

[BSP CIRCULAR NO. 1353 S. 1992, August 24, 1992]

FURTHER LIBERALIZING FOREIGN EXCHANGE REGULATIONS

Pursuant to Resolution No. 738 dated August 7, 1992 of the Monetary Board further liberalizing the foreign exchange regulations on receipts and disbursements of residents arising from non-trade and trade transactions, pertinent provisions of Central Bank Circular No. 1318 dated January 3, 1992, No. 1338 dated April 28, 1992 on Non-Trade Foreign Exchange Transactions, and No. 1348 dated July 28, 1992 on Foreign Trade Transactions are hereby amended, modified and/or repealed as follows:

Chapter I
Non-Trade Foreign Exchange Transactions
and Transfers of Local Currencies

SECTION 1. Repeal of Chapters I and II of CB Circular No. 1318, and CB Circular No. 1338 — Except as otherwise provided in this Chapter, all the rules and regulations contained in Chapter I (Sections 1 to 8) of CB Circular No. 1318 dated January 3, 1992 entitled "FOREIGN EXCHANGE RECEIPTS AND ACQUISITIONS" and Chapter II (Sections 9 to 31) of the same Circular entitled "GENERAL RULES ON FOREIGN EXCHANGE DISBURSEMENTS AND TRANSFERS OF LOCAL AND FOREIGN CURRENCIES" are hereby repealed.

CB Circular 1338 dated April 28, 1992 containing the RULES ON EXPORT RETENTION FOR SERVICE EXPORTERS" is also hereby repealed.

SECTION 2. Disposition of Foreign Exchange Receipts — As a general rule, foreign exchange may be freely sold and purchased outside the banking system. Foreign exchange receipts, acquisitions or earnings may also be deposited in foreign currency accounts, whether in the Philippines or abroad, or brought out of the Philippines.

However, in order that foreign loans and foreign investments can be serviced with foreign exchange purchased from the banking system, the proceeds of such foreign loans and foreign investments shall continue to be sold to AABs for pesos.

SECTION 3. Sales of Foreign Exchange by AABs — As a general rule, all categories of banks (except Offshore Banking Units [OBUs]) duly licensed by the Central Bank shall be considered as Authorized Agent Banks (AABs).

AABs may sell foreign exchange without need of prior CB approval for any payment on any foreign exchange transaction such as but not limited to:

- a. Travel allowances;

- b. Educational expenses abroad;
- c. Medical and hospitalization expenses;
- d. Support of dependents abroad;
- e. Port disbursements abroad of aircraft and vessels of Philippine registry or chartered/leased by domestic operators for fuel, ship's stores and similar supplies, harbor/airfield fees, repairs and maintenance;
- f. Mail fees;
- g. Fees for correspondence courses;
- h. Salvage fees;
- i. Foreign advertising costs;
- j. International settlement of accounts for telegraph, telegram, cable, radio, satellite and other communication facilities;
- k. Membership dues and registration/examination fees;
- l. Subscription to foreign magazines or periodicals for non-commercial use;
- m. Real property taxes and income taxes due to foreign governments;
- n. Commissions on exports, or on inward foreign investments, due foreign agents;
- o. Rebates, discounts and refunds of export proceeds due to defective export shipments or late deliveries;
- p. Maintenance and administrative expenses of overseas private and government offices;
- q. Transfers of emigrant's assets;
- r. Remittance of salaries of temporary residents;
- s. Technology transfer payments;
- t. Royalty fees and payments for copyrights;
- u. Producer's shares in movie revenues/TV film rentals;
- v. Retainer fees due foreign professionals;
- w. Reinsurance premia and payments for losses;
- x. Revenues of foreign airlines and shipping companies; and

y. Lease payments.

Payments that are foreign loan-related, including payments for schemes/arrangements which partake of the nature of a loan, shall continue to be governed by existing Central Bank regulations.

SECTION 4. Responsibility of AABs — It shall be the responsibility of AABs to ensure that purchases of foreign exchange are duly supported by documents evidencing the legitimacy of the obligation and of the purpose for the purchase of foreign exchange.

In all cases, AABs selling foreign exchange for remittance abroad shall ensure that taxes, when required, have been paid and that the remittance is net of such taxes.

SECTION 5. Purchase of Foreign Exchange by Tourists — Tourists may purchase foreign exchange from AABs to the extent of the amount shown to have been sold by them for pesos to AABs. Departing tourists may reconvert at airports or other ports of exit unspent pesos of up to a maximum of US\$200 or an equivalent amount in any other foreign currency calculated at prevailing exchange rates, without need of showing proof of previous sale by them of foreign exchange to AABs.

SECTION 6. Reports (for Statistical Purposes) — (a) All AABs shall report their purchases and sales of foreign exchange to the Central Bank. In the case of commercial banks, expanded commercial banks and specialized government banks, the report shall be submitted daily in IOS Form I. In the case of thrift banks and rural banks, their foreign exchange receipts and disbursements, if any, shall be reported to the Central Bank on a monthly basis, under IOS Form IA (1992); and

b. All residents falling under any of the following categories of non-trade foreign exchange earners shall submit to the Central Bank, a monthly report of their foreign exchange receipts and disbursements, if any, under a report form which shall be prescribed by the Central Bank:

1. Recruitment, placement, manning and crewing agencies;
2. Insurance companies or agents;
3. Communication and telecommunication companies;
4. Hotels, restaurants, resorts, gifts shops and duty-free shops, tour operators, travel agents organizing domestic tours and other establishments duly accredited by the Department of Tourism as tourism-oriented establishments;
5. Airline owners and operators engaged in international flight operations;
6. Shipowners and operators engaged in overseas operations;
7. Those engaged in port operations, marine services, catering services, hauling services and other similar services;
8. Local agents of foreign carriers;

9. Those rendering management, engineering, planning and other services, whether as prime contractors or sub-contractors;
10. Those winning construction or supply contracts on foreign-assisted projects;
11. Overseas construction contractors and construction-related contractors;
12. Amusement and gaming establishments;
13. Indentors, commission agents, or Philippine representatives of foreign firms;
14. Oil companies engaged in selling aviation gasoline, bunker oil and other oil products to aircraft and vessels of foreign companies; and
15. Recipients of profits, dividends, earnings, divestment proceeds from outward investments funded with foreign exchange purchased from AABs.

SECTION 7. Import/Export of Philippine Currency — No person may import or export nor bring with him into or out of the country, 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 P5,000.00 without authorization by the Central Bank.

SECTION 8. Inward Foreign Investments — All the provisions of Chapter III of CB Circular No. 1318 on "Foreign Investments in the Philippines" shall remain in full force and effect. However, Section 34, 37, 39, 44 and 45 of said Chapter are hereby amended to read as follows:

"SECTION 34. Where to Register — (a) Direct Foreign Equity Investment — Direct foreign equity investments shall be registered with the Central Bank, provided, that foreign equity investments in a domestic bank not listed in the stock exchange shall be registered only after approval of the foreign investment by the Monetary Board.

b. Investment in Government and Other Securities — Applications for registration of foreign investments in certificates of indebtedness issued by the Philippine government, or its political subdivision, agencies/instrumentalities or in securities listed in the Philippine stock exchanges including new issues, additional issues, stock rights, stock dividends, stock warrants, stock splits, over the counter securities transactions and the like, shall be filed by the stock broker/dealer or underwriter with the Central Bank or with the custodian bank designated by the foreign investor. The Central Bank or designated custodian bank shall accordingly issue in quadruplicate the Central Bank Registration Document (CBRD).

A custodian bank shall refer to an AAB of the Central Bank or an OBU appointed by the foreign investor to register his investments and to hold shares for and in his behalf and to represent him in all the necessary actions in connection with his investments in the Philippines."

"SECTION 37. Full and Immediate Repatriation/Remittance Privileges —

Foreign investments duly registered with the Central Bank or with a custodian bank duly designated by the foreign investor, shall be entitled to full and immediate capital repatriation/dividend/interest remittance privileges. Without prior Central Bank approval, AABs are authorized to sell and to remit the equivalent foreign exchange at the exchange rate prevailing at the time of actual remittance representing sales/divestment proceeds or dividends/interest of duly registered foreign investment upon presentation of the CBRD which shall serve as the authority to repatriate said divestment/sales proceeds or remittance of cash dividends and/or interest. The repatriation/remittance procedure is outlined in Appendix "B" hereof entitled, "Capital Repatriation/Dividend/Interest Remittance Procedure."

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"SECTION 39. Investments Prior to March 15, 1973 — Capital repatriation or dividend remittance of direct foreign equity investments or investment in listed securities determined by the Central Bank to have been made prior to March 15, 1973 when Central Bank registration was not yet required under existing rules and regulations, shall be allowed thru an AAB."

SECTION 44. Imports and Exports of Stock Certificates of Philippine Firms — No prior Central Bank authority shall be required for the import/export of stock certificates of Philippine firms issued to foreign investors, including investments prior to March 15, 1973 under Section 39 hereof."

"SECTION 45. Reportorial Requirements — The remitting AAB shall transmit on transaction date to the Central Bank a copy of the CBRD with all the remittance transactions duly recorded thereon, together with a copy of the broker's sales invoice or other proof of sale or cash dividend schedule, for post audit and updating of Central Bank records."

SECTION 9. Amendment of Appendices to CB Circular No. 1318 — Appendices "A", "B", and "C" of CB Circular No. 1318 are hereby amended, the respective full texts of which are hereto attached.

SECTION 10. Outward Investments by Philippine Residents — The provisions of Chapter IV (Sections 46, 47 and 48) of CB Circular No. 1318 on "Outward Investments by Philippines Residents," are hereby amended to read in full as follows:

"SECTION 46. Outward Investments by Philippine Residents — A resident may invest abroad without prior Central Bank approval in any of the following cases:

- a. the investments are funded by withdrawals from foreign currency deposit units (FCDUs); or
- b. the funds to be invested are not sourced from AABs; or