

AMENDMENTS TO REGULATIONS UNDER THE MANUAL OF REGULATIONS ON FOREIGN EXCHANGE TRANSACTIONS (FX MANUAL), AS AMENDED

BSP Circular No. 874, April 08, 2015

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Adopted: 08 April 2015

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Pursuant to Monetary Board Resolution Nos. 600 dated 10 April 2014, 1733 dated 30 October 2014, 1760 dated 6 November 2014, 209 dated 13 February 2015, and 434 dated 19 March 2015, the following provisions of the Manual of Regulations on Foreign Exchange Transactions (issued under Circular No. 645 dated 13 February 2009, as amended) are further revised as follows:

“Section 4. Cross-Border Transfer of Local and Foreign Currencies

1. Local Currency. No person may import or export nor bring with him into or take 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 PHP10,000.00 without authorization by the BSP.

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, with or without a source document being mailed to evidence the authority.

The peso amount of the international Passenger Service Charge (IPSC) refunded to outbound exempt passengers[1] shall not be included in the aforecited PHP10,000 limit during the implementation of said IPSC refund.

x x x”

“Section 8. Modes of Payment for Imports. AABs and/or AAB-forex corps may sell foreign exchange to service payments for imports under any of the following arrangements subject to the provisions of Sections 9 to 13 and the guidelines covering the sale of foreign exchange for trade transactions under Appendices 4, 6.1 and 7:

- Letter of Credit (L/C);
- Documents Against Payment (D/P);
- Documents Against Acceptance (D/A);
- Direct Remittance (DR);
- Advance Payment; and
- Open Account (O/A) including intercompany netting arrangement among non-bank related parties

Intercompany netting arrangement may also be used as settlement for trade in services but not for settlement of

foreign/foreign currency loans and investments. For this purpose, the following definitions are adopted:

- Related parties refer to non-bank parent/subsidiaries/affiliates/head office/branch, provided that the intercompany netting arrangement is between a resident and a non-resident.
- Affiliate (of a non-bank) refers to a non-bank entity linked directly or indirectly to a non-bank by means of any of the following:
 - Ownership, control or power to vote, of ten percent (10%) to fifty percent (50%) of the outstanding voting stock of the entity, or vice-versa;
 - Interlocking directorship[2] or officership, except in cases involving independent directors as defined under existing regulations;
 - Common stockholders owning ten percent (10%) to fifty percent (50%) of the outstanding voting stock of each non-bank entity;
 - Management contract or any arrangement granting power to the non-bank to direct or cause the direction of management and policies of the non-bank counterpart, or vice-versa; and
 - Permanent proxy or voting trusts in favor of the non-bank constituting ten percent (10%) to fifty percent (50%) of the outstanding voting stock of the non-bank entity, or vice-versa.”

“Section 11. Documents Against Acceptance (D/A) and Open Account (O/A) Arrangements.

x x x

The guidelines for reporting, payments and extensions of maturity of importations under D/A or O/A arrangements are shown in Appendix 6. For importations which shall be settled via intercompany netting arrangement under Section 8.6 hereof, the guidelines for sale, remittance and reporting are contained in Appendix 6.1.”

“Section 18. Modes and Currency of Payment

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

d. Open Account (O/A) arrangement including intercompany netting among non-bank related parties;

For this purpose, the following definitions are adopted:

- Related parties refer to non-bank parent/subsidiaries/affiliates/head office/branch, provided that the intercompany netting arrangement is between a resident and a non-resident.
- Affiliate (of a non-bank) refers to a non-bank entity linked directly or indirectly to a non-bank by means of any of the following:
 - Ownership, control or power to vote, of ten percent (10%) to fifty percent (50%) of the outstanding voting stock of the entity, or vice-versa;
 - Interlocking directorship[3] or officership, except in cases involving independent directors as defined under existing regulations;
 - Common stockholders owning ten percent (10%) to fifty percent (50%) of the outstanding voting stock of each non-bank entity;
 - Management contract or any arrangement granting power to the non-bank to direct or cause the direction of management and policies of the non-bank counterpart, or vice-versa; and
 - Permanent proxy or voting trusts in favor of the non-bank constituting ten percent (10%) to fifty percent

(50%) of the outstanding voting stock of the non-bank entity, or vice-versa; and

e. Consignment.

x x x”

“Section 22. The BSP shall regulate foreign/foreign currency loans to ensure that principal and interest owed to creditors can be serviced in an orderly manner and with due regard to the economy’s overall debt servicing capacity. x x x

- Private sector non-bank borrowers shall maintain a long-term debt-to- equity ratio of 75/25 or better during the entire duration of their foreign/foreign currency loans, except as may be explicitly allowed by the BSP.”

“Section 24. Loans Not Requiring Prior BSP Approval. The following loans may be granted without prior approval of the BSP: x x x

- Short-term interbank loans as allowed under existing BSP rules, e.g., interbank call loans.

x x x”

“Section 101. Reportorial Requirements. The following reports are required to be submitted to the BSP by AABs, OBUs, and AAB-forex corps, where applicable:

Title of Report

Submission Frequency/Deadline

Submission Procedure

B. Foreign Trade Transactions

x x x

Monthly Report on Purchase of Foreign Exchange (FX) from Refund of Advance Payment of Importations (Annex C)

Report on Transactions under Intercompany Netting Arrangements (Annex 2)

Monthly, within the first five (5) banking days of the month succeeding the receipt of the refund Weekly, within five (5) banking days from end of reference week

Hard copy to IODEmail to IOD at iod-

net@bsp.gov.ph

x x x

xxx”

The following Appendices/Annexes to the FX Manual have been added/revised:

- New –

- Appendix 6.1: Guidelines for Reporting of Foreign Exchange Obligations and Sale and Remittance of Foreign Exchange under Intercompany Netting Arrangements[4]

- Annex Z: Report on Transactions Under Intercompany Netting Arrangements

- Annex Z.1: Statement of Receivables and Payables
- Revised –
- Appendix 1: Minimum Documentary Requirements for the Sale of Foreign Exchange by Authorized Agent Banks (AABs)/AAB-Forex Corps for Non-Trade Purposes
- Appendix 4: Guidelines Covering the Sale of Foreign Exchange by AABs and AAB-Forex Corps for Trade Transactions
- Appendix 6: Guidelines for Reporting, Payments and Extensions of Maturity of Importations Under D/A or O/A Arrangements
- Appendix 18: Guidelines and Minimum Documentary Requirements for Foreign Exchange Forward and Swap Transactions

Repealing Clause. This Circular supersedes/amends/modifies the provisions of existing circulars, memoranda and/or other regulations that are inconsistent herewith.

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

FOR THE MONETARY BOARD:

(SGD) AMANDO M. TETANGCO, JR.
Governor

[1] Those passengers exempted under Philippine laws from payment of travel tax, airport tax and other travel related taxes or fees, which include the following:

- Philippine Sports Commission and its delegations or representatives to any international sports convention, conference and meeting, and athletes, coaches and other officials to any international competition under Republic Act (RA) No. 6847 (The Philippine Sports Commission Act); and
- Overseas Filipino Workers (OFWs) under RA. No. 10022 (Migrant Workers and Overseas Filipinos Act of 1995);

Provided that, refund is made prior to departure at airports or other ports of exit.

[2] When at least one of the directors of one corporation/entity is also the director of the other corporation/entity.

[3] When at least one of the directors of one corporation/entity is also the director of the other corporation/entity.

[4] Previous contents of Appendix 6.1 were merged in Appendix 6 of the FX Manual.

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