

MEMORANDUM CIRCULAR
No. AO- 2K8-04-001

Date : **April 23, 2008**

TO : **ALL PRIVATE GRAINS BUSINESSMEN
(INDIVIDUALS AND ENTITIES)**

FROM : **THE ADMINISTRATOR**

SUBJECT : **GENERAL GUIDELINES ON THE PARTICIPATION OF ALL
PRIVATE GRAINS BUSINESSMEN (INDIVIDUALS AND
ENTITIES) IN THE IMPORTATION OF RICE FOR THE
YEAR 2008**

Pursuant to the powers granted to the National Food Authority (NFA) under Presidential Decree No. 4, as amended, to establish rules and regulations governing the importation of rice and by virtue of **Council Resolution No. 393-2K8-D dated April 11, 2008**, this Memorandum is hereby issued for the information and compliance of all concerned.

A. GENERAL GUIDELINES

1. Rice importation under this Circular shall be undertaken by the Private Sector. However, instead of the National Food Authority (NFA) issuing import permits, all rice importation other than NFA's shall be covered by Letters of Credit (LC), Documents Against Acceptance (DA) and Documents Against Payment (DP) to be opened with the Land Bank of the Philippines (LBP) or any reputable bank accredited by the Bureau of Customs (BOC).

2. In line with the government's policy of removing the rice importation monopoly of NFA and allowing the private sector to also undertake the importation in case of supply shortfall, all private grains businessmen (individual and entities) **shall be allowed to undertake the rice importation which shall be part of the country's food security requirement.**

3. The private grains businessman (individual and entities) intending to avail of the privilege to engage in the business of importing rice must first secure a license from the NFA as an importer.

4. All importation shall be subject to the **advance payment of 50% duties/tariff taxes** and other fees that may be required by the Bank and BOC. NFA shall, from time to time, prescribe a benchmark price that will be the basis of the LBP / other reputable banks accredited by BOC to evaluate the advance duties/tariff taxes to be deposited by the importer.

5. All payments shall comply with the requirements and provisions of the Anti-Money Laundering Act.

6. The LBP shall serve as a clearing house by providing the participating banks with the volume of rice for importation.

7. The import volume shall be available to all private grains businessmen (individual and entities) but not more than 10,000 metric tons per importer per transaction. The importer shall have until July 31, 2008 to open/avail of LC, DA and DP with LBP or any reputable bank accredited by the BOC in Metro Manila, subject to eligibility requirements that the participating banks may prescribe.

8. As much as possible, rice to be imported should be fortified with iron micro nutrient in compliance with the Philippine Food Fortification Law under Republic Act 8976.

9. Milled rice contained in small or big packages/containers of 50 kg should conform with the Philippine standards on packaging and labeling.

B. ARRIVAL OF IMPORTATION

1. The imported rice stocks should arrive not later **August 31, 2008**. All imported rice that may arrive beyond the prescribed date shall subject the importer to a penalty based on the following schedule:

<u>No. of days after deadline</u>	<u>Penalty (% of landed cost)</u>
* 1 - 4 days	- 0.5%
* 5 - 6 days	- 1 %
* 7 - 8 days	- 1.5%
* 9 - 10 days	- 2%
* 11 - 12 days	- 2.5%
* 13 - 15 days	- 3%
* 16 - 30 days	- 30%
* 31 days & beyond	- forfeiture of entire cargo in favor of NFA

The aforementioned penalty may also be effected by BOC with the withholding or forfeiture of the corresponding equivalent volume of the imported rice in favor of NFA.

2. In case the importer failed to bring into the country the allocated volume of rice, as a penalty, the importer cannot participate in the future rice importation unless the 10% of the import value (landed cost) of 2008 rice allocation granted will be paid to NFA.

3. Rice cargoes must be inspected at the load port by surveyor/s to be appointed/chosen by the importer from the a list provided by the NFA and/or BOC. that are accredited by BOC. The surveyor's services shall be for the account of supplier and/or importer. Importer/designated licensed broker must submit to NFA thru Department of Marketing Operations (DMO) the certified true copy of processed import entry declaration, assessment notice/Automated Systems of Customs Data (ASYCUDA), BOC clearances, proof of payment/official receipt of duties and taxes (if applicable), arrastre, wharfage, other related fees. This submission of reports is a must on the part of the importer or his/her designated licensed broker.

4. The discharge ports for the 2008 are the Port of Manila, the Manila International Container Port, the Port of Batangas, the Port of Cebu, Port of Cagayan de Oro and the Port of Davao.

C. SPECIFIC GUIDELINES

1. Importers must meet/submit/accomplish the following requirements subject, however, to changes, amendments or revisions as NFA, LBP, BOC and other reputable banks accredited by BOC may hereafter prescribe :

NATIONAL FOOD AUTHORITY

- ❖ Must be holders of NFA license as importer. To secure a license as importer, the following are required:

A. FARMERS' ORGANIZATIONS :

- 2 x 2 pictures of the representative
- Articles of Incorporation, By-Laws and all amendments thereto
- Recent Secretary's Certificate of a Board Resolution authorizing the representative to sign for and in behalf of the FOs who shall be an officer/ shareholder/ member/ employee of the cooperative/ association.

- Certificate of Registration from the Securities and Exchange Commission (SEC)/ Cooperative Development Authority (CDA)/Bureau of Labor Relations (BLR)/Bureau of Rural Workers(BRW)/National Irrigation Administration (NIA).
- Certificate of Good Standing or Certification from their respective registering agencies that said FO is currently operational/active.
- For SEC registered entities, a copy of the current year Information Sheet duly received by SEC.
- For Provincial Farmers Action Council (PFAC) members, certification from the PFAC Chairman or his authorized representative that the FO is a bonafide member and is rice-based.
- For non-PFAC members, certification from local Barangay Chairman or Municipal Agricultural Officer (MAO) as to the existence of the farmer group in the locality/area and its being rice-based FO.
- License Fee **P3,300.00** per applicant

B. GRAINS BUSINESSMEN AND OTHER SECTORS :

B.1. For entities:

- 2 x 2 pictures of the representative
- Articles of Incorporation, By-Laws and all amendments thereto
- Recent Secretary's Certificate of a Board Resolution authorizing the representative to sign for and in behalf of the entity who shall be an officer/ shareholder/ member/ employee of the corporation/ association.
- Certificate of Registration from the Securities and Exchange Commission (SEC) and a copy of the current year Information Sheet duly received by SEC.
- Income Tax Return for the preceding year with audited financial statements.
- License Fee **P22,000.00** per applicant

B.2. For individuals:

- 2 x 2 pictures of the applicant
 - Income Tax Returns of the preceding year
 - Financial statement showing assets and liabilities for the preceding year if applicant's capitalization in the rice business exceeds P100,000.00
 - License Fee **P22,000.00** per applicant
- ❖ Advanced information (**at least 5 days before the cargo arrives for imported rice coming from Asian countries and 10 days for imported rice coming from other than Asian countries**) on the quality, quantity (complete specifications), country of origin, supplier, price on C & F basis, expected date of arrival, name of carrier/vessel and discharging port of the rice being imported, plus a copy of the sales contract and load port surveyor's report.

PARTICIPATING BANKS

I. If Importers Opt to Directly Open Financial Instruments with the Land Bank of the Philippines (LBP), below is the list of documents required for importation transactions whether using LC, DA or DP:

- ❖ Duly accomplished and notarized Import Entry Declaration (IED)
- ❖ Only Manager's or Cashier's checks issued by a reputable commercial/universal bank in Metro Manila or such other areas as may be designated by LBP shall be accepted as payment for the advance duties, bank charges.
- ❖ Original copy of pro-forma invoice signed by the supplier and duly accepted by the buyer, indicating the specification of rice to be imported, country of origin, term and mode of payment, among others, of the importation.
- ❖ Original and photocopy of the NFA license as importer.
- ❖ Accomplished Treasury Operations Department (TOD) signature card of the authorized signatory and/or authorized representative (for importation purposes) duly authenticated by the LBP. (Form Provided)
- ❖ Certification that the authorized signatory of the entity or the individual as the case maybe, has read and understood the program guidelines and that he/she voluntarily binds himself/herself to abide by all the rules and regulations regarding the importation particularly the penalty provisions. (Form Provided)

- ❖ Sworn attestation, *as required by LBP*. (Form Provided)
- ❖ Presentation of the original and submission of certified true copy of the Certificate of Registration with SEC, CDA or DTI.
- ❖ Presentation of the original and submission of certified true copy of the Articles of Incorporation/Cooperation and By-Laws.
- ❖ Original and photocopy of the Board Resolution or notarized Secretary's Certificate stating therein the authorized signatory in the opening of LC and use of other financial instruments (DA, DP)
- ❖ Processing fee (non-refundable) of P1,000.00 per application.
- ❖ Authority to BOC to withhold/forfeit in favor of NFA the prescribed penalty if rice cargo arrives after the prescribed date of arrival. (Form Provided)
- ❖ Registration as importer with CAS as required by BOC, or Affidavit of First and Last Importation for the year, whichever is applicable.
- ❖ Audited Financial Statements, if applicable

Additional Requirements for Using Letter of Credit:

- ❖ Duly accomplished Letter of Credit Application Form.
- ❖ Manager's Check (and its photo copy) for LC cover, buffer, advance payment of 50% duties and other charges.

Additional Requirements for Using Documents Against Acceptance or Documents Against Payment

- ❖ Manager's Check (and its photo copy) for the advance payment of 50% duties and bank charges.
- ❖ Letter of Intent that the company/organization/entity will be importing via DA or DP.
- ❖ Filled-up form of record of goods imported.

II. If Importers Opt to Open Financial Instruments with Other BOC Accredited Reputable Banks (*with Land Bank of the Philippines as Clearing House for the Volume*)

No.	Responsible Party	Activities/Requirements
1	Importer	<p>A. Secures transaction number from the LANDBANK Head Office's designated desk;</p> <p>B. Submits to LANDBANK the following:</p> <ol style="list-style-type: none"> 1. Original license to import rice issued by the National Food Authority 2. Original copy of the Pro-forma Invoice issued by the supplier and duly approved by the importer.

3. Notarized documents (Forms to be provided by LANDBANK):

3.1 Deed of Undertaking stipulating, among others, that the importer shall pay the advance duties to the reputable bank of his choice (which bank should be accredited by BOC) within five (5) working days immediately after the application has been lodged with LANDBANK. Otherwise, LANDBANK will revert back the earmarked volume to the national pool.

3.2 Certification that the authorized signatory of the entity or the individual as the case maybe, has read and understood the program guidelines and that he/she voluntarily binds himself/herself to abide by all the rules and regulations regarding the importation particularly the penalty provisions;

3.3 Authority to BOC to withhold or forfeit in favor of NFA the equivalent volume of the imported rice based on the prescribed penalty if imported rice arrives after prescribed period of arrival. (Form provided)

C. Pays to LANDBANK P1,000 processing fee per application;

Note : For purposes of procedure, LANDBANK will earmark rice importation volume only for application with complete documents.

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| 2 | LANDBANK | A. Upon receipt of the above documents at the LANDBANK Head Office, earmarks the rice volume (for importation) stipulated in the IED. |
| | | B. Issues the importer a letter (<i>with attachment on the rice importation program guidelines</i>) addressed to the BOC-accredited importer's bank stating that the subject importer is authorized to import rice at a specified volume & following the applicable benchmark price of imported rice, subject to the provision of the Rice Importation guidelines and that the payment of advance duties/tariff can be made, subject to the bank's respective policy on opening financial instruments for the importation. |
| 3 | Importer | Proceeds to the importer's bank, and submits documentary requirements for the importation. |
| 4 | Opening Bank | Processes application, accepts payment for advance duties/tariff, issues official receipt, machine validates the Import Entry Declaration (IED), and releases to the importer the original copy of IED. |

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| 5 | Importer | Presents the original machine validated IED (<i>with photo copy</i>) to the LANDBANK and the official receipt for the payment, within five working days, <i>as indicated in item B.3.3.1</i> |
| 6 | LANDBANK | <p>A. Confirms with the opening bank, the payment of the advance duties/tariff. Upon confirmation, issues certification addressed to the BOC on the completed transaction, stating the name of the importer, volume of importation and the amount of duties/tariff paid, <i>copy furnished the importer.</i></p> <p>B. Records the volume availed of the program, and provides report to the NFA.</p> |
| 7 | Bureau of Customs | Evaluates documents, confirms with LANDBANK veracity of the LANDBANK certification, releases goods subject to the guidelines |

BUREAU OF CUSTOMS (BOC):

For unloading and release of cargo, the following are required:

- ❖ Registration as importer with Customs Accreditation Secretariat (CAS)
- ❖ Advanced information (**at least 5 days before the cargo arrives for imported rice coming from Asian countries and 10 days for imported rice coming from other than Asian countries**) on the quality, quantity (complete specifications), country of origin, supplier, price on C & F basis, expected date of arrival, name of carrier/vessel and discharging port of the rice being imported, plus a copy of the sales contract and load port surveyor's report.
- ❖ For importers that use DA or DP, an NFA clearance that they have provided the needed advance information on their importation.
- ❖ NFA License as importer
- ❖ VAT or non-Vat certificate of applicant
- ❖ TIN Card of the company
- ❖ 2 x 2 pictures (4 copies) with official signature of the applicant
- ❖ Audited Financial Statements for the past three years, if applicable
- ❖ Summary of Importation for the past three years, if applicable
- ❖ BOI Certificate of Registration, *if applicable.*
- ❖ Income Tax Return of the company, partners, proprietor/owner for the past three years, if applicable
- ❖ Name of BOC Accredited Broker, *if applicable.*

2. Aside from the penalties mentioned above, the offender shall also be subject to administrative proceedings where the penalty of suspension and/or cancellation of its NFA license shall be imposed.

3. The Business Regulations Department (BRD) **in coordination with the Extension Department (EXD)** shall undertake information dissemination of the program. It shall publish Memo/Letter Circular/s, Notice/s and/or Rules and Regulations that NFA may issue relative to this importation program in a newspaper of general circulation and register the same with the Office of the National Administrative Register of the UP Law Center.

4. The Marketing Operations Department (DMO) shall prepare a consolidated report on the arrival of stocks and LCs/other instruments opened with or coursed through the LBP/other reputable banks accredited by BOC. on a regular basis or as the need arises.

D. REPEALING CLAUSE

All rules and regulations, circulars, directives and/or orders or parts thereof, inconsistent with any of the provisions of these guidelines are hereby repealed, modified and/or amended accordingly.

E. EFFECTIVITY

The guidelines shall be published in a newspaper of general circulation and shall take effect after fifteen (15) days from the date of filing at the U.P. Law Center.

APPROVED :

(Sgd.)JESSUP P. NAVARRO
Administrator

Fn : Private Sector Rice Import 2008