



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE DEPUTY GOVERNOR
SUPERVISION AND EXAMINATION SECTOR

MEMORANDUM NO. M-2013-029

For : All Banks and Quasi-Banks

Subject : Clarification on Guidelines on Lender Count

For the guidance of all banks/quasi-banks, please be informed of the following clarifications on the guidelines on lender count under Subsection 4101Q.2 of the Manual of Regulations for Non-Bank Financial Institutions (MORNBI):

- The "names of payees" on the face of each debt instrument shall be the primary basis of counting the number of lenders or placers in a borrowing instrument. The said rule is reiterated in the second paragraph of Subsection 4101Q.2 item (a) of the MORNBI when the provision mentions that in case the debt instrument is issued to two or more payees under an "and/or" and "or" arrangement, the number of payees appearing on the instrument shall also be the basis for counting the number of lenders or placers. There are only two exceptions to the provision in Subsection 4101Q.2 of the MORNBI, i.e., *first*, the debt instrument is issued in the name of a husband and wife followed by the word "spouses"; and *second*, the name indicated in the debt instrument is a designated payee under an "in trust for" arrangement. In such cases, the debt instrument shall be counted as one borrowing.
- If the payees are indicated in unique "payees accounts" or "bank accounts", which, however, are actually held or owned by several account holders, what should be controlling in counting the number of lenders/placers is the actual account holders of each payee or bank account. Clearly then, the lender count rules under Subsection 4101Q.2 of the MORNBI must be read in relation to Sections 95 and 8.2 of Republic Act Nos. 7653 (The New Central Bank Act) and 8791 (General Banking Law of 2000), respectively^{1/}. Thus the counting of "payees" referred to in Section 4101Q.2 should be construed as referring to actual "*persons*" subject only to the exceptions provided thereunder. Issuance, therefore, in the name of one payee or bank account that is actually owned by siblings shall be counted based on the number of siblings; and the payee or bank accounts which are owned by parents together with their children should be counted separately, as one lender for the husband and wife (i.e., assuming the word "spouses" is also indicated in the account name), while the children should be counted separately and individually and not as a single lender, except when it falls under an "in trust for" arrangement.

^{1/} The requirement of 20 or more lenders under Subsection X234.1 of the Manual of Regulations for Banks is also consistent with what is deemed "public" under Section 8.2 of R.A. No. 8791

- Further, the issuance by an entity performing quasi-banking functions of a particular debt instrument to 19 lenders or less, is subject to reserve requirements, as the quasi-bank is deemed to have at least 20 lenders or creditors at any one time and the debt instrument issued is considered a deposit substitute.

Under Section 95 of Republic Act No. 7653, "the term "deposit substitute" is defined as an alternative form of obtaining funds from the public, other than deposits, through the issuance, endorsement, or acceptance of debt instruments for the borrower's own account, for the purpose of relending or purchasing of receivables and other obligations. These instruments may include, but need not be limited to, bankers' acceptances, promissory notes, participations, certificates of assignment and similar instruments with recourse, and repurchase agreements. The Monetary Board shall determine what specific instruments shall be considered as deposit substitutes for the purposes of Section 94 of this Act: Provided, however that deposit substitutes of commercial, industrial and other non-financial companies issued for the limited purpose of financing their own needs or the needs of their agents or dealers shall not be covered by the provisions of Section 94 of this Act."

For reference and guidance.


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Deputy Governor

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