

SEGREGATION OF CUSTOMER FUNDS AND SECURITIES RECEIVED BY BANKS IN THE PERFORMANCE OF THEIR SECURITIES BROKERING FUNCTIONS

BSP Circular No. 885, August 14, 2015

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The Monetary Board, in its Resolution No. 1176 dated 23 July 2015, approved the following guidelines governing the Segregation of customer funds and securities received by banks that are duly registered by the Securities and Exchange Commission (SEC) to act as securities brokers.

Section 1. Part IX of the Manual of Regulations for Banks (MORB) is hereby amended to read as follows:

“xxx

“C. SECURITIES BROKERING ACTIVITIES OF BANKS

“Section X907 segregation of customer funds and securities received by banks in the performance of their securities brokering functions.

“Subsec. X907.1 Statement of policy. Pursuant to the BSP’s policy of promoting the development of domestic capital markets by upholding investor protection and transparency in securities transactions, following are the guidelines relating to the segregation, handling and reporting of customer funds and securities received by banks in the performance of their securities brokering functions.

The limited coverage of the guidelines shall not relieve the bank acting as securities broker of its obligation to comply with other requirements of the Securities Regulation Code (SRC) and its Implementing Rules and Regulations (IRR).

“Subsec. X907.2 Definition of Terms

- Securities Brokering – A securities brokering transaction refers to the act of buying and selling evidences of indebtedness, shares and all types of securities by order of and for the account of customers.
- Securities Broker – A securities broker refers to an entity which is duly- registered by the SEC to engage in securities brokering transactions.
- Customer – A customer refers to any person from whom, or on whose behalf, a securities broker receives, acquires or holds funds or securities for the account of such person.
- Customer Securities – Customer Securities refer to (a) securities received by a securities broker in behalf of any customer; (b) securities carried long by a securities broker for the account of any customer; (c) securities sold to, or bought for, a customer, by a securities broker.
- Customer Funds – This shall refer to funds received from a customer by a broker under a securities brokering arrangement.

QBroker Customer Account for Settlement of Customer Trades – This shall refer to the separate cash account and margin account of the customer which shall be used exclusively for the settlement of securities brokering transactions.

- Broker Customer Securities Account – This shall refer to customer securities held in accordance with securities brokering agreements such as securities held as margin and/or prior to the settlement of a customer securities transaction.

“Subsec. X907.3 Segregation of Customer Funds and Securities. A bank which receives customer funds and securities in the performance of their securities brokering transactions shall keep these funds and securities separate from its own assets and liabilities.

- For securities brokering purposes, separate accounts, shall be opened and maintained by/for the customers, designated as follows:

(1)

“Broker Customer Account for Settlement of Customer Trades” where all funds pertinent to securities brokering transactions shall be lodged; and

(2)

“Broker Customer Securities Account”, where all securities pertinent to securities brokering transaction of the customers shall be lodged.

- The bank must institute adequate risk management systems and controls to ensure protection of customer funds and securities, proper segregation of functions and prevention of conflict of interest situations that may arise in the conduct of securities brokering activities within the bank.

“Subsec. X907.4 Accounting and Record Keeping. A bank shall make and keep current books and records relating to customer funds and securities which shall be maintained in the principal office of the bank.

- Customer Funds received by banks in its brokering activities shall be recorded in the liabilities account “Broker Customer Account for Settlement of Customer Trades”. This account shall be governed by the following guidelines:

(1)

All funds under this account are held by the bank in a fiduciary capacity.

(2)

It shall be free from any and all liens on the Bank’s assets and shall not be held to answer for any liability of the Bank.

(3)

It shall not earn interest and will not be included under the coverage of an insured deposit under Republic Act. No. 3591, as amended.

(4)

It shall also be excluded from the monies/assets for which the BSP requires reserves.

- securities received by banks in its brokering activities such as securities held as margin and/or herd prior to the settlement of customer securities transaction shall be recorded as an off-balance sheet item under the “Broker Customer Securities Account” in the books of the bank proper. This account shall be governed by the

following guidelines:

(1)

All securities under this account are held by the bank in a fiduciary capacity.

(2)

This shall be free from any and all liens on the Bank's assets and shall not be held to answer for any liability of the Bank.

(3)

This shall also be excluded from the monies/assets for which the BSP provides reserve requirements.

"Subsection X907.5 Receivership. Whenever a receiver is appointed by the Monetary Board for a bank which is authorized to engage in securities brokering activities, the receiver shall, pursuant to the instructions of the Monetary Board, proceed to close the securities business promptly and arrange for another Exchange Member, where such bank is a member of an Exchange, to take over any outstanding contracts and inform the affected customers in writing that their accounts have been transferred.

Where the bank is not a member of an Exchange, the receiver, pursuant to the instructions of the Monetary Board, shall notify the affected customers, if any, of the placement of such bank under receivership and require that they transfer their accounts to another broker.

"Subsec. X907.6 Reportorial Requirements. All banks with securities brokering license shall submit to the appropriate unit of the SES on a monthly basis an additional report attached as Annex A of this Circular. This report shall be considered a Category A-1 report and shall contain the end-of-week balances of cash and securities that are held in accordance with the securities brokering arrangement with its clients.

"xxx xxx xxx"

Section 2. The indicated sections of the Financial Reporting Package (FRP) issued under Circular No. 512 dated 3 February 2006, as amended, shall be further amended, as follows:

(a) Manual of Accounts

"BALANCE SHEET ACCOUNTS

"xxx xxx xxx

"Liability Accounts

"xxx

"30. Broker Customer Accounts for Settlement of Customer Trades - This refers to customer cash accounts and margin accounts received by banks which shall be used exclusively for the settlement of securities brokering transactions.

"31. Other Liabilities – xxx"

"32. Due to Head Office/Branches/Agencies Abroad (Philippine branch of a foreign bank) – xxx"

"33. Due to FCDU/RBU – xxx"

" xxx

"INCOME STATEMENT ACCOUNTS

“ xxx

“5. Fees and Commissions Income

“ xxx

“(e) Income From Securities Brokering Activities – This refers to fees and commissions income from securities brokering activities.

“(f) Securitization Activities – x x x

“(g) Income from Fiduciary Activities – x x x

“(h) Others – x x x

“xxx

“CONTINGENT ACCOUNTS “xxx

“9. Others

“xxx

“(j) Broker Customer Securities Account – This refers to the customer securities representing the market value of securities held in accordance with securities brokering agreements such as securities held as margin and/or prior to the settlement of customer trade.

“(k) Other Contingent Accounts – x x x

(b) Line Item Instructions

“Schedule 1 – Cash and Other Cash Items (COCI) “xxx

“Additional Information

“Due from Philippine Clearing House Corporation (PCHC) – x x x

“Cash Segregated for Customer Brokering Services – This refers to amount received from customer which shall be used exclusively for the settlement of securities brokering transactions.

“Schedule 2 – Due from Other Banks

“xxx

“Additional Information

“(1) xxx

“(2) Special Reserve Bank Account For Securities Brokers – Report the amount of deposits maintained in another bank for the exclusive benefit of the customers in accordance with the provisions of Rule No. 49.2 of the Securities Regulation Code (SRC) on customer protection, in the case of banks and their financial allied subsidiaries that are duly registered by the SEC to act as securities brokers.

“xxx

“Schedule 3 – Financial Assets Held for Trading

“xxx

“On Debt Securities

“Report the fair value of the securities held for trading classified as to issuer of the securities.

“(a) Reserve and Liquidity Floor Requirement – x x x

“(c) Special Reserve Bank Account – Securities Held for the Exclusive Benefit of customers – This refers to the net carrying amount of qualified securities held under a custody account with a BSP-authorized securities custodian, in accordance with the provisions of Rule no. 49.2 of the SRC on customer protection, in the case of banks and their financial allied subsidiaries that are duly-registered by the SEC to act as securities brokers.

“xxx

“Schedule 41 – Investment in Debt Securities Issued by LGUs and

Loans Granted to LGUs – xxx

“xxx xxx”

Section 3. Revised reports of the FRP under Circular No. 512, as amended dated 3 February 2006. Amendments to the Balance Sheet, Income Statements, schedules 1, 2, 3, 5, 6, 7 and 38 under Circular No. 512, as amended, dated 3 February 2006 are hereby attached as Annex B.

Section 4. Revised reports of the Simplified FRP under Circular No. 644, as amended dated 10 February 2009. Amendments to the Balance Sheet, Income statement, schedules 1, 2, 6c, 7B and 38 under Circular No. 644, as amended, dated 10 February 2009 are hereby attached as Annex C.

Section 5. Transitory Provisions. Banks acting as securities brokers shall report their securities brokering transactions in the FRP report format (both solo and consolidated basis) issued under Circular No. 512, as amended dated 3 February 2006 and Circular No. 644, as amended dated 10 February 2009, beginning with the reporting period ending 30 September 2015.

The submission of the additional report required under Section 1 of this Circular shall commence from the reporting period ending 30 September 2015. This report shall be submitted every 15th banking day after end of reference month. The additional report shall be considered a provisional report template which may be revised by the BSP six (6) months from 30 September 2015 upon due notice to the concerned banks.

Guidelines on the preparation and submission of the reports required under this Circular shall be covered by a separate issuance.

Section 6. Effectivity. This Circular shall take effect fifteen (15) calendar days after its publication either in the Official Gazette or in a newspaper of general circulation.

FOR THE MONETARY BOARD

(SGD) AMANDO M. TETANGCO, JR.
Governor

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