



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 809
Series of 2013

Subject: Amendments to Relevant Provisions of the Manual of Regulations for Banks Implementing R.A. No. 10574

Pursuant to Monetary Board Resolution No. 1394 dated 22 August 2013 providing for the rules and regulations to implement Republic Act No. 10574 (An Act Allowing the Infusion of Foreign Equity in the Capital of Rural Banks, Amending Republic Act No. 7353, Otherwise Known as "The Rural Banks Act of 1992"), the following provisions of the Manual of Regulations for Banks (MORB) are hereby amended, as follows:

Policy Statement. The BSP supports the objectives of Republic Act No. 10574 (An Act Allowing the Infusion of Foreign Equity in the Capital of Rural Banks, Amending Republic Act No. 7353, Otherwise Known as The Rural Banks Act of 1992, as Amended, and for Other Purposes) to allow entry of foreign equity into our rural bank system to revitalize the rural banking industry and improve access of banking services to the rural areas in the country.

Section 1. Subsection X105.3 of the MORB on the guidelines for selection is hereby amended to read, as follows:

"Subsec. X105.3 (2008 – X121.3) Guidelines for selection. The following factors shall be considered in selecting the foreign bank which will be allowed to invest in majority of the voting stock of an existing domestic bank or to establish a subsidiary or branch in the Philippines.

"a. Geographic representation and complementation. Representation from the different parts of the world and/or the international financial centers shall be ensured.

"x x x

"d. Demonstrated capacity, global reputation for financial innovations and stability in a competitive environment of the applicant. Demonstrated capacity, reputation for financial innovations and stability in a competitive environment may be indicated by the fact that the applicant ranks among the top 150 in the world or top five (5) in its country of origin or ascertained through the home regulator's assessment of the applicant foreign bank. Global reputation may be measured by international presence, e.g., number of branches with full banking authority outside of its country of origin.

"x x x"

Section 2. Subsection X126.1 of the MORB on the limits of stockholdings in a single bank is hereby amended to read, as follows:

“Subsec. X126.1 Limits of stockholdings in a single bank. The stockholdings of an individual, corporation, family group, or same group of persons in any bank shall be subject to the limits prescribed in Sections 11, 12, and 13 of R.A. No. 8791, R.A. No. 7906, R.A. No. 7353, as amended by RA No. 10574, R.A. No. 7721 and other relevant laws.

“a. Foreign individuals and non-bank corporations may each own or control up to forty percent (40%) of the voting stock of a universal, commercial, or thrift bank. *Provided,* That the aggregate foreign-owned voting stock owned by foreign individuals and non-bank corporations shall not exceed forty percent (40%) of the outstanding voting stock of the universal or commercial bank, and sixty percent (60%) in the case of thrift banks.

For rural banks, non-Filipino citizens, excluding foreign banks, may each or in the aggregate, own, acquire or purchase, up to sixty percent (60%) of the voting stocks in a rural bank.

“The percentage of foreign-owned voting stock in a bank shall be determined by the citizenship of the individual or corporate stockholders in that bank.

“b. Qualified foreign banks may own or control up to sixty percent (60%) of the voting stock of a universal, commercial, thrift, or rural bank: *Provided,* That the aggregate foreign-owned voting stock owned by the qualified foreign banks (including foreign individuals and non-bank corporations) in a universal, commercial, thrift or rural bank, shall not exceed sixty percent (60%) of the outstanding voting stock of the bank established under R.A. No. 7721.

“c. A Filipino individual and a domestic non-bank corporation may each own up to forty percent (40%) of the voting stock of a universal, commercial or thrift bank, and up to sixty percent (60%) of the voting stock of a rural bank. There shall be no ceiling on the aggregate ownership by such individuals and non-bank corporations in a domestic bank.

“d. An individual and a corporation or corporations which are wholly-owned, or a majority of the voting stock of which is owned by him, may own only up to a combined forty-percent (40%) of the voting stock of a universal, commercial or thrift bank, and up to a combined sixty percent (60%) of the voting stock of a rural bank.

“e. The right of the qualified Philippine corporations, however, under Section 8 of R.A. No. 7721, as implemented under Subsec. X105.12 shall continue to be in force and effect.

"f. Stockholdings of family groups or related interests. Individuals related to each other within the fourth degree of consanguinity or affinity, whether legitimate, illegitimate or common-law, shall be considered family groups or related interests but may each own up to forty percent (40%) of the voting stock of a universal, commercial or thrift bank, and up to sixty percent (60%) of the voting stock of a rural bank: *Provided*, That said relationship must be fully disclosed in all transactions by such individuals or family groups or related interests.

"g. Two (2) or more corporations owned or controlled by the same family group or same group of persons shall be considered related interests but may each own up to forty percent (40%) of the voting stock of a universal, commercial or thrift bank and up to sixty percent (60%) of the voting stock of a rural bank: *Provided*, That said relationship must be fully disclosed in all transactions by such corporations or related groups of persons with the bank.

"h. Ceiling on stockholdings in a Coop Bank. The equity investment of any cooperative in any Coop Bank shall not exceed forty percent (40%) of the subscribed capital stock of such Coop Bank.

"i. Determination of foreign-owned voting stock and citizenship of corporate stockholders in a bank as well as the relationship of stockholders of a bank.

"x x x

"(2) The citizenship of the corporation, which is a stockholder of a bank shall follow the citizenship of the controlling stockholders of the corporation, irrespective of the place of incorporation. For purposes hereof, the term "controlling stockholders" shall refer to stockholders holding more than fifty percent (50%) of the voting stock of the corporate stockholders of the bank.

"In the case of rural banks, a corporate stockholder thereof shall be deemed Filipino-owned if it is organized under the laws of the Philippines at least sixty percent (60%) of its capital is owned by Filipino citizens.

"x x x"

Section 3. Subsection X126.2 of the MORB on transactions involving voting shares of stocks is hereby amended to read, as follows:

"**Subsec. X126.2 Transactions involving voting shares of stocks.** The following regulations shall govern all transactions involving voting shares of stocks of banks.

"For purposes of this Subsection, "*transaction*" shall refer to subscription/issuance, purchase/sale, transfer, conversion of preferred shares or debt instruments into voting shares of stock, and such act, contract, agreement or

arrangement whereby a person, whether natural or juridical, acquires voting shares of stock from one person, whether natural or juridical, or is vested the right to vote or the control of the voting shares of stock of a bank.

"a. Unlawful and void transactions involving voting shares of stock of banks. The following transactions, to the extent of the excess over any of the prescribed ceilings under R.A. No. 8791, R.A. No. 7906, R.A. No. 7353 (as amended by R.A. No. 10574), R.A. No. 7721 and other relevant laws are hereby declared unlawful and void:

"(1) Any transaction involving voting shares of stock of a bank, if such transaction, in itself, or in relation with other/previous transaction/s shall result in the ownership and control by an individual or corporation of voting shares of stock in excess of any of the following prescribed ceilings:

Under R.A. Nos. 8791, 7906 and 7353, as amended by R.A. No. 10574	Ceiling
(a) Voting shares of stock of a Filipino individual or a Philippine non-bank corporation in: i. UB/KB and TB ii. RB	40% 60%
(b) Voting shares of stock of a foreign individual or a foreign non-bank corporation in: i. UB/KB and TB ii. RB	40% 60%
(c) Aggregate ownership of the voting shares of stock of foreign individuals and/or foreign non-bank corporations in: i. UB/KB ii. TB/RB	40% 60%
(d) Combined ownership of an individual and corporation/s which is/are wholly-owned or a majority of the voting shares of stock of which is owned by such individual in: i. UB/KB/TB ii. RB	40% 60%
Under R.A. No. 7721	
(a) Voting shares of stock of a qualified foreign bank or qualified Philippine corporation in UB/KB, TB and RB	60%
(b) Combined ownership of the voting shares of stock of qualified foreign banks (including foreign individuals and non-bank corporations) in UB/KB, TB and RB	60%

"(2) Any act, contract, agreement or arrangement, such as voting trust agreement or proxy, which vests in any person, whether natural or juridical,

the right to vote or the control of the voting shares of stock of a bank, if such arrangement in itself, or in relation with other/previous transaction/s, shall result in the acquisition of the right to vote or the control of voting shares of stock of the bank, in excess of the prescribed ceilings.

“x x x”

Section 4. Subsection 3127.2 of the MORB on government-held shares is hereby amended to read, as follows:

“Subsec. 3127.2 Government-held shares.

“The articles of incorporation of RBs or the articles of cooperation of Coop Banks shall provide for: (a) common stock with the power to vote; (b) preferred stock to represent the counterpart capital of the LBP, DBP or any government-owned or controlled bank or FI, which shall be non-voting and preferred as to assets upon liquidation; and (c) preferred stock with such rights, voting powers, preferences and restrictions, as may be approved by the Monetary Board. Preferred and common stocks shall have a minimum par value of one peso (P1.00) per share: *Provided*, That starting fifteen (15) days after 17 June 2009 (date of publication), RBs which have a par value per share higher than P1.00 and choose to lower the par value of their shares of stock will be required to undertake the necessary steps and secure attendant approvals from the BOD and stockholders of the banks involved as well as from relevant regulatory agencies to ensure that the reduction in par value shall not result to a dilution in the percentage holdings of stockholders and that its effect shall not prejudice the rights of creditor. An RB may not issue no-par value stock.

“x x x

“The LBP, the DBP, or any government-owned or -controlled bank or financial institution, on representation of the said private shareholders but subject to the investment guidelines, policies and procedures of the bank or financial institution and upon approval by the Monetary Board of the Bangko Sentral, shall subscribe to the capital stock of any RB, which shall be paid in full at the time of subscription, in an amount equal to the fully paid subscribed and unimpaired capital of the private stockholders or such amount as the Monetary Board may prescribe as may be necessary to promote and expand rural economic development.”

Section 5. Subsection 3127.3 of the MORB on limits on stockholdings in several rural banks is hereby amended to read, as follows:

“Individuals, banks and non-bank corporations may, subject to applicable ownership ceilings, own voting shares in such number of rural banks as may be authorized by the Monetary Board.”

Section 6. Subsection 3127.4 of the MORB on the convertibility of preferred stock to common stock is hereby amended to read, as follows:

“Subsec. 3127.4 Convertibility of preferred stock to common stock. RBs may convert their unissued preferred shares into common stock.

“In the case of sale by the DBP, LBP or any government-owned or controlled bank or financial institution of preferred stock to private persons, such stock may be converted into common stock: *Provided*, That such shares may be sold at any time at adjusted book value; *Provided further*, That pending amendment of the bank’s articles of incorporation, if necessary for the purpose of reflecting the conversion, the transfer shall be recorded by the bank in its stock and transfer book and such shareholders shall thereafter enjoy all the rights and privileges appurtenant to the converted stock. The certificates for the government preferred stocks so transferred shall be surrendered and cancelled and the corresponding common stock certificates shall be issued.

“x x x”

Section 6. Subsection 3127.5 of the MORB on the equity investment by holding corporations is hereby replaced, as follows:

“Subsec. 3127.5 Guidelines for selection. In determining the fitness and propriety of the non-Filipino citizen, excluding foreign banks that will be allowed to invest in the voting stock of a rural bank, criteria, such as, but not limited to the following, shall be considered:

- “a. strategic objectives in investing in a rural bank;
- “b. demonstrated capacity;
- “c. good reputation and integrity;
- “d. business model that is credible, innovative and consistent with the policy objectives of R.A. No. 10574.

“A foreign bank seeking to own, acquire or purchase up to 60 percent of the voting stocks in a rural bank shall meet the selection criteria under Subsec. X105.3.”

Section 8. Subsection 3137.1 of the MORB on dividends on government shares is hereby amended to read, as follows:

“Subsec. 3137.1 Dividends on government shares

“a. *Held prior to 09 June 1992.* Whenever dividends of not less than fourteen percent (14%) are declared on common stock, government preferred stock shall be entitled to a cash dividend not to exceed two percent (2%) of total outstanding preferred stock. Should the dividends declared on common stock be less than

fourteen percent (14%), the dividend on preferred stock shall be proportionately reduced.

“b. Held on or after 09 June 1992. Shares held by the LBP, DBP, or by any government-owned or-controlled bank or FI shall share in dividend distributions from the date of issuance in the amount of four percent (4%) on the first and second years; six percent (6%) on the third and fourth years; eight percent (8%) on the fifth and sixth years; ten percent (10%) on the seventh and eighth years; and twelve percent (12%) on the ninth to the fifteenth years, which shall be cumulative: Provided, That the RB and the government-owned or-controlled bank are not precluded from entering into an agreement providing for rates of dividends other than those prescribed by law.

“c. Held on or after the effectivity of the implementing rules and regulations of R.A. No. 10574. Shares held by the LBP, DBP, or by any government-owned or -controlled bank or financial institution shall share in dividend distributions from the date of issuance in an amount based on the lending benchmark approved by the Bangko Sentral plus the prevailing non-prime spread of the government financial institution; Provided, That the RB and the government-owned or -controlled bank are not precluded from entering into an agreement providing for rates of dividends other than those prescribed by law.”

Section 9. Item c. Minimum number of independent directors of Section 1.a of Circular No. 749 dated 27 February 2012 is hereby amended to read, as follows:

“Section 1. Qualification of the board of directors. Subsections X141.1 and X141.2 of the MORB are hereby amended to read as follows:

“a) X141.1 Definition/limits.

“a. Definition of directors. Directors shall include:

“x x x

“c. Minimum number of independent directors. At least twenty percent (20%) but not less than two (2) members of the board of directors shall be independent directors: *Provided*, That any fractional result from applying the required minimum proportion, i.e., twenty percent (20%), shall be rounded-up to the nearest whole number; *Provided further*, That in the case of rural banks, at least one (1) independent director shall be elected to the board; *Provided furthermore*, That rural banks whose business model is deemed complex by the Bangko Sentral, shall have at least twenty percent (20%) but not less than two (2) members of the board of directors as independent directors; *Provided finally*, That any fractional result from applying the required minimum proportion, i.e., twenty percent (20%), shall be rounded-up to the nearest whole number.

“d. Limitation on nationality of directors. Non-Filipino citizens may become members of the board of directors of a bank to the extent of the foreign participation in the equity of said bank: *Provided*, That pursuant to Section 23 of the Corporation Code of the Philippines (BP Blg. 68), a majority of the directors must be residents of the Philippines.

”x x x”

Section 10. Subsection X143.2 of the MORB on the persons disqualified to become officers is hereby amended to read, as follows:

“Subsec. X143.2 Persons disqualified to become officers.

“a. The disqualifications for directors mentioned in Subsec. X143.1 shall likewise apply to officers, except those stated in Items “b(2)” and “b(7)”.

“x x x

“c. Any appointive or elective official, whether full time or part time, except in cases where such service is incident to financial assistance provided by the government or government-owned or -controlled corporations (GOCCs) or in cases allowed under existing law.

“x x x”

Section 11. Subsection 3311.2 of the MORB on the eligible real estate collaterals on rural/cooperative bank loans is hereby amended to read, as follows:

“Subsec. 3311.2. Eligible real estate collaterals on rural/cooperative bank loans. Loans may be granted by RBs/Coop Banks on the security of lands without Torrens Title where the owner of private property can show five (5) years or more of peaceful, continuous and uninterrupted possession in the concept of an owner; or of portions of friar land estates or other lands administered by the Bureau of Lands that are covered by sales contracts and the purchasers have paid at least five (5) years installment thereon, without the necessity of prior approval and consent by the Director of Lands, or of portions of other estates under the administration of the Department of Agrarian Reform (DAR) or corresponding governmental agency which are likewise covered by sales contracts and the purchasers have paid at least five (5) years installments thereon, without the necessity of prior approval and consent of the DAR or corresponding governmental agency; or x x x.”

Section 12. Subsection 3311.4 of the MORB on foreclosure by rural/cooperative banks is hereby amended to read, as follows:

“Subsec. 3311.4 Foreclosure by rural/cooperative banks. The foreclosure of mortgages covering loans granted by RBs and executions of judgment thereon involving real properties levied upon by a sheriff shall be exempt from the publications in newspapers now required by law where the total amount of loan, excluding interest due and unpaid, does not exceed P100,000 or such amount as the Monetary Board may prescribe as may be warranted by prevailing economic conditions. It shall be sufficient publication in such cases if the notices of foreclosure and execution of judgment are posted in the most conspicuous area of the municipal building, the municipal public market, the rural bank, the barangay hall, and the barangay public market, if any, where the land mortgaged is situated during the period of sixty (60) days immediately preceding the public auction or execution of judgment.

“Proof of publication as required herein shall be accomplished by an affidavit of the sheriff or officer conducting the foreclosure sale or execution of judgment and shall be attached with the records of the case: *Provided*, That when a homestead or free patent is foreclosed, the homesteader or free patent holder, as well as his heirs shall have the right to redeem the same within one (1) year from the date of foreclosure in the case of land not covered by a Torrens Title or one (1) year from the date of the registration of the foreclosure in the case of land covered by a Torrens Title: *Provided further*, That in any case, borrowers, especially those who are mere tenants, need only to secure their loans with the produce corresponding to their share.

“x x x

“An RB/Coop Bank shall be allowed to foreclose lands mortgaged to it including lands covered by Republic Act No. 6657 (The Comprehensive Agrarian Reform Law of 1988), as amended: *Provided*, That said lands shall be subject to the retention limits provided under Republic Act No. 6657; *Provided further*, That a rural bank’s power to foreclose lands mortgaged to it shall be subject to the limitations in the succeeding paragraph.

“Rural banks which are not qualified to acquire or hold land in the Philippines pursuant to existing laws shall be allowed to bid and take part in foreclosure sales of real property mortgaged to them, as well as to avail of enforcement and other proceedings, and accordingly to take possession of the mortgaged property, for a period not exceeding five (5) years from actual possession: *Provided*, That in no event shall title to the property be transferred to such rural bank.

“In case the rural bank, which is not qualified to acquire or hold land in the Philippines, is the winning bidder, it shall, during the said five (5) year period, transfer its rights to a qualified Philippine national as defined under existing laws, without prejudice to a borrower’s rights under applicable laws. Should said unqualified rural bank fail to transfer such property within the five (5) year period, it shall be penalized at one-half (1/2) of one percent (1%) *per annum* of the price at

which the property was foreclosed until the property is transferred to a qualified Philippine national.

“To enable the Bangko Sentral to determine compliance with the foregoing, rural banks not qualified to acquire or hold land in the Philippines shall maintain, and make readily available for inspection, information pertaining to individual mortgaged properties foreclosed.”

Section 13. Transitory provisions. The following transitory provisions shall apply:

a. A rural bank established and operating prior to the effectivity of R.A. No. 10574, and which is subsequently considered as a rural bank not qualified to acquire or hold land in the Philippines upon the effectivity of this Circular, shall be required to submit to the appropriate department of the SES a divestment plan for the disposal of its title/interest in all land properties held by it.

b. Rural banks established and operating prior to the effectivity of R.A. No. 10574, which are subsequently considered not qualified to acquire or hold land in the Philippines upon the effectivity of this Circular, shall be given a period of five (5) years to transfer its existing owned or acquired properties to qualified Philippine nationals; *Provided*, That upon the expiry of this transitory period, rural banks not qualified to acquire or hold land in the Philippines which fail to transfer their properties to qualified Philippine nationals shall be subject to the penalties under Subsection 3311.4 of the MORB.

c. Upon effectivity of this Circular, appointive or elective public officials currently holding officership positions in rural banks shall continue holding such positions until the end of their current terms.

This Circular shall take effect fifteen (15) days after its publication either in the Official Gazette or in a newspaper of general circulation.

FOR THE MONETARY BOARD:


NESTOR A. ESPENILLA, JR.
Officer-In-Charge

23 August 2013