

[BSP CIRCULAR NO. 425, SERIES OF 2004, March 25, 2004]

AMENDMENTS TO SECTION X303, SUBSECTIONS X303.1 TO X303.5 AND SUBSECTION X347.2 OF THE MANUAL OF REGULATIONS FOR BANKS TO IMPLEMENT SECTION 35 OF RA 8791 (GENERAL BANKING LAW OF 2000)

The Monetary Board, in its Resolution No. 299 dated March 11, 2004, approved the following amendments to Section X303, Subsections X303.1 to X303.5 and Subsection X347.2 of the Manual of Regulations for Banks (MOR) to implement Section 35 of Republic Act (R.A.) 8791, The General Banking Law (GBL) of 2000.

SECTION 1. Section X303 of the MOR and its subsections are hereby amended to read as follows:

SECTION X303. Credit Exposure Limits to a Single Borrower.

A. Consistent with national interest, the total amount of loans, credit accommodations and guarantees that may be extended by a bank to any person, partnership, association, corporation or other entity shall at no time exceed twenty five percent (25%) of the net worth of such bank. The basis for determining compliance with the single borrower's limit (SBL) is the total credit commitment of the bank to or on behalf of the borrower.

B. The total amount of loans, credit accommodations and guarantees prescribed in the first paragraph may be increased by an additional ten percent (10%) of the net worth of such bank: Provided, That the additional liabilities are adequately secured by trust receipts, shipping documents, warehouse receipts or other similar documents transferring or securing title covering readily marketable, non-perishable goods which must be fully covered by insurance.

C. The above prescribed ceilings shall include: (a) the direct liability of the maker or acceptor of paper discounted with or sold to such bank and the liability of a general endorser, drawer or guarantor who obtains a loan or other credit accommodation from or discounts paper with or sells papers to such bank; (b) in the case of an individual who owns or controls a majority interest in a corporation, partnership, association or any other entity, the liabilities of said entities to such bank; (c) in the case of a corporation, all liabilities to such bank of all subsidiaries in which such corporation owns or controls a majority interest; and (d) in the case of a partnership, association or other entity, the liabilities of the members thereof to such bank.

D. Even if a parent corporation, partnership, association, entity or an individual who owns or controls a majority interest in such entities has no liability to the bank, the liabilities of subsidiary corporations or members of the partnership, association, entity or such individual shall be combined under certain circumstances, including but not limited to any of the following situations: (a) the parent corporation, partnership, association, entity or individual guarantees the repayment of the liabilities; (b) the liabilities were incurred for the accommodation of the parent corporation or another subsidiary or of the partnership or association or entity or such individual; or (c) the subsidiaries though separate entities operate merely as departments or divisions of a single entity.

E. For purposes of this section, loans, other credit accommodations and guarantees shall exclude: (a) loans and other credit accommodations secured by obligations of the Bangko Sentral or of the Philippine Government; (b) loans and other credit accommodations fully guaranteed by the government as to the payment of principal and interest; (c) loans and other credit accommodations secured by U.S. treasury notes and other securities issued by central governments and central banks of foreign countries with the highest credit quality given by any two internationally accepted rating agencies; (d) loans and other credit accommodations to the extent covered by the hold-out on or assignment of, deposits maintained in the lending bank and held in the Philippines; (e) loans, credit accommodations and acceptances under letters of credit to the extent covered by margin deposits; and (f) other loans or credit accommodations which the Monetary Board may from time to time specify as non-risk items.

F. The wholesale lending activities of government banks to participating financial institutions for relending to end-user borrowers shall at no time exceed a separate limit of thirty-five percent (35%) of net worth, subject to the following guidelines: (a) it shall apply only to loans granted to participating financial institutions (PFIs) on a wholesale basis for on-lending to end-user borrowers; (b) it shall apply only to loan programs funded by multilateral, international or local development agencies, organizations or institutions especially designed for wholesale lending activities of government banks; (c) the end-user borrowers of the PFIs shall be subject to the 25% SBL, not the increased ceiling of 35%; and (d) government banks shall observe appropriate criteria for accrediting PFIs and for the grant/renewal of credit lines to accredited PFIs.

G. Loans and other credit accommodations as well as deposits maintained with, and usual guarantees by a bank to any other bank or non-bank entity, whether locally or abroad, shall be subject to the limits as herein prescribed.

Deposits of rural banks and cooperative banks (RBs/Coop Banks) with government-owned or controlled financial institutions like the Land Bank of the Philippines and the Development Bank of the Philippines shall not be covered by the SBL imposed under R. A. No. 8791.

In municipalities and cities where there are no government banks, the deposits of RBs/Coop Banks in private banks in said areas shall not be subject to the SBL. Deposits in private banks located in other municipalities/cities shall be covered by the SBL.

The outstanding balance of the deposit in a private depository bank being used by the Thrift Banks/RBs/Coop Banks with authority to accept/create demand or current deposits, to fund checks cleared through the said private depository bank shall also be exempt from the SBL even if there is a government-owned or controlled financial institution in the area.

Subsection X303.1 Definition of Terms.

For purposes of this Circular, the following definitions shall apply:

a. *Total Credit Commitment* shall include outstanding loans and other credit accommodations, deferred letters of credit less margin deposits, and guarantees. Except as specifically provided, total credit commitment shall be reckoned on credit risk-weighted basis consistent with existing regulations.

b. *Loans* shall refer to all the accounts under the loan portfolio of a bank as enumerated in the manual of accounts for banks.

c. *Other Credit Accommodations* shall refer to credit and specific market risk exposures of banks arising from accommodations other than loans such as receivables (sales contract receivables, accounts receivables and other receivables), and debt securities booked as investments.

d. *Bank Guarantee*. A bank guarantee is an irrevocable commitment of a bank binding itself to pay a sum of money in the event of non-performance of a contract by a third party. The guarantee is a commitment separate and distinct from the principal debt or contract.

e. *Net Worth* shall mean the total of the unimpaired paid-in capital including paid-in surplus, retained earnings and undivided profit, net of valuation reserves and other adjustments as may be required by the Bangko Sentral.

f. *Qualifying Capital* shall mean capital as computed under Circular 280 dated March 29, 2001 or as defined by the Monetary Board.

g. The term "*Control of Majority Interest*" shall be synonymous to "controlling interest" and exists when the parent owns directly or indirectly through subsidiaries more than one half of the voting power of an enterprise unless, in exceptional circumstance, it can be clearly demonstrated that such ownership does not constitute control. Control of majority interest may also exist even when the parent owns one half or less of the voting power of an enterprise when there is: