



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) 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	Bureau of Internal Revenue
B/L	bill of lading
BOI	Board of Investments
BOT	Build-Operate-Transfer
BSP	Bangko Sentral ng Pilipinas
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	Department of Finance
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	Investment Priorities Plan
KBs	commercial banks
L/C	letter of credit
MORB	Manual of Regulations for Banks
MORNBFIs	Manual of Regulations for Non-Bank Financial Institutions
MTPIP	Medium-Term Public Investment Program
NEDA	National Economic and Development Authority
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	Philippine Deposit Insurance Corporation

PSE	Philippine Stock Exchange
QIs	qualified investors
RBs	rural banks
SEC	Securities and Exchange Commission
SES	Supervision and Examination Sector
TBs	thrift banks
UBs	universal banks

Table of Contents

PART ONE. RULES ON FOREIGN EXCHANGE TRANSACTIONS

Chapter I.	General Provisions
Chapter II.	Resident to Resident Transactions

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
Section 2.	Sale of Foreign Exchange to Residents by AABs and AAB-Forex Corps for Non-Trade Current Account Transactions with Non-Residents
Section 3.	Peso Accounts of, and Sale of Foreign Exchange to, Non-Residents
Section 4.	Cross-Border Transfer of Local and Foreign Currencies
Section 5.	Buying and Selling of Gold by Residents

Chapter II

FOREIGN MERCHANDISE TRADE TRANSACTIONS

A. IMPORT TRADE TRANSACTIONS

Section 6.	General Policy
Section 7.	Classification of Imports
Section 8.	Modes of Payment for Imports
Section 9.	Letter of Credit (L/C)
Section 10.	Documents Against Payment (D/P)

- Section 11.** Documents Against Acceptance (D/A) and Open Account (O/A) Arrangements
- Section 12.** Direct Remittance (DR)
- Section 13.** Advance Payment
- Section 14.** Other Import Arrangements

B. EXPORT TRADE TRANSACTIONS

- Section 15.** General Policy
- Section 16.** Classification of Exports
- Section 17.** Export Declaration (ED)
- Section 18.** Modes and Currency of Payment
- Section 19.** Negotiation Procedures
- Section 20.** Disposition of Export Proceeds
- Section 21.** Gold and Constructive Exports

PART THREE. CAPITAL ACCOUNT TRANSACTIONS

Chapter I

LOANS AND GUARANTEES

- Section 22.** General Policy
- Section 23.** Loans Requiring Prior BSP Approval
- Section 24.** Loans Not Requiring Prior BSP Approval
- Section 25.** Projects/Costs Eligible for Foreign Financing
- Section 26.** Terms of Loans
- Section 27.** Drawdown/Availment on Loans
- Section 28.** Registration of Loans
- Section 29.** Servicing of Loans
- Section 30.** Approval/Registration and Servicing of Guarantees
- Section 31.** Approval/Registration and Servicing of Other Financing Schemes/ Arrangements

Chapter II

FOREIGN INVESTMENTS

- Section 32.** General Policy
- Section 33.** Categories of Inward Foreign Investments
- Section 34.** Inward Foreign Direct Investments
- Section 35.** Inward Foreign Portfolio Investments

Section 36.	Registration with the BSP
Section 37.	Registration with Custodian Banks
Section 38.	Registration Procedures
Section 39.	Import/Export of Stock Certificates of Philippine Firms
Section 40.	Repatriation and Remittance Privileges
Section 41.	Deposit of Divestment/Sales Proceeds
Section 42.	Reinvestment
Section 43.	Inward Foreign Investments Prior to 15 March 1973
Section 44.	Investments by Philippine Residents

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
Section 46.	Approvals Required
Section 47.	Criteria for Selection
Section 48.	Pre-Operation Requirements
Section 49.	Annual Fee
Section 50.	Transactions with Non-Residents and/or with Other OBU s
Section 51.	Transactions with Foreign Currency Deposit Units (FCDUs)/ Expanded Foreign Currency Deposit Units (EFCDUs)
Section 52.	Transactions with Residents which are not Banks
Section 53.	Peso Deposits
Section 54.	Financial Assistance to Officers/Employees
Section 55.	Secrecy of Deposits
Section 56.	Exemption from Certain Laws
Section 57.	Accounting and Reporting
Section 58.	Supervision
Section 59.	Taxes, Customs Duties
Section 60.	Revocation/Suspension

Chapter II

REPRESENTATIVE OFFICES OF FOREIGN BANKS

Section 61.	Definition of Terms
Section 62.	Criteria for Approval
Section 63.	Authorized Activities of Representative Offices
Section 64.	Fees
Section 65.	Use of the term “Representative Office”

- Section 66. Licensing
- Section 67. Visitorial Power
- Section 68. Reporting
- Section 69. Revocation of License

Chapter III

FOREIGN CURRENCY DEPOSIT SYSTEM

- Section 70. Definition of Terms
- Section 71. Qualification Requirements
- Section 72. Authorized Transactions
- Section 73. Foreign Currency Cover Requirements
- Section 74. Foreign Currency Deposits with the Bangko Sentral
- Section 75. Currency Composition of the Cover
- Section 76. Secrecy of Deposits
- Section 77. Numbered Accounts
- Section 78. Withdrawability and Transferability of Deposits
- Section 79. Insurance Coverage
- Section 80. Rates of Interest
- Section 81. Eligibility as Collateral
- Section 82. Taxes
- Section 83. Exemption from Court Order or Process
- Section 84. Accounting
- Section 85. Supervision
- Section 86. Prospective Effect of Regulations
- Section 87. Sanctions

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
- Section 89. Definition of Terms
- Section 90. Documentation
- Section 91. Tenor/Maturity and Settlement
- Section 92. Reserved
- Section 93. Cancellations, Roll-overs or Non-delivery of Deliverable Foreign Exchange Forward and Swap Contracts
- Section 94. Reporting Requirements

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

Chapter II

OPEN FOREIGN EXCHANGE POSITION OF BANKS

Section 96. General Policy
Section 97. Definition of Terms
Section 98. Allowable Open Foreign Exchange Position
Section 99. Computation and Reporting of Foreign Exchange Position
Section 100. Sanctions

PART SIX. GENERAL PROVISIONS

Chapter I

REPORTS AND POST VERIFICATION

Section 101. Reportorial Requirements
Section 102. Procedures for Reporting
Section 103. Fines and Penalties
Section 104. Post-Verification

Chapter II

FINAL PROVISIONS

Section 105. Compliance with Anti-Money Laundering Rules
Section 106. Penal Sanctions
Section 107. Repealing Clause
Section 108. Separability Clause

Glossary of Terms

APPENDICES

Appendix 1 Minimum Documentary Requirements for the Sale of Foreign Exchange by Authorized Agent Banks (AABs)/AAB-Forex Corps
Appendix 1.1 Minimum Documentary Requirements for Peso Deposit Accounts of Non-residents

Appendix 1.2	Procedures for Repatriation of Proceeds from the Onshore Sale by Non-Resident Issuers of their PSE-listed Equity Securities and Remittance of Interest Earned
Appendix 2	Regulated Imports
Appendix 3	Prohibited Imports
Appendix 4	Guidelines Covering the Sale of Foreign Exchange by AABs and AAB-Forex Corps for Trade Transactions
Appendix 5	Documentary Requirements for Opening an L/C
Appendix 6	Guidelines for Reporting, Payments and Extensions of Maturity of Importations under D/A or O/A Arrangements
Appendix 6.1	Guidelines for Reporting of Foreign Exchange Obligations and Sale and Remittance of Foreign Exchange under Intercompany Netting Arrangements
Appendix 7	Guidelines for the Sale of Foreign Exchange to Importers by AABs and AAB-Forex Corps for Advance Payment of Imports
Appendix 8	Regulated Exports
Appendix 9	Prohibited Exports
Appendix 10	Procedures and Documentary Requirements for the Registration of Inward Foreign Investments and Other Investments
Appendix 10.1	Certificate of Inward Remittance (CIR) Form
Appendix 10.2	Guide/Instructions for Filling Out the Certificate of Inward Remittance (CIR) Form
Appendix 10.3A	Sworn Certification for foreign direct investments in stock corporations
Appendix 10.3B	Sworn Certification for foreign direct investments in branches, representative offices, Regional Headquarters/Regional Operating Headquarters
Appendix 10.4	Authority to Disclose Information Custodian Banks (for Registration of Foreign Investments in Peso-Denominated Government Securities and Peso Time Deposit)
Appendix 11	Inward Foreign Investments and Other Investments - Procedures for Repatriation of Capital and Remittance of Dividends/Profits/Earnings
Appendix 11.1A	Guidelines on Reporting Registered Portfolio Investments
Appendix 11.1B	Portfolio Investment Monitoring System – Manual of Instructions
Appendix 12	Checklist of Required Documents, in Lieu of a Stock Transfer Agent’s Certification, for Registration of Inward Foreign Investments Prior to 15 March 1973
Appendix 13	Guidelines on the Availment of US Dollar-Denominated Repurchase Agreement Facility with the BSP
Appendix 14	Sworn Certification of FCDU Lending To RBU
Appendix 15	Report on Compliance with FCDU/EFCDU Cover Requirements
Appendix 15.1	Sworn Certification of Compliance with the FCDU/EFCDU Cover Requirements
Appendix 16	Guidelines on the Transfer of Undivided Profits/(Losses)

	from FCDU/EFCDU Books to the RBU Books
Appendix 16.1	Illustrative Accounting Entries on the transfer of FCDU/EFCDU Profits/(Losses)
Appendix 17	Guidelines on the Conversion to Peso Loans/ROPA and Transfer to RBU of FCDU/EFCDU Loans/ROPA
Appendix 18	Guidelines and Minimum Documentary Requirements for Foreign Exchange Forward and Swap Transactions
Appendix 19	Implementing Guidelines on the Computation of Open Foreign Exchange Positions of AABs and Reporting Requirement under FX Form 1
Appendix 20	Processing Fees on Foreign Exchange Transactions Payable to the Bangko Sentral ng Pilipinas

ANNEXES

Annex A	Application Form to Purchase Foreign Exchange
Annex B	Monthly Report on Sale/Remittance of Foreign Exchange (FX) for Advance Payment of Importations
Annex C	Monthly Report on Purchase of Foreign Exchange (FX) from Refund of Advance Payment of Importations
Annex D.1	Application Form for Approval of Foreign Loans of Public Sector Entities
Annex D.2	Application Form for Approval or Registration of Foreign Loans of Private Sector Entities
Annex D.3	Foreign Borrowings Plan
Annex E.1	Report on short-term foreign borrowings
Annex E.2	Report on foreign borrowings for medium- and long-term loans
Annex E.3	Loan Profile
Annex E.4	Loan Disbursement and Amortization Schedules
Annex F	Report on Short-Term Loans Granted to Residents by Foreign Banks
Annex G	Report on Guarantees Issued by Local Banks and Financial Institutions in Favor of Non-Residents
Annex H	Report on Foreign Guarantees Issued by Local Banks and Financial Institutions in Favor of Non-Residents
Annex I	Projected Funding Requirements for BOT/Other Similar Financing Schemes - Form BOT-1A
Annex J	Report on Payments Under BOT/Other Similar Financing Schemes - Form BOT-1B
Annex K	Foreign Currency and Other Foreign Exchange-Denominated Bearer Monetary Instruments Declaration Form
Annex L	Report on Cancellations, Roll-overs and Non-delivery of Deliverable Foreign Exchange Forward Purchase and Sale Contracts and Forward Leg of Swap Contracts

Annex M	Report on Foreign Exchange Swaps with Customers where the First Leg is a Purchase of Foreign Exchange Against Pesos
Annex N	Computation Sheet for Outward Remittance for BSP-registered foreign direct investments
Annex O	Details of Accounts Excluded in the Computation of Net Foreign Exchange Position
Annex P	Sworn Certification on the Consolidation of Foreign Exchange Position (For Local Banks)
Annex P.1	Sworn Certification on the Consolidation of Foreign Exchange Position (For Branches of Foreign Banks)
Annex Q	Consolidated Foreign Exchange Position Report
Annex R	Summary of Delta-Weighted Positions of Foreign Currency Options per Currency
Annex R.1	Foreign Currency Options Purchased/Sold Outstanding
Annex S	Summary of Notional Amounts of Foreign Currency Options per Currency
Annex S.1	Foreign Currency Options Purchased Outstanding
Annex T	Sworn Certification – FX Form 1, Schedules 2 to 13
Annex U	Reserved
Annex V	Monthly Report on Foreign Exchange Sales by Authorized Agent Banks for Investments Enumerated under Section 44
Annex W	Application for Foreign Direct Investments
Annex X	Report of Remitting Authorized Agent Banks on Capital Repatriation and Remittance of Earnings of BSP-Registered Foreign Direct Investments
Annex Y	Report on Transactions on PSE-Listed Equity Securities Issued by Non-Residents
Annex Z	Report on Transactions under Intercompany Netting Arrangements
Annex Z.1	Statement of Receivables and Payables under Intercompany Netting Arrangements

Reports for Electronic Submission

FX Form 1	Consolidated Foreign Exchange Assets and Liabilities - UBs/KBs - (Main Report and Schedules 1 to 14)
FX Form 1A	Consolidated Foreign Exchange Assets and Liabilities - TBs - (Main Report and Schedules 1 to 9)
IOS Form 4	Consolidated Report on Loans Granted by FCDUs
ID-Form 5	Report on Bank Liabilities to Non-Residents
-	Report on Registered Portfolio Investments

- Consolidated Report on Foreign Currency Loans Granted by Regular Banking Units

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-subsiidiary/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.

[Back to top](#)

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 transactions¹ 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)

¹ 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 residing² 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

² 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.

- Duly accomplished Application To Purchase Foreign Exchange ([Annex A](#));
- 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 No. 698 dated 5 November 2010, Circular No. 794 dated 18 April 2013, Circular No. 874 dated 8 April 2015 and Circular No. 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](#):

[Back to top](#)

- a. inward remittances of convertible foreign exchange³;
- 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 securities⁴.

2. Sale of Foreign Exchange to Non-Residents

a. Non-residents. Depository AABs may sell foreign exchange of up to USD60,000 per day for 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 foreign exchange 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

³ Refer to convertible currencies indicated in the BSP reference exchange rate bulletin

⁴ Refer to equity securities of non-residents primarily listed at the PSE

purchase foreign exchange from their depository AAB, supported by the photocopies of documents listed under item no. 7 of [Appendix 1.1](#).

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 No. 698 dated 5 November 2010, Circular No. 794 dated 18 April 2013, Circular No. 815 dated 18 October 2013 and Circular No. 925 dated 13 September 2016)

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 passengers⁵ shall not be included in the aforementioned limit during the implementation of said IPSC refund.

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 No. 794 dated 18 April 2013 and Circular No. 874 dated 8 April 2015; and Circular No. 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.

⁵ 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.

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.

[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 No. 742 dated 21 November 2011, Circular No. 818 dated 6 November 2013 and Circular No. 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;
 2. Interlocking directorship⁶ 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

⁶ When at least one of the directors of one corporation/entity is also the director of the other corporation/entity.

shall refer to those with payment terms of more than one year reckoned from initial shipment date.

(As amended by Circular No. 742 dated 21 November 2011 and Circular No. 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.

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 29th 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

[Back to top](#)

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 No. 698 dated 5 November 2010, Circular No. 742 dated 21 November 2011 and Circular No. 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.

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](#).

[Back to top](#)

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 directorship⁷ or officership, except in cases involving independent directors as defined under existing regulations;

⁷ When at least one of the directors of one corporation/entity is also the director of the other corporation/entity.

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 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 No. 794 dated 18 April 2013, Circular No. 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. The BSP shall regulate foreign/foreign currency loans to ensure that principal and interest thereon can be serviced in an orderly manner and with due regard to the economy's overall debt servicing capacity. Loans from offshore sources, OBUs as well as foreign currency loans from banks operating in the Philippines shall be submitted to the BSP for prior approval and/or registration if these will ultimately be serviced with foreign exchange to be purchased from AABs/AAB-forex corps (including those covered by derivatives transactions), unless otherwise indicated herein.

1. The required BSP approval shall be obtained as follows:
 - a. For public sector loans – Applications for loan approval shall be filed with the BSP using the prescribed form ([Annex D.1](#)) together with all the required supporting documents/information, before commencement of actual negotiations, or before issuing a mandate of commitment to foreign funders/arrangers.
 - b. For private sector loans – Applications for loan approval shall be filed with the BSP using the prescribed form ([Annex D.2](#)) together with all the required supporting documents/information, at least 30 banking days before the target signing date of the loan documents and/or initial drawdown date, whichever is earlier.

Private sector loans submitted for BSP approval shall be assessed a processing fee indicated under [Appendix 20](#) hereof.

2. Resident companies/entities intending to obtain medium- and long-term loans and/or issue debt instruments (whether onshore or offshore) that are denominated/requiring settlement in foreign currency shall submit to the BSP-IOD their annual borrowings plan using the prescribed form ([Annex D.3](#)):

- a. Public sector entities, including the National Government – every end-September for borrowings for the following year, regardless of amount; and
- b. Private sector entities, with planned aggregate annual borrowings of at least USD10 million, or its equivalent – every end-September for borrowings for the following year.

Any changes to the submitted plan shall be communicated to the BSP-IOD within two (2) weeks upon availability of information for monitoring and programming purposes.

3. Private sector loans that are submitted to the BSP for approval or registration that were not included under a foreign borrowings plan as required in Item 2 of this Section shall be assessed an additional fee equivalent to ten percent (10%) of the applicable processing fee for BSP approval/registration, as indicated under [Appendix 20](#) hereof.

4. For statistical purposes, all foreign borrowings of private sector entities (including those in the form of bonds/notes/other debt instruments issued), whether or not these are BSP-approved/registered, shall be regularly reported to the BSP-IOD, using the prescribed forms (Annexes [E.1](#), [E.2](#), [E.3](#) and [E.4](#)) within the required deadline until the obligations are fully extinguished.

5. [AABs](#) shall not extend peso financing to non-residents unless explicitly allowed under existing BSP rules.

6. Foreign borrowings (including those in the form of bonds/notes/other debt instruments) of banks shall be subject to items 2 and 4 of this Section, the MORB, and other applicable laws, rules and regulations.

Foreign/foreign currency loans/borrowings including those in the form of bonds/notes/other debt instruments of non-bank financial institutions with quasi-banking functions that are not publicly-guaranteed shall comply with items 2 and 4 of this Section, Section 29 and [Appendix 1](#) of this Manual, the MORNBF1, and other applicable laws, rules and regulations.

7. Private sector non-banks who incur loans that are subject to prior BSP approval and/or registration shall maintain a long-term debt-to-equity ratio of 75/25 or

better during the entire duration of the loans, except as may be explicitly allowed by the BSP.

(As amended by Circular No. 742 dated 21 November 2011, Circular No. 794 dated 18 April 2013, Circular No. 818 dated 6 November 2013, Circular No. 874 dated 8 April 2015 and Circular No. 925 dated 13 September 2016)

Section 23. Loans Requiring Prior BSP Approval. Prior BSP approval shall be required for the following loans:

1. All foreign/foreign currency loans of the following public sector entities, except short-term foreign currency loans from banks operating in the Philippines that are covered by Section 24.4:

- a. National Government, its agencies and instrumentalities;
- b. Government-owned and controlled corporations (GOCCs);
- c. Government financial institutions (GFIs), except short-term normal interbank borrowings;
- d. Local government units (LGUs); and
- e. Other public sector entities.

2. All foreign/foreign currency loans of the private sector if guaranteed by government corporations and/or government financial institutions.

3. Loans from offshore sources and OBUs with maturities exceeding one (1) year to be obtained by private non-bank financial institutions (except those to be incurred by non-bank financial institutions with quasi-banking functions) intended for relending to public or private sector enterprises.

4. Other loans intended to be serviced using foreign exchange purchased by the borrower/creditor/guarantor from AABs or AAB-forex corps and not covered by Section 24.

Applications submitted to the BSP with signed loan documents and/or loan proceeds already drawn shall no longer be eligible for BSP approval and registration.

(As amended by Circular No. 742 dated 21 November 2011, Circular No. 818 dated 6 November 2013; and Circular No. 925 dated 13 September 2016)

Section 24. Loans Not Requiring Prior BSP Approval. The following loans may be obtained without prior BSP approval:

1. a. Loans of resident private sector borrowers from offshore sources that will be serviced using foreign exchange to be purchased from entities that are neither AABs nor AAB-forex corps.

b. Foreign currency loans of resident private sector borrowers from banks operating in the Philippines: *Provided*, that these: (i) are not publicly-guaranteed; (ii) are reported by the creditor bank to the BSP using the prescribed forms ([IOS-Form 4](#) and [Consolidated Report on Foreign Currency Loans Granted by Regular Banking Units](#), as may be applicable).

c. Foreign currency loans of non-residents from banks operating in the Philippines: *Provided*, that the loans shall not be serviced using foreign exchange to be purchased from AABs/AAB-forex corps.

2. Short-term interbank loans as allowed under existing BSP rules, e.g., interbank call loans.

3. Short-term loans of the private sector in the form of export advances from buyers abroad.

4. Short-term foreign currency loans of the following public sector borrowers from banks operating in the Philippines:

a. 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 foreign exchange.

Indirect exporters may likewise borrow to fund export-related costs, which may include both foreign exchange as well as peso costs. 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.

b. Producers/manufacturers, including oil companies and public utility concerns: *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 persons or entities that undertake the

[Back to top](#)

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.

5. Short-term loans of private exporters/importers from OBUs and offshore foreign banks with branches in the Philippines: *Provided*, that:

a. The loans are not covered by a guarantee from a government financial institution/corporation;

b. The loans shall be exclusively used to finance specific trade transactions, i.e., to liquidate/pay for import obligations and/or in the case of export financing transactions, to fund the borrower's pre-export financing requirements;

c. Loan proceeds intended to pay for foreign exchange requirements may be paid directly to the intended beneficiary, while amounts intended to fund pre-export peso costs shall be inwardly remitted and may either be paid directly to the intended beneficiary or sold for pesos to AABs;

d. Drawdown and registration requirements under Sections 27 and 28 hereof shall be complied with;

e. Any assignment of the loan by the creditor concerned shall be reported to the BSP within five (5) days from date of assignment;

f. The loans have been granted against BSP-approved short-term lending program of the creditor banks, including OBUs.⁸

g. The following reports shall be submitted to the BSP:

- i. By the borrowers – monthly reports on transactions and status of their short-term loans within three (3) banking days after end of reference month using the prescribed form ([Annex E.1](#));
- ii. By the creditor OBU – [Schedule 4A \(Part I\) & 4B \(Part II\)](#) – Consolidated Report on Loans Granted by OBUs to Residents - to the "Statement of Assets and Liabilities" of OBUs.; and

⁸ The creditor banks' lending program for private sector borrowers should indicate the proposed credit limit, supported by a list of prospective borrower/s.

- iii. By the creditor foreign bank – Report on Short-Term Loans Granted to Residents by Foreign Banks ([Annex F](#)).

6. **Short-term loans** of private exporters/importers from other offshore sources/creditors: *Provided*, That all provisions of Section 24.5 are complied with, except item (f), and that the loans shall be granted against BSP-approved short-term relending programs of foreign creditors. Creditors shall submit to the BSP for approval their short-term relending program for Philippine borrowers indicating their proposed credit limit together with a list of prospective borrowers/beneficiaries. These relending programs shall be valid for one (1) year.

7. Private sector loans not guaranteed by foreign governments/official export credit agencies covering importation of freely importable commodities under deferred L/Cs or D/A-O/A arrangements with a term of more than one (1) year.

8. Private sector intercompany loans granted by foreign companies to their local branches/subsidiaries, irrespective of amount and maturity: *Provided*, That these are used to finance eligible projects/costs cited under Section 25. For purposes of this Item, intercompany loans shall include those granted by foreign branches and wholly-owned subsidiaries of a foreign parent company as well as other subsidiaries of the parent company but shall exclude those loans that are intended to refinance existing obligations: *Provided*, That, in the case of other subsidiaries, the loan/s shall be fully guaranteed by the parent company.

9. Loans of resident private sector borrowers from offshore sources that are not guaranteed by public sector entities to finance the Government's Public-Private Partnership (PPP) projects. These loans may be obtained without prior BSP approval until 28 December 2016. However, if financing for the PPP projects will be in the form of offshore issuances of peso-denominated instruments, the provisions of Section 31.2 shall apply.

The loans listed under this Section shall, however, be registered with the BSP pursuant to Section 28, if to be serviced by the borrower/creditor/guarantor using foreign exchange from AABs/AAB-forex corps, including loans that are covered by derivatives contracts which shall also be subject to the provisions of Sections 88 to 94 and [Appendix 18](#) of the Manual. Said registration requirement does not apply to loans under items 1(a)-(c) and 2 hereof, while loans covered by items 4 and 5 shall be subject to the provisions of Section 28.3.

(As amended by Circular No. 742 dated 21 November 2011, Circular No. 794 dated 18 April 2013, Circular No. 818 dated 6 November 2013, Circular No. 874 dated 8 April 2015 and Circular No. 925 dated 13 September 2016)

Section 25. Projects/Costs Eligible for Foreign Financing

1. Loans submitted for prior BSP approval shall finance the following types of projects/activities:

- a. Export-oriented projects;
- b. Projects registered with the BOI;
- c. Priority investment areas under the current [Investment Priorities Plan \(IPP\)](#);
- d. Activities listed in the current [Medium-Term Public Investment Program \(MTPIP\)](#);
- e. Development of industrial estates and economic zones;
- f. [Socialized/Low-cost housing](#) projects;
- g. Acquisition of non-performing assets/loans (NPAs/NPLs) of banks and other GFIs;
- h. Acquisition of government assets approved for privatization;
- i. Other projects that may be declared priority under the country's socio-economic development plan by the National Economic and Development Authority or by Congress;
- j. Refinancing of existing loans used for eligible projects/costs which are eligible for servicing using foreign exchange sourced from [AABs](#) or [AAB-forex corps](#); and
- k. Microfinance activities.

2. [Short-term loans](#) shall finance exclusively foreign exchange requirements of eligible projects, except as may be specifically allowed under this Manual. Medium- and long-term loans may finance foreign exchange costs as well as peso costs (excluding working capital) of eligible projects.

(As amended by Circular No. 742 dated 21 November 2011)

Section 26. Terms of Loans

1. Loans shall have terms reflective of those prevailing in the international capital markets.

2. Terms of loans to be obtained by the National Government and other public sector entities shall be in accordance with the provisions of pertinent laws/regulations governing public sector borrowings.

3. The [Monetary Board](#) may require longer grace/maturity periods for medium and long-term loans involving large amounts to reduce the impact thereof on debt servicing.

Section 27. Drawdown/Availment on Loans. Loans intended to be serviced using foreign exchange purchased from [AABs](#) or [AAB-forex corps](#) shall comply with the following:

1. Loan proceeds shall be used solely for the purpose/s as approved by the BSP or considered eligible for foreign financing under the rules herein.
2. Loan proceeds intended to fund local costs (i.e., those payable to residents) shall be inwardly remitted and may either be paid directly to the intended beneficiary or sold for pesos to AABs.
3. Amounts intended to finance foreign exchange costs (i.e., those payable to non-residents) need not be inwardly remitted but may either be paid directly to the non-resident supplier/beneficiary concerned or deposited in a foreign exchange account pending utilization of the funds unless covered by Section 27.4.
4. Pending utilization, foreign exchange proceeds of loans and bond/note issues of the public sector shall be deposited with the BSP pursuant to Section 113 of [Republic Act No. 7653](#) (The New Central Bank Act) dated 14 June 1993.

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

Section 28. Registration of Loans

1. Loans shall be registered with the BSP to be eligible for servicing using foreign exchange purchased from [AABs](#) or [AAB-forex corps](#). Applications for registration of private sector loans shall be filed by the borrower with the BSP within ten (10) banking days from drawdown date for short-term loans and three (3) months from utilization of loan proceeds for medium and long-term loans using the prescribed forms ([Annex D.2](#)). Private sector loans that do not require prior BSP approval but are submitted to the BSP for registration shall be charged a processing fee indicated in [Appendix 20](#) hereof. Public sector loans extended final approval by the Monetary Board are deemed registered.

2. Loans shall be registered by the BSP upon the borrower's compliance with the terms and conditions imposed under the BSP approval of the loan and/or pertinent provisions of this Manual, including submission of required documents and information.

3. Loans granted under Sections 24.4 and 24.5 that are duly reported to the BSP using the prescribed forms ([IOS Form 4](#), [Consolidated Report on Foreign Currency Loans Granted by Regular Banking Units](#) and [Schedule 4A \(Part I\) & 4B \(Part II\)](#) of the Consolidated Report on Loans Granted by OBUs to Residents) are deemed registered.

4. Loans requiring prior BSP approval which have been signed and/or drawn/availed of prior to securing the requisite approval shall not be eligible for registration and subsequent servicing using foreign exchange purchased from [AABs](#) or [AAB-forex corps](#).

(As amended by Circular No. 742 dated 21 November 2011 and Circular No. 925 dated 13 September 2016)

Section 29. Servicing of Loans⁹

1. All foreign exchange purchases from AABs/AAB-forex corps for servicing of foreign/foreign currency loans shall either be:

- a. remitted directly to the intended beneficiary's account on the date of purchase; or
- b. credited to the FCDU account of the resident borrower/guarantor (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.

2. Foreign exchange requirements for payment of principal, interest, fees and related charges on loans duly registered with the BSP may be fully purchased from AABs/AAB-forex corps and remitted through AABs as these fall due without prior BSP approval, provided such interest, fees and charges are indicated in the BSP registration document, and documents listed under [Appendix 1](#) hereof are submitted to the foreign exchange selling institution.

3. Payments for the following shall, however, be subject to prior BSP approval:

- a. Prepayment of public sector/publicly guaranteed private sector loans;

⁹ Unregistered private sector foreign loans were temporarily allowed to be paid using foreign exchange to be purchased from AABs and/or AAB-forex corps under the following BSP Circulars, subject to certain conditions:

BSP Issuance	Period Covered
Circular No. 741 dated 17 November 2011	December 2011 to February 2012
Circular No. 795 dated 18 April 2013	May 2013 to December 2013

- b. All loans that are past due for more than 30 calendar days reckoned as follows:
- 1) For short-term loans, from the 360th day after availment; and
 - 2) For MLT loans, from original maturity date.
- c. Other loan-related fees/charges not authorized by the BSP; and
- d. Loans covered by official rescheduling with Paris Club creditors.
4. AABs and AAB-forex corps may sell foreign exchange without prior BSP approval for prepayments (i.e., payments before original due dates) of BSP-registered private sector loans (including bonds and notes) that are not publicly-guaranteed, subject to the following conditions:
- a. In the case of prepayment of medium- and long-term private sector loans, the borrower shall submit to the BSP-IOD a notice of intention to prepay at least one (1) month prior to the target prepayment date indicating the following: name of creditor, BSP registration number for the loan, date of prepayment, amount of principal to be prepaid and related interest/other fees/charges due in original currency, and remittance instructions (e.g., account number and recipient bank). Such notice shall not be required for prepayment of short-term private sector loans.

After payment, the borrower shall submit to the BSP-IOD proof/s of such payment, together with a copy each of the duly stamped supporting documents/BSRD and its ST-2 (for short-term loans)/Form 2 (for medium- and long-term loans) report (Annexes [E.1](#) and [E.2](#), respectively) within the prescribed deadlines for said reports.
 - b. The foreign exchange selling AAB/AAB-forex corp shall require the presentation by the borrower of documents prescribed under Item B, [Appendix 1](#) hereof.
 - c. The foreign exchange purchases shall comply with the daily limits as may be determined by the BSP, provided that the total foreign exchange purchases shall not in any case exceed the amount to be prepaid plus related interest and other fees/charges indicated in the BSRD/prepayment notice.
 - d. Advance foreign exchange purchases shall be deposited in the borrower's FCDU account or in the borrower's offshore account pending

remittance of the full amount by the depository bank to the creditor at the target prepayment date.

- e. The foreign exchange selling institution shall see to it that documents evidencing payment of applicable documentary stamp tax, if any, are presented/available.
- f. The foreign exchange sold shall be duly reported by the foreign exchange-selling AAB under FX Form 1 (Consolidated Report on Foreign Exchange Assets & Liabilities) – Schedule 4 following the deadline for submission of FX Form 1.

5. AABs and AAB-forex corps may sell foreign exchange without prior BSP approval for prepayment (i.e., payments before original due dates) of the following loans that are not publicly-guaranteed: (i) foreign/foreign currency loans of non-bank financial institutions with quasi-banking functions; and (ii) foreign currency loans of the private sector, subject to documentary requirements listed under [Appendix 1](#) hereof.

6. To purchase foreign exchange for loan-related payments, the duly accomplished Application To Purchase Foreign Exchange ([Annex A](#)) shall be submitted to the foreign exchange selling AAB/AAB-forex corp with the documents listed under [Appendix 1](#) hereof.

7. All loan payments made, irrespective of the source of the foreign exchange used, shall be reported by the borrower concerned to BSP-IOD using the prescribed form ([Annex E.2](#)).

(As amended by Circular No. 698 dated 5 November 2010, Circular No. 794 dated 18 April 2013, Circular No. 818 dated 6 November 2013 and Circular No. 925 dated 13 September 2016)

Section 30. Approval/Registration and Servicing of Guarantees

1. The following guarantees shall require prior BSP approval:

a. Guarantees for account of the public sector as well as those to be issued by government-owned and controlled corporations in favor of non-residents; and

b. Guarantees issued by foreign banks and financial institutions to secure obligations of residents partaking the nature of a foreign loan which require prior BSP approval pursuant to [Section 23](#).

2. The following guarantees, including risk take-over and similar arrangements, for account of the private sector shall not require prior BSP approval and 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 be eligible for servicing using foreign exchange purchased from [AABs](#) or [AAB-forex corps](#) in the event of default by the principal obligor:

a. Guarantees to be issued by local banks and other financial institutions, including government financial institutions, in favor of non-residents such as:

1) Payment guarantees (e.g., bid bonds, performance bonds, advance payment bonds); and

2) Guarantees to secure foreign obligations of residents which do not partake the nature of a foreign loan.

b. Guarantees to be issued by foreign banks and financial institutions as well as other foreign entities to secure peso loans/foreign currency loans from banks operating in the Philippines that are authorized under Sections 24.1(b) and 24.4. Proceeds of guarantees where the beneficiary is a resident shall be inwardly remitted and may either be paid directly to the resident beneficiary or sold for pesos to AABs.

As a prerequisite to the issuance of guarantees under Item a, the following documents shall be submitted to the guarantor:

a. Registration papers of domestic accountee with the [Securities and Exchange Commission](#) (SEC) (for corporation/partnership) or with the Bureau of Domestic Trade (BDT) of the Department of Trade and Industry (DTI) (for single proprietorship); and

b. Contract and/or other documents which serve as basis for the issuance of the guarantee.

3. Other guarantees or similar arrangements which may give rise to actual foreign obligations shall require prior BSP approval to be eligible for servicing using foreign exchange purchased from [AABs](#) or [AAB-forex corps](#).

4. Fees and charges on guarantees shall be reflective of prevailing market terms: *Provided*, That guarantees issued by parent companies to their affiliates shall not be charged any fee.

5. Any payments relative to BSP registered guarantees may be remitted by AABs as they fall due without prior BSP approval. Any foreign liability arising from a call

[Back to top](#)

on the guarantee shall require prior BSP approval, if to be serviced using foreign exchange purchased from [AABs](#) or [AAB-forex corps](#).

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

Section 31. Approval/Registration and Servicing of Other Financing Schemes/ Arrangements

1. Financing schemes which would 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 with the BSP to be eligible for servicing using foreign exchange purchased from [AABs](#) or [AAB-forex corps](#). Applications for registration shall be filed by the implementing agency/proponent with the BSP within one month from contract signing.

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

- 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) working days from end of reference month.

2. Offshore issuances of peso-denominated bonds/notes and similar debt instruments (whether to be settled in pesos or foreign currency) by both residents and non-residents require prior BSP approval, such as those involving –

- a. inward remittance of foreign exchange to the Philippines and sale thereof for pesos to [AABs](#); and/or
- b. participation of a resident enterprise or any of its offshore offices, branches, subsidiaries and affiliates as issuer, guarantor or beneficiary, regardless of the use of proceeds.

The approval of said instruments shall be subject to the following conditions:

- a. the transaction shall not involve import or export of Philippine currency, whether physically or electronically; and
- b. compliance with pertinent rules and regulations of the BSP (including reportorial requirements) and other regulatory/government

agencies/entities, including the approval by the [Department of Finance](#) (DOF) in the case of supranational issuers.

3. Non-residents' issuance of notes/bonds or similar instruments in the domestic market, shall require BSP approval before execution thereof.

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

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.¹⁰

(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 to pesos.

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.

¹⁰ Pursuant to BSP Memorandum No. 2012-034 dated 13 July 2012

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)

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 applications¹¹ 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:

¹¹ 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.

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> <ul style="list-style-type: none"> 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; ii. Date of Partnership Resolution approving the conversion if the investee firm is a partnership; and 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.
d. Transfers between non-residents 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)

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"¹² 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](#).

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

¹² 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.

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 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 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

[Back to top](#)

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 residents¹³ 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:

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.

¹³ 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

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
Unremitted earnings of OBU	x x x x x x
T o t a l	USD 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
Net Office Funds	USD x x x x x x

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 –
- an individual citizen of the Philippines residing therein; or
 - an individual who is not a citizen of the Philippines but is permanently residing¹⁴ therein; or
 - a corporation or other juridical person organized under the laws of the Philippines; or
 - 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.

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

¹⁴ 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.

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](#) and [Republic Act No. 8791](#) (The General Banking Law of 2000) dated 23 May 2000.

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.

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.

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:

[Back to top](#)

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. [OBUs](#) 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 [OBUs'](#) 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 [OBUs](#).

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

[OBUs](#) 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 amended¹⁵, 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.

¹⁵ 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.

[Back to top](#)

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. 7721](#) (An Act Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines and for Other Purposes) dated 18 May 1994, [Republic Act No. 7653](#), and [Republic Act No. 8791](#).

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.

Section 71. Qualification Requirements

1. UBs/KBs may be authorized to operate an FCDU or EFCDU: *Provided*, That they meet the minimum capital requirements as prescribed under Section X106 and Subsections X106.1 and X106.2 of the Manual of Regulations for Banks ([MORB](#)) for local banks and Subsections X121.4 and X121.5 of the [MORB](#) for branches of foreign banks.

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;
- 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

[Back to top](#)

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%);
- 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.

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;

[Back to top](#)

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 assets¹⁶ 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

¹⁶ 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 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; and

l. 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 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 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; and

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.

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 amended report ([Appendix 15](#)) on compliance with FCDU/EFCDU cover requirements shall form part of the Financial Reporting Package (FRP) issued under Subsection X162.16 of the MORB. The bank shall continue to submit to the BSP-Supervisory Data Center (SDC) a certification ([Appendix 15.1](#)) 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.

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

[Back to top](#)

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)

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.

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,

[Back to top](#)

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 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

[Back to top](#)

[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:

- 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, 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 use¹⁷/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)

¹⁷ In case of peso funding requirements covered by foreign exchange swaps

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
- 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, copy furnished the Supervisory Data Center (SDC) at the following addresses: sdcfxkbdm@bsp.gov.ph (for Domestic Banks) and 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”¹⁸. Thus, in 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” shall refer to a bank’s total capital net of: (a) such unbooked valuation reserves and other capital adjustments as may be required by the BSP; (b) total outstanding unsecured credit accommodations, both direct and indirect, to directors, officers, stockholders, and their related interests (DOSRI); (c) deferred income tax; (d) equity investment of a bank in another bank or enterprise whether foreign or domestic, if the other bank or enterprise has a reciprocal equity investment in the investing bank, in which case, the investment of the bank or the reciprocal investment of the other bank or enterprises, whichever is lower; and (e) appraisal increment reserves (revaluation surplus) arising from an appreciation or an increase in the book value of bank assets.

“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.

¹⁸ 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.

“Unimpaired capital of foreign banks”, for purposes of this Chapter, shall be defined as “permanently assigned capital” plus the “Net Due To Head Office” account: *Provided*, That the amount of Net Due To Head Office that may be added to the permanently assigned capital of foreign banks 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 banks that are KBs shall not exceed the equivalent of eight (8) times the permanently assigned capital.

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.

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 st calendar day of violation	PHP10,000.00
2 nd calendar day of violation	PHP20,000.00
3 rd 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	PHP30,000.00

[Back to top](#)

of whether a bank is in first, second, third or more days of violation

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	A. Consolidated Report on Foreign Exchange Assets and Liabilities		
A-3	For UBs/KBs: FX Form 1, Main Report	Weekly, within five (5) banking days after end of reference week	email to DES at der.itrs@bsp.gov.ph
A-3	FX Form 1, Schedule 1	Weekly, within five (5) banking days after end of reference week	email to DES at der.itrs@bsp.gov.ph
A-3	FX Form 1, Schedules 2 to 7, 9 to 12	Weekly, within five (5) banking days after end of reference date	email to DES at der-bopirg@bsp.gov.ph (hard copy of Schedule 10 & 11 to ID)
A-3	FX Form 1, Schedules 8 & 13	Daily, within two (2) banking days after end of reference date	email to DES at der-bopirg@bsp.gov.ph
A-3	FX Form 1, Schedule 14	Monthly, within 15 banking days after end of reference month	email to SDC at fed@bsp.gov.ph or sedifxvmd@bsp.gov.ph
	Sworn Certification – FX Form 1, Main Report and Schedules 2 to 13, (Annex T)	Weekly, within five (5) banking days after end of reference week	email to DES at der-bopirg@bsp.gov.ph
A-3	Consolidated Foreign Exchange Position Report	Daily, within three (3) banking days from reference date	Hard copy to SDC
B	For TBs: FX Form 1A, Main Report and Schedules 2 to 9	Monthly, within ten (10) banking days after end of reference month	email to DES at der.itrs@bsp.gov.ph

Title of Report	Submission Frequency/Deadline	Submission Procedure
B. Foreign Trade Transactions		
A-3	Report on Export Proceeds FX Form 1, Schedule 9	Weekly, within five (5) banking days after end of reference week email to DES at der-bopirg@bsp.gov.ph
A-3	Report on Import Letters of Credit (L/Cs) Opened and DA-OA Import Availments and Extensions, FX Form 1, Schedule 10	-do- email to DES at der-bopirg@bsp.gov.ph Hard copy to IOD
A-3	Report on Import Payments FX Form 1, Schedule 11	-do- email to DES at der-bopirg@bsp.gov.ph
	Monthly Report on Sale/Remittance of Foreign Exchange (FX) for Advance Payment of Importations (Annex B)	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 Advance Payment of Importations (Annex C)	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 (Annex Z)	Weekly, within five (5) banking days from end of reference week Email to IOD at iod-net@bsp.gov.ph
C. Foreign Currency Loans and Related Transactions		
A-2	Report on Bank Liabilities to Non-Residents (including hard copy of Certification for correctness and consistency with FRP), ID-Form 5	Monthly, within fifteen (15) banking days after end of reference month email to IOD at id-form5@bsp.gov.ph
A-2	Consolidated Report on Foreign Currency Loans Granted by Regular Banking Units	Monthly, not later than fifteen (15) banking days from end of reference month Email to IOD at REP_RBU_FXLOAN@bsp.gov.ph
B	Consolidated Report on Loans Granted by FCDUs, IOS Form 4	Monthly, within fifteen (15) banking days after end of reference month Hard copy and diskette to ID

Title of Report		Submission Frequency/Deadline	Submission Procedure
B	Report on Guarantees Issued by Local Banks and Financial Institutions in Favor of Non-Residents, R-1 (Annex G)	Quarterly, within fifteen (15) banking days from end of reference quarter	Hard copy to ID
B	Report on Foreign Guarantees Securing Loans of Residents from Local Banks and Financial Institutions, R-4 (Annex H)	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 (Annex L)	Monthly, within five (5) banking days after end of reference month	email to IOD at iod@bsp.gov.ph
B	Report on Foreign Exchange Swaps with Customers where the First Leg is a Purchase of Foreign Exchange Against Pesos (Annex M)	-do-	-do-
D. FCDUs/EFCDUs			
	Report on Inventory of Philippine Debt Papers	Weekly, within three (3) banking days after end of reference week	Email to IOD at iod-ipdp@bsp.gov.ph
	Sworn Certification on FCDU/EFCDU Lending to RBU (Appendix 14)	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 (Appendix 15)	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 (Appendix 15.1)	Quarterly, within fifteen (15) banking days from end of reference quarter	Hardcopy to SDC
E. Offshore Banking Units		
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 OBUs : Part I – Credit Information (In Original Currencies)	-do-	
Schedule 4B– Report on Loans Granted by OBUs : Part II – Credit Status	-do-	
Schedule 4C – Loans and Discounts – Residents: By Borrower/By Economic Activity/By Status	-do-	
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-	

Title of Report		Submission Frequency/Deadline	Submission Procedure
	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 OBUs	-do-	
	Schedule 9 – Report of Foreign Exchange Flows	-do-	
	Schedule 9A – Foreign Exchange Actually Sold to Authorized Agent Banks (AABs)	-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	
F. Representative Offices of Foreign Banks			
	Annual Report of Head Office	Within five (5) months after end of fiscal/calendar year	hard copy to SDC
G. Custodian Banks/Remitting AABs			
A-2	Report of Remitting Authorized Agent Banks on Capital Repatriation and Remittance of Earnings of BSP-Registered Foreign Direct Investments (Annex X), together with supporting documents under Items C.1(b) and C.2 of Appendix 1 and Appendix 11)	Daily, within two (2) banking days from date of actual remittance	hard copy to IOD

Title of Report		Submission Frequency/Deadline	Submission Procedure
A-2	Report on Registered Portfolio Investments ¹⁹ with supporting documents required under Items C.1(a) and C.2 of Appendix 1 and Appendices 10 and 11	Within two (2) banking days from transaction date	softcopy to IOD at iod-pid@bsp.gov.ph with hard copies of supporting documents required under Appendices 1, 10 and 11
A-2	Report on PSE-Listed Equity Securities Issued by Non-Residents (Annex Y), with supporting documents required under Appendix 1.2	Within two (2) banking days from date of actual remittance	softcopy to IOD at iod-pid@bsp.gov.ph with hard copies of supporting documents required under Appendix 1.2
H. AAB-forex corps			
	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 and Circular No. 925 dated 13 September 2016)

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.

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 |
|------------|---|--------------------------|

¹⁹ The report form may be downloaded at the BSP website:
<http://www.bsp.gov.ph/downloads/Regulations/MORFXT/MORFXT-faas.zip>

- 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 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

[Back to top](#)

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
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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.

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 Manger (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.

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.

[Back to top](#)

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 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.

[Back to top](#)

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

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.

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

[Back to top](#)

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 residing²⁰ 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**.

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.

²⁰ 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.