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POLICY GUIDELINE REQUIRING BANKS TO ADOPT THE FOLLOWING MINIMUM PRESCRIBED GUIDELINES THAT CONTAIN THE SALIENT AND RELEVANT POLICIES AND PROCEDURES RELATED TO CORRESPONDENT BANK...

BSP CIRCULAR NO. 436, June 18, 2004

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The Monetary Board, in its Resolution No. 807 dated June 3, 2004, approved the issuance of a policy guideline requiring banks to adopt the following minimum prescribed guidelines that contain the salient and relevant policies and procedures related to correspondent banking transactions and to electronic fund transfers found in the attached annexes:

1. Minimum Guidelines for Fund Transfers (Annex "A")

2. Minimum Guidelines for Correspondent Banking Account Opening and Customer Identification (Annex "B")

These prescribed minimum guidelines should be incorporated as part of the standard operating procedures manual and wider anti-money laundering program which must be adhered to at all times. Enhancements may be introduced to these minimum guidelines to suit the particular institution's risk profile but taking into consideration the minimum requirements prescribed under existing anti-money laundering rules and regulations of the BSP, particularly in the area of "Know Your Customer/Customer Due Diligence".

This Circular shall take effect fifteen (15) days following its publication either in the Official Gazette or in a newspaper of general circulation.

Adopted: 18 June 2004

(SGD.) ARMANDO L. SURATOS
Officer-in-Charge

ANNEX "A"

Minimum Guidelines for Fund Transfers

1. Nature of Fund Transfers

Funds transfers are remittances of funds from one bank to another, either locally or internationally, in local or foreign currencies. It is used for moving the proceeds of loans, reimbursing letters of credit, payment of collections, foreign exchange transactions, etc. This may also include the movement of money between customers or between accounts of the same customer, or from a customer to a third party who is not a customer of the Bank. Transfers can be effected by teletransmission, draft, manager's check, or certified check depending on the request of the applicant. The term also includes Automated Clearing House transfers, transfers made at automated teller machines, and point-of-sale terminals.

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2. Responsibility and Oversight

a. The financial institutions should be governed by a Manually Initiated Funds Transfers (MIFT) Policies and Procedures for funds transfer requests that are manually initiated (via fax, telephone, messenger, electronic mail, file transfers, and other similar manual origination means) externally from clients or internally from within the banking group/entities.

b. The policies and procedures should specify personnel that will be responsible for ensuring compliance with the guidelines on funds transfers transactions.

c. The policies and procedures shall also provide for independent review by appropriate personnel to monitor and ensure continued compliance with the institution's policies, procedures and guidelines on funds transfers.

d. The financial institution shall allow wire transfer electronically (internet transfer) only upon its prior approval.

3. Risk-Based Due Diligence

a. The Bank should maintain a policies and procedures manual for funds transfers that are reasonably designed to prevent the financial institution from being used to facilitate money laundering and the financing of terrorist activities. At a minimum, the manual must incorporate policies, procedures and internal controls to:

- Verify customer information (KYC)
- Verify transactions that show indicators of suspicious transactions, particularly those instances stated under Rule 3.b.1 of the Revised Implementing Rules and Regulations (R.A No. 9160, as amended by R.A. No. 9194):
- File reports (including covered transactions/suspicious transactions reports);
- Respond to regulators/law enforcement requests;
- Provide education and/or training of personnel
- Provide security procedures.

b. The Bank should not accept funds transfer instruction from and/or pay-out transfers to non-customers, unless in cases where the initiating party is an authenticated primary customer of a sending group or unit of the Bank.

c. If the fund sender/remitter is not a bank or coming from non-FATF member or non-compliant countries on AML, the receiving bank must do the due diligence on the beneficiary of the fund.

d. Whenever possible, manually initiated funds transfer instructions should not be the primary delivery method. Every effort should be made to provide the client with an electronic banking solution.

4. Validation

a. for written and faxed transaction initiations

The term "validation" applies to various methods used by both sending and receiving parties to verify the identity of the sender of a message. Some validation methods also verify elements in the message including but not limited to amount, value date and currency. Validation must be performed by all Bank units. Some specific validation methods are:

Test Key : An algorithmic computation method using a fixed set of factors known only to the sender and receiver, used to verify the sender and, in some cases, other elements of the message.

Authentication: A cryptographic process used to verify the sender and, in some cases, the full text of a message.

Signature Verification: A matching of signature or other representation from a source document request to a

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document presigned by a Bank customer and held on file by the Bank, or other documents held by the customer (e.g. Bank approved acceptable identification), used to verify the sender.

Telephone Callback: A procedure used to verify the authenticity of a message received by telephone. The Bank places a return phone call to the customer using a pre-determined telephone number on file within the Bank.

- Validation Procedures

i. Prior to the Bank accepting from a customer a manually initiated funds transfer request, the customer must execute and sign an agreement which preferably is part of the account opening documentation, wherein are outlined the manual instruction procedures with related security procedures including customer agreement to accept responsibility for fraudulent or erroneous instructions provided the Bank has complied with the stated security procedures.

ii. It is mandatory that written MIFT instructions are signature verified. In addition, one of the following primary security procedures must be applied: a recorded callback to the customer to confirm the transaction instructions, or testword arrangement/verification. The callback or testword requirement may be substituted by any of the following validity checks: use of a controlled PIN or other pre-established code; sequential numbering control of messages; pre-established verifiable forms; same as prior transmissions; standing/pre-defined instructions; or value for value transactions.

iii. It is mandatory that faxed MIFT instructions are signature verified and the Fax machine be located in a secured environment with limited and controlled staff access which permits visual monitoring. If monitoring is not possible, the equipment must be secured or programmed to receive messages into a password protected memory.

Faxed MIFT transactions below a certain threshold (approved by the President/Country Manager (for branches of foreign banks) or Business Risk Manager) may be processed with the mandatory procedure described above and an enhanced security procedure such as (a) a recorded callback to the customer to confirm the transaction instructions and/or (b) testword arrangement/verification, and/or (c) utilization of secured forms that incorporate verifiable security procedures such as watermarks or codes, and/or (d) transmission encryption.

iv. Telephone callback numbers and contacts must be securely controlled. The confirmation callback is to be recorded and made to the signatory/(ies) of the customer's individual account(s). For commercial and company accounts the callback will be made to the signatory(ies) of the account or, if so authorized, another person designated by the customer in the MIFT agreement. The party called is to be documented on the instructions. The callback must be made by someone other than a) the person receiving the original instructions and b) effecting the signature verification.

b. Over-the-counter initiated transactions

Over-the-counter initiated funds transfers by the customers themselves require positive identification of the customer and verification of his/her signature. For transactions over a threshold set by the President/Country Manager (for branches of foreign banks) or Business Risk Manager these transactions shall also require a recorded telephone callback confirmation or another appropriate additional security procedure.

5. Exception Processing

On rare occasions, exceptions processing may be necessary. When an established control standard temporarily cannot be met, a senior officer preferably Vice President or above, designated in writing by the President/Country Manager (for branches of foreign banks) may approve an exception processing standard because of unique business circumstances. The reason for creating the exception must be clearly documented including the identification of the applied compensating controls.

6. Control and Administration Policies for Incoming fund/wire transfers

This section deals with teletransmission payment orders received from Head office, branches and banks requesting payment or credit to be made to a specified beneficiary.

a. Cash payments to beneficiaries should only be made against proper receipt and identification.

b. Payment orders with incomplete or insufficient details should be referred immediately to the remitter Bank for clarification. If no response is received within a reasonable time, the matter should be referred to the Compliance or Operations Officer or his/her designated officer for appropriate action as to whether to further investigate or return funds.

7. Integration with Anti-Money Laundering Program

These guidelines shall form part of the institution's wider anti-money laundering program.

Annex "B"

Minimum Guidelines for Correspondent Banking
Account Opening and Customer Identification

1. Nature of Correspondent Banking Activities

Correspondent Banking refers to activities of a bank having direct connection or friendly service relations with another bank.

2. Responsibility and Oversight

Financial institutions should, in relation to cross-border correspondent banking and other similar relationships, in addition to performing normal due diligence measures:

a. Gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to money laundering or terrorist financing investigation or regulatory action.

b. Assess the respondent institution's anti-money laundering and terrorist financing controls.

c. Obtain approval from senior management before establishing new correspondent relationships.

d. Document the respective responsibilities of each institution.

e. With respect to "payable-through accounts" be satisfied that the respondent bank has verified the identity of and performed on-going due diligence on the customers having direct access accounts of the correspondent and that it is able to provide relevant customer identification data upon request to the correspondent bank.

3. Risk-Based Due Diligence

a. Correspondent Banking Clients (CBC) presenting greater risk should be subjected to a higher level of due diligence.

b. The financial institution should consider the type of risk indicators in initiating the correspondent banking relationship, and on a continuing basis, to ascertain what reasonable due diligence or enhanced due diligence it will undertake.

c. The risk indicators to be considered are as follows:

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- The Correspondent Banking Client's domicile

a) Jurisdiction where the CBC is based and/or where its ultimate parent is headquartered. Certain jurisdictions are internationally recognized as having inadequate anti-money laundering standards, insufficient regulatory supervision or presenting greater risk for crime, corruption or terrorist financing. On the other hand, other jurisdictions such as members of the Financial Action Task Force (FATF) have more robust regulatory environments representing lowers risks.

b) Institutions should review pronouncements from regulatory agencies and international bodies, such as the FATF, to evaluate the degree of risk presented by the jurisdiction in which the CBC is based and/or in its ultimate parent is headquartered.

- The Correspondent Banking Client's Ownership and Management Structures

a. location of owners
b. their corporate legal form
c. transparency or ownership structure
d. location and experience of management
e. involvement of politically exposed persons (PEPs) in the management of ownership.

- The Correspondent Banking Client's Business and Customer Base

a. type of businesses the CBC engages in
b. type of markets the CBC serves
c. involvement in certain business segments internationally recognized as creating particular vulnerability to money laundering, corruption or terrorist financing
d. substantial part of business income derived from higher risk clients (i.e. clients of CBC that may be involved in activities or are connected to jurisdictions that are identified by credible sources as activities or countries being especially susceptible to money laundering)

d. The institution may give the appropriate weight to each risk factor as it deems necessary.

4. Due Diligence Standards

a. All CBC should be subjected to appropriate due diligence that will seek to assure that an institution is comfortable conducting business with a particular client given the client's risk profile.

b. The institution may rely on publicly available information obtained either from the CBC or reliable third parties (e.g., regulators, exchanges) to satisfy its due diligence requirements.

c. Countries may permit financial institutions to rely on intermediaries or other third parties to perform the Customer Due Diligence (CDD) process or to introduce business, provided that the criteria set out below are met. Where such reliance is permitted, the ultimate responsibility for customer identification and verification remains with the financial institution relying on the third party.

The criteria that should be met are as follows:

- A financial institution relying upon a third party should immediately obtain the necessary information concerning the elements of the CDD process. Financial institutions should take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to the CDD requirements will be made available from the third party upon request without delay.

- The financial institution should satisfy itself that the third party is regulated and supervised for, and has

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measures in place to comply with CDD requirements.

d. The institution should consider the following elements -

- CBC domicile and organization
a. jurisdiction where the CBC's ultimate parent is incorporated and/or headquartered
b. particular operating unit wishing to maintain relationship
c. corporate legal form of CBC

- CBC ownership

a. publicly held
- Shares traded on an exchange in a jurisdiction with an adequately recog- nized regulatory scheme
- Identity of any significant controlling interests

b. or privately owned

- CBC executive management

a. structure and experience
b. existence of PEP

- CBC's Business

a. types of financial products and services
b. geographical markets reached

- Products and Services Offered

a. business purpose for the relationship with the CBC
b. products and services offered to the CBC

- Regulatory status and history

a. primary regulatory body supervising CBC
b. based on publicly available materials, any criminal or adverse regulatory action in the recent past

- CBC anti-money laundering controls

a. nature and extent of application

- No business arrangements with shell banks

a. the institution should confirm that CBC will not use the institution's products and services to engage in business with shell banks

- CBC visit

a. The institution should visit CBC premises prior to or within a reasonable period of time
b. The institution confirm that CBC is not a shell bank

5. Enhanced Due Diligence

The enhanced due diligence process will involve further consideration of the following elements designed to assure the institution has secured a greater level of understanding:

a. Ownership and management

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- Significant controlling interests, owner's sources of wealth and background, reputation in the market place, and recent material ownership changes

- Detailed data on the experience of each member of executive management and recent material changes in the executive management structure

b. Politically Exposed Person (PEP) involvement

Financial institutions should, in relation to PEP, in addition to performing normal due diligence measures:

- Have appropriate risk management systems to determine whether the customer is a PEP.
- Obtain senior management approval for establishing business relationships with such customers.
- Take reasonable measures to establish the source of wealth and source of funds.
- Conduct enhanced ongoing monitoring of the business relationship.

c. CBC anti-money laundering controls

- Quality of anti-money laundering and client identification controls
- Recognition by CBC senior management of the importance of controls

d. Downstream correspondent clearing

- Downstream correspondent clearer is a CBC who receives correspondent banking services from an institution and itself provides corresponding banking services to other financial institutions in the same currency as the account it maintains with the institution.

- If CBC is also downstream corresponding clearer, the institution should (1) take steps to understand the types of financial institutions to whom the CBC offers the downstream banking services, and (2) consider the degree to which the CBC examines the anti-money laundering controls of the financial institutions to whom it offers those services.

6. Shell Banks

a. A shell bank is a bank that (1) does not conduct business at a fixed address in a jurisdiction in which the shell bank is authorized to engage in banking activities; (2) does not employ one or more individuals on a full time business at this fixed address; (3) does not maintain operating records at this address, and (4) is not subject to inspection by the banking authority that licensed it to conduct banking activities.

b. Financial institutions should refuse to enter into, or continue, a correspondent banking relationship with shell banks. Financial institutions should also guard against establishing relations with respondent foreign financial institutions that permit their accounts to be used by shell banks.

7. Branches, Subsidiaries and Affiliates

a. In situations involving branches, subsidiaries or affiliates, the institution should consider the parent of the CBC in determining the extent of required due diligence.

b. If CBC is an affiliate not substantively and effectively controlled by the parent, the institution should review both the parent and the CBC.

8. Updating Client Files

The institution's policies and procedures should require that the CBC information is reviewed and updated on a periodic basis or when a material change in the risk profile of the CBC occurs.

9. Monitoring and Reporting of Suspicious Activities

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The institution's policies and procedures on the monitoring and reporting of suspicious activities should include correspondent banking activity.

10. Integration with Anti-Money Laundering Program

These guidelines shall form part of the institution's wider anti-money laundering program.

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