



# Bangko Sentral ng Pilipinas

MAYNILA, PILIPINAS

## OFFICE OF THE GOVERNOR

CIRCULAR NO. 553

Series of 2006

### **Subject: Amendments to Circular No. 521 on Guidelines on Living Trust Accounts**

Pursuant to Monetary Board Resolution No. 1435, dated 23 November 2006, the guidelines relating to living trust accounts, as embodied in Circular No. 521, are hereby amended as follows:

**Section 1.** Sec. 1 of Circular No. 521 is hereby amended to read as follows:

- "1. Definition.** Living Trust is defined under the Manual of Accounts for Trust as a PERSONAL trust created by Agreement. It becomes operational during the lifetime of the trustor as soon as the agreement is accomplished.

Under a living trust, the trustor (also known as settlor) conveys property or a sum of money to be managed by the trustee, as the agreement dictates, for the benefit of the trustor and third person(s) or third person(s) only. However, the trustor/s cannot create a trust with himself/themselves as the sole beneficiary/(ies). The functions and authorities of the trustee as defined in the agreement shall include: (1) the purpose or intention of the trust; (2) the nature and value of the property or sum of money that comprise the trust; (3) the trustee's investment powers; (4) the name(s) of the beneficiaries; and (5) the terms and conditions under which the income and/or principal of the trust is to be paid or to be disposed of during the lifetime and ultimately, upon the death of the trustor or upon the occurrence of a specified event(s).

A living trust may either be revocable or irrevocable.

**Section 2.** Sec. 2 of Circular no. 521 is hereby amended to read as follows:

- "2. Minimum Criteria:** In line with such definition, transactions considered as living trust accounts should meet the following minimum criteria:

- 1) Minimum entry amount AND MAINTAINING BALANCE shall at least be P100,000.00, provided that living trust accounts with balances of up to P500,000.00 shall only be invested in deposits AND GOVERNMENT SECURITIES.

- 2) Living trust accounts shall be maintained for a minimum period of six (6) months. The termination of the living trust agreement, for any cause, within the minimum holding period shall render the trustor ineligible from opening a new living trust account within a period of one (1) year from termination date.
- 3) Reversion of any part of the principal to the trustor, EXCEPT IN CASES PROVIDED UNDER THE DISPOSITIVE PORTION, shall be allowed only upon termination of the living trust agreement; PROVIDED THAT IN NO CASE CAN THERE BE A COMPLETE OR SUBSTANTIAL REVERSION OF THE PRINCIPAL PURSUANT TO THE DISPOSITIVE PORTION WITHIN THE MINIMUM HOLDING PERIOD NOR CAN THE PRINCIPAL FALL BELOW P100,000.00.
- 4) ANY LIVING TRUST ACCOUNT THAT DOES NOT MEET THE REQUIREMENT ON THE MINIMUM ENTRY AND MINIMUM MAINTAINING BALANCE OR IS NOT INVESTED IN QUALIFIED OUTLETS SHALL BE CONSIDERED AS OTHER FIDUCIARY ACCOUNTS SUBJECT TO APPLICABLE RESERVE AND OTHER REQUIREMENTS.
- 5) Pre-printed Living Trust Agreements may be allowed for expediency, provided that the sections for the *trust purpose* and the *dispositive provision* are left blank and shall only be filled-up upon the client's signing thereof. The *purpose* shall categorically state the real intention of the trustor, which may include, but need not be limited to:
  - a) providing his/her and beneficiary/(ies) present and/or future financial support;
  - b) protecting his/her beneficiary/(ies) against his/her inexperience in business matters;
  - c) preventing him/her from making imprudent expenditures;
  - d) preventing the beneficiary/(ies) from living beyond their means in case of outright disposition of assets in their favor;
  - e) protecting the beneficiary/(ies) against unforeseen contingencies such as incompetency, incapacity, physical disability or similar misfortune; and
  - f) setting aside and segregating particular assets, proceeds or payments for administration and distribution pursuant to a court decree or by agreement.

The *dispositive provision* should clearly and specifically define the terms and conditions under which the principal and/or income shall be distributed in order to accomplish such purpose/(s), by taking into consideration the frequency of redemption; the respective interests of each beneficiary; and to whom the proceeds shall be payable. Redemption of funds shall strictly be in accordance with the said terms and conditions.

- 6) A living trust account may be opened jointly under one living trust agreement by related individuals up to the second degree of consanguinity or affinity, provided that the requirements under item 5 above are fully complied with. **UNRELATED INDIVIDUALS OR THOSE BEYOND THE SECOND DEGREE OF CONSANGUINITY OR AFFINITY MAY LIKEWISE OPEN A JOINT LIVING TRUST ACCOUNT UNDER ONE LIVING TRUST AGREEMENT; PROVIDED THAT THE MINIMUM CONTRIBUTION OF EACH INDIVIDUAL IS AT LEAST P100,000.00; PROVIDED FURTHER THAT THE TRUST IS FOR A COMMON PURPOSE AND, PROVIDED FINALLY THAT THE REQUIREMENTS UNDER ITEM 5 ABOVE ARE FULLY COMPLIED WITH."**

**Section 3. Transitory Provision.** Outstanding living trust accounts that do not meet the foregoing additional requirements shall be given an additional six (6) months from the lapse of the original transitory period under Circular No. 521 to comply with the aforesaid requirements; otherwise, such accounts shall be considered as Other Fiduciary Accounts subject to applicable reserve requirements.

**Section 4. Other Provision.** Except as amended and supplemented hereby, all other provisions of Circular No. 521 shall remain the same. The unamended provisions of Circular No. 521 and the amendments introduced herein shall be read and construed as a single Circular.

This amendatory Circular shall take effect immediately upon its publication either in the Official Gazette or in a newspaper of general circulation.

FOR THE MONETARY BOARD:

  
**AMANDO M. TETANGCO, JR.**  
Governor