Republic of the Philippines
Department of Trade and Industry
SECURITIES AND EXCHANGE COMMISSION
SEC Bldg. EDSA, Greenhills, Mandaluyong City

MARKET REGULATION DEPARTMENT

SEC-MRD Opinion No. 06
Series of 2009

24 August 2009

STANDARD CHARTERED BANK
Global Markets
6788 Ayala Avenue, Makati City
Fax. 886-7034

Attention: *Ms. Grace M. Suarez*
Head, Financial Markets Operation

SUBJECT: Delivery versus Payment (DVP)

Gentlemen:

This refers to your request for opinion on the issue whether or not the settlement procedures of your bank with qualified institutional buyers (QIBs) with regard to your government securities transactions achieve delivery versus payment (DVP), and hence compliant with SEC Memorandum Circular No. 14, series of 2006, otherwise known as the Rules Governing the Over-the-Counter (OTC) Market.

In particular, you cited Section 20 (B) of the OTC Rules which requires that "the clearing and settlement arrangement in the exchange of assets subject of the trade shall be delivery versus payment (DVP) scheme".

In reply, herein below is our response to your query:

This is not the first time our office is addressing this issue. In *SEC-MRD Opinion No.1 dated 28 July 2008*, we described the different approaches of achieving DVP in securities transactions. We also discussed extensively the different settlement systems in the domestic equities and fixed income markets. We also made a ruling on similar issue in *SEC-MRD Opinions No. 2 and 3 dated 8 October and 13 November of 2008 respectively.*

The process of clearing and settling securities trade includes several key steps. *First*, the confirmation of the terms of trade by the market participants. *Second*, the calculation of the obligations of the counterparties resulting from the confirmation process which is known as clearance. *Third*, the final transfer of securities (delivery) in exchange for the final transfer of funds (payment) in order to settle the obligations which is known as settlement.

A DVP system is a securities settlement system that provides a mechanism that ensures that delivery occurs if and only if payment occurs. It is a procedure by which the buyer's payment for securities is due at the time of delivery. The purpose of DVP system is to ensure that counterparties are not exposed to principal risk, that is, the risk that the seller of a security could deliver but not receive payment or that the buyer of a security could make payment but not receive delivery. *[CPSS, Delivery Versus Payment in Securities Settlement Systems (BIS, September 1992)]*

Strictly speaking, DVP does not require simultaneous final transfers of funds and securities. When a central securities depository does not itself provide cash accounts for settlement, it first blocks the underlying securities in the account of the seller or his custodian. It then requests transfer of funds from the buyer to the seller in the settlement bank. The securities are delivered to the buyer or his custodian if and only if the central securities depository receives confirmation of settlement of the cash leg from the settlement bank. *[CPSS, Recommendations For Securities Settlement Systems (BIS, November 2001)]*

In your request, you seek confirmation that the settlement procedures Standard Chartered Bank ("SCB") relative to your GS transactions with QIB clients achieve DVP. Based on your letter, your bank's settlement procedures can be described as follows:

SBC participates in the settlement of securities traded in the secondary market using the BTR RoSS Telerate System .

As a member of the Government Securities Eligible Dealer ("GSED"), SBC has – (1) a Demand Deposit Account (DDA) maintained with the BSP which is debited or credited arising from payment instructions submitted to PhilPass (Philippine Payments and Settlement System) though the BTR RoSS Telerate System; and, (2) a RoSS account with the BTR which is debited and credited for the securities sold and purchased to/from counterparties. The settlement of cash is made via the Real Time Gross Settlement System ("RTGS"). The simultaneous, final and irrevocable exchange of securities (delivery) vs. funds (payment) is made possible under the BTr RoSS Telerate System because the RoSS (Registry of Scriptless Securities) is linked to PhilPaSS (Philippine Payments and Settlement System) via RTGS.

I SBC sells GS to a counterparty:

On settlement/due date, SCB as seller will enter the details of the securities sold, settlement proceeds and counterparty in the BTr RoSS Telerate System. Once the accuracy of the details entered by SCB in the BTr RoSS Telerate system is confirmed by the counterparty, the transaction will be matched and the simultaneous, final and irrevocable exchange of securities (delivery) vs. funds (payment) will transpire in the system. The DDA account of SCB will be credited for the settlement proceeds and its RoSS account will be debited for the securities to be delivered to the counterparty. The latter's DDA account on the other hand, will be debited for the settlement proceeds while its RoSS account will be credited for the securities bought.

II SCB buys GS from a counterparty:

On settlement/due date, the counterparty as seller will enter the details of the securities sold, settlement proceeds and SCB as counterparty in the BTr RoSS Telerate System. Once the accuracy of the details entered by the counterparty in the BTr RoSS Telerate System is confirmed by the SCB, the transaction will be matched and the simultaneous, final and irrevocable exchange of securities (delivery) vs. payment will transpire in the system. The DDA account of SCB will be debited for the settlement proceeds and its RoSS account will be credited for the securities bought . The counterparty's

DDA account, on the other hand, will be credited for the settlement proceeds while its RoSS account will be debited for the security delivered to SCB.

Under the aforementioned settlement procedures as discussed in your letter, it appears that settlements will be done on a per deal basis and will not involve netting or off-setting of transactions.

These procedures and safeguards ensure that each transfer of securities is effected only when payment occurs or assured within the settlement cycle. As earlier mentioned, DVP does not require simultaneous final transfers of funds and securities. It is essential though that the securities are delivered to the buyer or his custodian if and only if it is confirmed that the cash aspect of the transaction is paid. Thus, in our view, **the settlement arrangements described in your letter achieve DVP**.

It is understood though that the foregoing opinion is rendered based solely on the facts you disclosed and described in the query and relevant solely to the particular issue raised therein and shall not be used in the nature of a standing rule binding upon the Commission in other cases whether of similar or dissimilar circumstances. *[SEC Memorandum Circular No. 15 (2003)]*

Finally, you are directed that the detailed procedures for GS transactions with QIBs as described in your letter be made part of your records and that the same shall be disclosed to your counterparties and form part of the client agreement.

For your guidance.

Very truly yours,

JOSE P. AQUINO
Director

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