

## 245 WITHOUT RECOURSE TRANSACTIONS

No bank shall sell, discount, assign, or negotiate, in whole or in part, such as thru syndications, participations and other similar arrangements, any notes, receivables, loans, debt instruments and any type of financial asset or claim, except government securities, or be a party in any capacity in any of the above transactions, on a without recourse basis unless such receivables, notes, loans, debt instruments and financial assets or claims are registered with the SEC. This prohibition includes transactions between a bank and its trust department.

Unregistered commercial papers may be sold, discounted, assigned, or negotiated by banks to the following:

- a. other banks;
- b. QBs;
- c. IHs;
- d. insurance companies;
- e. finance companies;
- f. investment companies;
- g. pension or retirement plan maintained by the government of the Philippines or any political subdivision thereof or managed by a bank or other persons authorized by the Bangko Sentral to engage in trust functions;
- h. funds managed by another bank or other entities duly authorized to engage in trust or other fiduciary business; and
- i. such other person as the SEC may by rule determine as qualified buyers, on the basis of such factors as financial sophistication, net worth, knowledge, and experience in financial and business matters, or amount of assets under management.

### ***Delivery of securities***

- a. Securities sold on a without recourse basis allowed under this Section shall be delivered directly to the purchaser or to the purchaser's designated Bangko Sentral accredited securities custodian or SEC authorized central securities depository in accordance with the guidelines set forth in *Appendix 73*. The securities custodian shall hold the securities in the name of the buyer: *Provided*, That a bank authorized by the Bangko Sentral to perform custodianship function or an SEC-authorized central securities depository may not be allowed to be custodian/depository of securities issued or sold by said custodian or central securities depository, by entities belonging to the same financial conglomerate or banking group as that of the custodian or depository, or of securities in bearer form.

The delivery shall be effected upon payment and shall be evidenced by a securities delivery receipt duly signed by the authorized officer of the custodian/central securities depository and delivered to the purchaser.

**Sanctions.** Violation of any provisions of Item “a” shall be subject to the following sanctions/penalties:

(1) *Monetary penalties*

*First offense* – Fine of P10,000 a day for each violation reckoned from the date the violation was committed up to the date it was corrected.

*Subsequent offenses* – Fine of P20,000 a day for each violation reckoned from the date the violation was committed up to the date it was corrected.

(2) *Other sanctions*

*First offense* – Reprimand for the directors/officers responsible for the violation.

*Subsequent offense* –

- (a) Suspension for ninety (90) days without pay of directors/officers responsible for the violation;
- (b) Suspension or revocation of the accreditation to perform custodianship function;
- (c) Suspension or revocation of the authority to engage in quasi-banking function; and/or
- (d) Suspension or revocation of the authority to engage in trust and other fiduciary business.

b. The guidelines to implement the delivery by the seller of securities to the buyer or to his designated securities custodian or central securities depository are shown in *Appendix 73*.

The guidelines on the delivery of government securities to the investor’s principal securities account with the RoSS are in *Appendix 74*.

**Sanctions.** Violation of any provision of the guidelines in *Appendix 73* shall be subject to the sanctions/penalties under Sec. 242 (*Delivery of securities*, Item “b”).

**Sanctions.** Unless specific sanctions are prescribed under these rules, any violation of the provisions of this Section shall be subject to any or all of the following sanctions:

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- a. Suspension of quasi-banking authority for a period of six (6) months; and
- b. Monetary penalty of P500 per day per transaction for each officer of the bank involved in any capacity in any transaction violative of these regulations.

*(Circular No. 873 dated 25 March 2015)*