

# [ BSP CIRCULAR NO. 794, April 18, 2013 ]

## AMENDMENTS TO FOREIGN EXCHANGE REGULATIONS

Pursuant to Monetary Board Resolution Nos. 473 and 474 both dated 21 March 2013 and No. 596 dated 11 April 2013, the following provisions of the Manual of Regulations on Foreign Exchange Transactions issued under Circular No. 645 dated 13 February 2009, as amended, are revised as follows:

### **"GENERAL POLICY ON FOREIGN EXCHANGE TRANSACTIONS**

The regulations governing foreign exchange transactions are hereby consolidated in the Manual of Regulations on Foreign Exchange Transactions hereinafter referred to as the "Manual" which replaces Circular No. 1389 dated 13 April 1993, as amended.

The transactions of Authorized Agent Banks (AABs)/AAB-subsidiary/affiliate forex corporations (AAB-forex corps) must also comply with the provisions of existing laws, rules and regulations.

The sale of foreign exchange may be freely made: (1) between and among AABs; (2) by AAB-forex corps to AABs; and (3) by individuals/entities other than AABs/AAB-forex corps: x x x

The rules herein prescribing the limits on foreign exchange that may be sold and the required documents to support the sale shall apply to sale of foreign exchange: (1) by AABs to individuals/entities that are not AABs; and (2) by AAB-forex corps to individuals/entities that are not AABs.

The seller/remitter of foreign exchange shall ensure that applicable Philippine taxes related to the: a) sale of foreign exchange; b) remittance of foreign exchange; and c) the underlying foreign exchange transaction have been paid and that the remittance is net of such taxes. For this purpose, the seller/remitter of foreign exchange shall require submission of receipt(s) evidencing payment of applicable taxes.

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### **"Section 2. Sale of Foreign Exchange to Residents by AABs and AAB-Forex Corps for Non-Trade Current Account Transactions with Non-Residents.**

AABs and AAB-forex corps may sell foreign exchange to residents to cover payments to non-resident beneficiaries for non-trade current account purposes (e.g., educational expenses, medical expenses, travel expenses and salaries of foreign expatriates), other than those relating to foreign/foreign currency loans and investments, without need for prior BSP approval, subject to the submission/presentation of the following to the foreign exchange selling institution:

1. For sale not exceeding USD120,000 or its equivalent in other foreign currency

- Duly accomplished application to purchase foreign exchange using the prescribed format (Annex A);

2. For sale exceeding USD120,000 or its equivalent in other foreign currency

- Duly accomplished application to purchase foreign exchange using the prescribed format (Annex A) supported by documents prescribed under Item A of Appendix 1 hereof.

x x x"

**"Section 3. Peso Accounts of, and Sale of Foreign Exchange to, Non-Residents**

1. Peso Accounts of Non-residents. All peso deposit accounts of non-residents, including foreign banks, opened/maintained with AABs operating in the Philippines, shall be funded only by:

- a. inward remittances of convertible<sup>[1]</sup> foreign exchange;
- b. peso income of non-residents from, or peso sales proceeds of, properties in the Philippines allowed to be owned under existing laws;
- c. onshore peso receipts of non-residents from residents for services rendered by the former to the latter, for which the resident would have been entitled to buy foreign exchange from AABs and AAB-forex corps for remittance to the non-resident service provider;
- d. peso receipts of expatriates working in the Philippines with contracts of less than one (1) year representing salary/allowance/other benefits; and
- e. onshore peso funds of: (i) foreign students enrolled for at least one semester in the Philippines; and (ii) non-resident Filipinos,

subject to the provisions of Appendix 1.1.

AABs shall continue to comply with their "Know Your Customer" policy.

2. Sale of Foreign Exchange to Non-Residents

- a. Non-residents. Depository AABs may sell foreign exchange of up to USD60,000 per day for the balance of peso deposit accounts of nonresidents without need for prior BSP approval, subject to the submission of a duly accomplished application to purchase foreign exchange using the prescribed format (Annex A). Peso deposits funded by item 1 (a) above must have been used onshore as foreign direct investments or invested in eligible portfolio instruments and registered with BSP or custodian banks, subject to the provisions of Chapter II (Foreign Investments) hereof and related appendices/annexes, as may be applicable, to allow conversion to foreign exchange; otherwise, prior BSP approval shall be required.
- b. Non-resident Tourists/Balikbayan. AABs and AAB-forex corps may sell foreign exchange to non-resident tourists or *balikbayan* to the extent of the amount shown to have been sold for pesos by the non-residents to said entities. Departing non-resident tourists or *balikbayan* may reconvert at airports or other ports of exit unspent pesos of up to a maximum of USD10,000 or its equivalent in other foreign currency

calculated at prevailing exchange rates, without showing proof of previous sale of foreign exchange for pesos.”

#### **“Section 4. Cross-Border Transfer of local and Foreign Currencies**

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2. Foreign Currency. Any person, who brings into or takes out of the Philippines foreign currency, as well as other foreign currency-denominated bearer monetary instruments, in excess of USD10,000 or its equivalent is required to declare the same in writing and to furnish information on the source and purpose of the transport of such currency or monetary instrument (Annex K).  
x x x”

#### **“Section 18. Modes and Currency of Payment xxx**

##### 3. Acceptable Currencies

a. Payments for exports may be made in the following currencies:

- 1) U.S. dollar
- 2) Japanese yen
- 3) Pound sterling
- 4) Hong Kong dollar
- 5) Swiss franc
- 6) Canadian dollar
- 7) Singapore dollar
- 8) Australian dollar
- 9) Bahrain dinar
- 10) Kuwait dinar
- 11) Saudi riyal
- 12) Brunei dollar
- 13) Indonesian rupiah
- 14) Thai baht
- 15) United Arab Emirates dirham
- 16) Euro
- 17) Korean won
- 18) Chinese renminbi or yuan
- 19) Such other currencies that may be declared convertible by the BSP”

**“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

1. The required BSP approval shall be obtained as follows:

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2. Resident companies/entities intending to obtain medium-and long-term foreign loans or issue bonds/notes/debt securities offshore shall submit to the BSP-IOD their annual foreign borrowings plan using the prescribed form (Annex D.3) as follows:

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4. For statistical purposes, all foreign loans obtained by private sector entities, whether or not these are BSP-approved/registered, shall be regularly reported to the BSP-IOD, using the prescribed forms (Annexes E.1, E.2, E.3 and E.4) within the required deadline until the obligations are fully extinguished.”

**“Section 24. Loans Not Requiring Prior BSP Approval.** The following loans may be granted without prior approval of the BSP:

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5. Short-term loans of private exporters/importers from OBUs and foreign banks with branches in the Philippines: *Provided, That:*

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- f. The loans have been granted against BSP-approved short-term relending program of the creditor banks, including OBUs.<sup>[2]</sup>
- g. The following reports shall be submitted to the BSP:

- i. By the borrowers - monthly reports on transactions and status of their short-term loans within three (3) banking days after end of reference month using the prescribed form (Annex E.1);
- ii. By the creditor OBU - Schedule 4A (Part I) & 4B (Part II) - Consolidated Report on Loans Granted by OBUs to Residents - to the “Statement of Assets and Liabilities” of OBUs.; and
- iii. By the creditor foreign bank - Report on Short-Term Loans Granted to Residents by Foreign Banks (Annex F).

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9. Loans of resident private sector borrowers from FCDUs/EFCDUs/offshore sources that are not guaranteed by public sector entities or AABs to finance the Government's Public Private Partnership (PPP) projects. These loans may be granted without prior BSP approval until 28 December 2016. However, if financing for the PPP projects will be in the form of offshore issuances of peso-denominated instruments, the provisions of Section 31.2 shall apply. Borrowings to finance PPP projects shall continue to be subject to BSP registration if to be serviced using foreign exchange to be purchased from AABs and AAB-forex corps.”

**“Section 29. Servicing of Loans<sup>[3]</sup>**

x x x”

**“Section 31. Approval/Registration and Servicing of Other Financing Schemes/Arrangements**

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2. Offshore issuances of peso-denominated bonds/notes and similar debt instruments (whether to be settled in pesos or foreign currency) by both residents and non-residents require prior BSP approval, such as those involving–

- a. inward remittance of foreign exchange to the Philippines and sale thereof for pesos to AABs; and/or
- b. participation of a resident enterprise or any of its offshore offices, branches, subsidiaries and affiliates as issuer, guarantor or beneficiary, regardless of the use of proceeds.

The approval of said instruments shall be subject to the following conditions:

- a. the transaction shall not involve import or export of Philippine currency, whether physically or electronically; and
- b. compliance with pertinent rules and regulations of the BSP (including reportorial requirements) and other regulatory/government agencies/entities, including the approval by the Department of Finance (DOF) in the case of supranational issuers.

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**"Section 32. General Policy.** The BSP supports the country's policy to encourage inward foreign investments. Said investments need not be registered with the BSP unless the foreign exchange needed to service the repatriation of capital and the remittance of dividends, profits and earnings which accrue thereon shall be purchased from AABs or AAB-forex corps.

As a matter of policy, non-residents are not allowed to invest, whether directly or indirectly, in the Special Deposit Account (SDA) facility of the BSP.<sup>[4]</sup> "

**"Section 33. Categories of Inward Foreign Investments.** For purposes of registration, foreign investments may be in the form of: (1) direct investments in Philippine firms or enterprises; and (2) portfolio investments as enumerated in Section 35 hereof."

**"Section 35. Inward Foreign Portfolio Investments.** Inward foreign portfolio investments shall refer to the following instruments:

1. Peso-denominated securities issued onshore by the National Government and other public sector entities.
2. Securities of resident enterprises listed at the Philippine Stock Exchange (PSE).
3. Peso time deposits with an AAB with a maturity of at least ninety (90) days.
4. Other peso-denominated debt instruments issued onshore by private resident firms (such as bonds/notes, bills payables, non-participating preferred shares) and not covered by Section 23.

x x x"

**"Section 36. Registration with the BSP.** The following inward foreign investments shall be registered with the BSP:

1. Inward foreign direct investments under Section 34; and
2. Inward foreign portfolio investments in other peso-denominated debt instruments under Item No. 4 of Section 35.

All applications<sup>[5]</sup> for registration of foreign direct investments (Annex W) under Section 34 shall be filed with the BSP within one (1) year from the date of inward