# FREQUENTLY ASKED QUESTIONS ON PUBLIC SECTOR FOREIGN BORROWINGS

### *1. What is an Official Development Assistance (ODA)?*

Pursuant to Republic Act (R.A.) No. 8182 (ODA Act of 1996), as amended, ODA refers to a loan or a loan and grant facility which contains a grant element[1] of at least 25 percent. In addition, the loan/loan and grant should also meet the following criteria pursuant to Section 2 of R.A. No. 8182: (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.

### *2. Aside from ODA, what are the other source/s of external financing that may be tapped by the National Government (NG)?*

NG issues bonds to expand and diversify its investor base by tapping into new markets that have indicated strong interest in the Philippine credit. Given the volatility in the global markets, having the flexibility to allocate the total foreign borrowings among different funding sources or currencies will ensure that the government's funding requirements are met and risks are effectively managed.

Under R.A. No. 245 (An Act Authorizing the Secretary of Finance to Borrow to Meet Public Expenditures Authorized by Law, and for Other Purposes), as amended, the Philippine Government, through the Secretary of Finance, is authorized to incur obligations in the form of notes, bonds or bills with a maximum tenor of 25 years.

Bond issuances of the NG are denominated in various currencies with different tenors. This ensures that foreign exchange risk arising from fluctuation on exchange rate is mitigated and debt servicing requirement will remain at manageable levels. Previous bond issuance consists of: (i) US Dollar bonds (Global bonds); (ii) Renminbi Bond (Panda bonds); (iii) Japanese bonds (Samurai bonds); (iv) Euro-denominated bonds (Euro bonds); and (v) Global Peso Notes.

Aside from the bond issuances above, NG also issues sukuk instruments. Sukuk refers to a certificate of equal value representing undivided shares in ownership of tangible assets, usufructs and services or (in the ownership of) assets of particular projects or special investment activity that is undertaken in accordance with Shari'ah principles. There are two (2) types of Sukuk structures, namely asset-based and asset-backed sukuk.

[1] As provided under R.A. No. 8182, the grant element is "the reduction enjoyed by the borrower whenever the debt service payments which shall include both principal and interest and expressed at their present values discounted at 10 percent are less than the face value of the loan or loan and grant. The grant element of a loan or loan and grant is computed at the ratio of: (i) the difference between the face value of the loan or loan and grant and the present value of the debt service payments to; and (ii) the face value of the loan or loan and grant."

### *3. What are the different types of instrument that may be issued by NG?*

NG may issue debt instruments (such as bonds and notes) and sukuk. The differences between these instruments are as follows:

| Basis of Comparison | Sukuk | Debt instrument |
|---|---|---|
| Source of income for investors | Profit from business undertaking | Interest |
| Description | Proof of ownership | Proof of debt |
| Eligibility of Assets | Compliant with Shari'ah, domestic laws and regulations, as applicable | Compliant with domestic laws and regulations, as applicable |
| Investors | Both residents and non-residents, regardless of religious affiliation | Both residents and non-residents |
| Purpose | For Shariah-compliant projects/ assets/ services/ activities only | General government budget financing and/or other development purpose |

### *4. What is the role of the Bangko Sentral ng Pilipinas (BSP) on foreign loans/borrowings of the public sector?*

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)[2], the Office of the President (OP), and the BSP. The BSP works closely with these agencies and participates in different committees on debt management.

Under Article VII of the 1987 Philippine Constitution, foreign loans of the Government require the prior concurrence of the Monetary Board (MB). The financing for a project/program undergoes a two-stage BSP approval process, the MB approval-in-principle and the MB final approval. Before the borrowing is submitted for MB approval-in-principle, the project is evaluated by the NEDA – Investment Coordination Committee (ICC)[2] with regard to its viability and consistency with the Philippine Development Plan. This is subsequently confirmed by the NEDA Board[2]. For program loans, it undergoes the approval process of the Development Budget Coordination Committee to be considered in the determination of NG's overall economic targets, borrowing level, and the financing plan, among others. The DOF determines the appropriate financing for the project on the basis, among others, of the procedures and parameters set by the ICC, relevant laws, rules and regulations.

The BSP's role involves: (a) evaluating public sector and publicly-guaranteed private sector foreign borrowing applications, which enables the BSP to monitor and analyze their potential impact on the country's external debt; (b) developing policies and regulations governing foreign borrowings and other foreign exchange (FX) transactions; (c) maintaining a comprehensive database and preparing analytical reports on the country's external debt; and (d) conducting an annual

[2] Pursuant to Section 3 of Republic Act (R.A.) No. 12145 or the Economy, Planning, and Development Act, NEDA will be reorganized and renamed as the Department of Economy, Planning, and Development (DEPDev). The NEDA Board shall also be reconstituted and renamed as the Economy and Development Council, as provided in Section 22 of R.A. No. 12145.

survey on foreign borrowings plan of both the public and private sectors. Moreover, the BSP's efforts to ensure external debt sustainability goes hand in hand with the country's policy responses to various developments related to external debt levels.

***5. What are the stages in the approval by the MB of public sector foreign loans?***

a. Approval-In-Principle - refers to the approval granted by the 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; and

c. Final Approval - 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.

***6. What is the difference between multilateral and bilateral loans/debts?***

a. Multilateral loans/debts – refer to loans/debts owed to organizations established by agreements among member countries that have the status of international treaties, and regional development banks that provide nonmarket services of a collective nature for the benefit of members and/or financial intermediation, or the channeling of funds between lenders and borrowers in different economies. Some examples of multilateral creditors are Asian Development Bank (ADB), Asian Infrastructure Investment Bank (AIIB), World Bank and International Fund for Agricultural Development.

b. Bilateral loans/debts – refer to loans/debts owed to official creditors in individual countries that make loans on behalf of one government to another government or to public and publicly-guaranteed borrowers in another country. Some examples of bilateral creditors are Japan International Cooperation Agency, Agence Française de Développement, and Export-Import Bank of Korea.

***7. 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 DOF (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.

***8. 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 ADB 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.

***9. 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.

***10. Why borrow to fund infrastructure projects?***

Infrastructure projects are funded: (a) locally; (b) through ODA; or (c) by way of public-private partnerships. The government's infrastructure flagship projects (IFPs) include big ticket projects that address major bottlenecks, focusing on transportation, water resources, and energy. When completed, these projects are expected to bring important benefits to the Philippine economy and to the lives of ordinary citizens. Improvements in the quality of infrastructure services will help cut the cost of doing business, attract more investment, and enhance productivity around the country. As of date, the country's external debt remains manageable amid the increase of foreign borrowings for these IFPs.

***11. Why do various creditors charge different interest rates on loans granted to the Philippines?***

The interest rates of a particular loan may not directly be compared with the others based on indicative numbers alone given the differences in currency/denomination of the loan (e.g. interest rates of a US$ loan vis-à-vis JPY loan), maturity and grace period and other loan-related fees. While it may be noted that Japan imposes a lower interest rate, it may not be feasible for Japan to fund all our developmental projects, given the large funding requirements for NG projects as well as the priority/-ies of the creditor (i.e., railways for Japan), earmarking of funding support by Japan to other official development partners (e.g. less developed countries), and overexposure to one (1) sovereign may not be a sound practice considering the attendant risks involved (such as but not limited to default risk). Under R.A. No. 8182, ODA loans are excluded from the application of paragraph 1, Section 2 of R.A. No. 4860 (on foreign loan ceiling), as amended: Provided, that in no case shall the interest rate on the loan or loan component exceed seven (7) percent.

A lender is selected by the Republic of the Philippines based on its technical expertise and comparative advantage of lenders (e.g., China for dams, water irrigation and waterways, Japan for railways), priority/-ies of the Lenders (e.g., European lenders on climate change).

***12. Do foreign loans have automatic appropriations in the General Appropriations Act (GAA)?***

Yes, there is automatic appropriations in the GAA once the Government has made drawdowns on the loan. It may be noted that the law itself requires automatic appropriations for debt servicing, which are as follows:

**a) Administrative Code of 1987**

All expenditures for: (1) personnel retirement premiums, government service insurance, and other similar fixed expenditures; (2) principal and interest on public debt; and (3) NG guarantees of obligations which are drawn upon, are automatically appropriated: Provided, that no obligations shall be incurred or payments made from funds thus automatically appropriated except as issued in the form of regular budgetary allotments. (Section 26, Chapter IV, Book VI of Executive Order No. 292 Administrative Code of 1987);

**b) Presidential Decree No. 1177**

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***13. Will the public sector be able to service its loan obligations despite the increase in foreign borrowings?***

Yes. The country's external debt profile is seen to remain manageable amid increased foreign borrowings. Majority of the public sector borrowings: (a) are concessional in nature; (b) have longer tenors thus, exposure to roll-over risk is minimized; and (c) the ratio between domestic and external debt of the public sector is in favor of the former which reduces foreign exchange risk.

***14. What is the public external debt as of end-December 2024?***

Public sector external debt declined by US$1.54 billion (or 1.8 percent) to US$85.34 billion in the last quarter of 2024 from US$86.88 billion in end-September 2024 mainly due to the US$1.44 billion negative FX revaluation of borrowings denominated in other currencies. Prior periods' adjustments of US$71.23 million as well as net repayments of US$63.51 million further reduced the outstanding levels. About US$79.31 billion (or 92.9 percent) of public sector obligations are of the National Government, while the remaining US$6.03 billion (or 7.1 percent) pertained to borrowings of government-owned and controlled corporations, government financial institutions, and the Bangko Sentral ng Pilipinas.

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