs](#) or [AAB-forex corps](#). Customers may, likewise, cover their funding requirements through foreign exchange swaps.

[AABs](#) may only engage in foreign exchange 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 foreign exchange derivatives transaction/s shall not exceed the amount of the underlying foreign exchange obligation/exposure.

The customer shall no longer be allowed to buy foreign exchange from [AABs](#) or [AAB-forex corps](#) for foreign exchange obligations/exposures that are fully covered by deliverable foreign exchange forwards and foreign exchange swaps.

The following guidelines, as well as minimum documentary requirements, shall cover foreign exchange forward and swap transactions involving the Philippine peso between authorized dealer banks and their customers.

#### **Section 89. Definition of Terms**

“Customers” shall refer to: (a) [resident](#) banks other than UBs, KBs, and other banks with Type 3 (limited user) derivatives authority, as well as [resident](#) non-bank entities; and (b) [non-residents](#), both banks and non-banks.

“Foreign exchange obligation” shall refer to an actual commitment to repatriate or pay to a [non-resident](#) or any [AAB](#) a specific amount of foreign currency on a pre-agreed date.

“Foreign exchange exposure” shall refer to foreign exchange risk arising from an existing commitment which will lead to an actual payment of foreign exchange to, or receipt of foreign exchange assets from, [non-residents](#) or any [AAB](#) based on verifiable documents on deal date. Foreign exchange risks arising from BSP-registered foreign investments without specific repatriation dates are considered foreign exchange exposures.

“Foreign exchange swap” shall refer to a transaction involving the actual exchange of two currencies (principal amount only) on a specific date at a rate agreed on deal date (the first leg), and a reverse exchange of the same two currencies at a date further in the future (the second leg) at a rate (different from the rate applied to the first leg) agreed on deal date.

“Foreign exchange forward” shall refer to a contract to purchase/sell a specified amount of currency against another at a specified exchange rate for delivery at a specified future date three or more business days after deal date.

“Non-Deliverable Forward (NDF)” shall refer to a foreign exchange forward contract where only the net difference between the contracted forward rate and the market rate at maturity (i.e., the fixing rate) shall be settled on the forward date.

*(As amended by Circular No. 690 dated 23 June 2010)*

**Section 90. Documentation.** Minimum documentary requirements for foreign exchange forward and swap transactions listed in [Appendix 18](#) shall be presented on or before deal date to [AABs](#) unless indicated.

Foreign exchange selling [AABs](#) shall stamp the supporting documents upon presentation by customers as follows:

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- 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 AAB’s authorized officer. Copies of all duly marked supporting documents shall be retained by AABs and made available to the BSP for verification. The retained copies shall also be marked “DOCUMENTS PRESENTED AS REQUIRED” and signed by the AAB’s authorized officer.

### **Section 91. Tenor/Maturity and Settlement**

- a. Forward Sale of Foreign Exchange (whether deliverable or non-deliverable)

The tenor/maturity of such contracts shall not be longer than:

- (i) the maturity of the underlying foreign exchange obligation; or
- (ii) the approximate due date or settlement of the foreign exchange exposure. For deliverable foreign exchange 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 foreign exchange exposure. This shall not preclude pretermination of the contract due to prepayment of the underlying obligation or exposure: *Provided*, That for the prepayment of [foreign/foreign currency loans](#), Section 29 hereof shall be complied with.

- b. Foreign Exchange Swaps

No restriction on tenor.

- c. Settlement of NDFs

All NDF contracts with [residents](#) shall be settled in pesos.

- d. Remittance of foreign exchange proceeds of deliverable forward and swap contracts

Foreign exchange proceeds of deliverable forward and swap contracts shall either be:

- i. delivered by the [AAB](#) counterparty directly to the beneficiaries concerned, except for foreign investments where said FX proceeds are reconverted to Philippine pesos and re-invested in eligible peso instruments such as those listed in [Appendix 18](#). For this purpose,

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beneficiaries shall refer to the [FCDU/EFCDU](#) of a bank, a [non-resident](#) entity (e.g., creditor, supplier, investor), or a [resident](#) (for resident to resident transactions) to whom the customer is committed to pay/remit foreign exchange; or

- ii. credited to the [FCDU](#) account of the customer (with the same or another [AAB](#)) for eventual use<sup>27</sup>/remittance by the depository [AAB](#) to the intended beneficiary (including payment/treasury centers/hubs of a group of companies, as may be applicable): *Provided*, that if the depository bank is different from the [AAB](#) counterparty: (i) the [AAB](#) counterparty shall directly transfer the foreign exchange proceeds to the depository bank of the customer; and (ii) the depository bank shall also be the foreign exchange remitting [AAB](#).

*(As amended by Circular No. 794 dated 18 April 2013 and Circular No. 925 dated 13 September 2016)*

## **Section 92. Reserved**

*(As amended by Circular No. 790 dated 6 March 2013)*

## **Section 93. Cancellations, Roll-overs or Non-delivery of Deliverable Foreign Exchange Forward and Swap Contracts**

All cancellations, roll-overs or non-delivery of all foreign exchange 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 18](#);
- 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; and

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<sup>27</sup> In case of peso funding requirements covered by foreign exchange swaps

- 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.

#### **Section 94. 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 foreign exchange 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 using the prescribed format in [Annex L](#).

Swap contracts with counterparties involving purchase of foreign exchange by banks at the initial leg shall likewise be reported electronically in excel format to the BSP not later than five (5) banking days after reference month using the prescribed format in [Annex M](#).

The reports shall be transmitted to the International Operations Department at [iod@bsp.gov.ph](mailto:iod@bsp.gov.ph), copy furnished the Supervisory Data Center (SDC) at the following addresses: [sdcfxkbdom@bsp.gov.ph](mailto:sdcfxkbdom@bsp.gov.ph) (for Domestic Banks) and [sdcfxkbfor@bsp.gov.ph](mailto:sdcfxkbfor@bsp.gov.ph) (for Foreign Banks).

#### **Section 95. Non-Bank BSP-Supervised Entities (NBBSEs)**

**NBBSEs** that may subsequently be authorized to engage in foreign exchange forwards and swaps as dealers shall likewise be covered by the provisions of this Chapter.

## **Chapter II**

### **OPEN FOREIGN EXCHANGE POSITION OF BANKS**

**Section 96. General Policy.** It is the policy of the BSP to promote the growth and development of the foreign exchange market. It is also recognized that banks are the main players in this market, primarily in their role as “market-makers”<sup>28</sup>. Thus, in

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<sup>28</sup> There are two facets to this role. First, banks must be able to quote rates to their customers at which they stand ready to buy and sell currencies. Second, banks themselves may take open positions in currencies.

order to ensure that banks are able to provide ample liquidity in the market but, at the same time, conduct their business in a sound manner, and guard against speculative activity, limits on their net open foreign exchange position are instituted.

#### **Section 97. Definition of Terms**

“Open Foreign Exchange Position” shall refer to the extent that banks' foreign exchange assets do not match their foreign exchange liabilities. An open position may either be "positive", "long", or "overbought" (i.e., foreign exchange assets exceed foreign exchange liabilities) or "negative", "short", or "oversold" (i.e., foreign exchange liabilities exceed foreign exchange assets).

“Unimpaired capital of a local bank” shall refer to a bank’s total capital as defined under Section X111 of the MORB.

“Permanently assigned capital” shall refer to the minimum capital required for branches of foreign banks in the Philippines to be inwardly remitted and converted into pesos.

Starting 1 January 2020, the “unimpaired capital of foreign bank branches” shall refer to the capital of a foreign bank branch as defined under Subsection X105.4 of the MORB.

Foreign bank branches established in the Philippines prior to Republic Act No. 10641 shall be given until 31 December 2019 to calculate the unimpaired capital as the sum of “permanently assigned capital” and the “Net Due To Head Office” account for purposes of computing foreign exchange position: *Provided*, That the amount of Net Due To Head Office that may be added to the permanently assigned capital of foreign bank branches that are UBs shall not exceed the equivalent of six (6) times the permanently assigned capital. *Provided* further: That the amount of Net Due To Head Office that may be added to the permanently assigned capital of foreign bank branches that are KBs shall not exceed the equivalent of eight (8) times the permanently assigned capital.

The “unimpaired capital of foreign bank subsidiaries” shall be the same as the unimpaired capital for local banks as provided under the pertinent provisions of the MORB.

*(As amended under Circular No. 937 dated 27 December 2016)*

**Section 98. Allowable Open Foreign Exchange Position.** Banks' allowable open foreign exchange position (either overbought or oversold) shall be the lower of 20 percent (20%) of their unimpaired capital or USD50 million.

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Any excess of the allowable limit shall be settled on a daily basis.

Penalties on excess overbought and oversold positions of banks when PDS trading is suspended shall be waived.

**Section 99. Computation of Foreign Exchange Position.** Banks' open foreign exchange position shall be computed daily based on their [FX Form 1](#). The guidelines on the computation of foreign exchange position of banks and reporting requirements are outlined in [Appendix 19](#).

**Section 100. Sanctions.** The following sanctions shall be imposed on banks found in violation of the net open foreign exchange position limits:

a. A bank is considered immediately in violation of the open foreign exchange position limit on the day it exceeds such limit. Such bank shall be subject to the following monetary penalties:

<u>Per Calendar Month</u>	<u>Daily Penalty</u>
1 <sup>st</sup> calendar day of violation	PHP10,000.00
2 <sup>nd</sup> calendar day of violation	PHP20,000.00
3 <sup>rd</sup> calendar day of violation, and onwards, or if the excess open foreign exchange position of the bank is thirty percent (30%) or more of the allowable limit in any calendar day, regardless of whether a bank is in first, second, third or more days of violation	PHP30,000.00

b. In addition, the following non-monetary sanctions shall be imposed on the bank committing violations considered as:

- 1) "chronic", that is, 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", that is, when the violation continues beyond three (3) banking days within a calendar month and the excess position is thirty percent (30%) or more of the allowable limit.

### Non-Monetary Sanctions

“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 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 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 Section 37 of [Republic Act No. 7653](#).

## PART SIX. GENERAL PROVISIONS

### Chapter I

#### REPORTS AND POST VERIFICATION

**Section 101. Reportorial Requirements.** The following reports are required to be submitted to the BSP by [AABs](#), [OBUs](#), and [AAB-forex corps](#), where applicable:

Title of Report		Submission Frequency/Deadline	Submission Procedure
Category	<b>A. Consolidated Report on Foreign Exchange Assets and Liabilities</b>		
A-3	<b>For UBs/KBs:</b> FX Form 1, <a href="#">Main Report</a>	Weekly, within five (5) banking days after end of reference week	email to DES at <a href="mailto:der.itrs@bsp.gov.ph">der.itrs@bsp.gov.ph</a>

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Title of Report		Submission Frequency/Deadline	Submission Procedure
A-3	FX Form 1, <a href="#">Schedule 1</a>	Weekly, within five (5) banking days after end of reference week	email to DES at <a href="mailto:der.itrs@bsp.gov.ph">der.itrs@bsp.gov.ph</a>
A-3	FX Form 1, <a href="#">Schedules 2 to 7, 9 to 12</a>	Weekly, within five (5) banking days after end of reference date	email to DES at <a href="mailto:der-bopirg@bsp.gov.ph">der-bopirg@bsp.gov.ph</a> (hard copy of Schedule 10 & 11 to ID)
A-3	FX Form 1, <a href="#">Schedules 8 &amp; 13</a>	Daily, within two (2) banking days after end of reference date	email to DES at <a href="mailto:der-bopirg@bsp.gov.ph">der-bopirg@bsp.gov.ph</a>
A-3	FX Form 1, <a href="#">Schedule 14</a>	Monthly, within 15 banking days after end of reference month	email to SDC at <a href="mailto:fed@bsp.gov.ph">fed@bsp.gov.ph</a> or <a href="mailto:sedifxvmd@bsp.gov.ph">sedifxvmd@bsp.gov.ph</a>
	Sworn Certification – FX Form 1, Main Report and Schedules 2 to 13, ( <a href="#">Annex T</a> )	Weekly, within five (5) banking days after end of reference week	email to DES at <a href="mailto:der-bopirg@bsp.gov.ph">der-bopirg@bsp.gov.ph</a>
A-3	Consolidated Foreign Exchange Position Report	Daily, within three (3) banking days from reference date	Hard copy to SDC
B	<b>For TBs:</b> FX Form 1A, <a href="#">Main Report</a> and Schedules 2 to 9	Monthly, within ten (10) banking days after end of reference month	email to DES at <a href="mailto:der.itrs@bsp.gov.ph">der.itrs@bsp.gov.ph</a>
<b>B. Foreign Trade Transactions</b>			
A-3	Report on Export Proceeds FX Form 1, <a href="#">Schedule 9</a>	Weekly, within five (5) banking days after end of reference week	email to DES at <a href="mailto:der-bopirg@bsp.gov.ph">der-bopirg@bsp.gov.ph</a>

Title of Report		Submission Frequency/Deadline	Submission Procedure
A-3	Report on Import Letters of Credit (L/Cs) Opened and DA-OA Import Availments and Extensions, FX Form 1, <a href="#">Schedule 10</a>	-do-	email to DES at <a href="mailto:der-bopirg@bsp.gov.ph">der-bopirg@bsp.gov.ph</a> Hard copy to IOD
A-3	Report on Import Payments FX Form 1, <a href="#">Schedule 11</a>	-do-	email to DES at <a href="mailto:der-bopirg@bsp.gov.ph">der-bopirg@bsp.gov.ph</a>
	Monthly Report on Sale/Remittance of Foreign Exchange (FX) for <a href="#">Advance Payment</a> of Importations ( <a href="#">Annex B</a> )	Monthly, within the first five (5) banking days of the month succeeding the date of foreign exchange sale	Hard copy to ID
	Monthly Report on Purchase of Foreign Exchange (FX) from Refund of <a href="#">Advance Payment</a> of Importations ( <a href="#">Annex C</a> )	Monthly, within the first five (5) banking days of the month succeeding the receipt of the refund	Hard copy to ID
	Report on Transactions under Intercompany Netting Arrangements ( <a href="#">Annex Z</a> )	Weekly, within five (5) banking days from end of reference week	Email to IOD at <a href="mailto:iod-net@bsp.gov.ph">iod-net@bsp.gov.ph</a>
<b>C. Foreign Currency Loans and Related Transactions</b>			
A-2	Report on Bank Liabilities to Non-Residents (including hard copy of Certification for correctness and consistency with FRP), <a href="#">ID-Form 5</a>	Monthly, within fifteen (15) banking days after end of reference month	email to IOD at <a href="mailto:id-form5@bsp.gov.ph">id-form5@bsp.gov.ph</a>
A-2	<a href="#">Consolidated Report on Foreign Currency Loans Granted by Regular Banking Units</a>	Monthly, not later than fifteen (15) banking days from end of reference month	Email to IOD at <a href="mailto:REP_RBU_FXLOAN@bsp.gov.ph">REP_RBU_FXLOAN@bsp.gov.ph</a>
B	Consolidated Report on Loans Granted by FCDUs, <a href="#">IOS Form 4</a>	Monthly, within fifteen (15) banking days after end of reference month	Hard copy and diskette to ID
B	Report on Guarantees Issued by Local Banks and Financial Institutions in Favor of Non-Residents, R-1 ( <a href="#">Annex G</a> )	Quarterly, within fifteen (15) banking days from end of reference quarter	Hard copy to ID

Title of Report		Submission Frequency/Deadline	Submission Procedure
B	Report on Foreign Guarantees Securing Loans of Residents from Local Banks and Financial Institutions, R-4 ( <a href="#">Annex H</a> )	Quarterly, within fifteen (15) banking days from end of reference quarter	Hard copy to ID
B	Report on Cancellations, Roll-overs and Non-delivery of Deliverable Foreign Exchange Forward Purchase and Sale Contracts and Forward Leg of Swap Contracts ( <a href="#">Annex L</a> )	Monthly, within five (5) banking days after end of reference month	email to IOD at <a href="mailto:iod@bsp.gov.ph">iod@bsp.gov.ph</a>
B	Report on Foreign Exchange Swaps with Customers where the First Leg is a Purchase of Foreign Exchange Against Pesos ( <a href="#">Annex M</a> )	-do-	-do-
<b>D. FCDUs/EFCDUs</b>			
	Report on Inventory of Philippine Debt Papers	Weekly, within three (3) banking days after end of reference week	Email to IOD at <a href="mailto:iod-ipdp@bsp.gov.ph">iod-ipdp@bsp.gov.ph</a>
	Sworn Certification on FCDU/EFCDU Lending to RBU ( <a href="#">Appendix 14</a> )	Monthly, within five (5) banking days from end of reference month	Hardcopy to SDC
B	Audited Financial Statement of FCDU/EFCDU	Annually, within ninety (90) calendar days after the start of audit which audit shall start not later than thirty (30) calendar days after the close of the calendar/fiscal year adopted by the bank	Hardcopy to appropriate SES department
A-2	Report on Compliance with FCDU/EFCDU Cover Requirements ( <a href="#">Appendix 15</a> )	Quarterly, within fifteen (15) banking days after end of reference quarter	Generated by SDC using FRP data submitted by bank

Title of Report		Submission Frequency/Deadline	Submission Procedure
	Sworn Certification of Compliance with FCDU/EFCDU Cover Requirements ( <a href="#">Appendix 15.1</a> ) <sup>29</sup>  Sworn Certification of Compliance with the FCDU/EFCDU Cover Requirements [for UBs/KBs] ( <a href="#">Appendix 15a</a> ) <sup>30</sup>  Sworn Certification of Compliance with the FCDU Cover Requirements [for TBs/RBs/Coop Banks] ( <a href="#">Appendix 15b</a> ) <sup>31</sup>	Quarterly, within fifteen (15) banking days from end of reference quarter	Hardcopy to SDC
<b>E. Offshore Banking Units</b>			
	Statement of Assets and Liabilities	Monthly, within fifteen (15) banking days after end of reference month	hard copy to SDC
	Schedule 1 – Maturity Profile of Sources and Uses of Funds	-do-	
	Schedule 2 Page 1 – Currency Classification of Funds (In US Dollars)	-do-	
	Schedule 2 Page 2 – Currency Classification of Funds (In Original Currencies)	-do-	
	Schedule 3 – Country Classification of Interbank Funds/Non-Bank Funds	-do-	
	Schedule 4A – Report on Loans Granted by <b>OBU</b> s: Part I – Credit Information (In Original Currencies)	-do-	
	Schedule 4B– Report on Loans Granted by <b>OBU</b> s: Part II – Credit Status	-do-	
	Schedule 4C – Loans and Discounts – Residents: By Borrower/By Economic Activity/By Status	-do-	

<sup>29</sup> Template effective until 31 December 2017 pursuant to Circular No. 946 dated 17 February 2017

<sup>30</sup> Template effective starting 01 January 2018

<sup>31</sup> Template effective starting 01 January 2018

Title of Report		Submission Frequency/Deadline	Submission Procedure
	Schedule 5 – Investments in Bonds and Other Debt Instruments (In Original Currencies and USD Equivalent)	-do-	
	Schedule 5A – Investments in Bonds and Other Debt Instruments Issued by Residents	-do-	
	Schedule 6 – Indebtedness Among Banks Operating in the Philippines	-do-	
	Schedule 7 – Report on OBU Liabilities to Non-Residents (In Original Currencies and USD Equivalent)	-do-	
	Schedule 8 – Report on Spot and Forward Foreign Exchange Transactions of <b>OBUs</b>	-do-	
	Schedule 9 – Report of Foreign Exchange Flows	-do-	
	Schedule 9A – Foreign Exchange Actually Sold to Authorized Agent Banks ( <b>AABs</b> )	-do-	
	Schedule 9B – Details of Investment Receipts/Disbursements	-do-	
	Statement of Earnings and Expenses, BSP 6.40.02	Semi-annual, within fifteen (15) banking days after end of reference semester	
	Updated List and Bio-Data of Expatriates	Annually, within ten (10) banking days after end of reference year	
<b>F. Representative Offices of Foreign Banks</b>			
	Annual Report of Head Office	Within five (5) months after end of fiscal/calendar year	hard copy to SDC

Title of Report	Submission Frequency/Deadline	Submission Procedure
<b>G. Custodian Banks/Remitting AABs</b>		
A-2	Report of Remitting Authorized Agent Banks on Capital Repatriation and Remittance of Earnings of BSP-Registered Foreign Direct Investments ( <a href="#">Annex X</a> ), together with supporting documents under Items C.1(b) and C.2 of <a href="#">Appendix 1</a> and <a href="#">Appendix 11</a> )	Daily, within two (2) banking days from date of actual remittance
A-2	<a href="#">Report on Registered Portfolio Investments</a> <sup>32</sup> with supporting documents required under Items C.1(a) and C.2 of <a href="#">Appendix 1</a> and Appendices <a href="#">10</a> and <a href="#">11</a>	hard copy to IOD
A-2	Within two (2) banking days from transaction date	softcopy to IOD at <a href="mailto:iod-pid@bsp.gov.ph">iod-pid@bsp.gov.ph</a> with hard copies of supporting documents required under Appendices <a href="#">1</a> , <a href="#">10</a> and <a href="#">11</a>
A-2	Report on PSE-Listed Equity Securities Issued by Non-Residents ( <a href="#">Annex Y</a> ), with supporting documents required under <a href="#">Appendix 1.2</a>	Within two (2) banking days from date of actual remittance
		softcopy to IOD at <a href="mailto:iod-pid@bsp.gov.ph">iod-pid@bsp.gov.ph</a> with hard copies of supporting documents required under <a href="#">Appendix 1.2</a>
<b>H. AAB-forex corps</b>		
	Report on Foreign Exchange Transactions	Weekly, within five (5) banking days after end of reference week
		email to DES

*(As amended by Circular No. 751 dated 16 March 2012, Circular No. 794 dated 18 April 2013, Circular No. 815 dated 18 October 2013, Circular No. 846 dated 22 August 2014, Circular No. 874 dated 8 April 2015, Circular No. 925 dated 13 September 2016 and Circular No. 946 dated 17 February 2017)*

**Section 102. Procedures for Reporting.** Reports shall be filed with the BSP Main Office or with the BSP Regional Offices or by sending them by mail or special delivery, unless otherwise specified. The date of acknowledgment of receipt on the copy of the report (if mailed) shall be considered as the date of submission.

<sup>32</sup> The report form may be downloaded at the BSP website:  
<http://www.bsp.gov.ph/downloads/Regulations/MORFXT/MORFXT-faas.zip>

### Section 103. Fines and Penalties

1. The following schedule of fines for delayed submission of reports and/or incomplete/erroneous reporting shall apply:

A. For Category A-1, A-2, and A-3 reports:

- |                   |   |                            |
|-------------------|---|----------------------------|
| a. UBs/KBs        | : | PHP 1,200 per calendar day |
| b. TBs            | : | PHP 600 per calendar day   |
| c. RBs/Coop Banks | : | PHP 180 per calendar day   |

B. For Category B reports:

- |                   |   |                          |
|-------------------|---|--------------------------|
| a. UBs/KBs        | : | PHP 240 per calendar day |
| b. TBs            | : | PHP 120 per calendar day |
| c. RBs/Coop Banks | : | PHP 60 per calendar day  |

C. For Reports of Representative Offices of Foreign Banks and Reports of UBs/KBs, TBs, and RBs/Coop Banks Not Classified as Category A or B Reports:

- a. PHP100 per calendar day for the first five (5) successive calendar days of delay
- b. PHP150 per calendar day for the next five (5) successive calendar days of delay
- c. PHP200 per calendar day after the first ten (10) successive calendar days of delay until the particular report has been filed

D. For Reports of [OBUs](#)

PHP500 per calendar day except for the following reports where the above fines and penalties for representative offices of foreign banks shall apply:

- a. Statement of Earnings and Expenses;
- b. Financial Assistance and Training Granted by [OBUs](#) to its Filipino Staff; and
- c. Updated List and Bio-Data of Expatriates.

E. For Reports of [AAB-forex corps](#)

PHP1,000 per calendar day of delay until complied.

F. Chronic delayed reporting including submission of amended reports required for FX Form 1 shall be subject to an additional monetary penalty

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of PHP2,000.00 per banking day until the respective report and schedules are correctly submitted.

Submission of delayed reports, including amended reports, shall be considered chronic based on the following:

Name of Report/ Schedule	Frequency of Submission	No. of times delay
Schedules 8 & 13	Daily	More than seven (7) times delayed per month
Main Report, Schedules 2 - 7 and 9 - 12	Weekly	At least two (2) times delayed per month or five (5) banking days of continuous delay from submission deadline
Schedule 14 and Reconciliation Statement	Monthly	More than two (2) times delayed per semester or ten (10) banking days of continuous delay from the submission deadline

2. Manner of payment or collection of fines:

a. Fines shall be collected through debit to the AAB's current account deposit maintained with the BSP by the Financial Accounting Department upon receipt of notice from the department/s concerned; or

b. In case payment of fines is effected through check or cash, the same shall be remitted to the Cash Department of the BSP through the department/s concerned.

**Section 104. Post-Verification.** Post-verification of foreign exchange transactions covered by this Manual and reported under Section 101 hereof shall be undertaken by the BSP to verify compliance with the provisions of this Manual and for monitoring purposes.

## Chapter II

### FINAL PROVISIONS

**Section 105. Compliance with Anti-Money Laundering Rules**

All transactions under this Manual shall comply with existing regulations on anti-money laundering pursuant to the provisions of Republic Act No. 9160, as amended.

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**Section 106. Penal Sanctions.** Any person violating the provisions of this Manual shall suffer the penalties prescribed under Section 36 of [Republic Act No. 7653](#).

Administrative sanctions may also be imposed upon institutions within BSP's administrative authority found violating this Manual, including their directors and officers responsible for such violation.

These penalties may be any or all of the following as circumstances warrant:

1. Monetary sanction - The amount of PHP30,000.00 penalty imposed per day per violation committed shall be based on a per transaction basis;
2. Non-monetary sanction - This shall be based on the gravity of the offense or violation:
  - a. Reprimand of bank officers who approved the transaction;
  - b. Suspension of bank officers who approved the transaction;
  - c. Suspension of directors (for local banks) and Country Manager (for foreign banks);
  - d. Permanent disqualification of bank officers/directors;
  - e. Reduction or suspension of overbought/oversold limits;
  - f. Suspension of opening of [L/Cs](#) and over-the-counter sale of foreign exchange for a period of up to six (6) months;
  - g. Suspension of derivatives activities for a period of up to six (6) months; and
  - h. Suspension of FCDU/EFCDU authority for a period of up to six (6) months.

**Section 107. Repealing Clause.** All existing BSP rules and regulations on current accounts, capital accounts, [OBUs](#), [representative offices](#) of foreign banks, FCDUs/EFCDUs, foreign exchange forwards and swaps involving the Philippine peso, and open foreign exchange position of banks, as well as all other existing BSP rules and regulations or parts thereof which are inconsistent with or contrary to the provisions of this Manual are hereby repealed or modified accordingly: *Provided*, That regulations, violations of which are the subject of pending actions or investigations, shall not be considered repealed insofar as such pending actions or investigations are concerned, it being understood that as to such pending actions or investigations, the regulations existing at the time the cause of action accrued shall govern.

**Section 108. Separability Clause.** Nothing herein is intended nor shall be construed, to repeal or amend any law or statute. Should any provision of this Manual be declared unconstitutional or invalid, the remaining provisions or parts thereof shall remain in full force and effect, and continue to be valid and binding.

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## Glossary of Terms

**FOR PURPOSES OF THIS MANUAL**, the following definitions are adopted:

**Advance Payment** is an arrangement between the seller and buyer where the buyer pays, either partial or full, the seller prior to the shipment of the goods.

**Affiliate** refers to an entity linked directly or indirectly to a bank by means of:

- a. Ownership, control or power to vote, of ten percent (10%) to fifty percent (50%) of the outstanding voting stock of the entity, or vice-versa;
- b. Interlocking directorship or officership, except in cases involving independent directors as defined under existing regulations;
- c. Common stockholders owning ten percent (10%) to fifty percent (50%) of the outstanding voting stock of each financial intermediary and the entity;
- d. 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
- e. Permanent proxy or voting trusts in favor of the bank or quasi-bank constituting ten percent (10%) to fifty percent (50%) of the outstanding voting stock of the entity, or vice-versa.

**Authorized Agent Banks (AABs)** shall refer to all categories of banks [except Offshore Banking Units (OBUs)] duly licensed by the BSP. It is understood that each category of bank should function within the operational parameters defined by existing laws/regulations for the specific bank category to which they respectively belong.

**AAB-forex corps**, whether or not named as such, shall refer to **AAB subsidiary/affiliate forex corporations** whose business include buying and selling of foreign exchange.

**Balikbayan** is a Filipino that has established permanent residence abroad.

**Cash Against Document (CAD)** is an arrangement whereby the buyer pays the exporter upon the former's receipt of the shipping documents sent to him by the exporter either directly or through the banks.

**Consignment** is an arrangement whereby payment is contingent upon the sale to third parties abroad of the exported commodities by consignee.

**Direct Remittance (DR)** is a supplier-buyer arrangement where payment is made within 29 calendar days from bill of lading/airway bill date.

**Documents Against Acceptance (D/A)** is an arrangement under documentary collection in which an exporter instructs the presenting bank to hand over shipping and title

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documents to the importer only if the importer accepts and signs the accompanying bill of exchange or draft.

**Documents Against Payment (D/P)** is an arrangement under documentary collection in which an exporter instructs the presenting bank to hand over shipping and title documents to the importer only if the importer fully pays the accompanying bill of exchange or draft.

**Electronic transfer** is a system where the authority to debit or credit an account (bank, business or individual) is provided by wire, with or without a source document being mailed to evidence the authority.

**Financial Institutions** shall refer to business organizations that offer a broad base of financial services or specialize in specific financial functions, products, or services, e.g. banks, investment houses, pension funds, pawnshops, credit unions, investment companies, insurance companies, securities brokers and dealers, stock exchanges, mutual funds, trust corporations, leasing companies, financing companies, credit card companies, companies engaged in foreign exchange dealership/brokerage and others that deal in money.

**Foreign Bank** shall refer to a bank or banking corporation formed, organized and existing under any foreign law.

**Foreign Currency Deposit Unit (FCDU)/Expanded Foreign Currency Deposit Unit (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 [Republic Act No. 6426](#), as amended.

**Foreign Currency Loans** refer to loans owed to banks operating in the Philippines that are denominated in currencies other than the Philippine peso.

**Foreign Exchange (FX)** shall be used interchangeably with foreign currency.

**Foreign Loans** are loans owed to [non-residents](#), regardless of currency denomination.

**Forex Corporations**, whether or not named as such, refer to entities whose business include buying and selling of foreign exchange.

**Intercompany Open Account Offset Arrangement (Interco O/A)** is an arrangement whereby the exporter offsets its payables to against its receivables from, its parent/affiliate company abroad.

**Legal Tender** refers to money recognized by law as acceptable payment for debts owed to creditors.

**Letter of Credit (L/C)**, which gives the seller assurance that he will receive the payment for the goods, is a binding document that a buyer can request from his bank in order to guarantee that the payment for goods will be transferred to the seller. In order for the payment to occur, the seller has to present the bank with the necessary shipping documents confirming the delivery of goods within a given time frame.

**Low-Cost Housing** refers to housing packages with loan ceilings ranging from above PHP400,000 up to PHP3 million or in such other amounts which the Housing and Urban Development Coordinating Council may prescribe in the future. *(As amended by Circular No. 724 dated 13 June 2011)*

**Medium- and Long-Term Loans** are credits with maturities exceeding one (1) year.

**Non-bank BSP-supervised entities (NBBSEs)** refer to non-bank entities that fall under the supervisory authority of the BSP under [Republic Act No. 7653](#) (The New Central Bank Act), [Republic Act No. 8791](#) (The General Banking Law of 2000) and other special laws. These include quasi-banks, subsidiaries and affiliates of [AABs/quasi-banks](#), non-banks with trust or investment management activities license, non-stock savings and loan associations, and pawnshops.

**Non-resident** refers to an individual, a corporation or other juridical person not included in the definition of [resident](#). *(See “Resident”)*

**Non-trade current account transactions** refer to all non-trade transactions (also referred to as invisibles) with [non-residents](#) not included in the definition of [trade transactions](#), but excluding those related to [foreign/foreign currency loans](#), foreign investments and other investments by both [residents](#) and [non-residents](#). *(As amended by Circular No. 925 dated 13 September 2016)*

**Non-trade transactions** refer to all other foreign exchange transactions not included in the definition of [trade transactions](#). These shall include foreign loans, foreign investments, and other investments by both [residents](#) and [non-residents](#). *(See “Trade Transactions”)* *(As amended by Circular No. 925 dated 13 September 2016)*

**Offshore Banking** refers to the conduct of banking transactions in foreign currencies involving the receipt of funds principally from external sources and, as allowed in this Manual, from internal sources and utilization of such funds, as provided herein.

**Offshore Banking Unit (OBU)** 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. For purposes of this Manual, OBUs are classified as [non-residents](#).

**Open Account (O/A)** is an arrangement whereby the shipping documents are sent and released by the exporter directly to the buyer, without coursing the documents through the banks, upon the buyer's promise to pay at some future date after shipment.

**Parent Company** shall refer to an entity which owns more than fifty percent (50%) of the voting stock of another entity.

**Private sector loans/borrowings that are not publicly-guaranteed** – foreign/foreign currency loans/borrowings (including those in the form of bonds/notes/other debt instruments) of the private sector that do not involve any of the following public sector entities as co-borrower, guarantor, or co-issuer: (a) National Government, its agencies and instrumentalities; (b) Government-owned and controlled corporations (GOCCs); (c) Government financial institutions (GFIs), except short-term interbank borrowings; (d) Local government units (LGUs); and (e) Other public sector entities.

**Publicly-guaranteed private sector loans/borrowings** – foreign/foreign currency loans/borrowings (including those in the form of bonds/notes/other debt instruments) that are guaranteed by public sector entities such as Government-owned and controlled corporations (GOCCs); Government financial institutions (GFIs), except short-term interbank borrowings; and Local government units (LGUs).

**Red Clause** is a clause (originally typed in red) added to a letter of credit authorizing the advising/negotiating bank to make an advance payment to the beneficiary (exporter) before the actual shipment to the buyer. The advance may be up to 100% of the export contract value and may be used by the exporter to buy the inputs for manufacturing or shipment. Red clause credits are used primarily when the buyer (importer) has an agent in the exporting country. To finance its purchases, the importer may arrange for the opening of a red clause letter of credit. Negotiations of red clause credits are limited to the bank making the advances in order to assure that revenues from the shipment are used to repay the advances made.

**Representative Office** shall refer to a liaison office of a foreign bank which deals directly with the public by promoting and giving information about the foreign bank's services offered. It does not include the regional or area headquarters of a foreign bank registered and licensed under existing laws.

**Resident** shall refer to –

- a) an individual citizen of the Philippines residing therein; or
- b) an individual who is not a citizen of the Philippines but is permanently residing<sup>33</sup> therein; or

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<sup>33</sup> Residents include any individual, citizen or otherwise, who has resided in the Philippines for a year or longer, as defined in Section 83 of IMF Balance of Payments Textbook, 1996.

- c) a corporation or other juridical person organized under the laws of the Philippines; or
- d) 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](#).

**Short-term loans** are credits with maturity not exceeding one (1) year.

**Socialized housing** refers to housing packages with loan ceilings of not more than PHP400,000, or in such other amounts which the Housing and Urban Development Coordinating Council may prescribe in the future. *(As amended by Circular No. 724 dated 13 June 2011)*

**Small-scale mining** refers to mining activities which rely heavily on manual labor using simple implement and methods and do not use explosives or heavy mining equipment.

**Subsidiary** (of a bank) 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 power to vote by a bank.

**Subsidiary** shall refer to an entity more than fifty percent (50%) of the voting stock of which is owned by another entity (known as the [parent company](#)).

**Trade transactions** refer to merchandise export and/or import transactions.