

## 121 MINIMUM REQUIRED CAPITAL

**Definition of Capital.** The following provisions shall govern the capital requirements for banks.

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, surplus and undivided profits. For this purpose, the following items shall likewise be added to or deducted from capital:

- a. Deposits for stock subscription recognized as equity pursuant to Sec. 123 shall be added to capital.
- 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) and other capital adjustments as may be required by the Bangko Sentral;
  - (3) Total outstanding unsecured credit accommodations, both direct and indirect, to directors, officers, stockholders, and their related interests (DOSRI) granted by the bank proper;
  - (4) Total outstanding unsecured loans, other credit accommodations and guarantees granted to subsidiaries;
  - (5) Total outstanding loans, other credit accommodations and guarantees granted to related parties, as defined in Item "n", Sec. 131 (*Definition of Terms*), that are not at arm's length terms as determined by the appropriate supervising department of the Bangko Sentral;
  - (6) Deferred tax assets that rely on future profitability of the bank to be realized, net of any (a) allowance for impairment and (b) associated deferred tax liability, if the conditions cited in PAS 12 on Income Taxes are met: Provided, That, if the resulting figure is a net deferred tax liability, such excess cannot be added to net worth;
  - (7) Reciprocal investment in equity of other banks/enterprises, whether foreign or domestic, the deduction shall be the lower of the investment of the bank or the reciprocal investment of the other bank or enterprise; and
  - (8) In the case of RBs/Coop Banks, the government counterpart equity, except those arising from conversion of arrearages under the Bangko Sentral rehabilitation program.

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With respect to Item “b” hereof, the provision in Sec. 341 (*Definitions*) shall apply except that in the definition of *stockholders* in said Section, the qualification that his stockholdings, individually and/or together with his related interest in the lending bank, should at least amount to two percent (2%) or more of the total subscribed capital stock of the bank, shall not apply for the purpose of this Item.

**Minimum capitalization.** The minimum capitalization of banks shall be as follows:

Bank Category	Required Minimum Capitalization
UBs	
Head Office Only Up to 10 branches <sup>1</sup> 11 to 100 branches <sup>2</sup> More than 100 branches <sup>3</sup>	P3.00 billion 6.00 billion 15.00 billion 20.00 billion
KBs	
Head Office Only Up to 10 branches <sup>4</sup> 11 to 100 branches <sup>5</sup> More than 100 branches <sup>6</sup>	P2.00 billion 4.00 billion 10.00 billion 15.00 billion
TBs	
Head Office in National Capital Region (NCR)	
Head Office Only Up to 10 branches <sup>7</sup> 11 to 50 branches <sup>8</sup> More than 50 branches <sup>9</sup>	P500 million 750 million 1.00 billion 2.00 billion
Head Office in all Other Areas Outside NCR	
Head Office Only Up to 10 branches <sup>10</sup> 11 to 50 branches <sup>11</sup> More than 50 branches <sup>12</sup>	P200 million 300 million 400 million 800 million
RBs and Coop Banks	
Head Office in NCR	
Head Office Only Up to 10 branches <sup>13</sup> 11 to 50 branches <sup>14</sup> More than 50 branches <sup>15</sup>	P50 million 75 million 100 million 200 million
Head Office in All Other Areas Outside NCRv	
(All Cities up to 3rd class municipalities)	
Head Office Only Up to 10 branches <sup>16</sup> 11 to 50 branches <sup>17</sup> More than 50 branches <sup>18</sup>	P20 million 30 million 40 million 80 million

Head Office in All Other Areas Outside NCR	
(4th class to 6th class municipalities)	
Head Office Only	P10 million
Up to 10 branches <sup>19</sup>	15 million
11 to 50 branches <sup>20</sup>	20 million
More than 50 branches <sup>21</sup>	40 million

For purposes of compliance with this Section, the term branch shall exclude the *branch-lite* units of banks.

The above shall also be the required minimum capitalization upon (a) establishment of a new bank, (b) conversion of an existing bank from a lower to a higher category bank and vice versa, and (c) relocation of the head office of a TB/RB in an area of higher classification.

For the grant of the following special banking authorities:

- a. Quasi-banking functions for TBs;
- b. Trust and other fiduciary business for U/KBs and TBs;
- c. Limited trust for TBs and RBs/Coop Banks;
- d. Foreign currency deposit unit/expanded foreign currency deposit unit (FCDU/EFCDU);
- e. Issuance of foreign letters of credit (LCs) for TBs;
- f. Acceptance of demand deposit and NOW accounts for TBs and RBs/Coop Banks; and
- g. Acting as third party custodian/registry;

the higher of (a) the required minimum capital under this Section at the time of the application for the grant of special banking authority or (b) the amount specified in the applicable Sections for the grant of special banking authorities shall be the required minimum capital which shall be complied with on a continuing basis.

**Transitory provisions.** Banks which are existing, or which are already authorized by the Monetary Board but not yet operating, or persons from whom completed applications have been received but pending action by the Bangko Sentral, shall be allowed five (5) years from 19 November 2014 within which to meet the above minimum capital requirements. Banks granted with special banking authorities/licenses which require compliance with minimum capital requirements shall be given five (5) years from 19 November 2014 within which to comply.

Banks which comply with the new capital levels shall submit to the Bangko Sentral a certification to this effect within thirty (30) calendar days from 19 November 2014. Banks not meeting the required minimum capital must submit to the Bangko Sentral an acceptable capital build-up program for this purpose within one (1) year from 19 November 2014. If the prescribed minimum capital necessitates an

increase in the authorized capital stock, affected banks shall cause the corresponding amendments to their articles of incorporation/cooperation.

The appropriate supervising department of the Bangko Sentral will evaluate the continuing compliance of banks to the aforementioned capital build-up program. The Bangko Sentral may require appropriate actions and/or impose sanctions for non-compliance with the capital build-up program as provided under existing banking laws and/or Bangko Sentral rules and regulations.

**Guidelines on proposed investment from third party investors (TPIs) for purposes of complying with the minimum capital requirements.** The Bangko Sentral recognizes the indispensable role of banks in providing financial services to the public and their significant role in attaining sustainable economic development, while adhering to its mandate to safeguard and promote the stability of the financial system by ensuring that banks operate in a safe and sound manner. Hence, the Bangko Sentral sets forth the following guidelines on proposed investments from third party investor/s (TPIs) for purposes of addressing the capital deficiency and restoring the viability of banks:

- a. A bank that has already entered into a final agreement with a TPI to invest in the bank, which amount of investment shall cover the full amount of the capital deficiency, shall immediately submit the subscription contract/written agreement with the TPI to the Bangko Sentral. It is understood that with the submission of such contract, the TPI has already agreed to infuse the needed funds to cover the capital deficiency.
- b. In case the transaction requires prior Bangko Sentral approval under Sec. 122 (*Transactions involving voting shares of stocks, Item "b"*), the bank shall submit the following documentary requirements within fifteen (15) banking days from the submission of the aforementioned subscription contract/written agreement or within the timeline prescribed by Sec. 122 (*Transactions involving voting shares of stocks, Item "b"*)<sup>22</sup>, whichever is earlier:
  - (1) Bank's request (*signed by the president or officer of equivalent rank*) for Bangko Sentral approval of the subject transactions (*accompanied by a Board Resolution of the TPI to that effect, if the TPI is a corporation*);
  - (2) Certified copies of documents showing that the amount of proposed investment of the TPI is deposited/placed in an independent bank<sup>23</sup>, such as, certificate of escrow deposit or certificate of deposits with hold-out agreement showing the availability/hold out of funds for the said purpose, together with the corresponding waiver of secrecy of deposits/investments;
  - (3) Documentary requirements under Sec. 122 (*Transactions involving voting shares of stocks, Item "b"*); and

- (4) Other documentary requirements as may be required by the Bangko Sentral.
- c. The bank shall also comply with the requirements under Sec. 123 on the treatment of deposit for stock subscription as part of the equity, if applicable.
- d. In case a bank has a pending application with the PDIC under the Consolidation Program for Rural Banks (CPRB) or other similar programs, the bank and the TPI shall submit a joint certification signed by the president or officer of equivalent rank of the bank and the TPI concerned that there is a pending application with the PDIC, together with PDIC's acknowledgement receipt of said application.

In this regard, it is understood that mere submission to Bangko Sentral of a TPI's Letter of Intent (LOI) to invest in the bank shall not be considered sufficient action to address the bank's capital deficiency. Moreover, the investment of the TPI would not be considered for purposes of addressing the capital deficiency if the aforementioned requirements are not complied with, except in cases when the TPI exhibits strong financial capacity and firm commitment<sup>24</sup> to address the capital deficiency of a bank based on assessment, taking into consideration the submitted documents and other available pertinent information.

If the above requirements are not submitted within the given period, the appropriate supervising department of the Bangko Sentral may proceed in recommending appropriate supervisory action/s on the bank, if applicable.

*(Circular Nos. 1027 dated 28 December 2018, 1002 dated 10 May 2018, 987 dated 28 December 2017, 932 dated 16 December 2016, 914 dated 23 June 2016, 890 dated 02 November 2015, 854 dated 29 October 2014 and M-2014-002 dated 27 January 2014)*

#### Footnotes

1. Branches- inclusive of Head Office
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21. Branches- inclusive of Head Office
22. Sixty (60) calendar days from date of transaction or thirty (30) calendar days from receipt of corporate secretary of the transaction, whichever comes first.
23. Refers to a third party bank
24. Examples are the following:
  - The bank and its eligible TPI-bank communicated the TPI's intent to acquire/merge/consolidate with the bank but needs more time for the completion of the due diligence audit and finalize the agreement between the parties;
  - Submission of documents showing the eligibility and seriousness of the commitment of the TPI such as certificate of escrow deposit in an independent bank and other documents such as audited financial statements and income tax returns of the TPI which show its financial capacity to acquire the bank.