285 EMERGENCY LOANS OR ADVANCES TO BANKING INSTITUTIONS

The emergency loan or advance to banking institutions is governed by the provisions of Sections 84 to 88 of R.A. No. 7653, otherwise known as The New Central Bank Act. The following guidelines shall govern the Bangko Sentral's emergency loans and advances.

Nature of emergency loans or advances. An emergency loan or advance is a credit facility that is intended to assist a bank experiencing serious liquidity problems arising from causes not attributable to, or beyond the control of, the bank management. The grant of such facility is discretionary upon the Monetary Board, and is intended only as a temporary remedial measure to help a solvent bank overcome serious liquidity problems. As provided under Sections 84 to 88 of R.A. No. 7653, no emergency loan or advance may be granted except on a fully secured basis and the Monetary Board may prescribe additional conditions, which the borrowing banks must satisfy in order to have access to the credit facility of the Bangko Sentral.

When an emergency loan or advance may be availed of. An emergency loan or advance may be granted:

a. In periods of national and/or local emergency or of imminent financial panic which directly threaten monetary and banking stability, i.e., situations involving bank runs, massive movements by depositors of their funds from certain banks to other banks, bank holidays and voluntary cessation of business, or when there are movements which endanger the economy, or when the international stability of the peso is threatened, or when there is an exchange crisis.

b. During normal periods for the purpose of assisting a bank in a precarious financial condition or under serious financial pressures brought about by unforeseen events or events which though foreseeable, cannot be prevented by the bank concerned.

Provided, That there is a concurrent vote of at least five (5) members of the Monetary Board and the latter has ascertained that the bank is not insolvent: *Provided, further,* That banks with positive CAR of not more than six percent (6%) based on adjusted books of accounts shall submit a Business Improvement Plan (BIP) acceptable to the Bangko Sentral within six (6) months from date of advice by the appropriate supervising department of the Bangko Sentral. For this purpose, the appropriate supervising department of the Bangko Sentral shall warn the concerned banks that failure to submit the required BIP in accordance with the criteria of the appropriate supervising department of the Bangko Sentral shall disqualify the bank from access to the Bangko Sentral's emergency loan facility. Banks with zero to negative CAR should have an existing Bangko Sentral-approved rehabilitation plan and on track with the Plan to be eligible to avail itself of emergency loan.

Allowable amount of emergency loan or advance. The maximum amount of an emergency loan or advance shall be limited to the amount needed by the applicant bank to overcome the emergency or financial predicament but not to exceed the sum of fifty percent (50%) of its total deposits and deposit substitutes as of the last banking day of the month preceding the date of emergency loan application: *Provided,* That, in no case shall such maximum amount exceed the loan values of the collaterals submitted, as determined by the Bangko Sentral.

The amount approved by the Monetary Board shall be released in tranches. The first tranche shall not exceed twenty-five percent (25%) of the total deposits and deposit substitutes of the bank as of the last banking day of the month preceding the date of emergency loan application and shall be released only after the submission of the collaterals and required documents under this Section on Application procedures and Other documentary requirements: *Provided, however,* That upon request of the applicant bank, the Monetary Board may authorize a first tranche in an amount greater than twenty-five percent (25%) of the bank's total deposits and deposit substitutes if the circumstances surrounding the emergency or financial predicament warrant the release of such greater amount and the same is adequately secured by first class collaterals, i.e., assets and securities which have relatively stable and clearly definable value and/or greater liquidity and free from lien and encumbrances.

Except as provided in Item "*d*" of this Section on Manner and conditions of release hereof, the proceeds of the emergency loan or advance shall be utilized exclusively to service net withdrawals of deposits and deposit substitutes, i.e., amount of the bank's total withdrawals less total deposits.

The principal amount of the emergency loan or advance shall not exceed the difference between the highest level of the bank's deposit and deposit substitutes of the immediately preceding thirty (30)-day period from date of emergency loan application and the current level of deposits and deposit substitutes as determined by the appropriate supervising department of the Bangko Sentral.

Application procedures. Banks applying for an emergency loan or advance shall submit an application (EL Form No. 1) with the appropriate supervising department of the Bangko Sentral, copy furnished the DLC. During normal periods, the applicant-bank shall state the reasons for the proposed loan availment and other details showing the precarious financial condition or the serious financial pressures being experienced by the bank.

The bank shall submit together with the application, the following documents:

a. Certified Statement of Condition (under oath) as of the last banking day of the month preceding the date of emergency loan application.
b. A duly notarized secretary's certificate (EL Form No. 2) together with a resolution of the board of

directors of the bank:

(1) Authorizing the availment by the bank of an emergency loan or advance from the Bangko Sentral.

(2) Signifying the bank's commitment to comply with the guidelines set forth herein and the terms and conditions that may be imposed by the Monetary Board.

(3) Designating the chairman and the president or in their absence, any of the next two (2) highest officers, as duly authorized signatories for the emergency loan or advance application, promissory notes, and all undertakings. Designated authorized officers not lower than senior vice president, or equivalent position, may be authorized to execute all accessory documents for the emergency loan or advance.

(4) Authorizing the Bangko Sentral to evaluate other assets of the bank certified by its auditors to be good and available for collateral purposes should the grant of subsequent tranches be applied for.

After determining the eligibility of the applicant bank to avail of the emergency loan or advance under this Section on When an emergency loan or advance may be availed of, the appropriate supervising department of the Bangko Sentral shall prepare a memorandum to the Monetary Board stating among others, the following:

a. Validation of the eligibility of applicant bank.
b. Financial condition of applicant bank.
c. Volume of deposits and expected withdrawals of deposits.
d. Amount and terms of the loan.
e. Whenever applicable, circumstances that warrant the grant of the first tranche greater than twenty-five percent (25%) of the total deposits and deposit substitutes as provided by law.

The applicant bank shall submit to the DLC, prior to the release of the first tranche, the following documents together with the copy of the application:

a. Listing of assets that are good and available for collateral purposes as certified by the bank's duly appointed external auditor (EL Form No. 3).

b. Listing of collaterals in the prescribed formats (EL Form Nos. 4/4a/4b) as well as a 3.5" diskette containing the database, (in MS Excel format), together with the documents of title and/or evidences of ownership of the collaterals offered including the following documents:

(1) Appraisal reports of not more than one (1) year conducted by an independent appraiser acceptable to the Bangko Sentral in accordance with Bangko Sentral's terms of reference.
(2) Latest tax declarations.
(3) Current tax receipts, tax clearances and other documents needed for registration of mortgages and deeds of assignment.
(4) Current insurance policies covering improvements and official receipts of premium payments.
(5) Department of Agrarian Reform (DAR) certification that agricultural properties offered as collaterals are not covered by the Comprehensive Agrarian Reform Program (CARP).
(6) Current original promissory notes of bank's borrowers duly endorsed in favor of the Bangko Sentral.
(7) Special power of attorney or stockholder's resolution, when appropriate.

c. Notarized Deed of Undertaking executed by the above-mentioned officers of the bank to: (1) register with the Registry of Deeds all the covering legal documents before loan release at the expense of the bank and that, in the event the Bangko Sentral agrees to release the proceeds of the loan before said documents are registered, the same shall be registered by the bank at its own expense; and (2) submit the documents needed to complete the requirements of the tranche not later than fifteen (15) days from release of the emergency loan or advance (EL Form No. 5).

In case of failure by the bank to register the covering legal documents within fifteen (15) days from date of release of loan proceeds, the Bangko Sentral shall register said documents for the account of the applicant bank, and all costs and expenses shall, at the option of Bangko Sentral, be deducted from any subsequent availments of the bank or from its DDA or be added to its liability account with the Bangko Sentral.

d. Notarized Joint and Several Undertaking executed by all the controlling stockholders [owning more than fifty percent (50%) of the voting stocks] of the bank and every person or a group of persons whose stockholdings are sufficient to elect at least one (1) director to indemnify and hold harmless from suit the Bangko Sentral, its Monetary Board members, Governor, officers and personnel, and the conservator whose appointment the Monetary Board may find necessary at any time. The Department of Finance or stockholder of record will sign the joint and several undertaking if the government is a stockholder (EL Form No. 6).

e. Notarized Deed of Undertaking with waiver of secrecy of deposits and commitment by the directors, principal officers with the equivalent rank of vice-president and up, all the controlling stockholders, and every person or group of persons and their respective spouses, whose stockholdings are sufficient to elect at least one (1) director not to withdraw any portion of their deposits and deposit substitutes as of date of release of the first tranche while the emergency

loan remains outstanding. In the event of a compelling reason to withdraw, payment of the emergency loan or advance in an amount equivalent to the deposits to be withdrawn shall be made (EL Form No. 7).

f. Notarized Surety Agreement executed by the controlling stockholders and every person or group of persons whose stockholdings are sufficient to elect at least one (1) director obligating themselves jointly and severally with the bank to pay promptly on maturity, or when due, the Bangko Sentral, its successors or assigns, all promissory notes covering the emergency loan or advance. (The Government, its subdivisions, instrumentalities and agencies, and government entities are exempted from this requirement) (EL Form No. 8).

g. Notarized Deed of Negative Pledge executed by the controlling stockholders and every person or group of persons whose stockholdings are sufficient to elect at least one (1) director, together with their respective certificates of stock. (The Government, its subdivisions, instrumentalities and agencies, and government entities are exempted from this requirement.) (EL Form No. 9).

h. Certification under oath executed by the chairman and president of the bank that the bank or any of its stockholders does not fall within the prohibition under Section 16, Article XI of the Constitution (EL Form No. 10).

Prior to the release of the subsequent tranches, the bank shall submit to DLC the documents of title and/or evidences of ownership of the collaterals, together with the other documents referred to in Item *"b"* above for the amount being applied for release and, where necessary, such other acceptable security which, in the judgment of the Monetary Board, would be adequate to supplement the assets tendered to collateralize the subsequent tranche.

Banks availing of emergency loan or advance may decline to submit either Item *"f"* or *"g"* or both, but the loan values specified in Items *"b"* and *"d"* of this Section on Acceptable collaterals and their corresponding loan values shall be reduced.

Other documentary requirements. Before release of any emergency loan or advance, the applicant bank shall, aside from the documentary requirements already mentioned above, submit such other requirements/documentation as may be required by the DLC, e.g., duly Notarized Promissory Note in Favor of the Bangko Sentral (EL Form No. 11/11a), Notarized Deed of Real Estate Mortgage (EL Form No. 12-Bank Assets/12a-Stockholder/Third Party Assets), Notarized Deed of Pledge (EL Form No.13-Individual/Corporation/13a- Stockholders'/Third Party Assets), Notarized Deed of Assignment of Mortgages (EL Form No. 14), Hold-out on Foreign Currency Deposits with Bangko Sentral (EL Form No. 15) and Joint Affidavit executed by the bank's chairman and president and the Individual Mortgagor (EL Form No. 16- Individual) or the Corporate-Mortgagor's chairman and president (EL Form 16a-

Corporation).

Acceptable collaterals and their corresponding loan values. All availments of the emergency loan or advance shall be secured by first class collaterals to the extent of their applicable loan values, as follows:

ACCEPTABLE COLLATERALS	With Surety Agreement And Negative Pledge	With Surety Pledge but no Negative Pledge	With Negative Pledge but no Surety Agreement	No Surety Agreement and no Negative Pledge
a. Government securities – based on the current market value of the securities	80%	80%	80%	80%
b. Unencumbered real estate properties in the name of the bank				
(1) Initial rate – based on the appraised value (AV) of the land and insured improvements	40%	35%	30%	25%
(2) Final rate – based on the AV of the land and insured improvements determined by a licensed and independent appraiser acceptable to the Bangko Sentral in accordance with Bangko Sentral's terms of reference	70%	65%	60%	55%
c. Hold-outs on foreign currency deposits with the Bangko Sentral based on current market value	80%	80%	80%	80%
d. Mortgage credits (with remaining maturities of not more than 360 days)				
(1) Initial rate – based on the AV of the property securing the loan evidenced by negotiable instruments or the outstanding balance of such loan whichever is lower	40% of AV or 50% of the outstanding balance	35% of AV or 40% of the outstanding balance	30% of AV or 40% of the outstanding balance	25% of AV or 40% of the outstanding balance
(2) Final rate – based on the AV of the property securing the loan evidenced by negotiable instruments as determined by a licensed and independent appraiser acceptable to the Bangko Sentral in accordance with Bangko Sentral's terms of reference or the outstanding balance of such loan whichever is lower.	70% of AV or 80% of the outstanding balance	65% of AV or 75% of the outstanding balance	60% of AV or 70% of the outstanding balance	55% of AV or 65% of the outstanding balance
e. Commercial papers ("AAA")	80%	80%	80%	80%

Mortgage credits arising from syndicated loans and loans with underlying real estate collateral(s) under MTI shall likewise be assigned their applicable loan values based on the submission or non-submission of Surety Agreement and/or Negative Pledge as summarized in the immediately preceding table. Such loans shall be subject to the same minimum requirements under Sec. 282 (*Eligible papers and collaterals*).

Assets of stockholders and of other third parties, the latter acceptable only in instances provided under the last paragraph of this Section on Interest rates, liquidated damages, and penalties are acceptable as collaterals for emergency loan with corresponding loan values, as follows:

ACCEPTABLE COLLATERALS	With Surety Agreement And Negative Pledge	With Surety Pledge but no Negative Pledge	With Negative Pledge but no Surety Agreement	No Surety Agreement and no Negative Pledge
Asset of stockholders to secure new loan releases if the bank has no available first class collaterals:				
a. Unencumbered real estate				
(1) Initial rate – based on the AV of the land and insured improvements	35%	30%	25%	20%

(2) Final rate – based on the AV of the land and insured improvements determined by a licensed and independent appraiser acceptable to the Bangko Sentral in accordance with Bangko Sentral's terms of reference	60%	55%	50%	45%
b. Government Securities	80%	80%	80%	80%
c. Commercial papers ("AAA")	80%	80%	80%	80%
Assets of other third parties to cover deficiency arising from unpaid interest and liquidated damages, reduction in loan value of existing collaterals and conversion of overdrafts into emergency loan:				
a. Unencumbered real estate				
(1) Initial rate – based on the AV of the land and insured improvements	30%	25%	20%	15%
(2) Final rate – based on the AV of the land and insured improvements determined by a licensed and independent appraiser acceptable to the Bangko Sentral in accordance with Bangko Sentral's terms of reference	50%	45%	40%	35%
b. Government securities	80%	80%	80%	80%
c. Commercial papers ("AAA")	80%	80%	80%	80%

Other types of assets may be acceptable as collateral for emergency loan as the Monetary Board may approve.

The initial valuation rate shall apply in case the appraisal reports of independent appraiser acceptable to the Bangko Sentral for real estate collaterals are not available or not in accordance with Bangko Sentral's terms of reference or the collaterals themselves are with rectifiable minor deficiencies as determined by DLC, but will be adjusted upon compliance with the foregoing requirements.

All collateralization expenses, such as registration fees, documentary stamps, etc., shall be borne by the applicant bank.

Manner and conditions of release. The manner and conditions of release of emergency loan or advance shall be as follows:

a. The grant of emergency loan or advance shall bear the concurrent vote of at least five (5) members of the Monetary Board.

b. The emergency loan or advance shall have a ninety (90)-day availability period from date of Monetary Board approval, non-renewable, non-extensible. Request for extension or renewal shall be treated as new loan application to be evaluated by the appropriate supervising department of the Bangko Sentral if qualified under this Section on when an emergency loan or advance may be availed of.

c. The amount approved by the Monetary Board may be disbursed in one (1) or more releases as dictated by the needs of the bank and availability of first class collateral.

d. The proceeds of the emergency loan or advance shall be applied first to the advance interest, and then to any outstanding overdrawings that may have been incurred by the bank in its demand deposit with the Bangko Sentral.

e. The bank shall submit to the DLC a board resolution confirming every receipt of proceeds of emergency loan or advance. Likewise, the bank shall submit a board resolution confirming the undertakings executed by the officers under this Section on Application procedures.

Interest rates, liquidated damages, and penalties*.* The interest rate that shall be charged on emergency loan or advance shall be based on the Bangko Sentral lending rate plus two percent (2%) per annum. Interest shall be collected in advance from the borrowing bank.

An additional five percent (5%) per annum shall be imposed as liquidated damages on the past due emergency loan or advance.

A penalty of one-tenth of one percent (1/10th of 1%) per day of delay on unremitted/delayed remittance of collections received by the bank from promissory notes covering the assigned mortgage credits or the proceeds of sale from assigned/mortgaged real estate properties commencing on the day following the deadline prescribed in this Section on Remittance of collections/repayments/arrearages shall be imposed on the erring bank.

Any shortfall in collateral due to unpaid accrued interest, liquidated damages, reduction in loan value of existing collaterals and conversion of overdraft into emergency loan may be covered by third party assets after the assets of the bank have been exhausted.

A Joint Affidavit (EL Form No. 16/16a) between the bank's chairman and president and the corporate-mortgagor's chairman and president or the individual mortgagor to be signed and notarized in the Bangko Sentral shall be submitted in support of the mortgage documents. The signing shall be photographed as well as recorded in video.

General terms and conditions. A bank with an outstanding emergency loan or advance shall comply with the following conditions:

a. The bank shall not, without the prior authorization of the Monetary Board, expand its outstanding loans or investments as of the date of application for emergency loan, except for investment in government securities;

b. The bank shall not declare cash dividends;

c. The bank shall not grant new loans to DOSRI or to affiliates and subsidiaries;

d. The bank shall accept the Bangko Sentral designated Comptroller to be assisted by examiners recommended by the appropriate supervising department of the Bangko Sentral and the DLC to monitor the operations of the bank under the Terms of Reference as determined by the Monetary Board;

e. The bank shall not be allowed to avail of the Bangko Sentral rediscounting facility; and

f. The bank shall comply with any other terms and conditions that may be imposed by the Monetary Board.

Maturity/Conditions for renewals. The term of any emergency loan or advance shall not exceed 180 days including renewals. Any request for renewal of an emergency loan or advance shall be treated as a new loan and shall be considered only upon the bank's compliance with the following:

a. All the requirements of the previous tranche/s;
b. Remittance of collections/proceeds of sales under this Section on Remittance of collections/ repayments/arrearages;
c. Payment of advance interest;
d. Submission of a duly notarized promissory note in favor of the Bangko Sentral; and
e. Other requirements that may be imposed by the Monetary Board on the borrowing bank.

The Director of the DLC shall approve the renewal of an emergency loan or advance.

Remittance of collections/repayments/arrearages. The following shall govern remittance of collections, sale proceeds, repayments and arrearages:

a. Total collections received on loan accounts assigned to the Bangko Sentral shall be held in trust for, and remitted to the Bangko Sentral not later than five (5) banking days following the date of receipt in payment of the bank's outstanding emergency loan or advance, net of refund of interests, if any.

b. Proceeds from the sale of properties assigned/mortgaged to the Bangko Sentral shall be held in trust for, and remitted to the Bangko Sentral not later than five (5) banking days following the date of receipt in payment of the bank's outstanding emergency loan or advance, net of refund of interests, if any.

For banks with emergency loan or advance under current status, "total collections" and

"proceeds from the sale" shall pertain to the loan value of the mortgaged credits and properties.

For banks with emergency loan or advance under past due status:

(1) Total collections shall pertain to total collections from the mortgaged credits, i.e. principal plus interest and penalty.

(2) Proceeds from the sale shall pertain to net proceeds from the sale of assigned/mortgaged properties or the total Bangko Sentral claims pertaining to the sold properties, i.e., loan value plus interest and penalty, whichever is higher.

The bank shall ensure that adequate records on the collections and sale made by the branches are maintained in its Head Office.

c. Increases in the deposit level of the borrowing bank equivalent to the recovery of the net withdrawal of deposits, shall be remitted to the Bangko Sentral or debited against the bank's demand deposit account in payment of the emergency loan or advance, net of refund of interest.

d. The loan value of the collaterals of the emergency loan or advance, i.e., mortgaged credits and properties, discovered by the Bangko Sentral falling short of its criteria of first class collaterals, shall be debited against the bank's DDA with the Bangko Sentral, net of refund of interest.

e. The Bangko Sentral shall undertake all necessary collection measures allowed by law, such as foreclosure proceedings against banks, whether operating or closed, with past due loans.

In the event the bank fails to comply with any of the foregoing, the DLC shall notify, copy furnished the bank, the borrowers of the assignment of their outstanding loans to the Bangko Sentral and advise them to remit payment directly to the Bangko Sentral (EL Form 17).

Default. The following shall constitute events of default which shall render the emergency loan or advance due and demandable and shall be sufficient cause for the Bangko Sentral to stop further releases of funds, without prejudice to any action the Bangko Sentral may decide to take in accordance with R.A. No. 7653:

a. Insolvency or bankruptcy of the bank.
b. Appointment of a receiver for the bank.
c. The bank's property and business is taken possession of or its business suspended or closed by the lawfully authorized governmental agency or authority.
d. Violation of any of the terms and conditions of all loan and collateral documents.

e. Non-compliance with the undertakings executed by the borrowing bank.

(As amended by Circular No. 1008 dated 14 June 2018)