

**[ BSP CIRCULAR NO. 858, November 21, 2014 ]**

**AMENDMENTS TO RELEVANT PROVISIONS OF THE MANUAL OF  
REGULATIONS FOR BANKS IMPLEMENTING REPUBLIC ACT NO.  
10641**

*Adopted: 21 November 2014*

*Date Filed: 03 December 2014*

Pursuant to Monetary Board Resolution No. 1794 dated 6 November 2014 providing for the rules and regulations to implement Republic Act No. 10641 (An Act Allowing the Full Entry of Foreign Banks in the Philippines, Amending for the Purpose Republic Act No. 7721), the following provisions of the Manual of Regulations for Banks (MORB) are hereby amended:

**Section 1.** Section X105 and its subsections of the MORB on the liberalized entry and scope of operations of foreign banks is hereby amended to read, as follows:

**"Sec. X105. (2008 - X121) Liberalized Entry and Scope of Operations of Foreign Banks.** The following rules shall govern the liberalized entry and scope of operations of foreign banks."

**"§ X105.1 (2008 - X121.1) Modes of entry of foreign banks.** With prior approval of the Monetary Board, foreign banks may operate in the Philippines through any one (1) of the following modes of entry:

- a. By acquiring, purchasing or owning up to one hundred percent (100%) of the voting stock of an existing domestic bank (including banks under receivership or liquidation, provided no final court liquidation order has been issued);
- b. By investing in up to one hundred percent (100%) of the voting stock of a new banking subsidiary incorporated under the laws of the Philippines;
- c. By establishing a branch and sub-branches with full banking authority.

Interested foreign banks shall file with the Office of the Governor, Bangko Sentral, their application for authority to operate in the Philippines through any of the modes of entry mentioned above. The application requirements are listed in Appendix 2."

**"§ X105.2 (2008 - X121.2) Qualification requirements.** A foreign bank seeking to operate in the Philippines through any of the modes of entry provided under Items "a" to "c" of Subsec. X105.1 must, in addition to satisfying the criteria prescribed under Subsec. X1053, be –

- (1) Widely-owned and publicly-listed in the country of origin, unless the foreign bank applicant is owned and controlled by

the government of its country of origin.

(2) Established, reputable and financially sound.

The determination of whether a foreign bank applicant is widely-owned and publicly listed, established, reputable, and financially sound shall be based on the information derived from submitted documents as required under Appendix 2. Further, if the foreign bank is owned/controlled by a holding company, this requirement may apply to the holding company."

**"§ X105.3 (2008 - X121.3) Guidelines for selection.** The following factors shall be considered in selecting the foreign banks which will be allowed to enter the Philippine banking system through R.A. No. 7721, as amended by R.A. No. 10641:

a. *Geographic representation and complementation.* Representation from the different parts of the world and/or the international financial centers shall be ensured.

b. *Strategic trade and investment relationships between the Philippines and the home country of the foreign bank.* Consideration shall be given to the countries of origin of applicant foreign banks –

(1) With substantial financial assistance to, and loans and investments, past and present, in the Philippines; and

(2) With which the Philippines has significant volume of trade especially to those with which the country has substantial net exports.

c. *Relationship between the applicant bank and the Philippines.* Consideration shall be given to the capability of the foreign bank to promote trade with, and to bring foreign investments into, the Philippines. Long standing financial and commercial relationship with, and assistance extended to, the Philippines, shall likewise be taken into account.

d. *Demonstrated capacity, global reputation for financial innovations and stability in a competitive environment of the applicant bank.*

e. *Reciprocity rights enjoyed by Philippine banks in the applicant's country.* Subject to the host country's rules and regulations of general application, Philippine banks should have the opportunity to establish operations in the foreign bank applicant's home country.

f. *Willingness to fully share banking technology."*

**"§X105.4 (2008 - X121.4) Capital requirements of foreign banks.**

a. *For locally incorporated subsidiaries.*

A foreign bank subsidiary shall comply with the minimum capital and prudential capital ratios applicable to domestic banks of the same category as prescribed under prevailing regulations.

b. *For foreign bank branches*

(1) A foreign bank branch shall comply with the minimum capital and prudential capital ratios applicable to domestic banks of the same category as prescribed under prevailing regulations. (2) For purposes of compliance with minimum capital regulations, the term "capital of a foreign bank branch" shall refer to the sum of: (i) permanently assigned capital, (ii) undivided profits, and (iii) accumulated net earnings, which is composed of unremitted profits not yet cleared by the Bangko Sentral for outward remittance and losses in operations, less capital adjustments as may be required by the Bangko Sentral in accordance with prevailing rules and regulations of general application. (3) Permanently assigned capital shall be inwardly remitted and converted into Philippine currency at the exchange rate prevailing at the time of remittance. (4) Any Net due from head office, branches, subsidiaries and other offices outside the Philippines, excluding accumulated net earnings, shall be a deductible adjustment to capital. (5) For purposes of compliance with the Single Borrower's Limit, the capital of a foreign bank branch, subject to prescribed adjustments, shall be synonymous to its "net worth".

*Transitory provision.*

*a. Minimum capital of foreign banks.*

Minimum capital of foreign banks established in the Philippines prior to R.A. No. 10641 shall comply with the applicable minimum capital level requirement as prescribed under Subsec. X111.1. Existing foreign banks that do not meet the minimum capital requirements shall submit an acceptable capital build-up program as required under Subsec. X111.1.

*b. Single Borrower's Limit (SBL).*

- i. Loans and credit commitments of foreign bank branches as of the effectivity of R.A. No. 10641 may be maintained, but once repaid or expired, shall no longer be increased in excess of the ceiling allowed under this Circular.
- ii. Existing foreign bank branches shall be given until 31 December 2019 to use twice the level of capital as defined in this Subsection as net worth, as reference point for purposes of determining the appropriate SBL."

**"§X105.6 (2008 - X121.6) Risk-based capital for foreign bank branch**

(1) Foreign bank branches shall comply with the same risk-based capital adequacy ratios applicable to domestic banks of the same category.

(2) In computing the risk-based capital adequacy ratios, Common Equity Tier 1 (CET1) capital shall include permanently assigned capital, undivided profits, accumulated net earnings and other capital components.

(3) Any Net due from head office, branches, subsidiaries and other offices outside the Philippines, excluding accumulated net earnings shall be deducted from CET1 capital.

(4) The guidelines for computing the risk-based capital adequacy ratios are provided in Appendix 63b.”

**“§ X105.7 (2008 - X121.7) *Head Office guarantee.***

x x x”

**“§ X105.8 (2008 - X121.8) *Scope of authority for locally incorporated subsidiaries of foreign banks as well as branches with full banking authority.*** Subsidiaries and branches of foreign banks established under Subsec. X105.1 shall be allowed to perform the same functions and enjoy the same privileges of, and be subject to the same limitations imposed upon, a Philippine bank of the same category. Privileges shall include the eligibility to operate under a universal banking authority subject to compliance with existing rules and regulations and the guidelines enumerated in Appendix 3.”

**“§ X105.9 (2008 - X121.9) *Control of the resources of the banking system.***

The Monetary Board shall adopt such measures as may be necessary to ensure that at all times the control of sixty percent (60%) of the resources or assets of the entire banking system is held by domestic banks, which are majority-owned by Filipinos. Said measures may include –

- (i) Suspension of entry of additional foreign bank subsidiaries and branches; and
- (ii) Suspension of license upgrade or conversion to subsidiary of existing foreign bank branches.

Other measures may also be considered, provided that such measures so adopted shall be consistent with R.A. No. 7721, as amended by R.A. No. 10641, and shall consider vested rights and the non-impairment of contracts.”

**“§ X105.10 (2008 - X121.10) *Change from one mode of entry to another***

Foreign banks which are operating in the Philippines may apply for conversion of their mode of entry.

The bank shall comply with all applicable requirements and submit an acceptable transition plan which shall address how the foreign bank shall implement the change in mode of entry.”

**“§ X105.12 (2008-X121.12) *Equal Treatment***

Any right, privilege or incentive granted to foreign banks or their subsidiaries or affiliates under R.A. No. 7721, as amended by R.A. No. 10641 shall be equally enjoyed by, and extended under the same conditions, to domestic banks.”

**Section 2.** Subsection X126.1 of the MORB on the limits of stockholdings in a single bank is hereby amended to read, as follows:

**“§ X126.1 Limits of stockholdings in a single bank.** The stockholdings of an individual, corporation, family group, or same group of persons in any bank shall be subject to the limits prescribed in Sections 11, 12, and 13 of R.A. No. 8791, R.A No. 7906, R.A No. 7353, as amended by R.A No. 10574, R.A. No. 7721, as amended by R.A. No. 10641, and other relevant laws as summarized in the table below:

<b>Particulars</b>	<b>Ceiling</b>
(a) Voting shares of stock of a foreign individual or a foreign non-bank corporation in:  i. UB/KB and TB ii. RB	40% 60%
(b) Aggregate ownership of the voting shares of stock of foreign individuals and/or foreign non-bank corporations in:  i. UB/KB ii. TB/RB	40% 60%
(c) Voting shares of stock of a qualified foreign bank in UB, KB, TB and RB	100%
(d) Combined ownership of the voting shares of stock of qualified foreign banks in UB, KB, TB and RB	100%
(e) Voting shares of stock of a Filipino individual or a Philippine non-bank corporation in:  i. UB/KB and TB ii. RB  Voting shares of stock of a qualified Philippine corporation in UB, KB, TB and RB prior to the effectivity of RA. No. 10641 (7 August 2014)	40% 60%  60%
(f) Combined ownership of an individual and corporation/s which is/are wholly-owned or a majority of the voting shares of stock of which is owned by such individual in:  i. UB/KB/TB ii. RB	40% 60%