

# [ PRESIDENTIAL DECREE NO. 1034, September 30, 1976 ]

## **AUTHORIZING THE ESTABLISHMENT OF AN OFFSHORE BANKING SYSTEM IN THE PHILIPPINES**

**WHEREAS**, conditions conducive to the establishment of an offshore banking system, such as political stability, a growing economy and adequate communication facilities, among others, exist in the Philippines;

**WHEREAS**, it is in the interest of developing countries to have as wide access as possible to the sources of capital funds for economic development;

**WHEREAS**, an offshore banking system based in the Philippines will be advantageous and beneficial to the country by increasing our links with foreign lenders, facilitating the flow of desired investments into the Philippines, creating employment opportunities and expertise in international finance, and contributing to the national development effort;

**WHEREAS**, the geographical location, physical and human resources, and other positive factors provide the Philippines with the clear potential to develop as another financial center in Asia;

**NOW, THEREFORE, I, FERDINAND E. MARCOS**, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby decree and make the following part of the law of the land:

**SECTION 1.** *Definition of Terms.* — As used in this Decree, unless the context otherwise indicates:

a. "Offshore Banking" shall refer to the conduct of banking transactions in foreign currencies involving the receipt of funds from external sources and the utilization of such funds as provided in this Decree.

b. "Offshore Banking Unit" shall mean a branch, subsidiary or affiliate of a foreign banking corporation which is duly authorized by the Central Bank of the Philippines to transact offshore banking business in the Philippines.

c. "Deposits" shall mean funds in foreign currencies which are accepted and held by an offshore banking unit in the regular course of business, with the obligation to return an equivalent amount to the owner thereof, with or without interest.

d. "Resident" shall mean —

(1) an individual citizen of the Philippines residing therein; or

(2) an individual who is not a citizen of the Philippines but is permanently residing therein; or

(3) a corporation or other juridical person organized under the law of the Philippines. cdt

e. "Non-resident" shall mean an individual, corporation or other juridical person not included in the above definition of "resident": Provided, however, That branches, subsidiaries, affiliates, extension offices or any other units of corporation or juridical person organized under the laws of any foreign country operating in the Philippines shall be considered residents of the Philippines.

f. "Branch" shall mean a separately managed department or unit of a foreign corporation.

**SECTION 2. *Qualification Requirements.*** — Subject to such regulatory guidelines as the Monetary Board may prescribe, only bank which are organized under any law other than those of the Republic of the Philippines their branches, subsidiaries or affiliates, shall be qualified to operate offshore banking units in the Philippines. However, local branches of foreign banks already authorized to accept foreign currency deposits under the provisions of R.A. No. 6426 may opt to apply for authority to operate an offshore banking unit under the provisions of this Decree: Provided, That, upon their receipt of a corresponding certificate of authority to operate as an offshore banking unit, the license to transact business under the provisions of R.A. No. 6426 shall be deemed automatically withdrawn.

**SECTION 3. *Certificate of Authority to Operate.*** — The Monetary Board of the Central Bank of the Philippines is hereby authorized to issue certificates of authority to operate offshore banking units: Provided, however, that, in issuing such certificates, the Monetary Board shall take into consideration the applicant's liquidity and solvency position, networth and resources, management, international banking expertise, contribution to the Philippine economy, and other relevant factors such as participation in equity of local commercial banks and appropriate geographic representation.

The Central Bank of the Philippines is hereby authorized to collect a fee of not less than US\$20,000.00 upon issuing any certificate of authority to operate and annually thereafter on the anniversary date of such certificate. acd

**SECTION 4. *Corporate Undertaking.*** — No application to operate as an offshore banking unit under the provisions of this Decree shall be considered unless the applicant shall have first submitted to the Central Bank of the Philippines a sworn undertaking of its head office or parent or holding company, duly supported by an appropriate resolution of its board of directors, that, among other things: (a) it will, on demand, provide the necessary specified currencies to cover liquidity needs that may arise or other shortfall that its offshore banking unit may incur; (b) the operations of its offshore banking unit shall be managed soundly and with prudence; (c) it will train and continually educate a specific number of Filipinos in international banking and foreign exchange trading with a view to reducing the number of expatriates; (d) it will provide and maintain in its offshore banking unit net office funds in the minimum amount of US\$1,000,000.00 and (e) it will start operations of its offshore banking unit within 180 days from receipt of its certificate of authority to operate such unit.

**SECTION 5. *Supervision.*** — The operations and activities of offshore banking units shall be conducted under the supervision of the Central Bank of the Philippines.

**SECTION 6. *Transactions of Offshore Banking Units Regulations.*** — Transactions of offshore banking units with non-residents or with other offshore banking units shall