

QAU Memo No. 1, s2017



In this issue:

Bangko Sentral ng Pilipinas (BSP) issued amendments to the Manual of Regulations for Banks (MORB), Manual of Regulations for Non-Bank Financial Institutions (MORNBFII) and Manual of Regulations on Foreign Exchange Transactions (FX Manual) which cover the establishment/relocation/voluntary closure/sale of branches, protection of interest of non-stock savings and loan associations (NSSLA) members, computation of Basel III risk-based capital, extension of the deadline for the exchange of new design series (NDS) banknotes and revision of certain provisions of foreign exchange regulations.

These amendments provided further directions in the areas of money, banking and credit which are aligned with the intention of the BSP to promote a stable and competitive banking environment.

R.S. BERNALDO & ASSOCIATES

TAKING YOU FURTHER

Amendments to Relevant Provisions of the Manual of Regulations for Banks on the Establishment/Relocation/Voluntary Closure/Sale of Branches

Circular No. 932, series of 2016 encompasses the following amendments to MORB:

Section X151 and its Subsections. The assignment of theoretical capital to each branch to be established for purposes of evaluating branch applications and determining the number of additional branches a bank may establish was removed from the pre-requisites for the grant of authority to establish a branch.

In addition, the amendment allowed the establishment of branches anywhere in the Philippines, including in cities previously considered as restricted areas: Provided, that, if Trust banks (TB)/ Rural banks (RB)/ Cooperative banks (Coop banks) will establish branches in cities/municipalities of a higher classification than their head office, the applicable minimum required capital under Subsection X111.1 will be that of the city/municipality of the higher classification, regardless of where the head office is located.

The following are the guidelines that apply to Coop banks:

- The Coop Bank of the province may set up branches/extension offices/other banking offices (OBOs) anywhere within the province subject to compliance with the applicable branching rules and regulations as provided in Sec. X151.
- Coop Banks from other provinces may set up branches/extension offices/OBOs in cities or municipalities where there is no other Coop Bank head office/branch/extension office.

The special licensing fees for branch applications in the cities previously considered as restricted areas (as defined under Sec. X151) are shown below:

Bank Category	Licensing Fee Per Branch
Universal Bank/Commercial Bank	P20 million
TB	P15 million
RB /Coop Bank	P1.5 million

Section 152. The amendment permits bank's head office to be relocated in places where it is allowed to establish branches as provided in Subsection X151.4 on branching guidelines: Provided that head offices located outside the cities previously considered as restricted areas as defined under Sec. X151 which will be relocated therein shall be subject to the special licensing fee under Subsection X151.5 upon approval of the relocation.

Subsection X102.3. Guidelines on the establishment of a microfinance-oriented bank were added.

Subsection X111.1. The required minimum capitalization as stated in the subsection shall also be applied upon establishment of a new bank, conversion of an existing bank from a lower to a higher category bank and vice versa, and relocation of the head office of a TB/RB in an area of higher classification.

Appendix 38. Section X151 and its Subsections shall also govern establishment of branches/extension offices/other banking offices by Coop Banks.

Appendices 94a and 94b. The theoretical capital requirement under Subsection X151.2 was removed.

This circular shall take effect fifteen (15) calendar days following its publication in the Official Gazette or in a newspaper of general circulation.

Amendments to the Manual of Regulations for Non-Bank Financial Institutions applicable to Non-Stock Savings and Loan Associations

Circular No. 933, series of 2016 of the BSP added Section 4184S and its Subsections to the MORNBFI applicable to NSSLAs so as to prevent acts, practices or omissions considered prejudicial to the interest of NSSLA members.

As specified in Subsection 4184S.1, the Monetary Board shall consider the circumstances below in determining whether a particular act, practice or omission may be deemed as prejudicial to the interest of members.

Circumstances to be considered
The act, practice or omission is contrary to the generally accepted standards of prudent operation resulting in, or if continued, may result in abnormal risk, damage or loss to the NSSLA; or
The act, practice or omission unduly burdens the members of the NSSLA and/or provide unwarranted benefit to the NSSLA to the advantage or preference of particular parties or groups thereof; or
The act, practice or omission has resulted or may result in material loss, damage or undue injury to members.

The following are the acts, practices or omissions which may be considered as prejudicial to the interest of members, as listed in Subsection 4184S.1:

- Charging of unreasonably high service fees in the grant of loans;
- Recognizing as income the unused insurance premiums instead of refunding and/or crediting the same to borrowers;
- Non-disclosing of costs related to services rendered by agents/sales representatives and consultants in the financials and management reports;
- Limiting the capital contributions of members in a discriminatory manner that has the effect of concentrating control to a family or group of members;
- Granting excessive compensation/benefits to trustees and/or officers without due consideration of the NSSLA's financial health, or when neither allowed in the by-laws nor approved by a general assembly called for the purpose, or when not commensurate to the assigned duties and responsibilities;
- Granting of loans to borrowers who have insufficient paying capacity or poor credit history;

- Continuously deducting loan amortizations from the members' salary even after the loan has been fully paid;
- Paying unauthorized disbursements or unsupported expenses; or
- Allowing third parties to use the NSSLA's properties or privileges without due compensation.

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Amendments on the Treatment of Other Comprehensive Income in the Computation of Basel III Risk-based Capital

Part II Qualifying Capital of Appendix 63b/Appendix Q-46 to Section X115/ Subsection 4115Q.1 (2008-4116Q) of the MORB/ MORNBF1 on the Risk-Based Capital Adequacy Framework for the Philippine Banking System and Financial Reporting Package for Banks (FRP)/ Simplified Financial Reporting Package for Rural and Cooperative Banks (Simplified FRP) were amended to by Circular No. 934, series of 2016.

The following are now part of Common Equity Tier (CET1) capital under other comprehensive income:

- Remeasurement of Net Defined Benefit Liability/ (Asset)
- Gains/ (Losses) on Fair value Adjustments of Hedging Instruments
 - ✓ Cash Flow Hedge; and
 - ✓ Hedge of a Net Investment in Foreign operations
- Others (indicate the nature and amount of the accounts lodged)

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Amendment of Circular No. 863 dated 29 Dec 2014 - Extension of the Deadline for the Exchange or Replacement of New Design Series Banknotes with the BSP or its authorized agent banks and financial institutions at par with New Generation Currency Banknotes

Circular No. 935, series of 2016 amended Circular No. 863 dated 29 December 2016 to extend the deadline for the exchange or replacement of NDS banknotes from 31 December 2016 to 31 March 2017.

This circular shall take effect immediately.

Amendments to Foreign Exchange Regulations

Amendments to foreign exchange regulations as indicated in Circular No. 937, series of 2016 are summarized as follows:

Section 34. Foreign exchange funding for the cash investments must be inwardly remitted but need not be converted to pesos but the amendment added an exception for investments in foreign bank branches' permanently assigned capital where the foreign exchange funding must be inwardly remitted and converted to pesos at the exchange rate prevailing at the time of remittance, pursuant to the pertinent provisions of the Manual of Regulations for Banks (MORB).

Sections 45 and 70. The definition of local branch of a foreign bank was amended to include reference to Republic Act No. 7721, as amended.

Section 71. It was amended to make reference to pertinent provisions of the MORB.

Section 97. The definition of unimpaired capital of local bank was added. It shall refer to a bank's total capital as defined under Section X111 of the MORB. Also, starting 1 January 2020, the unimpaired capital of foreign bank branches shall refer to the capital of a foreign bank branch as defined under Subsection X105.4 of the MORB.

Appendices 10 and 19. The appendices were revised to adopt the amendments previously mentioned.

This circular shall take effect fifteen (15) calendar days following its publication in the Official Gazette or in a newspaper of general circulation.

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