

217 CERTIFICATES OF TIME DEPOSIT

a. *Negotiable Certificates of Time Deposits (NCTDs)*

- (1) UBs/KBs may issue NCTDs without approval of the Bangko Sentral.
- (2) TBs/RBs/Coop Banks may issue NCTDs upon the prior approval of the Bangko Sentral.

b. *Non-Negotiable Certificates of Time Deposit*

Banks may issue long-term non-negotiable tax-exempt certificates of time deposit without approval of the Bangko Sentral.

Prerequisites to issue negotiable certificates of time deposits for thrift banks/rural banks/cooperative banks. In addition to the *Standard Pre-qualification Requirements for the Grant of Banking Authorities* enumerated in *Appendix 5*, a TB/RB/Coop Bank applying for authority to issue NCTDs shall also comply with the following requirements:

- a. Applicant's capital must be at least P150.0 million. For this purpose, capital shall have the same meaning as in Sec. 121; and
- b. It has neither assessment due nor past due obligations with the PDIC.

Requirements for issuing negotiable certificates of time deposits. After a TB's/RB's/Coop Bank's application to issue NCTDs has been approved, it may actually issue the same subject to the following conditions:

- a. Submission of a certification signed by the president/chairman of the board of the bank stating that the requirements enumerated in this Section on Prerequisites to issue negotiable certificates of time deposits have been complied with up to the day before the NCTDs are actually issued to the public; and
- b. That it has complied with all other conditions that the Bangko Sentral may impose.

The applicant bank shall submit a written notice to the appropriate supervising department of the Bangko Sentral of the actual date when the NCTDs are actually issued to the public not later than ten (10) banking days from such issuance.

Minimum features of negotiable certificates of time deposits

- a. *Form; denomination* – NCTDs may be issued in bearer or other form denoting negotiability and

shall have a standard format to be prescribed by the Bangko Sentral which shall be prenumbered serially and predenominated. The minimum denomination shall be at the discretion of the issuing bank. No certificate payable to bearer shall contain words prohibiting its negotiation.

- b. *Term* - The minimum maturity of the certificates shall be 731 days.
- c. *Manner of issuance* - The certificates shall be issued only upon receipt of funds equivalent to their face value.
- d. *Manner of printing* - NCTDs shall be printed on security paper by the Security Plant Complex (SPC) of the Bangko Sentral.

Orders for the printing of the desired forms shall not exceed a total value equivalent to twenty percent (20%) of the issuing bank's capital accounts (based on the quarter immediately preceding the request for printing) at any one time.

Additional orders for printing which shall result in an excess over the prescribed benchmark shall require prior Bangko Sentral approval.

Insurance coverage. The NCTDs shall be insured with the PDIC. Banks issuing bearer certificates shall imprint on the instrument the following:

"For purposes of deposit insurance by the PDIC, the holder shall have his name registered in the books of the issuing bank."

Desistance from issuing new negotiable certificates of time deposits. Unless authorized by the Bangko Sentral, TBs/RBs/Coop Banks with outstanding NCTDs shall immediately desist from issuing new NCTDs.

All outstanding NCTDs shall be valid and negotiable up to their maturity dates and shall not be subject to renewal.

Sanctions. If any part of the certification submitted by the bank as required in these guidelines is found to be false, the following sanctions shall be imposed, without prejudice to the sanctions under Section 35 of R.A. No. 7653.

- a. *On the bank*

Suspension of its authority to issue NCTDs for one (1) year.

b. *On the certifying officer*

A fine of P5,000 per day from the time the certification was made up to the time the certification was found to be false.

Long-term negotiable certificates of time deposit. The following guidelines shall govern the issuance of long-term negotiable certificates of time deposit (LTNCTDs) with a minimum maturity of five (5) years:

- a. *Prior to Bangko Sentral approval.* No LTNCTD shall be issued without the prior approval of the Bangko Sentral.
- b. *Application for authority of the issuing bank.* An application for authority on each issue/issue program of LTNCTD shall be filed with the appropriate supervising department of the Bangko Sentral.

The application shall be signed by the president/country manager (branch of a foreign bank) of the bank. It shall be accompanied by: (i) a certified true copy of the resolution of the bank's board of directors authorizing the issuance of LTNCTD indicating, among others, the issue size, offering period, purpose or intended use of proceeds thereof, registry bank, underwriter/arranger, selling agent(s); and (ii) a Letter of Undertaking (LOU) signed by the president/country manager that the issuing bank will ensure its continuous compliance with the prequalification requirements under Item "(c)1" below up to the time of the last offering of its approved and listed LTNCTDs.

- c. *Pre-qualification requirements.* The issuing bank shall be held accountable for ensuring the continuous compliance by its chosen participant-FIs with the qualification requirements prescribed by the Bangko Sentral. As such, the issuing bank shall make a careful and diligent evaluation of the parties whom it shall engage to act as underwriter/arranger, registry bank and selling agent of its LTNCTDs.

The following qualification requirements shall be strictly complied with prior to and on a continuing basis by the issuing bank and FIs engaged to act as underwriter/arranger, registry bank and selling agent while the LTNCTD of the issuing bank remains outstanding.

(1) *Issuing bank*

A bank applying for authority to issue an LTNCTD shall comply with the following requirements:

- (a) It has complied with the following capital adequacy requirements:
 - (i) Minimum capitalization as defined under Sec. 121; and
 - (ii) Risk-based capital adequacy ratio under Sec. 123 within the sixty (60) days immediately preceding the date of application;
- (b) It has not incurred net weekly reserve deficiencies within eight (8) weeks immediately preceding the date of application;
- (c) It has generally complied with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or Bangko Sentral Management in the last two (2) preceding examinations prior to the date of application, more particularly:
 - (i) The ceilings on credit accommodations to DOSRI;
 - (ii) Liquidity floor requirements for government deposits;
 - (iii) Single borrower's loan limit; and
 - (iv) Investment in bank premises and other fixed assets;
- (d) It maintains adequate provisions for probable losses commensurate to the quality of its asset portfolio but not lower than the required allowance for credit losses as determined by the Bangko Sentral;
- (e) It does not have float items outstanding for more than sixty (60) calendar days in the "Due From/To Head Office/Branches/Offices" accounts and the "Due From Bangko Sentral" account exceeding one percent (1%) of the total resources as of date of application;
- (f) It has no past due obligations with the Bangko Sentral or with any government FI;
- (g) It has established a risk management system appropriate to its operations characterized by clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system;
- (h) It has a CAMELS Composite Rating of at least "3" in the last regular examination; and

- (i) It has neither unpaid assessment due nor past due obligations with the PDIC.

(2) *Registry bank*

- (a) It may be a UB, a KB, or such other specialized entity that may be qualified by the Monetary Board; and
- (b) In the case of a UB or a KB:

- (i) It must be a third party:

- (aa) with no subsidiary/affiliate relationship with the issuing bank; and
- (bb) which is not related to the issuing bank in any manner that would undermine its independence.

- (ii) It must have adequate facilities and the organization to do the following:

- (aa) Maintain the Electronic Registry Book (ERB);
- (bb) Deliver transactions within the agreed trading period; and
- (cc) Issue registry confirmations to holders of LTNCTDs.

- (iii) It must have a CAMELS Composite Rating of at least “3” in the last regular examination

(3) *Underwriter/Arranger*

- (a) It is either a UB or an IH: *Provided*, That if an offering is on a best-efforts basis, such arranger may also be a KB.
- (b) It must be a third party, such that:

- (i) it has no subsidiary/affiliate relationship with the issuing bank; and
- (ii) it is not related in any manner that would undermine the objective conduct of due diligence.

- (c) Underwriters must be well capitalized and must have adequate risk management as evidenced by compliance with Items “c(1)(a), (d), (g) and (h)” as may be applicable.

(4) *Selling agent*

It must be an FI with dealership or brokering license.

d. *Listing of LTNCTD¹ with an accredited exchange.* LTNCTDs duly approved by the Monetary Board shall be issued and immediately listed on an accredited exchange ²: *Provided*, That banks which opt to issue portions of the approved amount in tranches shall immediately list such tranche issuance: *Provided further*, That if within one (1) year from approval of the Monetary Board, the entire amount of the approved LTNCTDs shall not have been issued, the bank's authority to issue the unissued portion of the approved amount shall be deemed revoked, and said unissued portion shall no longer be issued.

Banks which fail to list their LTNCTDs on an accredited exchange within the prescribed period shall be subject to the sanctions under Item "o(1)" below.

e. *Additional requirements for the issuance of LTNCTD.* The following additional requirements shall be submitted to the appropriate supervising department of the Bangko Sentral within ten (10) calendar days after issuance of the initial offering/tranche:

- (1) Written waiver of the secrecy of deposits on said LTNCTD by the issuing bank, its subsidiaries, affiliates and wholly or majority-owned or controlled entities of such subsidiaries and affiliates;
- (2) Information disclosure and the terms and conditions of the LTNCTD issuance;
- (3) Promotional materials; and
- (4) Specimen of the proposed registry confirmation and purchase advice from each selling agent which will evidence sale of the LTNCTD.

The bank shall, likewise, submit within ten (10) calendar days after issuance of the initial and subsequent tranches, a written notice to the appropriate supervising department of the Bangko Sentral of the actual date of initial/tranche offering.

f. *Functions/responsibilities of the parties involved.* The respective parties shall have, among others, the following functions/responsibilities:

- (1) *Registry bank*
 - (a) Generates and maintains the ERB;
 - (b) Records any transfer of ownership;
 - (c) Issues and sends registry confirmation to holders;
 - (d) Functions as paying agent for periodic interest and principal payments; and
 - (e) Monitors compliance with the prohibition on holdings of LTNCTD, as prescribed under Item "h" hereof.

(2) *Underwriter/Arranger*

- (a) Conducts due diligence on the issuing bank and determines the valuation/pricing of the primary issue;
- (b) Prepares the prospectus/information disclosure/updates for multi-tranche issues;
- (c) Formulates the distribution/allocation plan for the initial offering and ensures proper and orderly distribution of the primary sale/issue of the LTNCTDs;
- (d) Disseminates information to prospective depositors/investors of LTNCTDs on the terms and conditions of the issue (including information of non-pretermination by the depositor prior to original maturity and the liquidity mechanism in secondary trades) and the rights and obligations of the holder, issuer, selling agent, underwriter/arranger and registry bank; and
- (e) When selling to its clients, it must perform the functions/responsibilities of the selling agent under Items “f(3)(a)” and “(b)”.

(3) *Selling agent*

- (a) Verifies identity of each investor and applies other standards to combat money laundering as required under Sec. 902; and
- (b) Issues the purchase advice for the primary offering of the LTNCTDs.

g. *Change of underwriter/arranger, registry bank, selling agent(s)*. The issuing bank shall notify the appropriate supervising department of the Bangko Sentral in writing of any change in the identity of its registry bank, underwriter/arranger and selling agent within ten (10) calendar days from date of such change.

Said written notice shall state the (i) reasons for the change, (ii) identity of the newly designated FI(s), and (iii) effectivity of the engagement.

h. *Prohibition on holdings of LTNCTDs*. The issuing bank including its related companies (subsidiaries and affiliates and wholly or majority-owned or controlled entities of such subsidiaries and affiliates) cannot be a holder of the LTNCTDs of the issuing bank.

The issuing bank shall provide the registry bank with an updated list of all related companies. This report shall be a “*Category B*” report.

For purposes of this Section, an affiliate is an entity, at least twenty percent (20%) but not exceeding fifty percent (50%) of the outstanding voting stock of which is, owned by the issuing bank.

i. *Agreements between issuing bank and registry bank/selling agent(s)*. The agreements between the issuing bank and the registry bank /selling agents shall comply with the provisions of Sec. 112 on bank service contracts. The issuing bank shall be liable for any damages to investors/depositors caused by actions of said registry bank, selling agent(s) contrary to the agreements entered into.

j. *Minimum features*

(1) *Form; denomination* – An LTNCTD shall be in scripless form with a third party registry bank maintaining the ERB. To have legal effect, it shall comply with the provisions of R.A. No. 8792 (Electronic Commerce Act) particularly on the existence of an assurance on the integrity, reliability and authenticity of the LTNCTD in electronic form. LTNCTDs shall be registered in the name of individuals or corporations, negotiable and prenumbered serially. The minimum denomination shall be at the discretion of the issuing bank.

(2) *Currency* – Denomination shall be in Philippine pesos.

(3) *Term* – The minimum maturity of the LTNCTDs shall be five (5) years.

(4) *Primary Offering/Secondary Trading* – The initial offering shall be executed through an underwriter or an arranger. Subsequent negotiations in secondary trading must be executed through an accredited exchange.

k. *Purchase Advice and Registry Confirmation*

(1) The Purchase Advice and Registry Confirmation shall conspicuously contain the following *caveat*:

(a) *“This LTNCTD cannot be terminated by the holder nor the Issuing Bank before maturity date. However, negotiations/transfers from one (1) holder to another do not constitute pretermination.*

For tax purposes, negotiations/transfers from one (1) holder to another shall be subject to the pertinent provisions of the National Internal Revenue Code of 1997, as amended and Bureau of Internal Revenue (BIR) regulations.”

The caveat shall apply if the issuing bank commits no pretermination. Otherwise, it shall read as follows: "This LTNCTD cannot be terminated by the holder before (maturity date). However, it may be preterminated at the instance of the Issuing Bank upon prior notice to the holder on record. Negotiations/transfers from one (1) holder to another do not constitute pretermination.

For tax purposes, negotiations/transfers from one (1) holder to another shall be subject to the pertinent provisions of the National Internal Revenue Code of 1997, as amended and Bureau of Internal Revenue (BIR) regulations"; and

(b) *"All negotiations/transfers of this LTNCTD prior to maturity must be coursed through an accredited exchange."*

- (2) The selling agent shall issue a Purchase Advice to evidence initial purchase of LTNCTD with the original copy given to the holder.
- (3) The registry bank shall issue a Registry Confirmation to evidence ownership of the LTNCTD, with the original copy given to the holder.

l. *Deposit insurance coverage.* The LTNCTDs shall be insured with the PDIC, subject to applicable rules and regulations, among others, on maximum insurance coverage.

m. *Pre-termination by the issuer.* LTNCTDs may be preterminated by the issuing bank, subject to the following conditions:

- (1) The Information Disclosure, Purchase Advice and Registry Confirmation shall include the information that the LTNCTD may be preterminated by the issuing bank;
- (2) Thirty (30) day prior notification must be given to the appropriate supervising department of the Bangko Sentral together with the justification for the pre-termination;
- (3) Thirty (30) day prior notification to holders of record;
- (4) Notwithstanding any agreement to the contrary, the issuer shall shoulder the tax due on the interest income already earned by the holders; and
- (5) The issuing bank's reserve positions shall be recomputed retroactively based on the applicable reserve rate(s) for regular time deposits during the affected periods.

If the recomputed amounts result in a reserve deficiency, the issuing bank shall be fined with the corresponding monetary penalties. The preceding monetary penalty, however, shall not be imposed if pretermination by the issuer is due to a change in law or regulation that will increase the cost of maintaining the LTNCTDs.

n. *Non-pretermination by the holder.* Presentation of the LTNCTD to the issuing bank for payment

before the maturity date is not allowed. However, negotiation or transfer from one (1) holder to another shall not constitute pretermination of the LTNCTD. For tax purposes, negotiations/transfers from one (1) holder to another shall be subject to the pertinent provisions of the National Internal Revenue Code of 1997, as amended and Bureau of Internal Revenue (BIR) regulations.

o. Sanctions. Without prejudice to the other sanctions prescribed under Sections 36 and 37 of R.A. No. 7653 and the provisions of Section 16 of R.A. No. 8791, the following sanctions will be imposed on Bangko Sentral-supervised FIs for failure to comply with the provisions of this Section and for non-disclosure or misrepresentation of information:

- (1) *On the issuing bank* – Suspension of its authority to issue LTNCTDs, disqualification from future issuance of LTNCTDs and a monetary penalty of P30,000 for each violation.
- (2) *On the registry bank* – Disqualification to be a registry bank for one (1) year and a monetary penalty of P30,000 for each violation.
- (3) *On the selling agents* – Disqualification to be appointed as selling agent for one (1) year and a monetary penalty of P30,000 for each violation.
- (4) *On the certifying officer* – A fine of P5,000 per day from the time of required disclosure up to the time disclosure was made; or from the time misrepresentation was made up to the time the information was corrected.
- (5) *On the responsible officer* – A fine of P30,000 for participating or confirming in the non-disclosure or misrepresentation of information.

FIs not supervised by the Bangko Sentral acting as selling agent of LTNCTDs and/or its concerned directors/officers that are found to violate rules and regulations in the performance of their functions/responsibilities shall be subject to the provisions of Section 36 of R.A. No. 7653 and shall, likewise, be referred to the SEC for appropriate action.

Supervisory Enforcement Actions. The Bangko Sentral reserves the right to deploy its range of supervisory tools provided in Sec. 002 to ensure compliance with the provisions of this Section.

Long-term non-negotiable tax-exempt certificates of time deposit. The issuance of long-term non-negotiable tax-exempt certificates of time deposit shall be governed by the following rules:

a. Minimum features

- (1) *Form; denomination* – The certificate shall contain words denoting its non-negotiability and shall be issued by banks only in the name of individuals with denominations in increments of P1,000.00.

- (2) *Term* – The minimum maturity of the certificate shall be five (5) years.
- (3) *Manner of issuance* – The certificate shall be issued only upon receipt of funds equivalent to their face value.
- (4) *Manner of printing* – The certificate shall be printed on security paper.
- (5) *Pre-termination* – In case of pre-termination, the deposit shall be subject to income tax as provided under Section 24(B)(1) of the Tax Reform Act of 1997, as amended by Section 5 of R.A. No. 10963 or Tax Reform for Acceleration and Inclusion (TRAIN), which states that “a final tax shall be imposed on the entire income and shall be deducted and withheld by the depository bank from the proceeds of the long-term deposit or investment certificate based on the remaining maturity thereof:
- (a) Four (4) years to less than five (5) years – 5%
 - (b) Three (3) years to less than four (4) years – 12%
 - (c) Less than three (3) years – 20% “
- b. *Insurance coverage.* The deposits shall be insured with the PDIC, subject to applicable rules and regulations, among others, on maximum insurance coverage.
- c. *Reserves against long-term non-negotiable certificates of time deposit.* The rate and form of required reserves on regular time deposit shall also apply to the required reserves on long-term non-negotiable tax-exempt certificates of time deposit.

(Circular Nos. 890 dated 02 November 2015, 877 dated 22 May 2015, M-2014-034 dated 27 August 2014, 834 dated 26 May 2014, M-2014-023 dated 23 May 2014, and 824 dated 30 January 2014)

Footnotes

1. Approved applications and outstanding LTNCTDs as of 22 February 2014 shall not be covered by the new requirements.
2. A bank shall be allowed to issue LTNCTDs subject to the condition that the bank shall submit a deed of undertaking to the Bangko Sentral that all LTNCTDs issued after 22 February 2014 shall be applied for listing on an accredited exchange within one (1) day after the LTNCTD platform commences operation. The platform for the listing of the LTNCTDs was made available on 01 September 2014. In this regard, banks that issued LTNCTDs after 22 February 2014 shall apply for listing by 02 September 2014.