

## [ BSP CIRCULAR NO. 110, June 14, 1996 ]

### **GUIDELINES ACCEPTANCE BY BANKS OF DEPOSITS OF THE GOVERNMENT, ITS POLITICAL SUBDIVISIONS AND INSTRUMENTALITIES**

The Monetary Board, in its Resolution No. 578 dated June 13, 1996 approved the following guidelines to implement various legal provisions governing the acceptance by banks of deposits of the Government, its political subdivisions and instrumentalities, as well as of Government-owned or controlled corporations:

SECTION 1. *Legal provisions.* — The relevant legal provisions on the acceptance by banks of deposits of the Government, its political subdivisions and instrumentalities, as well as of Government-owned or controlled corporations are as follows:

1. *Republic Act No. 7845 ("General Appropriations Act of 1995")*

*"Section 14. Restrictions on the Use of Government Funds. — No government funds shall be utilized for the following purposes:*

xxx xxx xxx

5. To be invested in non-government securities, money market placements and similar investments or deposited in private banking institutions.

"The provisions of this section shall apply to local government units, political subdivisions and government-owned and/or controlled corporation. . . ."

2. *Republic Act No. 7653 ("The New Central Bank Act")*

*"Section 113. Official Deposits. — The Bangko Sentral shall be the official depository of the Government, its political subdivisions and instrumentalities as well as of Government-owned or controlled corporations and, as a general policy, their cash balances should be deposited with the Bangko Sentral, with only minimum working balances to be held by government-owned banks and such other banks incorporated in the Philippines as the Monetary Board may designate, subject to such rules and regulations as the Board may prescribe: Provided, that such banks may hold deposits of the political subdivisions and instrumentalities of the Government beyond their minimum working balances whenever such subdivisions and instrumentalities have outstanding loans with such banks."*

3. *Republic Act No. 7160 ("Local Government Code of 1991")*

"Section 311. Depository Accounts. — Local treasurers shall maintain depository accounts in the name of their respective local government units with banks, preferably government-owned located in, or nearest to their respective areas of jurisdiction. Earnings of each depository account shall accrue exclusively thereto."

4. *Republic Act No. 7906 ("Thrift Banks Act of 1995")*

"Section 10. *Powers of Thrift Banks*. — In addition to powers granted it by this Act and existing laws, any thrift bank may":

xxx xxx xxx

(e) *Act as official depository of national agencies and of municipal, city or provincial funds in the municipality, city or province where the thrift bank is located, subject to such guidelines as may be established by the Monetary Board.*"

5. *Republic Act No. 7353 ("Rural Banks Act of 1992")*

"Section 12. In addition to the operations specifically authorized in this Act any rural bank may:

xxx xxx xxx

(e) Act as official depository of municipal, city or provincial funds in the municipality, city or province where it is located, subject to such guidelines as may be established by the Monetary Board".

6. *Republic Act No. 6938 ("Cooperative Code of the Philippines")*

"Article 108. Privileges — Cooperative banks shall have the following privileges subject to the approval of the Central Bank and compliance with applicable banking laws, rules and regulations:

xxx xxx xxx

(2) To act as a depository of government funds. — For this purpose, all government departments, agencies and units of the national and local governments, including government-owned and controlled corporations are hereby authorized to deposit their funds in any cooperative bank."

7. *Republic Act No. 3844 (Code of Agrarian Reform)*

Section 75. *Powers in General*. — The Land Bank of the Philippines shall have the power:

xxx xxx xxx

"(12) to act as an official depository with full authority to maintain deposits of the Government, its branches, subdivisions and instrumentalities, and of government-owned or controlled corporations which deposits shall be subject to liquidity floor and/or reserve

requirements as may be imposed by the Monetary Board upon other commercial banks".

8. *Republic Act No. 6848 (Al-Amanah Islamic Investment Bank Charter).*

Section 6. *Islamic Bank's Powers.* — The Al-Amanah Islamic Bank of the Philippines, upon its organization, shall be a body corporate and shall have the power:

xxx xxx xxx

"(8) to act as an official government depository, or its branches, subdivisions and instrumentalities and of government-owned or controlled corporations, particularly those doing business in the autonomous regions".

9. *Republic Act No. 7169*

"Section 6. *Veterans Bank as a Government Depository.* — The Secretary of Finance, the National Treasurer and his authorized representatives, city and municipal treasurers, as well as custodians of public funds or those belonging to government-owned or controlled-corporations, are hereby authorized if they so desire to make and actually maintain deposits of any government or corporate funds with the Veterans Bank, which is hereby declared to be a government depository."

SECTION 2. *Opinion of the Secretary of Justice.* — The Secretary of Justice in his Opinion No. 57 dated May 29, 1995, ruled that:

". . . harmonization of all the abovementioned laws is possible and the rules of harmonization may be stated as follows:

"The general prohibition under Section 14(5) of the GAA stays — no government funds shall be deposited in private banking institutions.

"By way of exception, the Monetary Board may approve, subject to such guidelines as it may establish, a request for the deposit of government funds, whether pertaining to national or local agencies or government-owned or controlled corporations, in any rural bank pursuant to R.A. No. 7353, or any cooperative bank pursuant to R.A. No. 6938 or any thrift bank pursuant to R.A. No. 7906, or in any private bank designated by the Monetary Board pursuant to R.A. No. 7653.

"It should be stressed that unless the Monetary Board approves it, government funds shall not be deposited in any private banking institution in view of the general prohibition in Section 14(5) of the GAA."

SECTION 3. *Statement of Policy.* — As a general policy, cash balances of the Government, its political subdivisions and instrumentalities as well as of Government-owned or controlled corporations shall be deposited with the Bangko Sentral, with only minimum working balances to be held by Government-owned banks and such other banks incorporated in the Philippines as the Monetary Board may designate pursuant to this Circular: Provided, that such banks may be authorized by the Monetary Board to hold deposits of the political subdivisions and

instrumentalities of the Government beyond their minimum working balances whenever such subdivisions and instrumentalities have outstanding loans with said banks.

SECTION 4. *Prior Monetary Board Approval.* — No private bank shall, without prior approval of the Monetary Board, accept, as depository, any fund or money from the Government, its political subdivisions and instrumentalities, and Government-owned or controlled corporations; nor shall a private bank borrow any fund or money therefrom, through the issuance or sale of its acceptances, notes or other evidences of indebtedness.

SECTION 5. *Banks Which May Accept Government Funds.*

1. Banks, the majority of the capital of which is owned by the Government, may act as depository of funds of the Government, its political subdivision and instrumentalities, and Government-owned or controlled corporations.

2. Private banks incorporated in the Philippines may act as depository of government funds only with the prior approval of the Bangko Sentral. Local government units may maintain depository accounts preferably in Government banks and, in exceptional cases and with the prior approval of the Monetary Board, in the name of their respective government units in private banks located in or nearest to their respective areas of jurisdiction but the depository bank(s) must also seek the prior approval of the Bangko Sentral; Provided, That a private thrift, rural and cooperative bank may only act as official depository of government funds pursuant to Republic Act Nos. 7906, 7353 and 6938, as follows:

a. a *thrift bank* may only act as official depository of national agencies, and of municipal, city or provincial funds in the municipality, city or province where the thrift bank is located;

b. a *rural bank* may only act as official depository of municipal, city or provincial funds in the municipality, city or province where the rural bank is located; and

c. a *cooperative bank* may accept deposits of all government departments, agencies and units of the national and local governments including government-owned or controlled corporations.

3. Where there is no Government bank or Bangko Sentral office in the province and the nearest Government bank or Bangko Sentral office is inaccessible by ordinary transportation, or transporting/withdrawing the government deposits to and from the said office is impractical or risky, the province, as well as cities and municipalities located therein, may seek approval of the Monetary Board to consider all their funds eligible for deposits with a qualified private depository bank within the province, city or municipality, as the case may be.

4. Banks acting as official depository of Government funds may accept demand, savings or time deposits.

5. The *authority* of a bank to accept Government deposits does *not obligate* the Government, its subdivisions and instrumentalities and Government-owned or controlled corporations to deposit with that bank. Thus, even if a thrift or rural bank