

# Presidential Decree No. 1035, s. 1976

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## PRESIDENTIAL DECREE NO. 1035

### EXPANDING THE AUTHORITY OF CERTAIN DEPOSITORY BANKS UNDER R.A. NO. 6426 AND FOR OTHER PURPOSES

WHEREAS, the establishment of an offshore banking system in the Philippines has been authorized under a separate decree;

WHEREAS, a number of local commercial banks, as depository banks under the Foreign Currency Deposit Act ([R.A. No. 6426 \(http://wp.me/p10moZ-eUE\)](http://wp.me/p10moZ-eUE)), have the resources and managerial competence to more actively engage in foreign exchange transactions and participate in the grant of foreign currency loans to resident corporations and firms;

WHEREAS, it is timely to expand the foreign currency lending authority of the said depository banks under R.A. 6426 and apply to their transactions the same taxes as would be applicable to transaction of the proposed offshore banking units:

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby decree and make the following part of the law of the land:

SECTION 1. A second paragraph is hereby added to Section 4 of Republic Act No. 6426 which shall read as follows:

“DEPOSITORY BANKS WHICH, ON ACCOUNT OF NETWORTH, RESOURCES, PAST PERFORMANCE, OR OTHER PERTINENT CRITERIA, HAVE BEEN QUALIFIED BY THE

MONETARY BOARD TO FUNCTION UNDER AN EXPANDED FOREIGN CURRENCY DEPOSIT SYSTEM SHALL BE EXEMPT FROM THE REQUIREMENT IN THE PRECEDING PARAGRAPH OF MAINTAINING FIFTEEN PER CENT (15%) OF THE COVER IN THE FORM OF FOREIGN CURRENCY DEPOSIT WITH THE CENTRAL BANK. SUBJECT TO PRIOR CENTRAL BANK APPROVAL WHEN REQUIRED BY CENTRAL BANK REGULATIONS, SAID DEPOSITORY BANKS MAY EXTEND FOREIGN CURRENCY LOANS TO ANY DOMESTIC ENTERPRISE, WITHOUT THE LIMITATIONS PRESCRIBED IN THE PRECEDING PARAGRAPH REGARDING MATURITY AND MARKETABILITY, AND SUCH LOANS SHALL BE ELIGIBLE FOR PURPOSES OF THE 100% FOREIGN CURRENCY COVER PRESCRIBED IN THE PRECEDING PARAGRAPH.”

SECTION 2. Subject to such regulations as may be promulgated by the Central Bank, depository banks qualified by the Monetary Board to function under an expanded foreign currency deposit system may obtain foreign currency loan from, and may conduct foreign currency transactions with, non-residents, offshore banking units in the Philippines and other depository banks under said expanded system. The net income from such foreign currency transactions shall be subject to a five percent (5%) tax which shall be in lieu of all taxes on said transactions, except net income from such transactions as may be specified by the Secretary of Finance, upon recommendation of the Monetary Board, to be subject to the usual income tax payable by banks.

Interest income from foreign currency loans granted by such depository bank under said expanded system to residents (other than offshore banking units in the Philippines or other depository banks under the expanded system) shall be subject to a ten per cent (10%) withholding tax as a final tax.

Income of non-residents not engaged in trade or business in the Philippines from foreign currency loans to depository banks under the expanded system shall be exempt from income tax.

SECTION 3. Section 8 of the same Act is hereby amended to read as follows:

“Sec. 8. Secrecy of deposits(.); NON-APPLICABILITY OF THE LAWS ON USURY AND UNIFORM CURRENCY. — The secrecy of deposits under this Act shall be governed in accordance with the provisions of Republic Act Numbered One Thousand Four Hundred Five (<http://wp.me/p10moZ-eWU>). THE PROVISIONS OF REPUBLIC ACT NUMBERED TWO THOUSAND FIVE HUNDRED SIXTY-SIX (USURY LAW), AS AMENDED, AND REPUBLIC ACT

NUMBERED FIVE HUNDRED TWENTY-NINE (UNIFORM CURRENCY LAW), AS AMENDED, SHALL NOT APPLY TO DEPOSITORY BANKS IN RESPECT TO THEIR FOREIGN CURRENCY TRANSACTIONS AUTHORIZED UNDER THIS ACT.”

SECTION 4. The Monetary Board of the Central Bank of the Philippines shall promulgate the necessary regulations for the implementation of this Decree.

SECTION 5. This Decree shall take effect upon approval.

DONE in the City of Manila, this 30th day of September, in the year of Our Lord, Nineteen Hundred and Seventy-Six.

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