I. GENERAL PROVISIONS

1. Are clients required to submit a duly accomplished Application to Purchase FX (ATP) form regardless of the amount of foreign currency to be purchased?

   Yes. Under Part One, Chapter I (General Provisions) of the FX Manual, a duly accomplished ATP (Annex A of the FX Manual) shall be submitted to banks, regardless of the amount of foreign currency to be purchased by the client to service eligible underlying FX transactions. The submission may be in hard copy or electronic form.

2. Why is there a need to present/submit supporting documents before foreign currency can be purchased?

   Supporting documents evidence the existence of legitimate outstanding FX obligations that may be serviced using FX resources of the banking system in accordance with existing policy. However, residents may purchase FX for non-trade current account and trade purposes without the need to present supporting documents if said purchase does not exceed USD500,000 (for individuals) and USD1 million (for corporates/other entities) or its equivalent in other foreign currency per client per day, subject to banks’ “Know Your Customer” (KYC) policy. FX purchases in excess of these amounts for non-trade current account and trade purposes require the presentation/submission of pertinent documents as provided under Sections 2 and 6 of the FX Manual.

3. Does the BSP allow submission of supporting documents through electronic means?

   Yes. Under Part One, Chapter I of the FX Manual, the BSP allows submission of supporting documents through electronic means for: (a) registration of private sector foreign loans/borrowings without public sector guarantee; (b) registration of inward investments; and (c) sale of foreign currency by banks covering various FX transactions, Provided, that the submitting party shall attest to the: (a) integrity and authenticity of the submitted documents; (b) transmittal of the supporting documents made via the official channel; and (c) availability of the hard copy of original/photocopy of documents submitted electronically which shall be retained for a period of five (5) years from the time of submission thereof. These attestations are already embedded in the application for registration and in the ATP.
For sale of foreign currency by banks, electronic submission of supporting documents applies to all FX transactions covered by the FX Manual, such as resident-to-resident FX transactions, trade and non-trade current account transactions, and foreign loans and investments.

Electronic submission, however, does not apply to the following documents which are required to be presented/submitted in hard copies: (a) BSP-issued documents [e.g., BSP approval, Bangko Sentral Registration Document (BSRD)]; and (b) Annex N of the FX Manual.

4. **Does the BSP require banks to sell foreign currency only to clients who have a deposit account with them?**

No. The BSP does not impose any requirement that banks may only sell foreign currency to clients who have a deposit account with them. The BSP only requires FX transactions to be compliant with applicable laws, rules and regulations, including the banks’ KYC policy. Foreign currency selling banks may adopt internal policies in order to comply with these laws, rules and regulations and are expected to exercise due diligence to ensure compliance therewith.

II. RESIDENT-TO-RESIDENT FX TRANSACTIONS

5. **Are banks allowed to sell foreign currency to residents intending to purchase instruments (including bonds/securities) issued by other residents offshore?**

Yes. Banks may sell foreign currency to residents for investment in instruments issued offshore by other residents, subject to documentation (regardless of amounts involved) pursuant to rules governing resident-to-resident FX transactions under Part One, Chapter 2 of the FX Manual which apply to transactions between residents as in the instant case where the investor and issuer are both residents.

III. NON-TRADE CURRENT ACCOUNT TRANSACTIONS

6. **Are foreign currency receipts of residents from non-trade sources required to be inwardly remitted and sold for pesos?**

No. Section 1 of the FX Manual allows foreign currency receipts, acquisitions or earnings of residents from non-trade sources to be: (a) used freely for any purpose; and (b) sold for pesos, retained in foreign currency or deposited in foreign currency accounts (whether onshore or offshore).
7. **Is BSP approval required in returning foreign currency-denominated proceeds from a grant/donation provided by a foreign principal?**

No. The FX Manual has no prohibition on the remittance of proceeds from a grant/donation provided by a foreign principal denominated in foreign currency. The transaction, however, has to comply with other applicable laws, rules and regulations, including anti-money laundering rules.

IV. **PESO DEPOSIT ACCOUNT OF NON-RESIDENTS**

8. **Can Overseas Filipinos (OFs) be allowed to open a peso account in the Philippines funded by inward remittance of foreign currency from his salary abroad to pay for expenses in the Philippines and/or as savings? If yes, what supporting documents should be presented? Can these peso funds be converted back to foreign currency?**

Yes. Section 3.1 of the FX Manual allows non-residents [including OFs residing abroad for more than one (1) year] to open and maintain a peso deposit account with banks operating in the Philippines provided that the same shall be funded only by the sources indicated under said Section [which include inward remittance (IR) of convertible foreign currency] subject to documentation prescribed in Appendix 1.1 of the FX Manual. Peso funds deposited in the account may be used for whatever purpose.

Should the non-resident decide to convert to foreign currency the funds in the peso deposit account, Section 3.2 of the FX Manual allows banks to sell foreign currency up to the amount equivalent to the balance of the peso deposit account of non-residents. For peso deposits funded by IR of foreign currency, Section 3.2 further requires that such funds must have been used onshore for investments that are registered with the BSP or registering banks, subject to the provisions of Part Three, Chapter II (Inward Investments) of the FX Manual, to allow conversion of such peso deposits to foreign currency; otherwise, prior BSP approval shall be required.

V. **FOREIGN MERCHANDISE TRADE TRANSACTIONS (EXPORTS AND IMPORTS)**

9. **Is import or export of gold allowed?**

The importation of gold in any form is allowed without restriction except for: (a) coin blanks essentially of gold, which requires prior clearance/authorization from the BSP, through the Mint and Refinery Operations Department pursuant to Appendix 2 of the FX Manual; and (b) any article manufactured in whole or in part of gold, the stamps, brand or marks of which do not indicate the actual fineness of gold quality, which is prohibited pursuant to Section 118 of Republic Act (RA) No. 10863 [Customs Modernization and Tariff Act (CMTA)].

The export of gold in any form is likewise allowed except for: (a) gold from small-scale mining, including panned gold, which is required to be sold to the BSP (as
provided under Section 21 and Appendix 9 of the FX Manual) pursuant RA No. 7076 (People’s Small-Scale Mining Act of 1991) dated 27 June 1991; and (b) any article manufactured in whole or in part of gold, the stamps, brand or marks of which do not indicate the actual fineness of gold quality, which is prohibited pursuant to Section 118 of RA No. 10863 (CMTA).

10. **Is registration with the BSP still required for imports under Documents against Acceptance (D/A) and Open Account (O/A) arrangements to be paid with foreign currency to be purchased from banks?**

   Registration of importations is no longer required but the import transactions must be reported by banks to the BSP not later than ten (10) calendar days before the maturity date of said D/A-O/A importation pursuant to Appendix 6 of the FX Manual.

11. **What are the requirements for cross-border transfer of currencies into or out of the Philippines?**

   Pursuant to Section 4 of the FX Manual, the rules governing cross-border transfer of local and foreign currencies are as follows:

   a. For cross-border transfer involving Philippine pesos, a person may freely bring into or take out of the Philippines, or electronically transfer, legal tender Philippine currency and other monetary instruments in amounts up to PHP50,000. In excess of the PHP50,000 limit, prior BSP written authorization is required.

   The BSP typically allows transfer of Philippine currency in excess of PHP50,000 for limited purposes only: (i) testing/calibration of money counting/sorting machines; (ii) numismatics (collection of currency); and (iii) educational purposes.

   b. For cross-border transfer involving foreign currency, a person may freely bring into or take out of the Philippines foreign currency and other bearer monetary instruments (e.g., travelers’ checks, other checks, drafts, notes, money orders, bonds) in amounts up to USD10,000 or its equivalent in other foreign currencies. For amounts exceeding the USD10,000 threshold, prior written declaration is required using the foreign currency declaration form. Said form is available at the Bureau of Customs Desk in the arrival/departure areas of international ports in the Philippines or can be downloaded from the BSP website (Annex K of the FX Manual).

12. **Is BSP authority required for an individual to be able to bring into the Philippines more than PHP50,000 to be used for family holiday?**

   For business/leisure trips to the Philippines, a person may bring funds up to PHP50,000 only and the remaining funds in foreign currency. For family declaration, the total threshold will be PHP50,000 multiplied by the number of family members leaving or arriving in the Philippines. The BSP only allows cross-border transfer of local currency in excess of PHP50,000 for limited purposes only, typically for testing/calibration of money counting/sorting machines, numismatics and educational purposes.
VI. FOREIGN/FOREIGN CURRENCY LOANS

13. What is the difference between a foreign loan and a foreign currency loan?

Foreign loans refer to all obligations [regardless of currency of denomination (Philippine peso or foreign currency)] owed by Philippine residents to non-residents, including advances from foreign parent companies/head offices, shareholders and affiliates.

Foreign currency loans refer to obligations owed by Philippine residents to banks operating in the Philippines that are denominated in foreign currency (or currency other than the Philippine peso).

14. If foreign currency loans are to be obtained from domestic sources, are these considered domestic borrowings?

Yes. The classification of a loan into foreign or domestic is determined by the residency of the creditor and not by the currency in which it is denominated. Hence, foreign currency-denominated loans obtained from domestic sources are considered domestic borrowings. On the other hand, loans obtained from non-resident creditors, even if denominated in pesos, are considered foreign loans.

15. Will the BSP accept notarized foreign loan agreements submitted for approval and/or registration?

Circular No. 618 (s. 1978), as amended by Circular No. 909 (s. 2016) effective 22 April 2016, provides that no public and/or publicly-guaranteed foreign loans, deferred payment or any other agreements which give rise to a foreign/foreign currency obligation or liability of the public sector (whether primarily or subsidiarily), including promissory notes or guarantees issued in connection therewith, submitted to the BSP for approval and/or registration under the provisions of pertinent laws, circulars, rules and regulations shall be approved and/or registered if these are notarized or are otherwise evidenced by a public instrument.

Said requirement does not apply to loan agreements covering purely private foreign/foreign currency loans, or those that are obtained by the private sector without guarantee from the public sector, which may be notarized.

16. Are there reports required from borrowers relating to their loans?

Section 22.8 of the FX Manual requires all foreign/foreign currency loan/borrowing transactions [e.g., availments, debt service payments (including prepayments) and cancellations], whether or not said loans are BSP-approved/registered, to be regularly
reported to the BSP using the prescribed forms (Annexes E.1, E.2 and E.3) within the prescribed period until the obligations are fully extinguished.

17. **Why does the BSP require submission of foreign borrowings plans (FBP)?**

The BSP-IOD conducts a yearly survey of FBP (Annex D.3 of the FX Manual) covering medium and long-term foreign loans/borrowings of residents to get an indication of the magnitude and timing of the economy’s foreign financing requirements for the succeeding year, as well as the intended beneficiary sectors/projects/activities. This will help monitor the level, nature, and profile of the proposed new foreign loans/borrowings for various purposes including policy formulation, projections, and planning for capital flows and statistics.

18. **What other foreign loan-related transactions for public sector/publicly-guaranteed private sector loans require prior BSP approval?**

Pursuant to Sections 22.2 and 25.1 of the FX Manual, prior BSP approval is required for: (a) change in: borrower/guarantor; purpose; financial terms and conditions of loans/borrowings (e.g., those involving change in: loan amount; interest rate; fees, charges or other costs; frequency of payments/servicing; loan tenor/maturity); (b) prepayment of public sector/publicly-guaranteed private sector loans; and (c) payment by the public sector: (i) for loans that are past due for more than one (1) month from original due date; and (ii) under the guarantee covering publicly-guaranteed private sector loans that are past due.

Only notice to the BSP [which shall be sent within one (1) month from availability of information] is required for the following changes/amendments to public sector/publicly-guaranteed private sector loans: (a) creditor or creditor’s name (e.g., due to merger; corporate restructuring; (b) availability/closing date; (c) financial ratios; (d) covenants; (e) related hedging instruments; and (f) changes other than those cited in the immediately preceding paragraph.

A. **PRIVATE SECTOR FOREIGN LOANS**

19. **What is the difference between BSP approval and registration of a private sector loan?**

The BSP approval gives the borrower the authority to finalize negotiations with the prospective creditor/s and sign the loan documents. The BSP registration, which is done after signing of the covering agreements and drawdown (for short-term loans) or utilization of loan proceeds (for medium and long-term loans), will allow the borrower to repay the loan using foreign currency to be purchased from banks.

As provided under Section 24 of the FX Manual, said prior BSP approval is required for publicly-guaranteed private sector foreign/foreign currency loans/borrowings while

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3 Annex E.3 shall be submitted for initial reporting of foreign loans obtained without prior BSP approval/registration.
those without public sector guarantee is subject only to the required submission of notice to the BSP. On the other hand, the BSP registration is required only if the borrower shall purchase FX from the banking system for loan servicing.

20. **What is the requirement for a private sector borrower once a loan agreement without public sector guarantee is signed?**

Under Section 24.2 of the FX Manual, the private sector borrower shall simultaneously submit to the BSP, through the IOD, within one (1) month from date of signing of covering agreement, the following: (a) Notice to BSP (using the prescribed form, Annex E.3 of the FX Manual); and (b) copy of signed covering agreement.

The borrower shall also send a notification to BSP (Annex E.3) for: (i) change/s in the loan’s financial terms and conditions; or (ii) cancellation (whether partial or in full) of the loan/commitment/agreement, within 15 banking days from availability of information/signing of the amended or supplemental agreement/effectivity date as the case may be, for monitoring purposes.

21. **Can a borrower purchase foreign currency from banks to pay the principal and interest falling due on outstanding loans?**

The borrower may purchase foreign currency from local banks to service principal up to the registered loan amount. Payment for interest and other loan-related fees/cost may be serviced in full as long as there is outstanding registered loan amount.

As provided under Section 24.2 of the FX Manual, the application for loan registration shall be submitted as follows:

   a. For short-term loans – within one (1) month from drawdown date; and
   b. For medium and long-term loans – within six (6) months from last date of utilization of loan proceeds.

22. **Can private sector borrowers source foreign currency from banks to fund payments of BSP-registered loans outside of scheduled payment dates indicated in the BSRD, without need for prior BSP approval?**

Yes, subject to filing with the BSP of a written notice at least one (1) month prior to target date of purchase of foreign currency for the following pursuant to Section 25.2 of the FX Manual:

   a. For medium and long-term loans – Prepayment of BSP registered loans/borrowings (including bonds/notes/other debt instruments) of the private sector that are not publicly-guaranteed; and
   b. For both short-term, and medium and long-term loans/borrowings that are past due for more than one (1) month from original due dates.

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4 Circular No. 984 dated 22 December 2017 and Circular No. 1030 dated 5 February 2019
FX purchase for prepayment of publicly-guaranteed private sector loans/borrowings require prior BSP approval.

23. **Can banks sell foreign currency to resident borrowers for settlement of their foreign currency obligations to banks operating in the Philippines without prior BSP approval/registration?**

Yes, banks may sell foreign currency to resident borrowers, provided the foreign currency loans are not publicly-guaranteed, and are duly reported by creditor banks to the BSP prior to FX sale as provided under Sections 22.4 and 24.3.a of the FX Manual.

24. **Are applications for registration of foreign/foreign currency loans, with loan agreements signed prior to issuance of Circular No. 1030 allowed without a fee, even if these were filed beyond the prescriptive period?**

For BSP registration of private sector foreign loans/borrowings that are not public-guaranteed, wherein the notice to BSP and/or the application for registration is/are filed beyond the prescriptive period, a PHP20,000.00 processing fee per loan account will be imposed pursuant to Appendix 20 of the FX Manual.

25. **If the prepayment of BSP-registered short-term private sector loans that are not publicly-guaranteed neither requires prior BSP approval nor notification to BSP pursuant to Section 25.2a of the FX Manual, are there any other BSP requirements?**

Prepayment of BSP-registered short-term private sector loans without public sector guarantee does not require prior BSP approval or notification to BSP, but is subject to the following:

a. Submission of the minimum documentary requirements [i.e. Original Bangko Sentral Registration Document (BSP registration letter including attachments)] under Item II.1.b of Appendix 1.3 of the FX Manual; and

b. Reporting by borrower of loan payments made under Form ST-2 [Report on Short-Term Foreign Borrowings (Annex E.1 of the FX Manual)].

26. **Why is there a need to provide the indicative maturity date of the loan when the loan applied for is payable when able?**

The borrower needs to provide the indicative maturity date of loans that are payable when able for the BSP’s proper classification of the loans (i.e. whether short-term or medium-term and long-term), monitoring, and statistical projections purposes.
B. PUBLIC SECTOR FOREIGN LOANS

27. What are the stages in the approval of public sector foreign loans?

a. Approval-In-Principle - which refers to the approval granted by the Monetary Board (MB) to the indicative financial terms and purpose of the loan. Prior to commencement of actual negotiations or issuance of a mandate of commitment to foreign funders/arrangers, the borrower is required to secure the BSP approval-in-principle of its proposed foreign loan;

b. Finalization and clearance of loan documents;

c. Final Approval - which refers to the approval granted by the MB to a loan previously approved-in-principle after its terms have been finalized and found consistent with the terms approved-in-principle, the covering loan agreement signed, and other preconditions for final approval have been complied with. The MB final approval authorizes the borrower to draw on the loan/issue the bonds/notes/securities involved.

28. What is an Official Development Assistance (ODA)?

Pursuant to RA No. 8182 (ODA Law), ODA refers to a loan or a loan and grant facility which contains a grant element of at least 25 percent. In addition, the loan/loan and grant should also meet the following criteria pursuant to Section 2 of the ODA Law: (a) it must be administered with the objective of promoting sustainable social and economic development and welfare of the Philippines; (b) it must be contracted with governments of foreign countries with whom the Philippines has diplomatic, trade relations or bilateral agreements or which are members of the United Nations, their agencies and international or multilateral lending institutions; and (c) there are no available comparable financial instruments in the capital market.

29. What is the Inter-agency Committee for Review of Foreign Loan Documents (IAC-RFLD)?

The IAC-RFLD, composed of representatives from the BSP (as Chair), the Department of Finance (as Vice-Chair), the Department of Justice and the borrowing entity, is primarily tasked to review foreign loan and guarantee agreements (if any) and all related loan documents for foreign credits obtained or guaranteed by the Government.

30. Are all loan documents covering public sector foreign loans required to be reviewed and cleared by the IAC-RFLD?

No. The IAC-RFLD does not review agreements covering loans from the International Bank for Reconstruction and Development, the Asian Development Bank and other ODA loan creditors with standard loan agreements. Instead of an IAC-RFLD clearance, a copy of the agreed minutes of negotiations between the Philippine negotiating panel and lenders concerned is submitted as one of the requirements for final MB approval of the loan.
31. **Is there a fee to be paid for the IAC-RFLD review and clearance?**

Yes. Under Appendix 20 of the FX Manual, government-owned and controlled corporations (GOCCs) are required to pay a regular processing fee of PHP20,000 to the IAC-RFLD (through the IOD) on all applications for review of loan agreements and related documents. For agreements/documents requested to be reviewed on a rush basis, the applicant shall pay a processing fee of PHP40,000.

32. **What do “negative pledge clause”, “collective action clause (CAC)”, and “break-funding cost” cited in loan agreements mean?**

   a. A “negative pledge clause” ensures that a borrower’s assets will remain unencumbered and available to satisfy the claims of all general unsecured creditors should the borrower get into financial difficulties. The basic rationale of the clause is that whenever an asset of a borrower is pledged in favor of only one creditor or some of the creditors, the position of the borrower’s unsecured lenders may be prejudiced.

   b. A “CAC” would allow the borrower to restructure its debt payments for bonds during financial difficulties by permitting a specified supermajority to bind all bondholders within the same issue to the financial terms of restructuring. Such clauses are designed to facilitate communication and coordination between an issuer and its bondholders and make it easier for the parties to recontract, and to make it more difficult for a minority of holdout investors to slow down or disrupt the debt restructuring process.

   c. “Break-funding cost” refers to the amount that sufficiently compensates a lender for all losses or costs that the lender reasonably determines in accordance with market standards to be attributable to terminating, liquidating, obtaining or re-establishing any deposit, related trading position or funding arrangement entered into/by it as a result of the borrower’s voluntary prepayment of a loan whether partially or in full.

VII. **INVESTMENTS**

A. **INWARD FOREIGN INVESTMENTS**

33. **Is the registration of foreign investments with the BSP mandatory?**

No. Under Section 32 of the FX Manual, the registration of inward investments (i.e., those made by non-residents) with the BSP or registering banks (on behalf of the BSP) is optional. It is required only if the foreign currency needed to fund the repatriation of capital and the remittance of earnings thereon will be purchased from banks. The BSP (or the registering banks, on behalf of BSP) will issue a BSRD evidencing the registration of inward investment.
34. **What are the documents required to support application for registration of inward investments either with the BSP or registering banks?**

Registration of inward investments (either with the BSP or registering banks) shall be supported by proof of funding and the actual investment made by the non-resident investor as prescribed under Appendix 10.C of the FX Manual.

35. **What are the BSP requirements for the issuance of a Certificate of Inward Remittance (CIR) of Foreign Exchange (FX)?**

The CIR is issued by banks as proof of receipt of FX to support the application for registration of a foreign loan or a foreign investment. The BSP-prescribed format and guidelines/instructions for filling out a CIR can be found in Appendix 10.1 of the FX Manual.

36. **Is BSP authorization required for the replacement of a lost or erroneous CIR a bank issued?**

No. However, the CIR issued as replacement of a lost or erroneous CIR shall indicate that the former shall cancel and supersede the latter as provided under Appendix 10.1 of the FX Manual.

37. **Are there prescriptive and grace periods for the filing of applications for registration of investments under Section 36.1 of the FX Manual?**

Yes. Under Section 36.1 of the FX Manual, applications for registration of inward investments shall be filed with the BSP within the one (1) year prescriptive period reckoned from dates indicated in item I.A.2 of Appendix 10.A of the FX Manual. Applications filed within the prescriptive period shall be free of charge, while those filed beyond the prescriptive period shall be assessed a graduated processing fee indicated in Appendix 20 of the FX Manual as follows:

<table>
<thead>
<tr>
<th>Date of Filing</th>
<th>Registration Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st year of filing beyond the prescriptive period</td>
<td>PHP10,000.00 for every BSRD issued</td>
</tr>
<tr>
<td>2nd year of filing beyond the prescriptive period and onwards</td>
<td>Additional fee of PHP10,000 for each year for every BSRD issued</td>
</tr>
</tbody>
</table>

For those inward investments registerable with the BSP that are existing and unregistered as of 8 March 2019 (effectivity date of Circular No. 1030), the BSP provided a one (1) year grace period (i.e., from 8 March 2019 up to 7 March 2020) within which to file an application for registration free of charge, regardless of the date of funding/investment.

In case the end of the prescriptive period and/or grace period falls on a non-working day, IOD may receive applications until the next working day. The reckoning dates for
applications for registration are detailed in Appendix 10.A of the FX Manual.

38. **Is the “Authority to Disclose Information” under Appendix 10.4 of the FX Manual required to be submitted by non-residents for every registration of investment with registering banks listed under Section 37 of the FX Manual?**

   The “Authority to Disclose Information” (ATD) is only required to be submitted once by the non-resident investor (or his authorized representative) who intends to register his investment with a particular registering bank. Should the non-resident investor decide to register future investments with a different registering bank, however, he has to submit another ATD to cover all investments registered with the new registering bank.

39. **When is the deadline for filing of applications for registration of foreign direct investments (FDIs) in condominium units? Is there a grace period (i.e., those beyond the prescriptive period) for filing of requests for registration? What documents must be submitted?**

   Applications for registration (Annex W of the FX Manual) of FDIs in condominiums should be filed with the BSP within one (1) year from the date of: (i) actual funding of (e.g., remittance of foreign exchange), or payment for, the investment; or (ii) effectivity of the Deed of Transfer/Assignment/Sale or any other covering agreement/equivalent document relative to the investment. The applications shall be supported by proof of funding (e.g., certificate of inward remittance of foreign exchange) and actual investments made (e.g., contract to sell with acknowledgment receipts/proof of payment for the property).

   The policy on the grace period for the registration of certain FDIs provided under Circular No. 1030 and the processing fee (as applicable) discussed in item no. 37 above shall apply.

40. **When can an FX sale transaction be classified as “Constructive Remittance of foreign exchange” and, hence, eligible for registration of foreign direct investment?**

   Under Item 1 of Appendix 10.C of the FX Manual, constructive remittance of foreign exchange (FX) refers to FX funding that is credited to the offshore account of resident investee/intended beneficiary/onshore bank without actual inward remittance of FX but the investment is accordingly booked onshore in the records of the investee firm.

41. **Should the CIR to be issued by a bank be in the current version (Version 3)?**

   If the investor’s proof of funding is a CIR, the version to be used by the issuing bank should be the latest version for CIRs to be issued from 8 March 2019 onwards unless subsequently revised by the BSP.
42. Would a lost CIR issued in 2017 (Version 2) be replaced with a current version? If the non-resident investor has a photocopy of the lost Version 2 CIR, can this be considered as an alternative document to the current CIR and therefore, a replacement CIR is no longer needed?

If a CIR issued in 2017 has been lost, the replacement CIR to be issued by a bank should be in its current version with a note that said CIR supersedes and replaces the lost CIR. However, if the non-resident investor has a photocopy of said lost CIR, such can be used as a proof of funding in connection with the investor’s application for registration of its foreign investment.

B. OUTWARD INVESTMENTS BY PHILIPPINE RESIDENTS

43. Does the rule on outward investments by residents under Sections 43 and 44 of the FX Manual apply even if the issuer of the offshore instruments is a resident?

No. BSP regulations on outward investments by residents under Sections 43-44 apply only if the issuer is a non-resident. If the issuer is a resident, AABs may still sell FX under the rules on resident-to-resident FX transactions under Part One, Chapter II of the FX Manual if the issuance was made offshore.

44. What are considered outward investments by residents that may be funded using foreign currency to be purchased from banks?

Under Section 44 of the FX Manual, outward investments by residents that may be funded using foreign currency to be purchased from banks are those investments by residents in any of the following instruments: (a) issued/created offshore by non-residents (except foreign currency deposit accounts offshore); and (b) issued/created onshore by non-residents requiring settlement in foreign currency, provided these are not contrary to applicable Philippine laws, rules and regulations.

45. When should resident investors submit the notification to BSP for foreign currency purchases in excess of the USD60 million annual threshold for outward investments?

Under Section 43.3 of the FX Manual, the investor shall submit to the BSP the notification (Annex U of the FX Manual) at least 15 banking days from determination that total foreign currency requirement will exceed the threshold. Otherwise stated, at least 15 banking days from target date of purchase as that is the time that the investor can determine his actual total foreign currency requirement.
VIII. FX FORWARDS AND SWAPS

46. What rules govern FX swaps involving trade, non-trade current accounts, resident-to-resident transactions, foreign loans and foreign investments?

The following rules under Appendices 18.1 and 18.2 of the FX Manual shall apply to FX swaps involving trade, non-trade current accounts, resident-to-resident transactions, foreign loans and foreign investments:

- If the swap involves FX sale by AABs the first leg, and FX purchase by AABs in the second leg, the first leg of the swap shall be subject to the following:
  1. For FX swap transactions involving trade and non-trade current account transactions, documentary requirements under Appendices 1 and 4 of the FX Manual shall be presented/submitted to banks only if the amounts (per underlying transaction) involved exceed USD500,000 (for individuals) and USD1,000,000 (for corporates/other entities).
  2. For FX swap transactions involving resident to resident FX transactions, foreign loans, inward investments, and trade transactions pertaining to net payables under an intercompany netting arrangement, documentary requirements under Appendices 1, 1.3, 1.4, and 6.1 of the FX Manual, respectively, shall be presented/submitted regardless of amounts involved.

- If the swap involves FX purchase by AABs in the first leg and FX sale by AABs in the second leg, the first leg of the swap will be subject to the bank’s KYC policy and existing regulations on anti-money laundering. The second leg of the swap will be subject to the swap contract between the counterparties without the need for customer’s submission of a duly accomplished ATP. However, for swaps covering FX transactions between residents, foreign/foreign currency loans and inward investments, the minimum documentary requirements for the sale of foreign currency under Appendices 1, 1.3 and 1.4 of the FX Manual, as applicable, shall also be presented/submitted to the bank counterparty prior to delivery of foreign currency by the bank to its client at any time under the forward leg of the swap (Appendix 18.2).

The bank counterparty for the swap contract shall notify the BSP of the details of the swap and the loans to be funded showing, among others, the borrower’s profile, terms of the loan and swap (e.g., amount, tenor), and other pertinent information.

For this purpose, the swap contract covering foreign/foreign currency loans/borrowings and inward investments must include a statement that: “There shall be no delivery of foreign currency at any time under the swap contract unless the foreign/foreign currency loans/borrowings/inward investments are duly

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5 For this purpose, foreign loans and inward investments refer to only to those requiring prior BSP approval and/or registration, as may be applicable.
registered/reported with the BSP, as applicable.”

47. **When will the documentary requirements for FX forwards and swaps be submitted to bank counterparty?**

For FX forward and swap transactions involving trade, non-trade current account and resident-to-resident FX transactions, the documents shall be presented/submitted on or before deal date to banks pursuant to Appendix 18.1 of the FX Manual.

For FX forward and swap transactions involving loans/borrowings, guarantees and investments, the documents shall be presented/submitted on or before settlement date to banks pursuant to Appendix 18.2 of the FX Manual.

* Inquiries and other concerns regarding FX regulations may be sent to:

The Office of the Senior Director or
The International Policy Development Staff
International Operations Department
3rd Floor, 5-Storey Building
Bangko Sentral ng Pilipinas
1004 Manila
Email address: iod-ipds@bsp.gov.ph