



Bangko Sentral ng Pilipinas

OFFICE OF THE GOVERNOR

CIRCULAR NO. 467
Series of 2005

Pursuant to Monetary Board Resolution No. 1871 dated 23 December 2004, as amended by Monetary Board Resolution No. 12 dated 6 January 2005, the following regulations that shall govern repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments of banks and non-bank financial institutions with quasi-banking functions (NBQBs) as well as sale on a without recourse basis of said securities by banks, NBQBs and other financial institutions under the supervision of the Bangko Sentral ng Pilipinas (BSP) are hereby issued:

Section 1. Proper Recording and Documentation of Repurchase Agreements

All banks, NBQBs and other financial institutions under BSP supervision shall have a true and accurate account, record or statement of their daily transactions. As such, repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments must be properly recorded and documented in accordance with existing BSP regulations.

The absence of proper documentation for repurchase agreements is tantamount to willful omission of entries relevant to any transaction, which shall be a ground for the imposition of administrative sanctions and the disqualification from office of any director or officer responsible therefor under existing laws and regulations.

Section 2. Responsibilities of the Chief Executive Officer or Officer of Equivalent Rank.

It shall be the responsibility of the chief executive officer (CEO) or the officer of equivalent rank in a bank/NBFI to:

- a. Institute policies and procedures to prevent undocumented or improperly documented repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments;
- b. Submit a notarized certification at the end of every semester that the bank/NBFI did not enter into any repurchase agreement

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covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing BSP regulations and that the bank/NBFI has strictly complied with the pertinent rules of the SEC and the BSP on the proper sale of securities to the public and performed the necessary representations and disclosures on the securities particularly the following:

1. Informed the clients that such securities are not deposits and as such, do not benefit from any insurance otherwise applicable to deposits such as, but not limited to, Republic Act No. 3591, as amended, otherwise known as the Philippine Deposit Insurance Corporation (PDIC) law;
2. Informed and explained to the client all the basic features of the security being sold on a without recourse basis, such as, but not limited to:
 - a. Issuer and its financial condition;
 - b. Term and maturity date;
 - c. Applicable interest rate and its computation;
 - d. Tax features (whether taxable, tax paid or tax-exempt);
 - e. Risk factors and investment considerations;
 - f. Liquidity feature of the instrument:
 - 2.f.1. Procedures for selling the security in the secondary market (e.g., OTC or exchange);
 - 2.f.2. Authorized selling agents; and
 - 2.f.3. Minimum selling lots.
 - g. Disposition of the security
 - 2.g.1. Registry (address and contact numbers)
 - 2.g.2. Functions of the registry
 - 2.g.3. Pertinent registry rules and procedures
 - h. Collecting and Paying Agent of the principal and interest
 - i. Other pertinent terms and conditions of the security and if possible, a copy of the prospectus or information sheet of the security.

3. Informed the client that pursuant to BSP Circular No. 392 dated 23 July 2003 –
 - Securities sold under repurchase agreements shall be physically delivered, if certificated, to a BSP accredited custodian that is mutually acceptable to the client and the bank/NBQB, 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, and
 - Securities sold on a without recourse basis are required to 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 custodian in a registry for said securities if immobilized or dematerialized
4. Clearly stated to the client that:
 - a. The bank/NBFI does not guarantee the payment of the security sold on a "without recourse basis" and in the event of default by the issuer, the sole credit risk shall be borne by the client; and
 - b. The bank/NBFI is not performing any advisory or fiduciary function.
- c. Report to the appropriate supervising and examining department of the BSP any undocumented repurchase agreement within seventy-two (72) hours from knowledge of such transactions.

Section 3. Subsections X149.1 and 4408Q(f) are hereby added to the Manual of Regulations for Banks (MORB) and the Manual of Regulations for Non-bank Financial Institutions (MORNBI), respectively, to read as follows:

Undocumented Repurchase Agreements as Unsafe and Unsound Banking Practice. *Improper or non-documentation of repurchase agreements covering government securities and commercial papers and other negotiable and non-negotiable securities*

or instruments shall be considered as an unsafe and unsound banking practice.

Section 4. Treatment as Deposit Substitutes

All sales of government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing BSP regulations shall be deemed to be deposit substitutes subject to regular reserves.

Section 5. Sanctions

The Monetary Board may, at its evaluation and discretion, impose any or all of the following sanctions to a bank/NBFI or the director/s or officer/s found to be responsible for repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing BSP regulations:

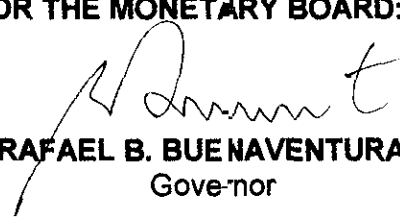
- a. Fine of up to P30,000 a day to the concerned entity for each violation from the date the violation was committed up to the date it was corrected;
- b. Suspension of interbank clearing privileges/immediate exclusion from clearing;
- c. Suspension of access to BSP rediscounting facilities;
- d. Suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;
- e. Revocation of quasi-banking license;
- f. Revocation of authority to perform trust operations; and
- g. Suspension for one hundred twenty (120) days without pay of the directors/officers responsible for the violation.

Section 6. Effectivity

This Circular shall take effect fifteen (15) days following its publication in the official gazette or in a newspaper of general circulation. However, the submission deadline for the required certification from the CEO/officer of

equivalent rank of the bank/NBFI shall initially be 1 February 2005 using the format attached as Annex A-1. Thereafter, the required succeeding certification shall be submitted within five banking days from end of reference semester using the format attached as Annex A.

FOR THE MONETARY BOARD:



RAFAEL B. BUENAVENTURA
Governor

10 January 2005

Att: A/S

FORMAT CERTIFICATION

(Circular No. __)

Name of Bank

CERTIFICATION

Pursuant to the requirements of Circular No. ____ dated ____, I
HEREBY CERTIFY that on all banking days of the semester ended ____ that
the _____ (bank/NBQB/NBFI) did not enter into any repurchase
agreement covering government securities, commercial papers and other
negotiable and non-negotiable securities or instruments that are not
documented in accordance with existing BSP regulations and that it has
strictly complied with the pertinent rules of the SEC and the BSP on the
proper sale of securities to the public and performed the necessary
representations and disclosures on the securities particularly the following

1. Informed and explained to the client all the basic features of the
security being sold on a without recourse basis, such as, but not
limited to:
 - a. Issuer and its financial condition;
 - b. Term and maturity date;
 - c. Applicable interest rate and its computation;
 - d. Tax features (whether taxable, tax paid or tax-exempt);
 - e. Risk factors and investment considerations;
 - f. Liquidity feature of the instrument:
 - 1.f.1. Procedures for selling the security in the
secondary market (e.g., OTC or exchange);
 - 1.f.2. Authorized selling agents; and
 - 1.f.3. Minimum selling lots.
 - g. Disposition of the security
 - 1.g.1. Registry (address and contact numbers)
 - 1.g.2. Functions of the registry
 - 1.g.3. Pertinent registry rules and procedures
 - h. Collecting and Paying Agent of the principal and interest
 - i. Other pertinent terms and conditions of the security and if
possible, a copy of the prospectus or information sheet of
the security.

2. Informed the client that pursuant to BSP Circular No. 392 dated 23 July 2003 –

- Securities sold under repurchase agreements shall be physically delivered, if certificated, to a BSP accredited custodian that is mutually acceptable to the client and the bank/NBQB, 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, and
- Securities sold on a without recourse basis are required to 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 custodian in a registry for said securities if immobilized or dematerialized

3. Clearly stated to the client that:

- a. The bank/NBFI does not guarantee the payment of the security sold on a "without recourse basis" and in the event of default by the issuer, the sole credit risk shall be borne by the client; and
- b. The bank/NBFI is not performing any advisory or fiduciary function.

Name of Officer
Position

Date _____

SUBSCRIBED AND SWORN to before me, this ____ day of _____,
affiant exhibiting his Community Tax Certificate as indicated below:

Name

Community Tax
Cert. No.

Date/Place Issued

Notary Public

FORMAT CERTIFICATION

(Circular No. ____)

Name of Bank

CERTIFICATION

Pursuant to the requirements of Circular No. ____ dated ____, I
HEREBY CERTIFY that AS OF 31 JANUARY 2005, the ____ (name
of bank/NBQB?NBFI) does not have any outstanding repurchase agreements
covering government securities, commercial papers and other negotiable and
non-negotiable securities or instruments that are not documented in
accordance with existing BSP regulations.

Name of Officer
Position

SUBSCRIBED AND SWORN to before me, this ____ day of ____,
affiant exhibiting his Community Tax Certificate as indicated below:

Name

Community Tax
Cert. No.

Date/Place Issued

Notary Public