

FREQUENTLY ASKED QUESTIONS (FAQS) ON BSP'S OPERATIONAL RELIEF MEASURES FOR FOREIGN EXCHANGE (FX) TRANSACTIONS DURING QUARANTINE

(October 2020)

I. FX TRANSACTIONS

1. What are the actions taken by the BSP to ensure continued access to FX resources of the banking system amidst the coronavirus disease 2019 (COVID-19) crisis?

In response to the declaration of Community Quarantine (CQ)¹ by the Office of the President due to the COVID-19 pandemic and to ensure that BSP stakeholders have continued access to FX resources of the banking system for legitimate FX transactions, the BSP issued the following to provide operational relief measures for FX transactions covered by the Manual of Regulations on Foreign Exchange Transactions (FX Manual)², as amended:

1. Circular No. 1080 dated 27 March 2020 – allows electronic submission of documents to the BSP-International Operations Department (IOD) and/or FX-selling institutions for FX transactions and issuance of BSP documents in electronic form;
2. Circular Letter No. CL-2020-020 dated 7 April 2020 – provides guidelines on processing of applications/requests already received by the IOD in hardcopy/via email prior to work suspension on 12 March 2020 and up to 16 March 2020;
3. Circular Letter No. CL-2020-041 dated 28 August 2020 – provides clarification on prescriptive periods for applications for registration of foreign loans/borrowings and investments under Circular No. 1080, and additional operational relief to BSP's stakeholders covering applicable processing fees during the community quarantine; and
4. Circular Letter No. CL-2020-051 dated 27 October 2020 – provides additional operational relief to importers by waiving the applicable fees³ for the late reporting⁴ of Documents Against Acceptance (D/A) or Open Account (O/A) import availments and extensions pursuant to Appendix 6 of the FX Manual during the period covered by Circular No. 1080 and up to one (1) month thereafter.

1. Any form of community quarantine declared by the Office of the President (e.g., general/enhanced/extreme enhanced community quarantine)
2. The FX Manual may be downloaded from the BSP website using the following links:
FX Manual: <https://www.bsp.gov.ph/Regulations/MORFXT/MORFXT.pdf>
Forms, Annexes and Appendices: <https://www.bsp.gov.ph/Regulations/MORFXT/MORFXT-faas.zip>
3. Peso equivalent of 1/100 of one (1) percent of the unpaid balance of the importation but not less than USD50.00 or more than USD1,000.00
4. I.e., reported less than ten (10) calendar days before the maturity date of the importation

Further, the BSP issued the following to provide guidance on the submission of inquiries/requests/reports to the BSP-IOD:

- a. Circular Letter No. CL-2020-017 dated 27 March 2020 – provides email addresses for submission of inquiries/requests/reports to IOD; and
- b. Circular Letter No. CL-2020-021 dated 7 April 2020 – covers submission of specific reports to the IOD in line with Circular No. 1080 thru alternative email addresses in lieu of the designated official email addresses indicated in the FX Manual.

2. Does the BSP prohibit FX sale/remittance for settlement of offshore FX obligations, repatriation of capital or remittance of earnings/dividends (or any similar restriction) during the CQ?

No. The BSP has not issued any circular or memorandum covering rules and regulations that would restrict FX sale/remittance for FX transactions under the FX Manual. As cited in item 1, the BSP issued Circular No. 1080 dated 27 March 2020 which provides operational relief measures for FX transactions covered by the FX Manual to facilitate and ensure continued access to FX resources of the banking system by the public to finance legitimate transactions.

3. Is there a need for foreign loans/investments to be registered to allow purchase of FX from authorized agent banks (AABs)/AAB forex corps or is this something we can dispense of for the time being while CQ is in effect?

The required registration of foreign loans/investments still applies even if CQ is in effect to allow purchase of FX from the banking system. Should the borrower/investor or his authorized representative opt to file its application for BSP registration of its foreign loan/investment, a provisional Bangko Sentral Registration Document (BSRD)⁵, in lieu of the original hard copy BSRD, will be issued to allow the borrower/investor/authorized representative to purchase FX from AABs/AAB forex corps to service FX obligations/repatriation of capital/remittance of earnings on duly registered loans/investments. The duly signed original hard copy BSRD, which shall replace the provisional BSRD, will be issued within one (1) month after the duration covered by Circular No. 1080.

4. How will we know if the BSP extended the coverage/applicability of Circular No. 1080?

The BSP will issue a Circular and a press release to inform the public of the extension of the coverage/applicability of Circular No. 1080 as deemed necessary.

⁵ A BSP servicing letter-authority to purchase FX may be issued by BSP to allow a client to access the FX resources of the banking system for specific transaction/s. The BSP will no longer replace such letter-authority with original BSRD after the duration covered by Circular No. 1080 if the amount applied for registration by the client will be fully paid during the coverage of said Circular.

5. What is the processing time for all applications or requests received by the BSP during CQ?

The processing time for all applications/requests received by the BSP-IOD is 20 working days from receipt of complete and sufficient documents/information. An acknowledgment signifying acceptance and commencement of the processing of application shall be sent by BSP-IOD, upon determination of completeness and sufficiency of the application in form and substance.

II. SUBMISSION OF DOCUMENTS

6. Can clients submit applications for registration of both foreign investments and foreign loans with the IOD during the CQ?

Yes. Clients may submit their separate applications for registration of foreign/foreign currency loans/borrowings/investments through electronic means to the following email addresses:

Applications	Email addresses
For approval of public sector foreign/foreign currency loans/borrowings	rquintos@bsp.gov.ph jevangelista@bsp.gov.ph
For approval/registration of private sector foreign/foreign currency loans/borrowings	rosetan@bsp.gov.ph eevangelistajr@bsp.gov.ph
For registration of inward foreign investments	yeungjr@bsp.gov.ph cc: antoniocc@bsp.gov.ph

7. Are applications received by the BSP-IOD in hard copy prior to the declaration of the CQ required to be resubmitted?

If the applicant needs BSP approval/registration or any other action during the period covered by Circular No. 1080 to allow purchase of FX from AABs/AAB forex corps, the application (including supporting documents) may be resubmitted to BSP in accordance with Circular Letter No. CL-2020-020 dated 7 April 2020 to enable the BSP to properly evaluate and act on the application/request.

8. What are the documentary requirements for applications for approval/registration of foreign/foreign currency loans/investments to be filed under Circular No. 1080?

Documentary requirements under the FX Manual shall still apply for the duration covered by Circular No. 1080. However, instead of submitting hard copy applications, the clients shall send their applications and supporting documents through electronic means for the duration covered by Circular No. 1080, subject to the conditions indicated therein.

9. Who should send applications/requests to the BSP-IOD through electronic means?

Applications for approval/registration of foreign/foreign currency loans/borrowings/investments shall be sent by the borrower (for loans) and investor (for investments). In case where another person/entity will send applications/requests to the BSP-IOD, the duly authorized representative shall include a signed authorization letter executed by the borrower/investor.

10. Are FX purchasers allowed to send scanned copies of the original hard copy BSRD to the FX-selling/remitting institution?

Yes. Item II.3 of Circular No. 1080 allows FX purchasers to send to FX-selling/remitting institutions a scanned copy of the original hard copy BSRD issued by the BSP before the declaration of the CQ.

11. How will the AABs/AAB forex corps verify the legitimacy of the e-signature/digital signature if the document submitted to the FX-selling/remitting institution contains an e-signature/digital signature?

Item II.4 of Circular No. 1080 does not intend to supersede the due diligence/“Know Your Customer”/risk management policies of the FX-selling/remitting institution. Therefore, verification of the legitimacy of the e-signature/digital signature must be in line with such policies adopted by the AABs/AAB forex corps.

12. Does the additional attestation requirement under Item II.4 of Circular No. 1080 also apply for the submission of documents not requiring signatures (e.g., shipping documents and commercial invoices) under the FX Manual?

No. Shipping documents and commercial invoices generally required for import-related transactions that do not require signatures would not be subject to the required submission of attestations under Item II.4 of Circular No. 1080. While item 5 of Part One, Chapter I of the FX Manual already allows submission of supporting documents through electronic means, Item II.3 of Circular No. 1080 further provides that submission of the documentary requirements for the sale of FX by AABs/AAB forex corps may be submitted through electronic means, provided that: (a) the transmittal shall be done through official emails/electronic or digital channels/systems; (b) the transaction is still subject to the bank’s due diligence/“Know Your Customer”/risk management policies; (c) the AABs/AAB forex corps will adopt appropriate and prudent operational control measures; and (d) the transaction will be duly reported to the BSP.

13. Considering the CQ, can the BSP or the FX-selling/remitting institution accept documents⁶ without the required signature and/or notarization (e.g., contracts, Consolidated Report on Foreign Currency Loans Granted by Regular Banking Units) sent by the client?

Yes, provided that: (a) the authorized signatory of such documents shall send these via official email/electronic or digital channels/systems; (b) the authorized signatory shall send in a separate email an attestation that the document submitted (indicating the time, date and subject of email) from the same email address: (i) is authentic; (ii) was transmitted via official email/electronic or digital channel/system; and (iii) is available and may be submitted to the BSP or the FX-selling/remitting institution (in hard copy of original or photocopy/duly notarized, as required under the FX Manual) after the period covered by Circular No. 1080 and/or as requested by the BSP or the FX-selling/remitting institution. However, this policy shall not preclude the FX-selling/remitting institution from ensuring that such documents are compliant with its due diligence/“Know Your Customer”/risk management policies.

14. Are there new reportorial requirements under Circular No. 1080?

None. FX sales/remittances shall be reported using existing forms under the FX Manual.

15. Will the non-imposition of monetary penalties apply to submission of incomplete/ erroneous reports for the duration covered by Circular No. 1080?

No. The non-imposition of monetary penalties for delayed submission to the BSP-IOD of reports⁷ due during the period covered by Circular No. 1080 or as may be extended, and up to one (1) month thereafter does not preclude banks from ensuring the correctness, completeness and accuracy of reports submitted. Compliance to the BSP reporting standards shall still be ensured for the submitted reports.

⁶Including documents required to be submitted among AABs (e.g., certificate of inward remittance, BSRD Letter Advice) for transactions related to foreign investments registered by AABs

⁷This refers to all reports submitted to BSP-IOD related to FX transactions covered by the FX Manual.

III. PROCESSING FEES AND PRESCRIPTIVE PERIODS

16. Which processing fees on FX transactions are waived for the duration covered by Circular No. 1080 and up to one (1) month thereafter?

Applicable processing fees under Appendix 20 of the FX Manual covering: (a) registration of foreign investments; (b) approval/registration of foreign/foreign currency loans/borrowings with or without FX obligations due⁸; and (c) replacement of lost BSRDs for loans and investments, filed during the period covered by Circular No. 1080 and up to one (1) month thereafter shall be waived.

17. Are the prescriptive periods for filing of applications for approval/registration of foreign loans/investments and submission of notice to the BSP for foreign loans still applicable while the “community quarantine” is in effect?

No. The prescriptive periods for submission of: (a) application for registration of foreign investments; (b) Notice to BSP for new foreign loans/borrowings and any changes in the loan's/borrowing's financial terms and conditions (including cancellations whether in partial/full); and (c) application for registration of foreign loans/borrowings, are temporarily lifted for the duration covered by Circular No. 1080 and up to one (1) month thereafter.

18. Is there a time frame within which applications with waived processing fees under Circular No. 1080 shall meet the prescriptive periods to qualify for the waiver?

Filing of application for registration with the BSP/submission of Notice to BSP (as applicable) shall be made within one (1) month after the duration covered by Circular No. 1080 (e.g., if CQ is lifted on 30 April 2020 and no extension on the coverage of Circular No. 1080 has been made by the BSP, borrowers/investors/duly authorized representatives shall file applications for registration with the BSP/submit Notice to BSP on or before 30 May 2020). Filing/submission (as applicable) beyond one (1) month after the duration covered by Circular No. 1080 shall be subject to the applicable processing fee under Appendix 20 of the FX Manual.

⁸Excluding applications for registration of private sector foreign loans/borrowings without public sector guarantee that should have been filed with the BSP under Circular No. 985 dated 22 December 2017

IV. BSP-ISSUED DOCUMENTS

19. Are FX-selling/remitting institutions required to verify with the BSP the authenticity of BSP-issued documents in original hard copy prior to the declaration of the CQ but were electronically submitted by the FX purchaser during the period covered by Circular No. 1080?

No, provided that the: (a) the documentary requirements were transmitted via official email/electronic or digital channels/systems; (b) transaction will be compliant with the AABs/AAB forex corps' due diligence/"Know Your Customer"/risk management policies; (c) the appropriate and prudent operational control measures were complied with; and (d) the transaction is duly reported to the BSP.

However, if the documents were electronically issued by the BSP during the period covered by Circular No. 1080, AABs/AAB forex corps shall verify with the BSP-IOD the authenticity of the copy of the electronically-issued document sent by the FX purchaser prior to FX sale thru email to the addresses listed in item II.1 of Circular No. 1080 indicating, as applicable, the BSRD No./Reference No., date issued, borrower/investor, creditor/investee and amount/shares registered/approved, with subject "FX sale - under temporary policy".

20. How will the FX-selling/remitting institution fill out the fields pertaining to FX sale/remittance in the respective BSRDs⁹ sent by the client through electronic means?

a. For original hard copy BSRDs issued by the BSP prior to the declaration of the CQ

The FX-selling/remitting institution will send through official email address to the FX purchaser the duly accomplished BSRD with details on FX sale/remittance both for foreign/foreign currency loans/investments¹⁰ upon FX sale/remittance.

b. For electronically-issued BSP documents

The FX-selling/remitting institution will send through official email address to the FX purchaser the pertinent details on FX sale/remittance both for foreign/foreign currency loans¹¹/investments¹² upon FX sale/remittance.

⁹ Also applies to original hard copy BSRDs issued by the BSP prior to the declaration of the CQ but were electronically submitted by the FX purchaser/remitter during the period covered by Circular No. 1080

¹⁰ The duly accomplished BSRD for foreign investments shall be submitted to BSP together with Report on Foreign Investments Registered with the BSP (Annex X of the FX Manual) in accordance with Appendix 10.A item III (Reporting) of the FX Manual remittance date

¹¹ I.e., name of borrower, amount/date of FX purchase, reference number of BSRD/BSP letter-advice, and remittance date

¹² Using Report on Foreign Investments Registered with the BSP (Annex X of the FX Manual)

c. For all BSP-issued documents for foreign loans/investments

AABs/AAB forex corps shall also include in the email to the FX purchaser the following information: (a) that the AABs/AAB forex corps will likewise keep in their records details of the FX transactions; (b) that the FX purchaser shall present to the FX-selling/remitting institution: (i) the duly accomplished BSRD for subsequent FX purchases with the same or another FX-selling/remitting institution; and (ii) the original hard copy BSRD issued by the BSP before or after the duration covered by Circular No. 1080 to allow the bank to fill out the original hard copy BSRD and indicate the details of the actual FX sale/remittance made based on the records of the FX-selling/remitting institution; and (c) deadline for presentation of the original hard copy BSRD to be filled out by the bank as cited in item (b.ii) based on the records retention policy of the FX-selling/remitting institution.

Clients shall ensure that prior to the next intended date of FX purchase after the duration covered by Circular No. 1080, the original hard copy BSRD shall contain complete information on FX sale/remittance done during the duration covered by the Circular. AABs/AAB forex corps shall not sell FX to clients with incomplete information in the original hard copy BSRD as part of their due diligence on the transaction.

21. Until when are the BSP-issued electronic documents valid?

BSP-issued electronic documents are valid until the end of period covered by Circular No. 1080 and up to one (1) month thereafter unless otherwise indicated in the BSP-issued electronic documents.

22. Will BSP issue an original hard copy of its actions on the applications/requests covering FX transactions?

Yes. Within one (1) month after the CQ is lifted or as may be extended by the BSP, the BSP will issue original hard copies of BSP-issued documents which will replace the electronically-issued BSP documents¹³ (as applicable) which would have then become invalid after such period or upon issuance of the original hard copy BSP-issued documents, whichever comes earlier. The BSP shall notify the clients on the availability of the original hard copy BSP documents to be issued by BSP-IOD after the duration covered by Circular No. 1080.

¹³ The BSP will no longer replace the BSP servicing letter-authority to purchase FX with original BSRD after the duration covered by Circular No. 1080 if the amount applied for registration by the client will be fully paid during the coverage of said Circular.