

RULES AND REGULATIONS TO GOVERN THE MANDATORY ALLOCATION OF CREDIT RESOURCES TO SMALL AND MEDIUM ENTERPRISES

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Pursuant to Republic Act No. 6977, otherwise known as the "Magna Carta for Small Enterprises", as amended by Republic Act No. 8289, An Act to Strengthen the Promotion and Development of, and Assistance to Small and Medium Scale Enterprises, the Monetary Board, in its Resolution No. 1361 dated October 15, 1997, approved the following rules and regulations to govern the mandatory allocation of credit resources to small and medium enterprises:

SECTION 1. Definition of Terms. — For purposes of this Circular, the following definitions shall apply:

a) Lending Institution — shall refer to and include all banks, namely, expanded commercial banks, commercial banks, local branches of foreign banks, specialized government banks, thrift banks and rural banks.

b) Loan Portfolio — shall include all loans and advances (net of valuation reserves) in the Consolidated Statement of Condition/Balance Sheet excluding the following: Interbank Loans Receivables; Agrarian Reform/Other Agricultural Credit Loans — P.D. No. 717; loans granted under Special Financing Programs; foreign currency denominated loans and advances; loans from multilateral and bilateral sources which are relented by a bank on a wholesale basis to conduit financial institutions;

c) Small and Medium Enterprises — shall refer to any business activity or enterprise engaged in industry, agri-business and/or services, whether single proprietorship, cooperative, partnership or corporation:

(1) whose total assets inclusive of those arising from loans but exclusive of the land now which the particular business entity's office, plant and equipment are situated, must have value falling under the following categories:

Micro less than P1,500,001

Small P1,500,001 - P15,000,000

Medium P15,000,001 - P60,000,000

In a generic sense, all enterprises with total assets of P15,000,000 and below shall be called small enterprises.

(2) duly registered with the appropriate agencies as provided by law. Provided, that in the case of micro enterprises as defined herein, registration with the Office of the Municipal or City Treasurer should be deemed compliance with this requirement;

(3) one hundred percent (100%) owned and capitalized by Filipino citizens if single proprietorship or partnership. If the enterprise is a corporate entity, at least sixty percent (60%) of its capital or outstanding stocks must be owned by Filipino citizens;

(4) a business activity within the major sectors of the economy, namely: industry, services, including the practice of one's profession, the operation of tourism-related establishments, and agri-business, which for this purpose refers to any business activity involving the manufacturing, processing and/or production of agricultural produce, excluding farm level agricultural/crop production; and

(5) it must not be a branch, subsidiary or division of a large scale enterprise nor may its policies be determined by a large scale enterprise, or by persons who are not owners or employees of the enterprise.

SECTION 2. Mandatory Allocation of Credit Resources to Small and Medium Enterprises. —

a) All lending institutions, whether public or private, shall, for a period of ten years starting on August 12, 1997 and up to August 9, 2007, set aside at least six percent (6%) and at least two percent (2%) for small and medium enterprises, respectively, of their total loan portfolio based on their balance sheet as of the end of the previous quarter, and make it available for small and medium enterprise credit.

Banks may, however, be allowed to report compliance on a groupwide basis (based on consolidated financial statements of investor financial institution or parent bank and its subsidiary banks) provided that said subsidiaries are at least 75% owned/controlled by the parent bank, subject to the following conditions:

(1) The consolidated report shall be submitted by the bank in the prescribed form (Annex A) and which shall be supported by the individual reports of the bank and its subsidiaries duly signed by each bank's authorized signatory. The subsidiaries shall continue with their separate submission of the subject report to their respective SES departments within the prescribed period.

(2) Only the parent bank can exercise the right to avail/use the excess allocation of its subsidiaries for its own compliance.

(3) In the event of a deficiency in compliance of any parent bank or subsidiary or all of these banking institutions, the members of the Board of Directors and its President and other officers of the parent bank shall be responsible for the Group's compliance.

b) For purposes of determining compliance with the mandated allocation, loans to small enterprises and such instruments mentioned in Section 3.c which have been rediscounted with or funded by the Small Business Guarantee and Finance Corporation (SBGFC) or the Bangko Sentral shall be excluded.

SECTION 3. Funds Set Aside in Accordance with the Foregoing Requirement shall be made Available for any of the Following:

a) loans to small/medium enterprises;

b) committed credit liens provided that the credit line is evidenced/supported by a credit line agreement or its equivalent executed between and signed by the bank and the borrower and is granted to an eligible small/medium enterprise as defined herein and provided further that only the unavailed portion of the committed credit line shall be reported;

c) instruments as may be offered by the SBGFC which do not pay market rates;

d) purchase of small/medium enterprises' promissory notes from lending institutions and/or non-government organizations (NGOs);

e) loans granted to export traders, including those not guaranteed by SBGFC and to domestic traders, subject to compliance with the total asset size requirement;

f) equity investments in venture capital corporations; and

g) equity investments by member banks in, and loans by member banks to, the BAP Credit Guaranty Corporation (BCGC) to the extent of the member banks' proportionate share in the total outstanding loans granted by BCGC to small enterprises.

The funds set aside which have not been invested in any of the above may be held in the form of Cash on Hand and/or Due from BSP; provided that these are free, unencumbered, not hypothecated, not utilized or earmarked for other purposes.

The Accounting Department or if the Due from BSP is in foreign currency, the Treasury Department shall maintain a special account for amounts deposited with the Bangko Sentral for this purpose which deposit shall not earn interest and shall not form part of the bank's legal reserves. Deposits with the Treasury Department shall be in acceptable foreign currencies and shall be converted into pesos anytime there is a need to fund small enterprises' loans.

SECTION 4. The purchase of government notes, securities, and negotiable instruments other than the instruments offered by the SBGFC, shall not be deemed compliance with the foregoing requirement.

SECTION 5. Guarantee Coverage. — Loans granted in accordance with this Circular shall be eligible for guarantee coverage to be issued by the SBGFC, subject to such rules and regulations as may be issued by the SBGFC.

SECTION 6. Submission of Reports. — Banks shall submit quarterly reports to the appropriate supervising and examining departments of the Bangko Sentral ng Pilipinas, copy furnished the Small and Medium Enterprise Development Council, within fifteen (15) banking days after the end of each reference quarter showing compliance with the mandatory allocation, using the attached form.

Lending institutions shall maintain appropriate records/details of the reported loans to small/medium enterprises and shall make them available to Bangko Sentral ng Pilipinas bank examiners.

SECTION 7. Administrative Sanctions. — The following administrative sanctions shall be imposed on banks for non-compliance/undercompliance with or non-reporting of the mandated credit allocation to small and medium enterprises and for any other violation of this Circular.

- a) Suspension of rediscounting privileges or access to Bangko Sentral facilities;
- b) Suspension of the privilege to establish branches until the mandated credit allocation to small enterprises for the four (4) quarters immediately preceding the date of application has been fully complied with;
- c) Suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;
- d) Suspension of interbank clearing privileges; and/or
- e) Revocation of quasi-banking license.

This Circular supersedes Circular Nos. 1288, as amended by Circular Nos. 1374 (December 29, 1992), 1385 (February 26, 1993), 12 (February 8, 1994), 46 (September 2, 1994), 59 (December 29, 1994), 126 (May 9, 1997), 127 (May 16, 1997), Circular Letters to All Banks dated May 9, 1995, December 7, 1995 and July 15, 1996.

This Circular takes effect immediately.

Adopted: 24 Oct. 1997

(SGD.) GABRIEL C. SINGSON
Governor

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