

**REGULATORY REQUIREMENTS IN INVESTING IN CREDIT-LINKED NOTES, STRUCTURED PRODUCTS AND SECURITIES OVERLYING SECURITIZATION STRUCTURES BY UNIVERSAL BANKS AND COMMERCIAL BANKS**

***(Appendix to Secs. 624-A, 625-A, 626-A and 627-A)***

- a. Banks shall: submit the following documents to the appropriate supervising department of the Bangko Sentral within five (5) banking days after the date of its initial investment in credit-linked notes, structured products and/or securities overlying securitization structures -
- (1) A notarized certification in the prescribed formats (Annexes "A" and "B") duly signed by the President/Chief Executive Officer or its equivalent, the Treasurer and Compliance Officer, stating that the bank's investments are in compliance with relevant Bangko Sentral rules and regulations, and that the bank has an adequate risk management system in place; and
  - (2) Terms and conditions and/or product manuals on the credit-linked notes, structured products and/or securities overlying securitization structures, which as a minimum should cover the following:
    - (a) Description of the relevant financial product;
    - (b) Analysis of the proposed investments' -
      - (i) reasonableness vis-à-vis the institution's overall financial condition and capital levels; and
      - (ii) consistency with the institution's business strategies and objectives;
    - (c) Analysis of the risks that may arise from the investments and the corresponding impact on the bank's risk profile;
    - (d) Procedures/methodologies that the bank will implement to measure, monitor and control the risks inherent in the financial products;
    - (e) Relevant accounting guidelines, including pro-forma accounting entries;
    - (f) Relevant tax treatment;
    - (g) Analysis of any legal/regulatory restrictions and whether the investment is permissible for the institution; and
    - (h) Process flow chart, from deal initiation to risk reporting, indicating the departments and personnel involved in the identified processes.

UBs/KBs failing to submit the required certification within the prescribed deadline shall be subject to monetary penalties applicable for delayed reporting under existing regulations. For purposes of imposing monetary penalties, the required certification shall be classified as a

*Category A-1 report.* Further, failure to comply with the above requirements shall subject the erring bank to the imposition of administrative sanctions under Section 37 of R.A. 7653.

The certification and the terms and conditions and/or product manual need not be submitted for a bank's subsequent investments in the same issue of credit-linked note or structured product, or securities overlying the same tranche of a securitization structure.

- b. The certification shall be subject to post-verification by the appropriate supervising department of the Bangko Sentral.

Should the Bangko Sentral subsequently determine that the investments do not fully comply with the provisions of Secs. 624-A, 625-A, 626-A and 627-A, as applicable, and other relevant Bangko Sentral regulations, the UB/KB shall be considered to have submitted a false certification, subject to the sanctions prescribed under –

- (1) Sec. 626-A for investments in structured products by UBs and KBs without expanded derivatives authority, or
- (2) Section 37 of R.A. No. 7653 for investments in structured products by UBs and KBs with expanded derivatives authority, and for investments in credit-linked notes and similar products and in securities overlying securitization structures by all UBs and KBs.

Monetary penalties shall be reckoned from the date of the investment until the date that the erring bank shall have fully complied with the requirements under Secs. 624-A, 625-A, 626-A and 627-A.

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## **Annex A**

For investments in (1) structured products by UBs and KBs with expanded derivatives authority and (2) credit-linked notes and securities overlying securitization structures by all UBs and KBs

(Name of Bank)

### **C E R T I F I C A T I O N**

We certify, in relation to (Name of Bank)'s investment in (name of financial product) on (date), that –

1. The bank is allowed to invest in the product cited above under existing rules and regulations of the Bangko Sentral ng Pilipinas and the investment was approved by the Board of Directors in its Resolution No. dated ; and
  
2. The bank has an adequate risk management system, which includes, among others, the following:
  - a. Written policies and procedures that provide for adequate identification, measurement, monitoring and control of all risks in the investment;
  
  - b. Pertinent risk measurement system/methodologies that effectively measure on a timely basis all risks inherent in the investment;
  
  - c. Limit structure that addresses all risk factors and is consistent with the board- approved risk appetite and business strategy;
  
  - d. Internal controls; and
  
  - e. Management information system that efficiently provides accurate and timely monitoring and reporting of risk exposures and limit compliance.

\_\_\_\_\_  
 President/CEO

\_\_\_\_\_  
 Treasurer

\_\_\_\_\_  
 Compliance Officer

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_, with affiants exhibiting to me the following Community Tax Certificate Nos.-

Name	Date Issued	Place Issued
President/CEO	_____	_____
Treasurer	_____	_____
Compliance Officer	_____	_____

NOTARY PUBLIC

Not. Reg. No. \_\_\_\_\_

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**Annex B**

For investments in structured products by UBs and KBs without expanded derivatives authority

(Name of Bank)

**C E R T I F I C A T I O N**

We certify, in relation to (Name of Bank)'s investment in (name of financial product) on (date), that -

- a. The bank is allowed to invest in the product cited above under existing rules and regulations of the Bangko Sentral ng Pilipinas;
- b. The bank's investment is in compliance with the conditions set out in Circular No. 466 dated 05 January 2005, as follows:
  - (1) The revenue stream of the structured product is linked only to interest rate indices and/or foreign exchange rates other than those that involve the Philippine Peso, and that the minimum all-in return of such investments is not lower than zero.
  - (2) The contractual maturity of the instrument does not exceed 5 years.
  - (3) The product is issued by a bank or special purpose vehicle (SPV) collateralized by securities rated at least "A" or its equivalent by an international rating agency acceptable to the Monetary Board.
  - (4) The investment is booked in the "Held to Maturity" (HTM) Securities" account, or for instruments with put options, in the "Available for Sale (AFS) Securities" account.
  - (5) The total carrying value of all the bank's investments in structured products does not exceed 20% of the total investment portfolio of its EFCDU.
  - (6) The bank has established internal processes to identify, evaluate, monitor and manage the risk exposures (e.g. credit risk, market risk, liquidity risk, operational risk, legal risk, compliance risk), created by its investment in the above-cited product. Further to this:
    - (a) The investment was specifically approved by the Board of Directors in its Resolution No. dated , and is subject to appropriate internal limits and periodic reporting to the Board.

(b) The bank complies with generally accepted accounting and disclosure standards and/or rules and regulations prescribed by the Banko Sentral.

(c) An independent risk management function is in place.

(d) The bank has the ability to value the investments on a continuing and consistent basis and to measure its sensitivity to market movements.

(e) The risks of the investments can be accurately aggregated in risk reports on a timely basis.

Further, we undertake to -

a. Perform, at regular intervals, stress tests that reflect extreme market conditions; and

b. Obtain, on a monthly basis, bid prices from the issuer(s) of the investment instruments, to supplement the valuation exercise in Item 2.f.iv above.

\_\_\_\_\_  
President/CEO

\_\_\_\_\_  
Treasurer

\_\_\_\_\_  
Compliance Officer

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_, with affiants exhibiting to me the following Community Tax Certificate Nos.-

Name	Date Issued	Place Issued
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Treasurer	_____	_____
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