



Bangko Sentral ng Pilipinas

MAYNILA, PILIPINAS

CIRCULAR-LETTER

Series of 2002

To: ALL UNIVERSAL AND COMMERCIAL BANKS

The following guidelines shall be observed in the implementation of Circular-Letter dated 09 August 2001 covering sale of foreign exchange (FX) for trade transactions.

I. Importations under Letters of Credit (LCs), Documents against Payment (DPs) and Documents against Acceptance (DAs):

- a. All import LCs to be opened shall include under the LC terms and conditions, among others, the clause:

"LC number shall be indicated on all copies of shipping documents"

- b. All original shipping documents [Bill of Lading (BL) or Airway Bill (AWB) and Invoice] shall be stamped by the booking/issuing bank with the **BANK'S NAME AND MODE OF IMPORTATION** (i.e. LC, DA or DP), whether FX has been sold or not.

- c. Banks other than the issuing/booking bank may sell FX to importer clients, provided:

1. The sale is supported by the following documents:

- 1.1 Copy/photocopy of the original shipping documents duly stamped as in Item I.b above;

- 1.2 Certification from the issuing/booking bank (addressed to individual FX selling bank/s) indicating the following:

- i. Amount of the outstanding FX trade obligations;
- ii. Amount of FX intended to be purchased; and
- iii. BSP Registration Number for DA.

The certification shall be duly signed by the bank's authorized signatory under Circular-Letter dated 09 August 2001.



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- 1.3 Notarized certification from the importer-client that FX has not been purchased from other bank(s) and/or bank-affiliated forex corporation(s) for the transaction. In case of previous FX purchase, the certification shall indicate amount of FX previously purchased for the transaction. The certification shall be duly signed by the authorized signatory of the importer-client.
2. The FX selling bank shall immediately remit proceeds of FX sale directly to the issuing/booking bank, indicating in the remittance instructions pertinent information such as the LC No., BSP Registration No., BL No., Invoice No., etc.
3. The booking/issuing bank shall, upon receipt of FX, stamp "**FX SOLD**" on the original shipping documents at hand and indicate thereon the amount of FX and name of the FX selling bank(s). The stamped information shall be duly signed by the booking/issuing bank's authorized signatory.

II. Importations under Direct Remittance (DR) or Open Account Arrangement (OA):

- a. Importer-client shall present to his remitting/registering bank all the original copies of the shipping documents for stamping of **BANK'S NAME AND MODE OF IMPORTATION** (i.e., DR or OA). All original shipping documents [including at least three (3) original BLs or one of the original/carbonized copy of AWBs] shall be accounted for. In case any one of the original BLs/AWBs cannot be presented for stamping of Bank's name, the importer client shall present to his remitting/registering bank --
 1. A notarized certification from the Bureau of Customs (BOC) and/or the shipping/airline company that an original BL has been retained by them to process release of cargo, and
 2. Notarized certification as in Item I.c.1.1.3 above.
- b. Bank may sell FX for DR and BSP-Registered OA to importer-clients, provided, the sale is supported by the following documents:
 1. In case FX selling bank is the same as the registering bank where original documents were previously presented, only one (1) original copy of the shipping documents duly stamped as in Item II.a above.
 2. In case FX selling bank is other than the registering bank which applied for the BSP registration of the OA transaction and where original documents were previously presented, the requirements enumerated under Item I.c above as well as the BSP registration of OA transaction shall apply.

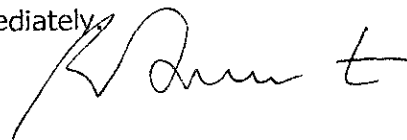
- c. FX sale under Direct Remittance can only be serviced by banks if made within twenty (20) calendar days [instead of fifteen (15) banking days] after BL date otherwise, FX shall not be sourced from the banking system unless the transaction is considered an OA, subject to BSP registration requirements.
 - d. FX registering/remitting bank shall stamp "**FX SOLD**" on the original shipping documents at hand and indicate thereon the amount of FX and name of the FX selling bank(s). The stamped information shall be duly signed by the remitting/registering bank's authorized signatory. Thereafter, the FX payment shall be immediately remitted to the beneficiary.
- III. Unless specifically authorized by the Bangko Sentral, proceeds of FX sale for trade-related transactions shall not be credited to any FCDU account even if remittance to beneficiary/supplier will be made on the same date that the FX was sold.
- IV. Photocopies of the original shipping documents (released to client) listed under Circular-Letter dated 09 August 2001 shall be marked "**ORIGINAL DOCUMENT PRESENTED AS REQUIRED**" and duly signed by the bank's authorized signatory. These should be retained on bank's file for BSP examination purposes.

Clarifications on FX sales for trade transactions based on the queries received from banks are hereto attached as Annex "A".

It is understood that the penalty provisions under Circular - Letter dated 23 July 2001 shall apply to erring banks.

Provisions of BSP Circular - Letters dated 06 January 1998, 31 March 1998, 20 July 2001, and 09 August 2001 that may be inconsistent with the provisions of these implementing guidelines are hereby repealed.

This Circular-Letter shall take effect immediately.



RAFAEL B. BUENAVENTURA
Governor

nf January 2002

**CLARIFICATIONS ON SALE OF FOREIGN EXCHANGE
FOR TRADE TRANSACTIONS RELATIVE TO
CIRCULAR-LETTER DATED 09 AUGUST 2001
(Based on Inquiries Received from Banks)**

Q1. *Is the client's notarized certification on sale of FX applicable only to documents that were sent directly to the importer, hence does not cover the following:*

- *Under LC (reimbursing bank debits account of local bank on negotiation date),*
- *under sight LC but with documentary discrepancies which are sent on collection basis,*
- *under usance LC, and*
- *under DA/DP where documents are transmitted by the foreign bank to the local bank?*

A: Yes, except under Items I.c, II.b.2 and II.b.3 of the implementing guidelines.

Q2. *Can the bank's certification on the stamping of "FX Sold" be done on a summary basis (covering all FX sale on trade transactions for the day)?*

A: Bank's certification on the stamping of "FX Sold" is no longer required in the implementing guidelines.

Q3. *Shall the FX selling bank require presentation of all the original shipping documents?*

A: Yes, if the FX selling bank is the booking/issuing bank and in case of Item II.b.3 of implementing guidelines; otherwise, Item I.c of implementing guidelines shall apply.

Q4. *What are the documentary requirements where the amount of the importation cannot be fully serviced by just one bank?*

A: See Item I.c of the implementing guidelines.

Q5. *Can banks sell FX for unregistered DA/OA importations?*

A: No, only BSP-registered DA/OA import transactions can be serviced by banks.

Q6. What other documents shall be presented for TELEX RELEASE? Telex release is a notice by the foreign shipping company to its local agent on the shipment of the exporter to the importer wherein the original BLs have been surrendered and, thus, authorizing the release of goods. Upon receipt by the local agent of the said telex release, an arrival notice shall be issued by the local agent to the importer.

- A: The following other documents shall be presented:
- a) Original invoices;
 - b) Original non-negotiable BL duly stamped "ORIGINAL SURRENDERED"/"SURRENDERED" by the shipping company or its local agent;
 - c) Original arrival notice that the imported goods have arrived (with details matching the BL) issued by shipping company's local agent; and
 - d) Client's notarized certification that it has not purchased FX under said BL as prescribed under Item I.c.1.1.3 of the implementing guidelines.

Q7. What other documents shall be presented for SEAWAY BILL? Seaway Bill is an unsigned, non-negotiable, electronically-transmitted (via web page) advice that the goods will be loaded (without indicating if on-board).

- A: The documents to be presented are –
- a) Items a, c and d of the answer to Q6; and
 - b) Copy of electronically transmitted Seaway Bill.

Q8. What documents shall be presented in lieu of the original airway bill?

- A: The following documents shall be presented:
- a) The original non-negotiable airway bill; and
 - b) Client's notarized certification that FX has not been purchased under said airway bill as prescribed under Item I.c.1.1.3 of the implementing guidelines.

Q9. For certification signed by the importer, up to what level will be the authorized signatory?

- A: Officer authorized to sign for the company.

Q10. Is a photocopy of original BL enough for purposes of BSP verification?

- A: Yes, Bank may retain in its files a photocopy of the original BLs, duly marked and signed as required in the implementing guidelines, which shall be made available for on-site verification by BSP examiners.

Q11. If bank's copy is only a photocopy of the BL, can we sell FX without presentation of the original BL at the time of the DA settlement?

- A: No.

Q12. If at bank guarantee application, importer would already buy FX in anticipation of the arrival of the original documents, should AABs sell?

A: Yes, for importations under LC, bank may sell FX, the proceeds of which shall be booked under margin deposit or cash LC.

Q13. May AABs also sell FX for unmatured outstanding acceptances under usance LCs?

A: Yes, same as Q12 above or to be remitted immediately to the beneficiaries' correspondent bank.

Q14. If AAB receives directly the original shipping documents marked against "DP arrangement" and the BL was dated earlier than the 20 calendar days and the sale will, therefore, be effected beyond the 20 calendar day rule of BSP, will AAB now treat the documents as DA arrangement which is now required to be registered with BSP?

A: No, it will still be treated as a DP arrangement. The 20 calendar day payment deadline applies only to direct remittance mode.

Q15. Can AABs submit to BSP advance copies of original shipping documents for registration? The rationale is that the importer would like to waste no time, hence, they register early prior to receipt of original documents. Can we accommodate importer's request as long as AABs ensure that they won't sell the FX unless registered with BSP; and original shipping documents are presented?

A: Yes

Q16. How do we handle indents (importer is different from the consignee)? Please note that the BL is with the consignee but the importer is the one purchasing the FX.

A: The consignee as indenter should endorse the original shipping documents to the importer who will buy the FX.

Q17. The wordings in the Application to Purchase FX are the same as the Certification required under Circular-Letter dated 09 August 2001. Do we still require client to submit both where the importer buys FX for importations made through another bank?

A: No, see Items I.c.1.1.3 and II.b.3.3.2 of the implementing guidelines.

Q18. Can you clarify the documentation required for intercompany netting?

- A: In intercompany netting scheme, the following documents shall be presented:
- a) Offsetting agreement between local subsidiaries and parent/affiliates abroad;
 - b) Statement of Intercompany Receivable and Payable certified by authorized officers of both the foreign and local offices covering the settlement period and the net payable amount that will be applied for FX purchase; and
 - c) Client's notarized certification that it has not purchased FX from AABs or bank-affiliated forex corporations for settlement of the net payable amount for the specified settlement period.

Q19. Shall we allow cable negotiation for FX sale under sight LC where the following documents would normally not be available at the time of sale of FX to settle import bills?

- a) *Original transmittal letter of foreign negotiating bank covering import documents*
- b) *Proof of debit to bank's account abroad*
- c) *Copy of original commercial invoice*
- d) *Copy of original first BL*

Bank's account with the correspondent bank abroad may have already been debited but the importer can't settle its import bills due to documentary deficiencies. The problem will arise if the importer will not shoulder the in-transit interest and the FX rate differential for the late settlement.

- A: Yes, cable negotiation is allowed, provided, it is indicated in the LC or when the negotiating bank in a tested telex message certifies that all the terms and conditions of the LC have been complied with.

Q20. Can we sell FX to importers on the condition to complete the documentary requirements later on? Do we have alternative action if the documentary requirements are not met?

- A: No. The documents should be complete at the time of FX sales.

Q21. To whom should the required certifications under Circular-Letter dated 09 August 2001 be submitted?

- A: The certifications must be on file with the FX selling bank and should be readily available for on-site verification by the BSP.

Q22. Who shall be the authorized signatory for the required bank certification in the absence of the Vice President?

- A: In the absence of the Vice President, the following officers may be allowed:
- For Head Office – any designated authorized officer with a rank of at least an AVP or other equivalent rank
 - For Branches – any designated authorized officer next in rank

The BSP should be advised in writing of the designated authorized signatories.

Q23. How do we control the import documents submitted as underlying transactions of short-term FCDU loans?

- A: Import documents submitted as underlying transactions of short-term FCDU loans should be marked by the lending bank "Paid with proceeds of FCDU loan" duly signed by authorized signatory.

Q24. What are the documentary requirements for servicing payments on FX purchases made inside the free trade zones in Clark or Subic?

- A: The following documentary requirements shall apply for trade payments serviced from purchases made inside the Special Economic Zone (SEZ) – PEZA, Subic, Clark:
- a) FX settlement for transactions between SEZ-registered firms or between a SEZ-registered firm and a non SEZ-registered firm should be self-funded.
 - b) For imports on consignment where there is no transfer of title of goods to the consignee, sale of the consigned goods, duly approved by SEZ authority, to other firms (whether inside or outside SEZ) shall be supported by a sales invoice of the foreign consignor/supplier. This can be serviced with FX purchased from the banking system. In case the sales invoice is issued by the SEZ-registered firm, Item **a)** above shall apply.

Q25. Is it ok to include in the lower portion of the certification the following phrase: "I/We declare that I/We have not purchased foreign exchange under any of the original BLs from other sources"?

- A: Please refer to Item I.c.1.1.3 of the implementing guidelines.

Q26. For trade transactions, can proceeds of FX sales be credited to FCDU account if selling bank is both opening and remitting bank and remittance to beneficiary will be made on the same day?

- A: No.

Q27. In lieu of the original commercial invoice under OA, can we allow photocopy of invoice duly certified by a responsible officer of the company?

A: No.

Q28. Is duplicate copy (including carbonized original and duplicate automated commercial invoice) but originally signed commercial invoice (first copy goes to Customs) an acceptable document when purchasing FX?

A: Yes, provided, the commercial invoice is accompanied by all three (3) original BLs.