

[BSP CIRCULAR NO. 676, S. OF 2009, December 29, 2009]

CROSS-CURRENCY INVESTMENT FOR PESO TRUST, OTHER FIDUCIARY AND INVESTMENT MANAGEMENT ACCOUNTS, AND PESO UNIT INVESTMENT TRUST FUNDS

Pursuant to Monetary Board Resolution No. 1782 dated 10 December 2009, allowing cross-currency investment for peso trust, other fiduciary and investment management accounts, including peso unit investment trust funds, the Manual of Regulations for Banks (MORB) and Manual of Regulations for Non-Bank Financial Institutions (MORNBFI) are hereby amended to read as follows:

Section 1. Subsections X409.6 and 4409Q.6 of the MORB and MORNBFI, respectively, are hereby amended to read as follows:

"Subsection X409.6/4409Q.6 Other applicable regulations on loans and investments. The loans and investments of trust and other fiduciary accounts shall be subject to pertinent laws, rules and regulations for banks/non-banks with quasi-banking functions that shall include but need not be limited to the following:

"a. Requirements of Sections 39 and 40 OF R.A. NO. 8791 (THE GENERAL BANKING LAW OF 2000);

"x x x

"d. Qualitative appraisal of loans, investments and other assets that may require provision for probable losses which shall be booked in accordance with the FINANCIAL REPORTING PACKAGE FOR TRUST INSTITUTIONS;

"E. REQUIREMENTS OF SECTIONS 3 AND 8 OF THE SECURITIES REGULATION CODE; AND

"F. PROVISIONS OF SECTION 44 - INVESTMENTS BY PHILIPPINE RESIDENTS - OF THE BSP MANUAL OF REGULATIONS ON FOREIGN EXCHANGE TRANSACTIONS, SUCH THAT THE CROSS-CURRENCY INVESTMENTS OF PESO TRUST AND OTHER FIDUCIARY ACCOUNTS, INCLUDING PESO UNIT INVESTMENT TRUST (UIT) FUNDS, SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:

(1) ALL CASH FLOWS OF THE TRUSTEE OR FIDUCIARY SHALL ONLY BE IN PESOS. IN CASE THE FOREIGN EXCHANGE ACQUIRED OR RECEIVED BY THE TRUSTEE OR FIDUCIARY AS DIVIDENDS/ EARNINGS OR DIVESTMENT PROCEEDS ON

SUCH INVESTMENT ARE INTENDED FOR REINVESTMENT ABROAD, THE SAME PROCEEDS ARE NOT REQUIRED TO BE INWARDLY REMITTED AND SOLD FOR PESOS THROUGH AUTHORIZED AGENT BANKS: *PROVIDED*, THAT SUCH PROCEEDS ARE REINVESTED ABROAD WITHIN TWO (2) BANKING DAYS FROM RECEIPT OF THE FUNDS ABROAD;

(2)THE TRUSTEE OR FIDUCIARY SHALL PURCHASE, INVEST, RE-INVEST, SELL, TRANSFER OR DISPOSE FOREIGN CURRENCY-DENOMINATED FINANCIAL INSTRUMENTS, INCLUDING SECURITIES AS DEFINED IN SECTION 3 OF THE SECURITIES REGULATION CODE, THROUGH A DISTRIBUTOR OR UNDERWRITER DULY AUTHORIZED OR LICENSED BY THE GOVERNMENT OF THE ISSUER OF SUCH INSTRUMENTS, OR A COUNTERPARTY FINANCIAL INSTITUTION (SELLER OR BUYER) ACCREDITED BY THE TRUSTEE OR FIDUCIARY, PROVIDED, THAT, THE CONDUCT, DOCUMENTATION, AND SETTLEMENT OF ANY OF THESE TRANSACTIONS SHALL BE OUTSIDE PHILIPPINE JURISDICTION;

(3)THE TRUSTEE OR FIDUCIARY SHALL RECORD CROSS-CURRENCY INVESTMENT TRANSACTIONS IN THE PESO REGULAR BOOKS AT THEIR FOREIGN CURRENCY AMOUNTS AND THEIR LOCAL CURRENCY EQUIVALENT USING THE PHILIPPINE DEALING SYSTEM PESO/ US DOLLAR CLOSING RATE AND THE NEW YORK US DOLLAR/THIRD CURRENCIES CLOSING RATE.

(4)THE TRUSTEE OR FIDUCIARY SHALL COMPLY WITH THE REPORTORIAL REQUIREMENTS THAT MAY BE PRESCRIBED BY THE BSP, WHICH SHALL INCLUDE AS A MINIMUM, THE FOREIGN CURRENCY AMOUNT AND THE LOCAL CURRENCY EQUIVALENT OF THE TOTAL CROSS CURRENCY INVESTMENTS WITH DETAILS ON: (A) TYPE OF INVESTMENTS; AND (B) AMOUNT OF CASH FLOW CONVERTED.

"FOR PURPOSES OF THIS SUBSECTION, 'RESIDENT', AS DEFINED UNDER SECTION 1 OF THE BSP MANUAL OF REGULATIONS ON FOREIGN EXCHANGE TRANSACTIONS, SHALL REFER TO THE (A) TRUSTEE OR FIDUCIARY THAT ADMINISTERS THE ASSETS RECEIVED IN TRUST OR IN OTHER FIDUCIARY CAPACITY; OR (B) PRINCIPAL THAT ENGAGES THE SERVICES OF THE INVESTMENT MANAGER UNDER AN INVESTMENT MANAGEMENT AGREEMENT."

SECTION 2. Subsections X410.9 and 4410Q.9 of the MORB and MORNBF1, respectively, are hereby amended to read as follows:

"Subsection X410.9/4410Q.9 Allowable investments and valuation. UIT Fund investments shall be limited to bank deposits and the following financial instruments:

x x x