

## 341 POLICY STATEMENT

The Bangko Sentral recognizes that transactions of its supervised financial institutions (BSFIs) with related parties, which include dealings with directors, officers, stockholders, and their related interests (DOSRI), subsidiaries, and affiliates, may be both productive and prudent. The Bangko Sentral also recognizes the need to provide BSFIs with flexibility with respect to lending to DOSRI, subsidiaries, and affiliates premised on the overarching principle that the transactions shall at all times be kept above board and conducted on an arm's length basis, and that BSFIs have adopted robust internal policies and procedures in handling related party transactions that are compliant with the minimum requirements of law and regulations.

**Definitions.** For purposes of these regulations, the following definitions shall apply:

- a. *Directors* shall refer to bank directors as defined in Sec. 131 (*Definition of terms*, Item "f").
- b. *Officers* shall refer to bank officers as defined in Sec. 131 (*Definition of terms*, Item "j").
- c. *Stockholder* shall refer to any stockholder of record in the books of the bank, acting personally, or through an attorney-in-fact; or any other person duly authorized by him or through a trustee designated pursuant to a proxy or voting trust or other similar contracts, whose stockholdings in the lending bank, individual and/or collectively with the stockholdings of: (i) his spouse and/or relative within the first degree by consanguinity or affinity or legal adoption; (ii) a partnership in which the stockholder and/or the spouse and/or any of the aforementioned relatives is a general partner; and (iii) corporation, association or firm of which the stockholder and/or his spouse and/or the aforementioned relatives own more than fifty percent (50%) of the total subscribed capital stock of such corporation, association or firm, amount to one percent (1%) or more of the total subscribed capital stock of the bank.
- d. *Substantial stockholder* shall mean a person, or group of persons whether natural or juridical, owning such number of shares that will allow such person or group to elect at least one (1) member of the board of directors of a bank or who is directly or indirectly the registered or beneficial owner of more than ten percent (10%) of any class of its equity security.
- e. *Related interest* shall refer to any of the following:
  - (1) Spouse or relative within the first degree of consanguinity or affinity, or relative by legal adoption, of a director, officer or stockholder of the bank;
  - (2) Partnership of which a director, officer, or stockholder of a bank or his spouse or relative

within the first degree of consanguinity or affinity, or relative by legal adoption, is a general partner;

- (3) Co-owner with the director, officer, stockholder or his spouse or relative within the first degree of consanguinity or affinity, or relative by legal adoption, of the property or interest or right mortgaged, pledged or assigned to secure the loans or other credit accommodations, except when the mortgage, pledge or assignment covers only said co-owner's undivided interest;
- (4) Corporation, association or firm of which any or a group of directors, officers, stockholders of the lending bank and/or their spouses or relatives within the first degree of consanguinity or affinity, or relative by legal adoption, hold or own at least twenty percent (20%) of the subscribed capital of such corporation, or of the equity of such association or firm;
- (5) Corporation, association or firm wholly or majority-owned or controlled by any related entity or a group of related entities mentioned in Items "e(2)" and "e(4)" of this Section;
- (6) Corporation, association or firm which owns or controls directly or indirectly whether singly or as part of a group of related interest at least twenty percent (20%) of the subscribed capital of a substantial stockholder of the lending bank or which controls majority interest of the bank pursuant to Sec. 362 (*Definition of terms, Item "g"*);
- (7) Corporation, association or firm which has an existing management contract or any similar arrangement with the parent of the lending bank; and
- (8) Non-governmental organizations (NGOs)/foundations that are engaged in retail microfinance operations which are incorporated by any of the stockholders and/or directors and/or officers of related banks.

The general principles and standards that will govern the business relationships between banks and their related NGOs/ foundations engaged in retail microfinance are found in *Appendix 23*.

- f. *Subsidiary* shall refer to a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by its parent corporation.
- g. *Affiliate* shall refer to an entity linked directly or indirectly to a bank by means of:

- (1) Ownership, control as defined in Sec. 131 (*Definition of terms, Item "d"*), or power to vote of at least twenty percent (20%) of the outstanding voting stock of the borrowing entity, or vice versa;
- (2) Interlocking directorship or officership, where the concerned director or officer owns; controls, as defined in Sec. 131 (*Definition of terms, Item "d"*); or has the power to vote of at least twenty percent (20%) of the outstanding voting stock of the borrowing entity;
- (3) Common stockholders owning at least ten percent (10%) of the outstanding voting stock of the bank and at least twenty percent (20%) of the outstanding voting stock of the borrowing entity;
- (4) Management contract or any arrangement granting power to the bank to direct or cause the direction of management and policies of the borrowing entity; or
- (5) Permanent proxy or voting trusts in favor of the bank constituting at least twenty percent (20%) of the outstanding voting stock of the borrowing entity, or vice versa.

In cases where the borrowing entity is linked to the lending bank both as DOSRI and as a subsidiary or affiliate, the DOSRI rules shall apply.

- h. *Unencumbered deposits* shall refer to savings, time and demand deposits, which are not subject to an assignment or hold-out agreement or any other encumbrance.
- i. *Book value of the paid-in capital contribution* shall mean the proportional amount of the bank's total capital accounts (net of such unbooked allowance for credit losses and other capital adjustments as may be required by the Bangko Sentral) as the corresponding paid-in capital contribution of each of the bank's directors, officers, stockholders and their related interests bear to the total paid-in capital of the bank: *Provided*, That as a basis for determining the individual ceiling referred to in Sec. 344, the corresponding book value of the shares of stock of said directors, officers, stockholders and their related interests which are the subject of pledge, assignment or any other encumbrance shall be deducted therefrom.
- j. *Net worth* shall mean the total of the unimpaired paid-in capital including paid-in surplus, retained earnings and undivided profit, net of allowance for credit losses and other adjustments as may be required by the Bangko Sentral.
- k. *Total loan portfolio* shall refer to the sum of all loan accounts outstanding, gross of allowance for credit losses, as reflected in the bank's consolidated statement of condition, excluding

outstanding loans financed by special/specific funds from the government FIs.

- l. *Secured loan, borrowing or other credit accommodation* shall refer to any loan, or credit accommodation or portion thereof referred to in Sec. 342 (*Transactions Covered*) which is secured by physical collateral, financial guarantee, or other instruments, that are enforceable, realizable, and marketable and meets the standards prescribed under Secs. 143 (*Credit granting and loan evaluation/analysis process and underwriting standards*) and 303.
  
- m. *Unsecured loan, borrowing or other credit accommodation* shall refer to any loan, or other credit accommodation or portion thereof referred in Sec. 342 (*Transactions Covered*) which is not secured in accordance with Item "l" above.

*(Circular Nos. 969 dated 22 August 2017, 945 dated 06 February 2017, and 914 dated 23 June 2016)*