

## **299 SEGREGATION OF CUSTOMER FUNDS AND SECURITIES RECEIVED BY BANKS IN THE PERFORMANCE OF THEIR SECURITIES BROKERING FUNCTIONS**

**Policy Statement.** Pursuant to the Bangko Sentral's policy of promoting the development of domestic capital markets by upholding investor protection and transparency in securities transactions, following are the guidelines relating to the segregation, handling and reporting of customer funds and securities received by banks in the performance of their securities brokering functions.

The limited coverage of the guidelines shall not relieve the bank acting as securities broker of its obligation to comply with other requirements of the Securities Regulation Code (SRC) and its Implementing Rules and Regulations (IRR).

### **Definition of terms**

- a. *Securities brokering* – A securities brokering transaction refers to the act of buying and selling evidences of indebtedness, shares and all types of securities by order of and for the account of customers.
- b. *Securities broker* – A securities broker refers to an entity which is duly-registered by the SEC to engage in securities brokering transactions.
- c. *Customer* – A customer refers to any person from whom, or on whose behalf, a securities broker receives, acquires or holds funds or securities for the account of such person.
- d. *Customer securities* – Customer securities refer to (1) securities received by a securities broker in behalf of any customer; (2) securities carried long by a securities broker for the account of any customer; and (3) securities sold to, or bought for, a customer, by a securities broker.
- e. *Customer funds* – This shall refer to funds received from a customer by a broker under a securities brokering arrangement.
- f. *Broker customer account for settlement of customer trades* – This shall refer to the separate cash account and margin account of the customer which shall be used exclusively for the settlement of securities brokering transactions.
- g. *Broker customer securities account* – This shall refer to customer securities held in accordance with securities brokering agreements such as securities held as margin and/or prior to the settlement of a customer securities transaction.

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**Segregation of customer funds and securities.** A bank which receives customer funds and securities in the performance of their securities brokering transactions shall keep these funds and securities separate from its own assets and liabilities.

- a. For securities brokering purposes, separate accounts, shall be opened and maintained by/for the customers, designated as follows:
  - (1) "Broker Customer Account for Settlement of Customer Trades" where all funds pertinent to securities brokering transactions shall be lodged; and
  - (2) "Broker Customer Securities Account" where all securities pertinent to securities brokering transaction of the customers shall be lodged.
- b. The bank must institute adequate risk management systems and controls to ensure protection of customer funds and securities, proper segregation of functions and prevention of conflict of interest situations that may arise in the conduct of securities brokering activities within the bank.

**Accounting and record keeping.** A bank shall make and keep current books and records relating to customer funds and securities which shall be maintained in the principal office of the bank.

- a. Customer funds received by banks in its brokering activities shall be recorded in the liability account "Broker Customer Account for Settlement of Customer Trades." This account shall be governed by the following guidelines:
  - (1) All funds under this account are held by the bank in a fiduciary capacity.
  - (2) It shall be free from any and all liens on the bank's assets and shall not be held to answer for any liability of the bank.
  - (3) It shall not earn interest and will not be included under the coverage of an insured deposit under R.A. No. 3591, as amended.
  - (4) It shall also be excluded from the monies/assets for which the Bangko Sentral requires reserves.
- b. Securities received by banks in its brokering activities such as securities held as margin and/or held prior to the settlement of customer securities transaction shall be recorded as an off-balance sheet item under the "Broker Customer Securities Account" in the books of the bank proper. This account shall be governed by the following guidelines:
  - (1) All securities under this account are held by the bank in a fiduciary capacity.
  - (2) This shall be free from any and all liens on the bank's assets and shall not be held to answer for any liability of the bank.

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- (3) This shall also be excluded from the monies/assets for which the Bangko Sentral provides reserve requirements.

**Receivership.** Whenever a receiver is appointed by the Monetary Board for a bank which is authorized to engage in securities brokering activities, the receiver shall, pursuant to the instructions of the Monetary Board, proceed to close the securities business promptly and arrange for another Exchange Member, where such bank is a member of an Exchange, to take over any outstanding contracts and inform the affected customers in writing that their accounts have been transferred.

Where the bank is not a member of an Exchange, the receiver pursuant to the instructions of the Monetary Board, shall notify the affected customers, if any, of the placement of such bank under receivership and require that they transfer their accounts to another broker.

**Reportorial requirements.** All banks with securities brokering license shall submit to the appropriate unit of the Bangko Sentral on a monthly basis an additional report listed in *Appendix 7*. This report shall be considered a Category A-1 report and shall contain the end-of-week balances of cash and securities that are held in accordance with the securities brokering arrangement with its clients.

*(Circular No. 903 dated 29 February 2016, M-2015-034 dated 14 September 2015, and 885 dated 14 August 2015)*