

## 241 SCOPE OF QUASI-BANKING FUNCTIONS

The following rules and regulations shall govern the quasi-banking operations of banks.

**Elements of quasi-banking.** The essential elements of quasi-banking are:

- a. Borrowing funds for the borrower's own account;
- b. Twenty (20) or more lenders at any one (1) time;
- c. Methods of borrowing are issuance, endorsement, or acceptance of debt instruments of any kind, other than deposits, such as acceptances, promissory notes, participations, certificates of assignments or similar instruments with recourse, trust certificates, repurchase agreements, and such other instruments as the Monetary Board may determine; and
- d. The purpose of which is (1) relending, or (2) purchasing receivables or other obligations.

**Definition of terms and phrases.** The following terms and phrases shall be understood as follows:

- a. *Borrowing* shall refer to all forms of obtaining or raising funds through any of the methods and for any of the purposes provided in this Section on Elements of quasi-banking whether the borrower's liability thereby is treated as real or contingent.
- b. *For the borrower's own account* shall refer to the assumption of liability in one's own capacity and not in representation, or as an agent or trustee, of another.
- c. *Purchasing of receivables or other obligations* shall refer to the acquisition of claims collectible in money, including interbank borrowings or borrowings between FIs, or of acquisition of securities, of any amount and maturity, from domestic or foreign sources.
- d. *Relending* shall refer to the extension of loans by an institution with antecedent borrowing transactions. Relending shall be presumed, in the absence of express stipulations, when the institution is regularly engaged in lending.
- e. *Regularly engaged in lending* shall refer to the practice of extending loans, advances, discounts or rediscounts as a matter of business, as distinguished from isolated lending transactions.

**Transactions not considered quasi-banking.** The following shall not constitute quasi-banking:

- a. Borrowing by commercial, industrial and other non-financial companies through any of the means listed under this Section on Elements of quasi-banking, for the limited purpose of financing their own needs or the needs of their agents or dealers; and
- b. The mere buying and selling without recourse of instruments mentioned under this Section on Elements of quasi-banking: *Provided, That:*
  - (1) The institution buying and selling without recourse shall indicate in conspicuous print on its instrument the phrase *without recourse, sans recourse* or words of similar import that will convey the absence of liability or guarantee by said institution; and
  - (2) In the absence of the phrase "*without recourse*", "*sans recourse*" or words of similar import, the instrument so issued, endorsed or accepted, shall automatically be considered as falling within the purview of these regulations: *Provided, further, That* any of the following practices or practices similar and/or tantamount thereto in connection with a without recourse transaction is hereby prohibited:
    - (a) Issuance of postdated checks by a financial intermediary, whether for its own account or as an agent of the debt instrument issuer, in payment of the debt instrument, sold, assigned or transferred without recourse; or
    - (b) Issuance by a financial intermediary of any form of guaranty on sale transactions or on negotiations or assignment of debt instruments without recourse; and
    - (c) Payment with its own funds by a financial intermediary which assigned, sold or transferred the debt instrument without recourse, unless the financial intermediary can show that the issuer has with the said financial intermediary funds corresponding to the amount of the obligation.

***Pre-conditions for the exercise of quasi-banking functions.*** No bank shall engage in quasi-banking functions without authority from the Bangko Sentral: *Provided, however, That* banks authorized by the Bangko Sentral to perform universal or commercial banking functions shall automatically have the authority to engage in quasi-banking functions: *Provided, further, That* the authority to obtain funds from the public, which shall mean twenty (20) or more persons under Section 8.2 of R.A. 8791, is not a condition but an authorization for the bank or quasi-bank, once the Monetary Board has granted the quasi-banking license.

In addition to the Standard Pre-qualification Requirements for the Grant of Bank Authorities enumerated in *Appendix 5*, a TB securing Bangko Sentral authority to engage in quasi-banking functions

must meet the following requirements:

- a. The bank must have a net worth or combined capital of at least P650.0 million computed in accordance with Sec. 121;
- b. The bank is well capitalized with risk-based capital adequacy ratio of not lower than twelve percent (12%) at the time of filing the application;
- c. The bank's operation during the preceding calendar year and for the period immediately preceding the date of application has been profitable;
- d. The bank has elected at least two (2) independent directors and all its directors have attended the required seminar for directors of banks conducted or accredited by the Bangko Sentral;
- e. The bank 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; and
- f. The bank has a CAMELS Composite Rating of at least "3" in the last regular examination with management rating of not lower than "3".

***Certificate of Authority from the Bangko Sentral.*** A bank securing Bangko Sentral's Certificate of Authority to engage in quasi-banking functions shall file an application with the appropriate supervising department of the Bangko Sentral. The application shall be signed by the bank president or officer of equivalent rank and shall be accompanied by the following documents:

- a. Certified true copy of the resolution of the bank's board of directors authorizing the application;
- b. A certification signed by the president or the officer of equivalent rank that the institution has complied with all conditions/prerequisites for the grant of authority to engage in quasi-banking functions;
- c. An information sheet;
- d. Bio-data signed under oath, of the members of the managerial staff who will undertake quasi-banking operations;
- e. Borrowing-investment program for one (1) year which should include at the minimum:

(1) planned distribution of portfolios as to:

- (a) underwriting;

- (b) commercial paper markets;
- (c) stocks and bonds;
- (d) government securities;
- (e) receivables financing, discounting and factoring;
- (f) leasing; and
- (g) direct loans; and

(2) expected sources of funds to support investment program classified as to:

- (a) maturity: short, medium and long- term;
- (b) interest rates; and
- (c) domestic or foreign sources whether institutional or personal.

***Sale, discounting, assignment or negotiation by banks of their credit rights arising from claims against the Bangko Sentral to clients.*** Pursuant to the policy of the Bangko Sentral to promote investor protection and transparency in securities transactions as important components of capital markets development, placements in the Term Deposit Facility (TDF), the Overnight Deposit Facility (ODF) and Reverse Repurchase agreements with the Bangko Sentral, shall not be subject of sale, discounting, assignment or negotiation on a *with or without recourse basis*.

Any violation of the provisions of this Section shall subject the bank and the director/s and/or officer/s concerned to the sanctions provided under Sec. 009.

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