



BANGKO SENTRAL NG PILIPINAS
OFFICE OF THE GOVERNOR

Corrected Copy

CIRCULAR NO. 714
Series of 2011

Subject : Securities custodianship operations

Pursuant to Monetary Board Resolution No. 245 dated 17 February 2011, the Manual of Regulations for Banks (MORB) and the Manual of Regulations for Non-Bank Financial Institutions (MORNBFI) are hereby amended as follows:

Section 1. Subsec. X441.5 of the MORB on pre-qualification requirements for a securities custodian/registry is hereby amended as follows:

"Subsec. X441.5 Pre-qualification requirements for a securities custodian/registry.

- "a. The securities custodian must be a bank that is authorized to engage in investment management or trust business. The securities registry must be a bank.
- "b. It must have complied with the minimum capital accounts required under existing regulations, as follows:
 - "(1) *Domestic banks.* The minimum capital required under Subsec. X111.1 or the minimum capital required for TBs operating in Metro Manila, whichever is higher.
 - "(2) *Branches of foreign banks.* The minimum capital required under Subsec. X105.4.

"x x x

- "o. A securities custodian which provides the value-added service of securities lending involving securities that are sold, offered for sale or distributed within the Philippines must be a duly-licensed lending agent registered with the SEC."

Section 2. Subsec. 4441Q.5 and 4144N.5 of the MORNBF1 on pre-qualification requirements for a securities custodian/registry is hereby amended as follows:

"Subsec. 4441Q.5/4144N.5 Pre-qualification requirements for a securities custodian/registry.

"a. The securities custodian must be a QB/NBFI under BSP supervision that is authorized to engage in investment management (for IHs with QB authority only) or trust business. The securities registry must be a QB/NBFI under BSP supervision whether or not authorized to engage in investment management (for IHs with QB authority) or trust business;

"x x x

"n. A securities custodian which provides the value-added service of securities lending involving securities that are sold, offered for sale or distributed within the Philippines must be a duly-licensed lending agent registered with the SEC."

Section 3. Section 2 of App. 68 of MORB and App. Q-38 of the MORNBF1 on distinction between a custodian and a registry is hereby amended to read as follows:

"Sec. 2 Distinction Between a Custodian and a Registry. A securities custodian is a BSP accredited bank or a QB/NBFI under BSP supervision that is authorized to engage in investment management (for banks and investment houses with quasi-banking authority only) or trust business and is designated by the investor to perform the functions of safekeeping, holding title to the securities in a nominee capacity, reports rendition, mark-to-market valuation, collection and payment of dividends, interest earnings or proceeds from the sale/redemption/maturity of securities held under custodianship and representation of clients in corporate actions.

"It may also perform the value added service of securities lending as agent, subject to the conditions specified under Subsection X441.6 of the MORB/4441Q.6 and 4144N.6 of the MORNBF1. xxx"

Section 4. Subsec. X441.6 of the MORB on functions and responsibilities of a securities custodian are hereby amended to read as follows:

"Subsec. X441.6 Functions and responsibilities of a securities custodian. A securities custodian shall have the following basic functions and responsibilities:

" x x x

- "h. Does earmarking of encumbrances or liens such as, but not limited to, Deeds of Assignment and court orders; and
- "i. Acts as a collecting and paying agent in respect of dividends, interest earnings or proceeds from the sale/redemption/maturity of securities held under custodianship: *Provided*, That the custodian shall immediately make known to the securities owner all collections received and payments made with respect to the securities under custody.
- "j. In addition to the above basic functions, it may perform the value-added service of securities lending as agent: *Provided*, That it complies with the pre-qualification requirements under Item "o" of Subsection X441.5: *Provided, further*, That the securities lending service shall be covered by a Securities Lending Authorization Agreement (SLAA) which shall be attached to the custody contract.

"A securities custodian which renders the value-added service of securities lending involving securities that are sold, offered and distributed within the Philippines shall comply with all other pertinent rules and regulations of the SEC on securities lending and borrowing operations."

Section 5. Subsecs. 4441Q.6 and 4144N.6 of the MORNBFI on functions and responsibilities of a securities custodian are hereby amended to read as follows:

Subsecs. 4441Q.6 and 4144N.6 *Functions and responsibilities of a securities custodian.* A securities custodian shall have the following basic functions and responsibilities:

" x x x

- "h. Does earmarking of encumbrances or liens such as, but not limited to, Deeds of Assignment and court orders; and
- "i. Acts as a collecting and paying agent in respect of dividends, interest earnings or proceeds from the sale/redemption/maturity of securities held under custodianship: *Provided*, That the custodian shall immediately make known to the securities owner all collections received

and payments made with respect to the securities under custody.

- "j. In addition to the above basic functions, it may perform the value-added service of securities lending as agent: *Provided*, That it complies with the pre-qualification requirements under Item "n" of Subsec. 4441Q.5/4144N.5: *Provided, further*, That the securities lending service shall be covered by a Securities Lending Authorization Agreement (SLAA) which shall be attached to the custody contract.

" A securities custodian which renders the value-added service of securities lending involving securities that are sold, offered and distributed within the Philippines shall comply with the pertinent rules and regulations of the SEC on securities lending and borrowing operations."

Section 6. Subsec. X441.8 of the MORB on protection of securities of the customer is hereby amended as follows:

"Subsec. X441.8 *Protection of securities of the customer.* A custodian must incorporate the following procedures in the discharge of its functions in order to protect the securities of the customer:

- "a. ***Administration of securities custodianship accounts of banks.*** Securities custodianship accounts shall be administered in the Trust Unit of a bank.

" As an exception, however, a custodian bank, may be allowed to administer custodianship accounts in the Bank Proper: *Provided*, That this is limited to custodianship accounts wherein the securities custodian performs the basic functions and responsibilities provided under Subsec. X441.6: *Provided, further*, That the custodian bank secures prior MB approval on this arrangement: *Provided, finally*, That a custodian bank that is seeking exemption from the general requirement should be able to demonstrate that it has instituted adequate risk management systems and prudential controls in the Bank Proper to ensure the protection of client assets, maintain proper segregation of functions and prevent conflict of interest situations that may arise in the administration of securities custodianship accounts.

- "b. *Accounting and recording for securities.* Custodians must employ accounting and safekeeping procedures that fully protect customer securities. It is essential that custodians segregate customer securities from one another and from its proprietary holdings to protect the same from the claims of its general creditors.
- " Securities held under custodianship shall be recorded in the books of the custodian at the face value of said securities in the off-balance sheet account "*Securities Held Under Custodianship by Bank Proper*", if booked in the Bank Proper, or the other fiduciary sub-account "*Custodianship*", if booked in the Trust Department.
- " Securities held under custodianship where the custodian performs the value-added service of securities lending as agent shall be booked in the Trust Department.
- "c. *Documentation.* x x x
- "d. *Confirmation of custody.* x x x
- "e. *Periodic reporting.* x x x"

Section 7. Subsecs. 4441Q.8 and 4144N.8 of the MORNBFi on protection of securities of the customer are hereby amended as follows:

"Subsec. 4441Q.8/4144N.8 *Protection of securities of the customer.*

A custodian must incorporate the following procedures in the discharge of its functions in order to protect the securities of the customer:

- "a. *Administration of securities custodianship accounts.* Securities custodianship accounts must be administered in the entity's Trust Unit.
- "b. *Accounting and recording for securities.* Custodians must employ accounting and safekeeping procedures that fully protect customer securities. It is essential that custodians segregate customer securities from one another and from its proprietary holdings to protect the same from the claims of its general creditors.

"Securities held under custodianship shall be recorded in the books of the custodian at the face value of said securities in the other fiduciary sub-account "*Custodianship*".

"c. Documentation. x x x

"d. Confirmation of custody. x x x

"e. Periodic reporting. x x x"

Section 8. Subsec. X441.13 of the MORB/Subsecs. 4441Q.13 and 4144N.13 of the MORNBF on basic security deposit are hereby amended as follows:

"Subsec. X441.13/Subsecs. 4441Q.13 and 4144N.13 Basic security deposit

x x x

"However, securities held under custodianship where the custodian also performs securities lending as agent shall be subject to a higher basic security deposit of one percent (1%) of the total face value.

x x x"

Section 9. Subsec. X901.1 (2008 - X608.1) of the MORB on annual fees is hereby amended by adding the following provision:

"Subsec. X901.1 (2008 - X608.1) Annual fees on banks.

x x x

"The rates of annual fees for banks beginning assessable year 2010 shall be as follows:

- | | |
|-------------------|--------------|
| a. UBs/KBs | - 1/32 of 1% |
| b. TBs | - 1/32 of 1% |
| c. RBs/Coop banks | - 1/45 of 1% |

multiplied by their AAAs of the preceding year: *Provided*, That the applicable rates for future assessable years shall be subject to review.

"Securities held under custodianship shall be exempt from annual fees.

x x x"

Section 10. Subsec. 4901Q.1 (2008 – 4652Q) of the MORNBFI on annual fees is hereby amended by adding the following provision:

"Subsec. 4901Q.1 Annual fees on quasi-banks.

X X X

"The annual fees for QBs beginning assessable year 2010 shall be one thirty-second (1/32) of one percent (1%) multiplied by their AAAs of the preceding year.

"Securities held under custodianship shall be exempt from annual fees.

X X X"

Section 11. Transitory Provisions. Existing BSP-accredited custodian banks which intend to administer their securities custodianship business in the Bank Proper shall be given 30 banking days from the effectivity of this Circular to comply with the provisions of Subsection X441.8 of the MORB.

This Circular shall take effect fifteen (15) calendar days following its publication either in the Official Gazette or in a newspaper of general circulation.

FOR THE MONETARY BOARD:


JUAN DE ZUÑIGA, JR.
Officer-In-Charge

10 March 2011