

AMENDMENT TO CHAPTER I OF CIRCULAR 1389 DATED APRIL 13, 1993 (CONSOLIDATED FOREIGN EXCHANGE RULES AND REGULATIONS)

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Pursuant to MB Res. No. 518, dated June 18, 1993, Part Two, Chapter I of Circular 1389 dated April 13, 1993 (Consolidated Foreign Exchange Rules and Regulations) is hereby amended as follows:

1. To delete Section 23.4 thereof and renumber Section 23.5 accordingly.

2. To amend Section 24.5 to read as follows:

"5. Short term loans of private exporters/importers from Offshore Banking Units (OBUs) and other offshore sources/creditors, 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. Proceeds of loans intended to pay for foreign exchange requirements shall be paid directly to the supplier/creditor while amounts intended to fund pre-export peso costs shall be inwardly-remitted and sold to the banking system;
- d. The loans shall be granted against CB approved short-term relending programs of foreign creditors. Creditors shall submit to the Central Bank 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 year but shall be subject to semi-annual review if commitments and/or utilization for the semester shall be below 50% of total relending limit;
- e. Drawdown and registration requirements under Sections 27 and 28 hereof shall be complied with;
- f. Any assignment of the loan by the creditor concerned shall require prior Central Bank approval; and
- g. The borrower shall submit to the Central Bank documents cited in Appendix 8 (see below), as amended, at least five (5) days after its credit line is approved by the creditor."

3. To delete Section 30.2c thereof.

This Circular shall take effect immediately.

Adopted: 23 June 1993

(Sgd.) JOSE L. CUISIA, JR.

Governor

APPENDIX 8

DOCUMENTS TO BE SUBMITTED BY PRIVATE SECTOR BORROWERS FOR REGISTRATION OF THEIR SHORT TERM TRADE CREDITS

The borrower shall submit to EDD -

A. Within five (5) banking days after credit line is granted:

1. A notarized undertaking to the effect that:

- The loan shall be used exclusively to finance eligible trade transactions;
- The borrower undertakes not to deposit proceeds of the loan in its FCDU/offshore foreign exchange account;
- The borrower consents to the Central Bank examination of the specific deposit account/s with their respective authorized agent banks where the peso loan proceeds shall be deposited; and
- It is fully aware of the attendant responsibilities as a borrower as well as the right of the Central Bank to examine its books of accounts and to impose appropriate sanctions for any misrepresentations and/or misapplication of loan proceeds.

2. The company profile which shall include the following documents, if not yet previously submitted/on-file with the Central Bank:

- Articles of Incorporation and Certificate of Registration with the Securities and Exchange Commission;
- Capital structure showing the amounts and percentages of equity participation by nationality, together with list of members of the Board of Directors and principal officers/stockholders with respective shares in the equity of the firm, citizenship and resident status;
- Certificate of Registration with the Board of Investments and other government agencies, if any;
- Latest audited financial statements and interim financial statements if the former is six months old at the time of loan application; and
- Certification from an independent auditor as to the status of the company's short term loans, if any.

3. The relevant loan agreement or alternative document/s evidencing the borrower's acceptance of the loan offer and the terms and conditions therefor, as well as the security/collateral for the same, if any.

B. Within three (3) banking days after end of reference week, weekly report on transactions and status of short term foreign loans (ST-2) obtained.

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