

332 MANDATORY ALLOCATION OF CREDIT RESOURCES TO MICRO, SMALL AND MEDIUM ENTERPRISES

The following rules shall govern the mandatory allocation of credit resources to Micro, Small and Medium Enterprises (MSMEs).

Definition of terms. For purposes of this Section, the following definitions shall apply:

- a. *Lending institutions* shall refer to all banks, namely: UBs, KBs, TBs and RBs/ Coop Banks, including government-owned banks.
- b. *Total loan portfolio* shall include all loans and receivables, other than those booked in the FCDU/EFCDU as defined in the Manual of Accounts section of the FRP under Sec. 172, gross of allowance for credit losses, excluding the following:
 - (1) Interbank loans receivable, other than (a) wholesale lending of a bank to conduit banks/QBs for on-lending to MSMEs, and (b) rediscounting facility granted to another bank for loans to MSMEs;
 - (2) Wholesale lending of a bank to conduit non-bank FIs without quasi-banking authority, other than those for on-lending to MSMEs;
 - (3) Loans granted under special financing programs, other than those for MSMEs;
 - (4) Loans granted to MSMEs, other than to BMBEs, to the extent funded by wholesale lending of, or rediscounted with, another bank;
 - (5) Agrarian reform credits/other agricultural loans granted under R.A. No. 10000, other than those eligible for compliance with the mandatory allocation of credit for MSMEs; and
 - (6) Loans and receivables arising from repo agreements, certificates of assignment/participation with recourse and securities lending and borrowing transactions.
- c. *MSMEs* shall refer to any business activity within the major sectors of the economy, namely: industry, trade, services, including the practice of one's profession, the operation of tourism-related establishments, and agri-business, which for this purpose refers to any business activity involving the manufacturing, processing, and/or production of agricultural produce, whether single proprietorship, cooperative, partnership or corporation:
 - (1) whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have a value falling under the following categories:

Micro : not more than P 3,000,000

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Small : more than P 3,000,000 to P 15,000,000

Medium : more than P 15,000,000 to P 100,000,000

and

- (2) duly registered with the appropriate agencies as presently provided by law except in the case of microenterprises as defined above.

Period covered; prescribed portions of loan portfolio to be allocated. Banks shall for a period of ten (10) years from 17 June 2008 to 16 June 2018, allocate at least eight percent (8%) for micro and small enterprises (MSEs) and at least two percent (2%) for medium enterprises (MEs) of their total loan portfolio based on their balance sheet as of the end of previous quarter, and make it available for MSME credit.

Banks may be allowed to report compliance on a groupwide (i.e., consolidation of parent and subsidiary bank/s) basis so that excess compliance of any bank in the group can be used as compliance for any deficient bank in the group: *Provided*, That the subsidiary bank/s is/are at least majority owned by the parent bank: *Provided, further*, That the parent bank shall be held responsible for the compliance of the group.

The consolidated report shall be submitted by the parent bank in the prescribed form and shall be supported by the individual reports of the bank and its subsidiaries duly signed by each bank's authorized signatory.

For purposes of determining compliance with the mandated allocation of credit resources to MSMEs, only eligible credit exposures as enumerated in this Section, other than those booked in the FCDU/EFCDU shall be considered.

Eligible credit exposures. Funds set aside in accordance with the foregoing requirement shall be made available for any of the following:

a. *For MSEs*

- (1) Actual extension of loans to eligible MSEs, other than to BMBEs which are covered in Item "c(3)" hereof: *Provided, however*, That loans granted to MSEs other than BMBEs, to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be eligible as compliance with the mandatory credit allocation; or
- (2) Loans granted to export, import, and domestic micro and small scale traders, other than to BMBEs which are covered in Item "c(3)" hereof: *Provided, however*, That loans granted to

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MSEs other than BMBEs, to the extent funded by wholesale lending of, or rediscounted with another bank shall not be eligible as compliance with the mandatory credit allocation; or

- (3) Purchase of eligible MSE loans listed in Items “(1)” and “(2)” above on a “without recourse” basis from other banks and FIs; or
- (4) Purchase/discount on a “with or without recourse” basis of MSE receivables, other than BMBE receivables which are covered in Item “c(3)” hereof; or
- (5) Wholesale lending or rediscounting facility granted to PFIs for on-lending to MSEs, other than to BMBEs which are covered in Item “c(3)” hereof; or
- (6) Wholesale lending or rediscounting facility granted to PFIs for on-lending to export, import, and domestic micro and small scale traders, other than to BMBEs which are covered in Item “c(3)” hereof; or
- (7) Commercial letters of credit outstanding, net of margin deposits, issued for the account of MSEs.

b. For MEs

- (1) Actual extension of loans to eligible MEs: *Provided, however,* That loans granted to MEs to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be eligible as compliance with the mandatory credit allocation; or
- (2) Loans granted to export, import, and domestic medium scale traders: *Provided, however,* That loans granted to MEs to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be eligible as compliance with the mandatory credit allocation; or
- (3) Purchase of eligible ME loans listed in Items “(1)” and “(2)” above on a “without recourse” basis from other banks and FIs; or
- (4) Purchase/discount on a “with or without recourse” basis of ME receivables; or
- (5) Wholesale lending or rediscounting facility granted to PFIs for on-lending to MEs; or
- (6) Wholesale lending or rediscounting facility granted to PFIs for on-lending to export, import, and domestic medium scale traders; or

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- (7) Commercial letters of credit outstanding, net of margin deposits, issued for the account of MEs.

c. Alternative compliance for either or both MSEs or/and MEs

- (1) Paid subscription/purchase of liability instruments as may be offered by the SB Corporation;
or
(2) Paid subscription of preferred shares of stock of the SB Corporation; or
(3) Loans from whatever sources granted to BMBEs as provided under Sec. 333 (*Incentives to participating financial institutions*).

Ineligible credit instruments. The purchase of government notes, securities and negotiable instruments other than the instruments offered by SB Corporation, and the granting of loans to MSMEs, other than to BMBEs, to the extent funded by wholesale lending of, or rediscounted with, another bank shall not be deemed compliance with the foregoing requirement.

Rights/remedies available to lending institutions not qualified to acquire or hold lands of public domain. Lending institutions which are not qualified to acquire or hold lands of the public domain in the Philippines shall be permitted to bid and take part in sales of mortgaged real property in case of judicial or extra-judicial foreclosure, as well as avail of receivership, enforcement and other proceedings, solely upon default of a borrower, and for a period not exceeding five (5) years from actual possession: *Provided*, That in no event shall title to the property be transferred to such lending institution. If the lending institution is the winning bidder, it may, during said five (5) year period, transfer its rights to a qualified Philippine national, without prejudice to a borrower's rights under applicable laws.

Submission of reports. Banks shall submit reports on compliance with the mandatory credit allocation on a quarterly basis within fifteen (15) banking days from the end of reference quarter to SDC of the Bangko Sentral. Said report shall be considered *Category A-3* report.

Banks shall maintain appropriate records/details of the reported loans to MSMEs and shall make these available to Bangko Sentral.

Sanctions. The following administrative sanctions shall be imposed on banks:

- a. For non-compliance/under compliance with the prescribed portions of loan portfolio to be allocated to MSEs and MEs:
- (1) For zero compliance for both MSEs and MEs - P500,000;
(2) For under compliance:

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- (a) For MSEs – percentage of undercompliance multiplied by P400,000
- (b) For MEs – percentage of under- compliance multiplied by P100,000 to be computed as of end of each quarter.

- (3) For willful making of a false or misleading statement to the Bangko Sentral – P500,000 per quarter-end report without prejudice to the sanctions under Section 35 of R.A. No. 7653.

The imposition of the fines in Items “(1)” to “(2)” shall be without prejudice to the other administrative sanctions under Section 37 of R.A. No. 7653.

- b. For non-submission/delayed submission of reports on compliance with both the prescribed portions of loan portfolio to be allocated to MSEs and MEs, respectively:

- (1) UBs/KBs – P1,200
- (2) TB – 600
- (3) RBs/Coop Banks – 180

per calendar day of delay.

Disposition of penalties collected. Ninety percent (90%) of penalties collected under this Section on Sanctions above shall be remitted by the Bangko Sentral to the MSME Development Council Fund, while the remaining ten percent (10%) shall be retained by the Bangko Sentral to cover its administrative expenses.

Accreditation guidelines for Rural and Thrift Banks under the SME Unified Lending Opportunities for National Growth (SULONG). Without prejudice to the refinements as may be suggested by DTI and DOF, the Twelve (12)-Point Accreditation Guidelines for RBs and TBs, and the lending features of short and long term loans for direct or retail lending by participating government FIs under the SULONG, are shown in *Appendix 52*.

(Circular No. 858 dated 21 November 2014)