



Bangko Sentral ng Pilipinas

MAYNILA, PILIPINAS

OFFICE OF THE GOVERNOR

Circular No. 332
Series of 2002

Pursuant to Monetary Board Resolution No. 567 dated 25 April 2002, the following rules and regulations are hereby issued to implement Sections 12, 13 and 14 of Republic Act No. 8791, otherwise known as "The General Banking Law of 2000".

Section 1. Stockholdings of Family Groups or Related Interests. Individuals related to each other within the fourth degree of consanguinity or affinity, whether legitimate, illegitimate or common-law, shall be considered family groups or related interests but may each own up to forty percent (40%) of the voting stock of a domestic bank: Provided, That said relationship must be fully disclosed in all transactions by such individual or family group with the bank.

Section 2. Corporate Stockholdings. Two or more corporations owned or controlled by the same family group or same group of persons shall be considered related interests but may each own up to forty percent (40%) of the voting stock of a domestic bank: Provided, That said relationship must be fully disclosed in all transactions by such corporations or related groups of persons with the bank.

Section 3. A natural person and a corporation or corporations which are wholly-owned, or a majority of the voting stock of which is owned, by him may own only up to a combined forty percent (40%) of the voting stock of a domestic bank.

Section 4. Dealings of a bank with any of its stockholders and their related interests shall be upon terms not less favorable to the bank than those offered to others. Towards this end, every natural person acquiring shares cumulatively amounting to at least two percent (2%) of the total subscribed capital of a domestic bank must disclose all relevant information on all persons related to him within the fourth degree of consanguinity or affinity, whether legitimate, illegitimate or common law as well as corporations, partnerships or associations where he has controlling



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interests. A corporation acquiring shares amounting to at least two percent (2%) of the total subscribed capital of a domestic bank must disclose its controlling stockholder or group of stockholders as well as the corporations, partnerships or associations where such controlling stockholder or group of stockholders have controlling interest.

The foregoing information shall also be disclosed in cases of the following transactions: availment of credit facility from the bank; purchases or sale of assets from/to the bank; leasing property from or to the bank; providing janitorial, messengerial, security and other services to the bank; and such other transactions as may be required to be disclosed by the Monetary Board. Where the stockholdings of such individual/organization together with his/its related interests amount to at least two percent (2%) of the total subscribed capital stock of the bank, the foregoing transactions shall be subject to the Procedural Requirements and the Reportorial Requirements prescribed under Secs. X334 and X335 of the Manual of Regulations for Banks, respectively.

Section 5. Stockholdings in excess of ceilings. Unless otherwise allowed under existing laws, rules or regulations, any or all, as the case may be, of the above-mentioned stockholders owning more than forty percent (40%) of the voting stock of a commercial bank or a universal bank shall comply with said ceiling within thirty (30) days from the effectivity of this Circular.

Section 6. Ceilings on stockholdings in a cooperative bank. The equity investment of any cooperative in any Cooperative Bank shall not exceed forty percent (40%) of the subscribed capital stock of such Cooperative Bank.

Section 7. Subsec. X126.2 of the Manual of Regulations for Banks is hereby amended to read as follows:

Transfer of shares. The following regulations shall govern transfer of voting shares of stocks in banks:

a. **Unlawful and void transactions involving voting stocks in banks.** The following transactions, to the extent of the excess over any of the prescribed ceilings are hereby declared unlawful.

- (1) The sale or transfer of voting stock of a commercial bank or a universal bank to any individual, if such sale or transfer, in itself, or in relation with another previous sale or transfer shall result in the ownership

by an individual in excess of 40% of the voting stock of the bank.

- (2) The sale or transfer of voting stock of banks to any individual or entity, if such sale or transfer, in itself, or in relation with another previous sale or transfer shall result in the ownership by foreign persons and/or foreign non-bank corporations in excess of forty percent (40%) of the voting stock in a commercial bank or a universal bank and sixty percent (60%) in case of a thrift bank.
- (3) The sale or transfer of voting stocks of commercial banks or universal banks to any corporation, if such sale or transfer, in itself, or in relation with another previous sale or transfer shall result in the ownership by such corporation in excess of forty percent (40%) of the voting stock of the bank, unless allowed under R.A. No. 7721 and R.A. No. 8791.
- (4) The sale or transfer of voting shares of stocks of commercial banks or universal banks to (a) any natural person; and (b) any corporation or corporations which are wholly-owned or a majority of the voting stock of which is owned by such natural person if such sale or transfer in itself, or in relation with another previous sale or transfer, shall result in the combined ownership by such natural person and such corporations in excess of forty percent (40%) of the voting stock of the bank, unless allowed under R.A. No. 7721 and R.A. No. 8791.
- (5) Any arrangement, such as voting trust agreement or proxy, which vests on any person or corporation the right to vote or control voting stocks in banks, if such agreement in itself, or in relation with another previous similar agreement or previous sale or transfer shall result in the acquisition of control, in excess of the prescribed limitations.

- b. **Duties of a corporate secretary.** In all transactions which may lawfully come to the knowledge of the corporate secretary involving transfer of voting shares of stock or registration of voting trust agreements, or any form of agreement vesting the right to vote the voting shares of stock of the bank, the corporate secretary shall:

- (1) ascertain the identity and citizenship of the transferee, voting trustee, proxy or person vested with the right to vote, and his relation to existing stockholders, and for this purpose, he should require the transferee, voting trustee, proxy or the person vested with the right to vote to submit proof of citizenship, which may consist, in case of a corporation, of a certified true copy of the articles of incorporation, accompanied by the affidavit of the corporate secretary of the corporation, certifying to the correctness and accuracy of the list of stockholders, their citizenship, and the percentage of shares owned by them;
- (2) require the transferee, voting trustee, proxy or person vested with the right to vote, at the time of the receipt of the request for transfer or registration, or at any time thereafter, to disclose all information with respect to persons related to the transferee, voting trustee, proxy or person vested with the right to vote, within the fourth degree of consanguinity or affinity, whether legitimate, illegitimate or common-law, as well as corporations, partnerships or associations where the transferee, voting trustee, proxy or person vested with the right to vote has controlling interest, and the extent thereof;
- (3) require the transferee to execute an affidavit (sample format shown in Appendix 4) stating, among other things, that the transferee is a bona fide owner of shares of stock and that he acknowledges full awareness of the requirements of the law and the prohibitions against exceeding ownership of voting stocks beyond the prescribed limitations.

If the request for transfer or the arrangement sought to be registered will patently cause the voting stocks of a person or a corporation, to exceed the limits prescribed by law, the corporate secretary shall deny the transfer or registration and forthwith inform the parties to the transaction in writing. Simultaneous with the notice to the parties, the corporate secretary shall submit a written report to the Governor of the BSP of the attempted illegal transfer or arrangements, together with the names, addresses of parties and other pertinent data with respect to the particular stock transaction.

In the event the corporate secretary has reason to doubt the legality of the transfer or of the arrangement sought to be registered, he may commence an action before the appropriate body; and

- (4) promptly inform stockholders who have reached any of the ceilings imposed by law, of their ineligibility to own or control more than the applicable ceiling.

c. **Transfers requiring prior Monetary Board approval.**

- (1) Prior approval of the Monetary Board shall be required on the following:

- (a) Any sale or transfer or series of sales or transfers which will result in ownership or control of more than twenty percent (20%) of the voting stock of a bank by any person whether natural or juridical or which will enable such person to elect, or be elected as, a director of such bank; and

- (b) Any sale or transfer or series of sales or transfers which will effect a change in the majority ownership or control of the voting stock of the bank from one group of persons to another group: Provided, That in no case shall such sale or transfer be approved unless the bank concerned shall immediately comply with the prescribed minimum capital requirement for new banks, notwithstanding any approved capital build-up program.

- (2) **Sanctions.** Any violation of the provisions under items (a) and (b) of subparagraph (1) above shall be subject to the sanctions prescribed under Sections 36 and 37 of R.A. No. 7653, without prejudice to the appropriate legal actions for the rescission and invalidation of the sale or transfer.

d. **Requirement for newly established banks.** Entities which may hereinafter apply for a license to engage in banking business shall, before being allowed to operate, submit –

- (1) An alphabetical list of stockholders with the number and percentage of voting stocks owned by them; and
- (2) A separate list containing the names of persons who own voting stocks in banks and who are related to each other within the fourth degree of consanguinity or affinity, whether legitimate, illegitimate or common-law, with proper indication of the combined percentage of voting stocks held by them in the particular bank, as well as corporations which are wholly-owned or a majority of the stock of which is owned by any of such persons, including their subsidiaries.

Section 8. **Certificate of Authority to Register.** The Securities and Exchange Commission shall not register the articles of incorporation of any bank or any amendment thereto, unless accompanied by a certificate of authority issued by the Monetary Board, under its seal. Such certificate shall not be issued unless the Monetary Board is satisfied from the evidence submitted to it:

- a. That all requirements of existing laws and regulations to engage in the business for which the applicant is proposed to be incorporated have been complied with;
- b. That the public interest and economic conditions, both general and local, justify the authorization; and
- c. That the amount of capital, the financing, organization, direction and administration, as well as the integrity and responsibility of the organizers and administrators reasonably assure the safety of deposits and the public interest.

The Securities and Exchange Commission shall not register the by-laws of any bank, or any amendment thereto, unless accompanied by a certificate of authority from the Bangko Sentral.

Section 9. Appendix 4 (Format of affidavit on transfer of stocks) is hereby amended to read as follows:

FORMAT OF AFFIDAVIT ON TRANSFER OF STOCKS
(Appendix to Subsec. X126.2 b (3))

REPUBLIC OF THE PHILIPPINES)
_____) S.S.

AFFIDAVIT

I, _____, also known as _____, with business address at _____, after having been duly sworn to in accordance with law depose and state that:

1. I am the transferee of (state quantity) shares representing _____ percent of voting stocks of (state name of bank) hereinafter to be referred to as "Bank", by virtue of (state instrument of transfer) dated _____.

2. In acquiring equity in the Bank, I acted with full awareness and understanding that the Bank is a duly organized domestic banking corporation, exercising and enjoying a right, franchise and privilege to engage in _____ banking business, decreed by law to be a nationalized industry, wherein at least _____ of the voting stock should be owned by citizens of the Philippines and that there exist prohibitions under the law against the holding by a corporation or any person of voting stocks in excess of _____ of the voting stock of the Bank.

3. Consonant with the policy of the Government as provided for in Commonwealth Act. No. 108, as amended, otherwise known as the Anti-Dummy Law, and Republic Act. No. 8791 otherwise known as the General Banking Law of 2000, I hereby declare as follows:

- a. The (state instrument of transfer) was not simulated to evade the provisions of the Constitution and Commonwealth Act. No. 108 or the provisions of Republic Act No. 8971 particularly Sections 11, 12 and 13 imposing maximum equity holdings by any natural or juridical persons;
- b. That said shares of stocks were acquired by me for valuable consideration from funds provided by me;
- c. As such transferee, I have title over said shares of stock; and

d. That I undertake to dispose of the shares of stocks I may have acquired in excess of the prescribed ceilings.

4. This Affidavit is executed for the purpose of stating under oath my bona fide title over the shares of voting stocks of the Bank; that in acquiring title over said shares I gave valuable consideration; and that I shall comply with the requirements of all laws, rules, regulations and circulars with respect to my conduct as stockholder of the Bank.

IN WITNESS WHEREOF, I hereby affix my signature this _____ day of _____, 2002 at _____.

Affiant

SUBSCRIBED and sworn to before me this _____ day of _____ 20____, affiant exhibiting to me his Community Tax Certificate No. _____, issued at _____ on _____ 20____.

Notary Public

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Section 10. The provisions of the Manual of Regulations, BSP Circulars and other rules and regulations which may be inconsistent with the provisions of this Circular are hereby amended.

This Circular shall take effect immediately.

FOR THE MONETARY BOARD:


RAFAEL B. BUENAVENTURA
Governor

May 13 2002

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