THE FOUNDATION FOR DEVELOPMENT COOPERATION



Policy and Regulatory Framework for Remittance - Philippines

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Preface

This report provides a brief overview of the policy and regulatory framework for remittances in the Philippines. In particular, the report provides an overview of the foreign exchange licencing rules and regulations; rules relating to mobilisation of deposits by non-bank institutions; prudential regulations affecting non-bank sector growth; tax treatment; and incentives relating to migration and remittances.

This report was prepared as part of a wider Australian Research Council (ARC) funded research project on 'Leveraging Remittances with Microfinance: A Cross-country study'. The six-country study involves Sri Lanka, Philippines, Indonesia, Samoa, Fiji and Timor Leste.

This project is currently on-going. Further work and subsequent findings on this important and growing field is envisaged to be published for dissemination in mid-2007.

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EXECUTIVE SUMMARY

Migrant workers from the Philippines – commonly referred to as Overseas Filipino Workers (OFWs) - averaged 4.8 million over the last five years, making it one of the large migrant exporting countries in the world. The officially recorded remittance income of these workers was around US\$12.8 billon in 2006 which represented around 11.8% of GNP. Only 10% of recorded remittances was channelled outside the formal financial system. OFWs' increasing access to formal channels for remitting funds to Philippine beneficiaries was due mainly to financial institutions' technological innovations and wider network abroad.

In the Philippines, the Bangko Sentral ng Pilipinas (BSP) is the central monetary authority responsible for monitoring and regulating remittance transfer through formal channels such as bank, non-banks, private remittance companies and other remittance agents. Further, Circular No.471 (dated 24 January 2005) requires all foreign exchange dealers, money changers and remittance agents to register with the BSP.

The key regulations that affect on remittance transfers are the anti-money laundering law; and banking laws. In addition, financial organisations are required to comply with specific pre-qualifications standards and the BSP ensures that they adhere to risk management and other prudential standards. The BSP also requires financial organisations to transmit regular financial reports through an electronic-based reporting system.

Tax exemption on remittances is one of the incentives provided by the government to OFWs in order to recognise their valuable contribution to the Philippine economy. Further, OFWs have the option of selecting the type of currency and instrument in which to keep their remittances, eg. foreign currency deposits or pesos.

With regards to migration from the Philippines, a number of organisations such as Department of Labour and Employment, POEA and the Overseas Workers Welfare Administration are involved in the provision of various services. For instance, this includes deployment activities, training facilities and ensuring the wellbeing of OFWs in host economies.

A number of incentives are currently on offer to make the remittance market more efficient. These include: BSP simplification of procedures (particularly the 'know-your-customer' system); regional financial literacy campaigns for OFWs and their beneficiaries; provision of innovative products and services to OFWs and their beneficiaries ranging from traditional products (eg. housing, education, car and all-purpose loans) to micro entrepreneurial opportunities.



Introduction

Philippine migrant workers also referred to as Overseas Filipino Workers (OFWs), perform a vital role in the national economy. The stock of OFWs has averaged 4.8 million over the last five years, with about 95 percent classified as land-based workers. Inflows from workers' remittances increase the foreign exchange availability in order to fund the requirements of the economy and spur consumption which, in turn, creates demand and expands domestic production. OFWs' income contributes significantly to economic growth to gross national product (GNP) reaching about 11.8 percent for 2006.²

In 2006, the remitted portion of OFWs' income channelled through banks amounted to US\$12.8 billion, or a year-on-year growth rate of 19.4 percent largely due to the improved capture of remittance flows. OFWs' increasing access to formal channels for remitting funds to Philippine beneficiaries was due mainly to financial institutions' technological innovations and wider network abroad. By 2006, only ten percent of total remittances, from a high of about 25 percent in 2001, were channelled outside the banking system.³

2. Foreign Exchange Licencing Rules and Regulations

As cross-border financial transactions, remittances are governed by varying laws, regulations and issuances as may be applicable to the entities or individuals involved. The central monetary authority of the Philippines - Bangko Sentral ng Pilipinas (BSP) – regulates remittance fund transfers through formal channels such as banks, private remittance companies and other remittance agents. This regulatory framework finds legal basis in Republic Act No. 7653 dated 10 June 1993, also known as the BSP Charter, which empowers the BSP to have supervision over the operations of banks and to exercise such regulatory powers as provided in the New Central Bank Act and other pertinent laws over the operations of finance companies and non-bank financial institutions performing quasi-banking functions, and institutions performing similar functions. Thus, activities of these financial entities that involve OFW remittances are monitored and regulated by the BSP in accordance with its charter and other enabling regulations.

BSP Circular No. 1389 dated 13 April 1993 provides that foreign exchange (FX) receipts, acquisitions or earnings of residents from non-trade sources can be sold for pesos to authorised agents outside the banking system. Further, FX can also be retained, or deposited in foreign currency accounts, whether in the Philippines or abroad. With a liberalized FX regime, individual clients including OFWs and beneficiaries may opt to maintain their remittance in Foreign Currency Deposit (FCD) accounts.

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¹ Based on Stock Estimates of Overseas Filipino Workers (OFWs) by the Commission on Filipinos Overseas, Department of Foreign Affairs

² Data on compensation from factor flows and GNP based on the latest report of the National Accounts of the Philippines (NAP) for fourth quarter 2006

³ Estimates used in Philippine balance of payments (BOP) compilation, partially based on results of the annual Survey of Overseas Filipinos conducted by the National Statistics Office



2.1 Anti-Money Laundering Law

The Anti-Money Laundering Act (AMLA) of 2001 created the Anti-Money Laundering Council to investigate hidden and suspicious transactions and money laundering activities.⁴ The threshold for transaction in cash or other equivalent monetary instruments, amount to Ph₽500,000.⁰ for one banking day. Institutions effected by the AMLA includes banks, non-banks, quasi-banks, trust entities, insurance companies, securities dealers, foreign exchange corporations, money changers, money payment/remittance/transfer companies, and other entities dealing in currency, commodities or financial derivatives, cash substitutes and other monetary instruments or property. While the Ph₽500,000.⁰ threshold is considered high for individual remittances, AMLA regulations remain relevant for bulk remittances by banks and other financial institutions.

In certain cases, OFWs under the same foreign employer may opt to batch their remittances to be sent to the Philippines through a remittance center, tie-up or foreign branch of a Philippine bank. This would result in a sizable amount of remittances that could exceed the threshold prescribed by the AMLA. Once the batched remittances exceeds this threshold, the domestic bank or non-bank financial institution (NBFI) through which the remittances have been sent is required to submit to BSP a report of transactions, particularly if there is suspect money laundering or illegal activities (Circular No. 253 dated 31 July 2000).

A total of 27 BSP issuances aimed at strengthening anti-money laundering regulations emphasise the "know-your-customer" (KYC) policy, legally defined as customer-identification requirements for the banks to properly:

- a) identify the payee of cashier's or manager's checks payable to cash or bearer;
- b) maintain parallel customer-identification records for numbered foreign currency deposit accounts;
- c) implement a suspicious transaction reporting system.

In line with preparing their KYC programs, banks and non-banks with quasi-banking functions (NBQBs) are required to adopt the standards contained in the Basel Committee on Banking Supervision paper on Customer Due Diligence for Banks which will serve as the basis for assessing the anti-money laundering programs of banks and NBQBs (Memorandum to All Banks NBQBs dated 1 October 2002). By applying the KYC policy, the banks should be able to determine the legitimacy of business activities of the client and should be able to report those considered suspicious transactions under the AMLA (Circular Letter dated 11 April 2003).

Furthermore, the KYC policy being implemented by Philippine banks and NBQBs poses a bigger problem for the OFWs' beneficiaries in the last mile of the remittance flow process rather than the OFW remitters in the first mile. To claim the remittances sent by OFWs, beneficiaries or family members are required by financial institutions to present valid photo-bearing identification documents issued by an official authority. However, most individuals residing in the remote areas or provinces, e.g. farmers, fishermen, do not have immediate access to government institutions issuing such IDs. The BSP is thus finalising a Circular that will address this last mile barrier. The Circular is intended to promote access to services offered by formal financial institutions, particularly those residing in the remote areas, as well as to encourage and facilitate remittances of OFWs through the banking system.

⁴ R.A. 9160, as amended by R.A. 9194 dated 7 March 2003; the Anti-Money Laundering Council is comprised of the BSP, Insurance Commission and the Securities and Exchange Commission.



2.2 Banking Laws

Section 5 of the amended General Banking Law (GBL) further empowers the Monetary Board of the BSP to prescribe ratios, ceilings, limitations, or other regulations on the different types of accounts, including those of OFWs, and on practices of banks and quasi-banks which shall, to the extent feasible, conform to internationally accepted standards.⁵ Section 53 of the new GBL authorises banks, quasi-banks and trust entities to receive funds in custody and act as financial agents for the account of their customers. Section 59 also grants the BSP full authority to regulate the use of electronic devices and processes for recording, storing and transmitting information in connection with the operations of a bank, quasi-bank or trust entity, including the delivery of services and products to customers by such entity. These sections in the GBL allow the BSP to formulate policies that would oversee the types of platforms used for remittances (e.g., phone or internet banking) and foreign currency deposit (FCD) accounts maintained by OFWs.

Banks are required to seek prior BSP approval before they can provide electronic banking services, including fund transfer applications for remittances.⁶ To address the increasing use of internet banking for sending money to beneficiaries, the BSP issued minimum prescribed guidelines on correspondent banking and electronic fund transfers.⁷ These guidelines also adopted the AMLA's "know-your-customer" (KYC) policy to prevent money laundering activities. In 2005, the BSP issued circular letters to banks to adopt electronic monitoring system on money laundering activities, strictly implement their KYC policies and notify the BSP of financial products offered by branches and subsidiaries of foreign banks in the Philippines. The increased documentation requirement imposed on banks is an area of concern for monetary authorities as it may deter the OFWs from sending their remittances through formal channels.

3. Rules Relating to Mobilisation of Deposits by Non-bank Financial Institutions

Non-Bank Financial Institutions (NBFIs) are a diverse group of financial entities regulated by the BSP composed of private remittance companies, money transfer operators or remittance agents; non-banks with quasi-banking functions (NBQBs), non-stock savings and loan associations (NSSLAs), pawnshops, and other NBFIs such as investment houses and trust entities.

These NBFIs are categorised as formal channels because funds transferred through them utilise the banking system through deposit accounts maintained by the entities in correspondent banks. This setup, however, has been a focal issue for the NBFIs competitive stance in the industry. While the bank infrastructure provided the NBFIs with the technology for real-time delivery of remittances, the interdependence also implies added service fees charged to them. To be able to compete with banks, the NBFIs absorb the added costs as they opt not to increase remittance charges.

In the Philippines, banks and NBFIs with quasi-banking authority traditionally offer loan, deposit and deposit substitute products to their valued clients. OFWs and their beneficiaries qualify as preferred clients of financial institutions as more innovations in specialised products and services exclusively for OFWs and their families have increasingly become available in the market in recent years.

⁵ Republic Act No. 8791 dated 12 April 2000; the Monetary Board is the highest policy-making body of the BSP.

⁶ BSP Circulars No. 240 and 269 dated 5 May and 21 December 2000, respectively

⁷ Circular No. 436 dated 18 June 2004



The types of products and services offered by financial institutions are largely influenced by the globalisation of financial markets. This is due to growing deregulation of financial services in many countries, technological advances, and demand of clients for more sophisticated financial products. A number of changes in the financial system have thus involved convergence of banking and non-banking functions, including their remittance services.

NBQBs are similar to banking institutions in terms of their credit or lending operations, particularly with respect to the loan loss provisioning and risk assets management system. Quasi-banking functions consist of the following:

- (a) borrowing funds for the borrower's own account;
- (b) twenty (20) or more lenders at any one time;
- (c) methods of borrowing: issuance, endorsement, or acceptance of debt instruments of any kind, other than deposits, such as: acceptances, promissory notes, participations, certificates of assignment or similar instruments with recourse, trust certificates, repurchase agreements, and such other instruments as the Monetary Board may determine. The primary purpose of quasi-banking functions is for re-lending, or purchasing receivables and other obligations.

NSSLAs include any non-stock, non-profit corporation engaged in the business of accumulating the savings of its members and using such fund as loans to members to service household needs, e.g., long-term financing for home building and development, personal finance. An NSSLA may also engage in a death benefit program meant exclusively for the benefit of its members. NSSLAs can accept deposits from and grant loans to its members only and shall not transact business with the general public.

A duly organised and licensed pawnshop has, in general, the power to engage in the business of lending money on the security of personal property within the framework of Presidential Decree No. 114 (Pawnshop Regulation Act) and other BSP regulations on pawnshops.

Trust operations and investment management activities of NBFIs not performing quasi-banking functions are subject to the following:

- a) applicable regulations on such activities of NBFIs performing quasi-banking functions,
- b) regulations addressed to trust entities; and
- c) regulations implementing the Truth in Lending Act in Sec. 4309Q of the BSP Manual of Regulations for NBFIs.

4. Interest Rates and Prudential Regulations Affecting Non-Bank Sector Growth and Competitiveness

No interest rate ceilings are imposed on NBFIs and banks. Unlike banks, NBFIs are not governed by a common legislation granting them specific authorities to engage in financial services. However, Circular No. 471 dated 24 January 2005 requires all foreign exchange dealers, money changers and remittance agents to register with the BSP before they can operate. This requirement provides equal opportunity for the remittance players in the industry and enhances the country's compliance with anti-money laundering efforts to widen the AMLC's coverage of financial institutions. The presence of NBFIs promotes competition and lowers remittance charges for the benefit of the OFWs.



Certain units or departments within the BSP closely monitor the operations of financial institutions involved in remittances. For instance, banks and NBFIs intending to provide electronic banking platforms, including remittance services to OFWs and their beneficiaries, are required to comply with specific prequalification standards before the Monetary Board grants licensing approval. Thereafter, the BSP ensures that the approved systems of financial institutions adhere to risk management and other prudential standards that will help achieve stability in the financial system.

The BSP also requires banks to transmit several financial reports through an electronic-based reporting system for different purposes. The regulatory sector compiles reports to monitor deficiencies in reserve requirements and foreign currency deposit unit (FCDU), among others. Another sector focuses on compiling foreign exchange transactions of banks, including remittance data, for consolidation in the balance of payments (BOP) accounts. The dual reporting requirement allows the BSP to validate the accuracy of amounts of foreign exchange transactions reported by banks.

5. Tax Treatment of Remittances

Prior to the liberalised FX regime, the Philippine Overseas Employment Administration (POEA) required contract workers, through their private agencies, to remit to his/her beneficiary a certain percentage of the basic salary abroad, to be exchanged for pesos through the Philippine banking system (POEA Rule VIII). This rule has been superseded by a POEA rule requiring private agencies to automatically remit 80 percent of the basic salary of seafarers without compelling the workers to exchange the FX for pesos.

Tax exemption is one of the rewards provided by the government to OFWs to recognise their valuable contribution to the national economy. The Tax Reform Act of 1997 or R.A. 8424 provides wide-ranging tax breaks to overseas Filipinos including OFWs. Section 23 of the law states that a non-resident citizen will be taxed only on income derived from sources within the Philippines. Filipinos overseas are thus exempted from paying taxes on their earnings from foreign sources.

Revenue Regulation 10-98 exempts non-residents and OFWs from payment of taxes on income derived from foreign currency deposits (FCD).⁸ Interest income actually or constructively received by a resident citizen of the Philippines on interest income from FCD shall be subject to a final withholding tax of 7.5%. However, non-resident citizens who have FCD accounts are exempt from payment of taxes on interest income derived from said deposits.

For bank accounts that are jointly in the name of a non-resident citizen or OFW and his spouse or dependent who resides in the Philippines, 50 percent of the interest income from the bank deposit shall be treated as exempt while the other 50 percent shall be subject to final withholding tax. To be entitled to this exemption, the non-resident individual or OFW should open the FCD account in his/her name. The non-resident citizen or OFW should also execute a written consent for the depository bank to inform the Commissioner of Internal Revenue that he/she as a non-resident is exempt from the tax on income from FCD. A depositor who fails to comply with this requirement shall not be entitled to the said privilege. Given the tax exemption on FCD, the OFWs may thus choose the currency and instrument with which to keep their remittances, whether in FX or pesos, and regular bank account or FCD. Other factors, e.g., bank's proximity and security, may also be considered by the OFWs as some workers also keep a part of their income in bank accounts abroad.

⁸ Bureau of Internal Revenue (BIR) RR 10-98 dated 25 August 1998

⁹ With any valid document on immigration, residency or employment presented to the bank

¹⁰ Under the Bank Secrecy Law (R.A. No. 1405) observing confidentiality of customer information



Other Incentives Relating to Migration and Remittances

With regards to worker migration, there are specific agencies that aim to promote continued deployment, training and wellbeing of OFWs in host economies. These include: the Department of Labor and Employment, POEA and the Overseas Workers Welfare Administration (OWWA).

Monetary and fiscal authorities in the Philippines also aim to improve the overall environment for OFWs through sound regulatory actions that promote the efficient use of remittances. Some of these incentives are highlighted below.

Financial institutions are required to post remittance charges, cost classification and other information for the benefit of remitters and beneficiaries. 11 To achieve more efficiency in the remittance flow process, the BSP granted FCDU license to rural and cooperative banks and facilitated full interconnection of major automated teller machine networks on 20 June 2006.¹² Commercial banks have also offered OFWs specialised investment products with direct payment schemes for the added convenience of beneficiaries. To encourage beneficiaries from remote areas to avail of financial services, the BSP intends to simplify existing regulations for financial institutions to implement their know-your-customer policy and ensure compliance with the AMLA.¹³ Regional financial literacy campaigns for OFWs and their beneficiaries are being conducted by the BSP, together with OWWA and other agencies, to emphasise the importance of savings and to inform the participants of alternative opportunities for their remittances such as placements in financial instruments and investments in business ventures.

Financial institutions offer new and innovative products and services to OFWs and their beneficiaries, ranging from the traditional personal finance products to a variety of micro entrepreneurial opportunities. Traditional financial products of commercial banks for OFWs and beneficiaries include: savings and time deposit accounts with minimal initial deposit and no maintaining balance required; cash cards for convenient access of OFW remittances by beneficiaries in Philippine automated teller machines (ATMs); housing, education, car and all-purpose loans secured by a hold-out on existing deposit accounts.

On the investment side, commercial banks link up with trust and investment companies to package structured fixed income, unit investment trust fund (UITF), dollar liquidity fund, trust placements and other similar products for OFWs and beneficiaries. Rural banks and cooperative banks with lower capital base offer microfinance loans or tie up with non-governmental organisations (NGOs) in selling agricultural and livelihood ventures to OFWs, e.g., mango-harvesting, honeybee farming, cow-raising for local milk production.

¹¹ BSP Circular No. 534 dated 26 June 2006

¹² Circular No. 522 dated 23 March 2006

¹³ The BSP management is currently reviewing a draft Circular that will standardize acceptable ID cards for bank-related transactions.



7. Conclusion

This paper provided a brief overview of the policy and regulatory framework for remittances in the Philippines. Bangko Sentral ng Pilipinas (BSP) was identified as the central monetary authority responsible for monitoring and regulation of remittance transfer through formal channels such as bank, non-banks, private remittance companies and other remittance agents. Regulations also stipulate that all foreign exchange dealers, money changers and remittance agents need to register with the BSP.

The key regulations that impact on remittance transfer are the anti-money laundering law and banking laws. In addition, financial organisations are also required to comply with specific pre-qualifications standards, and to ensure that they adhere to BSP risk management and other prudential standards. The BSP also requires financial sector organisations to transmit regular financial reports through an electronic-based reporting system.

Tax exemption on remittances is one of the incentives provided by the government to OFWs to recognise their valuable contribution to the Philippine economy. As a result of the tax exemptions, OFWs have the option of selecting the type of currency and instrument in which to keep their remittances, eg. foreign currency deposits or pesos.

A number of incentives are currently on offer to make the remittance market more efficient. These include: BSP simplification of procedures (particularly the know-your-customer system); regional financial literacy campaigns for OFWs and their beneficiaries; innovative products and services to OFWs and their beneficiaries ranging from traditional products (eg. housing, education, car and all-purpose loans) to micro entrepreneurial opportunities.

As far as migration is concerned, various organisations such as Department of Labour and Employment, POEA and the Overseas Workers Welfare Administration are involved in the provision of a range of services. For instance, this includes deployment, training and wellbeing of OFWs in host economies.



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