NATIONAL ADMINISTRATIVE REGISTER · NOVEMBER 23, 2000

REVISED RULES & REGULATIONS Of BOOK V (SPECIAL INVESTORS RESIDENT VISA) OF EXECUTIVE ORDER NO. 226. OTHERWISE KNOWN AS OMNIBUS INVESTMENTS CODE OF 1987, AS AMENDED

BOI, November 23, 2000

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RULE XX. NATURE OF THE VISA

Section 1. Nature of Visa. — The Special Investor's Resident Visa (SIRV), issued pursuant to the provisions of the Omnibus Investments Code of 1987, AS AMENDED AND THESE IMPLEMENTING RULES AND REGULATIONS, shall entitle the holder to reside in the Philippines for an indefinite period as long as THE REQUIRED QUALIFICATIONS AND INVESTMENTS ARE MAINTAINED AS provided for in Article 74 of the Code.

The visa WHEN ISSUED BY THE PHILIPPINE EMBASSY OR CONSULATE shall be issued with the following notation: "Special Investor's Resident Visa under the Omnibus Investments Code of 1987," (Principal or Dependent, as the case may be) and shall appear as follows:

VISA No. _____

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FOREIGN AFFAIRS
FOR JOURNEY TO THE PHILIPPINES OF

Visa includes

DATE OF ISSUE

Probationary Status Valid for
Six (6) months from date of issue
Special Investor's Resident Visa
Under the Omnibus Investments Code of 1987, AS AMENDED

WHEN ISSUED BY THE BUREAU OF IMMIGRATION (BI) and stamped on the passport of the applicant, the probationary visa shall appear as follows:

Republic of the Philippines
Department of Justice
BUREAU OF IMMIGRATION
Makati City

SPECIAL INVESTOR'S RESIDENT VISA NO. _____
Under the Omnibus Investments Code of 1987, as amended

_____ SPECIAL INVESTOR'S RESIDENT VISA UNDER EXECUTIVE ORDER NO. 226

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(OMNIBUS INVESTMENTS CODE OF 1987, AS AMENDED) UPON RECOMMENDATION OF THE BOARD OF INVESTMENTS WITH AUTHORIZED STAY UP TO ____ WITH MULTIPLE ENTRY PRIVILEGE

O.R. NO. _____ AMT. _____ DATE OF ISSUE
O.R. NO. _____ DATE OF ISSUE

WHEN PROBATIONARY VISA IS CONVERTED INTO INDEFINITE, the same shall be issued by the BUREAU OF IMMIGRATION IN A SECURITY STICKER and shall appear as follows:

BI LOGO

Republic of the Philippines
Department of Justice
BUREAU OF IMMIGRATION
Makati City

SPECIAL INVESTOR'S RESIDENT VISA (SIRV)
NO. _____

Under the Omnibus Investments Code of 1987 (Executive Order 226) as amended

Surname

Nationality

Given Name

Sex

Birthdate

Entries: Multiple

Issue Date:

Expiry Date: Indefinite

_____

Authorized Signatory

O.R. No. _____ Amt. _____
O.R. No. _____ Amt. _____

SIRV

Control No.

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Section 2. Persons Entitled to the Visa . — Any alien, at least twenty-one (21) years of age, who meets the qualifications provided in Article 74 of the Code AND THESE IMPLEMENTING RULES may be issued the Special Investor's Resident Visa, except nationals of countries determined by the Department of Foreign Affairs not entitled to the visa.

The SPOUSE and the UNMARRIED CHILDREN under twenty-one (21) years of age of the applicant may also be issued the same visa.

Section 3. ALLOWABLE FORMS OF INVESTMENT . — For purposes of securing an SIRV, only ownership of shares of stocks in the following shall be accepted as eligible forms of investment. to wit:

a) IN EXISTING CORPORATIONS :

- PUBLICLY-LISTED COMPANIES
- COMPANIES ENGAGED IN INVESTMENT PRIORITIES PLAN (IPP) PROJECTS, OR
- COMPANIES ENGAGED IN THE MANUFACTURING AND SERVICE SECTORS.

(b) IN NEW CORPORATIONS:

- COMPANIES TO BE ENGAGED IN THE MANUFACTURING AND SERVICE SECTORS, OR
- COMPANIES TO BE ENGAGED IN IPP PROJECTS.

RULE XXI. APPLICATION AND ISSUANCE OF VISA

Section 1. Filing of Applications. — THE APPLICATION FOR A SPECIAL INVESTOR'S RESIDENT VISA MAY BE FILED WITH:

a) The Philippine Embassy or Consulate in the applicant's home country or place of residence; or

b) The embassy or consulate nearest thereto in the absence of the foregoing; or

c) The Board of Investments if the investor is already in the Philippines.

ALL APPLICATIONS MUST BE ACCOMPANIED BY ALL REQUIRED SUPPORTING DOCUMENTS, OTHERWISE THE SAME SHALL NOT BE OFFICIALLY ACCEPTED FOR PROCESSING.

Section 2. DOCUMENTARY REQUIREMENTS . — The following documents shall be attached to every application for SIRV:

a) Application form duly filled up and notarized, with recent photographs;

b) Clearance from the National Intelligence Coordinating Agency (NICA), together with either a clearance from the central government agency of the applicant's country or place of residence, competent to give information about any criminal record that applicant may have, duly authenticated by the Philippine Embassy, or the Interpol Division of the National Bureau of Investigation (NBI) indicating that the applicant has not been convicted by final judgment of a crime involving moral turpitude;

The NICA shall issue an initial clearance within five (5) working days from receipt of the BOI endorsement, and a more thorough verification to cover the Armed Forces of the Philippines and the Philippine National Police should be within three (3) months after the grant of the probationary visa. Any derogatory record may be the basis for revocation of the SIRV holder's visa;

The expiration date of said clearances should not be before six (6) months from date of filing of application;

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c) Medical certificate issued by the Department of Health (DOH), any government hospital or health facility, or any licensed and accredited hospital, medical center, or laboratory or the equivalent thereof in the applicant's home country, certifying that the applicant is physically and mentally fit;

The expiration date of said certification should not be before six (6) months from date of filing of application;

d) Certification under oath from the duly authorized officer(s) of any accredited depository bank in the Philippines as to the amount of foreign exchange inwardly remitted by applicant, and its conversion to pesos through the said bank, in the prescribed form. Should the inward remittance be sent through non-accredited correspondent banks, the total amount of remitted money should be immediately transferred to the accredited banks;

For purposes of Book V and these rules and regulations, only banks accredited by the BOI shall serve as the depository banks;

In all cases, inward remittances shall not be made earlier than one (1) year prior to the filing of the application;

e) Certified true copy of the certificate of peso time deposit with a maturity period of at least thirty (30) days;

The original copy of the certificate of time deposit shall remain with the depository bank for safekeeping;

Birth certificate/family registry/household registry duly authenticated by the Philippine Consulate/Embassy located in the applicant's home country or the applicant's embassy in the Philippines;

g) If applicable, marriage contract duly authenticated by the Philippine Consulate/Embassy located in the applicant's home country or the applicant's embassy in the Philippines.

Section 3. ENDORSEMENT OF APPLICATIONS FILED WITH PHILIPPINE EMBASSY/CONSULATE TO BOI. — An application, and its attachments filed with the Philippine Embassy/Consulate shall be endorsed by said Embassy/Consulate to the Board of Investments for evaluation. After evaluation, the same shall be re-endorsed to the Philippine Embassy/Consulate concerned through the DFA Consular Office for issuance of a probationary multiple entry visa.

Section 4. ENDORSEMENTS OF APPLICATIONS FILED WITH THE BOI TO BI. — An application and its attachments filed with the BOI, including the original passport shall be endorsed to the BI for the grant of a provisional multiple entry visa.

Section 5. GRANT OF VISA. — Upon compliance with the requirements of Book V of the Code and these rules:

a) The applicant, who filed an application with the Philippine Embassy/Consulate, and who has not made an actual investment at the time his application is re-endorsed by the BOI to the concerned Philippine Embassy/Consulate shall be issued a probationary multiple entry SIRV valid for a period of six (6) months;

b) The applicant, who filed an application with the BOI, and who has not made an actual investment at the time his application is endorsed by the BOI to the Bureau of Immigration shall be granted a probationary multiple entry SIRV valid for six (6) months;

c) Only upon submission by the applicant of all required documents to prove actual investments shall the BOI endorse to the BI his application for issuance of an indefinite multiple entry SIRV;

For investments made in existing corporations, the indefinite multiple entry visa shall be granted only after validation of the same by the BI;

d) From receipt of the BOI endorsement, the BI shall issue the probationary visa within a period of five (5) working days. For conversion to indefinite visa, the BI shall issue the visa within a period of fourteen (14)

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working days from receipt of the BOI endorsement if investment is made in existing corporations; and five (5) working days if in new corporations.

Section 6. RELEASE OF PASSPORTS . — The Bureau of Immigration shall release passports with the SIRV only to an authorized officer or representative of the BOI.

The applicant shall personally claim his passport from the BOI. He shall then be required to undergo a briefing as an SIRV holder.

Section 7. ISSUANCE OF SIRV ID . — The BOI shall issue SIRV identification cards only to applicants with actual investments, valid for a period of one year, renewable yearly. Such ID shall exempt the SIRV holder from securing the Special Return Certificate (SRC), Alien Certificate of Registration (ACR) and Emigration Clearance Certificate (ECC) from the Bureau of Immigration for purposes of travel abroad.

RULE XXII. CONVERSION OF DEPOSIT TO INVESTMENTS

Section 1. PRIOR BOARD APPROVAL . — The SIRV holder may not withdraw his deposit from the accredited bank unless authorized by the BOI.

The Board may allow a partial conversion of deposit to investments, provided that the total deposit is converted to investments within the one hundred eighty (180) day period from date of issuance of probationary SIRV.

Section 2. APPLICATION FOR CONVERSION OF DEPOSIT TO INVESTMENTS. — Before a peso time deposit may be invested, an application in the prescribed form for conversion of time deposit to investments shall be filed with the Board of Investments.

Section 3. EVALUATION AND WITHDRAWAL OF TIME DEPOSIT. — Upon submission of all of the foregoing documents and evaluation thereof, the Board shall authorize the SIRV applicant to withdraw time deposit from the accredited bank and invest the same.

After securing prior BOI approval, the depository bank shall issue a check payable to the corporation.

Section 4. SUBMISSION OF PROOF OF INVESTMENT . — At least thirty (30) days prior to the expiration of the one hundred eighty (180) day period to make the investment, the probationary SIRV holder shall show proof of investment as follows:

For investment in new corporation —

a) Duplicate copies of articles of incorporation and by-laws;
b) Treasurer's affidavit;
c) Certified true copy of official receipt issued by the treasurer-in-trust;
d) Certified true copy of Securities and Exchange Commission (SEC) registration;
e) Certified true copy of stock certificate issued in favor of the applicant.

For investment in existing corporation not publicly listed —

a) Certified true copy of business/mayor's permit;
b) Certified true copies of articles of incorporation, by-laws and SEC registration;
c) BOI registration, if any;
d) Latest audited financial statement, list of officers and directors;
e) Secretary's certificate;
f) Waiver of pre-emptive rights of existing stockholders;
g) Certified true copy of the resolution from SEC authorizing the issuance of shares from the unsubscribed

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portion and exempting said shares from registration;
h) BIR certificate of registration of official receipts;
i) Certified true copy of stock certificate issued in favor of applicant;
j) Certified true copy of SEC certificate of change of stockholders;
k) Lease contract or proof of ownership of office or factory/plant sites.

Additional documents for shares purchased from existing stockholders:

l) Corporate Secretary's certificate;
m) Certified true copy of stock certificate issued to selling stockholder;
n) Deed of assignment between buyer and the seller of the stock;

For investment in shares in publicly listed corporations

a) Certified true copy of stock certificate to be submitted within 3 months from date of investments;
b) Certified true copy of official receipts and buy invoice;
c) Sworn certification of stock broker.

The Board from time to time may require submission of other proofs of investment as it may deem necessary.

Section 5. ANNOTATION OF SIRV INVESTMENT; BOI APPROVAL . — Stock certificates issued to SIRV holders shall bear the annotation that the owner thereof is a holder of the special investor's resident visa and that the same shall not be sold, transferred, or conveyed without prior BOI approval.

Section 6. OCULAR INSPECTION OF INVESTMENT. — The BI together with the BOI, shall conduct a one-time inspection of the companies of SIRV applicants or SIRV holders prior to the grant of indefinite SIRV. The inspection shall be done in accordance with the following:

a) For investments in existing corporations — inspection by BI together with BOI, within six (6) working days from submission of proof of investment. The BI shall process the conversion of the probationary to indefinite SIRV within fourteen (14) working days;

b) For investments in new corporations — one year from date of issuance of indefinite visa or before expiration of the holder's identification card.

In case of investments in publicly listed firms — verification thereof may be secured from the firm's Corporate Secretary.

In case of investment in IPP-listed project and investment is approved by the BOI, no inspection shall be necessary.

The BOI may assess the SIRV holder a nominal fee to cover the cost of inspection.

Section 7. REGISTRATION OF INVESTMENT WITH BSP . — The SIRV applicant/holder shall register his investments with the Bangko Sentral Ng Pilipinas (BSP) only if the foreign exchange needed to service the repatriation of capital and the outward remittance of dividends, profits and earnings which accrue thereon shall be sourced from the local banking system.

Section 8. REGISTRY OF INVESTMENT. — The BOI shall keep a registry of all SIRV investments and shall report any withdrawal or transfer thereof to the BI. The BOI shall likewise furnish the BSP a monthly report of SIRV investments registered by the BOI.

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RULE XXIII. MONITORING REQUIREMENTS

Section 1. PERIOD TO INVEST . — The investor shall have one hundred eighty (180) days from date of issuance of probationary visa to make the investment in an eligible domestic enterprise and report such investment to the Board of Investments.

Failure to make investments within the prescribed period shall constitute a ground for automatic cancellation of the SIRV and/or inclusion in the blacklist of the Bureau of Immigration.

Section 2. BOOK OF REGISTRY; TRACKING SYSTEM . — The Board of Investments shall maintain a registry of all SIRV deposits/investments.

Section 3. ANNUAL REPORT. — At least one month before his SIRV identification card expires, an SIRV holder shall file a sworn report with the Board, supported by the following documents:

a) Certified true copy of the latest current audited financial statement of the business filed with the BIR;

b) Certification from the Securities and Exchange Commission that the business is existing;

c) Certification under oath from the Corporate Secretary that the SIRV holder is a stockholder of record and is in good standing and the amount of investments has not been reduced below the amount provided in the Code;

d) Business/mayor's permit;

e) Proof of registration with the BIR;

f) Copy of corporate income tax return filed with the BIR with official receipt of income tax payment, if applicable;

g) Copy of the individual tax return of the SIRV holder filed with the BIR with official receipt of income tax payment, if applicable.

Failure to timely file the foregoing documents/reports shall subject a SIRV holder to a fine/penalty and/or constitute a ground for the cancellation of his visa and/or his inclusion in the BI's blacklist. Furthermore, his identification card shall not be renewed.

Section 4. OUTSOURCE INSPECTION/AUDIT OF INVESTMENTS . — The BOI shall accredit firms to conduct annual audit and inspection of the investments of indefinite SIRV holders.

The BOI-accredited firms shall inspect the investment of the SIRV holder at the expense of the latter and submit a certificate of inspection on the validity of investments.

RULE XXIV. VOLUNTARY TERMINATION OF INVESTMENT/TIME DEPOSIT

Section 1. APPLICATIONS FOR WITHDRAWAL OF INVESTMENT/TIME DEPOSIT. — All applications for voluntary withdrawal of investment/time deposit shall be filed with the BOI together with the original copy of the passport and SIRV identification card.

The Board may conduct an exit interview of the applicant-SIRV holder.

Section 2. ENDORSEMENT TO BI FOR CANCELLATION/DOWNGRADING OF VISA. — The BOI shall endorse to the Bureau of Immigration all applications for voluntary withdrawal of investment/time deposit for the proper cancellation or downgrading of the visa.

With respect to voluntary withdrawal of time deposit, the BOI shall endorse the cancellation of the time deposit to

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the depository bank only upon submission of the original passport with the cancelled visa, in the proper case.

RULE XXV. DISAPPROVAL OF APPLICATION

Section 1. GROUNDS FOR DISAPPROVAL OF APPLICATION . —

a) Failure to meet any of the minimum qualification requirements provided by law and these rules.

b) Fraudulent misrepresentation on the part of the applicant or his authorized agent relative to the data submitted in support of his/her application.

c) Submission of falsified or spurious documents in support of his/her application.

RULE XXVI. CANCELLATION/REVOCATION OF VISA

Section 1. GROUNDS FOR CANCELLATION/REVOCATION OF SIRV. —

a) Failure to maintain the qualifications as a holder of the Special Investor's Resident Visa as provided in E.O. 226 and these rules.

b) Violation of any of the provisions of Book V of the Code (Special Investor's Resident Visa) and these rules.

c) Violation of existing laws.

Section 2. CANCELLATION OF DEPENDENT VISA. — The visa of a dependent of the SIRV holder shall be co-terminus with that of the principal and/or be automatically cancelled upon his reaching 21 years of age and/or marriage.

RULE XXVI. FEES, FINES AND PENALTIES

Section 1. FEES, FINES AND PENALTIES . — In the implementation of Book V of EO 226, as amended and these rules and regulations, the Board may impose the following fees, fines and penalties:

a) Fees:

i. Application Fee — US$500 or its equivalent in local currency for principal applicant and each dependent;

ii. For conversion of Deposit — P2,000.00;

iii. For conversion of Probationary to Indefinite Visa — P2,000.00 per person;

iv. For issuance of SIRV Identification Card — P3,000.00 per person.

b) Late Submission of Reports and/or Proof of Investment — Basic Fine of one thousand pesos (P1,000.00) plus a daily fine of one hundred pesos (P100.00) until compliance.

c) Inspection Fee pursuant to Rule XXII, Section 6 — Subject to BOI rules/guidelines

The above fees, fines and penalties are without prejudice to the imposition of other fees, fines and penalties the Bureau of Immigration (BI) and the Department of Foreign Affairs (DFA) are authorized to charge under their respective mandates, for reasons other than those mentioned under paragraphs a, b, and c of this Section.

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RULE XXVIII. TRANSITORY PROVISIONS

Section 1. All pending SIRV applications received prior to effectivity of these Rules and Regulations. shall continue to be processed under the existing provisions of Book V of EO 226 and its implementing rules and regulations; provided however that investments made in partnerships shall no longer be allowed.

Section 2. The BOI, in consultation with Inter-Agency Committee Members on SIRV, is hereby authorized to formulate policy guidelines to facilitate the processing of all pending applications.

Section 3. During the transition period, the following rules shall apply:

a) FOR APPLICATIONS PENDING WITH THE BOI, ACTUAL INVESTMENTS MUST BE VALIDATED;

b) FOR APPLICATIONS PENDING WITH BI FOR THE ISSUANCE OF PROBATIONARY VISA, OR INCLUSION OF DEPENDENTS, THE BI SHALL PROCESS THE SAME UNDER THE RULES AND REGULATIONS EXISTING PRIOR TO THE EFFECTIVITY OF THESE REVISED RULES AND REGULATIONS;

c) FOR CONVERSION OF PROBATIONARY TO INDEFINITE, THE BI SHALL PROCESS THE SAME UNDER TITLE OLD RULES AND REGULATIONS;

d) IF IN THE COURSE OF EVALUATING APPLICATIONS UNDER PARAGRAPHS A & B HEREOF, AND AN OCULAR INSPECTION TO VALIDATE INVESTMENTS IS NECESSARY, THE SAME SHALL BE UNDERTAKEN JOINTLY BY BOI AND BI.

THE PROCESSING OF ALL PENDING APPLICATIONS SHALL BE COMPLETED ON OR BEFORE 15 DECEMBER 2000.

Section 4. Revalidation of SIRV . — All holders of SIRVs granted under the old rules and regulations shall be required to revalidate their visas within the period to be announced by the BOI in a newspaper of general circulation.

Only upon revalidation of his visa shall the holder of a SIRV under the old rules and regulations be issued his/her SIRV identification card.

Failure to revalidate the same shall constitute a ground for automatic revocation of the SIRV.

RULE XXIX. EFFECTIVITY

THESE RULES SHALL TAKE EFFECT FIFTEEN (15) DAYS FOLLOWING PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE PHILIPPINES.

23 Nov. 2000

(SGD.) Director General Cesar F. Fortuno
National Intelligence Coordinating Agency

(SGD.) Director Jesus E. Abella, M.D.
Department of Health

(SGD.) Director Gregorio R. Suare
Bangko Sentral ng Pilipinas

(SGD.) Assistant Secretary Belen F. Anota
Department of Foreign Affairs

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(SGD.) Governor Ofelia V. Bulaong
Board of Investments

(SGD.) Commissioner Rufus B. Rodriguez
Bureau of Immigration

(SGD.) Chairman Lilia R. Bautista
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