

[CIRCULAR LETTER. JANUARY 24, 2002, January 24, 2002]

SALE OF FOREIGN EXCHANGE (FX) FOR TRADE TRANSACTIONS

The following guidelines shall be observed in the implementation of Circular-Letter dated 09 August 2001 covering sale of foreign exchange (FX) for trade transactions.

I. Importations under Letters of Credit (LCs), Documents against Payment (DPs) and Documents against Acceptance (DAs):

a. All import LCs to be opened shall include under the LC terms and conditions, among others, the clause:

"LC number shall be indicated on all copies of shipping documents"

b. All original shipping documents [Bill of Lading (BL) or Airway Bill (AWB) and Invoice] shall be stamped by the booking/issuing bank with the Bank's Name and Mode of Importation (i.e. LC, DA or DP), whether FX has been sold or not.

c. Banks other than the issuing/booking bank may sell FX to importer clients, provided:

1. The sale is supported by the following documents:

1.1 Copy/photocopy of the original shipping documents duly stamped as in Item I.b above;

1.2 Certification from the issuing/booking bank (addressed to individual FX selling bank/s) indicating the following:

i. Amount of the outstanding FX trade obligations;

ii. Amount of FX intended to be purchased; and

iii. BSP Registration Number for DA.

The certification shall be duly signed by the bank's authorized signatory under Circular-Letter dated 09 August 2001.

1.3 Notarized certification from the importer-client that FX has not been purchased from other bank(s) and/or bank-affiliated forex corporation(s) for the transaction. In case of previous FX purchase, the certification shall indicate amount of FX previously purchased for the transaction. The certification shall be duly signed by the authorized signatory of the importer-client.

2. The FX selling bank shall immediately remit proceeds of FX sale directly to the issuing/booking bank, indicating in the remittance instructions pertinent information such as the LC No., BSP Registration No., BL No., Invoice No., etc.

3. The booking/issuing bank shall, upon receipt of FX, stamp "FX SOLD" on the original shipping documents at hand and indicate thereon the amount of FX and the name of the FX selling bank(s). The stamped information shall be duly signed by the booking/issuing bank's authorized signatory.

II. Importations under Direct Remittance (DR) or Open Account Arrangement (OA):

a. Importer-client shall present to his remitting/registering bank all the original copies of the shipping documents for stamping of BANK'S NAME AND MODE OF IMPORTATION (i.e., DR or OA). All original shipping documents [including at least (3) original BLs or one of the original/carbonized copy of AWBs] shall be accounted for. In case any one of the original BLs/AWBs cannot be presented for stamping of Bank's name, the importer client shall present to his remitting/registering bank —

1. A notarized certification from the Bureau of Customs (BOC) and/or the shipping/airline company that an original BL has been retained by them to process release of cargo, and

2. Notarized certification as in Item I.c.1.1.3 above.

b. Bank may sell FX for DR and BSP-Registered OA to importer-clients, provided, the sale is supported by the following documents:

1. In case FX selling bank is the same as the registering bank where original documents were previously presented, only one (1) original copy of the shipping documents duly stamped as in Item II.a above.

2. In case FX selling bank is other than the registering bank which applied for the BSP registration of the OA transaction and where original documents were previously presented, the requirements enumerated under Item I.c. above as well as the BSP registration of OA transaction shall apply.

c. FX sale under Direct Remittance can only be serviced by banks if made within twenty (20) calendar days [instead of fifteen (15) banking days] after BL date otherwise, FX shall not be sourced from the banking system unless the transaction is considered an OA, subject to BSP registration requirements.

d. FX registering/remitting bank shall stamp "FX SOLD" on the original shipping documents at hand and indicate thereon the amount of FX and name of the FX selling bank(s). The stamped information shall be duly signed by the remitting/registering bank's authorized signatory. Thereafter, the FX payment shall be immediately remitted to the beneficiary.

III. Unless specifically authorized by the Bangko Sentral, proceeds of FX sale for trade-related transactions shall not be credited to any FCDU account even if remittance to beneficiary/supplier will be made on the same date that the FX was sold. IV. Photocopies of the original shipping documents (released to client) listed under Circular-Letter dated 09 August 2001 shall be marked "ORIGINAL DOCUMENT

PRESENTED AS REQUIRED" and duly signed by the bank's authorized signatory. These should be retained on bank's file for BSP examination purposes.

Clarifications on FX sales for trade transactions based on the queries received from banks are hereto attached as Annex "A".

It is understood that the penalty provisions under Circular-Letter dated 23 July 2001 shall apply to erring banks.

Provisions of BSP Circular-Letters dated 06 January 1998, 31 March 1998, 20 July 2001, and 09 August 2001 that may be inconsistent with the provisions of these implementing guidelines are hereby repealed.

This Circular-Letter shall take effect immediately

Adopted: 24 Jan. 2002

(SGD.) RAFAEL B. BUENAVENTURA
Governor

ANNEX A

CLARIFICATIONS ON SALE OF FOREIGN EXCHANGE
FOR TRADE TRANSACTIONS RELATIVE TO CIRCULAR-LETTER
DATED 09 AUGUST 2001

(Based on Inquiries Received from Banks)

Q1. Is the client's notarized certification on sale of FX applicable only to documents that were sent directly to the importer, hence does not cover the following:

- Under LC (reimbursing bank debits account of local bank on negotiation date),
- under sight LC but with documentary discrepancies which are sent on collection basis,
- under usance LC, and
- under DA/DP where documents are transmitted by the foreign bank to the local bank?

A: Yes, except under Items I.c, II.b.2 and II.b.3 of the implementing guidelines.

Q2. Can the bank's certification on the stamping of "FX Sold" be done on a summary basis (covering all FX sale on trade transactions for the day)?

A: Bank's certification on the stamping of "FX Sold" is no longer required in the implementing guidelines.

Q3. Shall the FX selling bank require presentation of all the original shipping

documents?

A: Yes, if the FX selling bank is the booking/issuing bank and in case of Item II.b.3 of implementing guidelines; otherwise, Item I.c of implementing guidelines shall apply.

Q4. What are the documentary requirements where the amount of the importation cannot be fully serviced by just one bank?

A: See Item I.c of the implementing guidelines.

Q5. Can banks sell FX for unregistered DA/OA importations?

A: No, only BSP-registered DA/OA import transactions can be serviced by banks.

Q6. What other documents shall be presented for TELEX RELEASE? Telex release is a notice by the foreign shipping company to its local agent on the shipment of the exporter to the importer wherein the original BLs have been surrendered and, thus, authorizing the release of goods. Upon receipt by the local agent of the said telex release, an arrival notice shall be issued by the local agent to the importer.

A: The following other documents shall be presented:

a) Original invoices;

b) Original non-negotiable BL duly stamped "ORIGINAL SURRENDERED"/"SURRENDERED" by the shipping company or its local agent;

c) Original arrival notice that the imported goods have arrived (with details matching the BL) issued by shipping company's local agent; and

d) Client's notarized certification that it has not purchased FX under said BL as prescribed under Item I.c.1.1.3 of the implementing guidelines.

Q7. What other documents shall be presented for SEAWAY BILL? Seaway Bill is an unsigned, non-negotiable, electronically-transmitted (via web page) advice that the goods will be loaded (without indicating if on-board).

A: The documents to be presented are —

a) Items a, c and d of the answer to Q6; and

b) Copy of electronically transmitted Seaway Bill.

Q8. What documents shall be presented in lieu of the original airway bill?

A: The following documents shall be presented:

a) The original non-negotiable airway bill; and

b) Client's notarized certification that FX has not been purchased under said airway bill as prescribed under Item I.c.1.1.3 of the implementing guidelines.