

403 DEFINITIONS

For purposes of regulating the operations of trust and other fiduciary business and investment management activities, unless the context clearly connotes otherwise, the following shall have the meaning indicated.

a. *Trust entity (TE)* shall refer to a:

- (1) Bank or an NBF, through its specifically designated business unit to perform trust functions;
or
- (2) trust corporation, authorized by the Bangko Sentral to engage in trust and other fiduciary business under Section 79 of R.A. No. 8791 (The General Banking Law of 2000) or to perform investment management services under Section 53 of R.A. No. 8791.

b. *Trust business* shall refer to any activity resulting from a trustor-trustee relationship (trusteeship) involving the appointment of a trustee by a trustor for the administration, holding, management of funds and/or properties of the trustor by the trustee for the use, benefit or advantage of the trustor or of others called beneficiaries.

c. *Other fiduciary business* shall refer to any activity of a trust-licensed bank resulting from a contract or agreement whereby the bank binds itself to render services or to act in a representative capacity such as in an agency, guardianship, administratorship of wills, properties and estates, executorship, receivership, and other similar services which do not create or result in a trusteeship. It shall exclude collecting or paying agency arrangements and similar fiduciary services which are inherent in the use of the facilities of the other operating departments of said bank. Investment management activities, which are considered as among other fiduciary business, shall be separately defined in the succeeding item to highlight its being a major source of fiduciary business.

d. *Investment management activity* shall refer to any activity resulting from a contract or agreement primarily for financial return whereby the bank (the investment manager) binds itself to handle or manage investible funds or any investment portfolio in a representative capacity as financial or managing agent, adviser, consultant or administrator of financial or investment management, advisory, consultancy or any similar arrangement which does not create or result in a trusteeship.

e. *Trust* is a relationship or an arrangement whereby a person called a trustee is appointed by a person called a trustor to administer, hold and manage funds and/or property of the trust or for

the benefit of a beneficiary.

f. *Trust agreement* is an instrument in writing covering the terms and conditions of the trust.

g. *Trustee* is any person who holds legal title to the funds and/or property of a trust.

h. *Trustor* is any person who creates a trust.

i. *Beneficiary* is any person for whose benefit a trust is created.

j. *Fiduciary* shall refer to any person or entity engaged in any of the other fiduciary business as herein defined where no trustor-trustee relation exists.

k. *Agency* shall refer to a contract whereby a person binds himself to render some service or to do something in representation or on behalf of another, with the consent or authority of the latter.

l. *Principal* shall refer to the person who grants authority to another person called an agent, under a contract to enter into transactions in his behalf.

m. *Agent* shall refer to a person who acts in representation or on behalf of another with the latter's authority.

n. *Trust department* shall refer to then department, office, unit, group, division or any aggrupation which carries out the trust and other fiduciary business of a bank.

o. *Trust officer* shall refer to the designated head or officer-in-charge of the trust department.

p. *Trust account* shall refer to an account where transactions arising from a trusteeship are kept and recorded.

q. *Fiduciary account* shall refer to an account where transactions arising from any of the other fiduciary businesses are kept and recorded.

r. *Investment Manager* shall refer to any person or entity engaged in investment management activities as herein defined.

s. *Investment Management Department* shall refer to the department, unit, group, division or any aggrupation which carries out the investment management activities of a bank that does not have an authority to engage in trust and other fiduciary business.

- t. *Investment Management Officer* shall refer to the designated head or officer-in-charge of the investment management department of a bank which does not have the authority to engage in trust and other fiduciary business
- u. *Investment Management Account* shall refer to an account where transactions arising from investment management activities are kept and recorded.
- v. *Personal Management Trust* shall refer to a living trust ¹ created by an agreement whereby the trustor conveys property or a sum of money to be managed by the trustee, as the agreement dictates, generally for the preservation of the assets or property for future use of the beneficiaries and/or to answer for their current needs. The trustor may or may not nominate third-party beneficiary/ies. The trust agreement must specify the name/s of the beneficiary/ies.
- w. *Unit Investment Trust Funds (UITFs)* shall refer to an open-ended pooled trust funds denominated in pesos or any acceptable currency, which are operated and administered by a trust entity and made available by participation. As an open-ended fund, participation or redemption is allowed as often as stated in its plan rules.

UITFs shall not include long term funds designed for the primary purpose of availing the tax incentives/exemption under Section 24(B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997).

- x. Board of directors, for UITFs purpose, shall include a trust entity's duly constituted board of directors or its functional oversight equivalent which shall include the country head in the case of foreign banks.
- y. *Collective investment scheme* shall refer to an investment vehicle where funds are solicited from investors for collective investment and which are managed for the account of such investors.
- z. *Feeder fund* shall refer to a UITF structure that mandates the fund to invest at least ninety percent (90%) of its assets in a single collective investment scheme.
- aa. *Fund-of-funds* shall refer to a UITF structure that mandates the fund to invest at least ninety percent (90%) of its assets in more than one (1) collective investment scheme.
- bb. *Target fund* shall refer to a local or foreign collective investment scheme in which the UITF invests all or a portion of its assets.
- cc. *Investor fund* shall refer to a UITF created to take the form of a feeder fund or a fund-of-funds and is approved by the Bangko Sentral under existing Bangko Sentral regulations.

dd. *Multi-class fund* shall refer to a UITF structure which has more than one (1) class of units in the fund and is invested in the same pool of securities and the same portfolio, investment objectives and policies.

ee. *Related party/company*, for UITFs purpose, shall refer to another entity which is the trust entity's parent or holding company or subsidiary or affiliate, and wholly or majority-owned or controlled-entities of such subsidiaries

Footnotes

1. Being a living trust, PMT becomes operational during the lifetime of the trustor as soon as the agreement is accomplished.