

NPM No. 96-2016

15 November 2016

MS. CRISTINA Q. ORBETA

President

PHILIPPINE DEPOSIT INSURANCE CORPORATION

SSS Bldg. 6782 Ayala Ave. cor. V.A. Rufino Sts.

Makati City

Re: PhilGEPS Registration

Dear Ms. Orbeta,

This refers to your letter inquiring whether the Bank of International Settlements¹ (BIS) may be exempt from PhilGEPS registration under the concept of exemption granted to U.N. agencies as provided in Section 54.6 of the revised Implementing Rules and Regulations² (IRR) of Republic Act (RA) No. 9184.

You disclosed in your letter that PDIC will procure a subscription to the Financial Stability Institute (FSI) Connect Tutorials, which is provided by BIS, as the sole provider of the FSI Connect Online Tutorials. It was also mentioned that the BIS is not registered with PhilGEPS and registering is not in accordance with its policies and procedures. Thus, you assert that the nature and purpose of BIS could be considered exempt from PhilGEPS registration anchored on the exemption provided under the revised IRR of RA 9184 for United Nations Agency. Hence, this inquiry.

Sections 8.5.1 of the revised IRR of R.A. No. 9184 is instructive, to wit:

“8.5. Registration, Eligibility Requirements and Submission of Bids under the PhilGEPS

8.5.1. xxx A manufacturer, supplier, distributor, contractor or consultant duly registered with the PhilGEPS may participate in a procurement undertaken by any procuring entity, provided that the said manufacturer, supplier, distributor, contractor or consultant maintains its registration current and updated in accordance with the provisions of this IRR, and its registration is proper and relevant to the particular type of procurement.” ✕

¹ International financial institution owned by central banks which fosters international monetary and financial cooperation and serves as a bank for central banks.

² 2009 revised IRR

Of importance is Section 54.6 of the revised IRR on the term and conditions for the use of alternative methods, thus:

“Section 54. Terms and Conditions for the Use of Alternative Methods

xxx

54.6. Manufacturers, suppliers, distributors, contractors, and/or consultants are mandated to register with PhilGEPS and provide a PhilGEPS Registration number in the following alternative methods of procurement as condition for award of the contract:

xxx

EXCEPT for the following:

(h) Section 53.13 United Nations Agency”

As you stated, the nature and purpose of BIS may be considered exempt from the abovementioned requirement based on the same justification granted in exempting UN Agencies from PhilGEPS registration.

First, we examine the mandate of BIS and the nature of its business. BIS provides various banking services for central banks, monetary authorities, and international financial institutions in the management of their reserves and related financial activities. It offers money market instruments, including sight/notice accounts, and fixed and floating-rate deposits in convertible currencies; fixed-term deposits; and standard and non-standard amounts and maturities. The company also provides tradable instruments comprising fixed rate investments, medium-term instruments (MTIs), and MTIs with an embedded call feature; and asset management services.³

On the other hand, Section 53.13⁴ of the revised IRR specifically defined the Alternative Modality of United Nations Agencies as procurement from specialized agencies of the United Nations of small quantities of off-the-shelf goods, primarily in the fields of education and health and specialized products where the number of suppliers is limited, such as vaccines or drugs.

Applying the foregoing, it can be said that the procurement of the FSI Connect Tutorials does not fall as procurement from the specialized agencies of the United Nations. As disclosed, FSI Connect Tutorials is a “compendium of lessons relevant to banking and insurance regulators based on the latest issuances of international standards set by international banking communities.” Thus, it does not involve the procurement from any

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³ <http://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=873988>. Last accessed September 6, 2016

⁴ The 2016 Revised Implementing Rules and Regulations amended Section 53.13 as follows:

Section 53.13 *United Nations Agencies, International Organizations or International Financing Institutions*. Procurement from specialized agencies of the United Nations, International Organizations or International Financing Institutions, of any of the following: (a) small quantities of off-the-shelf goods, primarily in the fields of education and health; (b) specialized products where the number of suppliers is limited, such as but not limited to vaccines or drugs; or (c) Goods, Infrastructure Projects and Consulting Services, involving advanced technologies, techniques and innovations not locally available as certified by the HoPE, when it is most advantageous to the government.

United Nations Agencies⁵ of small quantities of off-the-shelf goods for education and health, neither does it cover specialized products with limited number of suppliers. Further, BIS is not one of the listed specialized United Nations Agencies enumerated under the UN system.

The above quoted provisions of the IRR clearly provide that compliance with PhilGEPS registration is a requirement which is considered as mandatory except for methods of procurement specifically exempted under the revised IRR. In this view, BIS must be registered with PhilGEPS in compliance with Sections 8.5.1 and 54.6 of the revised IRR of R.A. 9184.

In our earlier opinions⁶, we had the occasion to explain the mandatory nature of requiring manufacturers, suppliers, distributors, contractors, and consultants interested in participating in government procurement to register with the PhilGEPS. This is so that they may be informed of procurement activities of Procuring Entities (PEs) and allow them to participate therein, provided that they maintain their registration current and updated in accordance with the IRR, and their registration are proper and relevant to the particular type of procurement.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director

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⁵ United Nations Agencies and Other International Organizations. <http://www.gov.ph/directory/united-nations-agencies-and-other-international-organizations/>. Last accessed September 6, 2016

⁶ NPM 100-2014 dated October 31, 2014 and NPM 034-2013 dated March 27, 2013