[BSP CIRCULAR NO. 822, January 10, 2014]

AMENDMENT TO THE CAPITAL FRAMEWORK OF FOREIGN BANK BRANCHES

The Monetary Board, in its Resolution No. 1999 dated 28 November 2013, amended the components of capital for purposes of compliance with minimum capital requirements under Section X111 of the Manual of Regulations for Banks (MORB) and the Risk-Based Capital Adequacy Framework for Philippine Branches of Foreign Banks, as follows:

Section 1. Subsection X105.4 of the MORB is re-titled as Capital Requirements of Foreign Banks and amended to contain the capital requirements of foreign banks established as locally incorporated subsidiaries and as branches. The provisions under the previous item d. of Subsection X105.4 and Subsection X105.5 are amended, consolidated and renamed as Minimum Capital Requirements for Foreign Bank Branches under the new Subsection X105.4.b(1) of the MORB. Items b and c of the previous Subsection X105.4 of the MORB are re-titled as permanently assigned capital requirements for foreign bank branches under the new Subsection X105.4.b(2) of the MORB. The new Subsection X105.4 of the MORB reads as:

"Subsection X105.4 (2008 - X121.4) Capital Requirements of Foreign Banks

a. **For locally incorporated subsidiaries.** The minimum capital required for locally incorporated subsidiaries of foreign banks shall be the same as that prescribed by the Monetary Board for domestic banks of the same category.

b. **For foreign bank branches**

(1) Minimum Capital Requirements

(a) A foreign bank branch shall comply with the same minimum capital requirements under Section X111 of the MORB and prudential capital ratios applicable to domestic banks of the same category.

(b) The total capital of a foreign bank branch shall include permanently assigned capital plus the *Net due* to account and other capital components.

(c) Should there be any Net due from head office, branches, subsidiaries and other offices outside the Philippines, the same shall be deducted from the capital accounts for purposes of determining compliance with the minimum capital requirements.

(d) The amount of *Net due* to which may be included in total capital shall be the lower of the equivalent amount of the permanently assigned capital or the actual balance of the *Net due* to account.

(e) Current earnings/losses booked in the "Undivided Profits" account shall be included in the *Net due* to account.

For purposes of computing the minimum capital requirements, the balances of undivided profits, unremitted profits not yet approved by the BSP and losses in operation of Philippine Branch of foreign banks shall compose the "Accumulated Earnings" account.

(f) In computing the actual balance of *Net Due* to account, the amount of Accumulated Earnings as defined under item e above shall be excluded.

(g) The bank may elect portion of earnings not remitted to the head office as part of assigned capital. In this case, said earnings may no longer be remittable to the head office.

(h) In complying with the minimum capital requirements, the total capital shall be net of unbooked valuation reserves and other capital adjustments as may be required by the BSP, total outstanding unsecured credit accommodations to DOSRI, both direct and indirect and deferred income tax.

(i) At no time shall the adjusted capital (total capital less regulatory adjustments) fall below the amount required under Subsection X111.1 of the MORB.

(j) Where a foreign bank has more than one (1) branch or banking office in the Philippines, all its branches and banking offices shall be treated as a unit for purpose of determining compliance with the legal reserve requirement and with capital requirements prescribed in laws/regulations.

(2) Permanently Assigned Capital Requirements

(a) *For foreign banks which established branches in the Philippines after the effectivity of Republic Act No. 7721.* A foreign bank authorized to establish branches with full banking authority in the Philippines shall inwardly remit and convert into Philippine currency, as permanently assigned capital, the U.S. Dollar equivalent of P210.0 million at the exchange rate prevailing on 05 June 1994 (the date of effectivity of R.A. No. 7721), i.e., P26.979 to US$1. The foreign bank shall thereby be entitled to establish three (3) branches in locations of its choice.

For purposes of this Subsection, the same foreign bank may open three (3) additional branches in locations designated by the Monetary Board by inwardly remitting and converting into Philippine currency, as additional permanently assigned capital the U.S. Dollar equivalent of P35.0 million for every additional branch, computed at the same exchange rate of P26.979 to US$1. The Monetary Board, in determining the location of the next three (3) branches established pursuant to the provisions of R.A. No. 7721 shall consider, among other things, development requirements of a region and the contribution of a bank branch may make to regional development expansion of basic financial services and enhanced access to credit by small and mediumscale enterprises: Provided, That the total number of branches for each new foreign bank entrant shall not exceed six (6).

(b) *For foreign banks with existing branches in the Philippines upon the effectivity of Republic Act No. 7721.* A foreign bank with existing branch or branches in the Philippines upon the effectivity of R.A. No. 7721 shall comply with the required permanently assigned capital by inwardly remitting and converting into Philippine currency the U.S. Dollar equivalent of P210.0 million computed at the same exchange rate of P26.979 to US$1, within a period of one and one-half (1½) years from 05 June 1994.

The said foreign bank may establish up to six (6) branches in addition to its branch or branches existing as 05 June 1994, the first three (3) additional branches in locations of its choice, and the next three (3) additional branches in locations designated by the Monetary Board: *Provided*, That upon establishing any additional branch, the bank shall comply immediately with the permanently assigned capital mentioned in the next preceding paragraph: *Provided, further*, That the said permanently assigned capital shall be the capital for the bank's first three (3) additional branches, including its existing branch or branches, and for each branch established in addition thereto, the U.S. Dollar equivalent of P35 million computed at the same exchange rate of P26.979 to US$1, shall be inwardly remitted and converted into Philippine currency.

If the permanently assigned capital of the existing branch/es of said foreign bank that has been converted to Philippine currency is sufficient to cover the abovementioned amount of assigned capital required for the additional branches, no additional assigned capital shall be required; otherwise, the foreign bank shall comply immediately with the capital requirements under the above paragraphs.

(c) Applicable Exchange Rate – It is understood that the exchange rate of P26.979 to US$1 mentioned hereinabove is applicable only to the minimum permanently assigned capital requirements provided in items (a) and (b) above. For other purposes, the exchange rate prevailing at the time of remittance shall be applicable.

Section 2. The provisions of the previous Subsection X105.5 of the MORB are consolidated in item b of Subsection X105.4 of the MORB. The previous Subsection X105.6 of the MORB entitled *Prescribed ratio of net due to and permanently assigned capital* is re-numbered as Subsection X105.5 of the MORB and amended to read as follows:

"Subsection X105.5 Prescribed Ratio of Net Due To Account

The amount of *Net due* to which may be included in Total Capital and Qualifying Capital shall not exceed the amount of permanently assigned capital. The *Net Due* to account shall exclude portion consisting of accumulated earnings as defined in Item b(1)(e) of Subsection X105.4.