

362 CREDIT EXPOSURE LIMITS TO A SINGLE BORROWER

- a. Consistent with national interest, the total amount of loans, credit accommodations and guarantees that may be extended by a bank to any person, partnership, association, corporation or other entity shall at no time exceed twenty-five percent (25%) of the net worth of such bank. The basis for determining compliance with the single borrower's limit (SBL) is the total credit commitment of the bank to or on behalf of the borrower.
- b. The total amount of loans, credit accommodations and guarantees prescribed in the first paragraph may be increased for each of the following circumstances:
- (1) By an additional ten percent (10%) of the net worth of such bank: *Provided*, That the additional liabilities are adequately secured by trust receipts, shipping documents, warehouse receipts or other similar documents transferring or securing title covering readily marketable, non- perishable goods which must be fully covered by insurance;
 - (2) By an additional twenty-five percent (25%) of the net worth of such bank: *Provided*, That the additional loans, credit accommodations and guarantees are for the purpose of undertaking infrastructure and/ or development projects under the Public- Private Partnership (PPP) Program of the government duly certified by the Secretary of Socio-Economic Planning: *Provided, further*, That the total exposures of the bank to any borrower pertaining to such infrastructure and/or development projects under the PPP Program shall not exceed twenty-five percent (25%) of the net worth of such bank: *Provided, furthermore*, That the additional twenty-five percent (25%) shall only be allowed for a period of six (6) years from 28 December 2010: *Provided, finally*, That the credit risk concentration arising from total exposures to all borrowers pertaining to such infrastructure and/or development projects under the PPP Program shall be considered by the bank in its internal assessment of capital adequacy relative to its overall risk profile and operating environment. Said loans, credit accommodations and guarantees based on the contracted amount as of the end of the 6-year period shall not be increased but may be reduced and once reduced, said exposures shall not be increased thereafter;
 - (3) By an additional fifteen percent (15%) of the net worth of such bank: *Provided*, That the additional loans, credit accommodations and guarantees are granted to finance oil importation of oil companies, which are not affiliates of the lending bank, engaged in energy and power generation: *Provided, further*, That the oil companies qualify under the credit underwriting standards of the lending bank and the lending bank shall comply with Sec. 361 (*Large exposures and credit risk concentrations*) on the guidelines in managing large exposures and credit risk concentration: *Provided, furthermore*, That the credit risk concentration arising

362 CREDIT EXPOSURE LIMITS TO A SINGLE BORROWER

from total exposures to all oil companies shall be considered by the bank in its internal assessment of capital adequacy relative to its overall risk profile and operating environment and shall be incorporated in the Internal Capital Adequacy Assessment Process (ICAAP) document required to be submitted under Sec. 130: *Provided, finally*, That the additional fifteen percent (15%) shall only be allowed for a period of three (3) years from 03 March 2011 or, until 03 March 2014. Said additional loans, credit accommodations and guarantees outstanding as of the end of the 3-year period and in excess of twenty five percent (25%) of the lending bank's net worth shall not be increased but shall be reduced and once reduced, said exposures shall not be increased thereafter; and

- (4) By an additional twenty-five percent (25%) of the net worth of such bank: *Provided*, That the additional loans, credit accommodations and guarantees are granted to entities, which act as value chain aggregators of the lending banks' clients, and/or economically-linked entities that are also actors/players in the value chain: *Provided, further*, That the additional twenty-five percent (25%) will apply only to non- DOSRI/RPT loans; *Provided, finally*, That such additional twenty-five percent (25%) shall only be for a period of three (3) years, subject to review after said period.
- c. The above prescribed ceilings shall include: (1) the direct liability of the maker or acceptor of paper discounted with or sold to such bank and the liability of a general endorser, drawer or guarantor who obtains a loan or other credit accommodation from or discounts paper with or sells papers to such bank; (2) in the case of an individual who owns or controls a majority interest in a corporation, partnership, association or any other entity, the liabilities of said entities to such bank; (3) in the case of a corporation, all liabilities to such bank of all subsidiaries in which such corporation owns or controls a majority interest; and (4) in the case of a partnership, association or other entity, the liabilities of the members thereof to such bank.
- d. Even if a parent corporation, partnership, association, entity or an individual who owns or controls a majority interest in such entities has no liability to the bank, the liabilities of subsidiary corporations or members of the partnership, association, entity or such individual shall be combined under certain circumstances, including but not limited to any of the following situations: (1) the parent corporation, partnership, association, entity or individual guarantees the repayment of the liabilities; (2) the liabilities were incurred for the accommodation of the parent corporation or another subsidiary or of the partnership or association or entity or such individual; or (3) the subsidiaries though separate entities operate merely as departments or divisions of a single entity.
- e. Loans, credit accommodations, and guarantees granted by a bank to an entity (often a special purpose entity or SPE) for the purpose of project finance as defined under Sec. 344 (*Exclusion*

362 CREDIT EXPOSURE LIMITS TO A SINGLE BORROWER

from the thirty percent (30%) unsecured individual ceiling for project finance) shall be subject to a separate individual limit of twenty-five percent (25%) of the net worth of the lending bank: *Provided*, That such project finance loans are for the purpose of undertaking initiatives that are in line with the priority programs and projects of the government: *Provided, further*, That the lending bank shall ensure that the standard prudential controls in project finance loans designed to safeguard creditors' interests are in place, which may include pledge of a borrower's shares, assignments of the borrower's assets, assignment of all revenues and cash waterfall accounts, and assignment of project documents: *Provided, finally*, That the lending bank shall consider its total project finance exposures in complying with Sec. 361 and Sec. 143 (*Credit limits, large exposures and credit risk concentrations*) on the guidelines in managing large exposures and credit risk concentrations.

- f. The wholesale lending activities of government banks to participating financial institutions (PFIs) for relending to end-user borrowers shall at no time exceed a separate limit of thirty-five percent (35%) of net worth, subject to the following guidelines: (1) it shall apply only to loans granted to PFIs on a wholesale basis for on-lending to end-user borrowers; (2) it shall apply only to loan programs funded by multilateral, international or local development agencies, organizations or institutions especially designed for wholesale lending activities of government banks; (3) the end-user borrowers of the PFIs shall be subject to the twenty-five percent (25%) SBL, not the increased ceiling of thirty-five percent (35%); and (4) government banks shall observe appropriate criteria for accrediting PFIs and for the grant/renewal of credit lines to accredited PFIs.
- g. Loans and other credit accommodations and usual guarantees by a bank to any non-bank entity, whether locally or abroad, shall be subject to the limits as herein prescribed.

Loans and other credit accommodations as well as deposits and usual guarantees by a bank to any other bank, whether locally or abroad, shall be subject to the limits as herein prescribed or P100.0 million, whichever is higher: *Provided*, That the lending bank shall exercise proper due diligence in selecting a depository bank and shall formulate appropriate policies to address the corresponding risks involved in the transactions.

Deposits of RBs/Coop Banks with government-owned or controlled financial institutions like the LBP and the DBP shall not be covered by the SBL imposed under R.A. No. 8791.

In municipalities and cities where there are no government banks, the deposits of RBs/Coop Banks in private banks in said areas shall not be subject to the SBL imposed under R.A. No. 8791. Deposits in private banks located in municipalities/cities where there are government banks shall be subject to the limits as prescribed in the second paragraph above.

362 CREDIT EXPOSURE LIMITS TO A SINGLE BORROWER

The outstanding balance of the demand deposit account in a private depository bank being used by the TBs/RBs/Coop Banks with authority to accept/create demand or current deposits, to fund checks cleared through the said private depository bank shall also be exempt from the SBL imposed under R.A. No. 8791 even if there is a government- owned or controlled financial institution in the area.

- h. Loans, credit accommodations and guarantees to any person, partnership, association, corporation or other entity or group of companies in excess of the applicable SBL arising from acquisition, merger or consolidation of borrower- corporations, which loans, credit accommodations and guarantees were granted prior to and are outstanding as of date of acquisition, merger or consolidation of borrower-corporations shall not be increased, but shall be reduced and once reduced, shall not be increased beyond the applicable SBL.

It is expected that FIs would generally observe a lower internal single borrower's limit than the prescribed limit of twenty-five percent (25%) as a matter of sound practice.

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

- a. *Total credit commitment* shall include outstanding loans and other credit accommodations, deferred letters of credit less margin deposits, and guarantees. Except as specifically provided, total credit commitment shall be reckoned on credit risk-weighted basis consistent with existing regulations.
- b. *Loans* shall refer to all the accounts under the loan portfolio of a bank as enumerated in the Manual of Accounts for Banks.
- c. *Other credit accommodations* shall refer to credit and specific market risk exposures of banks arising from accommodations other than loans such as receivables (sales contract receivables, accounts receivables and other receivables), and debt securities booked as investments.
- d. *Bank guarantee.* A bank guarantee is an irrevocable commitment of a bank binding itself to pay a sum of money in the event of non-performance of a contract by a third party. The guarantee is a commitment separate and distinct from the principal debt or contract.
- e. *Net worth* shall mean the total of the unimpaired paid-in capital including paid- in surplus, retained earnings and undivided profit, net of unbooked allowance for credit losses and other adjustments as may be required by the Bangko Sentral.
- f. *Qualifying capital* shall mean capital under applicable and existing capital adequacy framework.

- g. The term “*control of majority interest*” shall be synonymous to “controlling interest” and exists when the parent owns directly or indirectly through subsidiaries more than one half of the voting power of an enterprise unless, in exceptional circumstance, it can be clearly demonstrated that such ownership does not constitute control. Control of majority interest may also exist even when the parent owns one-half or less of the voting power of an enterprise when there is:
- (1) Power over more than one-half of the voting rights by virtue of an agreement with other investors; or
 - (2) Power to govern the financial and operating policies of the enterprise under a statute or an agreement; or
 - (3) Power to appoint or remove the majority members of the board of directors or equivalent governing body; or
 - (4) Power to cast the majority votes at meetings of the board of directors or equivalent governing body; or
 - (5) Any other arrangement similar to any of the above.
- h. *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.
- i. *Credit risk transfer* shall refer to any arrangement that allows the bank to transfer the credit risk associated with its loan or other credit accommodation to a third party.
- j. *Readily marketable goods* shall mean articles of commerce, agriculture or industry of such uses as to make them the subject of constant dealings in ready markets with such frequent quotations as to make their prices easily and definitely ascertainable, or which lend themselves easily to disposal by sale at any time to pay the obligations secured by the said goods.
- k. *Bill of exchange drawn in good faith against actually existing values* shall mean one (1) which is drawn by a seller on the purchaser for the purchase price of commodities sold. A bill of exchange, whether drawn against goods for exports or against goods to be sold locally, which is discounted or purchased by a bank is a bill drawn against existing values only when it is accompanied by shipping documents, warehouse receipts or other papers, securing title to the goods sold. However, bills of exchange drawn in good faith against actually existing values as defined in this paragraph, which are past due or the maturities of which have been extended, shall be considered as additional loans authorized under the second paragraph of this section and shall be subject to the ten percent (10%) limitation provided therein.
- l. *Commercial or business paper actually owned by the person negotiating the same* shall mean a paper

arising from an actual business transaction. A trade acceptance or promissory note actually owned by the person negotiating the same is a commercial or a business paper. However, if a bill is drawn against an agent or fictitious drawee, or if a promissory note is executed by an agent or fictitious drawee, neither is a commercial nor a business paper. Commercial or business papers actually owned and discounted by the person negotiating the same, which are past due or the maturity of which have been extended, shall be considered as money borrowed and shall be subject to the limitation of twenty-five percent (25%) provided in the first paragraph of this Section: *Provided*, That commercial or business papers purchased by banks from SMEs which became past due or the maturities of which have been extended, shall be considered additional loan by the bank to the purchaser of goods or services from the SME and shall be entitled to an increased SBL equivalent to ten percent (10%) of the net worth of the concerned bank if the purchasers are companies with credit ratings of at least "AA-" or equivalent from a Bangko Sentral- recognized rating agency.

Rediscounted papers included in loan limit. The liabilities to the bank of borrowers whose papers were rediscounted by banks with the Bangko Sentral shall not be deemed as having been extinguished by the rediscount, but shall be considered as still existing and shall be included in determining the SBL until such papers are paid by the borrowers.

Credit risk transfer. Subject to prior approval of the Bangko Sentral, loans and other credit accommodations covered by a legally effective credit risk transfer arrangement such as guarantee, letter of indemnity, standby letter of credit or credit derivative, may be excluded from the total credit commitment of the bank to a borrower in reckoning compliance with the SBL.

Exclusions from loan limit. The following loans, other credit accommodations, and guarantees shall be excluded in determining compliance with the SBL:

a. Credit exposures considered as non-risk:

- (1) Loans and other credit accommodations secured by obligations of the Bangko Sentral or of the Philippine Government;
- (2) Loans and other credit accommodations fully guaranteed by the government as to the payment of principal and interest;
- (3) Loans and other credit accommodations secured by U.S. Treasury Notes and other securities issued by central governments and central banks of foreign countries with the highest credit quality given by any two (2) internationally accepted rating agencies;

362 CREDIT EXPOSURE LIMITS TO A SINGLE BORROWER

- (4) Loans and other credit accommodations to the extent covered by the hold-out on or assignment of, deposits maintained in the lending bank and held in the Philippines;
 - (5) Loans, credit accommodations and acceptances under letters of credit to the extent covered by margin deposits;
 - (6) Loans granted to foreign embassies. These loans are considered as loans to their respective central governments and as such shall be considered non-risk; and
 - (7) Other loans or credit accommodations which the Monetary Board may from time to time specify as non-risk items.
- b. The discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper which are actually owned by the person, company, corporation or association negotiating the same;
- c. Credit accommodations to finance the importation of rice and corn to the extent of 100% of the net worth of the bank concerned shall be excluded in determining the SBL prescribed herein, subject to the following conditions:
- (1) The importation shall be made in pursuance of a national policy duly enunciated by the National Government;
 - (2) The importation shall have been approved by the National Economic Development Authority (NEDA);
 - (3) The letter of credit shall specify that importation shall be made with certification from the National Food Authority (NFA), or the consular establishment of the Philippine government at the source of any such shipment to the effect that the commodity being imported is either rice or corn; and
 - (4) The related bills of lading shall specify in addition to the name of the importer concerned, that the NFA shall be the consignee of the shipment;
- d. The portion of loans and other credit accommodations covered by the guarantee of IGLF;
- e. The total liabilities of a commercial paper issuer for commercial paper held by a UB acting as a firm underwriter of said commercial paper shall not be counted in determining compliance with the SBL within a period of ninety (90) calendar days from the issuance of the commercial

362 CREDIT EXPOSURE LIMITS TO A SINGLE BORROWER

paper1: *Provided*, That in no case shall such liabilities exceed five percent (5%) of the net worth of the UB beyond the normal applicable SBL;

- f. The portion of loans and other credit accommodations covered by guarantees of international/regional institutions/ multilateral FIs where the Philippine Government is a member/shareholder, such as the IFC and the ADB;
- g. Loans and other credit accommodations or portion thereof, specifically provided for with allowance for credit losses: *Provided*, That the bank has no unbooked allowance for credit losses;
- h. Loans and other credit accommodations as a result of an underwriting or sub-underwriting agreement of debt securities outstanding for a period not exceeding thirty (30) calendar days. Said other credit accommodations shall include, among others, inventories of debt securities such as, but not limited to, bonds and notes purchased by the UB out of its underwriting commitments¹;
- i. Foreign securities lending under Section 72 (MORFXT) and other domestic securities lending programs duly recognized by the Bangko Sentral containing safeguards consistent with best international practices, to protect securities lenders' risk exposures.
- j. Short-term exposures of banks to settlement banks arising from payment transactions pertaining to fund transfer services, check clearing, foreign exchange trades, security trades, security custody services, and other short-term payment transactions: *Provided*, That for the purpose of Exclusions from loan limit in this Section, an exposure is considered short-term if it does not extend longer than five (5) banking days after the placement of funds into the clearing and settlement account: *Provided, further*, That the following conditions are met:
 - (1) The payment transactions giving rise to short-term exposures are carried out through a clearing and settlement account maintained with a designated local settlement bank, or a foreign settlement bank. A designated settlement bank is a bank that is recognized or assigned by a consortium of banks and/or other financial institutions or by an appropriate body to accept funds from members of the consortium particularly for settlement of transactions among members.
 - (2) Banks shall enter into a formal agreement with the settlement bank, stipulating among other terms and conditions that the account is opened and maintained exclusively for short-term settlement transactions as described in this Section, and said account is not subject to a minimum balance requirement.

(3) The clearing and settlement bank shall keep the funds received from client banks separate from its own funds. The client banks shall also segregate their clearing and settlement accounts from any of their other bank accounts.

(4) Banks shall adopt an internal control mechanism appropriate to the said payment transactions.

Sanctions. Violations of the provisions of this Section shall be subject to the following:

a. *Monetary penalties* - Fines of one-tenth of one percent (1/10 of 1%) of the excess over the ceiling but not to exceed P30,000.00 a day for each SBL violation shall be assessed on the bank to be reckoned from the date the excess started up to the date when such excess was eliminated: *Provided,* That a maximum fine of P500.00 a day for each violation shall be imposed against banks with total resources of less than P50.0 million at the time of granting of loan/credit accommodation.

b. *Other sanctions*

First offense - Reprimand for the directors/officers who approved the credit avilment which resulted in the excess with a warning that subsequent violations will be subject to more severe sanctions.

Subsequent offenses -

- (1) Fine of P1,000.00 for directors/officers who approved the credit avilment which resulted in the excess.
- (2) Suspension of the bank's branching privileges and access to Bangko Sentral rediscounting facilities until the excess is eliminated.
- (3) Other penalties as the Monetary Board may impose depending on the gravity of the offense.

Limit for wholesale lending activities of government banks. There shall be a separate SBL of thirty-five percent (35%) of unimpaired capital and surplus for the wholesale lending activities of government banks to PFIs for relending to end-user borrowers, subject to the following guidelines:

- a. Government banks' SBL of thirty-five percent (35%) of unimpaired capital and surplus shall apply only to loans granted to PFIs on a wholesale basis for on-lending to end-user borrowers;
- b. The thirty-five percent (35%) SBL shall apply only to loan programs funded by multilateral, international or local developmental agencies, organizations or institutions specially designed for wholesale lending activities of government banks;

362 CREDIT EXPOSURE LIMITS TO A SINGLE BORROWER

- c. The end-user borrowers of the PFIs shall be subject to the twenty-five percent (25%) SBL, not to the increased ceiling of thirty-five percent (35%); and
- d. Government banks shall observe the minimum criteria for accrediting PFIs and for the grant/renewal of credit lines to accredited PFIs as set forth in *Appendix 37*.

(Circular Nos. 1001 dated 30 April 2018, 965 dated 05 July 2017, 908 dated 14 March 2016, 890 dated 02 November 2015, 855 dated 29 October 2014, and 827 dated 28 February 2014)

Footnotes

1. It shall cover all new underwritten debt and equity securities issued from 15 February 2013.