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FURTHER AMENDING MEMORANDUM TO ALL BANKS AND OTHER FINANCIAL INTERMEDIARIES PERFORMING TRUST, OTHER FIDUCIARY BUSINESS AND INVESTMENT MANAGEMENT ACTIVITIES DATED OCTOBER 16, 1990

BSP, October 01, 1993

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Pursuant to the provisions of Section 94 of R.A. No. 7653, otherwise known as The New Central Bank Act, the Monetary Board, in its Resolution No. 297 dated September 29, 1993, decided to impose reserves against peso-denominated common trust funds and such other managed peso funds which partake the nature of collective investment of peso-denominated common trust funds. Accordingly, the provisions of the Memorandum to All Banks and Other Financial Intermediaries Performing Trust, Other Fiduciary Business and Investment Management Activities dated October 16, 1990, as amended, is hereby further amended as follows:

SECTION 1. Section 405 is hereby amended to read as follows:

> "Section 405. Security for the Faithful Performance of Trust and Other Fiduciary Business."

SECTION 2. Subsection 405.2 is hereby renumbered as Subsection 405.5 and amended to read as follows:

> "Subsection 405.5 Reserves Against Peso-denominated Common Trust Funds — In addition to the basic security deposit, an institution shall maintain a ten percent (10%) reserve against -
>
> - peso-denominated common trust funds; and
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> - such other managed peso funds which partake the nature of collective investment of a peso-denominated common trust fund as may be indicated by the presence of the following features:
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> 1. The funds are composed of contributions from two or more investors;
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> 2. The funds are managed/administered as a vehicle for collective investment and reinvestment;
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> 3. The trustee/administrator/agent has the exclusive management and control over the funds and the sole right at any time to sell, convert, invest, exchange, transfer or otherwise change or dispose of the assets comprising the funds; and
>
> 4. Investments/contributions to, or withdrawals from the funds are being allowed at any time or as of a fixed date in the future, and/or the income, net of all expenses incurred in the management of the fund plus the fee of the trustee/administrator/agent, are being distributed among the participants in the funds, without the need to liquidate all assets of the funds:

Provided, That the reserves on peso-denominated common trust funds shall be provided out of the peso-denominated common trust funds by the institution authorized to engage in trust and other fiduciary business pursuant to Section 404."

SECTION 3. Subsection 405.3 is hereby renumbered as Subsection 405.2 and amended to read as follows:

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"Subsection 405.2. Eligible Securities - Government securities which shall be deposited in compliance with the above basic security deposit shall consist of evidences of indebtedness of the Republic of the Philippines and of the Bangko Sentral ng Pilipinas and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines; and such other kinds of securities which may be declared eligible by the Monetary Board: Provided, That such securities shall be free, unencumbered, and not utilized for any purpose: Provided, further, That such securities shall have remaining maturities of not more than three (3) years from the date of deposit with the Bangko Sentral."

SECTION 4. Subsection 405.4 is hereby renumbered Subsection 405.3 and amended to read as follows:

"Subsection 405.3. Valuation of Securities and Basis of Computation of the Requirement - For purposes of determining compliance with the basic security deposit under this Section, the amount of securities so deposited shall be based on their book value, that is, cost as increased or decreased by the corresponding discount or premium amortization.

The base amount for the basic security deposit shall be the average of the month-end balances of total trust, investment management and other fiduciary assets of the immediately preceding calendar quarter."

SECTION 5. Subsection 405.5 is hereby renumbered as Subsection 405.4 and amended to read as follows:

Subsection 405.4. Compliance Period - The trustee or fiduciary shall have thirty (30) banking days after the end of every calendar quarter within which to deposit with the Bangko Sentral securities required under this section."

SECTION 6. The following Subsections are hereby added to Section 405 to read as follows:

1. "Subsection 405.6. Form and Composition of Reserves - The provision of Section 254 and Subsections 254.1, 254.2, 254.3 and 254.4 (Books I to III on the form and composition of reserves against deposit liabilities and Subsection 283.1 (Books I to III) on the form and composition of reserves against deposit substitute liabilities and Subsection 4283Q.1 on the form and composition of reserves against deposit substitutes in cases of NBFIs shall govern the form and composition of reserves against peso-denominated common trust funds and such other managed peso funds which partake the nature of collective investment of peso-denominated common trust funds of banks and NBFIs authorized to engage in trust and other fiduciary business.

For purposes of this subsection, a special deposit account shall be maintained by banks and NBFIs with the Bangko Sentral exclusively for trust reserves. Likewise, NBFIs may also maintain a special demand deposit account with local banks exclusively for trust reserves.

2. Subsection 405.7. Computation of Reserve Position - Each institution authorized to engage in trust and other fiduciary business pursuant to Section 404 shall calculate daily the required and available reserves on the value per books of its peso-denominated common trust funds and such other managed peso funds which partake the nature of collective investment of peso-denominated common trust funds based on the seven-day week, starting Friday and ending Thursday (including Saturdays, Sundays, and public holidays). For the purpose of computing its reserve position, the principal office in the Philippines and all branches and agencies located therein shall be treated as a single unit.

Institutions shall report the balances of funds subject to reserve at the close of business on banking/business days and the balances at the close of business of the preceding banking/business day on days when no business is conducted.

3. Subsection 405.8. Reserve Deficiencies; Sanctions - The provisions of Section 256 and Subsection 256.1 (Books I to III) on reserve deficiencies on deposit liabilities and Subsections 283.3 and 283.4 (Books I to III) on reserve deficiencies on deposit substitute liabilities and Subsection 4283Q.3 on reserve deficiencies on deposit

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substitute liabilities in cases of NBFIs shall also govern the computation of reserve deficiencies for peso-denominated common trust funds and such other managed peso funds which partake the nature of collective investment of peso-denominated common trust funds of banks and NBFIs authorized to engage in trust and other fiduciary business, as well as the sanctions provided therein.

4. Subsection 405.9. Report of Compliance - Every institution shall make a weekly report to the Bangko Sentral of its daily required and available reserves on peso-denominated common trust funds and similarly managed funds to be submitted not later than the close of the third banking/business day following the reference week."

SECTION 7. The last paragraph of Sub-section 407 is hereby amended to read as follows:

> "Trust, other fiduciary and investment management activities involving any of the foregoing which are accepted, renewed or extended after October 16, 1990 shall be subject to the applicable sanctions provided for in Sections 36 and 37 of R.A. 7653, or Sections 12 and 16 of Presidential Decree No. 129, as amended."

SECTION 8. Subsection 410.7 is hereby amended to read as follows:

> "Subsection 410.7. Security for the Faithful Performance of Trust Business and Reserves Against Peso-Denominated Common Trust Funds - Common trust funds shall be included in the total volume of trust and other fiduciary assets for purposes of computing the required security for the faithful performance of trust and other fiduciary business under Subsection 405.1.
>
> In addition, peso-denominated common trust funds and such other managed peso funds which partake the nature of collective investment of peso-denominated common trust funds shall be imposed reserves pursuant to Subsection 405.5."

SECTION 9. Subsection 412.3 is hereby amended to read as follows:

"Subsection 412.3. Additional Deposit for the Faithful Performance of Trust Duties - A bank authorized to engage in trust business that accepts FCDU/EFCDU trust accounts shall deposit with the Bangko Sentral additional eligible government securities under Subsection 405.2 as security for the faithful performance of trust duties equivalent to at least one percent (1%) of the value of the FCDU/EFCDU trust assets based on the average of the month-end balances of such assets during the immediately preceding quarter as converted in the local currency at the prevailing foreign exchange rate. Such securities shall be deposited within thirty (30) banking days after the end of every calendar quarter.

SECTION 10. Subsection 412.4 is hereby amended to read as follows:

"Subsection 412.4. Liquidity Requirement for FCDU/WFCDU Common Trust Funds - In addition to the basic security deposit, each FCDU/EFCDU common trust fund shall be required to set up at least ten percent (10%) of the book value of the fund for liquidity purposes: Provided, That such liquidity requirement shall be in any or a combination of the following: (a) readily marketable foreign currency securities with maturities of not more than three (3) years; and (b) foreign currency deposits with foreign banks: Provided, further, That the liquidity requirement of EFCDUs may, in addition to the foregoing, also be in the form of foreign currency deposits with other EFCDUs or resident OBUs."

SECTION 11. Subsection 430 is hereby amended to read as follows:

"Subsection 430. Sanctions — Any violation of these provisions shall be subject to the sanctions provided in Sections 36 and 37 of R.A. 7653, and/or Sections 12 and 16 of Presidential Decree No. 129, as amended, as the case may be, without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted under the circumstances that may include the suspension or revocation of an institution's authority to

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engage in trust and other fiduciary business or in investment management activities, and such other sanctions as may be provided by law."

SECTION 12. The following account is hereby included in the Manual of Accounts for Trust and Other Fiduciary Business and Investment Management Activities:

Due From Bangko Sentral

This represents the balance of the special deposit account in local currency maintained with the Bangko Sentral exclusively to meet the reserve requirements of peso-denominated common trust funds and other similarly managed funds.

SECTION 13. The following report forms are hereby adopted/revised as shown in the attached annexes:

1. Report on Required and Available Reserves against Peso-denominated Common Trust Funds and Other Similarly Managed Funds; and

2. Report of Trust and Other Fiduciary Business and Investment Management Activities -

BSP 7-16-35TR for banks with authority to engage in trust business; and

BSP-26-23TR for investment houses with authority to engage in trust business.

These amendments shall take effect on October 4, 1993.

Adopted: 1 Oct. 1993

(Sgd.) EDGARDO P. ZIALCITA
Officer-in-Charge

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