



Bangko Sentral ng Pilipinas

Circular-Letter No. 044
Series of 2008

To : To All Authorized Agent Banks (AABs)

**Subject : Limits on Foreign Exchange Purchases by
Philippine Residents from AABs for Outward Investments**

Pursuant to Circular No. 590 dated 27 December 2007, the following guidelines shall be observed in complying with the limits on the foreign exchange purchase of Philippine residents from AABs for purposes of outward investments under Section 44 of Circular No. 1389, dated 13 April 1993, as amended:

1. A Philippine resident, whether an individual or corporate, may purchase foreign exchange in an amount not exceeding US\$30 million per year from AABs without prior BSP approval for the purpose of outward investments.

2. Purchase of foreign exchange by individually managed or trustee accounts (other than pooled funds) shall be considered as part of the foreign exchange purchased by the principal or trustor of such accounts for purposes of determining compliance with the annual limit.

3. The compliance with the annual limit of foreign exchange purchases (which does not apply to AABs) shall be reckoned on a calendar year basis.

4. A Qualified Investor (QI), as defined under Section 44 of Circular No. 1389 dated 13 April 1993, as amended, shall also be subject to the annual limit of US\$30 million. However, in cases where a QI is legally obligated to create and maintain separate funds, the annual limit shall be applied on a per fund basis in addition to the original US\$30 million annual limit for the QI's proprietary investments.

5. A QI may apply for an increase in the US\$30 million annual limit for its proprietary investments. Any approved increase in the annual limit shall stand as the QI's new annual limit until the same has been withdrawn by the BSP or the QI requests for a further increase in its limits.

6. A QI may also separately apply for an increase in the annual limit for funds it is legally obligated to maintain (e.g. insurance companies – general fund for the collected premiums; variable accounts for its variable insurance). This does not include individually managed or trustee funds.

7. To illustrate:

Consider a fund manager XYZ (classified as a QI) that manages five (5) separate funds, three (3) of which (funds A, B, and C) are individually managed or trustee accounts while two (2) (funds D and E) are trustee pooled funds. The principal/trustor of fund A is Mr. A; for fund B is Mr. B; and for fund C is the Board of Trustees-JKL Retirement Fund.

a. XYZ is entitled to purchase foreign exchange from AABs without BSP approval of up to US\$30 million per year for:

- 1) Fund A — provided that Mr. A has not purchased any foreign exchange from AABs for outward investments within the calendar year. In case Mr. A has directly or indirectly (i.e. through a manager or trustee, except for interest in pooled funds) purchased any foreign exchange for outward investments, then XYZ can only purchase foreign exchange equivalent to the excess of the annual limit over the outstanding purchases of foreign exchange. For this purpose, Mr. A executes a certification on the total purchases of foreign exchange for the calendar year pursuant to Item C.3 of Annex B of Circular No. 388 dated 26 May 2003, as amended. Such certification shall be presented to the AAB, together with other documents required under said Circular, when XYZ purchases foreign exchange for outward investments of fund A.
- 2) Fund B - provided that Mr. B has not purchased any foreign exchange from AABs for outward investments within the calendar year. In case Mr. B has directly or indirectly (i.e. through a manager or trustee, except for interest in pooled funds) purchased any foreign exchange for outward investments, then XYZ can only purchase foreign exchange equivalent to the excess of the annual limit over the outstanding purchases of foreign exchange. For this purpose, Mr. B executes a certification on the total purchases of foreign exchange for the calendar year pursuant to Item C.3 of Annex B of Circular No. 388 dated 26 May 2003, as amended. Such certification shall be presented to the AAB, together with other documents required under said Circular, when XYZ purchases foreign exchange for outward investments of fund B.
- 3) Fund C - provided that JKL Retirement Fund, through either its Board of Trustees or Trustee, has not purchased any foreign exchange from AABs for outward investments within the calendar year. In case JKL Retirement Fund has directly or indirectly (i.e. through a manager or trustee, except for interest in pooled funds) purchased any foreign exchange for outward investments, then XYZ can only purchase foreign exchange equivalent to the excess of the annual limit over the outstanding

purchases of foreign exchange. For this purpose, the Board of Trustees-JKL Retirement Fund executes a certification on the total purchases of foreign exchange for the calendar year pursuant to Item C.3 of Annex B of Circular No. 388 dated 26 May 2003, as amended. Such certification shall be presented to the AAB, together with other documents required under said Circular, when XYZ purchases foreign exchange for outward investments of fund C.

- 4) The Board of Trustees-JKL Retirement Fund or the trustee of JKL Retirement Fund may also apply with the BSP for a higher annual limit for the retirement fund. In case of an approved increased limit, XYZ may purchase up to the extent of the increased limit, net of outstanding purchases of foreign exchange, if any.
 - 5) Fund D - XYZ may apply for a higher annual limit. The foreign exchange purchases of the interest holders/participants in the pooled fund shall not be considered in determining the annual limit of the interest holders/participants.
 - 6) Fund E - XYZ may apply for a higher annual limit. The foreign exchange purchases of the interest holders/participants in the pooled fund shall not be considered in determining the annual limit of the interest holders/participants.
 - 7) Proprietary funds - XYZ may apply for a higher annual limit, in addition to the funds it maintains/manages.
- b. The foreign exchange purchases from AABs for outward investments made by XYZ on behalf of the individual principal/trustor of funds A and B shall be consolidated with the annual US\$30 million individual investor limit of Mr. A and Mr. B. For example:
- 1) If XYZ has already purchased a total of US\$30 million in 2008 for outward investments of fund A, then Mr. A may no longer purchase foreign exchange from AABs for outward investments in 2008.
 - 2) If XYZ has purchased a total of US\$20 million for outward investments of fund B, Mr. B may still purchase up to US\$10 million from AABs for outward investments in the same year.
 - 3) If Mr. A has already purchased US\$25 million from AABs for outward investments, XYZ may only purchase up to US\$5 million for outward investments of fund A in the same year.

- c. If Mr. B is the principal/trustor of funds A and B, which are both individually managed or trustee accounts, then the annual limit of XYZ for funds A and B taken together is US\$30 million, net of Mr. B's outstanding purchases of foreign exchange.
- d. The foreign exchange purchases from AABs for outward Investments made by XYZ on behalf of JKL Retirement Fund for fund C shall be consolidated with the annual US\$30 million investor limit of JKL Retirement Fund. For example:
 - 1) If XYZ has already purchased a total of US\$30 million in 2008 for outward investments of fund C, the Board of Trustees-JKL Retirement Fund may no longer purchase foreign exchange from AABs for outward investments in 2008 without applying with the BSP for a higher annual limit with the BSP.
 - 2) If XYZ has purchased a total of US\$10 million in 2008 for outward investments of fund C, the Board of Trustees-JKL Retirement Fund may still purchase up to US\$20 million from AABs for outward investments in the same year without applying for a higher annual limit.
 - 3) If the Board of Trustees-JKL Retirement Fund has purchased US\$25 million from AABs for outward investments, XYZ may only purchase up to US\$5 million for outward investments of fund C in the same year without applying for a higher annual limit.

Please be guided accordingly.



DIWA C. GUINIGUNDO
Deputy Governor
Monetary Stability Sector

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