103 LIBERALIZED ENTRY AND SCOPE OF OPERATIONS OF FOREIGN BANKS.

The following rules shall govern the liberalized entry and scope of operation of foreign banks.

Modes of entry of foreign banks. With prior approval of the Monetary Board, foreign banks may operate in the Philippines through any one (1) of the following modes:

a. By acquiring, purchasing or owning up to 100% of the voting stock of an existing domestic bank (including banks under receivership or liquidation, provided no final court liquidation order has been issued);
b. By investing in up to 100% of the voting stock of a new banking subsidiary incorporated under the laws of the Philippines; or
c. By establishing a branch and sub-branches with full banking authority.

Interested foreign banks shall file with the Bangko Sentral their application for authority to operate in the Philippines through any of the modes of entry mentioned above. The application requirements are listed in *Appendix 2.*

Qualification requirements. A foreign bank seeking to operate in the Philippines through any of the modes of entry provided under Items *"a"* to *"c"* under this Section on Modes of entry of foreign banks must, in addition to satisfying the criteria prescribed under this Section on Guidelines for selection, be –

a. Widely-owned and publicly-listed in the country of origin, unless the foreign bank applicant is owned and controlled by the government of its country of origin; and
b. Established, reputable and financially sound.

The determination of whether a foreign bank applicant is widely-owned and publicly listed, established, reputable, and financially sound shall be based on the information derived from submitted documents as required under *Appendix 2.* Further, if the foreign bank is owned/ controlled by a holding company, this requirement may apply to the holding company.

Guidelines for selection. The following factors shall be considered in selecting the foreign banks which will be allowed to enter the Philippine banking system through R.A. No. 7721, as amended by R.A. No. 10641:

a*. Geographic representation and complementation*. Representation from the different parts of the world and/or the international financial centers shall be ensured.

b*. Strategic trade and investment relationships between the Philippines and the home country of the* *foreign bank.* Consideration shall be given to the countries of origin of applicant foreign banks –

(1) With substantial financial assistance to, and loans and investments, past and present, in the Philippines; and
(2) With which the Philippines has significant volume of trade especially to those with which the country has substantial net exports.

c*. Relationship between the applicant bank and the Philippines.* Consideration shall be given to the capability of the foreign bank to promote trade with, and to bring foreign investments into, the Philippines. Long standing financial and commercial relationship with, and assistance extended to, the Philippines, shall likewise be taken into account.

d*. Demonstrated capacity, global reputation for financial innovations and stability in a competitive environment of the applicant bank.*

e*. Reciprocity rights enjoyed by Philippine banks in the applicant's country.* Subject to the host country's rules and regulations of general application, Philippine banks should have the opportunity to establish operations in the foreign bank applicant's home country.

f*. Willingness to fully share banking technology.*

Capital requirements of foreign banks.

a*. For locally incorporated subsidiaries.* A foreign bank subsidiary shall comply with the minimum capital and prudential capital ratios applicable to domestic banks of the same category as prescribed under prevailing regulations.

b*. For foreign bank branches*

(1) A foreign bank branch shall comply with the minimum capital and prudential capital ratios applicable to domestic banks of the same category as prescribed under prevailing regulations.

(2) For purposes of compliance with minimum capital regulations, the term "*capital of a foreign bank branch*" shall refer to the sum of: (a) permanently assigned capital, (b) undivided profits, and (c) accumulated net earnings, which is composed of unremitted profits not yet cleared by the Bangko Sentral for outward remittance and losses in operations, net of applicable capital adjustments enumerated in Sec. 121.

(3) Permanently assigned capital shall be inwardly remitted and converted into Philippine currency at the exchange rate prevailing at the time of remittance.

(4) Any *Net due from* head office, branches and subsidiaries outside the Philippines, excluding accumulated net earnings, shall be deducted from capital.

(5) For purposes of compliance with the SBL, the capital of a foreign bank branch, subject to prescribed adjustments, shall be synonymous to its "net worth".

Transitory provision.

a*. Minimum capital of foreign banks.*

Minimum capital of foreign banks established in the Philippines prior to R.A. No. 10641 shall comply with the applicable minimum capital level requirement as prescribed under Sec. 121. Existing foreign banks that do not meet the minimum capital requirements shall submit an acceptable capital build-up program as required under Sec. 121.

b*. SBL*

(1) Loans and credit commitments of foreign bank branches as of 07 August 2014 may be maintained, but once repaid or expired, shall no longer be increased in excess of the ceiling allowed under the succeeding paragraph.

(2) Existing foreign bank branches shall be given until 31 December 2019 to use twice the level of capital as defined in this Section as net worth, as reference point for purposes of determining the appropriate SBL.

Risk-based capital for foreign bank branch

a. Foreign bank branches shall comply with the same risk-based capital adequacy ratios applicable to domestic banks of the same category.
b. In computing the risk-based capital adequacy ratios, Common Equity Tier 1 (CET1) capital shall include permanently assigned capital, undivided profits, accumulated net earnings and other capital components.
c. Any *Net due from* head office, branches and subsidiaries outside the Philippines, excluding accumulated net earnings shall be deducted from CET1 capital.
d. The guidelines for computing the risk-based capital adequacy ratios are provided in *Appendix 59.*

Head Office guarantee. The head office of foreign bank branches shall guarantee prompt payment of all liabilities of its Philippine branches, as well as the observance of the constitutional rights of the employees of such branches.

Scope of authority for locally incorporated subsidiaries of foreign banks as well as branches with full banking authority. Subsidiaries and branches of foreign banks established under this Section on Modes of entry of foreign banks shall be allowed to perform the same functions and enjoy the same privileges of, and be subject to the same limitations imposed upon, a Philippine bank of the same category.

Privileges shall include the eligibility to operate under a universal banking authority subject to compliance with existing rules and regulations and the guidelines enumerated in *Appendix 3.*

Control of the resources of the banking system. The Monetary Board shall adopt such measures as may be necessary to ensure that at all times the control of sixty percent (60%) of the resources or assets of the entire banking system is held by domestic banks, which are majority-owned by Filipinos. Said measures may include –

a. Suspension of entry of additional foreign bank subsidiaries and branches; and
b. Suspension of license upgrade or conversion to subsidiary of existing foreign bank branches.

Other measures may also be considered, provided that such measures so adopted shall be consistent with R.A. No. 7721, as amended by R.A. No. 10641, and shall consider vested rights and the non-impairment of contracts.

Change from one mode of entry to another. Foreign banks which are operating in the Philippines may apply for conversion of their mode of entry.

The bank shall comply with all applicable requirements and submit an acceptable transition plan which shall address how the foreign bank shall implement the change in mode of entry.

Equal treatment. Any right, privilege or incentive granted to foreign banks or their subsidiaries or affiliates under R.A. No. 7721, as amended by R.A. No. 10641 shall be equally enjoyed by, and extended under the same conditions, to domestic banks.

(Circular Nos. 1027 dated 28 December 2018 and 858 dated 21 November 2014)