

[BSP CIRCULAR NO. 5 s. 1993, September 15, 1993]

RE: CONSOLIDATED FOREIGN EXCHANGE RULES AND REGULATIONS

Pursuant to Monetary Board Resolution No. 231 dated September 6, 1993, the pertinent provisions of Circular No. 1389 dated April 13, 1993 (Consolidated Foreign Exchange Rules and Regulations) as amended by Circular No. 1393 dated June 23, 1993 are hereby clarified/amended/modified as follows:

1. All references to the Central Bank of the Philippines in Circular No. 1389, as amended, shall refer to the Bangko Sentral ng Pilipinas.
2. Part One, Chapter II (Foreign Trade Transactions), Section 17 on Export Declaration (ED) is hereby amended such that Offshore Banking Units (OBUs) are likewise authorized to issue and register an ED or a Monthly ED, as well as amend and cancel said ED/MED in connection with their negotiation of export L/Cs and in handling other export transactions allowed under Sec. 52 of this Circular.
3. Part Two, Chapter I (Foreign Currency Loans and Guarantees) is hereby amended as follows:
 - a. Inclusion of the following additional provisions to Section 24:

"24.6. Private sector loans not guaranteed by foreign governments/official export credit agencies covering importations of freely importable commodities under deferred letters of credit."

"24.7. Private sector loans granted by foreign companies to their local branches/subsidiaries, irrespective of amount and maturity, provided these are used to finance eligible projects/costs cited under Sec. 25 hereof."
 - b. Revision of Sections 28.2, 30.1, 30.2 and 31.2 to read as follows:

"28.2. Private sector loans granted pursuant to Sections 24.4, 24.5, 24.6 and 24.7 shall be reported to the Bangko Sentral for registration purposes using forms prescribed for the purpose."

"30.1. The following guarantees shall continue to be referred to the Bangko Sentral for prior approval:

 - a. Guarantees for account of the public sector as well as those to be issued by government-owned and controlled corporations in favor of non-residents; and

- b. Guarantees issued by foreign banks and financial institutions to secure obligations of residents partaking the nature of a foreign loan which require prior Bangko Sentral approval pursuant to Sec. 23 hereof."

"30.2. The following guarantees for account of the private sector shall not require prior Bangko Sentral approval but should be reported for registration purposes to be eligible for servicing using foreign exchange to be purchased from the banking system in the event of a default by the principal obligor:

- a. Guarantees to be issued by local banks and financial institutions including government financial institutions in favor of non-residents such as:
 - 1. Payment guarantees (e.g., bid bonds, performance bonds, advance payment bonds); and
 - 2. Guarantees to secure foreign obligations of residents which do not partake the nature of a foreign loan.
- b. Guarantees to be issued by foreign banks and financial institutions as well as other foreign entities to secure peso loans/FCDU loans authorized under Sec. 24.4 as well as foreign obligations (which do not partake the nature of a foreign loan) of local firms. Proceeds of guarantees where the beneficiary is a resident shall be inwardly-remitted and sold to the banking system.

As a prerequisite to the issuance of guarantees under Item a, the following documents shall be submitted to the guarantor:

- 1. Registration papers of domestic accountee with the Securities and Exchange Commission (for corporation/partnership) or with the Bureau of Domestic Trade (for single proprietorship).
- 2. Contract and/or other documents which serve as basis for the issuance of the guarantee.

Applications for registration shall be filed with the Bangko Sentral using the prescribed forms together with documents specified in attached Appendix 12. (see below)

"31.2. Payments related to financing schemes involving foreign exchange commitments of up to US\$1 million or its equivalent, as well as Bangko Sentral-approved transactions under paragraph 1 above may be serviced as they fall due without prior Bangko Sentral approval in line with the relevant provisions of the covering agreement/contract, a copy of which shall be submitted to the servicing bank."

- 4. Part Two, Chapter II (Foreign Investments), Section 44 (Outward Investments by Philippine Residents) is hereby amended to read as follows:

"44. Outward Investments by Philippine Residents.

A resident may invest only if:

- 1. the investments are funded by withdrawals from foreign currency