344 INDIVIDUAL CEILINGS

The total outstanding loans, other credit accommodations and guarantees to each of the bank's DOSRI shall be limited to an amount equivalent to their respective unencumbered deposits and book value of their paid-in capital contribution in the bank: *Provided, however,* That unsecured loans, other credit accommodations and guarantees to each of the bank's DOSRI shall not exceed thirty percent (30%) of their respective total loans, other credit accommodations and guarantees.

Exclusions from individual ceiling. The following loans, other credit accommodations and guarantees shall be excluded in determining compliance with the individual ceiling.

a. Loans, other credit accommodations and guarantees secured by assets considered as non-risk by the Monetary Board;

Assets considered as non-risk shall refer to the following:

(1) Cash;

(2) Debt securities issued by the Bangko Sentral or the Philippine government;

(3) Deposits maintained in the lending bank and held in the Philippines;

(4) Debt securities issued by the U.S. government;

(5) Debt securities issued by central governments, central banks of foreign countries and multilateral financial institutions such as International Finance Corporation, Asian Development Bank and World Bank, with the highest credit quality given by any two (2) internationally accepted rating agencies; and

(6) Deposits of clients of related non- governmental organizations (NGOs)/ foundations, that are engaged in retail microfinance operations, and are maintained with the related lending bank and held in the Philippines: *Provided*, That all of the following conditions are met:

(a) existing regulations on the opening of deposit accounts and other deposit transactions shall apply except when specifically stated otherwise;

(b) depositors shall issue waivers of confidentiality of their deposits and enter hold-out agreements with the lending bank;

(c) interest rates on such deposits shall not be more than those of similar type of deposit accounts;

(d) collected but undeposited capital build-up funds from clients shall be recorded in a temporary liability account in the books of related NGOs/foundations and shall be deposited with the related bank not later than fifteen (15) calendar days from date of collection;

(e) total loans, other credit accommodations and guarantees granted to the related NGO/foundation shall not exceed, at any time, the total deposits owned by its clients; and

(f) that the NGO/foundation shall consider as payments to the clients' obligations any deposits used by the lending bank to settle any unpaid obligation(s) of the NGO/foundation.

b. Loans, other credit accommodations and advances to officers in the form of fringe benefits granted in accordance with existing regulations; and

c. Loans, other credit accommodations and guarantees extended by a Coop Bank to its cooperative shareholders.

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.*

d. The portion of loans and other credit accommodations covered by guarantees of international/regional institutions/multilateral financial institutions where the Philippine Government is a member/shareholder, such as the International Finance Corporation and the Asian Development Bank.

Exclusions from the thirty percent (30%) unsecured individual ceiling for project finance. Loans, other credit accommodations, and guarantees granted by a bank to its DOSRI for the purpose of project finance, shall be exempted from the thirty percent (30%) unsecured individual ceiling during the project gestation phase[1]: *Provided,* That: the lending bank shall ensure that standard prudential controls in project finance loans designed to safeguard creditors' interests are in place, which may include pledge of the borrower's shares, assignment of the borrower's assets, assignment of all revenues and cash waterfall accounts, and assignment of project documents.

For this purpose, *"project finance"* is defined as a method of funding in which the lender looks primarily to the revenues generated by a single project, both as a source of repayment and as security for the exposure. It possesses all the following characteristics either in legal form or economic substance:

a. The exposure is typically to an entity (often a special purpose entity or SPE) which was created specifically to finance and/or operate physical assets;
b. The borrowing entity has little or no other material assets or activities, and therefore little or no independent capacity to repay the obligation, apart from the income that it receives from the asset(s) being financed;
c. The terms of the obligation give the lender a substantial degree of control over the asset(s) and the income that it generates; and
d. As a result of the preceding factors, the primary source of repayment of the obligation is the income generated by the asset(s) being financed, rather than the independent capacity of a broader commercial enterprise.

(Circular Nos. 914 dated 23 June 2016)

Footnotes

1. This refers to the pre-operational phase of the project that does not yet generate cash flows.