

**APPLICATION REQUIREMENTS FOR THE ENTRY OF FOREIGN BANKS**  
***(Appendix to Sec. 103 on Modes of entry of foreign banks)***

The information contained in the application to be filed by foreign banks, which are interested to operate in the Philippines through any of the modes of entry, shall cover the criteria enumerated in the table below. Supporting documents attached to the application shall include but are not limited to the items enumerated below.

| Entry Criteria   | Acquisition of Existing Domestic Bank | Establishment of        |                                    |
|--|---------------------------------------|-------------------------|------------------------------------|
|  |                                       | New Domestic Subsidiary | Branch with Full Banking Authority |
| <p>a. Contribution to the Philippine economy</p> <p>The applicant should describe the bank and its Home Country's current and expected contributions to the Philippine economy especially in terms of foreign direct investments and trade.</p>  | ✓                                     | ✓                       | ✓                                  |
| <p>b. Contributions to the local banking industry, including undertaking to share banking technology</p> <p>The applicant should describe how it can contribute positively to the improvement of the Philippine financial system.</p>  | ✓                                     | ✓                       | ✓                                  |
| <p>c. Corporate Plan</p> <p>The applicant should describe in meaningful details its business model and corporate strategy which should be consistent with the policy objectives of Republic Act (R.A.) No. 7721, as amended by R.A. No. 10641 and supportive of Philippine economic policy.</p> <p>(1) Business model<br/> (2) Corporate strategy<br/> (3) Financial projections (including underlying assumptions)</p>  | ✓                                     | ✓                       | ✓                                  |
| <p>d. Financial Capability and Ownership Structure</p> <p>The applicant should demonstrate that it is financially sound and capable of conducting business in the Philippines in a safe and sound manner.</p> <p>It should describe its ownership and control structure in adequate detail, including whether it is a part of a financial or commercial conglomerate, and disclosing related parties, if any, that are operating in the Philippines.</p> <p>The following documents should be presented:<br/> (1) Latest annual report;<br/> (2) Basic corporate background:</p> | ✓                                     | ✓                       | ✓                                  |

|  |          |          |          |
|--|----------|----------|----------|
| <p>(a) Date and place of incorporation;</p> <p>(b) Number of branches and agencies in the home country;</p> <p>(c) List of foreign branches, agencies, other offices parent (if any), subsidiaries and affiliates, and their location and line of business (if different from banking); and</p> <p>(d) Range of banking services offered.</p> <p>(3) Articles of incorporation and by-laws;</p> <p>(4) Major stockholders and their corresponding percentage of ownership;</p> <p>(5) List of directors and principal officers as well as their respective citizenship;</p> <p>(6) Latest audited financial statements; and</p>  |          |          |          |
| <p>(7) Proof of financial capacity and fitness of other investors in the bank, such as Audited Financial Statements and business references.</p>   | ✓        | ✓        | <b>X</b> |
| e. Head Office Guarantee (with sample guarantee)   | <b>X</b> | <b>X</b> | ✓        |
| <p>f. Certification from the foreign bank applicant's home country supervisory authority that:</p> <p>(1) It has no objection to the foreign bank's investment;</p> <p>(2) It will provide the Bangko Sentral ng Pilipinas with relevant supervisory information, including derogatory information, related to the applicant bank, to the extent allowed under existing laws;</p> <p>(3) The foreign bank applicant is compliant with the capital requirements as prescribed by the laws and regulations of its country of origin; and</p> <p>(4) Philippine banks may establish subsidiaries and/or branches in the foreign bank applicant's home country, subject to compliance with the host country's rules and regulations governing admission generally applicable to all foreign banks.</p> | ✓        | ✓        | ✓        |
| g. Transition Plan (for existing foreign banks opting to change their original mode of entry)  | ✓        | ✓        | ✓        |
| h. Divestment Plan for the disposal of title/interest in all land properties held by the acquired domestic bank within a five (5)-year period reckoned from the date of Monetary Board approval of the foreign bank entry <sup>1</sup>   | ✓        | <b>X</b> | <b>X</b> |
| i. Other Documentation Requirements  |          |          |          |
| (1) Agreement between investor and investee domestic bank/Agreement to organize a bank (with sample);  | ✓        | ✓        | <b>X</b> |
| (2) Board Resolution authorizing the foreign bank applicant to (i) invest in a domestic bank/ a subsidiary/branch; and (ii) designate person/s who will represent the foreign bank, duly authenticated by the Philippine Consulate;  | ✓        | ✓        | ✓        |

|  |   |   |   |
|--|---|---|---|
| (3) Certification from the foreign bank applicant's Corporate Secretary or any officer holding equivalent position containing the information that the bank is widely-owned and publicly-listed, duly authenticated by the Philippine Consulate; | ✓ | ✓ | ✓ |
| (4) Certification by the responsible officer of the Home Country Stock Exchange that the foreign bank applicant is listed therein, duly authenticated by the Philippine Consulate;   | ✓ | ✓ | ✓ |
| (5) Names of proposed principal officers with designation and duties;  | ✓ | ✓ | ✓ |
| (6) Authority to obtain information from other relevant regulatory authorities;  | ✓ | ✓ | ✓ |
| (7) Payment of application fee (non-refundable) of P500,000 upon filing of application <sup>2,3</sup> , and  | ✓ | ✓ | ✓ |
| (8) Payment of franchise fee of P25 million upon approval of application <sup>4</sup> .  | ✓ | ✓ | ✓ |

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## SAMPLE GUARANTEE UNDERTAKING TO ESTABLISH BRANCH

### GUARANTEE

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, under the provisions of Republic Acts (R.A.) No. 8791 ("The General Banking Law of 2000") and No. 7721 ("An Act Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines and for Other Purposes"), as amended by R.A. No. 10641, of the Republic of the Philippines, the licensing, supervision and regulation of banks, both foreign and domestic, are vested with the Bangko Sentral ng Pilipinas;

WHEREAS, under said R.A. 7721, as amended by R.A. No. 10641, {Name of Bank} (hereinafter called Guarantor) has been authorized to operate a branch or branches in the Philippines.

WHEREAS, under the provisions of R.A. No. 7721, as amended by R.A. No. 10641, banks organized under laws other than those of the Republic of the Philippines shall guarantee the full payment of all liabilities of its branch or branches in the Philippines for the purpose of providing effective protection and security to the interests of the depositors and other creditors of said branch or branches; and

WHEREAS, Guarantor is willing, desirous and ready at any time to give such full guarantee as well

as to comply with whatever conditions required in said R.A. No. 7721, as amended by R.A. No. 10641.

NOW, THEREFORE, for the purpose above mentioned, Guarantor hereby agrees that in the event any branch of Guarantor located in the territory of the Republic of the Philippines should fail to promptly pay any lawful debt, claim or liability of any kind or character, due and payable under the laws of the Republic of the Philippines and pursuant to the terms of said debt, claim or liability, then Guarantor upon the demand of the Bangko Sentral ng Pilipinas shall promptly pay said debt, claim or liability to the person or persons entitled thereto under the laws of the Republic of the Philippines. Any such debt, claim or liability, not so promptly paid, shall bear the legal interest rate at per annum as may be prescribed by the Monetary Board. Said debts, claims or liabilities, interest thereon and any cost or expenses incidental to the collection thereof, shall be paid in the currency in which the obligations are expressed, or in which the costs or expenses were incurred. The obligation of Guarantor upon default of any of its branches located in the territory of the Republic of the Philippines is primary, direct and immediate and not contingent on any remedy or recourse upon any asset, property or right which its branch or branches within the territory of the Republic of the Philippines may have, in such a way that any depositor or creditor of its branch or branches in the Philippines may take, at any time, any action on this Guaranty whether or not said depositor or creditor has simultaneously taken or will thereafter take, any direct or indirect action under the laws of the Philippines against said branch or branches, or against any assets, property or rights thereof: *Provided, however,* That Guarantor shall have the right to set-off should it have any claim or claims against any depositor or creditor taking any action by virtue of the provisions of its Guarantee.

The right on this Guarantee is independent of and separate from whatever right, security or action which any depositor or creditor of said branch or branches in the Philippines may have, take or pursue to protect his interest, and whatever action or measure the Bangko Sentral ng Pilipinas may adopt in the exercise of its supervisory and regulatory powers allowed and provided for in said R.A. No. 8791 and No. 7721, as amended by R.A. No. 10641, of the Republic of the Philippines, such as requiring Guarantor to assign to its Philippine Branch or Branches an amount of capital sufficient to meet the minimum capital required in said R.A. No. 7721, as amended by R.A. No. 10641, or any measure it may be authorized to take under the provisions of said R.A. No. 8791, in the case of capital deficiencies; in such case or cases, the liability created hereunder shall not in the least be minimized or affected, it being the purpose of this undertaking that Guarantor shall at all times be responsible and obligated for any such obligations or liabilities of its branch or branches in the Philippines, and to the extent that the same has been fully paid or satisfied only will said Guarantor be relieved from its primary obligations hereunder.

No technicality in the law or in the language of this Guarantee or in any contract, agreement or security, held by or with said branch or branches in the Philippines, shall defeat the nature and purpose of this Guarantee as a primary and direct obligation of Guarantor to the end that the interest of the

depositors and creditors of the said branch or branches in the Philippines may be fully protected and satisfied in accordance with Section 5 of R.A. No. 7721, as amended by R.A. No. 10641. Guarantor hereby acknowledges having full knowledge of said R.A. No. 7721, as amended by R.A. No. 10641, in accordance with which this primary and principal obligation is given. Guarantor hereby recognizes the jurisdiction of Philippine courts and hereby authorizes its branch office and/or offices in the Philippines to accept summons, processes and notices from the Philippine courts.

The Guarantee shall be governed by Philippine law.

IN WITNESS WHEREOF, this Guarantee has been executed by Guarantor acting by and through its Officers thereunto duly authorized this \_\_\_ day of \_\_\_\_\_, 20\_\_.

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## **SAMPLE AGREEMENT TO ORGANIZE A SUBSIDIARY BANK**

### **AGREEMENT TO ORGANIZE A (Specify type of Bank) BANK**

An agreement, made this \_\_\_ day of \_\_\_\_, 20\_\_ by and among the following:

| <u>Name</u> | <u>Residence</u> | <u>Citizenship</u> |
|-------------|------------------|--------------------|
|-------------|------------------|--------------------|

Whereas, the parties hereto are desirous of forming a corporation under the following terms:

1. That a corporation to be known as \_\_\_\_\_ shall forthwith be formed for the purpose of carrying on the business of a \_\_\_\_\_ bank as provided for by law;
2. That the place where the principal office of the corporation is to be established or located is in \_\_\_\_\_;
3. That the number of directors of the said corporation shall be \_\_\_\_\_ and that the names, residences and citizenship of the proposed directors of the corporation are, as follows:

| <u>Name</u> | <u>Residence</u> | <u>Citizenship</u> |
|-------------|------------------|--------------------|
|-------------|------------------|--------------------|

4. That the capital stock of said corporation is \_\_\_\_\_ pesos (P\_\_\_\_\_ ) Philippine Currency, and said capital shall be divided into (number) preferred shares with a par value of \_\_\_\_\_ each share:

(If there are preferred shares, their preferences should be described.)

5. That the amount of said capital stock which is proposed to be subscribed initially by the stockholders is \_\_\_\_\_ pesos (P\_\_\_\_\_ ) and the amount proposed to be paid thereof upon organization is \_\_\_\_\_ pesos (P\_\_\_\_\_ ), as follows:

| <u>Name</u> | <u>Residence</u> | <u>Citizenship</u> | <u>Amount to be</u> |                |
|-------------|------------------|--------------------|---------------------|----------------|
|             |                  |                    | <u>Subscribed</u>   | <u>Paid-In</u> |
|             |                  |                    |                     |                |
|             |                  | Total              |                     |                |

6. That \_\_\_\_\_, one of the organizers, is hereby authorized to sign the application to the Bangko Sentral ng Pilipinas for the issuance of the certificate of authority to establish a \_\_\_\_\_ bank.

IN WITNESS WHEREOF, we have hereunto set our hands this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ in the \_\_\_\_\_, Philippines.

SIGNATURES

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SIGNED IN THE PRESENCE OF:

|         |         |
|---------|---------|
|         |         |
| Witness | Witness |

NOTARIAL ACKNOWLEDGMENT

*(As amended by Circular No. 858 dated 21 November 2014)*

Footnotes

1. Also applicable for change in mode of entry (i.e., from subsidiary to branch)
2. Also applicable for conversion of mode of entry
3. Creditable to the franchise fee
4. Also applicable for change in mode of entry (i.e., from subsidiary to branch)