

### 301 GRANT OF LOANS AND OTHER CREDIT ACCOMMODATIONS

In addition to the principles and standards provided under Sec. 143, the following regulations shall be observed in the grant of loans and other credit accommodations.

**Additional requirements.** FIs shall require submission and maintain on file updated ITRs of the borrower, and his co-maker, if applicable, duly stamped as received by the BIR together with supporting financial statements, as applicable. FIs shall likewise require borrowers to execute a waiver of confidentiality of client information and/or an authority of the FI to conduct random verification with the BIR in order to establish authenticity of these documents.

Should the document(s) submitted prove to be incorrect in any material detail, the FI may terminate any loan or other credit accommodation granted on the basis of said document(s) and shall have the right to demand immediate repayment or liquidation of the obligation.

The required submission of such documents shall not cover the following credit exposures:

- a. Microfinance loans as defined under Sec. 314 (*Definition, Item "a"*);
- b. Loans to registered Barangay Micro- Business Enterprises (BMBEs);
- c. Interbank loans;
- d. Loans secured by hold-outs on or assignment of deposits or other assets considered non-risk by the Monetary Board;
- e. Loans to individuals who are not required to file ITRs under BIR regulations, as follows:
  - (1) Individuals whose gross compensation income does not exceed their total personal and additional exemptions, or whose compensation income derived from one (1) employer does not exceed P60,000 and the income tax on which has been correctly withheld;
  - (2) Those whose income has been subjected to final withholding tax;
  - (3) Senior citizens not required to file a return pursuant to R.A. No. 7432, as amended by R.A. No. 9257, in relation to the provisions of the National Internal Revenue Code (NIRC) or the Tax Reform Act of 1997; and
  - (4) An individual who is exempt from income tax pursuant to the provisions of the NIRC and other

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laws, general or special; and

- f. Loans to borrowers, whose only source of income is compensation and the corresponding taxes on which has been withheld at source: *Provided*, That the borrowers submitted, in lieu of the ITR, a copy of their Employer's Certificate of Compensation Payment/Tax Withheld (BIR Form 2316) or their payslips for at least three (3) months immediately preceding the date of loan application;
- g. Loans and other credit accommodations not exceeding P3.0 million; or
- h. Loans to start up enterprise borrowers during the first three (3) years of their operations or banking relationship.

***Prohibited use of loan proceeds.*** Banks are prohibited from requiring their borrowers to acquire shares of stock of the lending bank out of the loan or other credit accommodation proceeds from the same bank.

***Signatories.*** Banks shall require that loans and other credit accommodations be made under the signature of the principal borrower and, in the case of unsecured loans and other credit accommodations to an individual borrower, at least one (1) co-maker, except that a co-maker is not required when the principal borrower has the financial capacity and a good track record of paying his obligations.

***Policies on loans to non-immigrants and embassy officials.*** Banks are allowed to extend peso loans to the following:

- a. Non-immigrants holding visas issued under Secs. 9(d) and 9(g) of the Immigration Act of 1940, Special Investor's Resident Visa (SIRV) and visas issued by the Philippine Economic Zone Authority: *Provided*, That such loans shall be limited to peso consumer loans including credit cards, auto loans and appliance loans, but excluding real estate or housing loans: *Provided, further*, That the lending bank institutes measures to mitigate credit risk such as requiring the submission of a Comfort Letter from the visa holder's employer, limiting the term of the loan to the period of the visa's validity, submission of SIRV identification card, as well as subjecting the visa holder to the usual credit processes/requirements; and
- b. Embassy officials [foreign diplomats and career consular officials and employees who are physically residing in the Philippines for a term of one (1) year or more]: *Provided*, That such loans shall be limited to consumer loans, including credit cards, auto loans, appliance loans and others that may henceforth be allowed by the Monetary Board: *Provided, further*, That the lending bank institutes measures to mitigate credit risk such as requiring the submission of a Comfort

Letter from the Embassy employing said officials.

**Minimum required disclosure.** Banks shall provide a table of the applicable fees, penalties and interest rates on loan transactions, including the period covered by and the manner of and reason for the imposition of such penalties, fees and interests; fees and applicable conversion reference rates for third currency transactions, in plain sight and language, on materials for marketing loans, such as brochures, flyers, primers and advertising materials, on loan application forms, and on billing statements: *Provided*, That these disclosures of the fees, charges and interest rates in the terms and conditions of the loan agreement: *Provided further*, That such table of fees, penalties and interest rates shall be printed in plain language and in bold black letters against a light or white background, and using the minimum Arial 12 theme font and size, or its equivalent in readability, and on the first page, if the applicable document has more than one (1) page.

**Unfair collection practices.** Banks, collection agencies, counsels and other agents may resort to all reasonable and legally permissible means to collect amounts due them under the loan agreement: *Provided*, That in the exercise of their rights and performance of duties, they must observe good faith and reasonable conduct and refrain from engaging in unscrupulous or untoward acts. Without limiting the general application of the foregoing, the following conduct is a violation of this Section:

- a. the use or threat of violence or other criminal means to harm the physical person, reputation, or property of any person;
- b. the use of obscenities, insults, or profane language which amount to a criminal act or offense under applicable laws;
- c. disclosure of the names of borrowers who allegedly refuse to pay debts, except as allowed under this Section on Confidentiality of information;
- d. threat to take any action that cannot legally be taken;
- e. communicating or threat to communicate to any person credit information which is known to be false, including failure to communicate that a debt is being disputed;
- f. any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a borrower; and
- g. making contact at unreasonable/ inconvenient times or hours which shall be defined as contact before 6:00 A.M. or after 10:00 P.M., unless the account is past due for more than sixty (60) days or the borrower has given express permission or said times are the only reasonable or

convenient opportunities for contact.

Banks shall inform their borrowers in writing of the endorsement of the collection of their account to a collection agency/agent, or the endorsement of their account from one collection agency/agent to another, at least seven (7) days prior to the actual endorsement. The notification shall include the full name of the collection agency and its contact details: *Provided*, That the required notification in writing shall be included in the terms and conditions of the loan agreement. Banks shall adopt policies and procedures to ensure that personnel handling the collection of accounts, whether these are in-house collectors, or third-party collection agents, shall disclose his/her full name/true identity to the borrower.

**Confidentiality of information.** Banks shall keep strictly confidential the data on the borrower or consumer, except under the following circumstances:

- a. disclosure of information with the consent of the borrower or consumer;
- b. release, submission or exchange of customer information with other financial institutions, credit information bureaus, lenders, their subsidiaries and affiliates;
- c. upon orders of court of competent jurisdiction or any government office or agency authorized by law, or under such conditions as may be prescribed by the Monetary Board;
- d. disclosure to collection agencies, counsels and other agents of the bank to enforce its rights against the borrower;
- e. disclosure to third party service providers solely for the purpose of assisting or rendering services to the bank in the administration of its lending business; and
- f. disclosure to third parties such as insurance companies, solely for the purpose of insuring the bank from borrower default or other credit loss, and the borrower from fraud or unauthorized charges.

**Sanctions.** Violations of the provisions of this Section on Minimum required disclosure, Unfair collection practices and Confidentiality of information shall be subject to any or all of the following sanctions depending upon their severity:

- a. *First offense.* Reprimand for the directors/officers responsible for the violation;
- b. *Second offense.* Disqualification of the bank concerned from the credit facilities of the Bangko Sentral except as may be allowed under Section 84 of R. A. No. 7653;
- c. Subsequent offense/s:
  - (1) Prohibition on the bank concerned from the extension of additional credit accommodation against personal security; and
  - (2) Penalties and sanctions provided under Sections 36 and 37 of R. A. No. 7653.

*(Circular Nos. 890 dated 02 November 2015, and 855 dated 29 October 2014)*