

A. Background

1. External debt management framework

The responsibility of managing public sector external debt in the Philippines is shared among a number of government agencies and regulatory bodies, primarily the Department of Finance (DOF), the Department of Budget and Management (DBM), the National Economic and Development Authority (NEDA), the Office of the President (OP) and the Bangko Sentral ng Pilipinas (BSP). The BSP works closely with these agencies and participates in different committees on debt management.

The audit function for foreign loans is also spread out among government agencies. The monitoring of project implementation funded by a foreign loan is within the purview of NEDA, DBM and the implementing agency while monitoring of utilization of loan proceeds is performed by the Commission on Audit (COA).

2. The BSP's role in external debt management

The BSP's role in ensuring external debt sustainability is closely intertwined with BSP's mandate to: (1) maintain price stability and financial stability; and (2) promote and maintain monetary stability and convertibility of the peso. Policies on external debt management are aimed at keeping debt service requirements at a level that is within the country's repayment capacity (for both short-term and long-term) and also includes rendering an opinion on the monetary implications of foreign borrowings. The BSP remains steadfast in managing the country's external debt through monitoring and analysis of debt sustainability indicators and recent developments, evaluation of foreign borrowing proposals from public sector, registration of private sector foreign loans, and conduct of surveys to determine the magnitude of foreign funding requirements of the economy for the ensuing year to project capital flows and their impact on macroeconomic variables.

3. Legal basis

- The 1987 Constitution of the Republic of the Philippines (Philippine Constitution)
 - Article VII, Section 20
 - Article XII, Section 21
- Letter of Instructions (LOI) No. 158, 21 January 1974/ Administrative Order (AO) No. 99, 28 November 1993
- Republic Act No. 4860, 8 August 1966 (The Foreign Borrowings Act), as amended
- Republic Act No. 7653, 14 June 1993 (The New Central

Bank Act), as amended

- Manual of Regulations on Foreign Exchange Transactions, as amended

4. Covered Transactions

- **Foreign loans** – loans directly owed by resident debtor to non-resident creditor, regardless of currency of denomination
- **Foreign currency loans** – loans owed to banks operating in the Philippines that are denominated in currencies other than the Philippine peso

B. General policy

Eligible Loan Purpose	• Projects, programs or purposes that are legitimate and not against laws, regulations, public order, public health, public safety, or public policy.
Public Sector and Publicly Guaranteed Private Sector Loans/Borrowings	• Subject to prior BSP approval
Purely Private Sector Foreign Loans/Borrowings	• Subject to notification to BSP and registration, if loan will be paid using foreign currency to be purchased from banks
Purely Private Sector Foreign Currency Loans	• Subject to reporting to BSP
Foreign Loans/Borrowings of Banks and Quasi-Banks	• Subject to reporting to BSP and compliance with regulations for banks and quasi-banks
All Loans/Borrowings	• Subject to reporting, regardless of source of foreign currency

* Approval of loans allows borrowers to finalize their loan transactions and sign the covering loan agreement

**Registration allows foreign loans to be eligible for servicing using FX resources of the banking system.

C. Public sector foreign loan/borrowings

Pursuant to the provisions of the Philippine Constitution and other pertinent laws, prior concurrence by the Monetary Board (MB) is required for all foreign borrowings to be contracted/guaranteed by National Government (NG), its instrumentalities and agencies [government financial institutions (GFIs), government-owned and controlled corporations (GOCCs), local government units (LGUs)].

Forms of public sector foreign borrowings

1. Program loans for general financing/development purposes or for the development needs of specific sector/s that is/are the focus of the program loan. Approval by the Development Budget Coordination Committee (DBCC) is required for MB approval of proposed program loans;
2. Bonds/Notes Issues involving issuances of debt instruments offshore whether denominated in pesos or foreign currencies; and
3. Project loans to finance specific projects. Compliance with the NEDA Board/Investment Coordination Committee regulations and guidelines is required for MB approval of proposed project loans.

D. BSP approval process

The BSP approval involves the evaluation of loan proposals to determine the implications of financial/credit proposals on monetary aggregates, balance of payments, international reserves, key debt indicators and the FX market. Approval of public sector foreign loans comes in two (2) stages:

- 1) MB Approval-in-Principle (AIP): Under LOI No. 158 and AO No. 99, all foreign borrowing proposals by the NG, government agencies and government financial institutions are required to be submitted for AIP by the MB as to purpose and credit terms before commencement of actual negotiations or before issuing a mandate of commitment to foreign funders.

For foreign loans covered by standard agreements with multilateral agencies such as the Asian Development Bank (ADB) and the International Bank for Reconstruction and Development (IBRD), as well as the Japan International Cooperation Agency, loan negotiations are held between the borrower/agencies and the creditor.

The borrower has to submit to the BSP, as prerequisite to final approval of the loan, the minutes of said negotiation and the signed loan agreement.

For other foreign loans not covered by standard agreements, the Interagency Committee for Review of Foreign Loan Documents (IAC-RFLD) [composed of the DOF, Department of Justice, BSP and the borrowing entity] is tasked to review foreign loan and guarantee agreements and all related documents for foreign credits obtained or guaranteed by the Government and as necessary, to negotiate with representatives and counsels of the lenders, prior to loan signing.

- 2) **MB Final Approval:** After finalizing negotiations and signing the covering agreement, the loan shall be submitted to the BSP for final MB approval to determine, among others, the consistency of the final loan terms with those approved-in-principle by the MB and compliance with conditions to MB approval-in-principle, if any. Drawdown on the loan may only be made after final approval thereof and fulfillment of other conditions precedent to drawdown. Loan proceeds are likewise required to be deposited with the BSP pursuant to Section 113 of R.A. No. 7653 pending actual utilization thereof.

E. Private sector foreign loans and borrowings

- Private sector foreign/foreign currency loans/borrowings that are guaranteed by the public sector are subject to the following to allow borrowers to pay the obligations using foreign currency purchased from banks:
 - Approval: Submit to BSP application for approval (Annex D.2.A) and supporting documents [i.e., loan/borrowing profile (Annex E.3) and proof of payment of BSP processing fee, if applicable] at least 30 banking days before the target signing date of the loan/borrowing documents. Loan/borrowing agreements which have been signed and/or drawn/availed of prior to securing the requisite BSP approval shall not be eligible for approval and registration.
 - Registration: Submit to BSP application for registration (Annex D.2.B) and supporting documents [loan/borrowing profile (Annex E.3) and signed covering agreement] within one (1) month from drawdown date (for short-term loans) and within six (6) months from utilization of proceeds (for medium- and long-term loans)
- Private sector foreign loans/borrowings that are not publicly-guaranteed and not covered by Section 24.3 of the FX Manual [i.e., foreign

currency loans of resident borrowers operating in the Philippines that are not publicly-guaranteed, short-term loans in the form of export advances from buyers abroad of resident exporters/borrowers, foreign obligations of residents under deferred letters of credit or under documents against acceptance or open account arrangements with a term of more than one (1) year that are not guaranteed by foreign governments/official export credit agencies, and short-term trade loans of resident exporters/importers from offshore banking units and non-resident non-bank creditors that have been granted under BSP-reported lending programs] shall be subject to registration with the BSP if these will ultimately be serviced with FX resources of AABs/AAB forex corps.

- Foreign currency loans that are not guaranteed by the public sector do not require prior BSP approval and registration, but subject to reporting by creditor banks to BSP to be eligible for servicing using FX resources of the banking system.
- Foreign loans, where notification and/or application for registration is/are not submitted within the prescribed period, can still be registered, subject to payment of a processing fee of PHP20,000.00 for each foreign loan to be registered.



BANGKO SENTRAL NG PILIPINAS

International Operations Department

Primer on Foreign/Foreign Currency Loans/Borrowings

INTERNATIONAL OPERATIONS DEPARTMENT

Room 301, 5-Storey Building, BSP Complex
A. Mabini Street, Malate Manila

Telephone No.: (632) 8708-7701 local 3060

Facsimile No.: (632) 5306-3091

Email address: iod-ipds@bsp.gov.ph

Website: www.bsp.gov.ph/regulations/fx.asp