[BSP CIRCULAR NO. 149, December 22, 1997]

RULES AND REGULATIONS GOVERNING THE NON-DELIVERABLE FORWARD FOREIGN EXCHANGE

The Monetary Board, in its Resolution No. 1650 dated December 22, 1997 approved the following rules and regulations governing the non-deliverable forward foreign exchange facility (the "NDF Facility") of the Bangko Sentral ng Pilipinas ("BSP").

SECTION 1. General Statement -

To ensure stability and order in the foreign exchange markets, the BSP will provide, through authorized commercial banks, a facility for their customers to hedge their foreign exchange obligations.

Eligible obligations shall be those which are registered, unhedged, booked as of December 19, 1997, and outstanding as of the date of the application for the NDF Facility. For this purpose, unhedged obligations are those which have no outstanding hedge either thru forward contracts, options, or matched foreign currency deposits securing said obligation. Obligations with natural hedge, such as those of exporters, oil companies and public utilities with Currency Exchange Rate Adjustment (CERA) are not eligible.

Renewal of obligations eligible for the NDF Facility shall continue to be so qualified provided that the applicant commercial banks shall certify that the obligation applied for is not a new one but is the same eligible obligation previously granted access to the NDF Facility. The amount of the renewed obligation may be less but in no case more than the original amount.
Foreign exchange obligations with commercial banks incurred after December 19, 1997 but otherwise eligible under the provisions of this Circular may be submitted to Foreign Exchange Department (FED) for evaluation and approval of the BSP on a case to case basis.

SECTION 2. General Authority -

Commercial banks, including those without a derivatives license from the BSP issued pursuant to Circular No. 102, may avail of the NDF Facility for the purpose of hedging foreign exchange obligations of their borrowers. The hedging may be made entering into a US Dollar-Philippine Peso forward foreign exchange contract whereby the parties agree that instead of the actual delivery of the full amounts agreed, only the net difference between the contracted forward rate and the market rate shall be settled at the close out of the contract. Should the eligible obligation be denominated in a foreign currency other than US Dollars, the NDF contract to be executed between the BSP and the commercial bank shall be denominated in its US dollar equivalent. For the purpose of availing of the NDF Facility, the commercial banks and their customers shall certify that the availment is being made to hedge a