

SALE AND PURCHASE OF GOVERNMENT SECURITIES (GS) BY BANKS AND NON-BANK FINANCIAL INSTITUTIONS

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The Monetary Board, in its Resolution No. 1027 dated September 28, 1990, approved the following rules and regulations to govern the sale and purchase of government securities (GS) by banks and non-bank financial institutions:

- Any sale of GS by banks and non-bank financial institutions to non-participants in the Book Entry System (BES) shall be evidenced by a Confirmation of Sale (COS) which shall contain as a minimum requirement the following features/information:
- Complete description of the securities sold as to type, series, serial number, face amount, issue date, maturity date, yield, terms, final tax and selling price;
- In case the GS sold are not covered by specific treasury bill/note certificate, in addition to the information under item “1” above, the number and date of the Securities Credit Memo (mentioned under item 1.d of the Central Bank Circular to All Accredited Government Securities Dealers dated December 21, 1988) given by the Central Bank to cover the original purchases and subsequent acquisitions and deposits of GS which the GS subject of the sale agreement are part of;
- The phrase “Without Recourse”, “Sans Recourse” or any combination of words of similar import that will convey the absence of liability or guaranty of liability by the selling bank shall be indicated in conspicuous print directly below the title “Confirmation of Sale”; and
- The COS shall be serially pre-numbered and all unused forms shall be considered accountable forms.
- The sale agreement and supporting documents such as the custodianship agreement in case the treasury bill/note to be sold will be left to the selling bank’s custody, offering sheets and any other additional agreement that may be executed in connection with such sale agreement shall not contain any (a) provision that indicates an undertaking, guaranty, promise of the selling bank to buy from the purchaser of, (b) agreement on the part of the purchaser for the selling bank to repurchase for its own account, or (c) condition giving the purchaser the option to sell back to the selling bank, the securities subject of the sale/custodianship agreement at any time before the maturity of said securities;
- No bank or non-bank financial institution shall represent verbally or in advertisements any undertaking, guaranty or promise to buy back from purchasers of GS such securities before the maturity thereof;
- Banks and non-bank financial institutions shall maintain a securities account ledger as required under the Central Bank Circular to All Accredited Government Securities Dealers dated December 21, 1988. All transactions pertaining to the said GS shall be recorded in said ledger so that the balance thereof owned by the bank is available at all times;
- Banks and non-bank financial institutions shall record as contingent accounts all GS sold which are left with the bank under a custodianship agreement. A nominal amount shall be used to book each custodianship agreement,

provided, however, that the face value of the GS covered by each custodianship agreement shall be indicated in the books such that the total face value of all GS held under custodianship shall be available at any given time.

The Custodianship Agreement shall contain as a minimum requirement the following features/information:

- Complete description of the securities received for custody as to type, series, serial number, face amount, issue date, maturity date, yield, terms, final tax and selling price;
- In case the GS sold are not covered by specific treasury bill/note certificate, in addition to the information under item 'a' above, the number and the date of the Securities Credit memo (mentioned under item 1.d of the Central Bank Circular to All Accredited Government Securities Dealers dated December 21, 1988) given by the Central Bank to cover the original purchases and subsequent acquisitions and deposits of GS which the GS subject of the sale agreement are part of;
- The number of the COS covering the securities held under custody;
- The Custodianship Agreement shall be serially pre-numbered and all unused forms shall be considered accountable forms;
- All GS held under custodianship shall be kept physically separate and distinct from those owned by the bank;
- Any violation of the above rules and regulations as well as those contained in the Central Bank Circular to All Accredited Government Securities Dealers dated December 21, 1988 shall be subject to any or all of the following sanctions as may be decided by the Monetary Board;
 - i. Suspension or cancellation of accreditation as GS dealers;
 - ii. Disqualification from the rediscounting window and other credit facilities of the Central Bank;
 - iii. Suspension of branching privileges; and
 - iv. Administrative sanctions under Secs. 34-A and 34-B of R.A. No. 265, as amended.

This Circular shall take effect immediately.

Adopted: 17 Oct. 1990

(SGD.) JOSE L. CUISIA, JR.
Governor

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