

RULES AND REGULATIONS GOVERNING THE NON-DELIVERABLE FORWARD FOREIGN EXCHANGE

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The Monetary Board, in its Resolution No. 1650 dated December 22, 1997 approved the following rules and regulations governing the non-deliverable forward foreign exchange facility (the "NDF Facility") of the Bangko Sentral ng Pilipinas ("BSP").

SECTION 1. General Statement -

To ensure stability and order in the foreign exchange markets, the BSP will provide, through authorized commercial banks, a facility for their customers to hedge their foreign exchange obligations.

Eligible obligations shall be those which are registered, unhedged, booked as of December 19, 1997, and outstanding as of the date of the application for the NDF Facility. For this purpose, unhedged obligations are those which have no outstanding hedge either thru forward contracts, options, or matched foreign currency deposits securing said obligation. Obligations with natural hedge, such as those of exporters, oil companies and public utilities with Currency Exchange Rate Adjustment (CERA) are not eligible.

Renewal of obligations eligible for the NDF Facility shall continue to be so qualified provided that the applicant commercial banks shall certify that the obligation applied for is not a new one but is the same eligible obligation previously granted access to the NDF Facility. The amount of the renewed obligation may be less but in no case more than the original amount.

Foreign exchange obligations with commercial banks incurred after December 19, 1997 but otherwise eligible under the provisions of this Circular may be submitted to Foreign Exchange Department (FED) for evaluation and approval of the BSP on a case to case basis.

SECTION 2. General Authority -

Commercial banks, including those without a derivatives license from the BSP issued pursuant to Circular No. 102, may avail of the NDF Facility for the purpose of hedging foreign exchange obligations of their borrowers. The hedging may be made entering into a US Dollar-Philippine Peso forward foreign exchange contract whereby the parties agree that instead of the actual delivery of the full amounts agreed, only the net difference between the contracted forward rate and the market rate shall be settled at the close out of the contract. Should the eligible obligation be denominated in a foreign currency other than US Dollars, the NDF contract to be executed between the BSP and the commercial bank shall be denominated in its US dollar equivalent. For the purpose of availing of the NDF Facility, the commercial banks and their customers shall certify that the availment is being made to hedge a foreign exchange requirement under the guidelines set forth in this Circular.

SECTION 3. NDF Facility -

The terms of the BSP NDF Facility are as set forth in Annex 1 hereto.

SECTION 4. Reporting Requirements -

1. An inventory of eligible foreign exchange obligations as of December 19, 1997 in the prescribed format

(Annex 2[*]) shall be submitted by all banks availing of the NDF Facility to the FED not later than ten (10) banking days from the effectivity of this Circular.

2. Daily reports covering NDF transactions with BSP, together with the currently required reports on cancelled transactions and non-deliverable forwards, shall likewise be submitted to the FED in the prescribed format (Annex 3) not later than 4:30 P.M. of the following banking day.

These reports shall be considered as major reports for purposes of imposing monetary penalties on delayed reports as prescribed in the BSP Manual of Regulations for Banks.

SECTION 5. Sanctions -

Any NDF contract between BSP and the commercial bank in which the obligation covered thereby was subsequently found by the BSP FED to be ineligible under this Circular shall be automatically cancelled by the BSP and the said commercial bank shall be liable to fine of P 20,000 per day covering the period between the filing of the application for availment and the date of such cancellation.

SECTION 6. Effectivity -

This Circular shall take effect immediately.

Adopted: 22 Dec. 1997

(SGD.) GABRIEL C. SINGSON

Governor

ANNEX 1

Implementing Guidelines for BSP Circular No. 149 NDF Family

Tenors

Tenors will be up to 12 months but the actual tenor of the NDF will be coterminous with the final maturity date or interest repricing/resetting date of the underlying obligation.

Pricing

The BSP-Treasury Department will provide forward rates in tenors of 30 days, 90, 120 and 360 days while reserving the right to issue other tenors as it sees fit. Pricing of NDF will be based on a formula to be determined by BSP-Treasury.

Fixing Date

One business day prior to the maturity date of the NDF, the fixing rate will be agreed between the KB and the BSP, using the mid of the USD/PHP fixing rate on page 2990 on Telerate. The net difference between the NDF rate and the fixing rate will be applied against the National USD amount to compute the PHP net settlement. The PHP settlement will then be transferred at the maturity date of the NSFFX. The applicable formula for computing the net settlement amount will be as follows:

N R R

Settlement = NDF - Fixing Rate

Process (Application & Dealing Date)

1. Qualified customs will file an application in the format attached as Annex 1-A with the KBs, representing that

the underlying transaction being hedged qualifies under this Circular, and that no existing hedging has been put in place to cover the qualified foreign currency obligation. In addition, the customer will provide relevant documentary support that the BSP may so require.

2. The KB, having duly reviewed the application, will request the BSP to quote the NDF rate for the relevant period. BSP shall provide the NDF rates as early as 9:30 AM.

3. At the end of the day the commercial bank will report to the Foreign Exchange Department (FED) its executed contracts and these transactions will be subject to post-verification by FED to ensure compliance with the Circular.

4. Settlement will involve payment to/from customers to the banks and the banks will pay/settle thru its demand deposit account with Bangko Sentral ng Pilipinas.

[*] Text Available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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