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Bangko Sentral ng Pilipinas

OFFICE OF THE GOVERNOR

Circular No. 625

Series of 2008



Subject: **MAGNA CARTA FOR MICRO, SMALL AND MEDIUM ENTERPRISES**

PURSUANT TO THE PROVISIONS OF REPUBLIC ACT (RA) NO. 6977, as amended by RA No. 8289 and RA No. 9501, now known as "Magna Carta for Micro, Small and Medium Enterprises (MSMEs)", the Monetary Board in its Resolution No. 1298 dated 02 October 2008, approved the revised rules and regulations governing the mandatory allocation of credit resources to micro, small and medium enterprises as follows:

Section 1. Section X342 of the *Manual of Regulations for Banks (MORB)* and its Subsections are hereby amended to read as follows:

Section X342. Mandatory Allocation of Credit Resources to Micro, Small and Medium Enterprises. The following rules shall govern the mandatory allocation of credit resources to micro, small and medium enterprises (MSMEs).

Subsection X342.1. Definition of terms. For purposes of this Circular, the following definitions shall apply:

a) Lending Institutions – shall refer to all banks, namely: UBs, KBs, TBs and RBs/Coop Banks, including government-owned banks.

b) Total Loan Portfolio – shall include all loans and receivables, other than those booked in the FCDU/EFCDU, as defined in the Manual of Accounts Section of the Financial Reporting Package issued under Circular No. 512 dated 3 February 2006, as amended (gross of allowance for credit losses) excluding the following:

- 1) Interbank loans receivable, other than (a) wholesale lending of a bank to conduit banks/quasi-banks for on-lending to MSMEs, and (b) rediscounting facility granted to another bank for loans to MSMEs;
- 2) Wholesale lending of a bank to conduit non-bank financial institutions without quasi-banking authority, other than those for on-lending to MSMEs;
- 3) Loans granted under special financing programs, other than those for MSMEs;
- 4) Loans granted to MSMEs, other than to Barangay Microbusiness Enterprises (BMBEs), to the extent funded by wholesale lending of, or rediscounted with, another bank;
- 5) Agrarian reform credits/other agricultural loans granted under PD No. 717, other than those

- (4) Purchase/discount on a "with or without recourse" basis of ME receivables; or
 - (5) Wholesale lending or rediscounting facility granted to participating financial institutions (PFIs) for on-lending to MEs; or
 - (6) Wholesale lending or rediscounting facility granted to participating financial institutions (PFIs) for on-lending to export, import, and domestic medium scale traders; or
 - (7) Commercial letters of credit outstanding, net of margin deposits, issued for the account of MEs.
- c) Alternative compliance for either or both MSEs or/and MEs
- (1) Paid subscription/purchase of liability instruments as may be offered by the SB Corporation; or
 - (2) Paid subscription of preferred shares of stock of the SB Corporation; or
 - (3) Loans from whatever sources granted to BMBEs as provided under Subsection X365.5.

Subsection X342.4. Ineligible credit instruments. The purchase of government notes, securities, and other negotiable instruments other than the instruments offered by the SB Corporation, and the granting of loans to MSMEs, other than to BMBEs, to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be deemed compliance with the foregoing requirement.

Subsection X342.5. Rights/remedies available to lending institutions not qualified to acquire or hold lands of public domain. Lending institutions which are not qualified to acquire or hold lands of the public domain in the Philippines shall be permitted to bid and take part in sales of mortgaged real property in case of judicial or extra-judicial foreclosure, as well as avail of receivership, enforcement and other proceedings, solely upon default of a borrower, and for a period not exceeding five (5) years from actual possession, provided that in no event shall title to the property be transferred to such lending institution. If the lending institution is the winning bidder, it may, during said five (5) year period, transfer its rights to a qualified Philippine national, without prejudice to a borrower's rights under applicable laws.

Subsection X342.6. Submission of reports. Banks shall submit reports on compliance with the mandatory credit allocation on a quarterly basis within 15 banking days from the end of reference quarter to Supervisory Data Center (SDC) of the BSP, using the attached form. Said report shall be effective starting with the reporting period ending 31

issued under Circular No. 512 dated 3 February 2006, as amended (gross of allowance for credit losses) excluding the following:

- 1) Interbank loans receivable, other than (a) wholesale lending of a bank to conduit banks/quasi-banks for on-lending to MSMEs, and (b) rediscounting facility granted to another bank for loans to MSMEs;
- 2) Wholesale lending of a bank to conduit non-bank financial institutions without quasi-banking authority, other than those for on-lending to MSMEs;
- 3) Loans granted under special financing programs, other than those for MSMEs;
- 4) Loans granted to MSMEs, other than to Barangay Microbusiness Enterprises (BMBEs), to the extent funded by wholesale lending of, or rediscounted with, another bank;
- 5) Agrarian reform credits/other agricultural loans granted under PD No. 717, other than those eligible for compliance with the mandatory allocation of credit for MSMEs, as well as development loans incentives under RA No. 7721 granted by banks other than branches of foreign banks; and
- 6) Loans and receivables arising from repurchase agreements, certificates of assignment/participation with recourse and securities lending and borrowing transactions.

c) Micro, Small and Medium Enterprises – shall refer to any business activity within the major sectors of the economy, namely: industry, trade, services, including the practice of one's profession, the operation of tourism-related establishments, and agri-business, which for this purpose refers to any business activity involving the manufacturing, processing, and/or production of agricultural produce, whether single proprietorship, cooperative, partnership or corporation -

- (1) whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have value falling under the following categories:

Micro	:	not more than P3,000,000
Small	:	more than P3,000,000 to P15,000,000
Medium	:	more than P15,000,000 to P100,000,000

- (2) duly registered with the appropriate agencies as presently provided by law, except in the case of micro enterprises as defined above.

Subsection X342.2. Period covered; prescribed portions of loan portfolio to be allocated.

Banks shall for a period of ten (10) years from 17 June 2008 to 16 June 2018, allocate at least eight percent (8%) for micro and small enterprises (MSEs) and at least two percent (2%) for medium enterprises (MEs) of their total loan portfolio based on their Balance Sheet as of the end of previous quarter, and make it available for MSME credit.

Banks may be allowed to report compliance on a groupwide (i.e., consolidation of parent and subsidiary bank/s) basis so that excess compliance of any bank in the group can be used as compliance for any deficient bank in the group: Provided, That the subsidiary bank/s is/are at least majority owned by the parent bank: *Provided*, further, That the parent bank shall be held responsible for the compliance of the group.

The consolidated report shall be submitted by the parent bank in the prescribed form and shall be supported by the individual reports of the bank and its subsidiaries duly signed by each bank's authorized signatory.

For purposes of determining compliance with the mandated allocation of credit resources to MSMEs, only eligible credit exposures as enumerated in Subsection X342.3, other than those booked in the FCDI/EFCDU shall be considered.

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Subsection X342.5. Rights/remedies available to lending institutions not qualified to acquire or hold lands of public domain. Lending institutions which are not qualified to acquire or hold lands of the public domain in the Philippines shall be permitted to bid and take part in sales of mortgaged real property in case of judicial or extra-judicial foreclosure, as well as avail of receiver-ship, enforcement and other proceedings, solely upon default of a borrower, and for a period not exceeding five (5) years from actual possession, provided that in no event shall title to the property be transferred to such lending institution. If the lending institution is the winning bidder, it may, during said five (5) year period, transfer its rights to a qualified Philippine national, without prejudice to a borrower's rights under applicable laws.

Subsection X342.6. Submission of reports. Banks shall submit reports on compliance with the mandatory credit allocation on a quarterly basis within 15 banking days from the end of reference quarter to Supervisory Data Center (SDC) of the BSP, using the attached form. Said report shall be considered category A-3 report. It shall become effective starting with the reporting period ending 31 December 2008. Specific guidelines on the modes/manner of submission of the report shall be covered by a separate issuance.

Banks shall maintain appropriate records/details of the reported loans to micro, small and medium enterprises and shall make these available to BSP.

Subsection X342.7. Sanctions. The following administrative sanctions shall be imposed on banks:

a) For non-compliance/under compliance with the prescribed portions of loan portfolio to be allocated to MSEs and MEs:

- (1) For zero compliance for both MSEs and MEs – P500,000;
- (2) For under-compliance:

- (a) For MSEs – percentage of under-compliance multiplied by P400,000
- (b) For MEs – percentage of under-compliance multiplied by P100,000

to be computed as of end of each quarter.

- (3) For willful making of a false or misleading statement to the BSP – P500,000 per quarter-end report without prejudice to the sanctions under Section 35 of RA No. 7653.

The imposition of the fines in Items "(1)" to "(2)" shall be without prejudice to the other administrative sanctions under Section 37 of RA No. 7653.

b) For non-submission/delayed submission of reports on compliance with both the prescribed portions of loan portfolio to be allocated to MSEs and MEs, respectively:

- | | | |
|--------------------|---|--------|
| (1) UBs/KBs | - | P1,200 |
| (2) TBs | - | 600 |
| (3) RBs/Coop Banks | - | 180 |

per calendar day of delay.

Subsection X342.8. Disposition of penalties collected. Ninety percent (90%) of penalties collected under Subsection X342.7 above shall be remitted by the BSP to the MSME Council Fund, while the remaining ten percent (10%) shall be retained by the BSP to cover its administrative expenses.

Section 2. Subsection X365.5 on the incentives to participating financial institutions under RA No. 9178 is hereby amended to read, as follows:

Subsection X365.5. Incentives to participating financial institutions. To encourage BMBE lending, the following incentives shall be granted to banks and other financial institutions as may be

The consolidated report shall be submitted by the parent bank in the prescribed form and supported by the individual reports of the bank and its subsidiaries duly signed by each bank's authorized signatory.

For purposes of determining compliance with the mandated allocation of credit resources to MSMEs, only eligible credit exposures as enumerated in Subsection X342.3, other than those booked in the FCDU/EFCDU shall be considered.

Subsection X342.3. Eligible credit exposures. Funds set aside in accordance with the foregoing requirement shall be made available for any of the following:

- a) For micro and small enterprises (MSEs)
 - (1) Actual extension of loans to eligible MSEs, other than to BMBEs which are covered in Item "c(3)" hereof: *Provided*, however, That loans granted to MSEs other than BMBEs, to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be eligible as compliance with the mandatory credit allocation; or
 - (2) Loans granted to export, import, and domestic micro and small scale traders, other than to BMBEs which are covered in Item "c(3)" hereof: *Provided*, however, That loans granted to MSEs other than BMBEs, to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be eligible as compliance with the mandatory credit allocation; or
 - (3) Purchase of eligible MSE loans listed in Items "(1)" and "(2)" above on a "without recourse" basis from other banks and financial institutions; or
 - (4) Purchase/discount on a "with or without recourse" basis of MSE receivables, other than BMBE receivables which are covered in Item "c(3)" hereof; or
 - (5) Wholesale lending or rediscounting facility granted to participating financial institutions (PFIs) for on-lending to MSEs, other than to BMBEs which are covered in Item "c(3)" hereof; or
 - (6) Wholesale lending or rediscounting facility granted to participating financial institutions (PFIs) for on-lending to export, import, and domestic micro and small scale traders, other than to BMBEs which are covered in Item "c(3)" hereof; or
 - (7) Commercial letters of credit outstanding, net of margin deposits, issued for the account of MSEs.
- b) For medium enterprises (MEs)
 - (1) Actual extension of loans to eligible MEs: *Provided*, however, That loans granted to MEs to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be eligible as compliance with the mandatory credit allocation; or
 - (2) Loans granted to export, import, and domestic medium scale traders: *Provided*, however, That loans granted to MEs to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be eligible as compliance with the mandatory credit allocation; or
 - (3) Purchase of eligible ME loans listed in Items "(1)" and "(2)" above on a "without recourse" basis from other banks and financial institutions; or

penses.

Section 2. Subsection X365.5 on the incentives to participating financial institutions under RA No. 9178 is hereby amended to read, as follows:

"Subsection X365.5. Incentives to participating financial institutions. To encourage BMBE lending, the following incentives shall be granted to banks and other financial institutions as may be applicable:

"a. All loans from whatever sources granted to BMBEs under RA No. 9178 shall be considered as part of alternative compliance to PD No. 717 or to RA No. 6977, as amended. For purposes of compliance with PD No. 717 and RA No. 6977, as amended, loans granted to BMBEs under the Act shall be computed at twice the amount of the outstanding balance of the loans: *Provided*, That loans used as alternative compliance with PD No. 717 which were computed at twice their outstanding balance shall no longer be eligible as compliance with RA No. 6977, as amended during the same period and vice versa: *Provided*, further, That said loans may be used as alternative compliance with both PD No. 717 and RA No. 6977, as amended at the same time at the maximum amount of one hundred percent (100%) of their outstanding balance each: *Provided*, furthermore, That funds loaned by or rediscounted with government-owned bank and other government financial institutions to accredited private banking and other financial institutions for on-lending to BMBEs shall be eligible as part of alternative compliance for PD No. 717 or RA No. 6977, as amended, of the government-owned banks and the accredited private banks at the maximum amount of one hundred percent (100%) of their outstanding balance each: *Provided*, finally, That loans used as alternative compliance with RA No. 6977, as amended, computed either twice their outstanding balance or their maximum amount of one hundred percent (100%) may be used as alternative compliance for either or both the prescribed portions of loan portfolio to be allocated to micro and small enterprises and medium enterprises, respectively, as long as the aggregate amount used does not exceed twice their outstanding balance or their maximum amount of one hundred percent (100%), as the case may be.

"b. x x x ."

Section 3. Repealing Clause. This Circular supersedes Circular No. 147 dated 24 October 1997, as amended by Circular No. 209 dated September, 1999, Circular No. 235 dated April 3, 2000, Circular No. 285 dated June 6, 2001, Circular No. 31 dated March 20, 2003 and Circular Letter dated 4 January 2001.

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

For the Monetary Board:

(sgd.) NESTOR A. ESPENILLA, JR.
Officer-in-Charge

14 October 2008