

---

LOAN NUMBER 2278-PHI

LOAN AGREEMENT  
(Ordinary Operations)

(Subprogram I – Financial Market Regulation and Intermediation Program Cluster)

between

REPUBLIC OF THE PHILIPPINES

and

ASIAN DEVELOPMENT BANK

DATED 11 December 2006

---

PLL:PHI 38276

**LOAN AGREEMENT  
(Ordinary Operations)**

LOAN AGREEMENT dated 11 December 2006 between THE REPUBLIC OF THE PHILIPPINES (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

(A) ADB has received from the Borrower a development policy letter dated 31 October 2006 (hereinafter called the Policy Letter), setting forth certain objectives, policies and actions, described in Schedule 1 to this Loan Agreement, designed to develop the Borrower's financial market (hereinafter called the Program Cluster);

(B) the Program Cluster comprises two subprograms, the first of which (hereinafter called the Program) will be implemented under this Loan Agreement;

(C) the Borrower has applied to ADB for a loan from its ordinary capital resources for the purposes of the Program; and

(D) ADB has, on the basis inter alia of the foregoing, agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto agree as follows:

**ARTICLE I**

**Loan Regulations; Definitions**

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans made from ADB's Ordinary Capital Resources, dated 1 July 2001, are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications thereof (said Ordinary Operations Loan Regulations as so modified being hereinafter called the Loan Regulations):

(a) Section 2.01(49) is deleted and the following is substituted therefor:

49. The term "Program" means the program for which ADB has agreed to make the Loan, as described in the Loan Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Borrower.

(b) The term "Project" wherever it appears in the Loan Regulations shall be substituted by the term "Program".

(c) Section 2.01(51) is deleted and the following is substituted therefor:

51. The term "Program Executing Agency" means the entity or entities responsible for the carrying out of the Program as specified in the Loan Agreement.

(d) The term "Project Executing Agency" wherever it appears in the Loan Regulations shall be substituted by the term "Program Executing Agency".

(e) Section 6.01(a) is deleted and the following is substituted therefor:

(a) Subject to any conditions or restrictions specified in the Loan Agreement, the Borrower shall be entitled to withdraw from the Loan Account such amounts as shall be required to meet payments for expenditures required for the Program and to be financed under the Loan Agreement.

Section 1.02. Wherever used in this Loan Agreement, unless the context otherwise requires, the several terms defined in the Loan Regulations have the respective meanings therein set forth, and the following additional terms have the following meanings:

(a) "Agreed Actions" means, with respect to each policy achievement, the actions taken by the relevant stakeholders for the purpose of measuring that policy achievement, as set out in the Policy Matrix attached to the Policy Letter, and as may be revised from time to time with the agreement of ADB;

(b) "BSP" means the Bangko Sentral ng Pilipinas and any successor thereto;

(c) "Counterpart Funds" means the Peso proceeds accruing to the Borrower and generated from the Loan proceeds under the Program and referred to in paragraph 6 of Schedule 5 to this Loan Agreement;

(d) "Deposit Account" means the account referred to in paragraph 4 of Schedule 3 to this Loan Agreement;

(e) "DOF" means the Borrower's Department of Finance and any successor thereto;

(f) "Eligible Items" means the goods imported under the Program (except those specifically excluded pursuant to the Attachment to Schedule 3 to this Loan Agreement), the foreign exchange costs of which are eligible for financing out of the proceeds of the Loan;

(g) "IC" means the Insurance Commission and any successor thereto;

(h) "MTPDP" means the Medium-Term Philippine Development Plan;

(i) "PDEX" means the Philippine Dealing and Exchange Corporation and any successor thereto;

- (j) "PDIC" means the Philippine Deposit Insurance Corporation and any successor thereto;
- (k) "Pesos" or the sign "P" means the pesos in the currency of the Borrower;
- (l) "PSE" means the Philippine Stock Exchange and any successor thereto;
- (m) "Program Cluster" means the program cluster to develop the Borrower's financial sector as described in the Policy Letter, and of which this Program forms the first subprogram;
- (n) "Program Executing Agency" means, for the purposes and within the meaning of the Loan Regulations, DOF, which is responsible for the carrying out of the Program;
- (o) "Program Implementing Agency" means the Securities Exchange Commission;
- (p) "SEC" means the Borrower's Securities Exchange Commission and any successor thereto; and
- (q) "Subprogram" means either of the subprograms under the Program Cluster.

## **ARTICLE II**

### **The Loan**

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of two hundred million dollars (\$200,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a term of 15 years, including a grace period of 3 years, as provided in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of LIBOR and 0.60% as determined by Section 3.02 of the Loan Regulations.

Section 2.03. The Borrower shall pay to ADB a commitment charge at the rate of three-fourths of one percent (0.75%) per annum on the unwithdrawn amount of the Loan. Such charge shall accrue from a date sixty (60) days after the date of

this Loan Agreement to the respective dates on which amounts shall be withdrawn from the Loan Account or shall be cancelled.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 May and 15 November in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

### **ARTICLE III**

#### **Use of Proceeds of the Loan**

Section 3.01. The Borrower shall cause the proceeds of the Loan to be applied to the financing of expenditures for the Program in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan may be withdrawn from the Loan Account only for the purposes of financing foreign currency expenditures incurred for Eligible Items under the Program in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, all Eligible Items to be financed out of the proceeds of the Loan shall be produced in, and procured from, ADB's member countries in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB shall not finance any contract which has not been procured in accordance with procedures agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 3.04. Except as ADB may otherwise agree, no withdrawals shall be made from the Loan Account in respect of expenditures for Eligible Items incurred more than one hundred eighty (180) days prior to the Effective Date.

Section 3.05. The closing date for withdrawals from the Loan Account for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2008 or such other date as may from time to time be agreed between the Borrower and ADB.

## **ARTICLE IV**

### **Particular Covenants**

Section 4.01. (a) The Borrower shall cause the Program to be carried out with due diligence and efficiency and in conformity with sound administrative and financial practices.

(b) In the carrying out of the Program and operation of the Program facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. The Borrower shall make available, promptly as needed, the funds, facilities, services, land and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of the Program.

Section 4.03. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Program are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.04. (a) The Borrower shall maintain, or cause to be maintained, records and documents adequate to identify the Eligible Items financed out of the proceeds of the Loan and to indicate the progress of the Program.

(b) The Borrower shall enable ADB's representatives to inspect any relevant records and documents referred to in paragraph (a) of this Section.

Section 4.05. (a) As part of the reports and information referred to in Section 7.04 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB all such reports and information as ADB shall reasonably request concerning the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

(b) Without limiting the generality of the foregoing or Section 7.04 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB quarterly reports on the carrying out of the Program and on the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

## **ARTICLE V**

### **Effectiveness**

Section 5.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 10.01(f) of the Loan Regulations: the Program Coordination Committee (PCC) as described in paragraph 2 of Schedule 5 to this Loan Agreement shall have been established.

Section 5.02. A date ninety (90) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

## **ARTICLE VI**

### **Miscellaneous**

Section 6.01. The Department of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

#### For the Borrower

Department of Finance  
DOF Building  
Roxas Boulevard  
Manila, Philippines

Facsimile Numbers:

(63-2) 526-9990  
(63-2) 521-9495.

For ADB

Asian Development Bank  
P.O. Box 789  
0980 Manila, Philippines

Facsimile Numbers:


(632) 636-2444  
(632) 636-2331.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

REPUBLIC OF THE PHILIPPINES

By   
MARGARITO B. TEVES  
Authorized Representative

ASIAN DEVELOPMENT BANK

By   
RAJAT M. NAG  
Director General  
Southeast Asia Department

## SCHEDULE 1

### Description of the Program

1. The Program Cluster aims to promote a diversified set of financial markets that are efficient and resilient through unlocking the potential of securities markets by way of measures that (i) promote liquidity, financial deepening and strengthened intermediaries, (ii) enhance information reporting and disclosure standards, (iii) develop a broader investor base, (iv) reduce systemic risk and lower transactions costs through improved settlement and payment systems, and (v) develop greater capacity to address the legal, regulatory, financial governance and enforcement challenges of a more open and integrated economy and financial sector. The Program Cluster is described in more detail in the Policy Letter. The Program Cluster will be implemented during the period of four years from 2006 to 2009.
2. The Program is the first subprogram of the Program Cluster. The objectives of the Program are to (i) enhance financial system stability through improved debt and risk management measures of the Government, improve resolution of banks resulting in enhanced financial intermediation, and more robust non-bank financial institutions, (ii) strengthen non-bank financial sector governance, and (iii) improve securities market efficiency that will contribute to better investment confidence and climate. The policy measures are anchored in the Medium Term Philippine Development Plan (MTPDP). The Program will be implemented during the period of 18 months from December 2006 to June 2008.
3. The Program Cluster includes two subprograms. Subprogram 2 is to be prepared and designed based on the Borrower's fulfillment of the policy actions contained in the Policy Matrix for the Program, to be reviewed at the end of 2007. The provision of subprogram 2 shall be subject to the approval of ADB's Board of Directors.
4. The Program Cluster and the Program are described in more detail in the Policy Letter.
5. In support of the Program:
  - (a) the proceeds of the Loan shall be used to finance the foreign exchange costs of Eligible Items; and
  - (b) the Counterpart Funds shall be used to finance the local currency costs relating to the implementation of certain programs and other activities consistent with the objectives of the Program, pursuant to the provisions of paragraph 6 of Schedule 5 to this Loan Agreement.
6. The Program is expected to be completed utilized by 30 June 2008.

## SCHEDULE 2

### Amortization Schedule (Financial Market Regulation and Intermediation Program)

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Date Repayment Due</u>	<u>Installment Share</u> (expressed in percentage)
15-May-2010	2.25
15-Nov-2010	2.36
15-May-2011	2.48
15-Nov-2011	2.60
15-May-2012	2.73
15-Nov-2012	2.87
15-May-2013	3.01
15-Nov-2013	3.16
15-May-2014	3.32
15-Nov-2014	3.49
15-May-2015	3.66
15-Nov-2015	3.84
15-May-2016	4.04
15-Nov-2016	4.24
15-May-2017	4.45
15-Nov-2017	4.67
15-May-2018	4.91
15-Nov-2018	5.15
15-May-2019	5.41
15-Nov-2019	5.68
15-May-2020	5.96
15-Nov-2020	6.26
15-May-2021	6.57
15-Nov-2021	6.89
	<b>100.00</b>

Schedule 2

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

**SCHEDULE 3****Withdrawal of Loan Proceeds**

1. Except as ADB may otherwise agree, the following provisions of this Schedule shall apply to the withdrawal of Loan proceeds from the Loan Account.

2. (a) Withdrawals from the Loan Account shall be made for the financing of the cost of Eligible Items.

(b) No withdrawals from the Loan Account shall be made in respect of any expenditures which have been financed by credits from official international or bilateral aid agencies or any other loans made by ADB.

3. (a) An application for withdrawal from the Loan Account shall be submitted to ADB by the Borrower and shall be in a form satisfactory to ADB.

(b) Such withdrawal application shall be accompanied by a certificate of the Borrower confirming that (i) in case the proceeds of the Loan will finance imports already made, the value of Eligible Imports in the period concerned exceeded the amount of the requested withdrawal, or (ii) in case the proceeds of the Loan will finance items to be imported, the value of Eligible Imports in the immediately preceding one-year period was equal to or greater than the amount of the requested withdrawal plus all other amounts expected to be withdrawn from the Loan Account during the succeeding one-year period.

(c) For the purposes of this paragraph, the term "Eligible Imports" means the total imports of the Borrower during the relevant period minus the following imports during the same period:

- (i) imports from countries which are not members of ADB;
- (ii) imports for ineligible items specified in the Attachment to this Schedule; and
- (iii) imports financed from credits from official international or bilateral aid agencies or any other loans made by ADB.

(d) The Borrower shall allow experts appointed by ADB to verify the value of Eligible Imports during any period in respect of which the Borrower has certified the value of Eligible Imports in its withdrawal application.

4. (a) Prior to submitting the first application to ADB for withdrawal from the Loan Account, the Borrower shall open an account (the Deposit Account) at Bangko Sentral Ng Pilipinas (BSP) into which all withdrawals from the Loan Account shall be deposited. The Deposit Account shall be established, managed and liquidated in accordance with terms and conditions satisfactory to ADB.

(b) Separate accounts and records in respect of the Deposit Account shall be maintained in accordance with consistently maintained sound accounting principles. Upon ADB's request, the Borrower shall have the Deposit Account audited by independent auditors, whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with appropriate auditing standards. Promptly after their preparation but in any event not later than six (6) months after the date of ADB's request, certified copies of such audited accounts and records shall be furnished to ADB, all in the English language.

(c) Throughout the Program implementation period, the Borrower shall submit trade statistics and any other information as ADB may require from time to time to assess the Borrower's compliance with the formula for determining Eligible Imports.

5. The loan proceeds shall be disbursed in a single tranche upon effectiveness of the Loan Agreement.

**Negative List**

1. Loan proceeds will finance the foreign currency expenditures for the reasonable cost of imported goods required during the Program.
2. No withdrawals will be made for the following:
  - (i) expenditures for goods (included in the following Standard International Trading Commodity chapters or headings):

**Table A12: Ineligible Items**

<b>Chapter</b>	<b>Heading</b>	<b>Description of Items</b>
112		Alcoholic beverages
121		Tobacco, unmanufactured; tobacco refuse
122		Tobacco, manufactured (whether or not containing tobacco substitute)
525		Radioactive and associated materials
667		Pearls, precious and semiprecious stones, unworked or worked
897	897.3	Jewelry of gold, silver or platinum-group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971		Gold, nonmonetary (excluding gold ore and concentrates)
718	718.7	Nuclear reactors, and parts thereof, fuel elements (cartridges), nonirradiated for nuclear reactors

Source: United Nations.

- (ii) expenditures in the currency of the Borrower or of goods supplied from the territory of the Borrower;
- (iii) payments made for expenditures incurred more than 180 days before the effectiveness date of the loan;
- (iv) expenditures for goods supplied under a contract that any national or international financing institution or agency will have financed or has agreed to finance, including any contract financed under any loans from the Asian Development Bank;
- (v) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;
- (vi) expenditures for narcotics; and
- (vii) expenditures for pesticides categorized as extremely hazardous or highly hazardous in classes I-a and I-b, Classification of Pesticides by Hazard and Guidelines to Classification.

## **SCHEDULE 4**

### **Procurement**

1. Except as ADB may otherwise agree, the procedures referred to in the following paragraphs of this Schedule shall apply in the procurement of Eligible Items to be financed out of the proceeds of the Loan.

2. (a) Except as provided in paragraph 2(b) below, each contract for Eligible Items shall be awarded on the basis of either the purchaser's normal commercial procurement practices, in the case of procurement by the private sector, or the Borrower's prescribed procurement procedures, in the case of procurement by the public sector, having due regard for the principles of economy and efficiency.

(b) Each supply contract for Eligible Items which are commonly traded commodities shall be awarded on the basis of procedures appropriate to the trade and acceptable to ADB.

## SCHEDULE 5

### Program Implementation and Other Matters

#### Program Implementation

##### Program Executing Agency (EA) and Program Implementing Agency (IA)

1. Department of Finance (DOF) shall be the EA for the Program Cluster and the Securities Exchange Commission (SEC) shall be the IA. DOF shall be responsible for the overall implementation of the Program including complying with all policy actions, Program administration, disbursements and maintenance of all Program records.

##### Program Coordination Committee (PCC)

2. The PCC, established by SEC and headed by the chairperson of the SEC, consists of representatives from the Insurance Commission (IC), Philippine Stock Exchange (PSE), Philippine Dealing and Exchange Corporation (PDEX), Bangko Sentral ng Pilipinas, DOF, and the Philippine Deposit Insurance Corporation (PDIC). PCC shall be responsible for implementing and sustaining the Program, in particular the implementation of the agreed action plan adopted under the Capital Market Development Plan Blue Print. PCC shall meet every quarter to coordinate and ensure effective implementation of the Program. ADB may be invited to participate in the PCC meetings as an observer.

##### Policy Dialogue

3. The Borrower shall keep ADB informed of, and shall from time to time exchange views on, the progress made in carrying out the Program. Furthermore, the Borrower shall continue timely policy dialogue with ADB on problems and constraints encountered during implementation of the Program and on appropriate measures to overcome or mitigate such problems and constraints.

4. The Borrower shall keep ADB informed of policy discussions with other multilateral and bilateral agencies that have implications for implementation of the Program and shall provide ADB with an opportunity to comment on any resulting policy proposals. The Borrower will take ADB's views into consideration.

##### Continuity and Coordination of Reforms

5. The Borrower shall: (i) carry out the policies and actions in accordance with the schedule of policy reforms contained in the Policy Matrix and ensure that the reforms are sustained beyond the Program period; (ii) carry out all of its obligations as stipulated under this Loan Agreement in a timely manner; and (iii) ensure that the agreed actions are taken with respect to each policy achievement.

Counterpart Funds

6. The Borrower shall ensure that the Counterpart Funds shall be used to meet the Program expenditures and to help maintain the current levels of social and financial expenditures.

Program Review and Evaluation

7. Reports. Without limiting the generality of Section 4.05 of this Loan Agreement, DOF and SEC shall prepare and submit to ADB quarterly progress reports as well as an annual report on Program implementation.

8. Program Review. DOF and SEC shall ensure that a review is undertaken for the Program to design the proposed Subprogram 2 based on implementation studies undertaken and experience gained under the Program and to reflect changes that may occur in the external environment during the Program period. The Program review shall be undertaken twelve month after the Program Effective Date, to identify the lessons learned and to formulate the outline for Subprogram 2 under the Program Cluster. A Program review report shall be submitted to ADB that (i) assesses compliance with the Agreed Actions under the Program, (ii) assesses progress with implementation of complementary activities under overall reform program, and (iii) defines requirements for adjustments to activities to be undertaken under the proposed Subprogram 2 under the Program Cluster.