



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 1164
Series of 2023

Subject: Amendments to the Regulations on Credit Exposure Limits to a Single Borrower and Definition of Capital

The Monetary Board, in its Resolution No. 1869 dated 27 December 2022, approved the amendments to the pertinent provisions of the Manual of Regulations for Banks (MORB) governing the credit exposure limits to a single borrower and definition of capital which is used for purposes of determining compliance with various prudential limits and requirements.

Section 1. Section 362 of the MORB on credit exposure limits to a single borrower is hereby amended to read as follows:

362. CREDIT EXPOSURE LIMITS TO A SINGLE BORROWER

x x x

Definition of terms. For purposes of this Section, the following definitions shall apply:

a. x x x

x x x

e. Net worth shall refer to capital as defined under Sec. 121 on Minimum Required Capital.

x x x

i. Credit risk transfer shall refer to any arrangement that allows the bank to transfer the credit risk associated with its loan or other credit accommodation in accordance with the provisions of this Section (Credit risk transfer).

x x x

Credit risk transfer. The loans and other credit accommodations or portion thereof covered by an effective credit risk transfer arrangement in the form of a guarantee or credit derivative that complies with the minimum operational requirements herein provided shall be excluded from the total credit commitment of the bank to a borrower in reckoning compliance with the SBL. The portion of the loans and other credit accommodations that is not covered by an effective credit risk transfer arrangement, if any, shall still form part of the credit commitment of the bank to the borrower in reckoning compliance with the SBL.

The loans and other credit accommodations or portion thereof covered by an effective credit risk transfer arrangement in the form of a guarantee or credit derivative that complies with the minimum operational requirements herein provided shall form part of the total credit commitment of the bank to the protection provider (i.e., guarantor in case of guarantees and protection seller in case of credit derivatives) in reckoning compliance with the SBL. This provision shall not apply to guarantees, in the form of standby letter of credit, demand guarantee, or counter-guarantee, between bank's head office and its branch/es or between bank's branches that are located in different jurisdictions.

A credit risk transfer arrangement shall be considered effective if the following minimum operational requirements are met:

- a. All documentation used for documenting guarantees and credit derivatives must be binding on all parties and legally enforceable in all relevant jurisdictions;
- b. Banks must have conducted sufficient legal review to verify such and undertake further review as necessary to ensure continuing enforceability; and
- c. Compliance with the requirements specific to guarantees and credit derivatives as provided below.

Guarantees. The following requirements must be complied with in order for a guarantee to be recognized as an effective credit risk transfer arrangement:

- a. A guarantee such as standby letter of credit, demand guarantee, counter-guarantee, financial guarantee or letter of indemnity, must meet the specific operational requirements set out in paragraphs 42 to 44, Part V of Appendix 59, or paragraph 7, Part III of Appendix 62, as applicable to covered banks;
- b. The guarantee must be provided by eligible guarantors enumerated under paragraphs 47 and 49, Part V of Appendix 59 or paragraph 8, Part III of Appendix 62, as applicable to covered banks.

In addition to the guarantee issued by eligible guarantors recognized above, guarantees, in the form of standby letter of credit, demand guarantee, or counter-guarantee, between bank's head office and its branch/es or between bank's branches that are located in different jurisdictions may be considered as an effective credit risk transfer arrangement subject to the following conditions:

- (1) The documentation of the standby letter of credit, demand guarantee, or counter-guarantee (i) expressly indicates that the same is issued in accordance with specific internationally recognized rules on finance transactions (i.e., International Standby Practices 98 and Uniform Rules for Demand Guarantees No. 758) where the head office and branch are treated as separate entities or different persons with respect to the payment of such obligation); and (ii) shall not contain stipulations that would be materially inconsistent with the internationally recognized rules on finance transactions;
- (2) The branches can engage in standby letter of credit, demand guarantee, or counter-guarantee consistent with the full banking authority granted by their respective home or host regulators, as applicable; and
- (3) The total amount of guarantees that shall be extended by the head office and branches shall not exceed 100.0 percent of the outstanding balance of the total loan portfolio of the Philippine bank concerned as of end of the preceding month.

For this purpose, the total loan portfolio shall comprise of interbank loans receivable, loans and receivables arising from reverse repurchase with the Bangko Sentral and other banks, and loans and receivables – others, gross of allowance for credit losses; and

- c. In case there is a maturity mismatch between the maturity of the counterparty exposure and the employed credit risk transfer arrangement, the adjustment of the credit protection for the purpose of calculating the SBL is determined using the same approach as provided under paragraphs 50 to 54, Part V of Appendix 59.

Where the bank's exposure is covered by a guarantee considered as an effective credit risk transfer arrangement as defined above, the bank shall apply the risk weight of the guarantor to the guaranteed portion of the credit exposure following the mapping of external credit assessments with the corresponding risk weights provided in paragraph 1, Part V of Appendix 59 or paragraphs 2 and 3, Part III of Appendix 62, as applicable to covered banks.

Credit derivatives. The following requirements must be complied with in order for a credit derivative to be recognized as an effective credit risk transfer arrangement:

- a. The credit derivative must meet the specific operational requirements set out in paragraphs 8 to 14, Part VI of Appendix 59; and
- b. The credit derivative must be provided by eligible protection sellers. The eligible guarantors enumerated under paragraph 47, Part V of Appendix 59 shall be considered as eligible protection sellers.

Banks that use credit derivatives as an effective credit risk transfer arrangement for SBL purposes shall ensure compliance with the guidelines governing derivatives transactions under Section 613 (Derivatives Activities).

Where the bank's exposure is covered by a credit derivative considered as an effective credit risk transfer arrangement as defined above, the bank shall apply the risk weight of the protection seller to the protected portion of the exposure being hedged following the mapping of external credit assessments with the corresponding risk weights provided in paragraph 1, Part V of Appendix 59. The portion of an exposure protected by a credit derivative will be measured in accordance with Paragraph 17, Part VI of Appendix 59.

Exclusions from loan limit. x x x

xxx

| Calendar days | Date of Acquisition |
|---------------|---------------------|
| xxx | xxx |

Supervisory enforcement action. Consistent with the provisions of Sec. 002, the Bangko Sentral reserves the right to deploy its range of supervisory tools to promote adherence to the requirements set forth in this Section and bring about timely corrective actions and compliance with the Bangko Sentral directives.

In this respect, the Bangko Sentral may impose sanctions, including monetary penalties on the bank and/or its directors, officers and/or employees for breaches of the SBL in accordance with the provisions of Sec. 004. The penalty for exceeding the SBL shall be reckoned from the date of the breach started up to the date before the correction of the same.

Limit for wholesale lending activities of government banks. xxx

xxx

Section 2. Section 121¹ of the MORB on the definition of capital is hereby amended to read, as follows:

121. MINIMUM REQUIRED CAPITAL

The following provisions shall govern the minimum capital requirements for banks.

Definition of Capital. The term capital shall be synonymous to unimpaired capital and surplus, combined capital accounts, and net worth and shall refer to the total of the unimpaired paid-in capital, including paid-in surplus, retained earnings and undivided profits. For this purpose, the following items shall likewise be added to or deducted from capital:

- a. The following shall be added to capital:
 - (1) Deposits for stock subscription recognized as equity pursuant to Section 123; and
 - (2) Other instruments that meet the following criteria:
 - (a) It must be paid-in;
 - (b) It must have a minimum maturity of at least five (5) years;
 - (c) It may be callable/redeemable at the initiative of the issuer only after a minimum of five (5) years;
 - (d) It must be subordinated to depositors and general creditors of the bank; and
 - (e) It must have the ability to be converted to common shares or written off upon the occurrence of a trigger event. A trigger event occurs when a bank is considered non-viable as determined by the Bangko Sentral. Non-viability is defined as a deviation from a certain level of CET1 Ratio, inability of the bank to continue business (closure), or any other event as may be determined by the Bangko Sentral, whichever comes earlier.
 - b. The following shall be deducted from capital:
 - (1) Treasury stock;
 - (2) Unbooked allowance for probable losses (which includes allowance for credit losses and impairment losses);
 - (3) Total outstanding unsecured credit accommodations, both direct and indirect, to directors, officers, stockholders, and their related interests (DOSRI) granted by the bank proper: x x x;
- x x x
- (8) x x x
- c. Other capital adjustments as may be required by the Bangko Sentral.

With respect to Item "b(3)" hereof, the provision in Sec. 341 (Definitions) on the definition of DOSRI shall apply.

Minimum capitalization. xxx

x x x

Section 3. Transitory provision. The provisions below shall be incorporated as a footnote to Section 362 of the MORB on Credit risk transfer.

The guidelines in Section 1 of this Circular on credit risk transfer, including its definition, shall take effect on 01 July 2023.

In view of the amendments to regulations on credit risk transfer, banks shall continue to use the SBL framework as of end-December 2022 during the transition period from 1 January 2023 to 30 June 2023 for purposes of reckoning compliance with the SBL.

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

FOR THE MONETARY BOARD:

(Sgd) FELIPE M. MEDALLA
Governor

5 January 2023

¹ As amended by Circular Nos. 1142, 1151 and 1154 series of 2022.