**Guidelines on the Imposition of Monetary Penalties on Bangko Sentral ng  
Pilipinas (BSP)-Supervised Financial Institutions (BSFIs) and/or their Directors/Trustees, Officers and/or Employees (DTOEs) for Violations of Policies under the Manual of Regulations on Foreign Exchange Transactions, as amended, and Other Applicable Laws with Sanctions Falling under Section 37 of Republic Act (R.A.) No. 7653 (The New Central Bank Act), as amended**

*(Appendix to Part Six, Chapter II on Penalties and Sanctions)*

The following are the guidelines on the imposition of monetary penalties on BSFIs and/or their DTOEs:

1. **Definition of Terms**
   1. *Transactional* violation refers to an act or omission constituting a violation of any applicable law or any order, instruction/directive or regulation issued by the Monetary Board (MB), or any order, instruction/directive or ruling by the Governor which is consummated and concluded in a single instance/occasion.
   2. *Continuing* violationrefers to an act or omission constituting a violation of any applicable law or any order, instruction/directive or regulation issued by the MB, or any order, instruction/directive or ruling by the Governor in which the violation persists or lingers over time from the instant the particular act was committed or omitted until the violation is stopped.
2. **Imposition of Monetary Penalties**
3. In accordance with Section 37 of R.A. No. 7653, as amended, monetary penalties may be imposed against BSFIs and/or their DTOEs for any willful violation of its charter or bylaws; willful delay in the submission of reports or publications thereof as required by law, rules and regulations; any refusal to permit examination into the affairs of the institution; any willful making of a false or misleading statement to the MB or the appropriate supervising and examining department or its examiners; any willful failure or refusal to comply with, or violation of, any banking law or any order, instruction or regulation issued by the MB, or any order, instruction or ruling by the Governor; or any commission of irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the MB.
4. In the absence of specific provision under other applicable laws or BSP rules and regulations prescribing the imposable monetary penalty for the   
   abovementioned violations/offenses, BSFIs and/or their DTOEs may be imposed a maximum monetary penalty of PHP1,000,000 for each transactional violation or PHP100,000 per calendar day for violations of a continuing nature as provided under Section 37 of R.A. No. 7653, as amended. Further, in case profit is gained or loss is avoided as a result of the violation, the BSP may impose a fine of no more than three (3) times the profit gained or loss avoided on top of the monetary penalty.
5. The BSP considers the attendant circumstances of the case, including aggravating and mitigating factors, in the guided exercise of discretion to reach a reasonable and proportionate monetary penalty that best achieve the BSP’s objectives. These factors include the: (i) nature, gravity and seriousness of the violation or irregularity; (ii) financial and/or non-financial impact of the violation or irregularity to the BSFI, its industry and/or the financial system; (iii) intentionality, frequency and duration of the violation or irregularity; and (iv) measures undertaken to stop or correct the violation or irregularity.
6. The appropriate department of the BSP shall notify the concerned BSFI and/or DTOE of the violation, together with a directive for the concerned BSFI and/or DTOE to show cause within 15 banking days from receipt of the letter why no monetary penalty under Section 37 of R.A. No. 7653, as amended, should be imposed. The recommendation to impose monetary penalties shall be approved by the Governor or the MB, as the case may be, pursuant to Section 37 of R.A. No. 7653, as amended; Provided, that monetary penalties against DTOEs shall be approved only by the MB. The decision of the Governor/MB shall be communicated to the concerned BSFI and/or DTOE.
7. The BSP is not precluded from imposing non-monetary penalties along with monetary penalties if circumstances so warrant.
8. **Payment of Monetary Penalties**
9. BSFIs shall pay the monetary penalties within 15 calendar days from receipt of the notice of the decision of the Governor imposing said monetary penalties, and payment thereof shall not be suspended by the filing of an appeal to the MB.
10. Monetary penalties imposed by original decisions of the MB shall be paid within 15 calendar days from the last day to file a motion for reconsideration where none has been filed or within 15 calendar days from receipt of the notice of the decision of the MB affirming the decision on motion for reconsideration, as the case may be.
11. For uniform implementation of the above regulation, the following procedural guidelines shall be observed:
12. Upon approval of the fines/penalties by the Governor/MB, the concerned BSP department/office shall send the Statement of Account (SOA)/billing letter to the BSFI with an advice that the penalty should be paid in full within 15 calendar days from receipt of SOA/billing letter. The amount of the penalty/ies that remain unpaid shall be automatically debited from the BSFI’s demand deposit account (DDA) with the BSP after the lapse of the 15-calendar day period within which to pay the monetary penalties. The BSFI shall likewise be advised that penalty or portion thereof which remained unpaid after the lapse of said 15-calendar day period shall be subject to additional charge of six percent (6%) per annum reckoned from the banking day immediately following the end of the 15-calendar day period up to the day of actual payment.
13. On the banking day immediately following the end of said 15-calendar day period, unpaid penalties shall be automatically debited, without additional charge, against the BSFI’s DDA with the BSP by the Comptrollership Sub-Sector (CoSS) based on the amount booked by the concerned BSP department/office after first confirming with the CoSS the sufficiency of the BSFI’s DDA balance to cover the amount of the penalty.
14. If, based on its confirmation with the CoSS, the concerned BSP department/office received information that the BSFI’s DDA balance is insufficient to cover the amount of the penalty, it shall accordingly advise and request the BSFI to immediately fund its DDA.
15. As soon as it is funded, the BSFI’s DDA shall be debited by the CoSS for the amount of the penalty, plus the six percent (6%) additional charge for late payment of the penalty reckoned from the banking day immediately following the end of the 15-calendar day period up to the day of actual payment, based on the amount booked by the concerned BSP department/office.
16. Payment by BSFIs of penalty, plus the additional charge, if any, through any such acceptable means of payment shall be made in accordance with the pertinent advisories issued by the BSP.
17. In the case of penalty/ies imposed on DTOEs, the employer BSFI and said DTOE shall be advised by the appropriate department of the BSP that the employer BSFI’s DDA with the BSP shall be debited for the amount of the penalty as advance payment on behalf of the DTOE whose penalty/ies remain unpaid after the lapse of 15 calendar days within which to pay the monetary penalty. In case of BSFIs that do not maintain DDA with the BSP and DTOEs that are connected with the BSFI without DDA or no longer connected with the BSFI, they shall be required to pay directly to the BSP within the 15-calendar day period through any acceptable means of payment as may be provided in the pertinent advisories issued by the BSP. The procedures under Items “2”, “3” and “4” hereof shall likewise apply.
18. **Appeal or Motion for Reconsideration**
19. The imposition of monetary penalties by the Governor shall be final and executory until reversed, modified or lifted by the MB on appeal. The appeal shall be filed within 15 calendar days from receipt of the notice of the decision, copy furnished the appropriate department of the BSP. No motion for reconsideration of the decision of the Governor or of the MB on appeal shall be allowed.
20. Original decisions of the MB imposing monetary penalties shall become final and executory after 15 calendar days from receipt of the MB decision, unless a motion for reconsideration is timely filed, copy furnished the appropriate department of the BSP.
21. The appeal or the motion for reconsideration shall be in writing and shall specify the findings or conclusions in the decision which are not supported by evidence or which are contrary to law, making express reference to the evidence or to the provisions of law alleged to be contrary to such findings or conclusions.
22. A *pro forma* appeal or motion for reconsideration shall be denied outright and shall not prevent the decision from attaining finality.