

[BSP CIRCULAR NO. 467, S. 2005, January 10, 2005]

TO ISSUE REGULATIONS THAT SHALL GOVERN REPURCHASE AGREEMENTS COVERING GOVERNMENT SECURITIES, COMMERCIAL PAPERS AND OTHER NEGOTIABLE AND NON-NEGOTIABLE SECURITIES OR INSTRUMENTS OF BANKS AND NON-BANKS AND NBQBS AS WELL AS SALE ON A WITHOUT RECOURSE BASIS OF SAID SECURITIES BY BANKS, NBQBS AND OTHER FINANCIAL INSTITUTIONS UNDER THE SUPERVISION OF THE BSP

Pursuant to Monetary Board Resolution No. 1871 dated 23 December 2004, as amended by Monetary Board Resolution No. 12 dated 6 January 2005, the following regulations that shall govern repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments of banks and non-bank financial institutions with quasi-banking functions (NBQBs) as well as sale on a without recourse basis of said securities by banks, NBQBs and other financial institutions under the supervision of the Bangko Sentral ng Pilipinas (BSP) are hereby issued:

Section 1. Proper Recording and Documentation of Repurchase Agreements. All banks, NBQBs and other financial institutions under BSP supervision shall have a true and accurate account, record or statement of their daily transactions. As such, repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments must be properly recorded and documented in accordance with existing BSP regulations.

The absence of proper documentation for repurchase agreements is tantamount to willful omission of entries relevant to any transaction, which shall be a ground for the imposition of administrative sanctions and the disqualification from office of any director or officer responsible therefor under existing laws and regulations.

Section 2. Responsibilities of the Chief Executive Officer or Officer of Equivalent Rank. It shall be the responsibility of the chief executive officer (CEO) or the officer of equivalent rank in a bank/NBFI to:

- a. Institute policies and procedures to prevent undocumented or improperly documented repurchase agreements covering

government securities, commercial papers and other negotiable and non-negotiable securities or instruments;

- b. Submit a notarized certification at the end of every semester that the bank/NBFI did not enter into any repurchase agreement covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing BSP regulations and that the bank/NBFI has strictly complied with the pertinent rules of the SEC and the BSP on the proper sale of securities to the public and performed the necessary representations and disclosures on the securities particularly the following:

1. Informed the clients that such securities are not deposits and as such, do not benefit from any insurance otherwise applicable to deposits such as, but not limited to, Republic Act No. 3591, as amended, otherwise known as the Philippine Deposit Insurance Corporation (PDIC) law;

2. Informed and explained to the client all the basic features of the security being sold on a without recourse basis, such as but not limited to:

- a. Issuer and its financial condition;
- b. Term and maturity date;
- c. Applicable interest rate and its computation;
- d. Tax features (whether taxable, tax paid or tax-exempt);
- e. Risk factors and investment considerations;
- f. Liquidity feature of the instrument:

- 2.f.1. Procedures for selling the security in the secondary market (e.g., OTC or exchange);
- 2.f.2. Authorized selling agents; and
- 2.f.3. Minimum selling lots.