NATIONAL ADMINISTRATIVE REGISTER · APRIL 13, 1993

CONSOLIDATED FOREIGN EXCHANGE RULES AND REGULATIONS

BSP CIRCULAR NO. 1389, April 13, 1993

Read online (full-text search, related cases, audio case brief): https://batas.org/library/772675436b8b/

Pursuant to Monetary Board Resolution No. 246 dated March 26, 1993 the foreign exchange rules and regulations on current accounts, capital accounts, foreign currency deposit units, offshore banking units and representative offices of foreign banks are hereby consolidated as follows:

PART ONE. CURRENT ACCOUNTS

Chapter I
Non-Trade Foreign Exchange Receipts and Disbursements, Transfers of Local
Currencies and Gold Transactions

SECTION 1. Disposition of Foreign Exchange Receipts — Foreign exchange receipts, acquisitions or earnings of residents from non-trade sources may, at the option of said residents, be sold for pesos to Authorized Agent Banks (AABs) or outside the banking system, retained, or deposited in foreign currency accounts, whether in the Philippines or abroad. All categories of banks (except Offshore Banking Units [OBUs]), duly licensed by the Central Bank shall be considered as AABs.

SECTION 2. Sales of Foreign Exchange by AABs — AABs may sell foreign exchange to residents, (including the Government, its political subdivisions and instrumentalities and government-owned and controlled corporations), upon the latter's written application for any non-trade purpose without need of prior Central Bank approval. However, foreign exchange for payment of obligations that are foreign loan or foreign-investment related, may be sold by AABs to residents upon showing that Central Bank approval and/or registration has been obtained for the loan or investment, whenever required by these regulations. AABs selling foreign exchange for remittance abroad shall ensure that taxes, when required, have been paid and that the remittance is net of such taxes.

SECTION 3. Purchases of Foreign Exchange by Non-Residents. — Non-residents may purchase foreign exchange from AABs only to the extent of the amount shown to have been sold by them for pesos to AABs. Departing non-residents may reconvert at airports or other ports of exit unspent pesos of up to a maximum of US$200 or an equivalent amount in any other foreign currency calculated at prevailing exchange rates, without need of showing proof of previous sale by them of foreign exchange to AABs.

SECTION 4. Import/Export of Philippine Currency. — No person may import or export nor bring with him into or out of the country, or electronically transfer legal tender Philippine notes and coins, checks, money order and other bills of exchange drawn in pesos against banks operating in the Philippines in an amount exceeding P5,000.00 without authorization by the Central Bank.

The term electronic transfer as used herein shall mean a system where the authority to debit or credit an account (bank, business or individual) is provided by wire, without a source document being mailed to evidence the authority.

SECTION 5. Buying and Selling of Foreign Exchange and of Gold by Residents. —

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

1 Foreign exchange may be freely bought and sold outside the banking system.

2. Except as provided in this Circular, gold and gold-bearing metals may likewise be bought and sold without specific approval of the Central Bank.

3. Gold from small-scale miners shall be sold to Central Bank. All other forms or types of gold may, at the option of the owner or producer thereof and with the consent of Central Bank, be sold and delivered to the Central Bank.

The Central Bank may sell gold grains/pellets/bars and sheets to local jewelry manufacturers and other industrial users upon application, or to banks exclusively for re-sale to jewelry manufacturers/industrial users, at the Central Bank gold-selling price plus a service fee to cover costs including cost of conversion and packaging.

CHAPTER II
Foreign Trade Transactions
A. Import Trade Transactions

SECTION 6. General Policy. — As-a general rule, all kinds of merchandise imports are allowed. However, the importation of certain commodities are regulated or prohibited for reasons of public health and safety, national security, international commitments, and development/rationalization of local industry.

SECTION 7. Classification of Imports. — Imports are classified as follows:

1. Freely Importable Commodities. - These are commodities the importation of which is neither regulated nor prohibited as defined under (2) and (3) hereunder. The importation may be effected without the prior approval of or clearance from any government agency.

2. Regulated Commodities. - There are commodities the importation of which requires clearances/permits from appropriate government agencies including the Central Bank. They are enumerated under Appendix 1 of this Circular.

3. Prohibited Commodities. - These are commodities the importation of which is not allowed under existing laws. They are enumerated under Appendix 2 of this Circular.

SECTION 8. Modes of Payment for Imports. — Commercial banks may sell foreign exchange to service payments for imports under any of the following arrangements without prior CB approval subject to the provisions of Sections 9 to 12:

1. Letter of Credit (L/C);
2. Documents Against Payment (D/P);
3. Documents Against Acceptance (D/A);
4. Open Account Arrangement (O/A); and
5. Direct Remittance.

SECTION 9. Letter of Credit. -

1. Requirements for L/C Opening. All L/Cs must be opened on or before the date of shipment with maximum validity of one (1) year. Likewise, only one L/C should be opened for each import transaction. For purposes of opening an L/C, importers shall submit to the commercial bank the following documents:

a. The duly accomplished L/C application;

b. Firm offer/proforma invoice which shall contain information on specific quantity of the importation, unit cost and total cost, complete description/specification of the commodity and Philippine Standard Commodity

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Classification statistical code;

c. Permits/clearances from appropriate government agencies, whenever applicable; and

d. Duly accomplished Import Entry Declaration (IED) Form which shall serve as basis for payment of advance duties as required under PD 1853.

2. Amendment of L/Cs. L/C amendments need not be referred to the Central Bank for prior approval. However, amendments extending the total validity period of an L/C for more than one (1) year, if payment of the L/C is to be sourced from the banking system, shall be referred to the Central Bank for prior approval.

3. Negotiation of L/Cs. L/Cs shall be negotiated in accordance with the terms and conditions set forth in the L/C and shall be governed by the Uniform Customs and Practices on Documentary Credits. The requirement of pre-shipment inspection/Clean Report of Findings (CRF) shall be strictly observed, whenever applicable.

SECTION 10. Documents Against Payment (D/P). -

1. Under the D/P arrangement, commercial banks shall advise the importer of the receipt of the complete original shipping documents (inclusive of the CRF whenever applicable) and shall effect the release of said documents to the importer upon receipt of payment.

2. Commercial banks shall remit payment to the supplier through the correspondent bank abroad.

SECTION 11. Documents Against Acceptance (D/A) and Open Account (O/A) Arrangements. — Under a D/A arrangement, the shipping documents are released to the importer by the local bank concerned thru the seller's bank upon the importers acceptance of the seller's bill of exchange obligating the importer to pay for the shipment at some future date. Under an O/A arrangement, the shipping documents are sent and released by the seller directly to the importer without coursing the documents thru the banks, upon the importer's promise to pay at some future date after shipment.

1. Eligible Firms. Producers/manufacturers whether for the domestic or export market, oil firms, franchised public utility concerns and importers-traders importing raw materials required by domestic manufacturers are allowed to import under D/A and O/A arrangements.

2. Registration and Payment of D/A and O/A imports. - a. Importations under D/A and O/A arrangements shall be covered by a Central Bank Release Certificate (CBRC) and registered with the Central Bank upon availment for monitoring purposes. Commercial banks are authorized to issue the CBRC upon receipt of the complete shipping documents inclusive of the CRF, if applicable, and submission by the importer of the duly accomplished Record of Goods Imported (RGI) and the pertinent import permit (if applicable);

b. Payments sourced from the commercial banking system shall not be effected for unregistered DA/OA imports. Payments prior to maturity date can be made provided these have already been registered. Payments subsequent to the original maturity date may be allowed without prior Central Bank approval provided that:

- the importers report the extension of the maturity period to a specific date; and

- the cumulative length of the maturity periods, including all extensions, does not in any case exceed one (1) year from date of draft acceptance for D/A and B/L (Bill of Lading) date for O/A.

c. Payments of D/A and O/A obligations, the maturities of which shall have exceeded 360 days from date of draft acceptance in case of D/A or B/L date in case of O/A shall be referred to the Central Bank for approval, and

d. Mechanics of Registration. Appendix 3 of this Circular contains the mechanics of reporting and registration of

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

D/A and O/A imports.

SECTION 12. Direct Remittance. — Commercial banks may service applications for direct remittance of import payments effected through modes other than those under L/C, D/P, D/A or O/A only upon presentation of the complete original shipping documents as well as copy of the CRF and/or import clearance for regulated items issued by concerned government agencies, if applicable.

SECTION 13. Other Import Arrangements. — Import arrangements not involving payments using foreign exchange purchased from the banking system are also allowed without prior Central Bank approval. These include:

1. Self-Funded/ (No-Dollar) Imports. These are imports funded from importer's own foreign currency deposit accounts or those sent by suppliers abroad for which no payment in foreign exchange will be made whether immediate or potential.

2. Importations on Consignment Basis. These are importations by export producers of raw materials and accessories/supplies from foreign suppliers/buyers abroad for the manufacture or processing of products destined for export to said foreign suppliers/buyers. These shall also include machinery/equipment and spare parts consigned to the local manufacturer/processor for eventual re-export to the consignor, provided that the equipment involved shall be used only in connection with the processing of products for export.

SECTION 14. Comprehensive Import Supervision Scheme (CISS). — Goods destined for importation into the Philippines shall be subject to inspection by the inspector(s) duty authorized by the Government in the countries of supply, as to the quality, quantity, price/HCV, verification of Tariff and Customs Code, classification and verification of Tariff rate, under a Comprehensive Import Supervision Scheme (CISS).

Pursuant to Joint Order 1-91 (Appendix 4) which governs the implementation of the CISS, the following commodities are subject to inspection:

1. Good sold and/or supplied from all countries with FOB value of US$500.00 and above.

2. Goods invoiced or declared in the shipping documents as off-quality under such descriptive terms as stocklots, side-runs, cull rolls, seconds, mill lots, scraps, off-grade, reconditioned, used, junk or similar terms conveying or purporting to convey the condition of the article as not being brand-new or first quality, regardless of value.

B. Export Trade Transactions

SECTION 15. General Policy. — It is the policy of the Central Bank to encourage commodity exports which generate foreign exchange earnings for the country. Accordingly, commodity exports are allowed without restriction except for certain commodities which are regulated or prohibited for reasons of national interest or by provision of law.

SECTION 16. Classification of Exports. —

1. Freely Exportable Commodities. These are commodities the exportation of which is neither regulated nor prohibited. They may be effected without prior approval of or clearance from any government agency.

2. Regulated Commodities. These are commodities the exportation .of which requires clearances/permits from appropriate government agencies. The list of these products and the appropriate government agencies/offices is shown in Appendix 5.

3. Prohibited Export. These are commodities the exportation or sale of which is prohibited/penalized by law.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

SECTION 17. Export Declaration (ED)

1. Individual Export Declaration

- With Foreign Exchange Proceeds. For every export shipment with foreign exchange proceeds, exporters must accomplish Form CBP 6-21-02, Revised 1991 (ED With Foreign Exchange Proceeds). Exporters to ASEAN countries must likewise accomplish this ED even if the shipment is paid for in Philippine pesos. The duly accomplished ED shall be submitted to the commercial bank which shall in turn forward the same to the Bureau of Customs (BOC); and

- Without Foreign Exchange Proceeds. Every export shipment without foreign exchange proceeds shall be covered by an Export Declaration Without-Foreign Exchange Proceeds, issued by a commercial bank using CBP Form No. 6-21-04. Household and personal effects forming part of the accompanied baggage of an outgoing passenger leaving the Philippines shall be exempted from this requirement.

2. Monthly Export Declaration (MED). The use of a MED may be allowed by the commercial bank for exports with or without foreign exchange proceeds that are frequent and recurring, using the same form for ED under Section 17 but adding the word "Monthly" to the form title provided that the exporter shall submit a summary report to the commercial bank of all shipments effected under the said MED. The authority to use such a MED shall be valid for a period of one (1) year.

3. Registration and Issuance. The commercial bank shall register all EDs it issues and shall adopt a control number for each ED as prescribed by the Central Bank attached herewith as Appendix 6. No ED shall be issued unless the Letter of Credit (L/C), Purchase Order (P.O.) or Sales Contract (S.C.) is submitted to the commercial bank.

4. Validity Period. An ED shall have a maximum validity period of ninety (90) days from date of issue, inclusive of extensions, provided that the expiry date does not go beyond the delivery period specified in the L/C, P.O. or S.C.

5. Amendments. Amendments to the ED may be allowed by commercial banks at any time before export negotiation without prior Central Bank approval.

6. Cancellation of ED. Requests for cancellation of an ED may be given due course by the commercial bank upon submission by the exporter of the original ED1 thereof or Certificate of Non-Shipment issued by the Bureau of Customs.

SECTION 18. Modes and Currency of Payment. —

1. Authorized Modes. Payments for exports may be made under any of the following modes without prior Central Bank approval:

- Letter of Credit (L/C);

- Documents Against Payment (D/P)/Cash Against Document (CAD);

- Documents Against Acceptance (D/A);

- Open Account (O/A);

- Intercompany Open Account Offset (Interco O/A) Arrangement (can be availed of only by firms with parent/affiliate relationship abroad); and

- Consignment.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

2. Other Authorized Modes. Payments for exports may also be made under the following modes without prior Central Bank approval:

a. Export Advance - if the remittance is received more than thirty (30) days before shipment; and

b. Prepayment - if the remittance is received within thirty (30) days before shipment.

To enable the commercial bank to determine whether the remittance received is a prepayment or an export advance, the exporter upon receipt of such remittance shall disclose to the commercial bank the date the shipment is to be effected.

Bank draft/telegraphic transfer, buyer's checks, traveller's checks or acceptable foreign currency notes may be used in prepayment/export advance, but for buyer's checks, the same shall be cleared before shipment.

3. Acceptable Currencies

a. Payments for exports may be made in the following currencies:

1.

U.S. Dollar

15.

Italian Lira

2.

Japanese Yen

16

Saudi Rial

3.

Pound Sterling

17

Kuwaiti Dinar

4.

Deutsche Mark

18

Bahrain Dinar

5.

Hongkong Dollar

19

Brunei Dolla

6. Swiss Franc 20 Indonesian Rupiah

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

7.

French Franc

21.

Thai Baht

8.

Canadian Dollar

22.

United Arab Emirates Dirham

9.

Netherlands Guilder

23.

Such other currencies that may be declared acceptable by Central Bank

10. Austrian Schilling

11.
12.
13.
14.
Singapore Dollar
Belgian Franc
Australian Dollar
Ringgit Malaysia

b. Payments may, however, be made in Philippine pesos for the following.

1) Exports to ASEAN countries provided that Central Bank shall not be asked to intervene in the clearing of any balances from this payment scheme; and

2) Gold sales to Central Bank which are considered as constructive exports.

SECTION 19. Negotiation and Payment Procedures. —

1. Negotiation. The exporter shall negotiate his bill of exchange/account with the commercial bank together with the bill of lading/airway bill, signed commercial invoice and other documents as required.

The commercial bank shall certify to the said negotiation in the ED2 copy which shall form part of the commercial bank's Daily Report on Export Negotiations.

In case of availments of export advances, the commercial bank thru which the availment was made must also be the same bank to negotiate the export documents.

In cases where a shipment is fully prepaid, or is or O/A basis, the exporter may send the documents directly to the buyer. However, copies of these documents must be submitted to the commercial bank which issued the ED.

2. Payment. Payment shall be subject to the guidelines set forth under Appendix 7 of this Circular. Upon receipt of the export proceeds, the commercial bank shall certify to such receipt on the ED5 copy thereof.

SECTION 20. Disposition of Export Proceeds. — Foreign exchange receipts, acquisitions or earnings of residents from exports may, .at the option of said exporter, be sold for pesos to AABs or outside the banking system, retained, or deposited in foreign currency accounts, whether in the Philippines or abroad and may be used freely for any purpose.

SECTION 21. Gold and Constructive Exports. —

1. Gold. All exports of gold in any form may be allowed except for gold from small scale mining which is required to be sold to the Central Bank pursuant to Republic Act No. 7076 dated June 27, 1991. Gold from small-scale mining includes panned gold.

2. Constructive Exports. In addition to gold sales to the Central Bank, the following sales of residents paid for in foreign currency shall be considered as constructive exports:

a. Gold sales to the Central Bank even if paid for in Philippine currency;

b. Sales of residents paid for in foreign currency to the following entities:

1) Bonded manufacturing warehouses of export producers/manufacturers;

2) Export Processing Zones,

3) BOI-registered export traders operating bonded trading warehouses supplying raw materials used in the manufacture of export products;

4) Diplomatic missions in the Philippines;

5) Duty Free Philippines Inc. (DFP); and

6). Foreign buyers of goods/products to be delivered directly to local consumers at the instruction of the former and paid for in foreign currency.

An ED for each scale shall be accomplished, provided that the exporter shall submit a delivery receipt signed by the buyer in lieu of the bill of lading/airway bill. For sales of DFP, a MED shall be accomplished instead of an ED.

Part Two. Capital Accounts

Chapter I
Foreign Currency Loans & Guarantees
SECTION 22. General Policy. — The Central Bank shall regulate foreign currency loans to ensure that interest and principal owed to creditors can be serviced in an orderly manner and with due regard to the economy's overall debt servicing capacity. Pursuant to Article VII Section 20 of the Constitution, all public and private sector publicly guaranteed obligations from foreign creditors, Offshore Banking Units (OBUs) and Foreign Currency Deposit Units (FCDUs) shall be referred to the Central Bank for prior approval. Other private sector loans from these creditors and other-financing schemes/arrangements shall require prior approval and/or registration by the Central Bank if to be serviced using foreign exchange purchased from the banking system.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

SECTION 23. Loans Requiring Prior Central Bank Approval. — Prior Central Bank approval shall be required for the following loans:

1. Loans of the following public sector entities irrespective of maturity, creditor and the source of foreign exchange for servicing thereof:

a. National Government, its agencies and instrumentalities;

b. Government-owned/controlled corporations;

c. Government financial institutions, except short-term normal interbank borrowings; and

d. Local governments.

Central Bank approval shall be obtained even before commencement of actual negotiations.

2. Loans of the private sector irrespective of maturity, creditor and the source of foreign exchange for servicing thereof if:

a. guaranteed by government corporations and/or government financial institutions,

b. covered by foreign exchange guarantees issued by local commercial bank; and

c. to be granted by FCDUs and specifically or directly funded from, or collateralized by offshore loans or deposits.

3. Loans with maturities in excess of one (1) year to be obtained by private commercial banks and financial institutions intended for relending to public or private sector enterprises.

4. Loans to be extended by participating creditor banks under the Revolving Trade Facility (RTF) Agreement to a Philippine obligor, having a long-term tenor and is for the purpose of the purchase and importation into the Philippines of tangible personal property (Capital Asset Purchase Credit), pursuant to Article VI (Relending Option) of said Agreement.

5. Other private sector loans, irrespective of maturity if to be serviced using foreign exchange purchased from the banking system and not covered by Section 24 hereof.

Loan applications shall be filed using the prescribed forms.

SECTION 24. Loans Not Requiring Prior Central Bank Approval. — The following loans may be granted with t prior approval of the Central Bank:

1. Loans of the private sector from FCDUs/offshore sources irrespective of maturity, to be serviced using foreign exchange purchased from outside of the banking system.

2. Short-term (with maturity not exceeding one [1] year) loans of financial institutions, both public and private, for normal interbank transactions, e.g., interbank call loans and general liquidity loans.

3. Short-term loans of the private sector in the form of export advances from buyers abroad.

4. Short-term loans of the following private sector borrowers from FCDUs.

- Commodity and service exporters — provided these loans are used to finance export-related import costs of goods and services as well as peso cost requirements.

Service exporters shall refer to Philippine residents engaged or proposing to engage in rendering technical,

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

professional or other services which are paid for in foreign exchange.

- Producers/manufacturers, including oil companies and public utility concerns — provided the loans are used to finance import costs of goods and services necessary in the production of goods by the borrower concerned. Producers/manufacturers shall refer to any person or entity who undertakes the processing/conversion of raw materials into marketable form through physical, mechanical, chemical, or other means or by special treatment or a series of actions that results in a change in the nature or state of the products.

Public utility firms shall refer to any business organization which regularly supplies the public with commodities or services such as electricity, gas, water, transportation, telegraph, telephone services and the like.

Proceeds of FCDU loans shall not be eligible for deposit in an FCDU account if to be serviced using foreign exchange purchased from the banking system.

5. Short-term loans of private sector exporters/importers from participating creditor banks under the Revolving Trade Facility (RTF) Agreement, provided that:

- The loans are not covered by & guarantee from a government financial institution/corporation;

- The loans shall be exclusively used to finance specific trade transactions in an amount equivalent to the import bills to be liquidated and/or in the case of export financing transactions, to the borrower's pre-export financing requirements;

- The advice or notification on the loans to be obtained together with the pertinent documents cited in Appendix 8 have been submitted to the Central Bank at least five (5) days prior to drawdown date;

- Drawdown and registration requirements under Sections 27 and 28 hereof shall be complied with; and

- Any assignment of the loan by the creditor concerned shall require prior Central Bank approval.

SECTION 25. Projects/Costs Eligible for Foreign Financing. —

1. Loans requiring prior Central Bank approval shall as much as possible finance the following types of projects:

- Export-oriented projects;

- BOI-registered projects;

- Projects listed in the Investment Priorities Plan (IPP);

- Projects listed in the Medium-Term Public Investment Programs and

- Other projects that may be declared priority under the country's socio-economic development plan by the National Economic and Development Authority or by Congress.

2. Short-term loans shall finance exclusively foreign exchange requirements of projects except as may be specifically allowed under this Circular.

3. Medium and long-term loans may finance foreign exchange costs and local costs (excluding working capital) of eligible projects.

SECTION 26. Terms of Loans. —

1. 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 require longer grace/maturity periods for medium and long-term loans involving large amounts to reduce the impact thereof on debt servicing.

SECTION 27. Drawdown/Availment on Loans. — Loans intended to be serviced using foreign exchange purchased from the banking system shall comply with the following procedures/conditions for drawdown:

1. Drawdowns shall be made not earlier than two (2) days prior to the intended utilization of the loan.

Loan proceeds shall be inwardly-remitted and sold to the banking system and shall not therefore be eligible for deposit in FCDU accounts. However, amounts intended to finance foreign exchange costs may be remitted directly to the supplier as may be specifically allowed by the Central Bank.

SECTION 28. Registration of Loans. —

1. Only loans which have been duly registered with the Central Bank shall be eligible for servicing using foreign exchange purchased from the banking system. Applications for registration shall be filed by the borrower with the Central Bank within three (3) banking days from drawdown date for short-term loans and fifteen (15) banking days for medium and long-term loans using the prescribed forms.

2. Private sector loans granted pursuant to Sections 24.4 and 24.5 shall be reported to the Central Bank for registration purposes, using forms prescribed for the purpose.

3. Compliance with the provision of Section 27 above shall be a precondition for registration of loans with the Central Bank.

4. Loans requiring prior Central Bank approval which have been drawn/availed of without the requisite approval shall not be eligible for registration and subsequent servicing using foreign exchange purchased from the banking system.

SECTION 29. Servicing of Loans. —

1. Payments for principal, interest, fees and related charges on loans duly registered with the Central Bank may be remitted as they fall due through commercial banks without prior Central Bank approval.

2. Payments for the following shall, however, be subject to prior Central Bank approval:

- Prepayment/acceleration of payments on medium and long-term (MLT) loans;

- Loans past due for more than thirty (30) calendar days reckoned as follows:

1) For short-term loans, from the 360th day after availment; and

2) For MLT loans, from original maturity date.

c. Other loan-related fees/charges not authorized by the Central Bank; and

d. Loans covered by official rescheduling with Paris Club creditors listed in Appendix 9*.

3. Applications for servicing of loan-related transactions shall be submitted to any commercial bank duly supported by the following documents:

a. Central Bank registration letter indicating the charges/costs payable on the due dates cited in the application for remittance and specifically authorizing servicing of the payments involved without prior Central Bank approval;

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

b. Billing from the foreign creditor showing amounts payable and due dates, and where applicable, the detailed computation (including basis) of the charges to be paid; and

c. Proof of compliance with relevant Bureau of Internal Revenue (BIR) regulations on foreign loan-related payments.

4. Borrowers with existing Central Bank-registered credits shall apply with the Central Bank for a one-time authority to service their outstanding credits using the prescribed forms.

SECTION 30. Approval/Registration and Servicing of Guarantees. —

1. Guarantees for account of the public sector as well as those to be issued by government-owned and-controlled corporations in favor of non-residents shall continue to be referred to the Central Bank for prior approval.

2. The following guarantees for account of the private sector shall not require prior Central Bank approval but should be reported to the Central Bank, for registration purposes, to be eligible for servicing using foreign exchange purchased from the banking system in the event of a default, by the principal obligor provided that proceeds of guarantees where the beneficiary is a resident shall be inwardly remitted and sold to the banking system:

a. Guarantees to be issued by local banks and financial institutions including government financial institutions in favor of non-residents such as:

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

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

b. 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; and

c. Guarantees and other forms of contingent liabilities chargeable against the participating creditor banks' commitment under the RTF.

3. Other guarantees or similar arrangements which may give rise to actual foreign obligations shall require prior Central Bank approval to be eligible for servicing using foreign exchange purchased from the banking system.

4. Fees and charges on guarantees shall be reflective of prevailing market terms, provided; that guarantees issued by parent companies to their affiliates shall not be charged any fee.

5. Any payments relative to Central Bank registered guarantees may be remitted by commercial banks as they fall due without prior Central Bank approval. Payments on any foreign liability arising from a call on the guarantee shall require prior Central Bank approval, if to be serviced using foreign exchange purchased from the banking system.

SECTION 31. Approval and Servicing of Other Financing Schemes/Arrangements. —
1. Financing schemes requiring total foreign exchange commitment in excess of US one million dollars such as, but not limited to Build-Operate-Transfer (BOT), Build and Transfer (BT) shall require prior approval of the Central Bank to be eligible for servicing using foreign exchange purchased from the banking system.

2. Payments related to financing schemes involving foreign exchange commitments of less than US one million dollars as well as Central Bank-approved transactions under paragraph 1 above may be serviced, as they fall due without prior Central Bank approval.

Chapter II

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

Foreign Investments

SECTION 32. General Policy. — Foreign investments need not be registered with the Central Bank. The registration of a foreign investment with the Central Bank is only required if the foreign exchange needed to service the repatriation of capital and the remittance of dividends, profits and earnings which accrue thereon shall be sourced from the banking system. Foreign exchange needed for capital repatriation and remittance of dividends, profits and earnings of unregistered foreign investments may be sourced outside of the banking system.

Foreign investments shall be registered by the Central Bank only upon submission of proof that the foreign exchange funding the investment has been sold to the banking system for pesos, or that there has been an actual transfer of assets to the Philippines, in the case of investments in kind and the required endorsement of the Securities and Exchange Commission (SEC) or Bureau of Trade Regulation and Consumer Protection (BTRCP) has been obtained.

SECTION 33. Categories of Foreign Investments. — For purposes of registration, foreign investments may either be: (1) direct foreign equity investments in Philippine firms or enterprises; (2) investments in government securities and/or securities listed in the Philippine Stock Exchange; or (3) investments in money market instruments and/or bank deposits.

SECTION 34. Direct Foreign Equity Investments. — Direct foreign equity investment may be in cash or in kind.

Assets eligible for registration as investment in kind shall include: (1) machinery and equipment; and (2) raw materials, supplies, spare parts and other items including intangible assets necessary for the operation of the investee firm. The value of these investments in kind shall be assessed and appraised by the Central Bank before their registration.

Expenses incurred by foreign firms pursuant to government-approved service contracts for oil/geothermal energy exploration/developments may be capitalized and registered as foreign investment with the Central Bank.

SECTION 35. Investments in Government/Listed Securities. —

1. Investments in government securities shall mean investments in certificates of indebtedness, issued by the Philippine Government, or its political subdivisions, agencies or instrumentalities.

2. Investments in listed securities shall mean investments in securities listed in the Philippine Stock Exchange, including securities traded over-the-counter.

SECTION 36. Investment in Monetary Market Instruments and/or Bank Deposits. — Investments in money market instruments shall include all debt instruments, such as but not limited to bonds and bills payables, issued by private domestic firms, not included in Section 23 Part Two, Chapter I of this Circular.

Investments in bank deposits shall mean both peso savings and time deposits with an AAB.

SECTION 37. Registration by Custodian Bank. — The foreign investments described in Sections 35 and 36 above may be registered directly with the Central Bank or with an investor's designated custodian bank which shall issue a Central Bank Registration Document on behalf of the Central Bank. A custodian bank may be a commercial bank or an OBU appointed by the foreign investor to register his investments and to hold shares for and in his behalf and to represent him in all the necessary actions in connection with his investments in the Philippines.

SECTION 38. Registration Procedures. — The procedure for registration of foreign investments including the supporting documents is outlined in Appendix 10 hereto.

SECTION 39. Imports and Exports of Stock Certificates of Philippine Firms. — No prior Central Bank authority

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

shall be required for the import/export of stock certificates of Philippine firms issued to foreign investors, including investments prior to March 15, 1973 under Section 43 hereof.

SECTION 40. Repatriation and Remittance Privileges. —

1. Foreign investments duly registered with the Central Bank or with a custodian bank duly designated by the foreign investor, shall be entitled to full and immediate repatriation of capital and remittance of dividends, profits and earnings.

2. Without prior Central Bank approval, commercial banks are authorized to sell and to remit the equivalent foreign exchange representing sales/divestment proceeds or dividends, profits or earnings of duly registered foreign investments in accordance with the procedures outlined in Appendix 11* hereof entitled, "Capital Repatriation/Dividend/Profits/Earnings Remittance Procedure".

SECTION 41. Deposit of Divestment/Sales Proceeds. — Pending reinvestment or repatriation, divestment/sales proceeds of duly registered foreign investments, including dividends, profits, earnings may be deposited temporarily with any bank. The eventual repatriation thereof including interest earned net of taxes, shall be remittable in full thru any commercial bank without prior Central Bank approval in accordance with the procedures outlined in Appendix 11* hereof.

SECTION 42. Reinvestment. — Foreign investors may reinvest divestment/sales proceeds or remittable dividends/profits or earnings of duly registered investments. The reinvestments shall be registered with the Central Bank or the investors' designated custodian banks.

SECTION 43. Investments Prior to March 15, 1973. — Foreign investments certified by the stock transfer agents to have been made prior to March 15, 1973 may be serviced through the banking system, without prior Central Bank approval.

SECTION 44. Outward Investments by Philippine Residents. — A resident may invest abroad only if.

1. the investment are funded by withdrawal from foreign currency deposit units (FCDUs); or

2. the funds to be invested are not among those required to be sold to AABs for pesos; or

3. the funds to be invested are sourced from AABs but in amounts of less than $1 million per investor per year.

PART THREE. OBUs, REPRESENTATIVE OFFICES and FCDUs

CHAPTER I
Offshore Banking Units of Foreign Banks
SECTION 45. Definition of Terms. — As used in this Chapter, the following terms shall have the meaning indicated unless the context clearly indicates otherwise:

1. "Offshore Banking" shall refer to the conduct of banking transactions in foreign currencies involving the receipt of funds principally from external sources and, as allowed in this Circular, from internal sources and utilization of such funds, as provided herein.

2. "Offshore Banking Unit" or "OBU" shall refer to a branch, subsidiary, or affiliate of a foreign banking corporation which is duly authorized by the Central Bank of the Philippines to transact offshore banking business in the Philippines.

3. "Net office funds" shall refer to the net credit balance of the "Due to Head Office (HO)/Branches/Parent Company Account" after deducting the "Due from HO/Branches/Parent Company Account", as shown in the

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

following computation:

Due to HO/Branches/Parent Company

Remittances/Advances/

Deposits to OBU or HO/Branches/

Parent Company

x x x x x

Unremitted earnings of OBU

x x x x x

_____

Total

$x x x x x

Less: Due from HO/Branches/ Parent Company

Remittances/Advances/Deposits of OBU with its HO/Branches/Parent Company

x x x x x

_____

Net Office Funds

$x x x x x

=========

4. "Deposits" shall refer to funds in foreign currencies which are accepted and held by an OBU in the regular course of business, with the obligation to return an equivalent amount to the owner thereof, with or without interest.

5. "Resident" shall mean —

a. an individual citizen of the Philippines residing therein; or

b. an individual who is not a citizen of the Philippines but is permanently residing therein; or

c. a corporation or other juridical person organized under the laws of the Philippines; or

d. a branch, subsidiary, affiliate, extension office or any other unit of corporations or juridical persons which are organized under the laws of any country and operating in the Philippines.

6. "Non-resident" shall mean an individual, corporation or other juridical person not included in the above definition of "resident".

7. "Foreign currency deposit unit" or "FCDU" shall refer to that unit of a local bank or of a local branch of a foreign bank authorized by the Central Bank to engage in foreign currency-denominated transactions, pursuant to the provisions of R.A. 6426, as amended. "Local bank" shall refer to a thrift bank or a commercial bank organized under the laws of the Republic of the Philippines. "Local branch of a foreign bank" shall refer to a branch of a

foreign bank doing business in the Philippines, pursuant to the provisions of R.A. No. 337, as amended.

8. "Acceptable foreign exchange" comprise those foreign currencies which are acceptable to and exchangeable at the Central Bank and which form part of the international reserves of the country.

SECTION 46. Approvals Required. — A foreign bank may operate an offshore banking unit (OBU) in the Philippines, after issuance to it of a Certificate of Authority to operate by the Monetary Board and registration with the Securities and Exchange Commission.

SECTION 47. Criteria for Selection. — The following factors shall serve as basis for the issuance of certificate of authority to operate an offshore banking unit: (1) liquidity and solvency positions; (2) networth and resources base; (3) managerial and international banking expertise of applicant bank (4) contribution to the Philippine economy; and (5) other relevant factors, such as participation in the equity of local commercial banks and appropriate geographic representations.

SECTION 48. Pre-Operation Requirements. — Upon advice from the Central Bank, a qualified bank shall submit a sworn undertaking of its head office, or parent company, through any of its duly authorized officers, supported by an appropriate resolution of its board of directors, to the effect that it shall:

1. on demand, provide the necessary currencies to cover liquidity needs that may arise or other shortfall that its OBU may incur.

2. manage the operations of its OBU soundly and with prudence.

3. train continually a specific number of Filipinos in international banking and foreign exchange trading with a view to reducing the number of expatriates;

4. provide and maintain in its offshore banking unit at all times net office funds in the minimum amount of US$1 million.

5. start operations of its OBU within one hundred eighty (180) days from receipt of its certificate of authority to operate such unit.

6. comply with applicable local laws relating to labor and employment.

7. submit, before start of operations, other documents as may be required by the Central Bank such as certification or similar documents showing that it is duly authorized by the proper Government entity of its country to engage in offshore banking business in the Philippines.

SECTION 49. Annual Fee. — Upon issuance of a certificate of authority to operate an OBU in the Philippines, and yearly thereafter, the authorized bank shall pay the Central Bank a fee of not less than U5$20,000.00.

SECTION 50. Transactions with Non-Residents and/or with OBUs. — An OBU may freely engage in all normal banking transactions with non-residents and/or with other OBUs, involving any currency other than the Philippine peso.

SECTION 51. Transactions with Foreign Currency Deposit Units (FCDUs). — Subject to Central Bank regulations, an OBU may engage in the following transactions with local banks incorporated or registered in the Philippines as FCDU(s) in any currency other than the Philippine peso:

1. Accept time, demand and call deposits or issue negotiable certificates of time deposits.

2. Borrow with maturities not exceeding 360 days.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

3. Deposit.

4. Extend loans and advances.

5. Deal in foreign currency instruments.

6. Discount bills, acceptances, and negotiable certificates of deposits.

7. Engage in foreign exchange trading.

8. Engage in such other transactions as are authorized under this section between OBUs and resident banks authorized to accept foreign currency deposits under the provisions of R.A. No. 6426, as amended.

Interbank short-term transactions of not exceeding 360 days such as credit lines of Philippine banks with correspondent banks, interbank call loans and interbank loans for general liquidity purposes shall not require prior Central Bank approval.

SECTION 52. Transactions with Residents which are not Banks. — An OBU may engage in the following transactions with residents which are not banks:

1. Deal in foreign currency instruments.

2. Extend foreign currency loans and advances, subject to existing regulations on foreign borrowings.

3. Open letters of credit (L/Cs) for importations of resident-borrowers provided such importations shall be funded by a Central Bank-approved OBU foreign currency loan to the resident borrower involved.

4. Negotiate inward (export) Letters of Credit (L/Cs) and handle other export transactions (including documents against acceptance [D/A] and documents against payments [D/P] and open account arrangements [O/A] coursed thru their worldwide network of branches and correspondents subject to the following conditions:

- OBUs shall bring in foreign exchange sourced outside of the Trade Facility which shall be sold to the domestic banking system; and

- OBUs' share in the total export L/C negotiation business shall be limited to ½ of the growth (incremental) element in the country's total annual export. This limit shall be observed yearly until this equals 10 percent of total exports. Exports not covered by L/Cs, i.e., done thru documents against acceptance/open account arrangements shall be considered subject to this overall limit;

5. Provide full foreign exchange service for all foreign currency non-trade remittances and trade remittances resulting from or related to their own negotiation of export L/Cs.

6. Render financial, advisory and related services.

7. Refinance trust receipts without prior Central Bank approval arising from import transactions of Philippine residents in U.S. dollars or in other acceptable foreign currencies. The refinancing shall be evidenced by bankers acceptances.

SECTION 53. Peso Deposits. — OBUs may open and maintain peso deposit accounts with domestic agent banks exclusively for the following purposes:

1. To meet administrative and other operating expenses, such as salaries, rentals and the like.

2. To pay the peso equivalent of foreign exchange sold by beneficiaries of inward remittances of Filipino overseas workers or of Filipino or multinational companies, coursed through the OBUs' correspondent banks abroad.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

3. To pay to the designated beneficiaries in the Philippines the peso equivalent of foreign exchange inward remittances other than remittances related to trade.

4. To pay the peso equivalent of foreign exchange sold by beneficiaries of export L/Cs negotiated with the OBUs.

The peso deposit accounts shall be funded exclusively by inward remittances of foreign exchange eligible to form part of the Philippine international reserves.

OBUs may also sell inward remittances of foreign exchange for pesos to the Central Bank through the Treasury Department, for credit to the demand deposit account of the designated commercial bank for account of the OBU.

SECTION 54. Financial Assistance to Officers/Employees. — OBUs may extend financial assistance (real estate, car, personal loans, etc.) in local or foreign currency to their Filipino officers and employees as part of their fringe benefit program.

They may likewise grant foreign currency loans to their expatriate officers without need of Central Bank approval.

SECTION 55. Secrecy of Deposits. — The provisions of R.A. No. 6426 (Foreign Currency Deposit Act), as amended, shall apply to deposits in OBUs; Provided, however, that numbered deposit accounts shall not be used.

SECTION 56. Exemption from Certain Laws. — The provisions of Act No. 2655 (Usury Law) as amended, R.A. No. 526 (Uniform Currency Law) as amended, and R.A. No. 3591 (Deposit Insurance Law) as amended, shall not apply to transactions and/or deposits in OBUs in the Philippines.

SECTION 57. Accounting and Reporting. — OBUs shall maintain an accounting system in accordance with guidelines prescribed by the Central Bank. Periodically or as required, existing reports shall continue to be submitted in the prescribed forms to the Central Bank.

SECTION 58. Supervision. — The operations and activities of offshore banking units shall be conducted under the supervision of the Central Bank of the Philippines

SECTION 59. Taxes, Customs Duties. — Transactions of OBUs in the Philippines shall be subject to such taxes as are prescribed in Presidential Decree No. 1034, as implemented by regulations of the Bureau of Internal Revenue.

SECTION 60. Revocation/Suspension. — The Monetary Board, by the recommendation of the Governor, may revoke or suspend the authority of an Offshore Banking Unit to operate in the Philippines for violation of P.D. No. 1034 or these regulations.

Chapter II
Representative Offices of Foreign Banks

SECTION 61. Definition of Terms. — As used in this Chapter, the following terms shall have the meaning indicated unless the context clearly indicates otherwise:

1. "Foreign Bank" shall refer to a bank or banking corporation formed, organized and existing under any foreign law.

2. "Representative Office" shall refer to a liaison office of a foreign bank which deals directly with the public by promoting and giving information about the foreign bank's services offered. It does not include the regional or area headquarters of a foreign bank registered and licensed under existing laws.

SECTION 62. Criteria for Approval. — The Monetary Board may authorize qualified foreign banks to open representative offices in the Philippines if, in its judgment, the public interest and economic conditions, both

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

general and local, justify the establishment of such office. The following factors, among others, shall serve as basis for issuance of authority to open a representative office in the Philippines: (1) liquidity and solvency positions; (2) net worth and resources base; (3) financial and credit standing in the international banking community; (4) exposure in the Philippines; and (5) other relevant factors, such as Philippine commercial and financial relationships with the country where applicant bank is based.

SECTION 63. Authorized Activities of Representative Offices. — Authorized representative offices may promote and provide information about the services/products offered by the foreign banks but may not transact banking business, such as acceptance of deposits, issuance of letters of credit and foreign exchange trading. Transactions generated through the promotional efforts of the representative office may be booked only by the foreign bank abroad.

SECTION 64. Fees. — Banks with representative offices to be established after the effectivity of this Circular shall, upon issuance by the Central Bank of a Certificate of Authority, pay the Central Bank a license fee of US$2,000.00.

SECTION 65. Use of the term "Representative Office". — Foreign banks authorized to operate representative offices shall, in their representation with the public, carry with their name the additional term "Representative Office" to properly guide the public on the nature and extent of their activities.

SECTION 66. Licensing. — The licensing and operations of representative offices including the implementation of these regulations and such other rules and regulations that may be issued from time to time shall be responsibility of FERD.

SECTION 67. Visitorial Power. — The Central Bank may, from time to time, look into the affairs of the representative offices to determine the extent of their compliance with this regulation and/or other related Central Bank issuances.

SECTION 68. Reporting. — Representative Offices shall submit to the Central Bank annual reports of their Head Office and, periodically as may be required, reports on the transactions of their Head Office in the Philippines in such form as may be prescribed for the purpose.

SECTION 69. Revocation of License. — The Monetary Board may revoke the license of a representative office if it finds after due investigation that: (1) the representative office or its officers have violated the provisions of this Circular and any other applicable rules and regulations of the Central Bank of the Philippines; or (2) its Head Office is found to be in imminent danger of insolvency or that its continuance in business will involve probable loss to those transacting business with it, pursuant to Section 16 of R.A. 337, as amended.

Chapter III
Foreign Currency Deposit System
SECTION 70. Definition of Terms. — As used in this Chapter, the following terms shall have the meaning indicated unless the context clearly indicates otherwise:

1. "Foreign Currency Deposit Unit" or "FCDU" shall refer to that unit of a local bank or of a local branch of a foreign bank authorized by the Central Bank to engage in foreign currency-denominated transactions, pursuant to the provisions of R.A. 6426, as amended. ("Local bank shall refer to a thrift bank or a commercial bank organized under the laws of the Republic of the Philippines. "Local branch of a foreign bank" shall refer to-a branch of a foreign bank doing business in the Philippines, pursuant to the provisions of R.A. No. 337 as amended).

2. "Short-term" loans and securities shall refer to credit accommodations with maturities of one (1) year or less.

3. "Medium-term" loans and securities shall refer to credit accommodations with maturities of more than one year but not more than five (5) years.

4. "Long-term" loans and securities shall refer to credit accommodations with maturities of more than five (5) years.

The definition of such other terms used in this Chapter shall be consistent with the definition of terms used under the Chapter on Offshore Banking Units of Foreign Banks.

SECTION 71. Qualification Requirements. —

1. Only commercial bank can be authorized to function under the expanded foreign currency deposit system, pursuant to the provisions of R.A. 6426, as amended, provided, that they meet the following minimum qualifications:

- Its networth or combined capital accounts are at least equal to the minimum capital requirement for commercial banks as may be prescribed by the Monetary Board from time to time. Networth or combined capital accounts, as used herein shall refer to the total of unimpaired paid-in capital, surplus, and undivided profits, net of such valuation reserves and other capital adjustments as may be required by the- Central Bank;

- It has shown profitable operations for a period of two (2) consecutive business years immediately preceding the date of application. Its profitability, solvency, and liquidity ratios must be satisfactory;

- It has substantially complied with applicable laws and existing Central Bank rules and regulations; and

- Bank officers shall have at least two (2) years of actual experience in foreign exchange operations or related activities or have undergone training in foreign exchange operations acceptable to the Central Bank.

2. Thrift banks may also be authorized to operate an FCDU, provided that they have networth or combined capital accounts of at least P50 million and have the other minimum qualifications prescribed above for commercial banks.

SECTION 72. Authorized Transactions. —

1. Thrift banks which are granted a certificate of authority to operate an FCDU are authorized to engage in the following transactions in any acceptable foreign currency:

- Accept deposits and trust accounts (for banks authorized to engage in trust operations) from residents and non-residents,

- Deposit, on short-term maturity, with foreign banks abroad, OBUs, and other FCDUs;

- Invest in foreign currency denominated debt instruments, which are of short-term maturity and are readily marketable;

- Grant short-term foreign currency loans as may be allowed by Central Bank regulations;

- Borrow, on short-term maturity, from other FCDUs; and from foreign banks abroad and OBUs, subject to existing rules or foreign borrowings; and

- Engage in foreign currency-foreign currency swap with the Central Bank, OBUs and other FCDUs.

2.. Commercial banks which are authorized to operate under the expanded foreign currency deposit system under Section 71 hereof, may engage in the following transactions in any acceptable foreign currency:

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

- Accept deposits and trust accounts (for banks authorized to engage in trust operations) from residents and non-residents;

- Deposit with foreign banks abroad, OBUs and other FCDUs;

- Invest in foreign currency-denominated debt instruments;

- Grant foreign currency loans as .may be allowed by the Central Bank;

- Borrow from other FCDUs; and from non-residents and OBUs, subject to existing rules on foreign borrowings:

- Engage in foreign currency-foreign currency swap with the Central Bank, other FCDUs, and OBUs;

- Engage in foreign exchange trading; and with prior Central Bank approval, engage in financial futures and options trading; and

- On request/instructions of its foreign correspondent bank, it may:

1) issue letters of credit for a non-resident importer in favor of a non-resident exporter;

2) pay, accept, or negotiate drafts/bills of exchange drawn under the letter of credit; and

3) make payment to the order of the non-resident exporter.

Provided, that the foreign correspondent bank shall deposit sufficient foreign exchange with the FCDU issuing the letter of credit to cover all drawings.

SECTION 73. Foreign Currency Cover Requirements. — FCDUs shall maintain at all times, a one hundred percent (100%) cover for their foreign currency liabilities. For purposes of complying with this requirement, the principal offices in the Philippines of the authorized banks and all its branches located therein shall be considered as a single unit. The foreign currency cover shall consist of the following:

1. For Thrift Banks

- Foreign currency deposits with the Central Bank;

- Foreign currency deposits of short-term maturity, with foreign banks abroad, OBUs and other FCDUs,

- Short-term foreign currency loans authorized by the Central Bank except those classified by the Central Bank as bad or uncollectible debts;

- Investment in foreign currency-denominated debt instruments, which are of short-term maturities and are readily marketable;

- Foreign currency noted and coins on hand;

- Foreign currency swapped with the Central Bank, OBUs and other FCDUs;

- Foreign currency interests receivable; and

- Such other assets, as may be determined by the Monetary Board as eligible cover.

2. Commercial Banks — In addition to the above, the following shall also be considered as eligible asset cover:

a. Foreign currency loans maturing beyond one (1) year granted with prior Central Bank approval, except those classified by the Central Bank as bad or uncollectible debts; and

b. Investments in foreign currency-denominated debt instruments, irrespective of maturity.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

For purposes of this Section, only real accounts shall qualify as eligible asset cover.

SECTION 74. Foreign Currency Deposit with the Central Bank. — FCDUs of thrift banks shall maintain at all times foreign currency deposits with the Central Bank equivalent to at least fifteen percent (15%) of their foreign currency deposit liabilities. The Central Bank may pay interest on the foreign currency deposit and if requested shall exchange the foreign currency notes and coins into foreign currency instruments drawn on it depository banks. FCDUs of commercial banks shall be exempt from maintaining fifteen percent (15%) of the cover in the form of foreign currency deposit with the Central Bank.

SECTION 75. Currency Composition of the Cover. — FCDUs of thrift banks shall maintain the foreign currency cover in the same currency as that of the corresponding foreign currency deposit liability.

FCDUs of commercial banks shall maintain not less than seventy percent (70%) of the foreign currency cover in the same currency liability and thirty percent (30%) or less, at the option of the FCDU, may be denominated in other acceptable foreign currencies.

SECTION 76. Secrecy of Deposits. — Pursuant to R.A. No. 6426, as amended, all foreign currency deposits are declared and considered of an absolutely confidential nature and, except upon the written permission of the depositor, in no instance shall such foreign currency deposits be examined, inquired or looked into by any person, government official, bureau or office whether judicial, administrative or legislative, or any other entity whether public or private.

SECTION 77. Numbered Accounts. — Authorized banks may adopt a numbered account system.

SECTION 78. Withdrawability and Transferability of Deposits. — There shall be no restrictions on the withdrawal by the depositor of his deposit or on the transferability of the same abroad except those arising from the contract between the depositor and the bank.

SECTION 79. Insurance Coverage. — Foreign currency deposits shall be insured under the provisions of R.A. No. 3591, as amended. Depositors are entitled to receive payment in the same currency in which the insured deposits are denominated.

SECTION 80. Rates of Interest. — Authorized banks are free to pay any rate of interest on foreign currency deposits.

SECTION 81. Eligibility as Collateral. — Deposits under the Foreign Currency Deposit System are eligible as collateral for peso loans or for foreign currency loans to both domestic juridical entities and/or resident individuals.

SECTION 82. Taxes. — All foreign currency deposits made under this Chapter, including interest and all other income or earnings of such deposits, are exempt from any and all taxes whatsoever irrespective of whether or not these deposits are made by residents or non-residents so long as the deposits are eligible or allowed under aforementioned laws and in the case of non-residents, irrespective of whether or not they are engaged in trade or business in the Philippines.

The transactions of FCDUs shall, however, be subject to such taxes as are provided by law and regulations of the Bureau of Internal Revenue.

SECTION 83. Exemption from Court Order or Process. — Foreign currency deposits shall be exempt from attachment, garnishment, or any other order or process of any court, legislative body, government agency or any administrative body whatsoever.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

SECTION 84. Inapplicability of Certain Laws. — The provisions of R.A. No. 529 (Uniform Currency Law) as amended, and R.A. No. 2655 (Usury Law) as amended, shall not apply to banks in respect to their foreign currency transactions under this Chapter.

SECTION 85. Accounting. — The foreign currency deposits and their corresponding cover shall be considered as funds separate and distinct from the regular assets and liabilities of the authorized banks. Authorized banks shall maintain a separate accounting for transactions covered by this Chapter that will enable preparation of the Balance Sheet and Profit and Loss Statement covering said funds.

Periodically or as required, existing reports shall continue to be submitted in the prescribed forms to the Central Bank of the Philippines.

SECTION 86. Supervision. — The Governor or the head of the appropriate department of the Central Bank personally, or by deputies, are authorized to verify the books of account and transactions of each authorized bank, to verify the eligible cover, as well as review all other requirements under these regulations and the bank's compliance with the provisions of law and these regulations.

SECTION 87. Prospective Effect of Regulations. — In the event a new enactment or regulation issued decreasing the rights hereunder granted, such new enactment or regulation shall not apply to foreign currency deposits already made or existing at the time of issuance of such new enactment or regulation, but such new enactment or regulation shall apply only to foreign currency deposits made after its issuance.

SECTION 88. Sanctions. — Any willful violation of R.A. 6426, as amended, or any regulation duly promulgated by the Monetary Board pursuant thereto shall subject the offender upon conviction to an imprisonment of not less than one year nor more than five (5) years or a fine of not less than five thousand pesos nor more than twenty-five thousand pesos, or both such fine and imprisonment at the discretion of the court.

The Central Bank may revoke or suspend the authority of a bank to accept new foreign currency deposits for violation of R.A. No. 6426 or these regulations, or if such bank ceases to possess the minimum qualifications required.

Part Four. General Provisions

Chapter I
Reports and Post-Verification
SECTION 89. Reportorial Requirements. — The following reports are required to be submitted to the CB by the AABs and by OBUs, when applicable:

A. Consolidated Report on Foreign Exchange Assets and Liabilities

Title of Report

Submission Frequency/Deadline

1.

For commercial banks: IOS Form 1, Schedules 1-17

Daily, within two (2) banking days after reference date

IOS Form 1, Schedules 18

Monthly, within ten (10) banking days after end of reference month

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

2.

For thrift banks:

- do -

IOS Form 1A, Schedules 1-5

3.

For rural banks: IOS Form 1B, Schedules 1-5

- do -

B.

Foreign Exchange Trade Transactions

1.

Report on Export Negotiations, IOS Form 1 Schedule 10

Daily, within two (2) banking days after reference date

2.

Report on Export Proceeds Received, IOS Form 1 Schedule 11

- do -

3.

Report on Export Declaration Issued (With and Without Foreign Exchange Proceeds) CBP Form 6-21-23

Monthly, within ten (10) banking days after end reference month

4.

Report on Red Clause and Other Export Advances CBP Form 6-21-21-A

- do -

5.

Report on Regular L/Cs opened, IOS Form 1 Schedule12 and 12A

Daily within two (2) banking days after reference date

6.

Report on Negotiations on Regular L/Cs, IOS Form 1 Schedule 13

- do -

7.

Report on Confirmation/ Amendments of L/Cs, IOS Form1 Schedule 14

- do -

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

8.

Report on DA/OA Availments, with Accomplished Record of Goods Imported, IOS Form 1 Schedule 15

- do -

9.

Report on DA/OA Repayments, IOS Form 1 Schedule 16

- do -

10.

Report on FX Remittances under D/P Imports, including Direct Remittances, CBP Form 6-15-09

- do -

C.

Foreign Currency Loans and Related Transactions

1.

Consolidated Report on Foreign Exchange Assets and Liabilities, IOS Form 1, Schedules 1, 3, 4, 7 and 8

Daily, within two (2) banking days after reference date

2.

Consolidated Report on Loans Granted by FCDUs, IOS Form 4

Monthly, within ten (10) calendar days after end of reference month

3.

Consolidated Report on Loans Granted by OBUs to Residents CBP Form 6-24-24

Monthly, within ten (10) banking days after end of reference month

4.

Report on Foreign Guarantees Securing Peso Loans of Residents from Local Banks and Financial Institutions (FIs)

Quarterly, within ten (10) banking days from end of reference quarter

5.

Report on Guarantees Issued by Local Banks and FIs in favor of Non-Residents

- do -

D.

For Foreign Currency Deposit Units (FCDUs)

1.

Consolidated Statement of Assets and Liabilities (For FCDUs of TBs), CBP 6.40.03

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

Monthly, within ten (10) banking days after end of reference month.

2.

Statement of Condition (For FCDUs of KBs/EKBs), SES I/VI Form 2

- do -

3.

Statement of Earnings and Expenses, CBP 6.40.04

Semestral, within ten (10) banking days after end of reference semester

4.

Report on Spot and Forward FX Transactions of FCDUs, CBP 6.40.06

Monthly, within ten (10) banking days after end of reference month

5.

Report on FCDU Outstanding Long-term Investment in Debt Instruments

- do -

6.

Report on Inventory of Philippine Debt Paper

Weekly, within three (3) banking days after reference week

7.

Report on Options Transactions

Bi-monthly, within two (2) banking days after reference week

8.

Report on Financial Futures Transactions

Monthly, within ten (10) banking days after end of reference month

E.

Offshore Banking Units

1.

Statement of Assets and Liabilities, CBP 6.40.01

Monthly, within ten (10) banking days after end of reference month

2.

Statement of Earnings and Expenses, CBP 6.40.02

Semestral, within ten (10) banking days after end of reference semester

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

3.

Report on Spot and Forward FX Transactions of OBUs, CBP 6.40.06

Monthly, within ten (10) banking days after end of reference month

4.

Financial Assistance and Training Granted by OBUs to its Filipino Staff

Annually, within ten (10) banking days after end of year

5.

FX Cash Receipts and Cash Disbursements

Monthly, within ten (10) banking days after end of reference month

6.

Updated List and Bio-Data of Expatriates

Annually, within ten (10) banking days after end of year

F.

Representative Offices of Foreign Ban

1.

FX Cash Receipts and Cash Disbursements

Monthly, within ten (10) banking days after end of reference month

2.

Annual Report of Head Office

Within five (5) months after end of fiscal/calendar year

G.

Custodian Banks/Remitting AABs

1.

Report of Central Bank Registration Documents for Foreign Investments

Daily, within two (2) banking days after registration date

2.

Statement of Remittance together with supporting documents mentioned in Appendix 11 of this Circular.

Daily, within two (2) banking days from date of actual remittance

SECTION 90. Procedures for Reporting. — Reports shall be filed with the CB Main Office or with the CB Regional Offices or by sending them by mail or special delivery, unless otherwise specified. The date of acknowledgement of receipt on the copy of the report (if filed directly) or the postmark date on the envelope or

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

registry receipt (if mailed) shall be considered as the date of submission.

SECTION 91. Fines and Penalties. —

1. The following schedule of fines for late and/or incomplete submission of reports shall apply:

- P100 per banking day for the first five successive banking days of delay;

- P150 per banking day for the next five successive banking days of delay; and

- P200 per banking day for the successive banking days of delay until the particular report has been filed.

2. Manner of payment or collection of fines:

- Fines shall be collected thru debit to the AAB's current account deposit maintained with the CB by the Accounting Department upon receipt of notice from the IOS (International Operations Sector) Department involved; or

- In case payment of fines is effected thru check or cash, the same shall be remitted to the Cash Department of the Central Bank thru the IOS Department involved.

SECTION 92. Post-Verification. — Post-verification of foreign exchange transactions covered by this Circular and reported under Section 89 hereof shall be undertaken by the Central Bank to verify compliance with the provisions of this Circular and for monitoring purposes.

CHAPTER II
Final Provisions
SECTION 93. Penal Sanctions. — Any person violating the provisions of this Circular shall suffer the penalties prescribed under Sections 33 and 34 of R.A. No. 265, as amended.

Administrative sanctions may also be imposed upon banking institutions found violating this Circular, including their directors and officers responsible for such violation.

SECTION 94. Repealing Clause. — All existing provisions of Circular No. 1284 dated April 25, 1991, Circular No. 1318 dated January 3, 1992, Circular No. 1348 dated July 25, 1992, Circular No. 1351 dated August 21, 1992, Circular No. 1353 dated September 1, 1992, Circular No. 1356 dated September 25, 1992, Circular No. 1362 dated October 23, 1992, Circular No. 1368 dated November 23, 1992, Circular No. 1373 dated December 23, 1992 and Circular No. 1376 dated January 4, 1993, including amendments thereto, and other Central Bank rules and regulations on current accounts, capital accounts, foreign currency deposit units, offshore banking units and representative offices of foreign banks, as well as all other existing Central Bank rules and regulations or parts thereof which are inconsistent with or contrary to the provisions of this Circular are hereby repealed or modified accordingly. Provided, however, that regulations, violations of which are the subject of pending actions or investigations, shall not be considered repealed insofar as such pending actions or investigations are concerned, it being understood that as such pending actions or investigations, the regulations existing at the time the cause of action accrued shall govern.

SECTION 95. Separability Clause. — Nothing therein is intended nor shall be construed, to repeal or amend any law or statute. Should any provision of this Circular be declared unconstitutional or invalid, the remaining provisions or parts thereof shall remain in full force and effect, and continue to be valid and binding.

SECTION 96. Effectivity. — This Circular shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

For the Monetary Board:

Adopted: 13 Apr. 1993

(SGD.) EDGARDO P. ZIALCITA
Officer-in-Charge

---

* not included here

* not included here.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.