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CONSOLIDATED POLICIES, RULES AND REGULATIONS ON MEDIUM AND LONG-TERM FOREIGN BORROWINGS AND RELATED TRANSACTIONS

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Pursuant to Monetary Board Res. No. 945 dated October 9, 1992, the following policies, rules and regulations shall govern medium and long-term loans (i.e., with maturities in excess of 360 days) to be obtained by residents from foreign creditors and foreign currency deposit units (FCDUs) of local commercial banks, as well as guarantees, and other financing schemes/arrangements.

I
Foreign Loans
A. Prior Central Bank Approval/Registration Requirement

1. Public sector loan proposals from foreign creditors/FCDUs shall require prior approval of the Central Bank, through the Management of External Debt Department (MEDD), even before commencement of actual negotiations viz.,:

- Loans of the National Government, its agencies and instrumentalities, as well as government-owned/controlled corporations; and

- Loans of government financial institutions, except normal interbank borrowings.

2. The following private sector loans shall be subject to prior CB approval and drawdown/availments thereunder to registration with the Central Bank:

- Loans guaranteed by government corporations and government financial institutions; and

- Loans covered by foreign exchange guarantees issued by private domestic banks and financial institutions.

3. To be eligible for servicing out of foreign exchange purchased from the banking system, private sector loans (other than loans referred to in 2a & b above) from foreign creditors/FCDUs shall be submitted to the Central Bank for prior approval, and drawdowns/availments thereon shall be subsequently registered with the Central Bank through MEDD. Loans which have been drawn/availed of prior to Central Bank approval of the credit shall not be eligible for registration and subsequent servicing out of foreign exchange purchased from the banking system.

B. Projects/Costs Eligible for Foreign Financing

1. In general, loans to be submitted to the Central Bank for approval shall finance projects considered priority under the country’s socio-economic development plan viz.,:

- Export-oriented projects

- BOI-registered projects

- Projects listed in the Investment Priorities Plan (IPP)

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- Projects listed in the Medium-Term Public Investment Program

- Other projects that may be declared priority for foreign financing by the National Economic and Development Authority or by Congress.

2. Private sector loans shall finance foreign exchange requirements and up to 50% of the local cost component of eligible projects.

C. Terms of Loans

1. In general, loans shall have terms reflective of those prevailing in the international capital markets.

2. Terms of loans to be obtained by the National Government shall be in accordance with the provisions of pertinent laws governing National Government borrowings.

3. The Monetary Board may, however, require longer grage/maturity periods for loans involving large amounts to reduce the impact thereof on debt servicing.

II
Guarantees
The following guarantees shall be reported to the Central Bank, through MEDD, for registration purposes to be eligible for servicing out of foreign exchange purchased from the banking system in the event of default by the principal obligor:

1. Guarantees to be issued by local banks and financial institutions as well as government-owned or controlled corporations:

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

b. Guarantees to secure foreign obligations which do not partake the nature of a foreign loan.

2. Guarantees to be issued by foreign banks and financial institutions as well as other foreign entities to secure peso as well as foreign obligations (which do not partake the nature of a foreign loan) of local firms.

III
Other Financing Schemes/Arrangements
In order to be eligible to purchase foreign exchange from the banking system required to service financing schemes/arrangements such as but not limited to Build-Operate-Transfer (BOT), Build and Transfer (BT) and similar arrangements requiring financial foreign exchange commitment in excess of US one million dollars, such transactions shall require prior approval of the Central Bank through MEDD.

IV
Reporting Requirement
All foreign loans and related transactions covered by this Circular shall be reported to MEDD using forms to be prescribed for the purpose.

V
Sanctions
Non-compliance with the provisions of this Circular, as well as with the conditions imposed by the Central Bank in approving medium and long-term foreign loans and related transactions covered by this Circular, shall subject the parties concerned to appropriate sanctions/penalties as may be determined by the Central Bank pursuant to Sec. 34 and 34A of R.A. No. 265, as amended.

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VI
Repealing Clause
This Circular amends all other CB rules inconsistent herewith.

This Circular shall take effect immediately.

Adopted: 23 Oct. 1992

FOR THE MONETARY BOARD:

(Sgd.) JOSE L. CUISIA, JR.
Chairman

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