NATIONAL ADMINISTRATIVE REGISTER · JULY 25, 1994

GUIDELINES TO GOVERNING THE GRANT OF EMERGENCY LOANS OR ADVANCES TO BANKING INSTITUTIONS PURSUANT TO SECTION 84 OF R.A. NO. 7653:

BSP CIRCULAR NO. 35, s. 1994, July 25, 1994

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In its Resolution No. 459 dated May 25, 1994, the Monetary Board approved the following guidelines to govern the grant of emergency loans or advances to banking institutions pursuant to Section 84 of R.A. No. 7653:

A
Statement of Policy

An emergency loan or advance is a credit facility that is intended to assist a bank experiencing serious liquidity problems arising from causes not attributable to, or beyond the control of, the bank management. The grant of such facility is discretionary upon the Monetary Board, and is intended only as a temporary remedial measure to help a bank overcome liquidity problems.

The granting of emergency loans or advances to banking institutions is governed by the provisions of Section 84 of R.A. No. 7653, otherwise known as The New Central Bank Act. As provided therein, no emergency loan or advance may be granted except on a fully secured basis.

B
When An Emergency Loan or Advance may be Availed of

An emergency loan or advance may be availed of —

1. In periods of financial panic. — This refers to periods of national and/or local emergency characterized or accompanied by imminent financial panic within the financial system which directly threaten monetary and banking stability, e.g. extraordinary heavy withdrawals of deposits for successive days.

2. During normal periods. — This refers to situations where a particular bank experiences serious liquidity pressures brought about by unforeseen events, or events which, though foreseeable, could not be prevented by the bank concerned. In such cases, the emergency loan or advance may be granted only after the Monetary Board has ascertained that the bank is not insolvent.

C
Procedure

No particular form is needed to apply for an emergency loan or advance. The application shall be filed with the Department of Loans and Credit (DLC), copy simultaneously furnished the appropriate Supervision and Examination Department.

The application shall state the justifying reasons and other details showing the emergency or the precarious financial condition being experienced by the bank, as well as a listing of the collaterals offered. The following shall be submitted together with the application:

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1. A resolution of the Board of Directors of the bank authorizing the availment by the bank of an emergency loan or advance from the Bangko Sentral, signifying the bank's commitment to comply with the Guidelines set forth herein and the terms and conditions that may be imposed by the Monetary Board; and designating the officers duly authorized to sign any and all requisite documents for the emergency loan or advance.

2. The Documents of Title and/or evidences of ownership of the collaterals offered;

3. A resolution of the Board of Directors authorizing the Bangko Sentral to evaluate other assets of the applicant bank which are available for collateral purposes should the release of subsequent tranches be applied for. The resolution shall be accompanied by a certification of the bank's external auditor that the said assets are good and available for collateral purpose.

Prior to the release of the second and subsequent tranches, the principal stockholders of the applicant bank shall submit:

- An acceptable undertaking to indemnify and hold harmless from suit a conservator whose appointment the Monetary Board may find necessary at any time;

- The documents of title and/or evidences of ownership of the collaterals for the amount being applied for release and, where necessary, such other acceptable security which, in the judgment of the Monetary Board, would be adequate to supplement the assets tendered to collateralize the subsequent tranche.

D
Allowable Amount of Emergency Loan or Advance

The maximum amount of an emergency loan or advance shall be limited to the amount needed by the applicant bank to overcome the emergency or financial predicament or the sum of fifty percent (50%) of the applicant bank's total deposits and deposit substitutes as of date of application for emergency loan or advance, whichever is lower: Provided, That in no case shall such maximum amount exceed the loan values of the collaterals submitted, as determined by the Bangko Sentral.

E
Manner and Conditions of Release

1. The grant of any emergency loan or advance shall bear the concurrent vote of at least five (5) members of the Monetary Board.

2. The proceeds of emergency loans or advances shall be released in two (2) or more tranches as the need of the bank will arise. The release of a second and subsequent tranches must have the authorization of the Monetary Board by a vote of at least five (5) of its members.

3. The amount of the first tranche shall not exceed twenty five percent (25%) of the total deposits and deposit substitutes of the bank and shall be released only after the required securities and collateral documents duly notarized have been submitted.

However, an amount greater than 25% of the bank's total deposits and deposit substitutes may be released upon request of the applicant bank if, as determined by the Monetary Board, the circumstances surrounding the emergency or financial predicament warrant the release of such greater amount and the same is adequately secured by applicable loan values of government securities and unencumbered first class collaterals approved by the Monetary Board, and the principal stockholders of the applicant bank furnish an acceptable undertaking to indemnify and hold harmless from suit a conservator of the bank whose appointment the Monetary Board may find necessary at any time.

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4. The release of a second and subsequent tranche(s) shall likewise be effected only after submission of the required securities and duly accomplished collateral documents, and upon compliance with the other requirements as stated in Item C. hereof.

F
Types of Acceptable Collaterals

As provided under Section 84 of R.A. No. 7653, the amount of the first tranche shall be secured by government securities to the extent of their applicable loan values and/or by unencumbered real estate and other first-class collaterals.

For second and subsequent tranches, aside from the collaterals mentioned above, other assets previously certified by the bank's external auditor to be good and available for collateral purposes as provided in Item C hereof, as evaluated by the Bangko Sentral, may be considered.

It is understood that all collateralization expenses, such as registration fees, documentary stamps, etc., shall be borne by the applicant bank.

G
Interest Rate

The interest rate that shall be charged on loans or advances granted shall be the average 91-day Treasury Bill rate as of the last auction immediately preceding the release of the tranche.

H
Term

The term of any emergency loan or advance shall not exceed one (1) year.

I
Other Documentary Requirements

Before release of any tranche, the applicant bank shall comply, aside from the documentary requirements already mentioned herein before, with such other documentation as may be required by the Department of Loans and Credit, e.g. promissory note in favor of the Bangko Sentral.

J
General Terms and Conditions

Any bank receiving an emergency loan or advance from the Bangko Sentral shall comply with the following:

1. While the emergency loan or advance or any portion thereof is outstanding:

- The bank shall not, without the prior authorization of the Monetary Board, expand its outstanding loans or investments as of the date of application for the loan, except for investments in government securities.

- The bank shall not declare cash dividends.

- No new loans to directors, officers, stockholders and their related interests and/or affiliates/subsidiaries shall be granted by the bank.

- The Bangko Sentral may designate a comptroller to be assisted by examiners to oversee the operations of the bank under terms of reference to be determined by the Governor.

2. Any collection received on loan accounts/proceeds from the sale of properties assigned/mortgaged to Bangko

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Sentral shall be held in trust for, and immediately remitted to, the Bangko Sentral in partial/full payment of the bank's outstanding emergency loan or advance and corresponding accrued interests.

3. Any other terms and conditions that may be imposed by the Monetary Board.

4. Non-compliance with any of the above provisions shall automatically make the emergency loan or advance due and demandable and shall be sufficient cause for the Bangko Sentral to stop further releases against the bank's approved emergency loan or advance, without prejudice to any action that the Bangko Sentral may decide to take in accordance with the New Central Bank Act.

Adopted: 25 July 1994

(SGD.) GABRIEL C. SINGSON
Governor

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