

[BSP CIRCULAR NO. 1389, April 13, 1993]

CONSOLIDATED FOREIGN EXCHANGE RULES AND REGULATIONS

Pursuant to Monetary Board Resolution No. 246 dated March 26, 1993 the foreign exchange rules and regulations on current accounts, capital accounts, foreign currency deposit units, offshore banking units and representative offices of foreign banks are hereby consolidated as follows:

PART ONE. CURRENT ACCOUNTS

Chapter I

Non-Trade Foreign Exchange Receipts and Disbursements, Transfers of Local Currencies and Gold Transactions

SECTION 1. Disposition of Foreign Exchange Receipts — Foreign exchange receipts, acquisitions or earnings of residents from non-trade sources may, at the option of said residents, be sold for pesos to Authorized Agent Banks (AABs) or outside the banking system, retained, or deposited in foreign currency accounts, whether in the Philippines or abroad. All categories of banks (except Offshore Banking Units [OBUs]), duly licensed by the Central Bank shall be considered as AABs.

SECTION 2. Sales of Foreign Exchange by AABs — AABs may sell foreign exchange to residents, (including the Government, its political subdivisions and instrumentalities and government-owned and controlled corporations), upon the latter's written application for any non-trade purpose without need of prior Central Bank approval. However, foreign exchange for payment of obligations that are foreign loan or foreign-investment related, may be sold by AABs to residents upon showing that Central Bank approval and/or registration has been obtained for the loan or investment, whenever required by these regulations. AABs selling foreign exchange for remittance abroad shall ensure that taxes, when required, have been paid and that the remittance is net of such taxes.

SECTION 3. Purchases of Foreign Exchange by Non-Residents. — Non-residents may purchase foreign exchange from AABs only to the extent of the amount shown to have been sold by them for pesos to AABs. Departing non-residents may reconvert at airports or other ports of exit unspent pesos of up to a maximum of US\$200 or an equivalent amount in any other foreign currency calculated at prevailing exchange rates, without need of showing proof of previous sale by them of foreign exchange to AABs.

SECTION 4. Import/Export of Philippine Currency. — No person may import or export nor bring with him into or out of the country, or electronically transfer legal tender Philippine notes and coins, checks, money order and other bills of exchange drawn in pesos against banks operating in the Philippines in an amount exceeding

P5,000.00 without authorization by the Central Bank.

The term electronic transfer as used herein shall mean a system where the authority to debit or credit an account (bank, business or individual) is provided by wire, without a source document being mailed to evidence the authority.

SECTION 5. Buying and Selling of Foreign Exchange and of Gold by Residents.

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- 1 Foreign exchange may be freely bought and sold outside the banking system.
2. Except as provided in this Circular, gold and gold-bearing metals may likewise be bought and sold without specific approval of the Central Bank.
3. Gold from small-scale miners shall be sold to Central Bank. All other forms or types of gold may, at the option of the owner or producer thereof and with the consent of Central Bank, be sold and delivered to the Central Bank.

The Central Bank may sell gold grains/pellets/bars and sheets to local jewelry manufacturers and other industrial users upon application, or to banks exclusively for re-sale to jewelry manufacturers/industrial users, at the Central Bank gold-selling price plus a service fee to cover costs including cost of conversion and packaging.

CHAPTER II Foreign Trade Transactions

A. Import Trade Transactions

SECTION 6. General Policy. — As-a general rule, all kinds of merchandise imports are allowed. However, the importation of certain commodities are regulated or prohibited for reasons of public health and safety, national security, international commitments, and development/rationalization of local industry.

SECTION 7. Classification of Imports. — Imports are classified as follows:

1. Freely Importable Commodities. - These are commodities the importation of which is neither regulated nor prohibited as defined under (2) and (3) hereunder. The importation may be effected without the prior approval of or clearance from any government agency.
2. Regulated Commodities. - There are commodities the importation of which requires clearances/permits from appropriate government agencies including the Central Bank. They are enumerated under Appendix 1 of this Circular.
3. Prohibited Commodities. - These are commodities the importation of which is not allowed under existing laws. They are enumerated under Appendix 2 of this Circular.

SECTION 8. Modes of Payment for Imports. — Commercial banks may sell foreign exchange to service payments for imports under any of the following arrangements without prior CB approval subject to the provisions of Sections 9 to

12:

1. Letter of Credit (L/C);
2. Documents Against Payment (D/P);
3. Documents Against Acceptance (D/A);
4. Open Account Arrangement (O/A); and
5. Direct Remittance.

SECTION 9. Letter of Credit. -

1. Requirements for L/C Opening. All L/Cs must be opened on or before the date of shipment with maximum validity of one (1) year. Likewise, only one L/C should be opened for each import transaction. For purposes of opening an L/C, importers shall submit to the commercial bank the following documents:

- a. The duly accomplished L/C application;
- b. Firm offer/proforma invoice which shall contain information on specific quantity of the importation, unit cost and total cost, complete description/specification of the commodity and Philippine Standard Commodity Classification statistical code;
- c. Permits/clearances from appropriate government agencies, whenever applicable; and
- d. Duly accomplished Import Entry Declaration (IED) Form which shall serve as basis for payment of advance duties as required under PD 1853.

2. Amendment of L/Cs. L/C amendments need not be referred to the Central Bank for prior approval. However, amendments extending the total validity period of an L/C for more than one (1) year, if payment of the L/C is to be sourced from the banking system, shall be referred to the Central Bank for prior approval.

3. Negotiation of L/Cs. L/Cs shall be negotiated in accordance with the terms and conditions set forth in the L/C and shall be governed by the Uniform Customs and Practices on Documentary Credits. The requirement of pre-shipment inspection/Clean Report of Findings (CRF) shall be strictly observed, whenever applicable.

SECTION 10. Documents Against Payment (D/P). -

1. Under the D/P arrangement, commercial banks shall advise the importer of the receipt of the complete original shipping documents (inclusive of the CRF whenever applicable) and shall effect the release of said documents to the importer upon receipt of payment.

2. Commercial banks shall remit payment to the supplier through the correspondent bank abroad.

SECTION 11. Documents Against Acceptance (D/A) and Open Account (O/A) Arrangements. — Under a D/A arrangement, the shipping documents are released to the importer by the local bank concerned thru the seller's bank upon the importers acceptance of the seller's bill of exchange obligating the importer to pay

for the shipment at some future date. Under an O/A arrangement, the shipping documents are sent and released by the seller directly to the importer without coursing the documents thru the banks, upon the importer's promise to pay at some future date after shipment.

1. Eligible Firms. Producers/manufacturers whether for the domestic or export market, oil firms, franchised public utility concerns and importers-traders importing raw materials required by domestic manufacturers are allowed to import under D/A and O/A arrangements.

2. Registration and Payment of D/A and O/A imports. - a. Importations under D/A and O/A arrangements shall be covered by a Central Bank Release Certificate (CBRC) and registered with the Central Bank upon availment for monitoring purposes. Commercial banks are authorized to issue the CBRC upon receipt of the complete shipping documents inclusive of the CRF, if applicable, and submission by the importer of the duly accomplished Record of Goods Imported (RGI) and the pertinent import permit (if applicable);

b. Payments sourced from the commercial banking system shall not be effected for unregistered DA/OA imports. Payments prior to maturity date can be made provided these have already been registered. Payments subsequent to the original maturity date may be allowed without prior Central Bank approval provided that:

1. the importers report the extension of the maturity period to a specific date; and

2. the cumulative length of the maturity periods, including all extensions, does not in any case exceed one (1) year from date of draft acceptance for D/A and B/L (Bill of Lading) date for O/A.

c. Payments of D/A and O/A obligations, the maturities of which shall have exceeded 360 days from date of draft acceptance in case of D/A or B/L date in case of O/A shall be referred to the Central Bank for approval, and

d. Mechanics of Registration. Appendix 3 of this Circular contains the mechanics of reporting and registration of D/A and O/A imports.

SECTION 12. Direct Remittance. — Commercial banks may service applications for direct remittance of import payments effected through modes other than those under L/C, D/P, D/A or O/A only upon presentation of the complete original shipping documents as well as copy of the CRF and/or import clearance for regulated items issued by concerned government agencies, if applicable.

SECTION 13. Other Import Arrangements. — Import arrangements not involving payments using foreign exchange purchased from the banking system are also allowed without prior Central Bank approval. These include:

1. Self-Funded/ (No-Dollar) Imports. These are imports funded from importer's own foreign currency deposit accounts or those sent by suppliers abroad for which no payment in foreign exchange will be made whether immediate or potential.

2. Importations on Consignment Basis. These are importations by export

producers of raw materials and accessories/supplies from foreign suppliers/buyers abroad for the manufacture or processing of products destined for export to said foreign suppliers/buyers. These shall also include machinery/equipment and spare parts consigned to the local manufacturer/processor for eventual re-export to the consignor, provided that the equipment involved shall be used only in connection with the processing of products for export.

SECTION 14. Comprehensive Import Supervision Scheme (CISS). — Goods destined for importation into the Philippines shall be subject to inspection by the inspector(s) duly authorized by the Government in the countries of supply, as to the quality, quantity, price/HCV, verification of Tariff and Customs Code, classification and verification of Tariff rate, under a Comprehensive Import Supervision Scheme (CISS).

Pursuant to Joint Order 1-91 (Appendix 4) which governs the implementation of the CISS, the following commodities are subject to inspection:

1. Good sold and/or supplied from all countries with FOB value of US\$500.00 and above.
2. Goods invoiced or declared in the shipping documents as off-quality under such descriptive terms as stocklots, side-runs, cull rolls, seconds, mill lots, scraps, off-grade, reconditioned, used, junk or similar terms conveying or purporting to convey the condition of the article as not being brand-new or first quality, regardless of value.

B. Export Trade Transactions

SECTION 15. General Policy. — It is the policy of the Central Bank to encourage commodity exports which generate foreign exchange earnings for the country. Accordingly, commodity exports are allowed without restriction except for certain commodities which are regulated or prohibited for reasons of national interest or by provision of law.

SECTION 16. Classification of Exports. —

1. Freely Exportable Commodities. These are commodities the exportation of which is neither regulated nor prohibited. They may be effected without prior approval of or clearance from any government agency.
2. Regulated Commodities. These are commodities the exportation of which requires clearances/permits from appropriate government agencies. The list of these products and the appropriate government agencies/offices is shown in Appendix 5.
3. Prohibited Export. These are commodities the exportation or sale of which is prohibited/penalized by law.

SECTION 17. Export Declaration (ED)

1. Individual Export Declaration