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GUIDELINES IN DETERMINING COMPLIANCE WITH CEILINGS ON EQUITY INVESTMENTS

BSP CIRCULAR NO. 581, September 14, 2007

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The Monetary Board in its Resolution No. 818 dated 19 July 2007 approved the following guidelines in determining compliance with ceilings on equity investments prescribed under Sections/Subsections X378 (as amended by Circular No. 530 dated 19 May 2006), X379.1, X380, 1381, 1381.1, 1381.2 and X383 of the Manual of Regulations for Banks (MORB), in view of the adoption of the Philippine Financial Reporting Standards (PFRS)/Philippine Accounting Standards (PAS):

Section 1. Components of Equity Investment - Equity securities booked under the Designated at Fair Value Through Profit or Loss (DFVPL), Available for Sale (AFS), investment in Non-Marketable Equity Securities (INMES) and Equity Investments in Subsidiaries/Associates/Joint Ventures categories shall all be considered in computing for compliance with the ceilings on equity investments prescribed under Subsection X379.1 and Section X383 of the MORB: Provided that: Underwritten equity securities booked under the AFS category shall be excluded from total equity investments for a period of two (2) years from the date of acquisition thereof: Provided, further, That upon prescription of the two-year period, such equity securities shall be booked according to intention and shall then be included in the computation of compliance with the prescribed ceilings.

For this purpose, the following financial instruments shall likewise be included in the computation of compliance with the prescribed ceilings:

(a) Equity securities including those accounted for as debt instruments booked under the Held for Trading (HFT) category, which remain unsold for more than one year.
(b) Mandatorily redeemable preferred shares and preferred shares of similar nature that are accounted for as debt instruments, which may also be booked under the Held to Maturity (HTM) or Unquoted Debt Securities Classified as Loans (UDSCL) categories.
(c) Investments in Hybrid Tier 1 securities that are issued in the form of perpetual preferred shares.

Section 2. Shares of Stock Acquired in Settlement of Loans - Shares of stock of another corporation acquired in settlement of loans shall be excluded from total equity investments for purposes of determining compliance with the prescribed ceilings on equity investments: Provided, That confirmation of the Monetary Board shall be required in the following cases within 30 days from the date of acquisition thereof:

(a) Acquisition of shares of stock of non-allied enterprises by banks without universal banking authority, otherwise prohibited in Section 1381 of the MORB;

(b) Acquisition of shares of stock of non-allied enterprises other than those specified under Subsection 1381.1 of the MORB by banks with universal banking authority, otherwise requiring prior Monetary Board approval;

(c) Acquisition of shares of stock of non-allied enterprises by universal banks in excess of limits provided in Subsection 1381.2 of the MORB;

(d) Acquisition of shares of stock of financial allied enterprises by banks, in excess of limits provided in

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Section X378 of the MORB; and

(e) Acquisition of shares of stock of non-financial allied enterprises by thrift and rural banks in excess of limit provided in Section X380 of the MORB.

Provided, further, That said confirmation shall be subject, among others, to the condition that such shares of stock shall be disposed of within a reasonable period not to exceed five (5) years from the date of acquisition thereof.

Section 3. Basis of Computation - Compliance with the prescribed ceilings on equity investments shall be determined at each time additional equity securities are acquired or shall be considered in the computation as in the case of prescription of the two-year period for underwritten equity securities or the case of equity securities booked under the HFT category, which remain unsold for more than one year. Further, this shall be computed using the carrying amount of the equity securities, which shall be the fair value (marked-to-market amount) for those investments booked under HFT, DFVPL and AFS; amortized cost for those investments booked under HTM and UDSCL or the cost and adjusted cost for those booked under INMES and Equity investment in Subsidiaries/Associates/Joint Ventures, respectively, net of Allowance for Credit Losses where applicable.

For this purpose, adjusted cost shall refer to the acquisition cost of Investments in Subsidiaries/Associates/Joint Ventures adjusted for the investor's share of the profit or loss of investee after the date of acquisition and other adjustments to the carrying amount of the investment.

Section 4. Section X379.1 (f) of the MORB shall now read as follows:

"f. The aggregate investments in equities by a bank, including equity investments in a VCC, shall not exceed the prescribed ceilings under Section X383 on other limitations and restrictions."

Section 5. Transitory Provisions. Banks with acquired shares of stock in settlement of loans that fall under any of the following cases, which have not been previously confirmed by the Monetary Board, shall seek confirmation by the Monetary Board of such acquisition not later than 90 banking days from the effectivity date of this Circular:

(a) Those without universal banking authority with acquired shares of stocks of non-allied enterprises in settlement of loans prohibited in Section 1381 of the MORB;

(b) Those with universal banking authority with acquired shares of stock of non-allied enterprises in settlement of loans other than those specified under Subsection 1381.1 of the MORB;

(c) Those with universal banking authority with acquired shares of stock of non-allied enterprises in settlement of loans that are in excess of limits prescribed in Subsection 1381.2 of the MORB;

(d) Those with acquired shares of stock of financial allied enterprises in settlement of loans that are in excess of limits provided in Section X378 of the MORB; and

(e) Thrift and rural banks with acquired shares of stock of non-financial allied enterprises in settlement of loans that are in excess of limit provided in Section X380 of the MORB.

Provided, That said confirmation shall be subject, among others, to the condition that such shares of stock shall be disposed of within a reasonable period not to exceed five (5) years from the effectivity date of this Circular.

Section 6. Sanctions. Any violation of the provisions of this Circular shall subject the bank and the director/s and/or officer/s concerned to the sanctions provided under Section 37 of R.A. No. 7653.

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

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Adopted: 14 Sept. 2007

FOR THE MONETARY BOARD

(SGD.) AMANDO M. TETANGCO, JR.
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