



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 1127

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Subject: Governance Policy for Operators of Payment System

The Monetary Board, in its Resolution No. 1240 dated 16 September 2021, approved the following governance guidelines for operators of a payment system (OPS).

Section 1. The following Sections shall be created in the Manual of Regulations for Payment Systems (MORPS):

204 Policy Statement. The Bangko Sentral recognizes that the OPS play an important role in sustaining the safe and efficient flow of payments including those arising from critical financial market transactions between and among banks and non-banking financial institutions, including cooperatives. Being generally responsible for interlinking these institutions that execute payment orders in their normal course of business, the OPS are also crucial in maintaining the public's confidence in the financial system.

In this regard, the Bangko Sentral adopts the following governance policy which is aligned with the applicable Principles for Financial Market Infrastructures (PFMIs) recommended by the Committee of Payments and Settlement Systems of the Bank for International Settlements and the Technical Committee of the International Organization of Securities Commissions. These guidelines provide specific regulatory expectations in the application of certain principles in consideration of national conditions.

Scope and Applicability. This policy covers all registered OPS including the Bangko Sentral, being the operator of the real time gross settlement (RTGS) system). Other OPS include the (i.) Bangko Sentral-supervised financial institutions (BSFIs) which include banks and non-bank financial institutions (NBFIs) such as non-bank electronic money issuers (EMI-NBFIs); and (ii.) non-BSFIs such as cooperatives which are regulated by the Cooperative Development Authority (CDA), branches and subsidiaries of foreign incorporated entities as well as other domestic corporations and non-corporate entities, whose businesses are considered that of an OPS under existing Bangko Sentral regulations.

For BSFIs

An OPS that has concurrent licenses such as a banking license or a license to be an EMI-NBFI shall adhere with the more stringent requirements between the guidelines in this policy and the applicable provisions of the Manual of Regulations for Banks (MORB) and the Manual of Regulations for Non-Bank Financial Institutions (MORNBFIs) to be able to comply with the overall regulatory expectations of the Bangko Sentral.

The policy cross refers to certain governance standards under the MORB and the MORNBFIs since these requirements are also applicable to all OPS regardless of their concurrent authorities.

For branches or local subsidiaries of foreign incorporated OPS

An OPS, whose Head Office or Parent Company is under the jurisdiction of a foreign regulator, shall follow the more stringent requirements between the provisions of this policy and those prescribed by the relevant regulator in its home jurisdictions.

In case the requirements of the home regulator prevail, the governance arrangements being observed by the Head Office or Parent Company that are in accordance with the requirements of the relevant regulator in its home jurisdiction may be used as a means to comply with the Bangko Sentral's policy. Proof of compliance with the requirements of the relevant regulator shall be made available upon request of the oversight department of the Bangko Sentral. Failure to submit proof of compliance with the requirements of the relevant regulator shall be deemed a violation of this provision and shall subject the OPS to appropriate enforcement actions under Bangko Sentral regulations.

In this context, a branch of a foreign incorporated OPS shall refer to any permanent office or place of business in the Philippines where an OPS may perform activities and provide products and services that are within the scope of its authority as an OPS, and of its other licenses, if any.

The provisions in Sections 204-210 apply to all OPS. Moreover, Sections 211 to 212 shall additionally apply to operators of a payment system that has been designated by the Bangko Sentral, pursuant to the provisions of Republic Act No. (R.A.) No. 11127 or the National Payment Systems Act (NPSA).

Definition of Terms. In addition to the following definition of terms, the terms defined under Section 4 of the NPSA and the Payment System Oversight Framework under Section 101 of this Manual¹ shall apply:

For OPS that are BSFIs, local subsidiaries or branches of foreign entities and other domestic corporations:

- a. *Affiliate* shall refer to an entity linked directly or indirectly to an OPS by means of:
 - (1) Ownership, control, or power of the OPS to vote of at least twenty percent (20%) of the outstanding voting stock of the entity or vice-versa;
 - (2) Interlocking directorship or officership, where the concerned director or officer owns, controls, or possesses the power to vote, at least twenty percent (20%) of the outstanding voting stock of the entity;
 - (3) Common ownership, whereby, the common stockholders own at least ten percent (10%) of the outstanding voting stock of the OPS and at least twenty percent (20%) of the outstanding voting stock of the entity;
 - (4) Management contract or any arrangement granting the OPS the power to direct or cause the direction of management and policies of the entity; or
 - (5) Permanent proxy or voting trusts in favor of the OPS constituting at least twenty percent (20%) of the outstanding voting stock of the entity or vice-versa.
- b. *Close family members* shall refer to persons related to directors, officers, or stockholders (DOS) of an OPS within the second degree of consanguinity or affinity, legitimate or common-law. These shall include the spouse, parent, child, brother, sister, grandparent, grandchild, parent- in-law, son-/daughter-in-law,

¹ BSP Circular No. 1089 dated 07 July 2020.

brother/sister-in-law, grandparent-in-law, and grandchild-in-law of the OPS' DOS.

c. *Control* of an enterprise exists when any of the following conditions is present:

- (1) Power over more than half of the voting rights by virtue of an agreement with other stockholders;
- (2) Power to govern the financial and operating policies of the enterprise under a statute or an agreement;
- (3) Power to appoint or remove the majority of the members of the board of directors or equivalent governing body;
- (4) Power to cast the majority votes at meetings of the board of directors or equivalent governing body;
- (5) Any other arrangement similar to any of the above.

Control is presumed to exist if there is ownership or holding, whether direct or indirect, of twenty percent (20%) or more of a class of voting shares of a company. Should the OPS choose to disclaim or rebut this presumption, it should provide sufficient facts to show that there is indeed no control. Further, the OPS disputing the presumption of control shall submit a written commitment stating that:

- (a) shares owned or held are exclusively for investment purposes;
- (b) the OPS-stockholder will not serve on the board of directors of the OPS and will not nominate any candidate to serve on the board of directors or otherwise seek board representation;
- (c) the OPS-stockholder will only have limited contact with the management of the OPS;
- (d) the OPS-stockholder will engage only in normal and customary transactions with the OPS; and
- (e) the OPS will not pledge shares acquired to secure a loan with any institution.

d. *Corresponding persons in the affiliated companies of the OPS* shall refer to the DOS of the affiliated companies and their close family members.

e. *Directors* shall refer to a person who is:

- (1) named as such in the articles of incorporation;
- (2) duly elected in the subsequent meetings of the stockholders; and
- (3) elected to fill vacancies in the board of directors.

f. *Independent directors* shall refer to a person who:

- (1) is not or was not a director, officer, or employee of the OPS and the payment system participants², their subsidiaries, affiliates, or related interests during the past three (3) years counted from the date of his election/appointment;
- (2) is not or was not a director, officer or employee of the OPS and the payment system participants' substantial stockholders and their related companies during the past three (3) years counted from the date of his election/appointment;

² For the purpose of these guidelines a payment system participant includes payment service providers (PSPs) and critical service providers (CSPs)

- (3) is not an owner of more than two percent (2%) of the outstanding shares or a stockholder with shares of stock sufficient to elect one (1) seat in the board of directors of the OPS or of the payment system participants, or in any of their related companies or of their majority corporate stockholders;
 - (4) is not a close family member of any director, officer, or stockholder holding shares of stock sufficient to elect one (1) seat in the board of directors of the OPS, or of the payment system participants, or any of their related companies, or any of their substantial stockholders;
 - (5) is not acting as a nominee or representative of any director or substantial stockholder of the OPS, or of the payment system participants, or any of their related companies, or any of their substantial stockholders;
 - (6) is not or was not retained as a professional adviser, consultant, agent, or counsel of the OPS, or of the payment system participants, or any of their related companies, or any of their substantial stockholders, either in his personal capacity or through his firm during the past three (3) years counted from the date of his election;
 - (7) is free from any business or other relationship with the OPS, the payment system participants, and any of their related companies or with any of their substantial stockholders, unless transactions are conducted at arm's length and could not materially interfere with or influence the exercise of his judgment;
 - (8) was not appointed by the OPS, or by the payment system participants, their subsidiaries, affiliates, or related interests as Chairman "Emeritus", "Ex-Officio" Directors/Officers or Members of any Advisory Board, or otherwise appointed in a capacity to assist the board of directors in the performance of its duties and responsibilities during the past three (3) years counted from the date of his appointment;
 - (9) is not affiliated with any non-profit organization that receives significant funding from the OPS or from the payment system participants or any of their related companies or substantial stockholders; and
 - (10) is not employed as an executive officer of another company where any of the executives of the OPS or of the payment system participants serve as directors.
- g. *Majority stockholder* shall refer to a person, whether natural or juridical, owning more than fifty percent (50%) of the voting stock of an OPS.
- h. *Non-executive directors* shall refer to those who are not part of the day-to-day management of operations and shall include the independent directors. Not all non-executive directors are considered independent directors.
- i. *Officers* shall include the chief executive officer, executive vice-president, senior vice-president, vice-president, general manager, secretary and others mentioned in the by-laws, or are generally known to be the officers of the OPS either through announcement, representation, publication or any kind of communication made by the OPS.

Provided, that a person holding the position of chairman or vice-chairman of the board of directors or another position in the board of directors shall not be considered as an officer unless the duties of his position in the board of directors include functions of management such as those ordinarily performed by regular officers. Provided further, that members of a group or committee, including sub-groups or sub-committees whose duties include functions of management such as those ordinarily performed by regular officers, and are not purely recommendatory or advisory, shall likewise be considered as officers.

- j. *Parent company* shall refer to a corporation which has control over another corporation directly or indirectly through one (1) or more intermediaries.
- k. *Related Company* shall refer to another company which is:
 - (1) the parent or holding company of the OPS;
 - (2) the subsidiary or affiliate of the OPS; or
 - (3) a corporation where the OPS or its majority stockholder owns such number of shares that will allow/enable such a person or group to elect at least one (1) member of the board of directors, or a partnership where the majority stockholder of the OPS is a partner.
- l. *Related interests* shall refer to any of the following:
 - (1) Spouse or relative within the first degree of consanguinity or affinity, or relative by legal adoption, of a DOS of the OPS;
 - (2) Partnership of which a DOS of an OPS or his spouse or relative within the first degree of consanguinity or affinity, or relative by legal adoption, is a general partner;
 - (3) Corporation, association, or firm of which any or a group of DOS of the OPS and/or their spouses or relatives within the first degree of consanguinity or affinity, or relative by legal adoption, hold or own at least twenty percent (20%) of the subscribed capital of such a corporation, or of the equity of such an association or firm.
 - (4) Corporation, association, or firm wholly or majority- owned or controlled by any related entity or a group of related entities mentioned in Items "l(2)" and "l(3)" of this Subsection;
 - (5) Corporation, association, or firm which owns or controls directly or indirectly whether singly or as a part of a group of related interest, at least twenty percent (20%) of the subscribed capital of a substantial stockholder of the OPS, or which controls majority interest of the OPS; or
 - (6) Corporation, association or firm which has an existing management contract or any similar arrangement with the parent of or controlling interest in the OPS.
- m. *Related Parties* shall cover the OPS' subsidiaries as well as affiliates and any party (including their subsidiaries, affiliates, and special purpose entities) that the OPS exerts direct/indirect control over or that exerts direct/indirect control over the OPS, any of the OPS' Directors, Officers, Stockholders or Related Interests (DOSRI),

and their close family members, as well as corresponding persons in the affiliated companies of the OPS.

These shall also include such other person/juridical entity whose interests may pose potential conflict with the interest of the OPS.

- n. *Related party transactions (RPTs)* shall refer to transactions or dealings of the OPS with its related parties. These shall include, but are not limited to, the following:
 - (1) Outsourcing of critical services for payment system operations;
 - (2) Consulting, professional, agency, and other service arrangements/contracts;
 - (3) Purchases or sales of assets, including transfer of technology, and intangible items (i.e., research and development, trademarks and license agreements);
 - (4) Construction arrangements and contracts;
 - (5) Lease arrangements and contracts;
 - (6) Borrowings, commitments, fund transfers; and guarantees;
 - (7) Sale, purchase, or supply of any good or materials; and
 - (8) Establishment of joint venture entities.
- o. *Stockholder* – shall refer to any stockholder of record in the books of the OPS, acting personally, or through an attorney-in-fact; or any other person duly authorized by him, or through a trustee designated pursuant to a proxy or voting trust or other similar contracts, whose stockholdings in the OPS, individually and/or collectively with the stockholdings of: (1) his spouse and/or relative within the first degree by consanguinity or affinity or legal adoption; (2) a partnership in which the stockholder and/or the spouse and /or any of the abovementioned relatives is a general partner; (3) corporation, association or firm of which the stockholder and/or his spouse and/or the aforementioned relatives own more than fifty percent (50%) of the total subscribed capital stock of such corporation, association or firm, amount to 1 percent (1%) or more of the total subscribed capital stock of the OPS.
- p. *Substantial Stockholder* shall refer to a person, or group of persons whether natural or juridical, owning such number of shares that will allow such a person or group to elect at least one (1) member of the board of directors of an OPS, or who is directly or indirectly the registered or beneficial owner of more than ten percent (10%) of any class of the OPS' equity security.
- q. *Subsidiary* shall refer to a corporation or firm, where a parent company directly or indirectly owns, controls, or holds with power to vote, more than fifty percent (50%) of the outstanding voting stock of such corporation or firm.

For the OPS organized as Cooperatives:

- r. *Director* shall refer to any member of a cooperative who was elected by the General Assembly, and/or appointed by the board in case of vacancy, who under the by-laws of the cooperative has the right to vote and who possesses all the qualifications and none of the disqualifications provided in the by-laws or rules governing cooperatives.
- s. *General Assembly* shall mean the full membership of the cooperative duly assembled for the purpose of exercising all the rights and performing all the obligations of the cooperative pursuant to R.A. No. 9520 or the Philippine Cooperative Code, its articles of cooperation, and by-laws.

t. *Independent director* shall refer to a person who:

- (1) is a duly elected/appointed director which has a share capital of not more than one percent (1%) of the total paid-up capital of the cooperative, and possesses the required competence required in the performance of his functions;
- (2) is not related to an OPS' director, officer, or member within the second degree of consanguinity or affinity, legitimate or common-law;
- (3) is free from any business or other relationship with the OPS, except for his membership, the payment system participants, and any of their substantial stockholders, unless his transactions are conducted at arm's length and could not materially interfere with or influence the exercise of his judgment;
- (4) is not or was not retained as a professional adviser, consultant, agent, or counsel of the OPS or of the payment system participants, either in his personal capacity or through his firm during the past two (2) years counted from the date of his election;
- (5) is not affiliated with any non-profit organization that receives significant funding from the OPS or from the payment system participants;
- (6) is not acting as a nominee or representative of any participant in the payment system operated by the cooperative; and
- (7) is not employed as an executive officer of another company where any of the executives of the OPS or of the payment system participants serve as directors.

u. *Non-executive directors* shall refer to the same definition under item "h".

v. *Officer* shall refer to the same definition under item "i", notwithstanding the definition of officer in R.A. No. 9520.

w. *Member of the Cooperative* is a person, either natural or juridical, who has been admitted by the cooperative as a member upon his/its adherence to the principles set forth in R.A. No. 9520 and in the Articles of Cooperation.

x. *Substantial Shareholder* shall refer to a primary cooperative with enough shares to elect a seat in the board, or those with at least 10 percent ownership of the cooperative's equity.

For all OPS:

y. *Risk Appetite Statement* shall refer to an articulation in written form of the aggregate level and types of risks that an OPS is willing to accept, or to avoid, in order to achieve its business objectives. It includes qualitative statements as well as quantitative measures involving systemic, financial, and operational risks that could build up in the payment system in the course of its operations.

z. *Risk governance framework* shall refer to the framework through which the board of directors, as applicable, and management of an OPS establish business strategy; articulate and monitor adherence to risk appetite and risk limits; and identify, measure, and manage risks.

aa. *Risk limits* shall refer to the application of an OPS' risk appetite statement to specific risk categories (i.e., settlement, liquidity, operational, etc.).

- ab. *Stakeholders* shall refer to payment system participants, end-users and other financial market infrastructures (FMIs), the operations of which are significantly interconnected with that of the payment system.

Governance Arrangements. An OPS that is a BSFI, a cooperative, a local subsidiary or branch of a foreign incorporated entity, or a domestic corporation shall adopt an effective and documented governance structure that provides clear and direct lines of responsibility and accountability of the board of directors and senior management. At a minimum, the documented governance structure should include the following:

- a. Governance structures and descriptions of:
 - (1) the roles and responsibilities of the board of directors and board-level committees;
 - (2) structure of senior management;
 - (3) reporting lines between the board and senior management; and
 - (4) the authorities and responsibilities of the General Assembly, for OPS organized as cooperatives.
- b. Design of risk management, compliance, internal control, and audit functions, including descriptions of the mechanisms by which these functions are granted adequate authority, independence, resources, and reporting access to the board and/or relevant board-level committees;
- c. Guidelines for appointment and performance evaluation of the directors and officers; and
- d. Policies for addressing conflicts of interest and outsourcing issues arising from an OPS' business connections with its affiliates and other related parties.

For OPS that are branches or local subsidiaries of foreign incorporated OPS

Given their distinct organizational structures, OPS which are branches and local subsidiaries of foreign entities shall adopt appropriate governance arrangements (i.e., Local Management Committee) through which the Head Office or Parent Company of the OPS oversee local operations and enforce commensurate standards on risk management, compliance, internal controls and audit in conducting business as an OPS in the country. Their governance arrangements shall likewise incorporate the corresponding details enumerated in items "a" to "d" in the preceding paragraph.

Reports on the assessment of the risk management, compliance, internal controls and audit functions of branches of foreign incorporated OPS, conducted by competent and independent parties shall be made available to the Bangko Sentral, during on-site examination or any time upon request. These required reports may come from the regional teams of the OPS' respective groups handling the said functions which may or may not necessarily be part of their local physical operations.

These aforementioned governance arrangements shall be documented in the policies of the OPS which shall be made available to the appropriate oversight department of the Bangko Sentral, the OPS' stockholders or members, and the participants in the payment system.

205 Board of Directors. Sections 205 to 207 shall apply to an OPS that is a BSFI, a cooperative, a branch or a local subsidiary of a foreign incorporated entity, or a domestic corporation.

Powers of the board of directors. The OPS shall conduct its business, and control its resources through its board of directors. The directors have the duty to exercise sound and objective judgment for the best interest of the OPS, the payment system's participants, and other stakeholders.

Composition of the board of directors.

- a. The board of directors of an OPS that is a BSFI shall be composed of not less than five (5) nor more than fifteen (15) members.

Likewise, an OPS that is organized as a cooperative, shall have a board of directors which shall be composed of not less than five (5) nor more than fifteen (15) members who shall all be elected by the General Assembly for a term of two (2) years, pursuant to R.A. No. 9520.

The board shall determine the appropriate number of its members to ensure that it is commensurate to the nature, size, and complexity of the OPS' activities, subject to compliance with relevant rules and regulations.

- b. The board of directors, as a governing body, shall have integrity and it shall possess the appropriate collective skills, work experiences, and technical knowledge of payment systems and financial markets, including the risks involved in the operation of these systems.
- c. Independent director/s of an OPS shall represent at least twenty percent (20%) of the members of the board, but in no case shall be less than one (1). Provided, that any fractional result from applying the minimum proportion (i.e., 20%) shall be rounded up to the nearest whole number.
- d. Non-Filipino citizens may become members of the board of directors of an OPS to the extent of the foreign participation in the equity of the said OPS as allowed under existing laws and regulations, except in the case of cooperatives.

Qualifications of a director.

- a. A director shall have the following minimum qualifications:
 - (1) He must be fit and proper for the position of a director. In determining whether a person is fit and proper for said position, the following qualifications must be considered: integrity/probity, physical/mental fitness; relevant education/ financial literacy/ training; possession of competencies relevant to the job, such as knowledge and experience, skills, diligence, and independence of mind; and sufficiency of time to fully carry out responsibilities.

In assessing a director's integrity/probity, consideration shall be given to the director's market reputation, observed conduct and behavior, as well as his ability to continuously comply with the organization's policies and applicable laws and regulations, including payment system rules, and the relevant

requirements and standards of any regulatory body, clearing house, payment system management body, or the government and any of its instrumentalities/agencies.

A director of an OPS shall be equipped with adequate technical training on payments and/or appropriate work experience to be able to understand payment system operations, financial markets, and payment-related risks.

An elected director has the burden to prove that he possesses all the foregoing minimum qualifications and none of the cases mentioned under Section 209 (*Persons disqualified to become directors/officers*).

The foregoing qualifications shall be in addition to those required or prescribed under other applicable laws and regulations.

- (2) He must have attended a seminar on corporate governance for board of directors. The requirements under item "a(2)" of Sections 132/132-Q of the MORB/MORNBFI (Qualifications of a director) shall hereby apply.

For directors of OPS organized as cooperatives, directors should have completed the mandatory trainings required by the CDA³.

- (3) With regard to a cooperative OPS, it may, by resolution of its board of directors, admit as a director, or a board-level committee member, a non-member individual who was appointed by any financing institution from which the cooperative received financial assistance. Provided further, that such a director or a committee member shall neither have powers nor responsibilities except to provide the technical assistance required by the cooperative.

- b. In selecting an *independent and a non-executive director*, the number and types of entities where the candidate is likewise elected as such shall be considered to ensure that he can devote sufficient time to be able to effectively carry out his duties and responsibilities. In this regard, the guidelines under item "b" of Sections 132/132-Q of the MORB/MORNBFI (Independent and non-executive directors) shall apply.
- c. Members of the board of directors shall not be appointed as Corporate or Board Secretary or Chief Compliance Officer.
- d. The CEO or President shall be a director of a corporate OPS while in the case of a cooperative OPS, members of the board of directors shall not hold any other position directly involved in the day-to-day operations and management of the OPS⁴.

³ Pursuant to its Memorandum Circular 2015-09, CDA requires directors and officers of a cooperative to undergo a set of required trainings and have them completed within the first half of their term

⁴ This is consistent with Article 39 of R.A. No. 9520.

Chairperson of the board of directors.

- a. *Roles of the Chairperson of the board of directors.* Being the leader of the board, the Chairperson shall be primarily responsible for the effective implementation of governance arrangements. He shall ensure that:
- (1) the meeting agenda focuses on strategic matters involving stakeholder interests, including discussions on risk appetite, and key governance and operational concerns;
 - (2) the board practices a sound decision making process;
 - (3) the board is open to critical discussions and that dissenting views can be expressed and discussed within the decision-making process;
 - (4) the board receives accurate, timely, and relevant information from management;
 - (5) first time directors undergo proper orientation and all directors are provided training opportunities; and
 - (6) the work performances of the members of the board are evaluated at least once a year.
- b. *Qualifications of the Chairperson of the board of directors.* To promote checks and balances, the Chairperson of the board of directors shall be a non-executive director or an independent director. Provided, that the Chairperson and CEO positions in any OPS shall not be held by one person.

Provided further, that exceptions to these rules shall be subject to approval by the Monetary Board. In which case, the board of directors of an OPS shall appoint a lead independent director and define his responsibilities. Such responsibilities shall be documented in a governance manual. The board of directors shall ensure that the lead independent director functions in an environment that objectively evaluates the views and strategic stance of the CEO. The lead independent director shall perform enhanced function over the other independent director/s and shall:

- (1) spearhead the independent directors in raising queries and pursuing relevant matters during board meetings; and
- (2) preside over the independent directors' meetings, which shall be conducted without the presence of the executive directors.

In case an OPS appoints only one (1) independent director, the Chairperson shall not be allowed to have a concurrent position as CEO.

Board of directors meetings. An OPS shall include in its by- laws a provision that physical or virtual meetings of the board of directors shall be held or hosted either in the Philippines or abroad.

a. *Full board of directors meetings*

The meetings of the board of directors may be conducted through modern technologies, using video conferencing at a minimum, as long as the director who is taking part in the said meetings can actively participate in the discussions and deliberations, if any: Provided, That every member of the board of directors shall physically or virtually take part in at least fifty percent (50%) of all meetings every year. Provided further, that attendance and participation of members in committee meetings shall be considered in the assessment of continuing fitness

and propriety of each director as member of board-level committees and the board of directors and that the absence of a director in more than fifty percent (50%) of all meetings of the board of directors during his incumbency is a ground for disqualification in the succeeding election.

b. Board-level committee meetings

A board-level committee shall meet as prescribed in its charter. The participation of committee members may likewise be in person or through modern technologies.

c. Minutes of the meetings

Detailed record or minutes of the meeting shall be maintained by the corporate or board secretary to ensure all relevant issues were discussed during board meetings. Members of the board shall sign (physically or electronically) or approve the minutes of the meeting.

206 Duties and Responsibilities of the Board of Directors/a Director.

Specific Duties and Responsibilities of the Board of Directors

The board of directors of an OPS is ultimately responsible for upholding the safety and efficiency of the payment system operation by ensuring that the board's overall strategies and critical decisions appropriately address the legitimate interests of payment system participants and other relevant stakeholders. The board shall approve and oversee the implementation of strategies to achieve business goals and meet public policy objectives concerning the safety, efficiency, and reliability of the payment system. It shall also oversee the implementation of the risk governance framework and internal controls.

Likewise, the board of directors shall establish a sound framework that addresses conflicts of interest and makes the board accountable for the selection of key senior officers including the heads of control functions. The board shall also oversee the performance of senior management, including the CEO.

- a. *The board shall be responsible for establishing and approving the strategic objectives of the OPS and for overseeing the management's pursuit of these objectives.* In this regard, the board of directors shall:
- (1) Ensure that the payment system has a beneficial influence in maintaining financial stability by continuously providing safe and efficient payment services and facilities that are supportive of the needs of the national economy;
 - (2) Approve the OPS' strategic objectives and business plans which shall take into account the OPS' long-term business interests, the level of risk tolerance, capability to effectively manage risks and stakeholder considerations;
 - (3) Actively engage in the affairs of the OPS and keep abreast of its operating and regulatory environment, as well as act in a timely manner to protect the interests of the OPS and its stakeholders; and
 - (4) Approve and oversee the implementation of policies governing major areas of operation. The board of directors shall regularly review these policies as well

as control functions (i.e., risk management, compliance, and internal control) to determine the areas needing improvement and promptly identify and address significant risks and systemic concerns.

- b. *The board of directors shall be responsible for the appointment/selection of the key members of senior management and heads of control functions, and for the approval of a sound remuneration and other incentives policy for personnel. In this regard, the board shall:*
- (1) Apply the fit and proper standards where integrity, technical expertise, and experience in payment system operations and financial markets are the key considerations in the selection process.
 - (2) Approve and oversee the implementation of performance standards as well as remuneration and other incentives policy. The policy should promote safety and efficiency in the operations of the OPS and should be consistent with the OPS' long-term business objectives and financial soundness.
 - (3) Oversee the performance of senior management and heads of control functions:
 - (a) The board shall regularly monitor and assess the performance of the management teams and heads of control functions based on approved performance standards;
 - (b) The board shall hold the members of senior management accountable for their actions and clearly communicate to them the possible consequences if those actions are not aligned with the board's performance expectations;
 - (c) The board shall regularly meet with senior management to engage in discussions, and critically review the reports and information provided by senior management.
 - (4) Ensure that the expertise and knowledge of all members of senior management remain relevant by providing them with regular training opportunities as part of a professional development program that aims to enhance their competencies and allows them to stay abreast of developments that are relevant to their areas of responsibility.
- c. *The board shall be responsible for approving and overseeing the implementation of the governance framework of the OPS. In this regard, the board shall:*
- (1) Define appropriate governance structure and practices, and ensure that such practices are followed and periodically reviewed:
 - (a) The board shall adopt a structure, in terms of board size and frequency of meetings, that shall promote efficiency of oversight, critical discussion of issues, and thorough review of matters requiring board action. In doing so, it shall adopt governance policies concerning composition of the board, appointment of directors, and duration of their tenures in the board.

- (b) The board shall create committees to increase efficiency and allow deeper focus on specific areas. The scope of the functions of these committees shall depend on the importance of the OPS in supporting critical payment transactions, preserving public interest, and maintaining public trust in payment systems in general.
 - (c) The board shall objectively assess at least annually its performance as a governing body, and the performances of the individual directors, the various committees, and the CEO. The assessment may be conducted by a corporate governance committee or by an external facilitator.
 - (d) The board shall maintain appropriate records (i.e., meeting minutes or summaries of matters reviewed, recommendations made, decisions taken, and dissenting opinions expressed) of its deliberations and decisions. The board shall ensure that independent views and relevant stakeholders' interests are given due consideration in the discussions and that these matters are documented in the minutes.
- (2) Develop a policy on the remuneration and other incentives for directors⁵. This policy shall be submitted for approval by the stakeholders of a cooperative OPS. The board shall ensure that the policy is aligned with the OPS' long-term business interests and that the policy neither compromises the OPS' safety and efficiency objectives nor conflicts with the directors' fiduciary responsibilities.
 - (3) Conduct and maintain the affairs of the OPS within the scope of its authority, in accordance with the OPS' Articles of Incorporation or Articles of Cooperation, as applicable, and as prescribed in existing laws, rules, and regulations.
 - (4) Maintain and periodically update, organizational rules, by-laws, or other similar documents setting out the organization of the board, its rights, responsibilities, and key activities. The board shall ensure that there is clear delineation of the lines of responsibility and accountability.
 - (5) Oversee the development of governance arrangements, approve such arrangements, and monitor the implementation of the same. These arrangements shall be embodied in the governance policies which shall be periodically reviewed. The board shall ensure that the arrangements are observed accordingly.
 - (6) Approve a policy on RPTs to ensure that these transactions are conducted on an arm's length basis and relevant stakeholders' interests are protected. The board shall ensure applicable laws, rules, and regulations are complied with.
 - (7) Adopt guidelines for identifying, addressing, and managing conflict of interests stemming from board actions or decisions that involve beneficial and/or pecuniary interest of a member or his related interests.
- d. *The board of directors shall be responsible for approving the OPS' risk governance framework and ensure the implementation of this framework.* In particular, it shall:

⁵ R.A. No. 9520 provides that compensation of directors, shall be fixed in its by-laws and that in the absence of any provision on the same, directors shall not receive any compensation except for reasonable per diems.

- (1) Approve policies for setting risk tolerance, defining risk appetite, and addressing crises that could threaten the viability of the payment system which the OPS operates. In pursuing so, the board shall take into account the OPS' safety and efficiency objectives, business environment, regulatory landscape, long-term business interests, and risk management capability.
- (2) Oversee the development of a risk appetite statement (RAS) and approve the same. The board shall ensure adherence to the statement, as well as compliance with risk limits and other risk management policies throughout the organization.
- (3) Assign responsibilities and accountability for decisions that have a significant impact on the overall risk profile of the OPS, by adopting the three lines of defense framework. The business line functions will represent the first line of defense, the risk management and compliance functions as the second line of defense, and the internal audit function as the final line of defense.

In this regard, the board of directors shall ensure that the risk management, compliance, and internal audit functions have proper stature in the organization and have adequate staff and resources. The stature of these functions in the organization must enable them to carry out their responsibilities independently, objectively, and effectively.

- e. *The board shall ensure the OPS' compliance with all supervisory and regulatory requirements.* In relation to this, it shall establish an effective compliance risk management system that shall identify and mitigate risks arising from the OPS' failure to comply with applicable laws, Bangko Sentral regulations, standards prescribed by the relevant payment system management body, and codes of conduct applicable to OPS' activities.
- f. *The board shall ensure that the OPS' business model, strategies, and activities appropriately take into account the legitimate interests of its participants and other relevant stakeholders.* In this regard, it shall:
 - (1) Consider the welfare of participants and relevant stakeholders in crafting major operational decisions involving the payment system's design and overall business strategies. These decisions may involve the OPS operating structure, the scope of transactions processed, and the critical technology used in operations; and
 - (2) Establish clear processes for identifying and addressing stakeholders' concerns and any conflict of interests between the stakeholders and the OPS.

Specific Duties and Responsibilities of a director. The position of a director is a position of trust which assumes fiduciary responsibilities for different stakeholders of the payment system. Hence, the members of the board of directors should exercise their "duty of care" and "duty of loyalty" to the OPS.

- a. *To remain fit and proper for the position for the duration of his term.* A director should possess unquestionable credibility to make decisions objectively and resist undue influence. He shall treat board directorship as a profession and shall have a clear understanding of his duties and responsibilities as well as his role in promoting good governance. Hence, he shall maintain his professional integrity

and continuously seek to enhance his skills and knowledge through continuing education, training, and other learning opportunities. He should also have adequate understanding of the activities of the OPS, as well as the developments in the national payment system, the financial markets, and the broader financial system that may have implications for the safety and efficiency of the payment system where the OPS operates.

- b. *To act honestly and in good faith, with loyalty and in the best interest of the OPS, its stockholders, and other stakeholders such as the end-users of the payment system and the general public.* A director must always act in good faith, with the care which a prudent man would exercise under similar circumstances. While a director should always strive to promote the interest of all stockholders, he should also give due regard to the rights and interests of other stakeholders.
- c. *To have a working knowledge of the statutory and regulatory requirements affecting the institution.* A director should be knowledgeable of the regulations of the Bangko Sentral, the provisions of the NPSA, and where applicable, the requirements of other relevant regulatory agencies. A director should also keep himself informed of financial system developments and payment system trends and relevant international standards in order to safeguard the interest of the OPS.

In addition, a director of an OPS shall have the duties and responsibilities of a director enumerated as items “b”, “d”, “e”, “f”, “g” and “i” in Sections 132/132-Q of the MORB/MORNBF (Specific duties and responsibilities of a director).

207 Board-Level Committees. The board of directors may delegate some of its functions, but not its responsibilities, to board-level committees. In this regard, the board shall:

- a. Approve, review, and update at least annually or whenever there are significant changes to the charter of each committee or other governance arrangements that set out a committee’s mandate, scope of function, and working arrangements. These arrangements shall articulate how the committee will report to the board of directors, what the committee members are expected to deliver, and how long a member may serve the committee. The board shall also consider occasional rotation of committee members and chairs to avoid undue concentration of power and promote fresh perspective.
- b. Appoint members of the committees, considering the optimal mix of skills and experiences to allow the board of directors, through the committees, to fully understand and objectively evaluate relevant issues. To promote objectivity, the board shall appoint independent directors and non-executive members of the board. Towards this end, an independent director who is a member of any committee that exercises executive or management functions which can potentially impair such director’s independence cannot accept membership in committees that perform independent oversight/control functions such as the Audit, Risk Oversight, or Corporate Governance Committee without prior approval of the Monetary Board.

In the case of a cooperative, the Audit Committee members that meet the qualifications stated in this policy shall be elected by the cooperative’s General Assembly pursuant to R.A. No. 9520.

- c. Ensure that each committee maintains appropriate records (e.g., minutes of

meetings or summary of matters reviewed and decisions taken) of their deliberations and decisions. Such records shall document the committee's fulfillment of its responsibilities and facilitate the assessment of the performance of the committee's functions.

- d. Form an Audit Committee unless directed by the Bangko Sentral to create other board-level committees (i.e., Risk Oversight or Corporate Governance Committee) such as the case for Operators of Designated Payment Systems (ODPS) under Section 211. Provided, that the board of directors shall discuss risk management and corporate governance matters in its meetings, with the views of the independent director/s, in addition to those of the other directors, duly considered and minuted.

In complying with this provision, OPS that are branches or locally incorporated subsidiaries of foreign incorporated OPS may resort to the global or regional board-level committees formed by their Head Office or Parent Company. Hence, these OPS need not form their own local board and board-level committees to comply with this provision. However, depending on the nature, scale and complexity of their local businesses they may be required by the Bangko Sentral to form local management committees to oversee risk management, internal control, compliance and strategic concerns emanating from their local operations.

Audit Committee

- a. *Composition and chairperson.* The audit committee of an OPS shall be composed of at least three (3) members of the board of directors who shall all be non-executive directors, including the chairperson who shall be an independent director. The chairperson of the audit committee shall not be the chairperson of the board of directors or of any other board-level committee.

The audit committee shall have expertise in payment system operations, internal control frameworks, accounting, auditing, or related financial management expertise or relevant experiences commensurate with the size, systemic importance, operational complexity, and risk profile of the OPS. The committee shall have access to independent experts who can assist in carrying out the committee's responsibilities.

- b. *Duties and responsibilities of the audit committee.* The audit committee shall:
 - (1) *Oversee the operational and financial reporting framework.* The committee shall oversee the operational and financial reporting processes, practices, and controls. It shall ensure that the reporting framework enables the generation and preparation of accurate and comprehensive information and reports.
 - (2) *Oversee the internal audit function.* The committee shall be responsible for the appointment/selection, performance evaluation, remuneration, and dismissal of internal auditors. It shall review and approve the audit scope and frequency and shall ensure that the scope covers the review of the effectiveness and adequacy of the OPS' internal controls and risk management system. To ensure the effectiveness of the internal audit function, the committee shall deploy sufficient audit human resource and accord the auditors the independence necessary to enable them to provide rigorous assessment on the quality of risk management and control processes. The committee shall functionally meet

with the head of the internal audit function, or with equivalent personnel in case the internal audit function is outsourced, and their meetings shall be duly minuted and adequately documented.

- (3) *Oversee the external audit function.* The committee shall be responsible for the appointment, performance evaluation, and replacement of the external auditor, including approval of fees to this auditor. It shall review and approve the audit engagement contract and ensure that the audit, at a minimum, covers the areas which are specifically prescribed by the Bangko Sentral and other regulators.
- (4) *Establish whistleblowing mechanism.* The committee shall establish and maintain mechanisms by which officers and staff shall, in confidence, raise concerns to persons or entities that have the power to take corrective actions on possible improprieties or malpractices in the areas of payment system operations, financial reporting, internal control, and audit, or other issues. The committee shall also ensure that arrangements are in place for the independent investigation, appropriate follow-up action, and subsequent resolution of complaints.

Other responsibilities of the audit committee set forth under items "b(2)", "b(5)" and "b(6)" of Sections 133/133-Q of the MORB/MORNBFI (Audit Committee), shall likewise apply.

Risk Oversight Committee.

The provisions pertaining to the composition, chairperson, and duties and responsibilities of the Risk Oversight Committee under Sections 133/133-Q of the MORB/MORNBFI (Risk Oversight Committee) shall apply.

Corporate Governance Committee.

- a. *Composition.* The provisions pertaining to the composition of the Corporate Governance Committee under Section 133 of the MORB and Section 133-Q of the MORNBFI shall apply.
- b. *Duties and responsibilities of the corporate governance committee*
 - (1) Duties of the corporate governance committee pertaining to the oversight of the nomination process for members of the board of directors and for positions appointed by the board; and the oversight of the evaluation process on the performance of the board and members of senior management under items "b(1)" and "b(3)" of Sections 133/133-Q of the MORB/MORNBFI (*Corporate Governance Committee*) shall apply.
 - (2) Oversee the continuing education program for the board of directors. The committee shall ensure allocation of sufficient time, budget, and other resources for the continuing education of directors, and draw on external expertise as needed.

The committee shall establish and ensure effective implementation of the policy on onboarding/orientation for first time directors and on the annual continuing education for all directors. For this purpose, the first-time directors

shall undergo a minimum of 8-hour orientation program subject to exemptions provided under item "a (2)" of Sections 132/132-Q of the MORB/MORNBFI (*Qualifications of a director*), while all directors shall take a minimum of 4- hour annual continuing training. The training programs should cover topics relevant in carrying out their duties and responsibilities as directors, including strategic management, payment system and financial market concepts, risk management techniques, and internal control frameworks.

- (3) Oversee the design and operation of the remuneration and other incentives policy. The committee shall ensure that the remuneration and other incentives policy is aligned with the operating and risk culture, as well as with the strategic and financial interest of the OPS. This policy shall preserve the interest of the payment system where the OPS operates, and comply with legal and regulatory requirements.

Moreover, the committee shall monitor and conduct a periodic review of the remuneration and other incentives policy to ensure that this policy operates and achieves the objectives as intended.

208 Officers. Sections 208 and 209 shall apply to all OPS.

Qualifications of an officer. An officer must be fit and proper for the position he is being appointed to. In determining whether a person is fit and proper for a particular position, the following matters must be considered: integrity/probity, education/ training, and relevant competencies such as knowledge, experience, skills, and diligence that are necessary in the effective and efficient discharge of the responsibilities of the position.

In assessing an officer's integrity/ probity, consideration shall be given to the officer's market reputation, observed conduct and behavior, as well as his ability to continuously comply with company policies, clearing and settlement rules, and applicable laws and regulations, including payment system rules and standards adopted by a relevant payment system management body, regulatory body, professional organization, or the government in general and any of its instrumentalities/agencies.

An appointed officer has the burden to prove that he possesses all the foregoing minimum qualifications and none of the cases mentioned under Section 209 (*Persons disqualified to become directors/officers*).

The foregoing qualifications for officers shall be in addition to those required or prescribed under other applicable laws and regulations.

Duties and responsibilities of officers.

The provisions of Sections 134/134-Q of the MORB/MORNBFI (Duties and responsibilities of officers), shall apply to the extent that these guidelines are appropriate for officers handling the business of an OPS.

Chief Executive officer (CEO). The CEO shall be the overall- in- charge for the management of the OPS businesses and affairs which are governed by the strategic direction and risk appetite approved by the board of directors. He shall be primarily accountable to the board of directors for championing the desired conduct and behavior, implementing strategies while ensuring the payment system's safety, efficiency, and reliability, and promoting both long-term business and stakeholder interests.

209 Disqualification of Directors and Officers. The Bangko Sentral recognizes that the fitness and propriety of the board of directors and management significantly influence the quality of governance over an OPS. In addition to the standards set forth on the qualifications and responsibilities of the board and management, this Section provides the rules governing the watchlisting and disqualification of persons from becoming directors/officers of an OPS. This policy aims to further promote the integrity of the payment system and better protect the interest of the payment system participants and the public.

Persons disqualified to become directors/officers. Without prejudice to specific provisions of the law prescribing disqualifications for directors/trustees, the following persons are disqualified from becoming directors:

a. Permanently disqualified

- (1) Persons who have been convicted by final judgment of the court for willful violation of payment system laws, rules, and regulations; and
- (2) Persons who were found culpable for the closure of an operator of a payment system, as determined by the Monetary Board;

Items “a. numbers (1)-(7)” under Sections 138/137-Q of the MORB/MORNBFI (*Persons disqualified to become directors – Permanently Disqualified*) shall hereby apply to the grounds for permanent disqualification of directors and officers of an OPS.

b. Temporarily disqualified

- (1) Persons who have shown unwillingness to settle their financial obligations, as evidenced by, but not limited to, the following circumstances:
 - (a) the person has failed to satisfy any financial obligation that has been adjudicated by a court;
 - (b) the person has filed for insolvency or payment suspension that adversely affects his/her fitness and propriety as director/officer; or
 - (c) a person who is delinquent in the payment of: an obligation with a bank that functions as an OPS where he/she is a director or officer; or at least two (2) obligations with other banks/FIs.

Financial obligations as herein contemplated shall include all forms of borrowings mentioned under item “b. (3.b)” of Section 138/137-Q of the MORB/MORNBFI (*Persons disqualified to become directors – Temporarily disqualified*). Directors/officers concerned shall remain temporarily disqualified until the financial obligations have been settled or satisfied.

- (2) Persons involved in the closure of an OPS pending their clearance by the Monetary Board;
- (3) Persons confirmed by the Monetary Board to have committed acts or omissions, which include failure to observe/discharge their duties and responsibilities prescribed under existing regulations, resulting in: (a) undue

injury or disadvantage to the OPS through manifest partiality, evident bad faith, or gross inexcusable negligence; (b) material loss or potential damage to the payment system, OPS, participants, stakeholders, the Bangko Sentral, or the public in general; or (c) a significant threat to the safety, efficiency, and reliability of the payment system;

- (4) Persons found to have been involved in any irregularity/violation which constitutes a just cause for dismissal/termination as defined under the Labor Code of the Philippines, as amended, regardless of any action taken by the OPS;
- (5) Persons with cases pending before a court or other tribunal, or those convicted by said court or tribunal or those convicted by said court or tribunal but whose conviction has not become final and executory, for offenses involving: (a) dishonesty or breach of trust such as, but not limited to, estafa, embezzlement, extortion, forgery, malversation, swindling, theft, robbery, falsification, bribery, violation of B.P. Blg. 22 (Anti-Bouncing Check Law), violation of R.A. No. 3019 (Anti-Graft and Corrupt Practices Act), violation of R.A. No. 9160, as amended (Anti-Money Laundering Act), and prohibited acts and transactions under Section 7 of R.A. No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees); or (b) violation of securities, banking or payment system laws, rules, and regulations;
- (6) Persons who are engaged in a business that is the same or similar to that of the OPS;
- (7) Persons who in any way possess a conflict of interest with the OPS, including but not limited to, for a clearing switch operator (CSO) that provides clearing services to any of the automated clearing houses (ACHs) established under the governance of a Bangko Sentral accredited payment system management body (PSMB) under the National Retail Payment System (NRPS) framework, persons who are directors of such PSMB and of such CSO's critical service provider/s (CSP), as defined under the Payment System Oversight Framework.

In this regard, a director of a PSMB, shall likewise be temporarily disqualified as a director of a CSP of the CSO to an ACH that is governed by such PSMB.

Item "b. numbers (5), (6), and (8)-(12)" under Sections 138/137-Q of the MORB/MORNBFI (*Persons disqualified to become directors - Temporarily disqualified*) shall hereby apply to the grounds for temporary disqualification of directors and officers of an OPS.

Resignation or retirement from his/her office shall not exempt the person from being permanently or temporarily disqualified under this Section.

Persons prohibited to become officers

- a. The spouses or relatives within the second degree of consanguinity or affinity holding officership positions across the following functional categories within an OPS:
 - (1) Decision making and senior management function, e.g., president, chief executive officer (CEO), chief operating officer (COO), general manager, and chief financial officer (CFO);

- (2) Recordkeeping and financial reporting functions, e.g., controller and chief accountant;
 - (3) Safekeeping of assets, e.g., personnel handling cash receipts and disbursements;
 - (4) Risk management function, e.g., chief risk officer;
 - (5) Compliance function, e.g., compliance officer; and
 - (6) Internal audit function, e.g., internal auditor.
- b. Persons who are engaged in a business that is the same or similar to that of the OPS;
 - c. Persons who in any way possess a conflict of interest with the OPS; and
 - d. Owing to their official government responsibilities, any appointive or elective government official, whether full time or part time.

Effect of non-possession of qualifications or possession of disqualifications. An elected/appointed director/officer of an ODPS, not possessing all the qualifications mentioned under Section 205 and Section 208, and/or has any of the disqualifications mentioned under Section 209 shall not be confirmed by the confirming authority of the Bangko Sentral and shall be removed from office even if he/she has assumed the position to which he/she was elected or appointed pursuant to Section 6(d)(3) of the NPSA. A confirmed director/officer or a director/officer not requiring confirmation found to possess any of the disqualifications, shall be subject to the following disqualification procedures.

Disqualification procedures. A director/officer who is considered disqualified under this Section shall be subject to the disqualification procedures provided herein. Disqualified persons shall be included in the Bangko Sentral Watchlist Files.

- a. An OPS shall be responsible for determining the existence of the ground for disqualification of the person concerned and for reporting the same to the appropriate oversight department of the Bangko Sentral within ten (10) calendar days from knowledge thereof. The OPS shall ensure that the person concerned is informed that his/her offense was reported to the appropriate oversight department of the Bangko Sentral and as such, may be evaluated for watchlisting. The OPS shall conduct its own investigation, impose sanction/s if appropriate, and report the results of the actions taken to the appropriate oversight department of the Bangko Sentral within twenty (20) calendar days from the termination of investigation.

This shall be without prejudice to the authority of the Monetary Board to disqualify a person from being elected/appointed as director/officer in any Bangko Sentral-supervised institution, based on information on the existence of any ground for disqualification gathered or obtained from the Bangko Sentral, domestic financial regulatory authorities, financial intelligence units, and similar agencies or authorities of foreign countries, the courts and other quasi-judicial bodies, and other government agencies or the public.

- b. On the basis of knowledge and evidence on the existence of any of the grounds for disqualification mentioned in this Section, the appropriate oversight department of the Bangko Sentral shall notify in writing the person concerned,

by personal service, electronic mail, registered mail, or courier with registry return receipt card at his/her last known address, of the existence of the ground for his/her disqualification. The person shall be allowed to submit within fifteen (15) calendar days from receipt of such notice a sworn statement/explanation on why he/she should not be disqualified and why his/her name should not be included in the watchlist file, as provided in this Section. The person shall submit the sworn statement/explanation together with a document supporting his/her position. The head of said appropriate oversight department of the Bangko Sentral may allow an extension on meritorious ground.

- c. Upon receipt of the reply/explanation of the person concerned, the appropriate oversight department of the Bangko Sentral shall proceed to evaluate the case.
- d. The failure of the person to reply within the period provided under Item "b" of this Section (Disqualification Procedures) shall be deemed a waiver of opportunity to explain and the appropriate oversight department of the Bangko Sentral shall proceed to evaluate the case based on the available records/evidence.
- e. Upon evaluation of the appropriate oversight department of the Bangko Sentral that a person is disqualified under any of the grounds listed in this Section, said Bangko Sentral department shall elevate to the Monetary Board the person's disqualification and inclusion in the Bangko Sentral Watchlist Files for approval.
- f. Upon approval by the Monetary Board, the appropriate oversight department of the Bangko Sentral shall inform in writing the concerned person, by personal service, electronic mail, registered mail or courier, at his/her last known address, of his/her disqualification from being elected/appointed as director/officer in any Bangko Sentral-supervised institution and his/her inclusion in the masterlist of watchlisted persons.
- g. The determination of the Monetary Board shall become final and executory within fifteen (15) calendar days from the receipt of the resolution by the concerned directors or officers, unless a motion for reconsideration has been filed.
- h. In case the subject of disqualification is an incumbent director/officer, the board of directors of the OPS concerned shall be immediately informed of such disqualification approved by the Monetary Board and shall be directed to act thereon not later than the following board meeting. Within three (3) business days after the board meeting, the corporate secretary shall report to the appropriate oversight department of the Bangko Sentral the action taken by the board on the person involved.
- i. In cases which are initiated by the Bangko Sentral and which resulted in conviction by final judgment of a court for violation of payment system laws, rules, or regulations, the Office of the General Counsel and Legal Services (OGCLS) shall recommend to the Monetary Board, the permanent disqualification of said person and his/her name shall be included in the Disqualification File "A" (Permanent) upon approval of the Monetary Board.

In administrative complaints against directors and officers filed with the Bangko Sentral, resulting in the imposition of administrative penalties for violation of payment system laws, rules, or regulations, the OGCLS shall recommend to the Monetary Board, the disqualification of said person, if warranted, according to the

severity of the offense, and his/her name shall be included in the Disqualification File "A" (Permanent) or "B" (Temporary), as the case may be, upon approval by the Monetary Board.

Watchlist Files, and Procedures for Delisting and Reclassification

The guidelines governing the Bangko Sentral Watchlist files and the delisting and reclassification procedures for disqualified directors and officers under Section 138/137-Q of the MORB/MORNBFI (*Watchlist files; Delisting/ Reclassification*) shall apply herewith.

Confidentiality

Watchlist files shall be for the internal use of the Bangko Sentral only. Provided, That upon authority of the person/s concerned, an OPS can gain access to information in said watchlist files, among other Bangko Sentral records, by using the prescribed form in Appendix 3 only for the purpose of screening the nominees/applicants for director/officer positions.

210 Governance Policy for other OPS. The following guidelines shall apply to OPS that are organized either as a sole proprietorship or a partnership:

Qualifications as to the fitness and propriety of owners and officers. The individuals that own and/or manage the OPS shall possess and display the following characteristics:

a. Probity, honesty, integrity and good reputation

Individual owners and officers shall conduct business with diligence, fairness, and in accordance with sound ethical business practices. They shall not possess or be charged with any of the grounds for disqualifications for directors and officers of an OPS, under Section 209 (*Disqualification of Directors and Officers*).

b. Competence and professional capability

Individual owners and officers shall have:

- (1) adequate relevant knowledge of the structure, risks and purpose of the products and services associated with their business activities;
- (2) sufficient work/business experiences and proficient understanding of the technical requirement of payment system operations; and
- (3) capability to comply with relevant laws, rules, and regulations governing the OPS.

c. Financial soundness and capacity

Individual owners and officers shall be capable of ensuring that the OPS can extinguish its liabilities when they come due. They shall manage their financial affairs in a prudent manner to mitigate the financial risks that are associated with the business of the OPS.

These required credentials of owners and officers are intended to ensure that the persons managing the OPS are equipped with technical knowledge, financial management know how, and relevant competencies, which are necessary for protecting the interest of the

OPS' stakeholders and safeguarding the welfare of the payment system in general.

Officers of an OPS that is organized as a sole proprietorship or a partnership shall be covered by:

- the provisions on the duties and responsibilities of officers under Section 208 (*Officers*), and
- the grounds for disqualification and the disqualification procedures for officers of an OPS under Section 209 (*Disqualification of Directors and Officers*).

Minimum Prudential Requirements. At a minimum, an OPS which is organized as a sole proprietorship or a partnership, shall institute sound governance, risk management, internal control, and compliance functions in conducting the business affairs of the OPS.

a. Governance

The individual owners and officers shall demonstrate sound management practices appropriate to the size, risk profile and operational complexity of their OPS business. These practices shall be observed through:

- (1) active oversight of the business operations, performance, risk exposures, and regulatory compliance of the OPS;
- (2) adoption of appropriate policies and procedures governing key business activities and control functions;
- (3) establishment of effective risk monitoring and management information systems; and
- (4) maintenance of a sound internal control environment that is supported by effective internal audit and compliance programs.

b. Risk Management

The individual owners and officers shall set up commensurate risk management systems to identify, measure, evaluate, report, and control material risks on a timely basis and assess adequacy of resources in relation to their risk profile. Appropriate risk management procedures should be deployed to aid in effectively addressing threats and/or risks to the safety, efficiency, and reliability of payments transacted through the OPS.

c. Internal Controls

The individual owners and officers shall establish an effective and adequate system of internal controls in conducting their business. Internal control measures in place shall, at a minimum, encompass the following elements:

- (1) Sound organizational structures that address appropriate segregation of duties and proper reporting lines among business owners, officers, and employees;
- (2) Accounting policies and processes that incorporate checks and balances, and separation of financial records between those of the OPS and those of the owners to ensure integrity of financial reports and key business processes;
- (3) Safeguarding of assets;

- (4) Subjecting business activities and processes to an independent internal audit to determine whether business objectives are being met and internal controls are functioning as intended; and
- (5) Engaging a Bangko Sentral-accredited external auditor to conduct an external audit of the financial statements of the OPS on an annual basis for a maximum period of two (2) years. The OPS may re-engage an external auditor after two (2) years from the latest audit conducted by the auditor.

d. Compliance System

The individual owners and officers shall devise a compliance system that is commensurate to the size, risk profile, and operational complexity of the OPS. The system shall be designed to specifically identify and mitigate business risks that may erode the franchise value of the OPS. In the context of this policy, business risk refers to conditions that may be detrimental to the institution's business model and its ability to generate income from operations. These risks include compliance, market conduct, legal, and reputational risks.

As part of the OPS compliance system, the individual owners and officers shall adopt adequate compliance policies and procedures that govern the conduct of robust compliance monitoring, testing, and review of business operations to assess adherence of the OPS to payment system laws, Bangko Sentral regulations, payment system management body rules and standards, and other pertinent rules or regulations.

211 Governance Requirements applicable to Operators of a Designated Payment System (ODPS). The following policy guidelines shall apply to operators of a payment system that has been designated by the Bangko Sentral:

- a. Non-executive directors, who shall include independent directors, shall comprise the majority of the board of directors of an ODPS;
- b. Independent directors of an ODPS shall represent at least one third (1/3) of the members of the board but in no case shall be less than two (2). Provided, that any fractional result from applying the minimum proportion, (i.e., 1/3) shall be rounded up to the nearest whole number; and
- c. The board of directors of an ODPS shall constitute, at a minimum, the following committees: (1) Audit Committee; (2) Risk Oversight Committee, and (3) Corporate Governance Committee;

The Audit, Risk Oversight and Corporate Governance committees of an ODPS shall be composed of at least three (3) members of the board of directors, who shall all be non-executive directors, majority of whom shall be independent directors, including the chairperson.

212 Confirmation of the Election/Appointment of Directors/Officers; Bio-Data of Directors and Officers

Confirmation of election/appointment of directors/officers.

Elected or appointed directors and key officers of an ODPS shall be subject to

confirmation by the Bangko Sentral. Provided, that the election/appointment of a director or officer of an ODPS shall not be subject to confirmation by the Bangko Sentral if his election/appointment as such in another BSFI has been previously confirmed by the Bangko Sentral.

Confirming authority. The election/appointment of directors/officers shall be subject to the confirmation by the following:

Confirming Authority	Position Level
a. Monetary Board	Directors and CEOs of ODPS
b. Payments and Currency Management Sector (PCMS) Committee	Heads of internal audit, risk management and compliance functions, and other officers with rank of senior vice-president and above (or equivalent ranks) of an ODPS

Provided, That an ODPS shall report to the appropriate oversight department of the Bangko Sentral, any succeeding resignation, retirement, or replacement of the abovementioned directors/officers, within twenty (20) business days after such resignation/retirement.

The election/appointment of abovementioned directors/ officers shall be deemed to have been confirmed by the Bangko Sentral, if after sixty (60) business days, the appropriate oversight department of the Bangko Sentral does not advise the ODPS concerned against said election/appointment.

However, the confirmation by the Monetary Board or by the PCMS Committee of the election/appointment to the abovementioned position levels shall not be required in the following cases:

- (1) Re-election of a director (as a director) in the same ODPS or election of the same director in another ODPS;
- (2) Re-election of an independent director (as an independent director or not) in another ODPS; and
- (3) Promotion of an officer, other than to that which requires (a) prior Monetary Board approval or (b) a different set of minimum qualifications, or (c) a different level of confirming authority as provided in the first paragraph hereof, in the same ODPS or appointment or transfer of the concerned officer to another ODPS.

The said exemptions shall apply provided that:(i) the director/officer concerned has been previously confirmed by the Bangko Sentral, or (ii) his/her election/promotion/transfer requires the same level of confirming authority mentioned in this Section. These exemptions shall apply to directors/officers confirmed by the Monetary Board or by the PCMS Committee starting 1 July 2022.

Provided further, that for re-elections, promotions and appointments which are exempted from Bangko Sentral confirmation under this Section, an ODPS shall submit to the Bangko Sentral an authorization form for querying its watchlist files (see Appendix 3) and ascertain that there is no outstanding derogatory information on the concerned director/officer since his/her last appointment/election.

The appointment of officers below the rank of senior vice- president, other than the heads

of internal audit, risk management and compliance functions regardless of rank shall not be subject to Bangko Sentral confirmation.

Documentary Requirements

- a. The complete list of the required certifications and other documentary proof of qualifications for the confirmation of the election/appointment of directors/officers are shown in *Appendix 1*.

In this regard, an ODPS shall submit the documents listed in *Appendix 1*, to the appropriate oversight department of the Bangko Sentral within twenty (20) business days from the date of election/re-election/appointment of the directors or from the date of the meeting of the board of directors in which the officers are appointed/promoted.

Non-submission of complete documentary requirements within the prescribed period shall be construed as failure to establish qualifications for the position.

A director/officer whose election/appointment was not confirmed for failure to submit the complete documentary requirements shall be deemed removed from office upon the Bangko Sentral's issuance of due notice to the board of directors of the ODPS, even if he/she has assumed the position to which he/she was elected/appointed, pursuant to Section 6 (d)(3) of the NPSA.

- b. In cases of change of name due to change in civil status and change of residential address of a director or officer whose election/appointment is subject to Bangko Sentral confirmation, the ODPS shall submit to the appropriate oversight department of the Bangko Sentral their updated bio-data within twenty (20) business days from the date the change has occurred.
- c. All OPS shall submit to the appropriate oversight department of the Bangko Sentral, a duly notarized list of the incumbent members of the board of directors and officers (president or equivalent rank down the line, format attached as *Appendix 2*), within twenty (20) business days from the annual election of the board of directors as provided in the OPS' by-laws.
- d. The ODPS shall not be required to submit their bio-data to the Bangko Sentral for appointment of other officers below the rank of SVP other than the heads of internal audit, risk management, and compliance functions regardless of rank.

All OPS, however, shall maintain a complete record of the bio-data of all their directors and officers and shall be made available during on-site examination or when required by the Bangko Sentral for submission for off-site verification.

If after evaluation, the appropriate oversight department of the Bangko Sentral finds grounds for disqualification, the director/officer so elected/re-elected/appointed/promoted may be recommended for removal from office even if he/she has assumed the position to which he/she was elected/re-elected/appointed/promoted pursuant to Section 6 (d)(3) of the NPSA. In the aforementioned case, all actions or decisions executed by the officer/director removed from office prior to receipt of the Bangko Sentral's notice shall be valid and binding "de facto". The effect of Bangko Sentral's issuance of notice of the

removal of such officer/director shall take effect upon receipt of the OPS of such notice.

Enforcement Action. The Bangko Sentral may deploy enforcement actions to promote adherence with the requirements set forth in the provisions under Sections 204-212 and bring about timely corrective actions. Any violation of these provisions shall subject the operator of a payment system and/or its directors, officers, and/or employees to the sanctions set forth in Sections 36 and 37 of R.A. No. 7653 ("The New Central Bank Act"), as amended, and Sections 19 and 20 of the NPSA as appropriate.

Section 2. Transitory Provision. The policy shall take effect six (6) months after the effectivity of the Circular, except Section 209.b under *Persons disqualified to become directors/officers - Temporarily disqualified* which shall take effect immediately after the effectivity of the Circular.

Section 3. Effectivity. This Circular shall take effect immediately following its publication either in the Official Gazette or in a newspaper of general circulation.

FOR THE MONETARY BOARD:


BENJAMIN E. DIOKNO
Governor

17 September 2021

REQUIRED CERTIFICATIONS AND SUPPORTING DOCUMENTS FOR THE CONFIRMATION OF THE ELECTION/APPOINTMENT OF DIRECTORS/OFFICERS

(Appendix to Section 212 on Confirmation of Election/Appointment of Directors and Officers)

Directors	Chief Executive Officers and Other Officers enumerated in Section 212 ¹
<ul style="list-style-type: none"> Letter-request for Bangko Sentral confirmation signed by an authorized officer² with an affirmative statement that the institution has conducted fit and proper test on the director/s concerned 	<ul style="list-style-type: none"> Letter-request for Bangko Sentral confirmation signed by an authorized officer with an affirmative statement that the institution has conducted fit and proper test on the officer/s concerned.
<ul style="list-style-type: none"> Secretary's Certificate attesting to the resolution of the stockholders or board of directors approving the election 	<ul style="list-style-type: none"> Secretary's Certificate attesting to the resolution of the stockholders or board of directors approving the appointment
<ul style="list-style-type: none"> Bio-data with a photograph (2" x 2") taken within the last six (6) months 	<ul style="list-style-type: none"> Bio-data with a photograph (2" x 2") taken within the last six (6) months
<ul style="list-style-type: none"> Certification under oath of the director concerned that he/she possesses all the qualifications and none of the disqualifications to become a director 	<ul style="list-style-type: none"> Certification under oath of the officer concerned that he/she possesses all the qualifications and none of the disqualifications to become an officer
<ul style="list-style-type: none"> Duly accomplished and notarized authorization form for querying the Bangko Sentral watchlist file from the director concerned per Appendix 3 	<ul style="list-style-type: none"> Duly accomplished and notarized authorization form for querying the Bangko Sentral watchlist file from the officer concerned per Appendix 3
<ul style="list-style-type: none"> Certification under oath of compliance with Bangko Sentral-prescribed syllabus on corporate governance orientation program 	
<ul style="list-style-type: none"> Certification under oath of that the director has received copies of the general responsibility and specific duties and responsibilities of the board of directors and of a director that he/she fully understands and accepts the same 	<ul style="list-style-type: none"> Brief description of the officer's duties and responsibilities
<ul style="list-style-type: none"> For independent directors, certification under oath that he/she is an independent director defined in Bangko Sentral regulations 	<ul style="list-style-type: none"> For foreigners appointed as officers, Alien Employment Permit issued by the Department of Labor and Employment
<ul style="list-style-type: none"> For re-elected directors, Secretary's Certificate on the attendance by the director concerned to the board meetings held for the last twelve (12) months covering the term of service, indicating percentage of attendance to board meetings 	

¹ E.g., Heads of internal Audit, risk management and compliance functions and other officers with rank of senior vice-president and above (or equivalent ranks) of an ODPS.

² Authorized signatory is the Chief Executive Officer (CEO) of the institution, except for appointments of CEOs, in which case the authorized signatory shall be the Chairman of the Corporate Governance Committee or of the board of directors, as may be applicable.

Appendix to Section 212 on Bio-data of Directors and Officers

DEADLINE: 20 business days from the annual election of the board of directors/trustees
 SUBMISSION: Original copy to the appropriate oversight department of the Bangko Sentral

(Name of Operator of Payment System)

List of Members of the Board of Directors and Officers

As of _____

Name	Position	Department (if applicable)
Directors:		
Officers with rank of senior vice-president and above (or equivalent rank):		
Officers below the rank of senior vice president:		

REPUBLIC OF THE PHILIPPINES
 (_____) S.S.

I solemnly swear that all matters set forth in this report are true and correct, to the best of my knowledge and belief.

 (Signature of Authorized Signatory)

SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of ____ 20__, affiant exhibiting to me his/her (valid identification document) No. ____ issued at _____ on _____ 20__.

 Notary Public
 Until December 31, 20____
 PTR No. _____
 Place _____

Doc No. _____
 Page No. _____
 Book No. _____
 Series of _____

**AUTHORIZATION FORM FOR QUERYING THE BANGKO SENTRAL RECORDS FOR
SCREENING APPLICANTS AND CONFIRMING APPOINTMENTS OF DIRECTORS
AND OFFICIALS
(Appendix to Section 209 on Watchlisting)**

A U T H O R I Z A T I O N

I, _____ after being sworn in accordance with law, do hereby authorize the following, pursuant to the provisions of Section 209 of the Manual of Regulations for Payment Systems (MORPS):

- a) (Name of Operator of Payment System), to conduct a background investigation on myself relative to my application for or appointment to the position of (position) in (Name of Operator of Payment System) which includes, among others, inquiring from the Watchlist Files of the Bangko Sentral; and
- b) The Bangko Sentral to disclose its findings pertinent to the aforementioned inquiry on its records, including the Watchlist Files to (Name of Operator of Payment System).

With the above authorization, I hereby waive my right to the confidentiality of the information that will be obtained as a result of the said inquiry, provided that disclosure of said information will be limited for the purpose of ascertaining my qualification or non-qualification for the said position.

IN WITNESS WHEREOF, I have hereunto set my hand this (Date of Undertaking).

(Signature Over Printed Name)

SIGNED IN THE PRESENCE OF:

WITNESS

WITNESS

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES }

____CITY }

BEFORE ME, this ____ day of _____ 20__ in _____ personally appeared
the following person:

Name	Community Tax Certificate	Place	Date
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known to me to be the same person who executed the foregoing instrument and he
acknowledged to me to be the same person who executed the foregoing instrument and he
acknowledged to me that the same is his free act and deed.

This instrument, consisting of two (2) pages, including the page on which this
acknowledgment is written, has been signed on the left margin of each and every page thereof
by ____, and his witnesses, and sealed with my notarial seal.

IN WITNESS WHEREOF, I have hereunto set my hand, the day, year and place above
written.

Notary Public

Doc. No.: _____
Page No.: _____
Book No.: _____
Series of 2 _____