

[BSP CIRCULAR NO. 698, November 05, 2010]

REFORMS ON THE FOREIGN EXCHANGE REGULATORY FRAMEWORK

Pursuant to Monetary Board Resolution No. 1496 dated 28 October 2010, the following provisions of the Manual of Regulations on Foreign Exchange Transactions (FX Manual) issued under Circular No. 645 dated 13 February 2009 are hereby amended as follows:

"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 USD60,000 or its equivalent in other foreign currency
 - Duly accomplished application to purchase foreign exchange using the prescribed format (Annex A^{*});
2. For sale exceeding USD60,000 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.

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"Section 3. Sale of Foreign Exchange to Non-Resident Tourists/Balikbayans by AABs and AAB-Forex Corps. AABs and AAB-forex corps may sell foreign exchange to non-resident tourists or balikbayans to the extent of the amount shown to have been sold by them for pesos to said entities. Departing non-resident tourists or balikbayans may reconvert at airports or other ports of exit unspent pesos up to a maximum of USD5,000 or its equivalent in other foreign currency calculated at prevailing exchange rates, without showing proof/s of previous sale of foreign exchange for pesos.

"Section 13. Advance Payment – AABs and AAB-forex corps may sell foreign exchange to importers, up to USD1 million or its equivalent in other foreign currency without prior BSP approval, for partial or full advance payment for importations in accordance with the guidelines under Appendix 7^{*} hereof including documents prescribed thereunder. The foreign exchange selling/remitting AAB shall report these

transactions to the BSP- International Operations Department (IOD) using the prescribed forms (Annexes B* and C*). All applications to purchase foreign exchange in excess of USD1 million or its equivalent in other foreign currency to service advance payment for importations shall be filed directly with the BSP-IOD for prior approval."

"Section 29. Servicing of Loans

1. All foreign exchange purchases from AABs or AAB-forex corps for servicing of foreign/foreign currency loans shall be directly remitted to the creditor/ beneficiary concerned on the day of purchase, unless otherwise explicitly allowed by BSP.

2. Payments for principal, interest, fees and related charges on loans duly registered with the BSP may be remitted through AABs as these fall due without prior BSP approval provided such interest, fees and charges are indicated in the BSP registration document, and upon presentation of documents prescribed under Item B of Appendix 1 hereof.

3. Payments for the following shall, however, be subject to prior BSP approval:

a. Prepayment of public sector/publicly guaranteed private sector loans;

b. All loans that are past due for more than 30 calendar days reckoned as follows:

1. For short-term loans, from the 360th day after availment; and

2. For MLT loans, from original maturity date.

c. Other loan-related fees/charges not authorized by the BSP; and

d. Loans covered by official rescheduling with Paris Club creditors.

4. AABs and AAB-forex corps may sell foreign exchange for prepayments (i.e. payments before original due dates) of MLT private sector loans (including bonds and notes) that are not publicly-guaranteed and are covered by a BSP registration document (BSRD) without prior BSP approval, subject to the following conditions:

a. The borrower shall submit to the BSP-IOD a notice of their intention to prepay at least one (1) month prior to the target prepayment date indicating the following: name of creditor, BSP registration number for the loan, date of prepayment, amount to be prepaid in original currency, and remittance instructions (e.g., account number and recipient bank for the prepayment). After payment, the borrower shall submit to the BSP-IOD, proof/s of the payment made, together with copy of the duly stamped BSRD and its Form 2 report (Report on Foreign Borrowings for the month).

- b. The foreign exchange selling AAB/AAB-forex corp shall require the presentation by the borrower of documents prescribed under Item B, Appendix 1 hereof.
 - c. The foreign exchange purchases shall not exceed USD50 million per day, provided that the total foreign exchange purchases shall not at any case exceed the amount to be prepaid. The daily limit shall be subject to periodic review to take into consideration prevailing conditions; revised limits shall be duly disseminated by the BSP.
 - d. Advance foreign exchange purchases shall be deposited in the borrower's FCDU/offshore account pending remittance of the full amount to the creditor at the target prepayment date.
 - e. The foreign exchange selling institution shall see to it that documents evidencing payment of applicable documentary stamp tax, if any, are presented/available.
 - f. The foreign exchange sold shall be duly reported by the foreign exchange- selling AAB under FX Form 1 (Consolidated Report on Foreign Exchange Assets and Liabilities) - Schedule 4 following the deadline for submission of FX Form 1.
5. Applications to purchase foreign exchange for servicing of loan-related payments shall be submitted to any AAB or AAB-forex corp using the prescribed form (Annex A) and supported by documents prescribed under item B, Appendix 1 hereof.
6. AABs and AAB-forex corps shall not sell foreign exchange to residents for payment of foreign exchange obligations to residents other than AABs.
7. All loan payments made, irrespective of the source of the foreign exchange used, shall be reported by the borrower concerned to BSP-IOD using the prescribed form (Annex F^{*})."

"Section 40. Repatriation and Remittance Privileges

- 1. Inward foreign investments duly registered with the BSP or with a custodian bank duly designated by the foreign investor, shall be entitled to full and immediate repatriation of capital and remittance of dividends, profits and earnings using foreign exchange to be purchased from AABs and AAB-forex corps.
- 2. Foreign exchange may be purchased from AABs and AAB-forex corps for outward remittance in an amount equivalent to the peso sales/divestments proceeds (including dividends, profits or earnings thereon) of BSP-registered foreign investments in accordance with the procedures outlined in Appendix 11^{*} and supported by the documents prescribed under Items C.1 and C.2 of Appendix 1 hereof.
- 3. Registering banks for foreign investments may sell for outward remittance the equivalent foreign exchange of excess pesos funded with