



Bangko Sentral ng Pilipinas

MAYNILA, PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 402
Series of 2003

**REVISED GUIDELINES ON THE FLOTATION OF BONDS
BY LOCAL GOVERNMENT UNITS (LGUs)
[WITHOUT NATIONAL GOVERNMENT GUARANTEE]**

Pursuant to Monetary Board Resolution No. 1151 dated August 14, 2003, the following guidelines shall govern the flotation of bonds by local government units (LGUs) under Republic Act (RA) No. 7160 (Local Government Code of 1991) and Republic Act (RA) No. 7653 (New Central Bank Act) dated 3 July 1993.

I. Legal Basis

A. UNDER THE LOCAL GOVERNMENT CODE OF 1991 (R.A.No. 7160)

"Sec. 299. *Bonds and Other Long-Term Securities.* Subject to the rules and regulations of the Central Bank and the Securities and Exchange Commission, provinces, cities, and municipalities, are hereby authorized to issue bonds, debentures, securities, collaterals, notes and other obligations to finance self-liquidating, income-producing development or livelihood projects pursuant to the priorities established in the approved local development plan or the public investment program. The Sanggunian concerned shall, through an ordinance approved by a majority of all its members, declare and state the terms and conditions of the bonds and the purpose for which the proposed indebtedness is to be incurred."

B. UNDER THE NEW CENTRAL BANK ACT (R.A. No. 7653)

"Section 123. *Financial Advice on Official Credit Operations.* -- Before undertaking any credit operation abroad, the Government, through the Secretary of Finance, shall request the opinion, in writing, of the Monetary Board on the monetary implications of the contemplated action. Such opinions must similarly be requested by all political subdivisions and instrumentalities of the Government before any credit operation abroad is undertaken by them.

"The opinion of the Monetary Board shall be based on the gold and foreign exchange resources and obligations of the nation and on the effects of the proposed operation on the balance of payments and on monetary aggregates.

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"Whenever the Government, or any of its political subdivisions or instrumentalities, contemplates borrowing within the Philippines, the prior opinion of the Monetary Board shall likewise be requested in order that the Board may render an opinion on the probable effects of the proposed operation on monetary aggregates, the price level, and the balance of payments."

II. Coverage

This Circular shall govern the issuance of bonds by provinces, cities, and municipalities which do not carry the guarantee of the National Government. The LGUs concerned are advised to observe the existing rules and regulations of other government agencies (Department of Finance, Securities and Exchange Commission) relating to LGU bond flotation.

III. Procedures and Documentary Requirements

A. Manner of Request

An LGU proposal to issue bonds shall be submitted to the Bangko Sentral ng Pilipinas (BSP), through the Secretary of Finance with a formal request for the Monetary Board's opinion on the probable effects of the proposed operation on monetary aggregates, the price level, and the balance of payments.

B. Documentary Requirements

The proposal shall be accompanied by the following documents:

1. An original copy (or a certified true copy) of the ordinance duly signed by the appropriate officers pursuant to the Local Government Code. In accordance with the Local Government Code, the ordinance authorizing the bond flotation should:
 - a) state the specific purpose/project(s) for which the proposed indebtedness is to be incurred;
 - b) certify that the project(s) to be financed by the bond flotation is/are a self-liquidating, income-producing development or livelihood project/s pursuant to the priorities established in the approved local development program or the public investment program;
 - c) state the terms and conditions of the bond flotation, including sinking fund or other funding arrangements; and

2. A copy of the resolution designating the LGU representative, including the specific acts/services that the representative has been authorized to perform.
3. A waiver letter on the confidentiality of information (Annex 1) under Sections 2 and 3 of Republic Act No. 1405, as amended, authorizing all banks and financial institutions under the supervision of the BSP and which have transactions with the concerned LGU to disclose to the BSP all information pertaining to the deposits, investments, loans and other transactions of the concerned LGU (including the history or status of the LGU's dealings with said banks and financial institutions); the waiver letter *should be duly executed by the mayor or governor as the case may be.*
4. A Department of Finance (DOF) certification that the debt service and borrowing capacity of the proponent LGU satisfies the legal requirements for a bond issue.

C. Monetary Board Opinion

1. Upon submission of all the above requirements, including other additional data or information it may deem necessary in the issuance of its opinion, and if the same are found to be in order, the Monetary Board shall, within a reasonable period of time, render an opinion on the probable effects of the proposed indebtedness on monetary aggregates, the price level, and the balance of payments.
2. The opinion of the Monetary Board shall be forwarded to the concerned LGU through the DOF.
3. The opinion of the Monetary Board does not constitute an endorsement by the BSP of the project since it is limited to the assessment of the monetary implications of the bond flotation. The said opinion is based on: (a) the information contained in the documents submitted by the LGU; and (b) the assumption that the proceeds of the bond flotation will actually be used for the intended projects described in the documents submitted. Hence, investors shall be responsible for assessing the quality of the bonds in terms of risks and returns.

D. Post-Issuance Reports

The LGU or its representative or its trustee bank, as the case may be, shall submit to the BSP a post flotation report (Annex 2) that will indicate the actual amount of the issue as well as the final terms and conditions of the issue within 30 days from the date of the flotation; and such other reports as may be required by the BSP.

IV. Sanctions

Any violation of this Circular shall be subject to the sanctions provided under Sections 36 and 37 of Republic Act No. 7653.

V. Repealing Clause

All BSP regulations or issuances or any provision thereof that may be inconsistent with the provisions of this Circular, including Circular No. 41, dated August 29, 1994, are hereby repealed and superseded accordingly.

VI. Effectivity

This Circular shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.


RAFAEL B. BUENAVENTURA
Governor

September 4, 2003

Annex 1

(Name of Local Government Unit)
(Address)

Hon. Rafael B. Buenaventura
Governor
Bangko Sentral ng Pilipinas

Dear Gov. Buenaventura:

This has reference to our request for the opinion of the Monetary Board (MB) on the probable effects on monetary aggregates, price level and balance of payments of the proposed bond flotation amounting to _____ by the Province/City/Municipality of _____.

Pursuant to the provisions of Sections 2 and 3 of Republic Act No. 1405 and other laws relating to the secrecy of bank deposits, Resolution No. _____ dated _____ (certified true copy attached) was passed by the Province/City/Municipality of _____ waiving our rights to confidentiality of information by authorizing _____, our trustee bank and all banks or financial institutions with which we have transactions to disclose to the Bangko Sentral ng Pilipinas all information pertaining to the deposits, investments, loans or other transactions including the history or status of our dealings with said banks or financial institutions and for the BSP to make all inquiries as may be necessary regarding the same. The BSP is likewise authorized to disclose and share any such information furnished or obtained from said banks or financial institutions to the Department of Finance in relation to the performance by said Department of its functions.

Thank you.

Very truly yours,

Mayor/ Governor

_____ 2003

POST BOND FLOTATION REPORT

Final Terms and Conditions of the Issue	
Issuer	
Bond Name/ Label	
Amount of Proposed Bond Flotation	
Amount of Bonds Actually Sold	
Purpose of Bonds	
Issue Price	
Interest Rate (Actual)	
Date of Flotation	
Term	
Maturity Date	
Grace Period	
Denomination	
Medium of Sale	
Interest/coupon Rate	
Interest Payment Dates	
Principal Payment Date	
Collateral Guarantee/ Security	
Trustee Bank	
Fiscal Agent	
Trustee Fee	
Underwriter	
Underwriting Fee	
Guarantor	
Guarantee Fee	
Financial Advisor, if any	
Financial Advisor Fee	
List of Investors/Amount Purchased	
Settlement Mode	