



CIRCULAR NO. 591
Series of 2007

**To : All Banks Authorized to Engage in
Foreign Exchange (FX) Forwards and Swaps**

**Subject : Guidelines for FX Forward and Swap Transactions
Involving the Philippine Peso**

Section 1. Statement of Policy

It is the policy of the Bangko Sentral ng Pilipinas (BSP) to support the deepening of the Philippine financial markets. In line with this policy, customers may, thru foreign exchange (FX) forwards, hedge their market risks arising from FX obligations and/or exposures provided that forward sale of FX (deliverable and non-deliverable) may only be used when the underlying transaction is eligible for servicing by the banking system under Circular No. 1389 dated 13 April 1993, as amended. Customers may, likewise, cover their funding requirements thru FX swaps.

Banks may only engage in FX forwards and swap transactions with customers if the latter is hedging market risk or covering funding requirements. There shall be no double/multiple hedging such that at any given point in time, the total notional amount of the FX derivatives transaction/s shall not exceed the amount of the underlying FX obligation/exposure.

The customer shall no longer be allowed to buy FX from the banking system for FX obligations/exposures that are fully covered by deliverable FX forwards and FX swaps.

The following guidelines, as well as minimum documentary requirements, shall cover FX forward and swap transactions involving the Philippine peso between authorized dealer banks and their customers.

Section 2. Definition of Terms

"Customers" shall refer to: (a) resident banks (other than commercial and universal banks) and non-bank BSP-supervised entities (NBBSEs) not authorized to engage in FX forwards and swaps as dealers; (b) resident non-bank entities; and (c) non-residents, both banks and non-banks.

"Foreign exchange obligation" shall refer to an actual commitment to repatriate or pay to a non-resident or any authorized agent bank (AAB) a specific amount of foreign currency on a pre-agreed date.

"Foreign exchange exposure" shall refer to an FX risk arising from an existing commitment which will lead to an actual payment of FX to, or receipt of FX assets from, non-residents or any Authorized Agent Bank (AAB) based on verifiable documents on deal date. FX risks arising from BSP-registered foreign investments without specific repatriation dates are considered FX exposures.

"Resident" shall refer to –

- a. An individual citizen of the Philippines residing therein; or
- b. An individual who is not a citizen of the Philippines but is permanently residing therein; or
- c. A corporation or other juridical person organized under the laws of the Philippines; or
- d. A branch, subsidiary, affiliate, extension office or any other unit of corporations or juridical persons which are organized under the laws of any country and operating in the Philippines, except Offshore Banking Units.

"Non-resident" shall refer to an individual, a corporation or other juridical person not included in the definition of resident.

"Foreign exchange swap" shall refer to a transaction involving the actual exchange of two currencies (principal amount only) on a specific date at a rate agreed on deal date (the first leg), and a reverse exchange of the same two currencies at a date further in the future (the second leg) at a rate (different from the rate applied to the first leg) agreed on deal date.

"Foreign exchange forward" shall refer to a contract to purchase/sell a specified amount of currency against another at a specified exchange rate for delivery at a specified future date three or more business days after deal date.

"Non-Deliverable Forward (NDF)" shall refer to an FX forward contract where only the net difference between the contracted forward rate and the market rate at maturity (i.e., the fixing rate) shall be settled on the forward date.

Section 3. Documentation

Minimum documentary requirements for FX forward and swap transactions listed in the attached Annex "A" shall be presented on or before deal date to the banks unless otherwise indicated.

FX selling banks shall stamp the supporting documents upon presentation by customers as follows:

- a. For hedging transactions: "FX HEDGED/DELIVERABLE" or "FX HEDGED/NON-DELIVERABLE";
- b. For funding transactions: "FX SOLD",

indicating the contract date and amount involved, and signed by the bank's authorized officer. Copies of all duly marked supporting documents shall be retained by the banks and made available to the BSP for verification. The retained copies shall also be marked "DOCUMENTS PRESENTED AS REQUIRED" and signed by the bank's authorized officer.

Section 4. Tenor/Maturity and Settlement

- a. Forward Sale of FX (whether deliverable or non-deliverable)

The tenor/maturity of such contracts shall not be longer than:

(i) the maturity of the underlying FX obligation; or (ii) the approximate due date or settlement of the FX exposure. For deliverable FX forward contracts, the tenor/maturity shall be co-terminus with the maturity of the underlying obligation or the approximate due date or settlement of the FX exposure. This shall not preclude pretermination of the contract due to prepayment of the underlying obligation or exposure, provided that for foreign currency loans, prior BSP approval has been obtained for the prepayment and a copy of such approval is presented to the bank counterparty.

- b. FX Swaps

No restriction on tenor.

- c. Settlement of NDFs

All NDF contracts with residents shall be settled in pesos.

- d. Remittance of FX proceeds of deliverable forward and swap contracts

FX proceeds of deliverable forward and swap contracts shall be delivered by the bank counterparty directly to the beneficiaries concerned except for foreign investments where said FX proceeds are reconverted to Philippine pesos and re-invested in eligible peso instruments such as those listed in Item A.2.2 of Annex "A" hereof. For this purpose, beneficiaries shall refer to the FCDU of a bank or a non-resident entity (e.g., creditor, supplier, investor) to whom the customer is committed to pay/remit FX.

Section 5. Forward Contracts with Non-residents

All forward contracts to sell foreign exchange to non-residents (including offshore banking units) with no full delivery of principal, including cancellations, roll-overs/renewals shall be submitted for prior clearance to the

BSP. However, every roll-over of short-term (ST) deliverable forward contracts with non-residents need not be prior-approved, provided:

1. The underlying transaction for each ST deliverable FX forward contract is a foreign investment in long-term (LT) Philippine government securities for which a Bangko Sentral Registration Document (BSRD) has been issued;
2. The roll-over is effected during the tenor of the underlying LT Philippine government securities;
3. The actual delivery/settlement of the forward contract coincides with the date of the intended capital repatriation of the BSP-registered investments;
4. The value of the forward contract does not exceed the foreign currency equivalent of the maturity value/net proceeds of the BSP-registered investments computed at the agreed forward exchange rate; and
5. The repatriation of capital and remittance of income for the BSP-registered investment complies with documentary requirements under existing BSP rules.

Section 6. Cancellations, Roll-overs or Non-delivery of FX Forward and Swap Contracts

All cancellations, roll-overs or non-delivery of all FX deliverable forward contracts and the forward leg of swap contracts shall be subject to the following guidelines to determine the validity thereof:

- a. **Eligibility Test** - Contracts must be supported by documents listed in Annex "A" hereof.
- b. **Frequency Test** - the reasonableness of the cancellation, roll-over or non-delivery shall be based on the results of the evaluation of the justification/explanation submitted by banks as evidenced by appropriate documents.
- c. **Counterparty Test** – the cancellation or roll-over of contracts must be duly acknowledged by the counterparty to the contract as shown in documents submitted by banks, e.g., there should be *conforme* of counterparty as evidenced by the counterparty signature on pertinent documents.
- d. **Mark-to-Market Test** – the booking or recording in the books of accounts of the profit or loss on contracts and cash flows/settlement to counterparties must be fully supported by appropriate documents such as authenticated copy of debit/credit tickets, schedules showing among others, mark-to-market valuation computation, etc.

Section 7. Compliance with Anti-Money Laundering Rules

All transactions under this Circular shall comply with existing regulations on anti-money laundering pursuant to the provisions of Republic Act No. 9160 (Anti-Money Laundering Act of 2001) dated 29 September 2001, as amended.

Section 8. Reporting Requirements

Banks duly authorized to engage in derivatives transactions shall continue to be covered by the BSP's existing reporting requirements on financial derivatives. Cancellations, roll-overs or non-delivery of deliverable FX forward contracts and under the forward leg of swap contracts shall be reported electronically in excel format to the BSP not later than five (5) banking days after reference month using the format prescribed in Annex "B".

Swap contracts with counterparties involving purchase of FX by banks at the initial leg shall likewise be reported electronically in excel format to the BSP not later than five (5) banking days after reference month using the format prescribed in Annex "C".

The reports shall be transmitted to the International Department at iod@bsp.gov.ph, copy furnished the Supervisory Data Center (SDC) at the following addresses: sdcfxkbdom@bsp.gov.ph (for Domestic Banks) and sdcfxkbfor@bsp.gov.ph (for Foreign Banks).

Section 9. Sanctions

Violations of this Circular shall be subject to the penalty provisions under R.A. No. 7653 (The New Central Bank Act) and other existing banking laws and regulations.

For purposes of imposing sanctions for delayed, erroneous or unsubmitted reports, reports required under Section 8 hereof are classified as Category B reports and subject to corresponding penalties prescribed under the BSP Manual of Regulations for Banks.

Section 10. Non-Bank BSP Supervised Entities (NBBSEs)

NBBSEs that may subsequently be authorized to engage in FX forwards and swaps as dealers shall likewise be covered by the provisions of this Circular.

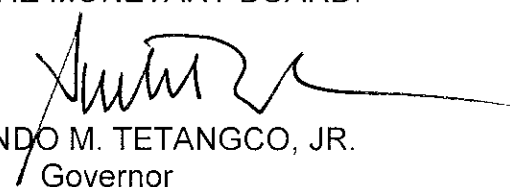
Section 11. Repealing Clause

The provisions of Circular Nos. 135, 344 and 407 dated 22 July 1997, 9 August 2002, and 30 September 2003, respectively [Section 1602 and Subsections X602.14 to X602.21 and X602.26 of the Manual of Regulations for Banks (MORB)] and all other BSP issuances and/or Sections of the MORB that are inconsistent with the provisions of this Circular are hereby repealed/amended accordingly.

Section 12. Effectivity

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

FOR THE MONETARY BOARD:


AMANDO M. TETANGCO, JR.
Governor

27 December 2007