



Bangko Sentral ng Pilipinas

OFFICE OF THE GOVERNOR

CIRCULAR NO. 392 Series of 2003

Pursuant to Monetary Board Resolution No. 931 dated July 2, 2003, the provisions of the Manual of Regulations for Banks (MORB) are hereby amended as follows:

Section 1. Subsection X235.5 of the MORB is hereby amended to read as follows:

X235.5 ***Delivery of securities.*** Securities, warehouse receipts, quedans and other documents of title which are the subject of quasi-banking functions, such as repurchase agreements, shall be physically delivered, if certificated, to a BSP accredited custodian that is mutually acceptable to the lender/purchaser and borrower/seller, or by means of book-entry transfer to the appropriate securities account of the BSP accredited custodian in a registry for said securities, if immobilized or dematerialized while the overlying principal borrowing instrument shall be physically delivered to the lender/purchaser. The custodian shall hold the securities in the name of the borrower/seller, but shall keep said securities segregated from the regular securities account of the borrower/seller if the borrower/seller has an existing securities account with the custodian: *Provided*, That a bank/other entity authorized by the BSP to perform custodianship function may not be allowed to be custodian of securities issued or owned by said bank/entity, its subsidiaries or affiliates, or of securities in bearer form.

The delivery shall be effected upon payment and shall be evidenced by a securities delivery receipt duly signed by authorized officers of the custodian and delivered to both the lender/purchaser and seller/borrower.

Section 2. The provisions of Subsection X238.1 are hereby transferred to Subsection X238.2 and new provisions are hereby provided under Subsection X238.1 of the MORB to read as follows:

X238.1. ***Delivery of securities.*** Securities sold *on a without recourse basis* allowed under Section X238 shall be delivered physically to the purchaser, or to his designated custodian duly accredited by the BSP, if certificated, or by means of book-entry transfer to the appropriate

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securities account of the purchaser or his designated custodian in a registry for said securities, if immobilized or dematerialized, while the confirmation of sale or document of conveyance by the seller shall be physically delivered to the purchaser. The custodian shall hold the securities in the name of the buyer: *Provided*, That a bank/other entity authorized by the BSP to perform custodianship function may not be allowed to be custodian of securities issued or sold on a without recourse basis by said bank/entity, its subsidiaries or affiliates, or of securities in bearer form.

The delivery shall be effected upon payment and shall be evidenced by a securities delivery receipt duly signed by the authorized officer of the custodian and delivered to the purchaser.

Section 3. Sanctions. Violation of any provision of this Circular shall be subject to the following sanctions/penalties.

a. Monetary Penalties

First Offense – Fine of P10,000 a day for each violation reckoned from the date the violation was committed up to the date it was corrected.

Subsequent Offenses – Fine of P20,000 a day for each violation reckoned from the date the violation was committed up to the date it was corrected.

b. Other Sanctions

First Offense – Reprimand for the directors/officers responsible for the violation.

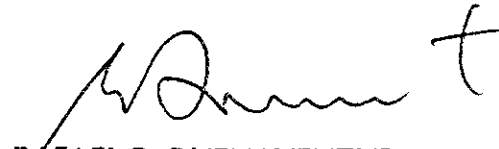
Subsequent Offense –

- 1). Suspension for ninety (90) days without pay of directors/officers responsible for the violation;
- 2) Suspension or revocation of the accreditation to perform custodianship function;
- 3) Suspension or revocation of the authority to engage in quasi-banking function; and/or

- 4) Suspension or revocation of the authority to engage in trust and other fiduciary business.

Section 4. Effectivity. This Circular shall take effect after fifteen (15) days following its publication in the Official Gazette or in a newspaper of general circulation.

FOR THE MONETARY BOARD:



RAFAEL B. BUENAVENTURA
Governor

July 23, 2003