



Bangko Sentral ng Pilipinas

OFFICE OF THE GOVERNOR

CIRCULAR NO. 45 Series of 2004

Pursuant to Monetary Board Resolution No. 1179 dated 19 August 2004, extending the applicability of the provision of Circular No. 392 dated 23 July 2003 to non-bank financial institutions under BSP supervision, the Manual of Regulations for Non-Bank Financial Institutions (MORNBI) are hereby amended, as follows:

Section 1. Subsection 4211Q.4 of the MORNBI is hereby amended of the MORNBI to read as follows:

Delivery of securities. Securities warehouse receipts, quodans and other documents of title which are the subject of quasi-banking functions, such as repurchase agreements, shall be physically delivered, if certificated, to a BSP accredited custodian that is mutually acceptable to the lender/purchaser and borrower/seller, or by means of book-entry transfer to the appropriate securities account of the BSP accredited custodian in a registry for said securities, if immobilized or dematerialized while the overlying principal borrowing instrument shall be physically delivered to the lender/purchaser. The custodian shall hold the securities in the name of the borrower/seller, but shall keep said securities segregated from the regular securities account of the borrower/seller if the borrower/seller has an existing securities account with the custodian. *Provided, That a financial institution (NBI) authorized by the BSP to perform custodianship function may not be allowed to be custodian of securities issued or owned by said institution, its subsidiaries or affiliates, or of securities in bearer form.*

The delivery shall be effected upon payment and shall be evidenced by a securities delivery receipt duly signed by authorized officers of the custodian and delivered to both the lender/purchaser and seller/borrower.

Section 2. Subsection 4101Q.4 is hereby added to the MORNBI to read as follows:

4101Q.4 Delivery of securities. Securities sold on a without recourse basis allowed under Section X4101Q.3(b) shall be delivered physically to the purchaser or to his designated custodian duly accredited by the BSP if certificated, or by means of book-entry transfer to the appropriate securities account of the purchaser or his designated BSP accredited custodian in a registry for said securities, if immobilized or dematerialized, while the confirmation of sale or document of

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conveyance by the seller shall be physically delivered to the purchaser. The custodian shall hold the securities in the name of the buyer. *Provided*, That an NBFIs authorized by the BSP to perform custodianship function may not be allowed to be custodian of securities issued or sold on a without recourse basis by said NBFIs, its subsidiaries or affiliates, or of securities in bearer form.

The delivery shall be effected upon payment and shall be evidenced by a securities delivery receipt duly signed by the authorized officer of the custodian and delivered to the purchaser.

Section 3. Section 4104N.3 is hereby added to the MORNBFIs to read as follows:

4104N.3 Delivery of securities. Securities sold on a without recourse basis allowed under Section 4103N.2 (b) shall be delivered physically to the purchaser or to his designated custodian duly accredited by the BSP if certificated, or by means of book-entry transfer to the appropriate securities account of the purchaser or his designated BSP accredited custodian in a registry for said securities, if immobilized or dematerialized, while the confirmation of sale or document of conveyance by the seller shall be physically delivered to the purchaser. The custodian shall hold the securities in the name of the buyer. *Provided*, That an NBFIs authorized by the BSP to perform custodianship function may not be allowed to be custodian of securities issued or sold on a without recourse basis by said NBFIs, its subsidiaries or affiliates, or of securities in bearer form.

The delivery shall be effected upon payment and shall be evidenced by a securities delivery receipt duly signed by the authorized officer of the custodian and delivered to the purchaser.

Section 4. The provisions of Subsection 4211Q.5 are hereby transferred to Subsection 4211Q.6 and new provisions are hereby provided under Subsection 4211Q.5 and Section 4104N.4 of the MORNBFIs to incorporate the sanctions as stated below:

Sanctions. Violation of any provision of this Circular shall be subject to the following sanctions/penalties.

a. Monetary Penalties

First Offense – Fine of P10,000 per day for each violation reckoned from the date the violation was committed up to the date it was corrected.

Subsequent Offenses – Fine of ₱20,000 a day for each violation reckoned from the date the violation was committed up to the date it was corrected.

b. Other Sanctions

First Offense – Reprimand for the directors/officers responsible for the violation

Subsequent Offense –

- 1) Suspension for ninety (90) days without pay of directors/officers responsible for the violation;
- 2) Suspension or revocation of the accreditation to perform custodianship function;
- 3) Suspension or revocation of the authority to engage in quasi-banking function; and/or
- 4) Suspension or revocation of the authority to engage in trust and other fiduciary business.

Section 4. Effectivity. This Circular shall take effect on 16 November 2004.

FOR THE MONETARY BOARD:


ALBERTO V. REYES
Officer-In-Charge

6 Sept. 2004