

[BSP CIRCULAR NO. 470, S. 2005, January 17, 2005]

TO APPROVE THE REVISED GUIDELINES FOR THE CURRENCY RATE RISK PROTECTION PROGRAM

The Monetary Board, in its Resolution No. 2 dated 6 January 2005, approved the following revised guidelines for the Currency Rate Risk Protection Program (the "CRPP Facility").

Section 1. The CRPP Facility. The CRPP Facility is a non-deliverable USD/PHP forward contract (NDF) between the Bangko Sentral ng Pilipinas (BSP) and a universal/commercial bank (the "Bank") in response to the request of bank clients desiring to hedge their eligible foreign currency obligations. A derivatives license is not required to avail of the CRPP.

Under the CRPP Facility, only the net difference between the contracted forward rate and the prevailing spot rate shall be settled in pesos at maturity of the contract. Should the eligible obligation be denominated in a foreign currency other than the US dollar, the CRPP contract shall be denominated in the US dollar equivalent using the exchange rate indicated in the BSP Treasury Department Reference Exchange Rate Bulletin on deal date.

Section 2. Coverage. Eligible obligations under the CRPP Facility shall refer to unhedged foreign currency obligations in amounts of not less than US\$50,000.00 which are current and outstanding as of date of application. Past due foreign currency obligations are not eligible. For this purpose, unhedged obligations are those without outstanding hedge either through forward contracts, options or matched foreign currency assets. Partially hedged foreign exchange obligations shall be evaluated on a case-to-case basis.

The following are the eligible foreign exchange obligations:

- a. BSP-registered medium/long-term (MLT) FCDU loans and bonds [with remaining tenors of up to five (5) years] booked as of 31 December 2003;
- b. BSP-registered short-term (ST) trade-related FCDU loans;
- c. BSP-registered ST trade-related borrowings of oil companies from offshore banking units (OBUs) and offshore banks;
- d. US dollar trust receipts;
- e. Foreign currency import bills/customers' liabilities under acceptances; and
- f. Documents against acceptance (DA)/open account (OA) import obligations duly reported by an AAB to BSP under Schedule 10 of FX Form 1.

BSP-registered MLT FCDU loans and bonds incurred after 31 December 2003 may also be considered on a case-to-case basis.

In the case of oil companies that intend to cover under a single CRPP contract an importation initially made under an OA arrangement to be rolled over or refinanced with a ST FCDU loan upon maturity, BSP approval through the International Operations Department may be granted on a case-to-case basis.

Section 3. Terms and Conditions. The terms and conditions of the CRPP Facility are set forth in the implementing guidelines (Annex 1).

Section 4. CRPP Application Form. The CRPP application form should be completely accomplished. Forms with missing information shall not be accepted.

Section 5. Reporting Requirements. Daily reports on executed/preterminated/cancelled CRPP transactions shall be submitted by the Bank to the appropriate BSP-Supervision and Examination Department (SED-I/SED-II/SED-III) in the prescribed format (Annexes 2 and 2A) not later than 4:30 P.M. of the following banking day.

These reports shall be signed jointly under oath by the Bank's authorized signatory who shall at least be a Senior Vice President or his equivalent and by the Compliance Officer. Said reports shall be considered Category A-1 for purposes of imposing monetary penalties on delayed/erroneous reports as prescribed in the Manual of Regulations for Banks.

Section 6. Pretermination. Pretermination of a CRPP contract shall be allowed subject to the rules on pretermination under Annex 1, including settlement of net differential in pesos.

Section 7. Sanctions. In the event a CRPP contract is preterminated for reasons other than those allowed by the BSP, monetary penalties shall be imposed as detailed in the pertinent provisions of Annex 1.

Furthermore, in case the CRPP contract has matured and was subsequently found to be ineligible, a monetary penalty of Php30,000.00 per calendar day shall be applied reckoned from the date of ineligibility up to maturity of the contract.

Section 8. Repealing Clause. This Circular supersedes Circular Nos. 292 and 300 dated 17 August 2001 and 24 September 2001, respectively, as well as parts of other circulars inconsistent herewith.

Section 9. Effectivity. This Circular shall take effect fifteen (15) calendar days after publication in the Official Gazette or a newspaper of general circulation in the Philippines.

Adopted: 17 Jan. 2005

For the Monetary Board:

(Sgd.) RAFAEL B. BUENAVENTURA
Governor

IMPLEMENTING GUIDELINES FOR BSP CIRCULAR NO. 470
THE CURRENCY RATE RISK PROTECTION PROGRAM
(THE "CRPP FACILITY")

A. MECHANICS

1. Qualified applicants shall file an application in the attached format (Annex 3) with a universal/commercial bank (the "Bank") certifying under oath that the underlying foreign currency obligation qualifies under the Circular and that such obligation is unhedged.
2. The Bank, after reviewing the application and finding the same in order, shall request the BSP-Treasury Department to quote the CRPP rates between 1:00 - 2:30 P.M. and 4:00 - 4:30 P.M. Each application shall be dealt by BSP-Treasury Department separately.
3. The Bank shall transmit the details of the deal done with BSP-Treasury Department to BSP-SED-I/SED-II/SED-III not later than 4:30 P.M. of the following banking day. The transmittal shall include a hard copy of the Reuters conversation with BSP-Treasury Department, or if the deal is done thru the telephone, a fax copy of the details of the transaction, i.e., tenor/maturity date, swap points, spot rate, forward rate and amount.
4. The client, thru the Bank, shall provide the relevant documentary requirements that BSP-SED-I/SED-II/SED-III may require. All deals done between the Bank and the BSP-Treasury Department shall be subject to confirmation (approval/disapproval) by the BSP-SED-I/SED-II/SED-III on the basis of the results of its evaluation of the supporting documents.

B. DOCUMENTARY REQUIREMENTS

Unless otherwise indicated, all of the following documents shall be certified as true copies by the Bank's authorized signatory who shall at least be a Senior Vice-President or its equivalent and by the Compliance Officer, and submitted to the BSP-SED-I/SED-II/SED-III together with the application to avail of the CRPP Facility:

1. BSP-registered FCDU loans and bonds

For medium/long-term [MLT-with remaining tenors of up to five (5) years booked as of 31 December 2003] FCDU loans and bonds:

- a. BSP registration letter and accompanying Schedule of Principal and Interest Payments on BSP-registered Foreign Credits (Schedule RA-2); or
- b. BSP letter-notation for partial loan utilizations and BSP letter indicating the approved loan terms together with bond prospectus for bond issues (optional).

In case document (b) is presented, amount eligible for hedging shall be limited to the total amount noted per the BSP letter.

For short-term [ST-with original maturity of up to one (1) year] trade-related FCDU loans:

- a. Promissory note certified by the Head of the lending Bank's Loans Department; and
- b. Certification from lending Bank on the date when loan account has been reported to BSP-International Operations Department (IOD) under IOS Form 4; or Certification from lending Bank that the loan is outstanding (for loans which have not been reported to BSP-IOD under IOS Form 4 which is due for submission 15 banking days from end of reference month) indicating the following details: date granted, amount outstanding as of date of application, loan purpose and due date/s.

For purposes of this Circular, the eligible ST FCDU loans are those that satisfy the eligibility criteria for registration under BSP Circular No. 1389, as amended.

2. BSP-registered short-term trade-related borrowings of oil companies from offshore banking units (OBUs) and offshore banks

- a. Promissory note certified by the Head of the lending OBU's Loans Department or by the oil company's highest ranking Treasury/Finance officer for loans granted by offshore banks;
- b. Loan agreement indicating, among others, loan purpose and terms;
- c. Original certification from lending OBU that the loan was utilized for trade purposes or relevant shipping documents for loans extended by offshore banks; and
- d. Original certification from the lending OBU on the date when loan account has been reported to BSP under the prescribed forms or Original certification from lending OBU that the loan is outstanding (for loans which have not been reported to BSP). For loans granted by offshore banks, original certification from the oil company's highest ranking Treasury/Finance officer that the loan has been duly reported by the firm to BSP through the IOD and remains outstanding as of date of application.

3. US dollar trust receipts (\$ TRs)

- a. Letter of credit, if applicable;
- b. Commercial invoice;
- c. Bill of lading (BL);
- d. \$ TR draft; and
- e. Trust receipt agreement

4. Foreign currency import bills/Customers' liabilities under acceptances

- a. Commercial invoice;
- b. Bill of exchange (import bill or customer's acceptance);
- c. BL; and
- d. Letter of credit

5. BSP-reported Documents Against Acceptance (DA)/Open Account (OA) obligations

- a. Certification from the AAB which reported the DA/OA availment to BSP that the accounts were duly reported to BSP under Schedule 10