



Bangko Sentral ng Pilipinas

OFFICE OF THE DEPUTY GOVERNOR SUPERVISION AND EXAMINATION SECTOR

CIRCULAR LETTER NO. CL – 2007-036

To : ALL RURAL AND COOPERATIVE BANKS

Subject : SEC Approval of the Documents to be Submitted to the SEC in Lieu of BSP Examiner's Report on the On-site Verification Validating the Fresh Capital Infusion by the Rural and Cooperative Banks.

Quoted hereunder is the letter dated 20 April 2007 of Atty. Fe B. Barin, Chairperson of the Securities and Exchange Commission (SEC), approving the documents to be submitted in lieu of the BSP Examiner's Report.

"In reply to your letter dated 04 April 2007 on the subject (Rural Banks: Proposed Templates for their Application to Amend the Articles of Incorporation Involving Increase of Capital Stock to be Funded by Fresh Capital Infusion), please be informed that your proposed templates of the documents to be submitted to the SEC in lieu of the BSP Examiner's Report on the on-site verification validating the fresh capital infusion by the rural bank are acceptable to this Commission. However, for the Notarized Bank Certification to be signed by majority of the rural bank's Board of Directors, we suggest the inclusion therein of the names of the subscribers to the increase in capital stock together with their respective subscription and payment as presented to and approved by the BSP."

Attached are the approved templates of the documents to be submitted to the Bangko Sentral ng Pilipinas:

1. Notarized Bank Certification (*Annex A*);
2. Schedule of Stockholdings Before and After Capital Increase and Schedule of Payments (*Annex A-1*);
3. Subscription Agreement (*Annex B*); and
4. Treasurer's Sworn Statement (*Annex C*).

The documents submitted shall be subject to verification during examination.

For information and guidance,


NESTOR A. ESPENILLA, JR.
Deputy Governor

17 July 2007

PANANALAPING MATATAG, BANSANG PANATAG

BANK CERTIFICATION

**On the Increase in Capital Stock of _____
through Capital Infusion of Cash**

WE, the undersigned members of the Board of Directors and the Corporate Secretary, of _____ (____), a corporation duly organized and existing under Philippine laws, with office address at _____, after having been duly sworn to in accordance with law depose and state that:

1. The Bank has conducted adequate due diligence review of the true identities of the parties to and sources of funds for the capital infusion;
2. The payment received for subscription were not originally disbursed to the subscribers mentioned in the attached *Annex A-1* in the form of loans and/or advances or the same was not subsequently returned to the subscribers in the form of loans and/or advances;
3. All capital infusion to the Bank after the approval by the stockholders of the increase in authorized capital stock is considered as deposit for future stock subscriptions;
4. The corporate authorizations and approvals of the equity investment in the Bank in the case of corporate investors and the stockholder's resolution in the case of single purpose companies/individuals, were verified to be legally adequate to authorize the equity investment;
5. All documents in support of the increase in the Bank's capital stock, such as but not limited to: deposit slips, bank statements, cash receipts/disbursements logbook, official receipts, cashflow statement, loans/advances accounts, are intact and shall be readily available to the examiners of any regulatory agencies for further verification/validation/examination; and
6. Should any of the foregoing representations and warranties prove to be false, the undersigned may be accorded appropriate penalty/sanction and the Increase in Capital Stock as hereby warranted, may be deemed void.

IN WITNESS WHEREOF, this Certificate has been signed this _____ day of _____, 20____ in _____, Philippines.

(Signature over Printed Name)

Chairman

(Signature over Printed Name)

Director

(Signature over Printed Name)

Director

(Signature over Printed Name)

Director

(Signature over Printed Name)

Director

(Signature over Printed Name)

Corporate Secretary

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
PROVINCE) S.S.
MUNICIPALITY OF)

SUBSCRIBED AND SWORN TO before me in _____ this _____
day of _____ 20____, personally appeared the following persons:

Name

CTC No.

Date/Place Issued

known to be the same persons who executed the foregoing instrument and they
acknowledged before me that the same is their own free and voluntary deed.

Notary Public

Doc. No. _____
Page No. _____
Book No. _____
Series of _____

I. SCHEDULE OF STOCKHOLDINGS BEFORE AND AFTER CAPITAL INCREASE

	Before Capital Increase (Before Stockholders & Directors Meeting)			Subscription to Capital Increase			After Capital Increase		
<u>Name of Stockholders/ Subscribers</u>	<u>No. of Shares</u>	<u>Amount</u>	<u>Ratio</u>	<u>No. of Shares</u>	<u>Amount</u>	<u>Ratio</u>	<u>No. of Shares</u>	<u>Amount</u>	<u>Ratio</u>

II. SCHEDULE OF PAYMENTS

<u>Name of Stockholders</u>	<u>Date of O.R.</u>	<u>O.R. No.</u>	<u>Amount</u>

SUBSCRIPTION AGREEMENT

On the Increase in Capital Stock of _____
through Capital Infusion of Cash

KNOW ALL MEN BY THESE PRESENTS:

Dated _____, 20____, this Subscription Agreement (the "Agreement") is executed by and between:

_____, a banking corporation duly organized and existing under the laws of the Republic of the Philippines with office address at _____ represented by its Chairman and President, and hereinafter referred to as the "BANK"

- and -

_____, and hereinafter referred to as the "SUBSCRIBER"

WITNESSETH: That -

WHEREAS, the SUBSCRIBER is one of the Major Stockholders of the Bank;

WHEREAS, the SUBSCRIBER has agreed to subscribe to the common shares of the capital stock of the BANK and the BANK has agreed to issue to the SUBSCRIBER such common shares subject to the terms and conditions hereinafter stipulated;

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties have agreed as follows:

1. SUBSCRIPTION TO SHARES

Upon the terms and subject to the conditions of this Agreement, the SUBSCRIBER shall subscribe to and pay the Subscription Price (as hereinafter defined) for _____ shares of the capital stock of the BANK (the "Subscribed Shares") and the BANK shall sell, issue and deliver to the SUBSCRIBER the Subscribed Shares.

2. SUBSCRIPTION PRICE

2.1. The Subscription Price for the Subscribed Shares shall be _____ (P____) per share or an aggregate amount of _____ (P_____) (the "Subscription Price").

2.2. The BANK hereby confirms that the SUBSCRIBER has already remitted to the BANK as of date of this Agreement, the amount of _____ (P_____), as its full payment of the aggregate Subscription Price referred to in Section ____ above, which amount has been booked by the BANK as the SUBSCRIBER's deposit for future subscription and shall be

applied as full payment for the Subscribed Shares at Payment Date, in accordance with Section ____ below.

- 2.3. The SUBSCRIBER's payment on its subscription to the Subscribed Shares under Section ____ above shall be non-interest bearing and non-withdrawable except as set forth in Section ____ below.

3. SUBSCRIBED SHARES

The Subscribed Shares shall be _____ of _____ shares of the BANK at a total Subscription Price of _____ (P_____)

4. COVENANTS OF THE PARTIES

The BANK and the SUBSCRIBER respectively covenant and agree as follows:

- 6.1. The BANK shall cause such number of new _____ shares to be subscribed by the Major Stockholders identified in Annex "A" of this Agreement of their assignees, out of the increase in the authorized capital stock of the BANK under the Capital Increase, at a subscription price of _____ (P_____) per share, which shall result in the BANK receiving aggregate proceeds of the subscriptions of not less than _____ (P_____) (the "New Share Issuance").
- 6.2. Immediately upon the approval by SEC of the Capital Increase as provided in Section ____ above, the BANK shall cause all the shares to be subscribed out of the increase in the authorized capital stock of the BANK under the Capital Increase and the New Share Issuance, including the Subscribed Shares.
- 6.3. The BANK shall confirm in writing to the SUBSCRIBER, within five (5) business days following the execution of this Agreement, the approval by its Board of Directors and its stockholders, the Capital Increase and the New Share Issuance, by serving on the SUBSCRIBER a written notice of the approval by its Board of Directors and its stockholders of the Capital Increase and the New Share Issuance (such notice, hereinafter "Notice of Corporate Approvals"), together with a Secretary's Certificate certifying to such approvals by its Board of Directors and its stockholders and a Certification by a senior officer of the BANK that all documents required to be filed with the Bangko Sentral ng Pilipinas (BSP) and the SEC for the application for the Capital Increase and the New Share Issuance had been duly executed and that said documents shall be filed with the BSP and the SEC within _____ business days from the approval by its stockholders of the Capital Increase and the New Share Issuance.
- 6.4. The Bank shall within _____ business days following the approval of its stockholders of the Capital Increase and the New Share Issuance, file with the BSP all documents required for the application for the Capital Increase and the New Share Issuance. Within the next business day following the receipt by the BANK of the Certificate of Authority to Register the Amendments to the Articles of Incorporation of the BANK covering the said Capital Increase and New Share Issuance, the BANK shall file with the SEC all documents required for the application for the Capital Increase and the New Share Issuance.

- 6.5. The BANK shall, upon receipt of the SEC approval of the Capital Increase and the New Share Issuance, apply the deposit for future subscription as provided in Section ____ above, as full payment of the Subscribed Shares.
- 6.6. The BANK shall within the first _____ days of the month following the approval by the SEC of the Capital Increase, pay the documentary stamp tax on Subscribed Shares.
- 6.7. For avoidance of doubt, the parties agree that the SUBSCRIBER shall be deemed to have subscribed to and paid for the Subscribed Shares only after the BANK has applied the deposit for future subscription referred to in Section ____ above as full payment of the Subscription Price for the Subscribed Shares and which payment shall be booked by the BANK simultaneously with the payment for the additional subscription for new _____ shares of the BANK in accordance with Section ____ above.

5. ADDITIONAL COVENANTS OF THE BANK AND THE SUBSCRIBER (Optional)

- 6.1. The BANK covenants and agrees that between the signing of this Agreement and the date that the SEC shall have approved the Capital Increase and the New Share Issuance, the BANK shall conduct its business in the ordinary course and consistent with its prior practice. The BANK shall preserve intact its business in the ordinary course and consistent with its prior practice. The BANK shall preserve intact its business organizations and its current relationships with its depositors, customers and other persons with it has significant business relationships. Without limiting the generality of the immediately preceding covenants, the BANK shall not, without the SUBSCRIBER's prior written consent, do any of the following between the signing of this Agreement and the date that the SEC shall have approved the Capital Increase and the New Issuance, among others:
- 6.2. State additional covenants x x x

6. REPRESENTATIONS AND WARRANTIES

The BANK hereby represents and warrants to the SUBSCRIBER that:

- 6.1. It is a banking corporation duly organized and existing under the laws of the Republic of the Philippines, and duly licensed by the Bangko Sentral ng Pilipinas to operate as a commercial bank;
- 6.2. It has the legal capacity and authority to execute and deliver this Agreement and to perform all the terms and conditions thereof to be performed by it; and this Agreement constitutes a binding obligation against it enforceable according to its terms;
- 6.3. The authorized capital stock of the Corporation as of date of execution of this Agreement amounts to _____ consisting of _____ shares, each with a par value of _____

(P _____), of which _____ shares have been subscribed and issued. The terms and features of the common and preferred shares are as provided in its Articles of Incorporation, as amended as of _____.

6.4. On _____, the Board of Directors of the BANK approved by the affirmative vote of majority of all the members thereof, each of the aforesaid Capital Increase, New Share Issuance and Listing of Shares and on _____, the stockholders representing at least two-thirds (2/3) of all issued and outstanding shares of the BANK approved and ratified each of such Capital Increase, New Share Issuance and Listing of Shares.

6.5. The SUBSCRIBER represents and warrants to the BANK that:

6.5.1. He has the legal capacity to execute and deliver this Agreement and to perform all the terms and conditions thereof to be performed by it; and this Agreement constitutes binding obligations on his part and enforceable according to its terms; and

6.5.2. The payment for subscription were not originally sourced from the Bank either in the form of loans and/or advances or the same was not subsequently returned by the Bank in the form of loans and/or advances.

6.5.3. The execution, delivery, and performance by the SUBSCRIBER of this Agreement does not and will not violate in any respect any provision of, or result in breach of, or constitute a default under (i) the organizational documents of the SUBSCRIBER, or (ii) any indenture, agreement or other undertaking or instrument to which the SUBSCRIBER is a party or which is binding upon the SUBSCRIBER.

6.6. Should any of the foregoing representations and warranties prove to be false or misleading in any material respect, the adversely affected party may, by providing notice or presenting claim to the other party at any time within a period of one (1) year from the execution of this Agreement, require such other party to cure such breach of warranty. In the event that the breach of representation or warranty is not cured, the adversely affected party may within three (3) months from said notice or claim presentation, institute the proper proceeding to seek indemnification from such other party in the form of actual damages which indemnity shall in no case exceed the amount equivalent to _____ % of the paid-up value of the Subscribed Shares plus all reasonable costs incurred by the said party in connection with said Subscribed Shares. Each party hereby waives any other remedy or period available under law, regulation or contract for breach of representation or warranty.

7. TERMINATION AND WAIVER

In case any of the following occurs:

7.1. Failure of the BANK to obtain the approval of the BSP and the SEC for the Capital Increase or the New Share Issuance by _____ or as of such other date as the BANK and the SUBSCRIBER may mutually agree upon in

writing, due to reasons other than attributable to the fault or negligence of the SUBSCRIBER;

7.2. A Material Adverse Effect on the BANK shall have occurred at any time prior to the date on which the BSP and SEC shall have approved the Capital Increase and the New Share Issuance; or

7.3. Failure of the BANK to perform its obligation under this Agreement;

7.4. The SUBSCRIBER shall have the option to terminate this Agreement, in which case, the BANK shall refund to the SUBSCRIBER the full amount of the Subscription Price already remitted to the BANK as of effective date of termination, without interest and the SUBSCRIBER shall have no more obligation whatsoever under this Agreement.

8. EFFECT OF TERMINATION

In the event of terminations this Agreement as provided in Section ____ above, this Agreement shall forthwith become void and of no further effect and there shall be no liability on the part of either party hereto except (a) the terms and provisions of this Section ____, Sections ____ and ____, shall remain in full force and effect, and (b) that such termination shall not relieve any party from liability for any willful breach of this Agreement.

IN WITNESS WHEREOF, this Certificate has been signed this ____ day of _____, 20__ in _____, Philippines.

(Signature over Printed Name)
(Position)

(Signature over Printed Name)
(Position)

(Signature over Printed Name)
(Position)

(Signature over Printed Name)
(Position)

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
PROVINCE) S.S
MUNICIPALITY OF)

SUBSCRIBED AND SWORN TO before me, A Notary Public, in _____
this ____ day of _____ 20__, personally appeared the following persons:

Name

CTC No.

Date/Place Issued

known to be the same persons who executed the foregoing instrument and who acknowledged to me that the same is their own free and voluntary deed.

WITNESS MY HAND AND NOTARIAL SEAL on the date and place first above written.

Notary Public

Doc. No. _____
Page No. _____
Book No. _____
Series of _____

REPUBLIC OF THE PHILIPPINES)
CITY/MUNICIPALITY OF) S.S.
PROVINCE OF)

TREASURER'S SWORN STATEMENT

I, _____, Filipino, of legal age, and with business address at _____, after having been duly sworn to in accordance with law depose and state that:

1. I am the duly elected Treasurer of _____ with principal business address at _____ having been elected as such on the day of _____, 20____, and duly authorized to receive for and in the name of the Bank all payments for the subscriptions to the increase in capital stock.
2. Of the _____ Pesos (P_____) representing the increase in capital stock, the amount of _____ Pesos (P_____) has been paid in cash/in the form of cash and that said amount was actually received by me for the benefit and credit of the Bank.
3. At least twenty-five percent (25%) of the increase in capital stock has been subscribed and the amount actually paid-up is at least twenty-five percent (25%) of said subscription and has been actually paid by the subscribers in cash/in the form of cash.
4. Said additional paid up capital represents fresh funds of the corporation for use in its operations.
5. One hundred percent (100%) of the Bank's capital stock is owned by citizens of the Philippines and that all the members of the Board of Directors are citizens of the Philippines.

IN WITNESS WHEREOF, I have hereunto affixed my signature this _____ day of _____, 20____ in _____, Philippines.

(Signature over Printed Name)
Treasurer

SUBSCRIBED AND SWORN TO before me, a Notary Public, for and in _____ this _____ day of _____ 20____, affiant exhibiting to me his/her Community Tax Certificate No. _____, issued at _____ on _____ 20____.

Notary Public

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