

[**BSP Circular No. 874, April 08, 2015**]

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

Adopted: 08 April 2015

Date Filed: 17 April 2015

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:

1. Letter of Credit (L/C);
2. Documents Against Payment (D/P);
3. Documents Against Acceptance (D/A);
4. Direct Remittance (DR);

5. Advance Payment; and
6. 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:

- i. **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.
- ii. **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:
 1. 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;
 2. Interlocking directorship^[2] or officership, except in cases involving independent directors as defined under existing regulations;
 3. Common stockholders owning ten percent (10%) to fifty percent (50%) of the outstanding voting stock of each non-bank entity;
 4. 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
 5. 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:

- i. **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.
- ii. **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:
 1. 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;
 2. Interlocking directorship^[3] or officership, except in cases involving independent directors as defined under existing regulations;
 3. Common stockholders owning ten percent (10%) to fifty percent (50%) of the outstanding voting stock of each non-bank entity;
 4. 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
 5. 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

7. 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."