MANUAL OF REGULATIONS

FOR NON-BANK FINANCIAL INSTITUTIONS

Volume 2

FOREWORD

The *2009 Manual of Regulations for Non-Bank Financial Institutions* (MORNBFI) is an updated compilation of regulations and policies issued by the Bangko Sentral ng Pilipinas (BSP) for financial institutions under its supervision. Available in hard and soft copies, it is a convenient reference and guide for said financial institutions in the conduct of their operations.

The updated MORNBFI incorporates regulatory policies issued to align banking practices on risk management, good corporate governance, and capital adequacy, accounting and reporting with international standards. It also includes rules implementing legislative reform measures, the more significant of which are the *General Banking Law of 2000*, the *Anti-Money Laundering Act of 2001* and the *Special Purpose Vehicle Act of 2002*.

In providing easy access to this information, the updated MORNBFI seeks to facilitate compliance with the supervisory and regulatory requirements of BSP that will contribute to the enhancement of its partnership with financial institutions under its supervision, and ultimately to the strengthening of the Philippine Banking System and the economy.

AMANDO M. TETANGCO, JR.
Governor

PREFACE
(2009 Edition)

The 2009 Manual of Regulations for Non-Bank Financial Institutions (MORNBFI) is the latest updated edition from the initial issuance in 1996 . The updates consist of the significant policy developments and changes in statutory laws. It shall serve as the principal source of banking regulations issued by the Monetary Board and the Governor of the BSP and shall be cited as the authority for enjoining compliance with the rules and regulations embodied therein.

To accomplish the work of proposing revision to the Old Manual, the Monetary Board of the BSP, in its Resolution No. 1203 dated December 7, 1994, directed the creation of a multi-departmental Ad Hoc Review Committee. The Committee was officially constituted under Office Order No. 2 Series of 1995 and was reconstituted several times thereafter. Under the aforesaid office order, the Committee is tasked to update the Manuals on a continuing basis (i) to incorporate relevant issuances (ii) propose revision/deletion of provisions which have become obsolete, redundant, irrelevant or inconsistent with laws/regulations (iii) reformulate provisions as the need arises and (iv) oversee printing of the Manuals/ Updates in coordination with the Corporate Affairs Office.

The present Committee, as reconstituted under Office Order No. 430, Series of 2007 dated 08 June 2007, is composed of: Mr. Alberto A. Reyes, Director, Central Point of Contact Department (CPCD) II, Chairman; Atty. Magdalena D. Imperio, Deputy Director, Office of the General Counsel and Legal Services (OGCLS), Vice Chairman; Ms. Ma. Corazon T. Alva, Acting Deputy Director, Examination Department (ED) I; Ms. Ma. Belinda G. Caraan, Acting Deputy Director/Head, Financial Consumer Affairs Group (FCAG); Atty. Lord Eileen S. Tagle, Legal Officer III, OGCLS; Ms. Maria Cynthia M. Sison, Bank Officer IV, Office of the Supervisory Policy Development (OSPD); Ms. Concepcion A. Garcia, Bank Officer IV, OSPD; Atty. Florabelle S. Madrid, Manager, CPCD I, members; and Mr. Nestor A. Espenilla, Jr., Deputy Governor, Supervision and Examination Sector, Adviser.

The Committee Secretariat is composed of Ms. Celedina P. Garbosa, Acting Manager, CPCD II, Head; Ms. Ma. Corazon B. Bilgera, Bank Officer II, OSPD; Ms. Ma. Cecilia U. Contreras, Supervision and Examination Specialist I, CPCD II, members.

The Bangko Sentral ng Pilipinas

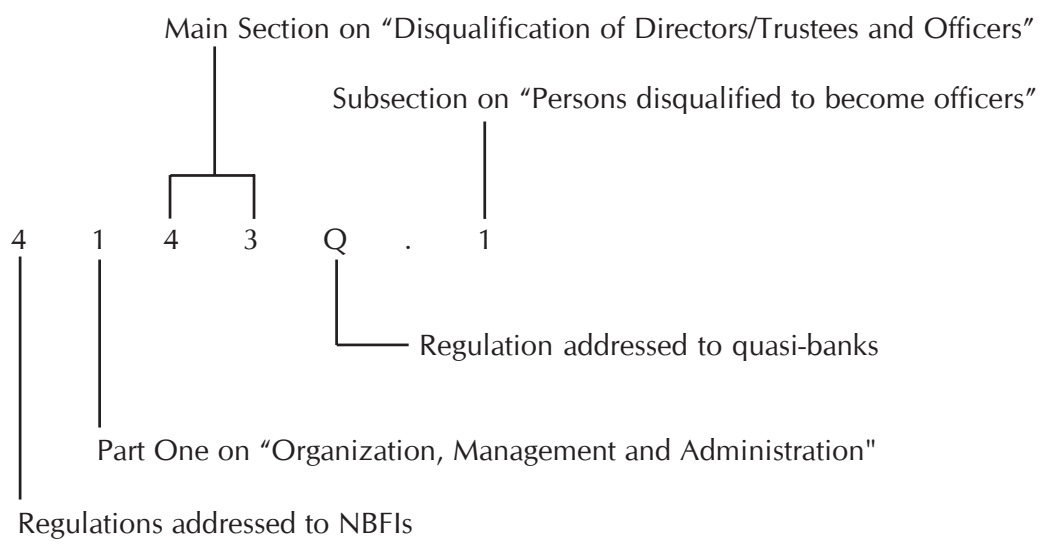
INSTRUCTIONS TO USERS
(2009 Edition)

The Manual of Regulations for Non-Bank Financial Institutions (the "Manual") contains the rules and regulations which govern non-bank financial institutions (NBFIs) subject to the supervision of the Bangko Sentral ng Pilipinas (BSP) under existing laws, i.e. : Quasi-banks (Q Regulations), NSSLAs (S Regulations), Pawnshops (P Regulations), and other NBFIs, trust entities, subsidiaries and affiliates of banks and quasi-banks (N Regulations).

The Manual is divided into four (4) books Q, S, P or N. Each book is divided into parts. Each part is divided into sections containing four (4) digits and the letter Q, S, P or N, as applicable, i.e., 4143Q. The first digit "4" means that the regulation is applicable to NBFIs; the second digit "1" refers to the Part number, and the third and fourth digits "4" and "3" refer to the section number.

Sections may contain subsections represented by number/s after the decimal point, i.e., 4143Q.1.

To illustrate, Subsection 4143Q.1 indicates:



The runners in the upper-right or left hand corners of each page show the sections/ subsections of the regulations and the cut-off date of the regulatory issuances included in the page of the Manual where the runner is shown.

S REGULATIONS
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PART ONE

ORGANIZATION, MANAGEMENT AND ADMINISTRATION

A. SCOPE OF AUTHORITY

Section 4101S Scope of Authority of Non-Stock Savings and Loan Associations
An NSSLA shall include any non-stock, non-profit corporation engaged in the business of accumulating the savings of its members and using such accumulations for loans to members to service the needs of households by providing long-term financing for home building and development and for personal finance. An NSSLA may also engage in a death benefit program meant exclusively for the benefit of its members.

An NSSLA shall accept deposits from and grant loans to its members only and shall not transact business with the general public.

§ 4101S.1 *Membership*

a. NSSLAs shall issue a certificate of membership to every qualified member and shall maintain a registry of their members.

b. An NSSLA shall confine its membership to a well-defined group of persons.

A *well-defined group* shall consist of any of the following:

(1) Employees, officers, and trustees of one company, including member-retirees;

(2) Government employees belonging to the same office, branch, or department, including member-retirees; and

(3) Immediate members of the families up to the second degree of consanguinity or affinity of those falling under Items "*(1)*" and "*(2)*" above.

NSSLAs whose articles of incorporation and by-laws were approved and registered prior to the effectivity of R. A. No. 8367 and which limit and/or allow membership coverage broader or narrower than the foregoing definition, shall be allowed to continue as such.

The Monetary Board may, as circumstances warrant, require NSSLAs mentioned in the immediately preceding paragraph to amend their by-laws to comply with the concept of a *well-defined group*.

c. In no case shall the total amount of entrance fees exceed one percent (1%) of the amount to be contributed or otherwise paid-in by the particular member: *Provided,* That for new members, the fee shall be based on the amount of contributions computed in accordance with the revaluation of the assets of the NSSLA.

§ 4101S.2 *Organizational requirements*[1]

a. *Articles of Incorporation; by-laws* The articles of incorporation and by-laws of a proposed NSSLA, or any amendment thereto, shall not be registered with the SEC unless accompanied by a certificate of approval from the Monetary Board.

b. *Application for approval*. The articles of incorporation and by-laws of a proposed NSSLA, both accomplished in the prescribed forms, shall be submitted to the Monetary Board through the appropriate department of the SES together with a covering application for the approval thereof, signed by a majority of the board of trustees and verified by one of them. The application shall include:

(1) The proposed articles of incorporation and by-laws together with the names and addresses of the incorporators, trustees and officers, with a statement of their character, experience,and general fitness to engage in the non-stock savings and loan business;

[1] See SEC Circular No. 3 dated 16 February 2006.

(2) An itemized statement of the estimated receipts and expenditures of the proposed NSSLA for the first year;

(3) Filing fee of P1,000; and

(4) Such other information as the Monetary Board may require.

c. *Grounds for disapproval of application*. The Monetary Board may deny the application to organize an NSSLA on the basis of a finding that:

(1) The NSSLA is being organized for any purpose other than to engage in the business of a legitimate NSSLA;

(2) The NSSLA's financial program is unsound;

(3) The proposed members are adequately served by one (1) or more existing NSSLAs; and

(4) There exist other reasons which the Monetary Board may consider as sufficient ground for such disapproval.

d. *Certificate of authority to operate; revocation or suspension thereof*. NSSLAs, prior to transacting business, shall procure a certificate of authority to transact business from the Monetary Board. After due notice and hearing, the Monetary Board may revoke or suspend, for such period as it determines, the certificate of authority of any NSSLA, the solvency of which is imperiled by losses or irregularities, or of any NSSLA which willfully violates any provision of R. A. No. 8367, these rules or any pertinent law or regulation.

(As amended by CL-2008-078 dated 15 December 2008)

Secs. 4102S - 4105S (Reserved)

B. CAPITALIZATION

Sec. 4106S Capital. NSSLAs established after 14 August 2001, shall have a minimum capital contribution of at least P1.0 million. The minimum capital contribution requirement shall also apply to all pending applications to establish NSSLAs received prior to 14 August 2001.

Members who have contributed P1,000 or more to the capital of an NSSLA may increase their capital contribution. Partial withdrawal from the amount paid by a member as capital contribution, during his membership, may be allowed unless the by laws of the NSSLA provide otherwise, and subject to such rules and regulations as the Monetary Board may prescribe in the matter of such withdrawal of capital contribution. However, in no case, shall such partial withdrawal diminish the member's capital contribution to less than P1,000.

Members of NSSLAs may participate in the profits of the NSSLA on the basis of their respective capital contributions on the date distribution of net income is approved by its board of trustees.

(As amended by Circular No. 573 dated 22 June 2007)

§ 4106S.1 *Revaluation surplus.* In cases of both retiring and new members, a revaluation surplus shall be added to their contributions by imputing their respective proportionate shares in the withdrawable share reserve and the reserve for furniture, fixtures, and furnishings.

Secs. 4107S - 4110S (Reserved)

C. (RESERVED)

Secs. 4111S - 4115S (Reserved)

D. NET WORTH-TO-RISK ASSETS RATIO

Sec. 4116S Capital-to-Risk Assets. The combined capital accounts of each NSSLA shall not be less than an amount equal to ten percent (10%) of its risk assets which is defined as its total assets minus the following assets:

a. Cash on hand;

b. Evidences of indebtedness of the Republic of the Philippines and of the BSP and any other evidences of indebtedness/

obligations, the servicing and repayment of which are fully guaranteed by the Republic of the Philippines;

c. Loans to the extent covered by hold-out on, or assignment of, deposits maintained in the lending NSSLA and held in the Philippines;

d. Office premises, depreciated;

e. Furniture, fixtures and equipment, depreciated;

f. Real estate mortgage loans insured by the Home Guarantee Corporation to the extent of the amount of the insurance; and

g. Other non-risk items as the Monetary Board may, from time to time, authorize to be deducted from total assets.

The Monetary Board shall prescribe the manner of determining the total assets of such NSSLA for the purpose of this Section, but contingent accounts shall not be included among total assets.

Whenever the capital accounts of an NSSLA are deficient with respect to the preceding paragraph, the Monetary Board, after considering the report of the appropriate department of the SES on the state of solvency of the NSSLA concerned, shall limit or prohibit the distribution of net income and shall require that part or all of net income be used to increase the capital accounts of the NSSLA until the minimum requirement has been met. The Monetary Board may, after considering the aforesaid report of the appropriate department of the SES, and if the amount of the deficiency justifies it, restrict or prohibit the making of new investments of any sort by the NSSLA with the exception of the purchases of evidence of indebtedness included under Item *"b"* of this Section until the minimum required capital ratio has been restored.

(As amended by Circular No. 573 dated 22 June 2007)

Sec. 4117S Withdrawable Share Reserve NSSLAs shall create a withdrawable share reserve which shall consist of two percent (2%) of the total capital contributions of the members.

An amount corresponding to the withdrawable share reserve shall be set up by the NSSLA, such amount invested in bonds or evidences of indebtedness of the Republic of the Philippines or of its subdivisions, agencies or instrumentalities, the servicing and repayment of which are fully guaranteed by the Republic of the Philippines, and evidences of indebtedness of the BSP.

For a uniform interpretation of the provisions of this Section, the following shall serve as guidelines:

a. The withdrawable share reserve shall be set up from the undivided profits of the NSSLA and shall be funded in the form of cash deposited as a separate account and/or an investment allowed under this Section;

b. Should there be an increase in the capital contribution, the reserve shall be correspondingly adjusted at the end of each month from undivided profits, if any; and

c. The reserve shall be adjusted first before the NSSLA shall declare and distribute to its members any portion of its net income at any time of the year.

(As amended by Circular No. 573 dated 22 June 2007)

Sec. 4118S Surplus Reserve for Ledger Discrepancies. Whenever an NSSLA has a discrepancy between its general ledger accounts and their respective subsidiary ledgers, the board of trustees of the NSSLA shall set up from the undivided profits of the NSSLA, if any, a surplus reserve, in an amount equivalent to the amount of the discrepancy, and this reserve shall not be available for distribution to members or for any other purpose unless and until the discrepancy is accounted for. The board of trustees shall also direct the employee responsible for the discrepancy to account for said discrepancy: *Provided*, That the failure of the employee to do so shall

constitute as ground for his dismissal if the discrepancy is of serious or recurring nature.
(As amended by Circular Nos. 661 dated 01 September 2009 and 573 dated 22 June 2007)

Sec. 4119S Reserve for Office Premises, Furniture, Fixtures and Equipment. NSSLAs shall set aside five percent (5%) of their yearly net income until it amount to at least five percent (5%) of the total assets as a reserve for a building fund to cover the cost of construction or acquisition of office premises, and of the purchase of office furniture, fixtures and equipment.

An NSSLA which, as determined by its board of trustees, has adequate office premises, furniture, fixtures and equipment necessary for the conduct of its business need not set up the reserve: *Provided*, That this fact should be certified by its board of trustees in a resolution to be submitted to the appropriate department of the SES for verification and approval: *Provided, however*, That in case reserves had been set up, the NSSLA so exempted may revert the reserves to free surplus.
(As amended by Circular No. 573 dated 22 June 2007)

Sec. 4120S (Reserved)

E. (RESERVED)

Secs. 4121S - 4125S (Reserved)

F. NET INCOME DISTRIBUTION

Sec. 4126S Limitations on Distribution of Net Income

a. *Basis for participation in profits*. Member-depositors of an NSSLA may participate in the profits of the NSSLA on the basis of their capital contributions on the date distribution of net income to members is approved by its board of trustees/directors.

b. *Level of withdrawable share reserve*. No NSSLA shall distribute any of its net income to its members if the withdrawable share reserve required under Sec. 4117S is less than, or if by such distribution would be reduced below, the amount specified in said Section. The reserve shall be adjusted first before the NSSLA shall distribute its net income at any time of the year.

c. *Capital-to-risk assets ratio*. NSSLAs shall not distribute any of its net income to their members if their capital-to-risk assets ratio is below the level required under Sec. 4116S.

d. *Discrepancies between general ledger and subsidiary ledger accounts*. The surplus reserves set up as required under Sec. 4118S shall not be reverted to free surplus for distribution to members unless and until the discrepancy between the general ledger accounts and their respective subsidiary ledgers for which the surplus reserve has been set up ceases to exist.

e. *Other unbooked capital adjustments required by BSP, whether or not allowed to be set up on a staggered basis*. The unbooked valuation reserves and other unbooked capital adjustments required by the BSP, whether or not allowed to be set up on a staggered basis, shall be deducted from the amount of net income available for distribution to members.

f. *Interest and other income earned but not yet collected/received, net of reserve for uncollected interest on loans* Accrued interest and other income not yet received but already recorded by an NSSLA, net of allowance for uncollected interest on loans, shall be deducted from the amount of net income available for distribution to members.
(As amended by Circular No. 573 dated 22 June 2007

§ 4126S.1 ***Reporting and verification*** Declaration of income for distribution to members shall be reported by an NSSLA concerned to the appropriate department of the SES in the prescribed form (Revised BSP Form No. 7-26-25H) within ten (10) business days after date of declaration.

Pending verification of above-mentioned report by the appropriate department of the SES, the NSSLA concerned shall not make any announcement or communication on the intended distribution of net income nor shall any actual distribution be made thereon.

In any case, the declaration may be announced and the income distributed, if after twenty (20) business days from the date of the report required herein shall have been received by the BSP, no advice against such distribution has been received by the NSSLA concerned.

(As amended by Circular Nos. 661 dated 01 September 2009 and 573 dated 22 June 2007)

§ 4126S.2 *Recording of net income for distribution.* The liability for members' share in the net income distribution shall be taken up in the books upon receipt of BSP approval thereof, or if no such approval is received, after twenty (20) business days from the date the required Report on Distributable Net Income was received by the appropriate department of the SES whichever comes earlier. A memorandum entry may be made to trustees and for full disclosure purposes, the amount of income for distribution may be disclosed in the financial statements by means of a footnote which should include a statement to the effect that the distribution is subject to review by the BSP.

(As amended by Circular No. 573 dated 22 June 2007)

Secs. 4127S - 4140S (Reserved)

G. TRUSTEES, OFFICERS, EMPLOYEES AND AGENTS

Sec. 4141S Definition; Qualifications; Responsibilities and Duties of Trustees For purposes of this Section, the following shall be the definition, qualifications, responsibilities and duties of trustees.

§ 4141S.1 *Definition of trustees* Trustees shall include: (a) those who are named as such in the articles of incorporation; (b) those duly elected in subsequent meetings of the NSSLA's members; and (c) those elected to fill vacancies in the board of trustees.

§ 4141S.2 *Qualifications of trustees* No person shall be eligible as trustee of an NSSLA unless he is a member of good standing of such NSSLA.

In addition, such person shall have the qualifications and none of the disqualifications as provided in pertinent laws and BSP rules.

A trustee shall have the following minimum qualifications:

a. He shall be at least twenty-five (25) years of age at the time of his election/ appointment;

b. He shall be at least a college graduate or have at least five (5) years experience in business, or shall have undergone any BSP training in NSSLA or banking operations: *Provided, however,* That undergraduates eligible to be elected as trustees in the NSSLA's by-laws may be allowed as may be approved by the Monetary Board;

c. He must have attended a special seminar on corporate governance for board of trustees conducted or accredited by the BSP; and

d. He must be fit and proper for the position of a trustee of the NSSLA. In determining whether a person is fit and proper for the position of a trustee, the following matters must be considered: integrity/probity, competence, education, diligence, and experience/training.

The foregoing qualifications for trustees shall be in addition to those already required or prescribed by R.A. No. 8367, as amended, and other existing applicable laws and regulations.

§ 4141S.3 *Powers and authority of the board of trustees.* The corporate powers of an NSSLA shall be exercised, its business conducted, and all its property shall be

controlled and held by its board of trustees. The powers of the board of trustees as conferred by law are original and cannot be revoked by the members. The trustees hold their office charged with the duty to act for the NSSLA in accordance with their best judgment.

§ 4141S.4 ***General responsibility of the board of trustees.*** The position of an NSSLA trustee is a position of trust. A trustee assumes certain responsibilities to different constituencies or stakeholders (e.g., the NSSLA itself, its member-depositors and other creditors, its management and employees and the public at large). These constituencies or stakeholders have the right to expect that the institution is being run in a prudent and sound manner.

The board of trustees is primarily responsible for the corporate governance of the NSSLA. To ensure good governance of the NSSLA, the board of trustees should establish strategic objectives, policies and procedures that will guide and direct the activities of the NSSLA and the means to attain the same as well as the mechanism for monitoring management's performance. While the management of the day-to-day affairs of the institution is the responsibility of the management team, the board of trustees is, however, responsible for monitoring and overseeing management action.

§ 4141S.5 ***Duties and responsibilities of the board of trustees.*** To ensure prudent and efficient administration of NSSLAs, the following guidelines shall govern the responsibilities and duties of the board of trustees of NSSLAs:

a. *Specific duties and responsibilities of the board of trustees*

(1) *To select and appoint officers who are qualified to administer the NSSLA affairs effectively and soundly and to establish adequate selection process for all personnel.* It is the primary responsibility of the board of trustees to appoint competent management team at all times. The board of trustees should apply fit and proper standards on key personnel. Integrity, technical expertise and experience in the institution's business, either current or planned, should be the key considerations in the selection process. And because mutual trust and a close working relationship are important, the board of trustees' choice should share its general operating philosophy and vision for the institution. The board of trustees shall establish an appropriate compensation package for all personnel which shall be consistent with the interest of all stakeholders.

(2) *To establish objectives and draw up a business strategy for achieving them.* Consistent with the institution's objectives, business plans should be established to direct its on-going activities. The board of trustees should ensure that performance against plan is regularly reviewed, with corrective action taken as needed.

(3) *To conduct the affairs of the institution with high degree of integrity.* Since reputation is a very valuable asset, it is in the institution's best interest that in dealings with its members, it observes a high standard of integrity. The board of trustees should prescribe corporate values, codes of conduct and other standards of appropriate behavior for itself, the senior management and other employees. Among other matters, activities and transactions that could result or potentially result in conflict of interest, personal gain at the expense of the institution, or unethical conduct shall be strictly prohibited. It shall provide policies that will prevent the use of the facilities of the NSSLA in furtherance of criminal and other illegal activities.

(4) *To prescribe a clear assignment of responsibilities and decision-making authorities, incorporating a hierarchy of*

required approvals from individuals to the board of trustees. The board of trustees shall establish in writing the limits of the discretionary powers of each officer, committee, sub-committee and such other group for the purpose of lending, investing or committing the NSSLA to any financial undertaking or exposure to risk at any time. The board of trustees shall have a schedule of matters and authorities reserved to it for decision, such as major capital expenditures, equity investments and divestments.

(5) *To effectively supervise the NSSLA's affairs*. The board of trustees shall establish a system of checks and balances which applies in the first instance to the board itself. Among the members of the board, an effective system of checks and balances must exist. The system shall also provide a mechanism for effective check and control by the board of trustees over the chief executive officer and key managers and by the latter over the line officers of the NSSLA.

(6) To monitor, assess and control the performance of management. The board of trustees shall put in place an appropriate reporting system so that it is provided with relevant and timely information to be able to effectively assess the performance of management. For this purpose, it may constitute a governance committee.

(7) *To adopt and maintain adequate risk management policy*. The board of trustees shall be responsible for the formulation and maintenance of written policies and procedures relating to the management of risks throughout the institution. The risk management policy shall include:

(a) a comprehensive risk management approach;

(b) a detailed structure of limits, guidelines and other parameters used to govern risk-taking;

(c) a clear delineation of lines of responsibilities for managing risk;

(d) an adequate system for measuring risk; and

(e) effective internal controls and a comprehensive risk-reporting process.

The board of trustees may constitute a committee for this purpose.

(8) *To constitute the Audit Committee*. The Audit Committee shall be composed of trustees, preferably with accounting and finance experience. Said audit committee provides oversight of the institution's internal and external auditors. It shall be responsible for the setting up of the internal audit department and for the appointment of the internal auditor as well as the independent external auditor. It shall monitor and evaluate the adequacy and effectiveness of the internal control system.

(9) *To meet regularly*. To properly discharge its function, the board of trustees shall meet regularly. Independent views in board meetings shall be given full consideration and all such meetings shall be duly minuted.

(10) *To keep the individual members of the board and the members informed*. It is the duty of the board of trustees to present to all its members and to the stakeholders a balanced and understandable assessment of the NSSLA's performance and financial condition. It should also provide appropriate information that flows internally and to the public. All members of the board shall have reasonable access to any information about the institution.

(11) *To ensure that the NSSLA has beneficial influence on the economy*. The board of trustees has a continuing responsibility to provide those services and facilities which will be supportive of the national economy.

(12) *To assess at least annually its performance and effectiveness as a body, as well as its various committees, the chief executive officer and the NSSLA itself*. The composition of the board of trustees shall also be reviewed regularly with the end in

view of having a balanced membership. Towards this end, a system and procedure for evaluation shall be adopted which may include, but not limited to, the setting of benchmark and peer group analysis.

(13) *To keep their authority within the powers of the institution as prescribed in the articles of incorporation, by-laws and in existing laws, rules and regulations*. To conduct and maintain the affairs of the institution within the scope of its authority as prescribed in its charter and in existing laws and regulations, the board of trustees shall appoint a compliance officer who shall be responsible for coordinating, monitoring and facilitating compliance with existing laws and regulations. The compliance officer shall be vested with appropriate authority and provided with appropriate support and resources. It may also constitute a compliance committee.

b. *Specific duties and responsibilities of a trustee*

(1) *To conduct fair business transactions with the NSSLA and to ensure that personal interest does not bias board decisions*. Trustees should, whenever possible, avoid situations that would give rise to a conflict of interest. If transactions with the institution cannot be avoided, it should be done in the regular course of business and upon terms not less favorable to the institution than those offered to others. The basic principle to be observed is that a trustee should not use his position to make profit or to acquire benefit or advantage for himself and/or his related interests. He should avoid situations that would compromise his impartiality.

(2) *To act honestly and in good faith, with loyalty and in the best interest of the NSSLA, its members, regardless of the amount of their capital contributions, and creditors, if any*. A trustee must always act in good faith, with the care which an ordinarily prudent man would exercise under similar circumstances. While a trustee should always strive to promote the interest of all members, he shall also give due regard to the rights and interests of other stakeholders.

(3) *To devote time and attention necessary to properly discharge their duties and responsibilities*. Trustees shall devote sufficient time to familiarize themselves with the institution's business. They must be constantly aware of the institution's condition and be knowledgeable enough to contribute meaningfully to the board's work. They must attend and actively participate in board and committee meetings, request and review meeting materials, ask questions and request explanations. If a person cannot give sufficient time and attention to the affairs of the institution, he shall neither accept his nomination nor run for election as member of the board of trustees.

(4) *To act judiciously*. Before deciding on any matter brought before the board of trustees, every trustee should thoroughly evaluate the issues, ask questions and seek clarifications when necessary.

(5) *To exercise independent judgment*. A trustee should view each problem/ situation objectively. When a disagreement with others occurs, he should carefully evaluate the situation and state his position. He should not be afraid to take a position even though it might be unpopular. Corollarily, he should support plans and ideas that he thinks will be beneficial to the institution.

(6) *To have a working knowledge of the statutory and regulatory requirements affecting the NSSLA, including the content of its articles of incorporation and by-laws, the requirements of the BSP, and where applicable, the requirements of other regulatory agencies*.A trustee also keeps himself informed of the industry developments and business trends in order to safeguard the institution's competitiveness.

(7) *To observe confidentiality*. Trustees must observe the confidentiality of non-public information acquired by reason of their position as trustees. They may not disclose said information to any other person without the authority of the board.

Sec. 4142S Definition and Qualifications of Officers. Officers shall include the President, Vice-President, General Manager, Corporate Secretary, Treasurer and others mentioned as officers of the NSSLA, or whose duties as such are defined in the by-laws.

The minimum qualifications for trustees prescribed in Sec. 4141S are also applicable to officers.

§ 4142S.1 *Definition of officers* Officers shall include the president, executive vice president, senior vice president, vice president, general manager, secretary, treasurer, and others mentioned as officers of the NSSLA, or those whose duties as such are defined in the by-laws, or are generally known to be the officers of the NSSLA (or any of its branches and offices other than the head office) either through announcement, representation, publication or any kind of communication made by the NSSLA. A person holding the position of chairman, vice-chairman or any other position of the board who also performs functions of management such as those ordinarily performed by regular officers shall also be considered an officer.

§ 4142S.2 *Qualifications of officers* An officer shall have the following minimum qualifications:

a. He shall be at least twenty-one (21) years of age;

b. He shall be at least a college graduate or have at least five (5) years experience in NSSLA or banking operations or related activities or in a field related to his position and responsibilities, or have undergone training in NSSLA or banking operations acceptable to the appropriate department of the SES;

c. He must be fit and proper for the position of an officer of the NSSLA. In determining whether a person is fit and proper for the position of an officer, the following matters must be considered: integrity/probity, competence, education, diligence, and experience/training. The foregoing qualifications for officers shall be in addition to those already required or prescribed by R.A. No. 8367, as amended, and other existing applicable laws and regulations.

Sec. 4143S Disqualification of Trustees and Officers. The following regulations shall govern the disqualification of NSSLAs' trustees and officers.

§ 4143S.1 *Persons disqualified to become trustees.* Without prejudice to specific provisions of law prescribing disqualifications for trustees, the following are disqualified from becoming trustees:

a. *Permanently disqualified*. Trustees/officers/employees permanently disqualified by the Monetary Board from holding a director/trustee position:

(1) Persons who have been convicted by final judgment of a court for offenses involving 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, violation of Anti- Graft and Corrupt Practices 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);

(2) Persons who have been convicted by final judgment of a court sentencing them to serve a maximum term of imprisonment of more than six (6) years;

(3) Persons who have been convicted by final judgment of the court for violation of banking/quasi-banking/NSSLA laws, rules and regulations;

(4) Persons who have been judicially declared insolvent, spendthrift or incapacitated to contract;

(5) Trustees, officers or employees of closed banks/QBs/trust entities who were found to be culpable for such institution's closure as determined by the Monetary Board;

(6) Trustees and officers of banks, QBs and trust entities found by the Monetary Board as administratively liable for violation of banking laws, rules and regulations where a penalty of removal from office is imposed, and which finding of the Monetary Board has become final and executory; or

(7) Trustees and officers of banks, QBs and trust entities or any person found by the Monetary Board to be unfit for the position of trustees or officers because they were found administratively liable by another government agency for violation of banking laws, rules and regulations or any offense/violation involving dishonesty or breach of trust, and which finding of said government agency has become final and executory.

b. *Temporarily disqualified*. Trustees/officers/employees disqualified by the Monetary Board from holding a trustee position for a specific/indefinite period of time. Included are:

(1) Persons who refuse to fully disclose the extent of their business interest or any material information to the appropriate department of the SES when required pursuant to a provision of law or of a circular, memorandum, rule or regulation of the BSP. This disqualification shall be in effect as long as the refusal persists;

(2) Trustees who have been absent or who have not participated for whatever reasons in more than fifty percent (50%) of all meetings, both regular and special, of the board of trustees during their incumbency, and trustees who failed to physically attend for whatever reasons in at least twenty-five percent (25%) of all board meetings in any year, except that when a notarized certification executed by the corporate secretary has been submitted attesting that said trustees were given the agenda materials prior to the meeting and that their comments/decisions thereon were submitted for deliberation/discussion and were taken up in the actual board meeting, said trustees shall be considered present in the board meeting. This disqualification applies only for purposes of the immediately succeeding election;

(3) Persons who are delinquent in the payment of their obligations as defined hereunder:

(a) *Delinquency in the payment of obligations* means that an obligation of a person with an NSSLA where he/she is a trustee or officer, or at least two (2) obligations with other banks/FIs, under different credit lines or loan contracts, are past due pursuant to existing regulations;

(b) Obligations shall include all borrowings from a bank/QB/trust entity/NSSLA/other FIs obtained by:

(i) A trustee or officer for his own account or as the representative or agent of others or where he/she acts as a guarantor, endorser or surety for loans from such FIs;

(ii) The spouse or child under the parental authority of the trustee or officer;

(iii) Any person whose borrowings or loan proceeds were credited to the account of, or used for the benefit of a trustee or officer;

(iv) A partnership of which a trustee or officer, or his/her spouse is the managing partner or a general partner owning a controlling interest in the partnership; and

(v) A corporation, association or firm wholly-owned or majority of the capital of which is owned by any or a group of persons

mentioned in the foregoing Items *"(i)", "(ii)"* and *"(iv)"*;

This disqualification shall be in effect as long as the delinquency persists.

(4) Persons who have been convicted by a court for offenses involving 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, violation of Anti-Graft and Corrupt Practices 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), violation of banking laws, rules and regulations or those sentenced to serve a maximum term of imprisonment of more than six (6) years but whose conviction has not yet become final and executory;

(5) Trustees and officers of closed banks QBs/trust entities/NSSLAs and other FIs under BSP supervision/regulation pending their clearance by the Monetary Board;

(6) Trustees disqualified for failure to observe/discharge their duties and responsibilities prescribed under existing regulations. This disqualification applies until the lapse of the specific period of disqualification or upon approval by the Monetary Board on recommendation by the appropriate department of the SES of such trustees' election/re-election;

(7) Trustees who failed to attend the special seminar on corporate governance for board of trustees required by BSP. This disqualification applies until the trustee concerned had attended such seminar;

(8) Persons dismissed/terminated from employment for cause. This disqualification shall be in effect until they have cleared themselves of involvement in the alleged irregularity or upon clearance, on their request, from the Monetary Board after showing good and justifiable reasons, or after the lapse of five (5) years from the time they were officially advised by the appropriate department of the SES of their disqualification;

(9) Those under preventive suspension;

(10) Persons with derogatory records as certified by, or on the official files of, the judiciary, NBI, PNP, quasi-judicial bodies, other government agencies, international police, monetary authorities and similar agencies or authorities of foreign countries for irregularities or violations of any law, rules and regulations that would adversely affect the integrity of the trustee/officer or the ability to effectively discharge his duties. This disqualification applies until they have cleared themselves of the alleged irregularities/violations or after a lapse of five (5) years from the time the complaint, which was the basis of the derogatory record, was initiated;

(11) Trustees and officers of banks, QBs and trust entities found by the Monetary Board as administratively liable for violation of banking laws, rules and regulations where a penalty of removal from office is imposed, and which finding of the Monetary Board is pending appeal before the appellate court, unless execution or enforcement thereof is restrained by the court;

(12) Trustees and officers of banks, QBs and trust entities or any person found by the Monetary Board to be unfit for the position of trustees or officers because they were found administratively liable by another government agency for violation of banking laws, rules and regulations or any offense violation involving dishonesty or breach of trust, and which finding of said government agency is pending appeal before the appellate court, unless execution or enforcement thereof is restrained by the court; and

(13) Trustees and officers of banks, QBs and trust entities found by the Monetary Board as administratively liable for violation of banking laws, rules and regulations where a penalty of suspension from office

or fine is imposed, regardless whether the finding of the Monetary Board is final and executory or pending appeal before the appellate court, unless execution or enforcement thereof is restrained by the court. The disqualification shall be in effect during the period of suspension or so long as the fine is not fully paid.

(As amended by Circular Nos. 584 dated 28 September 2007 and 513 dated 10 February 2006)

§ 4143S.2 ***Persons disqualified to become officers***

a. The disqualifications for trustees mentioned in Subsec. 4143S.1 shall likewise apply to officers, except those stated in Items *"b(2)"* and *"b(7)"*.

b. Except as may be authorized by the Monetary Board or the Governor, the spouse or a relative within the second degree of consanguinity or affinity of any person holding the position of chairman, vice chairman, president, executive vice president or any position of equivalent rank, general manager, treasurer, chief cashier or chief accountant is disqualified from holding or being elected or appointed to any of said positions in the same NSSLA; and the spouse or relative within the second degree of consanguinity or affinity of any person holding the position of manager, cashier, or accountant of a branch or office of an NSSLA is disqualified from holding or being appointed to any of said positions in the same branch or office;

c. Except as may otherwise be allowed under C.A. No. 108, otherwise known as "The Anti-Dummy Law," as amended, foreigners cannot be officers or employees of NSSLAs; and

d. Any appointive or elective public official, whether full time or part time, except in cases where such service is incident to financial assistance provided by the government or GOCCs or in cases allowed under existing law.

§ 4143S.3 ***Disqualification procedures***

a. The board of trustees and management of every NSSLAs shall be responsible for determining the existence of the ground for disqualification of the NSSLA's trustee/officer or employee and for reporting the same to the BSP. While the concerned NSSLA may conduct its own investigation and impose appropriate sanction/s as are allowable, this shall be without prejudice to the authority of the Monetary Board to disqualify a trustee officer/employee from being elected appointed as trustee/officer in any FI under the supervision of the BSP. Grounds for disqualification made known to the NSSLA shall be reported to the appropriate department of the SES within seventy-two (72) hours from knowledge thereof.

b. On the basis of knowledge and evidence on the existence of any of the grounds for disqualification mentioned in Subsecs. 4143S.1 and 4143S.2, the trustee or officer concerned shall be notified in writing either by personal service or through registered mail with registry return receipt card at his/her last known address by the appropriate department of the SES of the existence of the ground for his/her disqualification and shall be allowed to submit within fifteen (15) calendar days from receipt of such notice an explanation on why he/she should not be disqualified and included in the watchlisted file, together with the evidence in support of his/her position. The head of said department may allow an extension on meritorious ground.

c. Upon receipt of the reply/explanation of the trustee/officer concerned, the appropriate department of the SES shall proceed to evaluate the case. The trustee/officer concerned shall be afforded the opportunity to defend/clear himself/herself.

d. If no reply has been received from the trustee/officer concerned upon the

expiration of the period prescribed under Item *"b"* above, said failure to reply shall be deemed a waiver and the appropriate department of the SES shall proceed to evaluate the case based on available records/ evidence.

e. If the ground for disqualification is delinquency in the payment of obligation, the concerned trustee or officer shall be given a period of thirty (30) calendar days within which to settle said obligation or, restore it to its current status or, to explain why he/she should not be disqualified and included in the watchlisted file, before the evaluation on his disqualification and watchlisting is elevated to the Monetary Board.

f. For trustees/officers of closed QBs, trust entities, NSSLAs or other FIs under BSP supervision, the concerned department of the SES shall make appropriate recommendation to the Monetary Board clearing said trustees/officers when there is no pending case/complaint or evidence against them. When there is evidence that a trustees/officer has committed irregularity, the appropriate department of the SES shall make recommendation to the Monetary Board that his/her case be referred to the OSI for further investigation and that he/she be included in the masterlist of temporarily disqualified persons until the final resolution of his/her case. Trustees/officers with pending cases/complaints shall also be included in said masterlist of temporarily disqualified persons upon approval by the Monetary Board until the final resolution of their cases. If the trustee/officer is cleared from involvement in any irregularity, the appropriate department of the SES shall recommend to the Monetary Board his/her delisting. On the other hand, if the trustee officer concerned is found to be responsible for the closure of the institution, the concerned department of the SES shall recommend to the Monetary Board his/her delisting from the masterlist of temporarily disqualified persons and his/her inclusion in the masterlist of permanently disqualified persons.

g. If the disqualification is based on dismissal from employment for cause, the appropriate department of the SES shall, as much as practicable, endeavor to establish the specific acts or omissions constituting the offense or the ultimate facts which resulted in the dismissal to be able to determine if the disqualification of the trustee/officer concerned is warranted or not. The evaluation of the case shall be made for the purpose of determining if disqualification would be appropriate and not for the purpose of passing judgment on the findings and decision of the entity concerned. The appropriate department of the SES may decide to recommend to the Monetary Board a penalty lower than disqualification (e.g., reprimand, suspension, etc.) if, in its judgment the act committed or omitted by the trustee/officer concerned does not warrant disqualification.

h. All other cases of disqualification, whether permanent or temporary shall be elevated to the Monetary Board for approval and shall be subject to the procedures provided in paragraphs *"a"*, *"b"*, *"c"* and *"d"* above.

i. Upon approval by the Monetary Board, the concerned trustee/officer shall be informed by the appropriate department of the SES in writing either by personal service or through registered mail with registry return receipt card, at his/her last known address of his/her disqualification from being elected/ appointed as trustee/ officer in any FI under the supervision of BSP and/or of his/her inclusion in the masterlist of watchlisted persons so disqualified.

j. The board of trustees of the concerned institution shall be immediately informed of cases of disqualification approved by the Monetary Board and shall be directed to act thereon not later than the

following board meeting. Within seventy-two (72) hours thereafter, the corporate secretary shall report to the Governor of the BSP through the appropriate department of the SES the action taken by the board on the trustee/officer involved.

k. Persons who are elected or appointed as trustee or officer in any of the BSP supervised institutions for the first time but are subject to any of the grounds for disqualification provided for under Subsecs. 4143S.1 and 4143S.2, shall be afforded the procedural due process prescribed above.

l. Whenever a trustee/officer is cleared in the process mentioned under Item *"c"* above or, when the ground for disqualification ceases to exist, he/she would be eligible to become trustee or officer of any bank, QB, trust entity or any institution under the supervision of the BSP only upon prior approval by the Monetary Board. It shall be the responsibility of the appropriate department of the SES to elevate to the Monetary Board the lifting of the disqualification of the concerned trustee/ officer and his/her delisting from the masterlist of watchlisted persons.

(As amended by Circular No. 584 dated 28 September 2007)

§ 4143S.4 ***Effect of non-possession of qualifications or possession of disqualifications.*** Trustees/officers elected or appointed without possessing the qualifications in Subsecs. 4141S.2/4142S.2 or possessing any of the disqualifications as enumerated in Subsecs.4143S.1/4143S.2, shall vacate their respective positions immediately.

§ 4143S.5 ***(Reserved)***

§ 4143S.6 ***Watchlisting.*** To provide the BSP with a central information file to be used as reference in passing upon and reviewing the qualifications of persons elected or appointed as trustee or officer of an NSSLA, the SES shall maintain a watchlist of disqualified NSSLA trustees/ officers under the following procedures:

a. *Watchlist categories*. Watchlisting shall be categorized as follows:

(1) Disqualification File "A" (Permanent) - Trustees/officers/employees permanently disqualified by the Monetary Board from holding a trustee/officer position in any institution under the supervision/ regulation of BSP.

(2) Disqualification File "B" (Temporary) - Trustees/officers/employees temporarily disqualified by the Monetary Board from holding a trustee/officer position in any institution under the supervision/ regulation of BSP.

b. *Inclusion of trustees/officers/ employees in the watchlist*. Upon recommendation by the appropriate department of the SES, the inclusion of trustees/officers/employees in watchlist disqualification files *"A"* and *"B"* on the basis of decisions, actions or reports of the courts, banks, QBs, other NSSLAs and FIs under BSP supervision, BSP, NBI or any other administrative agencies shall first be approved by the Monetary Board.

c. *Notification of trustees/officers/ employees***.** Upon approval by the Monetary Board, the concerned trustee/officer/ employee shall be informed through registered mail, with registry return receipt card at his/her last known address of his/ her inclusion in the masterlist of watchlisted persons disqualified to be a trustee/officer in any FI under the supervision of the BSP.

d. *Confidentiality*. Watchlisting shall be for internal use only and may not be accessed or queried upon by outside parties including banks, QBs, trust entities, NSSLAs or other FIs under BSP supervision except with the authority of the person concerned and with the approval of the Deputy Governor, SES, or the Governor, or the Monetary Board.

The BSP will disclose information on its watchlist files only upon submission of a duly accomplished and notarized

authorization from the concerned person and approval of such request by the Deputy Governor, SES or the Governor or the Monetary Board. The prescribed authorization form to be submitted to the concerned department of the SES is in *Appendix Q-45*.

NSSLAs can gain access to information in the said watchlist for the sole purpose of screening their applicants for hiring and/or confirming their elected trustees and appointed officers. NSSLAs must obtain the said authorization on an individual basis.

e. *Delisting*. All delistings shall be approved by the Monetary Board upon recommendation of the appropriate department of the SES except in cases of persons known to be dead, where delisting shall be automatic upon proof of death and need not be elevated to the Monetary Board. Delisting may be approved by the Monetary Board in the following cases:

(1) Watchlist – Disqualification File "B" (Temporary) –

(a) After the lapse of the specific period of disqualification;

(b) When the conviction by the court for crimes involving dishonesty, breach of trust and/or violation of banking laws becomes final and executory, in which case the trustee/officer/employee is relisted to Watchlist – Disqualification File "A" (Permanent);

(c) Upon favorable decision or clearance by the appropriate body, i.e., court, NBI, bank, QB, trust entity or such other agency/body where the concerned individual had derogatory record. Trustees/officers/employees delisted from the Watchlist – Disqualification File "B" other than those upgraded to Watchlist – Disqualification File "A" shall be eligible for re-employment with any bank, QB, trust entity, NSSLA or other FI under BSP supervision.

(As amended by CL-2007-001 dated 04 January 2007 and CL-2006-046 dated 21 December 2006)

Sec. 4144S Compensation of Trustees, Officers and Employees. No trustee, officer or employee of an NSSLA shall receive from such NSSLA and no NSSLA shall pay to any trustee, officer, or employee of such NSSLA, any commission, emolument, gratuity or reward based on the volume or number of loans made, or based on the interest or fees collected thereon. Nothing in this Section, however, prohibits or limits any of the following:

a. Receipt or payment of salaries of trustees, officers and employees;

b. Receipt or payment of commissions to agents whether or not based on the volume or number of loans or on the interest and fees collected thereon; or

c. Receipt or payment of bonuses of trustees, officers or employees if such bonuses are based on the profits and not on the volume or number of loans made or on the interest or fees collected thereon.

§ 4144S.1 ***Compensation increases.*** All increases in compensation, in any form, of all trustees and trustee-officers in excess of ten percent (10%) thereof per annum shall require the approval of the BSP.

§ 4144S.2 ***Liability for loans contrary to law.*** No NSSLA shall make or purchase any loan or investment not authorized or permitted under R.A. No. 8367, and any trustee, officer or employee, who on behalf of any such NSSLA, knowingly makes or purchases any such loan or investment or who knowingly consents thereto shall be personally liable to the NSSLA for the full amount of any such loan or investment.

Sec. 4145S Bonding of Officers and Employees. All officers and employees of an NSSLA who, in the regular discharge of their duties have access to money or negotiable securities shall, before entering upon such duties, furnish to the employing NSSLA a good and sufficient bond and

providing for indemnity to the NSSLA against the loss of money or securities, by reason of their dishonesty. The bond of the cashier, assistant cashier, treasurer, and other employees having money accountability shall not be less than their average daily accountability. The bond must be issued by a reputable bonding company duly licensed by the Insurance Commission and approved by the BSP. Capital contribution or a cash bond deposited with the NSSLA or with a bank, may also be allowed.

To protect the funds of depositors and creditors, the Monetary Board may regulate/ restrict the payment by the NSSLA of compensation, allowances, fees, bonuses, and fringe benefits to its trustees and officers in exceptional cases and when the circumstances warrant, such as, but not limited to the following:

a. When the NSSLA is found by the Monetary Board to be conducting business in an unsafe or unsound manner;

b. When the NSSLA is found by the Monetary Board to be in an unsatisfactory financial condition such as, but not limited to, the following cases:

(1) Its capital is impaired; and

(2) It has suffered continuous losses from operations for the past three (3) years. In the presence of any one (1) or more of the circumstances mentioned above, the Monetary Board may impose the following restrictions in the compensation and other benefits of trustees and officers:

(a) Except for the financial assistance to meet expenses for the medical, maternity, education and other emergency needs of the trustees or officers or their immediate family, other forms of financial assistance may be suspended.

(b) When the total compensation package including salaries, allowances, fees and bonuses of trustees and officers are significantly excessive as compared with industry averages, the Monetary Board may order their reduction to reasonable levels.

Sec. 4146S Agents and Representatives No person shall act as an agent or sales representative of an NSSLA or operate an agency without obtaining a license from the Monetary Board. No license is required for a collector of an NSSLA but no person shall hold himself out or act as collector unless he is authorized as a collector in writing by such NSSLA.

Sec. 4147S (Reserved)

Sec. 4148S Full-Time Manager for NSSLAs NSSLAs with total assets of at least P5.0 million shall maintain a full-time manager to take charge of the operations of the NSSLA. The manager shall possess all the qualifications and shall not have any disqualification under Subsecs. 4142S.2 and 4143S.2, respectively.

Secs. 4149S - 4150S (Reserved)

H. BRANCHES AND OTHER OFFICES

Sec. 4151S Establishment of Branches/ Extension Offices. Prior BSP authority shall be obtained before operating a branch or other offices.

§ 4151S.1*Application*.The application shall be prescribed by the appropriate department of the SES and accompanied by the following minimum requirements:

a. Sketch of the location of the proposed office which shall be within the compound of the mother firm's branch office;

b. Itemized statement of estimated receipts and expenses of the NSSLA in connection with such branch or extension office;

c. Description or enumeration of service facilities that will cater to the deposit and credit needs of members of the NSSLA;

d. Financial statements for the year immediately preceding the date of application;

e. Certification as to the actual number of members that will be serviced by the branch/extension office; and

f. Undertaking that the branch/extension office will service only members of the NSSLA.

§ 4151S.2 *Conditions precluding acceptance/processing of application.* The application shall not be accepted/processed in any of the following cases:

a. The NSSLA's operation during the year immediately preceding the date of filing of application was unprofitable;

b. Total capital accounts of the NSSLA are less than P100 million as of the date of filing of the application;

c. Total number of members to be served in the proposed branch/extension office is less than 500; or

d. Non-compliance by the NSSLA with any of the pertinent provisions of banking laws, rules, regulations and policies of the BSP.

§ 4151S.3 *Internal control system.* The NSSLA shall submit to the appropriate department of the SES a system of internal safeguards and control measures to be adopted for compliance by the staff of the proposed branch/extension office.

§ 4151S.4 *Permit to operate.* Actual operation shall commence only after a permit to operate has been issued by the BSP.

Secs. 4152S - 4155S (Reserved)

I. BUSINESS DAYS AND HOURS

Sec. 4156S Business Days and Hours NSSLAs may, with the prior approval of the appropriate department of the SES, adopt such business days and hours as may be convenient for them. NSSLAs shall be open for business during business hours and days except when extraordinary instances caused by unforeseen, unavoidable event directly affect the NSSLA's ability to open for business. NSSLAs shall post conspicuously at all times in their place of business their schedule of regular business hours and days.

Secs. 4157S - 4160S (Reserved)

J. REPORTS

Sec. 4161S Records. NSSLAs shall have a true and accurate account, record or statement of their daily transactions. The making of any false entry or the willful omission of entries relevant to any transaction is a ground for the Monetary Board for the imposition of administrative sanctions under Section 37 of R.A. No. 7653, without prejudice to the criminal liability of the director or officer responsible therefore under Sections 35 and 36 of R.A. No. 7653 and/or the applicable provisions of the Revised Penal Code. Records shall be up to-date and shall contain sufficient detail so that an audit trail is established.

§ 4161S.1 *Uniform System of Accounts.* NSSLAs are required to pattern their charts of accounts and recording systems after the Uniform System of Accounts prescribed for NSSLAs including reportorial and publication requirements. The voucher system of accounting or the ticket system, or such other accounting system acceptable to the BSP as well as the prescribed chart of accounts shall be adopted for use by NSSLAs.

§ 4161S.2 *Philippine Financial Reporting Standards/Philippine Accounting Standards*

Statement of policy. It is the policy of the Bangko Sentral to promote fairness, transparency and accuracy in financial reporting. It is in this light that the BSP aims

to adopt all PFRS and PAS issued by the ASC to the greatest extent possible.

NSSLAs shall adopt the PFRS and PAS which are in accordance with GAAP in recording transactions and in the preparation of financial statements and reports to BSP. However, in cases where there are differences between BSP regulations and PFRS/PAS as when more than one (1) option are allowed or certain maximum or minimum limits are prescribed by the PFRS/PAS, the option or limit prescribed by BSP regulations shall be adopted by all NSSLA/FIs.

For purposes hereof, the PFRS/PAS shall refer to issuances of the ASC and approved by the PRC.

Accounting treatment for prudential reporting. For prudential reporting, FIs shall adopt in all respect the PFRS and PAS except as follows:

a. In preparing consolidated financial statements, only investments in financial allied subsidiaries except insurance subsidiaries shall be consolidated on a line-by-line basis; while insurance and non-financial allied subsidiaries shall be accounted for using the equity method. Financial/non-financial allied/non-allied associates shall be accounted for using the equity method in accordance with the provisions of PAS 28 "Investments in Associates";

b. For purposes of preparing separate financial statements, financial/non-financial allied/non-allied subsidiaries/associates, including insurance subsidiaries/associates, shall also be accounted for using the equity method; and

c. FIs shall be required to meet the BSP recommended valuation reserves.

Government grants extended in the form of loans bearing nil or low interest rates shall be measured upon initial recognition at its fair value (i.e., the present value of the future cash flows of the financial instrument discounted using the market interest rate). The difference between the fair value and the net proceeds of the loan shall be recorded under *"Unearned Income-Others"*, which shall be amortized over the term of the loan using the effective interest method.

The provisions on government grants shall be applied retroactively to all outstanding government grants received. NSSLAs that adopted an accounting treatment other than the foregoing shall consider the adjustment as a change in accounting policy, which shall be accounted for in accordance with PAS 8.

Notwithstanding the exceptions in Items *"a"*, *"b"* and *"c"*, the audited annual financial statements required to be submitted to the BSP in accordance with *Appendix S-2* shall in all respect be PFRS/PAS compliant: *Provided,* That FIs shall submit to the BSP adjusting entries reconciling the balances in the financial statements for prudential reporting with that in the audited annual financial statements.

(As amended by Circular No. 572 dated 22 June 2007)

Sec. 4162S Reports. NSSLAs shall submit to the appropriate department of the SES the reports in prescribed form listed in *Appendix S-2*.

§ 4162S.1 *Categories and signatories of reports.* For purposes of designating the signatories of reports, certain weekly, monthly, quarterly, semi-annual, and annual statements/reports required to be submitted to the BSP are hereby grouped into Category A-1, A-2, A-3 and Category B, as enumerated in *Appendix S-3*.

Category A-1 reports shall be signed by the NSSLA's chief executive officer (who may be the president or chairman of the board, or designated in the by-laws), or in his absence, by the executive vice president or the officer duly authorized under a resolution approved by the board of

trustees and by the chief finance officer (i.e., controller or chief accountant, who shall likewise be duly authorized by the NSSLA's board of trustees in a format prescribed in *Appendix S-3a*.

Category A-2 reports of the head office of the NSSLA shall be signed by the NSSLA's president or senior vice-president/equivalent position. Offices/units (such as branch) reports in this category shall be signed by their respective managers/officers-in-charge. Likewise, the signing authority in this category shall be contained in a resolution approved by the board of trustees in the format prescribed in *Appendix S-3b*.

Category A-3 and B reports are those required to be submitted to the BSP and are not included in Categories A-1 and A-2. They shall be signed by officers or their alternates, who shall be duly designated by the board of trustees. A copy of the board resolution with format as prescribed in *Appendix S-3c*, covering the initial designation and subsequent changes in signatories and alternates, shall be submitted to the appropriate department of the SES within three (3) days from the date of resolution.

If a report is submitted to the BSP under the signature of an officer who is not listed or included in any of the resolutions mentioned above, the appropriate department of the SES shall refuse to acknowledge the report as valid or consider the report as not having been submitted at all. If such a report is not resubmitted by the NSSLA under the signature of a duly authorized signing officer, administrative sanctions/penalties shall be imposed on the erring NSSLA for the late reporting or failure to submit the required report, as the case may be.

§ 4162S.2 *Manner of filing.* The submission of the reports shall be effected by filing them personally with the appropriate department of the SES or with the BSP Regional Offices or by sending them registered mail or special delivery, unless otherwise specified in the circular or memorandum of the Monetary Board or the BSP.

§ 4162S.3 *Sanctions and procedures for filing and payment of fines.* Failure to submit the above reports on or before the specified dates shall subject the person responsible or entity concerned to the penalties provided by law.

For willful delay in the submission of reports, the following rules shall apply:

a. *Definition of Terms*. The following definitions shall apply:

(1) *Report* shall refer to all written reports/statements required of an NSSLA to be submitted to the BSP periodically or within a specified period.

(2) *Willful delay in the submission of reports* shall refer to the failure of any NSSLA to submit on time the report defined in Item *"(1)"* above. Failure to submit a report on time due to fortuitous events, such as fire and other natural calamities and public disorders, shall not be considered as willful delay.

(3) *Examination* shall include, but need not be limited to, the verification, review, audit, investigation and inspection of the books and records, business affairs, administration and financial condition of any NSSLA including the reproduction of the records as well as the taking possession of the books and records and keeping them under BSP custody after giving proper receipts therefore. It shall also include the interview of the directors and personnel of any NSSLA.

(4) *Refusal to permit examination* shall mean any act or omission which impedes, delays or obstructs the duly authorized BSP officer/examiner/employee from conducting an examination, including the act of refusing to honor a letter of authority to examine presented by any officer/examiner/employee of the BSP.

b. *Fines for willful delay in submission of reports*. NSSLAs incurring willful delay in the submission of required reports shall pay a fine in accordance with the following schedule:

(1) For Categories A-1, A-2 and A-3 reports	
Per day of default until the report is filed	P180
(2) For Category B reports	
Per day of default until the report is filed	60

Delay or default shall start to run on the day following the last day required for the submission of reports. However, should the last day of filing fall on a non-working day in the locality where the reporting NSSLA is situated, delay or default shall start to run on the day following the next working day. The due date/deadline for submission of reports to BSP as prescribed under Sec. 4162S governing the frequency and deadlines indicated in *Appendix S-2* shall be automatically moved to the next business day whenever a half-day suspension of business operations in government offices is declared due to an emergency such as typhoon, floods, etc.

For the purpose of establishing delay or default, the date of acknowledgment by the appropriate department of the SES or the BSP Regional Offices/Units appearing on the copies of such reports filed or submitted or the date of mailing postmarked on the envelope/the date of registry or special delivery receipt, as the case may be, shall be considered as the date of filing.

Delayed schedules/attachments and amendments shall be considered late reporting subject to above penalties.

c. *Sanctions for willful refusal to permit examination/making of false statement*

(1) Any NSSLA which shall willfully refuse to permit examination shall pay a fine of P3,000 daily from the day of refusal and for as long as such refusal lasts.

The provisions of Section 34 of R. A. No. 7653 shall apply to any agent, manager, or other officer-in-charge of any NSSLA who willfully refuses any lawful examination into the affairs of such NSSLA.

The willful making of a false statement or misleading statement on a material fact to department of the BSP charged with the regulation of NSSLAs or to his examiner shall be punished in accordance with Section 36 of R. A. No. 7653.

(2) *Procedures in imposing the fine*

(a) The BSP officer/examiner/employee shall report the refusal of the NSSLA to permit examination to the head of the appropriate department of BSP, who shall forthwith make a written demand upon the NSSLA concerned for such examination. If the NSSLA continues to refuse said examination without any satisfactory explanation therefor, the BSP officer/examiner/employee concerned shall submit a report to that effect to the appropriate department head.

(b) The fine shall be imposed starting on the day following the receipt by the appropriate department of the written report submitted by the BSP officer/examiner/employee concerned regarding the continued refusal of the NSSLA to permit the desired examination.

d. *Manner of payment or collection of fines*. The regulations embodied in Sec. 4601S shall be observed in the collection of the fines from NSSLAs.

e. *Appeal to the Monetary Board*. NSSLAs may appeal to the Monetary Board a ruling of the appropriate department imposing a fine.

f. *Other penalties*. The foregoing penalties shall not preclude the application of, or shall be without prejudice to, other administrative sanctions as well as to the filing of criminal case as provided for in the other provisions of the law, as may be warranted by the nature of the offense.

(As amended by Circular No. 585 dated 15 October 2007)

Sec. 4163S (Reserved)

Sec. 4164S Internal Audit Function
Internal audit is an independent, objective assurance and consulting function established to examine, evaluate and improve the effectiveness of risk management, internal control, and governance processes of an organization.

§ 4164S.1 ***Status.*** The internal audit function must be independent of the activities audited and from day-to-day internal control process. It must be free to report audit results, findings, opinions, appraisals and other information to the appropriate level of management. It shall have authority to directly access and communicate with any officer or employee, to examine any activity or entity of the institution, as well as to access any records, files or data whenever relevant to the exercise of its assignment. The Audit Committee or senior management should take all necessary measures to provide the appropriate resources and staffing that would enable internal audit to achieve its objectives.

§ 4164S.2 ***Scope***. The scope of internal audit shall include:

a. Examination and evaluation of the adequacy and effectiveness of the internal control systems;

b. Review of the application and effectiveness of risk management procedures and risk assessment methodologies;

c Review of the management and financial information systems, including the electronic information system and electronic banking services;

d. Assessment of the accuracy and reliability of the accounting system and of the resulting financial reports;

e. Review of the systems and procedures of safeguarding assets;

f. Review of the system of assessing capital in relation to the estimate of organizational risk;

g. Transaction testing and assessment of specific internal control procedures; and

h. Review of the compliance system and the implementation of established policies and procedures.

§ 4164S.3 ***Qualification standards of the internal auditor.*** The internal auditor of a UB or a KB must be a CPA and must have at least five (5) years experience in the regular audit (internal or external) of a UB or KB as auditor-in-charge, senior auditor or audit manager. He must possess the knowledge, skills, and other competencies to examine all areas in which the institution operates. Professional competence as well as continuing training and education shall be required to face-up to the increasing complexity and diversity of the institution's operations.

The internal auditor of a TB, QB, trust entity or national Coop Bank must be a CPA with at least five (5) years experience in the regular audit (internal or external) of a TB, QB, trust entity or national Coop Bank as auditor-in-charge, senior auditor or audit manager or, in lieu thereof, at least three (3) years experience in the regular audit (internal or external) of a UB or KB as auditor-in charge, senior auditor or audit manager.

The internal auditor of an RB, NSSLA or local Coop Bank must be at least an Accounting graduate with two (2) years experience in external audit or in the regular audit of an RB, NSSLA or local Coop Bank or, in lieu thereof, at least one (1) year experience in the regular audit (internal or external) of a UB, KB, TB, QB, trust entity or national Coop Bank as auditor-in-charge, senior auditor or audit manager.

A qualified internal auditor of a UB or a KB shall be qualified to audit TBs, QBs, trust entities, national cooperative banks, RBs, NSSLAs, local cooperative banks,

subsidiaries and affiliates engaged in allied activities, and other FIs under BSP supervision.

A qualified internal auditor of a TB or national cooperative bank shall likewise be qualified to audit QBs, trust entities, RBs, NSSLAs, local cooperative banks, subsidiaries and affiliates engaged in allied activities, and other financial institutions under BSP supervision.

§ 4164S.4 *Code of Ethics and Internal Auditing Standards.* The internal auditor should conform with the Code of Professional Ethics for CPAs and ensure compliance with sound internal auditing standards, such as the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* (e-mail: standards@theiia.org; Web: http://www.theiia.org.) and other supplemental standards issued by regulatory authorities/government agencies. The Standards address independence and objectivity, professional proficiency, scope of work, performance of audit work, management of internal audit, quality assurance reviews, communication and monitoring of results.

Secs. 4165S - 4170S (Reserved)

K. INTERNAL CONTROL

Sec. 4171S External Auditor. NSSLAs except those with total resources of P10.0 million or less, shall engage the services of an independent Certified Public Accountant to audit their books of accounts at least once a year, or as often as necessary.

Sec. 4172S Financial Audit. NSSLAs shall cause an annual financial audit by an external auditor acceptable to the BSP not later than thirty (30) calendar days after the close of the calendar year or the fiscal year adopted by the NSSLA. Report of such audit shall be submitted to the board of directors and the appropriate department of the SES not later than 120 calendar days after the close of the calendar year or the fiscal year adopted by the NSSLA. The report to the BSP shall be accompanied by the: (1) certification by the external auditor on the: (a) dates of start and termination of audit; (b) date of submission of the financial audit report and certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the NSSLA to the board of directors; and (c) the absence of any direct or indirect financial interest and other circumstances that may impair the independence of the external auditor; (2) reconciliation statement between the AFS and the balance sheet and income statement for NSSLA submitted to the BSP including copies of adjusting entries on the reconciling items; and (3) other information that may be required by the BSP.

In addition, the external auditor shall be required by the NSSLA to submit to the board of directors, a LOC indicating any material weakness or breach in the institution's internal control and risk management systems within thirty (30) calendar days after submission of the financial audit report. If no material weakness or breach is noted to warrant the issuance of an LOC, a Certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the NSSLA shall be submitted in its stead, together with the financial audit report.

Material weakness shall be defined as a significant control deficiency, or combination of deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be detected or prevented by the entity's internal control. A material weakness does not mean that a material misstatement has

occurred or will occur, but that it could occur. A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with GAAP. The term more than remote likelihood shall mean that future events are likely to occur or are reasonably possible to occur.

The board of directors, in a regular or special meeting, shall consider and act on the financial audit report and the certification under oath submitted in lieu of the LOC and shall submit, within thirty (30) banking days after receipt of the reports, a copy of its resolution to the appropriate department of the SES. The resolution shall show, among other things, the actions(s) taken on the reports and the names of the directors present and absent.

The board shall likewise consider and act on the LOC and shall submit, within thirty (30) banking days after receipt thereof, a copy of its resolution together with said LOC to the appropriate department of the SES. The resolution shall show the action(s) taken on the findings and recommendations and, the names of the directors present and absent, among other things.

The LOC shall be accompanied by the certification of the external auditor of the date of its submission to the board of directors.

NSSLAs under BSP supervision which are under the concurrent jurisdiction of the COA shall be exempt from the aforementioned annual financial audit by an acceptable external auditor: *Provided*, That when warranted by supervisory concern such as material weakness/ breach in internal control and/or risk management systems, the Monetary Board may, upon recommendation of the appropriate department of the SES, require the financial audit to be conducted by an external auditor acceptable to the BSP, at the expense of the institution concerned: *Provided further*, That when circumstances such as, but not limited to, loans from multilateral financial institutions, privatization, or public listing warrant, the financial audit of the concerned institution by an acceptable external auditor may also be allowed.

NSSLAs under the concurrent jurisdiction of the BSP and COA shall, however, submit a copy of the AAR of the COA to the appropriate department of the SES within thirty (30) banking days after receipt of the report by the board of directors. The AAR shall be accompanied by the: (1) certification by the institution concerned on the date of receipt of the AAR by the board of directors; (2) reconciliation statement between the AFS in the AAR and the balance sheet and income statement of the NSSLA submitted to the BSP, including copies of adjusting entries on the reconciling items; and (3) other information that may be required by the BSP.

The board of directors of said institutions, in a regular or special meeting, shall consider and act on the AAR, as well as on the comments and observations and shall submit, within thirty (30) banking days after receipt of the report, a copy of its resolution to the appropriate department of the SES. The resolution shall show the action(s) taken on the report, including the comments and observations and the names of the directors present and absent, among other things.

NSSLAs as well as external auditors shall strictly observe the requirements in

the submission of the financial audit report and reports required to be submitted under *Appendix Q-33*.

The audited annual financial statements required to be submitted shall in all respect be PFRS/PAS compliant: *Provided,* That NSSLAs shall submit to the BSP adjusting entries reconciling the balances in the financial statements for prudential reporting with that in the audited annual financial statements.

The reports and certifications of institutions concerned, schedules and attachments required under this Subsection shall be considered *Category B* reports, delayed submission of which shall be subject to the penalties under Subsec. 4162S.3

(As amended by Circular Nos. 554 dated 22 December 2006 and 540 dated 09 August 2006)

§ 4172S.1 *Audited Financial Statements of NSSLAs.* The following rules shall govern the utilization and submission of AFS of NSSLAs.

For purposes of this Section, AFS shall include the balance sheets, income statements, statements of changes in equity, statements of cash flows and notes to financial statements which shall include among other information, disclosure of the volume of past due loans as well as loan-loss provisions. On the other hand, financial audit report shall refer to the AFS and the opinion of the auditor. The AFS of NSSLAs with subsidiaries shall be presented side by side on a solo basis (parent) and on a consolidated basis (parent and subsidiaries).

(Circular No. 540 dated 09 August 2006)

§ 4172S.2 *Posting of audited financial statements.* NSSLAs shall post in conspicuous places in their head offices, all their branches and other offices, as well as in their respective websites, their latest financial audit report.

(Circular No. 540 dated 09 August 2006)

Secs. 4173S - 4179S (Reserved)

Sec. 4180S Selection, Appointment, Reporting Requirements and Delisting of External Auditors and/or Auditing Firm; Sanction. Pursuant to Section 58, R.A. No. 8791, and the existing provisions of the executed MOA dated 12 August 2009, binding the BSP, SEC, PRC - BOA and the IC for a simplified and synchronized accreditation requirements for external auditor and/or auditing firm, following are the revised rules and regulations that shall govern the selection and delisting by the BSP of covered institutions which under special laws are subject to BSP supervision.

Statement of policy. It is the policy of the BSP to ensure effective audit and supervision of banks, QBs, trust entities and/or NSSLAs including their subsidiaries and affiliates engaged in allied activities and other FIs which under special laws are subject to BSP supervision, and to ensure the reliance by BSP and the public on the opinion of external auditors and auditing firms by prescribing the rules and regulations that shall govern the selection, appointment, reporting requirements and delisting for external auditors and auditing firms of said institutions, subject to the binding provisions of and implementing regulations pursuant to the aforesaid MOA.

a. *Rules and regulation*s. The revised rules and regulations that shall govern the selection and delisting by the BSP of covered institutions which under special laws are subject to BSP supervision are shown in *Appendix S-8*.

Sanctions. The applicable sanctions/penalties prescribed under Sections 36 and 37 of R.A. 7653 to the extent applicable shall be imposed on the covered institutions, its audit committee and the directors approving the hiring of external auditor/auditing firm who/which

are not in the BSP list of selected auditors for covered institutions or for hiring, and/or retaining the services of the external auditor/auditing firm in violation of any of the provisions of this Section and for non-compliance with the Monetary Board directive under Item *"K"* in *Appendix S-8*. Erring external auditors/ auditing firm may also be reported by the BSP to the PRC for appropriate disciplinary action.

(As amended by Circular Nos. 660 dated 25 August 2009 and 529 dated 11 May 2006)

L. MISCELLANEOUS PROVISIONS

Sec. 4181S Publication Requirements NSSLAs shall, within 120 calendar days after the close of the calendar year or their fiscal year, as the case may be, furnish the Monetary Board and post in any of the NSSLAs' bulletin boards or in any other conspicuous place a copy of their financial statements showing, in such form and detail as the Monetary Board shall require, the amount and character of the assets and liabilities of the NSSLAs at the end of the preceding fiscal year. The Monetary Board may, in addition to the foregoing, require the disclosure of such other information as it shall deem necessary for the protection of the members of the NSSLA.

The consolidated statements of condition of an NSSLA and its subsidiaries and associates shall conform with the guidelines of PAS 27 "Consolidated and Separate Financial Statements", except that for purposes of consolidated financial statements, only investments in financial allied subsidiaries except insurance subsidiaries shall be consolidated on a line-by-line basis; while insurance and non-financial allied subsidiaries shall be accounted for using the equity method. Financial/non-financial allied/non-allied associates shall be accounted for using the equity method in accordance with the provisions of PAS 28 "Investments in Associates". For purposes of separate financial statements, investments in financial/non-financial allied/non-allied subsidiaries/associates, including insurance subsidiaries/associates, shall be accounted for using the equity method.

(As amended by Circular No. 494 dated 20 September 2005)

Sec. 4182S Business Name[1]. NSSLAs organized or operating under R.A. No. 8367 and licensed by the BSP shall include in their names the words *"Savings and Loan Association"*. Such NSSLAs shall display in a conspicuous place at their business offices a sign including, among other things, the following words: *"Authorized by the Bangko Sentral ng Pilipinas"*.

(As amended by CL Nos. 2008-053 dated 21 August 2008 and 2008-007 dated 05 February 2008)

Sec. 4183S Prohibitions

a. No person, association, partnership or corporation shall do business as an NSSLA, or shall use the terms *"Savings and Loan Association"* or any other title or name tending to give the public impression that it is engaged in the operations and activities of an NSSLA unless so authorized under R.A. No. 8367 and these regulations.

b. The use by an NSSLA of any other name or title or combination of names and titles or any other deviation from the requirements of this Section shall not be authorized except upon prior approval of the Monetary Board.

c. NSSLAs shall not issue, publish or cause or permit to be issued or published, any advertisement that it is doing or permitted to do business which is prohibited by law to an NSSLA.

d. No NSSLA shall advertise or represent itself to its members or to the public as a bank, or as a trust company.

[1] See SEC Circular Nos. 5 dated 17 July 2008 and 14 dated 24 October 2000

Secs. 4184S - 4189S (Reserved)

Sec. 4190S Duties and Responsibilities of NSSLAs and their Directors/Officers in All Cases of Outsourcing of NSSLA Functions. The rules on outsourcing of banking functions as shown in *Appendix Q-37* shall be adopted in so far as they are applicable to NSSLAs.

(As amended by Circular Nos. 642 dated 30 January 2009, 610 dated 26 May 2008, 596 dated 11 January 2008, 548 dated 25 September 2006 and 543 dated 08 September 2006)

Sec. 4191S (Reserved)

Sec. 4192S Prompt Corrective Action Framework. The framework for the enforcement of PCA on banks which is in *Appendix Q-40* shall govern the PCA taken on NSSLAs to the extent applicable, or by analogy.

(Circular No. 523 dated 31 March 2006, as amended by Circular No. 664 dated 15 September 2009)

Sec. 4193S Supervision by Risks. The guidelines on supervision by risk in *Appendix Q-42* which provide guidance on how QBs should identify, measure, monitor and control risks shall govern the supervision by risks of NSSLAs to the extent applicable.

The guidelines set forth the expectations of the BSP with respect to the management of risks and are intended to provide more consistency in how the risk-focused supervision function is applied to these risks. The BSP will review the risks to ensure that an NSSLA's internal risk management processes are integrated and comprehensive. All NSSLAs should follow the guidance in risk management efforts.

(Circular No. 510 dated 03 February 2006)

Sec. 4194S Market Risk Management The guidelines on market risk management for QBs as shown in *Appendix Q-43* shall govern the market risk management of NSSLAs to the extent applicable.

The guidelines set forth the expectations of the BSP with respect to the management of market risk and are intended to provide more consistency in how the risk-focused supervision is applied to this risk. NSSLAs are expected to have an integrated approach to risk management to identify, measure, monitor and control risks. Market risk should be reviewed together with other risks to determine overall risk profile.

The BSP is aware of the increasing diversity of financial products and that industry techniques for measuring and managing market risk are continuously evolving. As such, the guidelines are intended for general application; specific application will depend to some extent on the size, complexity and range of activities undertaken by NSSLAs.

(Circular No. 544 dated 15 September 2006)

Sec. 4195S Liquidity Risk Management The guidelines on liquidity risk management for QBs as shown in

Appendix Q-44 shall govern the liquidity risk management of NSSLAs to the extent applicable.

The guidelines set forth the expectations of the BSP with respect to the management of liquidity risk and are intended to provide more consistency in how the risk-focused supervision function is applied to this risk. NSSLAs are expected to have an integrated approach to risk management to identify, measure, monitor and control risks. Liquidity risk should be reviewed together with other risks to determine overall risk profile.

These guidelines are intended for general application; specific application will depend on the size and sophistication of a particular NSSLA and the nature and complexity of its activities.

(Circular No. 545 dated 15 September 2006)

Secs. 4196S - 4198S (Reserved)

Sec. 4199S General Provision on Sanctions. Unless otherwise provided, any violation of the provisions of this Part shall be subject to the sanctions provided in Sections 34, 35, 36 and 37 of R.A. No. 7653, whenever applicable.

PART TWO

DEPOSIT AND BORROWING OPERATIONS

A. DEMAND DEPOSITS

Section 4201S Checking Accounts. No NSSLA shall have or carry upon its books for any person any demand, commercial or checking account, or any credit to be withdrawn upon the presentation of any negotiable check or draft.

Secs. 4202S - 4205S (Reserved)

B. SAVINGS DEPOSITS

Sec. 4206S Definition. *Savings deposits* are deposits evidenced by a passbook consisting of funds deposited to the credit of one (1) or more individuals with respect to which the depositor may withdraw anytime, unless prior notice in writing of an intended withdrawal is required by the NSSLA.

Sec. 4207S Minimum Deposit. Savings deposits with NSSLAs may be opened with a minimum deposit of ₱100.

Sec. 4208S Withdrawals. Withdrawal from a savings deposit shall be made through the presentation to the NSSLA of a duly accomplished withdrawal slip together with the depositor's passbook.

NSSLAs shall reserve the right to require the depositor to give prior written notice of withdrawal of not more than thirty (30) days.

NSSLAs may limit the number of withdrawals that a depositor may make: *Provided,* That the number of the withdrawals allowed shall not be less than three (3) times a month. A service charge to be determined by the board of trustees of the NSSLA and approved by the BSP, may be charged by the NSSLA for every withdrawal made in excess of the maximum number allowed in any one (1) month.

Sec. 4209S Dormant Savings Deposits NSSLAs may charge a fee, the amount of which shall be approved by the BSP for the maintenance of dormant savings deposits. Savings deposit shall be classified as dormant if no deposit or withdrawal has been made for the last two (2) years.

Secs. 4210S – 4215S (Reserved)

C. (RESERVED)

Secs. 4216S - 4220S (Reserved)

D. TIME DEPOSITS

Sec. 4221S (Reserved)

Sec. 4222S Minimum Term and Size of Time Deposits

a. *Term* - No time deposit shall be accepted for a term of less than thirty (30) days.

b. *Minimum Size* - NSSLAs shall not require a minimum amount of time deposit greater than ₱1,000.

Sec. 4223S Withdrawals of Time Deposits. The withdrawal of a time deposit can be made only by presentation of the certificate of time deposit on the day of or after its maturity.

Secs. 4224S - 4230S (Reserved)

E. - F. (RESERVED)

Secs. 4231S - 4240S (Reserved)

G. INTEREST ON DEPOSITS

Sec. 4241S Interest on Savings Deposits Savings deposits of NSSLAs shall not be subject to any interest rate ceiling.

Sec. 4242S Interest on Time Deposits Interest on time deposits shall not be subject to any interest rate ceiling.

§ 4242S.1 ***Time of payment.*** Interest on time deposits may be paid at maturity or upon withdrawal or in advance: *Provided, however,* That interest paid in advance shall not exceed the interest for one (1) year.

§ 4242S.2 ***Treatment of matured time deposits.*** A time deposit not withdrawn or renewed on its due date shall be treated as a savings deposit and shall earn an interest from maturity to the date of actual withdrawal or renewal at a rate applicable to savings deposits.

Secs.4243S - 4250S (Reserved)

H. (RESERVED)

Secs. 4251S – 4260S (Reserved)

I. SUNDRY PROVISIONS ON DEPOSIT OPERATIONS

Sec. 4261S Opening and Operation of Deposit Accounts. The following are basic provisions on the opening and operation of deposit accounts of NSSLAs.

§ 4261S.1 ***Who may open deposit accounts.*** Only members who have contributed P1,000 or more to the capital of the NSSLA may open deposit accounts with NSSLAs. A natural person, although lacking capacity to contract, may nevertheless open a savings or time deposit account for himself, provided he has sufficient discretion. However, he cannot withdraw therefrom, except through, or with the assistance of a guardian authorized to act for him. Parents may deposit for their minor children, and guardians for their wards.

Notwithstanding the provisions of the preceding paragraph, the cashier, bookkeeper and their assistants, and other employees of an NSSLA whose duties entail the handling of cash or checks are prohibited from opening savings deposit accounts with the head office or branch of the NSSLA in which they are assigned as such.

§ 4261S.2 ***Identification of member-depositors.*** NSSLAs shall be responsible for the proper identification of their member-depositors.

§ 4261S.3 ***Number of deposit accounts*** A member-depositor may open and have more than one (1) savings deposit in his own name in the same capacity, and he may open and have various deposits in different capacities such as guardian, agent, or trustee for others.

§ 4261S.4 ***Signature card.*** A signature card bearing at least three (3) specimen signatures of each member-depositor shall be required upon opening of a deposit account.

§ 4261S.5 ***Passbook and certificate of time deposit.*** A savings deposit passbook, signed by the receiving teller and an authorized officer, shall be issued to a member-depositor showing, among other things, his name and address, account number, date, amount of deposit, interest credits and balance. NSSLAs shall pre-number their savings deposit passbooks. In the case of a time deposit, a certificate of time deposit signed by two (2) authorized officers, shall be issued to the member-

depositor containing, among other things, his name, amount of deposit, date when the deposit was made, its due date and interest rate.

§ 4261S.6 ***Deposits in checks and other cash items.*** Checks and other cash items may be accepted for deposit by NSSLAs: *Provided*, That withdrawals from such deposits shall not be made until the check or other cash item is collected.

Secs. 4262S - 4280S (Reserved)

J. (RESERVED)

Secs. 4281S - 4285S (Reserved)

K. OTHER BORROWINGS

Sec. 4286S Borrowings. An NSSLA may borrow money or incur such obligation up to not more than twenty percent (20%) of the total assets of the NSSLA, from any public lending institution, and from private banking institutions, and such private lending institutions as may be approved by the Monetary Board: *Provided,* That the proceeds of such loan shall be used exclusively to meet the normal credit requirements of its members. The Monetary Board may, in meritorious cases, raise the ceiling on the borrowing capacity of an NSSLA to not more than thirty percent (30%) of its total assets. NSSLAs organized by employees of an entity or a corporation may borrow funds from said entity or corporation, but not vice-versa.

Secs. 4287S - 4298S (Reserved)

Sec. 4299S General Provision on Sanctions. Unless otherwise provided, any violation of the provisions of this Part shall be subject to the sanctions provided in Sections 34, 35, 36 and 37 of R.A. No. 7653, whenever applicable.

PART THREE

LOANS AND INVESTMENTS

A. LOANS IN GENERAL

Section 4301S Authority; Loan Limits; Maturity of Loans. The board of trustees of NSSLAs shall prescribe their own rules and regulations governing credit operations of the NSSLAs within the framework of the terms and conditions embodied in this Section.

a. *Loan limit to a single borrower.* An NSSLA may grant loans not exceeding the amount deposited and/or contributed by the member-borrower plus his twelve (12) months salary or retirement pension from his employment, or up to seventy percent (70%) of the fair market value of any property acceptable as collateral on first mortgage that he may put up by way of security: *Provided,* That direct indebtedness to an NSSLA of any member-borrower for money borrowed with the exception of money borrowed against obligations of the BSP or of the Philippine Government, or borrowed with the full guarantee of the Philippine Government in the payment of principal and interest, shall not exceed fifteen percent (15%) of the unimpaired capital and surplus of the NSSLA.

For purposes of this Section, regular income of persons who are self-employed shall be their average monthly income during the twelve (12)-month period immediately preceding the date of loan application.

b. *Limitations on lending authority.* NSSLAs shall not commit to make any loan for amounts in excess of the total of the following amounts:

(1) Amount of cash available for loan purposes;

(2) Amount of cash which can be readily realized upon the sale or redemption of permissible investments made by NSSLAs; and

(3) Amount of credit available for loan purposes from government or private FIs.

c. *Maximum loan maturity.* No loan granted by NSSLAs shall have a maturity date of more than five (5) years except loans on the security of unencumbered real estate for the purpose of home building and home development which may be granted with maturities not exceeding twenty-five (25) years and medium or long-term loans to finance agricultural projects.

Sec. 4302S Basic Requirements in Granting Loans

a. *Application.* A member-borrower applying for a loan must submit an application stating the purpose of the loan and such other information as may be required by the NSSLA. The loan application and other required documents shall form part of credit information file of the member-borrower in the NSSLA.

b. *Credit investigation.* No loan shall be approved unless prior investigation has been made to determine the credit standing of the applicant and/or the fair market value of the property offered as security and the report thereon shall be made part of the loan application: *Provided, however,* That this requirement may be waived by an NSSLA in the case of permanent employee or wage earner who is borrowing an amount not exceeding his deposit plus his twelve (12) months regular salary or retirement pension.

c. *Credit information file/collateral file.* An NSSLA shall maintain as far as practicable, a credit information file which must contain, among other things, the member-borrower's application and financial record. Other information relative to the

member-borrower, where applicable, shall also be maintained which must contain among other things, the collateral and other documents pertinent to the loan.

d. *Loan approvals*. Loans shall be approved by the NSSLA's board of trustees or if approved by a body or officer/s duly authorized by the board, such loan must be confirmed by the board of trustees.

e. *Loan agreements*. For each loan granted by an NSSLA, a promissory note must be executed by the member-borrower in favor of the NSSLA expressing such particulars as the amount of the loan, date granted, due date, interest rate and other similar information.

f. *Inscription of lien*. In case of mortgage loans, no release against an approved loan shall be made before the inscription of the mortgage.

Sec. 4303S Loan Proceeds. NSSLAs shall in no case require member-borrowers to deposit a portion of the loan proceeds, whether in the form of savings or time deposits. Where, subsequent to the release of the loan proceeds, member-borrowers open deposit accounts or make additional deposits to their existing accounts, no part of such new deposits shall be covered by a stipulation prohibiting or limiting withdrawal while new portion of their loans are outstanding: *Provided, however*, That this prohibition shall not apply in cases of loans secured by a hold-out on deposits to the extent of the unencumbered amount of the deposit existing at the time of the filing of the above-mentioned loan application.

Sec. 4304S Loan Repayment. The treasurer, cashier or paymaster of the firm employing a member-borrower shall be required, pursuant to R.A. No. 8367, to make deductions from the salary, wage, income or retirement pension of the member-borrower in accordance with the terms of his loan, and all other deductions authorized by the member-borrower, to remit such deductions to the NSSLA concerned and to collect such reasonable fee for his services as may be authorized by rules promulgated by the Monetary Board.

Sec. 4305S Interest and Other Charges. The following rules shall govern the rates of interest and other charges on loans granted by NSSLAs.

§§ 4305S.1 - 4305S.2 *(Reserved)*

§ 4305S.3 *Interest in the absence of contract.* In the absence of express contract, the rate of interest for the loan or forbearance of any money, goods or credit and the rate allowed in judgment shall be twelve percent (12%) per annum.

§ 4305S.4 *Escalation clause; when allowable.* Parties to an agreement pertaining to a loan or forbearance of money, goods or credits may stipulate that the rate of interest agreed upon may be increased in the event that the applicable maximum rate of interest is increased by the Monetary Board: *Provided,* That such stipulations are valid only if there is also a stipulation in the agreement that the rate of interest agreed upon shall be reduced in the event that the applicable maximum rate of interest is reduced by law or by the Monetary Board: *Provided, further,* That the adjustment in the rate of interest agreed upon shall take effect on or after the effectivity of the increase or decrease in the maximum rate of interest.

§ 4305S.5 *Interest accrual on past due loans.* NSSLAs shall not accrue interest income on loans which are already past due or on loan installments which are in arrears, regardless of whether the loans are secured or unsecured. Interest on past due loans or loans installments in arrears shall be taken up as income only when actual payments thereon are received.

Interest income on past due loan arising from discount amortization (and not from the contractual interest of the account) shall be accrued as provided in PAS 39.

(As amended by Circular No. 494 dated 20 September 2005)

Sec. 4306S Past Due Accounts. Past due accounts of an NSSLA shall, as a general rule, refer to all accounts which are not paid at maturity.

§ 4306S.1 ***Accounts considered past due.*** The following shall be considered as past due:

a. A loan or receivable payable on demand not paid upon written demand as required herein or within one (1) year from date of grant or renewal, whichever comes earlier.

NSSLAs shall, in case of non-payment of a demand loan, make a written demand within six (6) months following the grant of such loan. The demand shall indicate a period of payment which shall not be later than six (6) months from date of said demand.

b. The total outstanding balance of a loan or receivable payable in installments, in accordance with the following schedules:

Mode of Payment	*Installments in Arrears*
Monthly	6 or more
Quarterly	2 or more
Semestral	1 or more
Annual	1 or more

Provided, however, That when the total amount of arrearages reaches twenty percent (20%) of the total outstanding balance of the loan, the entire total outstanding balance of the loan shall be considered as past due, irrespective of the number of installments in arrears: *Provided, further,* That the modes of payment other than those listed above (e.g., daily, weekly or semi-monthly), the entire outstanding balance of the loan/receivable shall be considered as past due when the total amount of arrearages reaches ten percent (10%) of the total loan/receivable balance;

c. Any due and unpaid loan installment or portion hereof, from the time the obligor defaults for the purpose of obligations as defined in Sec. 4143S(d); and

d. All items in litigation as defined in the Manual of Accounts for NSSLAs.

§ 4306S.2 ***Extension/renewal of loans***

Extension of the period of payment of loans may be allowed under the following circumstances:

a. For production loans, the extension shall not exceed one-half (1/2) of the original period: *Provided*, That thirty percent (30%) of the loan shall have been paid. A second extension shall not exceed one-half (1/2) of the period of the first extension; and

b. For consumer loans, the extension shall not exceed one-half (1/2) of the original period: *Provided*, That thirty percent (30%) of the loan shall have been paid.

Loans payable in periodic installments may be renewed for the full amount of loans: *Provided,* That at least thirty percent (30%) of the loan shall have been paid.

§ 4306S.3 ***Write-off of loans as bad debts.*** To maximize the protection of members of NSSLAs against misfeasance and malfeasance of the trustees and officers thereof, the Monetary Board adopted the following regulations on writing-off of loans by NSSLAs.

a. The term *loan* shall include all types of credit accommodations granted to, and advances made by the NSSLA for the account of the borrowers/debtors, including the interest thereon recorded in the books.

b. Writing-off of loans by an NSSLA shall be made not more than twice a year by its board of trustees; and

c. Notice/application for write-off of loans shall be submitted, in the prescribed form to the appropriate department of the SES at least thirty (30) days prior to the intended date of write-off: *Provided,* That no such loans with an aggregate outstanding amount of ₱15,000 or more, as certified in

said notice/application, shall be written-off without the prior approval of:

(1) The Monetary Board, in case of loans to trustees and officers of the NSSLA, direct or indirect; or

(2) The head of the appropriate department of the SES, subject to confirmation by the Monetary Board, in case of loans other than those mentioned in Item "*(1)*" above.

§ 4306S.4 ***Updating of information provided to credit information bureaus*** NSSLAs which have provided adverse information, such as the past due or litigation status of loan accounts, to credit information bureaus, or any organization performing similar functions, shall submit monthly reports to these bureaus or organizations on the full payment or settlement of the previously reported accounts within five (5) business days from the end of the month when such full payment was received. For this purpose, it shall be the responsibility of the reporting NSSLAs to ensure that their disclosure of any information about their borrowers/clients is with the consent of borrowers concerned.

(Circular No. 589 dated 18 December 2007)

Sec. 4307S "Truth in Lending Act" Disclosure Requirements. NSSLAs are required to strictly adhere to the provisions of R. A. No. 3765, otherwise known as the "Truth in Lending Act," and shall make the true and effective cost of borrowing an integral part of every loan contract.

a. *Transactions covered*

(1) Any loan, mortgage, deed of trust, advance and discount;

(2) Any conditional sales contract, any contract to sell, or sale or contract of sale of property or services, either for present or future delivery, under which, part or all of the price is payable subsequent to the making of such sale or contract;

(3) Any option, demand, lien, pledge, or other claim against, or for delivery of, property or money;

(4) Any purchase, or other acquisition of, or any credit upon the security of any obligation or claim arising out of any of the foregoing; and

(5) Any transaction or series of transactions having a similar purpose or effect.

b. *Transactions not covered*

Considering that the specific purpose of the law is the full disclosure of the true cost of credit, the following categories of credit transactions are outside the scope of the above regulations:

(1) Credit transactions which do not involve the payment of any finance charge by the debtor; and

(2) Credit transactions in which the debtor is the one specifying a definite and fixed set of credit terms such as bank deposits, insurance contracts, sale of bonds, etc.

§ 4307S.1 ***Definition of terms***

a. *Creditor* (who shall furnish the information) means any person engaged in a finance charge.

The term *creditor* shall include, but shall not be limited to, banks and banking institutions, insurance and bonding companies, savings and loan associations, credit unions, financing companies, installment houses, real estate dealers, lending investors, pawnshops, and any other person or entity engaged in the business of extending credit who requires as an incident to the extension of credit, the payment of a finance charge.

b. *Person* means any individual, corporation, partnership, NSSLA, or other organized group of persons, or the legal successor or representative of the foregoing, and includes the Philippine Government or any agency thereof, or any other government, or any of its political subdivisions, or any agency of the foregoing.

c. *Cash price or delivered price* (in case of trade transactions) is the amount of money which would constitute full payment upon delivery of the property (except money) or service purchased at the creditor's place of business. In the case of financial transactions, cash price represents the amount of money received by the debtor upon consummation of the credit transaction, net of finance charges collected at the time the credit is extended(if any).

d. *Down payment* represents the amount paid by the debtor at the time of the transaction in partial payment for the property or service purchased.

e. *Trade-in* represents the value of an asset, agreed upon by the creditor and debtor, given at the time of the transaction in partial payment for the property or service purchased.

f. *Non-finance charges* correspond to the amounts advanced by the creditor for items normally associated with the ownership of the property or of the availment of the service purchased which are not incident to the extension of credit. For example, in the case of the purchase of an automobile on credit, the creditor may advance the insurance premium as well as the registration fee for the account of the debtor.

g. *Amount to be financed* consists of the cash price plus non-finance charges less the amount of the down payment and value of the trade-in.

h. *Finance charge* represents the amount to be paid by the debtor incident to the extension of credit such as interest or discounts, collection fees, credit investigation fees, attorney's fees, and other service charges. The total finance charge represents the difference between (i) the aggregate consideration (down payment plus installments) on the part of the debtor, and (ii) the sum of the cash price and non-finance charges.

i. *Simple annual rate* is the uniform percentage which represents the ratio, on an annual basis, between the finance charges and the amount to be financed.

In the case of single payment upon maturity, the simple annual rate *(R)* in percent is determined by the following method:

$$R = \frac{\text{finance charge}}{\text{amount to be financed}} \times \frac{12}{\text{maturity period in months}} \times 100$$

In the case of the normal installment type of credit of at least one (1) year in duration, where installment payments of equal amount are made in regular time periods spaced not more than one (1) year apart, *R* in percent is computed by the following method:

$$R = 2 \times \frac{\text{finance charge}}{\text{amount to be financed}} \times \frac{\text{No. of payments in a year}}{\text{total number of payments plus one}} \times 100$$

In cases where the credit matures in less than one (1) year [e.g., installment payments are required every month for six (6) months], the same formula will apply except that the number of payments in a year would refer to the number of installment periods, as defined in the credit contract, as if the credit matures in one (1) year. For example, the number of payments in a year would be twelve (12) for this purpose in cases where six (6) monthly installment payments are called for in the credit transaction[1].

In cases where credit terms provide for premium or penalty charges depending on, say, the timelines of the debtor's payments, the annual rate to be disclosed in writing shall be the rate for regular payments, i.e., the premium and penalty need not be taken into account in the determination of the annual

[1] This can be determined by dividing twelve (12), the number of months in a year, by the number or fraction of months between installment payments.

rate. Such premium or penalty charges shall, however, be indicated in the credit contract.

§ 4307S.2 ***Information to be disclosed*** NSSLAs shall furnish to each person to whom credit is extended, prior to the consummation of the transaction, a clear statement in writing setting forth the following information to be disclosed.

a. The cash price or delivered price of the property or service to be acquired;

b. The amounts, if any, to be credited as down payment and/or trade-in;

c. The difference between the amounts set forth under Items "*a*" and "*b*";

d. The charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit;

e. The total amount to be financed;

f. The finance charges expressed in terms of pesos and centavos; and

g. The percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the outstanding unpaid balance of the obligation.

The contract covering the credit transaction, or any other document to be acknowledged and signed by the debtor, shall indicate the above seven (7) items of information. In addition, the contract or document shall specify additional charges, if any, which will be collected in case certain stipulations in the contract are not met by the debtor.

In case the seven (7) items of information mentioned in this Subsection are not disclosed in the contract covering the credit transaction, said items to the extent applicable, shall be disclosed in another document in the form (*Appendix S-4*) prescribed by the Monetary Board, to be signed by the debtor and appended to the main contract. A copy of the disclosure statement shall be furnished the borrower.

§ 4307S.3 ***Inspection of contracts covering credit transactions.*** NSSLAs shall keep in their office or place of business copies of contracts covering all credit transactions entered into by them which involve the extension of credit to another and the payment of finance charges therefor. Such copies shall be available for inspection or examination by the appropriate department of the SES.

§ 4307S.4 ***Posters.*** An abstract of R.A. No. 3765 (*Appendix S-5*) shall be reproduced in a format which is sixty (60) cm. wide and seventy-five (75) cm. long, and posted on a conspicuous place in the NSSLAs' place(s) of business.

§ 4307S.5 ***Penal provisions***

a. NSSLAs which in connection with any credit transaction fail to disclose to any person any information in violation of this Section or any regulation issued hereafter shall be liable to such person in the amount of ₱100 or in an amount equal to twice the finance charge required by such NSSLAs in connection with such transactions, whichever is the greater, except that such liability shall not exceed ₱2,000 on any credit transaction. Action to recover such penalty may be brought by such person within one (1) year from the date of the occurrence of the violation, in any court of competent jurisdiction. In any action under this Subsection in which any person is entitled to a recovery, the NSSLAs shall be liable for reasonable attorney's fees and court costs as determined by the court.

b. Except as specified in Item "*a*" above, nothing contained in this rule shall affect the validity or enforceability of any contract or transaction.

c. Any person who willfully violates any provision of this Section or regulation issued hereafter shall be fined by not less

than ₱1,000 nor more than ₱5,000 or imprisonment for not less than six (6) months, nor more than one (1) year or both.

d. No punishment or penalty provided by this Section shall apply to the Philippine Government or any agency or any political subdivision thereof.

Secs. 4308S – 4311S (Reserved)

Sec. 4312S Grant of Loans and Other Credit Accomodations. *(Deleted by Circular No. 622 dated 16 September 2008)*

§ 4312S.1 *General guidelines.* *(Deleted by Circular No. 622 dated 16 September 2008)*

§§ 4312S.2 - 4312S.3 *(Reserved)*

§ 4312S.4 *Signatories.* *(Deleted by Circular No. 622 dated 16 September 2008)*

Secs. 4313S – 4320S (Reserved)

B. SECURED LOANS

Sec. 4321S Kinds of Security. Loans by an NSSLA may be secured by any or all of the following:

a. Mortgages on registered real estate;

b. Chattel mortgages on harvested or stored crops of non-perishable character;

c. Chattel mortgages on livestock, tools, equipment or machinery, supplies or materials, merchandise and other personal properties;

d. Assignment of quedans which gives the right of disposal of readily marketable products;

e. Time and/or savings deposits and/or capital contribution;

f. Pledge of bonds, stock and other securities of the GOCC and other bonds, stocks or securities which are non-speculative in nature;

g. Land transfer certificates issued by the government to tenant farmers, under the agrarian reform program to the extent of sixty percent (60%) of the value of the farm holdings: *Provided,* That a certification shall be first secured from the office of the Registry of Deeds to the effect that the Land Transfer Certificate being presented is valid; and

h. Other securities as may be approved by the Monetary Board.

Secs. 4322S - 4335S (Reserved)

C. - D. (RESERVED)

Secs. 4336S - 4355S (Reserved)

E. LOANS/CREDIT ACCOMMODATIONS TO TRUSTEES, OFFICERS, STOCKHOLDERS AND THEIR RELATED INTERESTS

Sec. 4356S General Policy. The transactions of all trustees or officers with the NSSLA shall not be under terms more favorable than those transacted with other members.

Sec. 4357S Direct/Indirect Borrowings; Ceilings. No NSSLA shall directly or indirectly make any loan to any trustee or officer of such NSSLA, either for himself or as agent or as partner of another, except with the written approval of the majority of the trustees of the NSSLA, excluding the trustee concerned: *Provided,* That the aggregate loans to such trustees and officers shall not exceed twenty percent (20%) of the total capital contributions of the NSSLA.

Sec. 4358S Records; Reports. In all cases of accommodations granted to trustees and officers under Sec. 4357S, the written approval of the majority of the trustees of the NSSLA, excluding the trustee concerned, shall be entered upon the records of the NSSLA and a copy of such entry shall be transmitted forthwith to the appropriate department of the SES within twenty (20) business days from the date of approval.

Secs. 4359S - 4369S (Reserved)

Sec. 4370S Sanctions. The office of any trustee or officer of an NSSLA who violates the provisions of these rules on accommodations granted to trustee and officers shall immediately become vacant and said trustees or officer shall be punished by imprisonment of not more than one (1) year nor more than ten (10) years and by a fine of not less than ₱5,000 nor more than ₱50,000 pursuant to Section 15 of R.A. No. 8367.

F. - I. (RESERVED)

Secs. 4371S - 4390S (Reserved)

J. OTHER OPERATIONS

Sec. 4391S Fund Investments. An NSSLA may invest its funds in any or all of the following:

a. In bonds and securities in an aggregate amount not exceeding ten percent (10%) of its total assets**;** any investment in excess of ten percent (10%) shall require the prior approval of the BSP: *Provided,* That NSSLAs may invest available funds in excess of ten percent (10%) of total assets in sound non-speculative enterprise, particularly in readily marketable and high grade commercial papers, bonds and securities issued by the Government of the Philippines or any of its political subsidiaries, instrumentalities or corporations including GOCCs, subject to the following conditions:

(1) The credit needs of the members shall be served/satisfied first;

(2) The investment in any one (1) corporation (excluding the Government of the Philippines, any of its political subdivisions, instrumentalities, or corporations including GOCCs), shall not exceed twenty-five percent (25%) of the NSSLA's combined capital accounts; and

(3) The additional investment may be up to another ten percent (10%) of the NSSLA's total assets;

b. In real property, in an aggregate amount not exceeding at any one time five percent (5%) of the total assets of such NSSLA; and

c. In furniture, fixtures, furnishings and equipment, and leasehold improvements for its offices, in amount not exceeding at any one time ten percent (10%), of its total capital contribution.

§§ 4391S.1 - 4391S.2 ***(Reserved)***

§ 4391S.3 ***Investments in debt and marketable equity securities.*** The classification, accounting procedures, valuation, sales and transfers of investments in debt securities and marketable equity securities shall be in accordance with the guidelines in *Appendices Q-20* and *Q-20-a*.

Penalties and sanctions. The following penalties and sanctions shall be imposed on FIs and concerned officers found to violate the provisions of these regulations:

a. Fines of ₱2,000/banking day to be imposed on NSSLAs for each violation, reckoned from the date the violation was committed up to the date it was corrected; and

b. Sanctions to be imposed on concerned officers:

(1) First offense – reprimand the officers responsible for the violation; and

(2) Subsequent offenses–suspension-of ninety (90) days without pay for officers responsible for the violation.

(Circular No. 476 dated 16 February 2005 as amended by Circular Nos. 628 dated 31 October 2008 and 626 dated 23 October 2008)

§§ 4391S.4 - 4391S.10 ***(Reserved)***

Secs. 4392S - 4395S (Reserved)

K. MISCELLANEOUS PROVISIONS

Secs. 4396S - 4398S (Reserved)

Sec. 4399S General Provision on Sanctions. Unless otherwise provided, any violation of the provisions of this Part shall be subject to the sanctions provided in Sections 34, 35, 36 and 37 of R.A. No. 7653, whenever applicable.

PART FOUR

Sections 4401S - 4499S (Reserved)

PART FIVE

Sections 4501S - 4599S (Reserved)

PART SIX

MISCELLANEOUS

A. OTHER OPERATIONS

Section 4601S Fines and Other Charges. The following regulations shall govern imposition of monetary penalties on NSSLAs, their trustees and/or officers and payment of such penalties or fines and other charges by NSSLAs.

(*As amended by Circualr No. 585 dated 15 October 2007)*

§ 4601S.1 *Guidelines on the imposition of monetary penalties; payment of penalties or fines.* The following are the guidelines on the imposition of monetary penalties on NSSLAs, their trustees and/or officers and the payment of such penalties or fines and other charges:

a. *Definition of terms*. For purposes of the imposition of monetary penalties, the following definitions are adopted:

(1) *Continuing offenses/violations* are acts, ommisions or transactions entered into, in violation of laws, BSP rules and regulations, Monetary Board directives, and orders of the Governor which persist from the time the particular acts were committed or omitted or the transactions were entered into until the same were corrected/rectified by subsequent acts or transactions. They shall be penalized on a per calendar day basis from the time the acts were committed/omitted or the transactions were effected up to the time they were corrected/rectified.

(2) *Transactional offenses/violations* are acts, omissions or transactions entered into in violation of laws, BSP rules and regulations, Monetary Board directives, and orders of the Governor which cannot be corrected/rectified by subsuquent acts or transactions. They shall be meted with one (1)-time monetary penalty on a per transaction basis.

(3) *Continuing penalty* refers to the monetary penalty imposed on continuing offenses/violations on a per calendar day basis reckoned from the time the offense/violation occurred or was committed until the same was corrected/rectified.

(4) *Transactional penalty* refers to a one (1)-time penalty imposed on a transactional offense/violation.

b. *Basis for the computation of the period or duration of penalty*. The computation of the period or duration of all penalties shall be based on calendar days.

For this purpose the terms *"per banking day", "per business day", "per day"* and/or *"a day"* as used in this Manual, and other BSP rules and regulations shall mean *"per calendar day"* and/or *"calendar day"* as the case may be.

c. *Additional charge for late payment of monetary penalty*. Late payment of monetary penalty shall be subject to an additional charge of six percent (6%) per annum to be reckoned from the business day immediately following the day said penalty becomes due and payable up to the day of actual payment.

d. *Appeal or request for reconsideration*. A one (1)-time appeal or request for reconsideration on the monetary penalty approved by the Governor/Monetary Board to be imposed on the NSSLA, its directors and/or officers shall be allowed: *Provided*, That the same is filed with the appropriate department of the SES within fifteen (15) calendar days from receipt of the Statement of Account/billing letter. The appropriate department of the SES shall evaluate the appeal or request for reconsideration of

the NSSLA/individual and make recommendations thereon within thirty (30) calendar days from receipt thereof. The appeal or request for reconsideration on the monetary penalty approved by the Governor/Monetary Board shall be elevated to the Monetary Board for resolution/ decision. The running of the penalty period in case of continuing penalty and/or the period for computing additonal charge shall be interrupted from the time the appeal or request for reconsideration was received by the appropriate department of the SES up to the time that the notice of the Monetary Board decision was received by the NSSLA/ individual concerned.

e. *Due date; payment of penalty or fines*. The penalty approved by the Governor/MB to be imposed on the NSSLA, its directors and/or officers shall become due and payable fifteen (15) calendar days from receipt of the Statement of Account from the BSP. For NSSLAs which maintain DDA with the BSP, penalties which remain unpaid after the lapse of the fifteen-day period shall be automatically debited against their corresponding DDA on the following business day without additional charge. If the balance of the concerned NSSLA's DDA is insufficient to cover the amount of the penalty, said penalty shall already be subject to an additional charge of six percent (6%) per annum to be reckoned from the business day immediately following the end of said fifteen (15)-day period up to the day of actual payment.

Failure to settle the full amount of the fines within the period or on the day prescribed herein shall, in addition to the additonal penalty as provided in item *"c"* above, make an NSSLA, its trustees and officers liable to the sanctions imposed under Sec. 4199S.

(As amended by Circular Nos. 662 dated 09 September 2009 and 585 dated 15 October 2007)

Secs. 4602S - 4630S (Reserved)

Sec. 4631S Revocation/Suspension of Non-Stock Savings and Loan Association License. In reference to Section 22 of R.A. No. 8367 or the "Revised Non-Stock Savings and Loan Association Act of 1997", the Monetary Board, upon due notice and hearing, has the authority to either revoke or suspend the license of any NSSLA for such period as it deems necessary, based on any of the following grounds:

a. *Suspension of license:*

(1) Repeated violations [uncorrected similar examination findings for the last two (2) examinations, regular or special] of any of the provisions of R.A. No. 8367, and/or any rules or regulations promulgated to implement said law, or BSP directives and/or instructions; and

(2) Paid-up capital is impaired by continuing losses for the last two (2) fiscal years.

Lifting of the suspension of license shall be approved by the Monetary Board upon recommendation of the appropriate BSP supervising department.

b. *Revocation of license:*

(1) When the solvency of the NSSLA is imperiled by losses and irregularities;

(2) When the NSSLA willfully violates any provision of R.A. No. 8367, any rule or regulation promulgated to implement said law and BSP directives and/or instructions;

(3) When the NSSLA is conducting business in an unsafe and unsound manner;

(4) When it is unable to pay its liabilities as they become due in the ordinary course of business;

(5) When it has insufficient realizable assets, as determined by the BSP, to meet its liabilities;

(6) When it cannot continue in business without involving probable losses to its members or creditors; and

(7) When it has willfully violated a cease and desist order of the Monetary Board involving acts or transactions which amount to fraud or a dissipation of assets of the institution.

As to the effects of the revocation/ suspension of license of the NSSLA, the NSSLA is prohibited from engaging in the business of accumulating the savings of its members and using such accumulations for loans to its members, subject to applicable sanctions and penalties provided by law in case of violation thereof. After the cessation of its operations due to revocation of its license, the NSSLA should proceed with its dissolution, in acccordance with the provisions under the Corporation Code. The dissolution of a corporation involves the termination of its corporate existence, at least, as far as the right to go on doing ordinary business is concerned, and the winding up of its affairs, the payments of its debts and distribution of its assets among the members or stakeholders or other persons involved. The board of trustees of the corporation also has the option of adopting a plan for the distribution of its assets, as stated under Section 95 of the Corporation Code.

After the revocation/suspension of its license, the Monetary Board may direct the board of trustees of the NSSLA to proceed with the voluntary dissolution of the corporation. In the event that the board of trustees refuses to effectuate such dissolution, the Monetary Board may refer the matter to the Solicitor General for the filing of a *quo warranto* case against the corporation in accordance with the provisions of the Corporation Code.

Secs. 4632S - 4640S (Reserved)

Sec. 4641S Electronic Services. The guidelines concerning electronic activities, as may be applicable, are found in Sec. 4701Q and its Subsections.
(Circular No. 649 dated 09 March 2009)

Sec. 4642S Issuance and Operations of Electronic Money. The following guidelines shall govern the issuance of electronic money (e-money) and the operations of electronic money issuers (EMIs).
(Circular No. 649 dated 09 March 2009)

§ 4642S.1 *Declaration of policy.* It is the policy of the BSP to foster the development of efficient and convenient retail payment and fund transfer mechanism in the Philippines. The availability and acceptance of e-money as a retail payment medium will be promoted by providing the necessary safeguards and controls to mitigate the risks associated in an e-money business.
(Circular No. 649 dated 09 March 2009)

§ 4642S.2 *Definitions*

E-money shall mean monetary value as represented by a claim on its issuer, that is -

a. electronically stored in an instrument or device;

b. issued against receipt of funds of an amount not lesser in value than the monetary value issued;

c. accepted as a means of payment by persons or entities other than the issuer;

d. withdrawable in cash or cash equivalent; and

e. issued in accordance with this Section.

Electronic money issuer shall be classified as follows:

a. Banks (hereinafter called EMI-Bank);

b. NBFI supervised by the BSP (hereinafter called EMI-NBFI); and

c. Non-bank institutions registered with the BSP as a money transfer agent under Sec. 4511N of the MORNBFI (hereinafter called EMI-Others).

For purposes of this Section:

a. *Electronic instruments or devices* shall mean cash cards, e-wallets accessible via mobile phones or other access device, stored value cards, and other similar products.

b. E-money issued by NSSLAs shall not be considered as deposits.
(Circular No. 649 dated 09 March 2009)

§ 4642S.3 ***Prior Bangko Sentral approval***
NSSLAs planning to be an EMI-NBFI shall comply with the requirements of Sec. 4641S and with Sec. 4190Q, when applicable.
(Circular No. 649 dated 09 March 2009)

§ 4642S.4 ***Common provisions.*** The following provisions are applicable to all EMIs:

a. E-money instrument issued shall be subject to aggregate monthly load limit of P100,000 unless a higher amount has been approved by the BSP. In case an EMI issues several e-money instruments to a person (e-money holder), the total amount loaded in all the e-money instruments shall be consolidated in determining compliance with the aggregate monthly load limit;

b. EMIs shall put in place a system to maintain accurate and complete record of e-money instruments issued, the identity of e-money holders, and the individual and consolidated balances thereof. The system must have the capability to monitor the movement of e-money transactions and link e-money instruments issued to common e-money holders. The susceptibility of a system to intentional or unintentional misreporting of transaction and balances shall be sufficient ground for imposition by the BSP of sanctions, as may be applicable.

c. E-money may only be redeemed at face value. It shall not earn interest nor rewards and other similar incentives convertible to cash, nor be purchased at a discount. E-money is not considered a deposit, hence, it is not insured with the PDIC.

d. EMIs shall not ensure that e-money instruments clearly identify the issuer who is ultimately responsible to the e-money holders. This shall be communicated to the client who shall acknowledge the same in writing.

e. It is the responsibility of EMIs to ensure that their distributors/e-money agents comply with all applicable requirements of the Anti-Money Laundering laws, rules and regulations.

f. EMIs shall provide an acceptable redress mechanism to address the complaints of its customers.

g. EMIs shall disclose in writing and its customers shall signify agreement to the information embodied in Item "c" above upon their participation in the e-money system. In addition, it shall provide clear guidance in English and Filipino on consumers' right of redemption, including conditions and fees for redemption, if any. Information on available redress procedures for complaints together with the address and contact information of the issuer shall also be provided.

h. Prior to the issuance of e-money, EMIs should ensure that the following minimum systems and controls are in place:

(1) Sound and prudent management, administrative and accounting procedures and adequate internal control mechanisms;

(2) Properly-designed computer systems which are thoroughly tested prior to implementation;

(3) Appropriate security policies and measures intended to safeguard the integrity, authenticity and confidentiality of data and operating processes;

(4) Adequate business continuity and disaster recovery plan; and

(5) Effective audit function to provide periodic review of the security control environment and critical systems.

i. EMIs shall provide the SDC quarterly statements containing, among others, information on investments, volume of transactions, total outstanding e-money balances, and liquid assets in such forms as may be prescribed later on.

j. EMIs shall notify the BSP in writing of any change or enhancement in the e-money facility thirty (30) days prior to implementation. If said change or

enhancement requires prior BSP approval, the same shall be evaluated accordingly. Any change or enhancement that shall expand the scope or change the nature of the e-money instrument shall be subject to prior approval of the Deputy Governor, SES. These changes or enhancements may include the following:

(1) Additional capabilities of the e-money instrument/s, like access to new channels (e.g. inclusion of internet channel in addition to merchant Point of Sale terminals);

(2) Change in technology service providers and other major partners in the e-money business (excluding partner merchants), if any; and

(3) Other changes or enhancements.

(Circular No. 649 dated 09 March 2009)

§ 4642S.5 *Quasi-bank license requirement.* EMI-NBFIs and EMI-Others that engage in lending activities must secure a quasi-banking license from the BSP.

(Circular No. 649 dated 09 March 2009)

§ 4642S.6 *Sanctions.* Monetary penalties and other sanctions for the following violations committed by EMI-NBFIs shall be imposed:

Nature of Violation/ Exception	Sanction/Penalties
1. Issuing e-money without prior BSP approval	Applicable penalties under Sections 36 & 37 of R.A. No. 7653; Watchlisting of owners/partners/ principal officers
2. Violation of any of the provisions of R.A. No. 9160 (Anti-Money Laundering Law of 2001 as amended by R.A. No. 9194) and its implementing rules and regulations	Applicable penalties prescribed under the Act
3. Violation/s of this Section	Penalties and sanctions under the abovementioned laws and other applicable laws, rules and regulations

In addition, the susceptibility of a system to intentional or unintentional misreporting of transactions and balances shall be sufficient ground for appropriate BSP action or imposition of sanctions, whenever applicable.

(Circular No. 649 dated 09 March 2009)

§ 4642S.7 *Transitory provisions* EMI-NBFIs granted authority to issue e-money prior to 26 March 2009 may continue to exercise such authority: *Provided,* That it shall submit to the BSP, within one (1) month from 26 March 2009 a certification signed by the President or Officer with equivalent rank and function that it is in compliance with all the applicable requirements of this Section. Otherwise, they are required to submit within the same period the measures they will undertake, with the corresponding timelines, to conform to the provisions that they have not complied with, subject to BSP approval.

(Circular No. 649 dated 09 March 2009)

Secs. 4643S - 4650S (Reserved)

B. SUNDRY PROVISIONS

Sec. 4651S Notice of Dissolution. NSSLAs contemplating to dissolve shall give written notice thereof to the Monetary Board through the appropriate department of the SES at least thirty (30) days before taking steps to effect dissolution.

Sec. 4652S Confidential Information. No trustee, officer or employee of NSSLAs or of the BSP shall disclose any information

relating to member-borrowers and their applications or to the operations of the NSSLAs unless permitted by the Monetary Board of the BSP: *Provided, however*, That in the case of NSSLAs under examination, the head of the appropriate department of the SES may furnish findings of examination to the office or firm where such NSSLAs do business.

All deposits of whatever nature with NSSLAs are considered absolutely confidential in nature, and may not be examined, inquired or looked into by any person, government official, bureau or office, except upon written permission of the depositor, or in cases of impeachment, or upon order of competent court in cases of bribery or dereliction of duty of public officials or in cases where the money deposited or invested is the subject matter of litigation.

No official or employee of NSSLAs shall disclose to any person any information concerning said deposits, except in cases mentioned in the preceding paragraph. Any official or employee of NSSLAs who violates this Section shall be punished under R.A. No. 1405, as amended.

Sec. 4653S Examination by the Bangko Sentral. The head of the appropriate department of the SES, personally or by deputy, shall make at least once a year and at such other times as he or the Monetary Board may deem necessary and expedient, an examination, inspection or investigation of the books and records, business affairs, administration and financial condition of NSSLAs.

Sec. 4654S Applicability of Other Rules Other rules and regulations applicable to the examination of thrift banks, insofar as they are applicable and not inconsistent with these rules shall apply to NSSLAs.

Sec. 4655S Annual Fees. For purposes of computing the annual fees chargeable against NSSLAs, the term *Total Assessable Assets* shall be the amount referred to as the total assets under Section 28 of R.A. No. 7653 (end-of-quarter total assets per balance sheet, after deducting cash on hand and amounts due from banks, including the BSP and banks abroad).

Average Assessable Assets (AAAs) shall be the summation of end-of-quarter total assessable assets divided by the number of quarters in operation during the particular assessment period.

The prescribed rate of annual fees for NSSLAs, assessable only when actual examination is conducted for the year, shall be one-fortieth of one percent (1/40 of 1%) of AAAs for 2002 or P100,000 whichever is lower, payable within thirty (30) days from receipt of the bill. Failure to pay the bill within the prescribed period shall subject the NSSLAs to administrative sanctions.

Sec. 4656S Basic Law Governing Non-Stock Savings and Loan Associations R.A. No. 8367, as amended, known as the "Revised Non-Stock Savings and Loan Association Act of 1997", regulates the organization and operation of NSSLAs.

Sec. 4657S Non-Stock Savings and Loan Associations Premises and Other Fixed Assets. The following rules shall govern the premises and other fixed assets of NSSLAs.

§ 4657S.1 ***Accounting for non-stock savings and loans associations premises; other fixed assets.*** NSSLAs premises, furniture, fixture and equipment shall be accounted for using the cost model under PAS 16 "Property, Plant and Equipment".
(Circular No. 494 dated 20 September 2005)

§ 4657S.2 ***(Reserved)***

§ 4657S.3 *Reclassification of real and other properties acquired as non-stock savings and loans association premises* ROPA reclassified either as Real Property-Land or Real Property-Building shall be booked at their ROPA balance, net of any valuation reserves: *Provided,* That only such acquired asset or a portion thereof that will be immediately used or earmarked for future use may be reclassified and booked as Real Property-Land/Building.

NSSLAs, prior to the reclassification of their ROPA accounts to Real Property-Land/Building, shall first secure prior BSP approval before effecting the reclassification and shall submit, in case of future use, justification and plans for expansion/use.

§§ 4657S.4 - 4657S.8 *(Reserved)*

§ 4657S.9 *Batas Pambansa Blg. 344 - An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments and Public Utilities to Install Facilities and Other Devices.* In order to promote the realization of the rights of disabled persons to participate fully in the social life and the development of the societies in which they live and the enjoyment of the opportunities available to other citizens, no license or permit for the construction, repair or renovation of public and private buildings for public use, educational institutions, airports, sports and recreation centers and complexes, shopping centers or establishments, public parking places, workplaces, public utilities, shall be granted or issued unless the owner or operator thereof shall install and incorporate in such building, establishment or public utility, such architectural facilities or structural features as shall reasonably enhance the mobility of disabled persons such as sidewalks, ramps, railings, and the like. If feasible, all such existing buildings, institutions, establishments, or public utilities may be renovated or altered to enable the disabled persons to have access to them.

Secs. 4658S - 4659S (Reserved)

Sec. 4660S Disclosure of Remittance Charges and Other Relevant Information

It is the policy of the BSP to promote the efficient delivery of competitively-priced remittance services by banks and other remittance service providers by promoting competition and the use of innovative payment systems, strengthening the financial infrastructure, enhancing access to formal remittance channels in the source and destination countries, deepening the financial literacy of consumers, and improving transparency in remittance transactions, consistent with sound practices.

Towards this end, NBFIs under BSP supervision, including FXDs/MCs and RAs, providing overseas remittance services shall disclose to the remittance sender and to the recipient/beneficiary, the following minimum items of information regarding remittance transactions, as defined herein:

a. *Transfer/remittance fee* - charge for processing/sending the remittance from the country of origin to the country of destination and/or charge for receiving the remittance at the country of destination;

b. *Exchange rate* - rate of conversion from foreign currency to local currency, e.g., peso-dollar rate;

c. *Exchange rate differential/spread* - foreign exchange mark-up or the difference between the prevailing BSP reference/guiding rate and the exchange/conversion rate;

d. *Other currency conversion charges* - commisions or service fees, if any;

e. *Other related charges* - e.g., surcharges, postage, text message or telegram;

f. *Amount/currency paid out in the recipient country* - exact amount of money the recipient should receive in local currency or foreign currency; and

g. *Delivery time to recipients/ beneficiaries* - delivery period of remittance to beneficiary stated in number of days, hours or minutes.

Non-bank remittance service providers shall likewise post said information in their respective websites and display them prominently in conspicuous places within their premises and/or remittance/service centers.

(Circular No. 534 dated 26 June 2006)

Secs. 4661S - 4690S (Reserved)

Sec. 4691S Anti-Money Laundering Regulations. Banks, OBUs, QBs, trust entities, NSSLAs, pawnshops, and all other institutions, including their subsidiaries and affiliates supervised and/or regulated by the BSP, otherwise known as "covered institutions" shall comply with the provisions of R.A. No. 9160, as amended, otherwise known as the "Anti-Money Laundering Act of 2001" and its Revised IRRs in *Appendix S-7*.

(As amended by Circular Nos. 661 dated 01 September 2009 and 612 dated 13 June 2008)

§§ 4691S.1 - 4691S.8 *(Reserved)*

§ 4691S.9 *Sanctions and penalties*

a. Whenever a covered institution violates the provisions of Section 9 of R.A. No. 9160, as amended, or of this Section, the officer(s) or other persons responsible for such violation shall be punished by a fine of not less than P50 thousand nor more than P200 thousand or by imprisonment of not less than two (2) years nor more than ten (10) years, or both, at the discretion of the court pursuant to Section 36 of R.A. No. 7653, otherwise known as "The New Central Bank Act".

b. Without prejudice to the criminal sanctions prescribed above against the culpable persons, the Monetary Board may, at its discretion, impose upon any covered institution, its directors and/or officers for any violation of Section 9 of R.A. No. 9160, as amended, the administrative sanctions provided under Section 37 of R.A. No. 7653.

Secs. 4692S - 4694S (Reserved)

Sec. 4695S Valid Identification Cards for Financial Transactions. The following guidelines govern the acceptance of valid ID cards for all types of financial transactions by NSSLAs, including financial transactions involving OFWs, in order to promote access of Filipinos to services offered by formal FIs, particularly those residing in the remote areas, as well as to encourage and facilitate remittances of OFWs through the banking system:

a. Clients who engage in a financial transaction with covered institutions for the first time shall be required to present the original and submit a clear copy of at least one (1) valid photo-bearing ID document issued by an official authority.

For this purpose, the term *official authority* shall refer to any of the following:

(1) Government of the Republic of the Philippines;

(2) Its political subdivisions and instrumentalities;

(3) GOCCs; and

(4) Private entities or institutions registered with or supervised or regulated either by the BSP or SEC or IC.

Valid IDs include the following:

(a) Passport;
(b) Driver's license;
(c) PRC ID;
(d) NBI clearance;
(e) Police clearance;
(f) Postal ID;
(g) Voter's ID;
(h) Barangay certification;

(i) GSIS e-card;
(j) SSS card;
(k) Senior Citizen card;
(l) OWWA ID;
(m) OFW ID;
(n) Seaman's Book;
(o) Alien Certification of Registration/ Immigrant Certificate of Registration;
(p) Government office and GOCC ID (e.g., AFP, HDMF IDs);
(q) Certification from the NCWDP;
(r) DSWD certification;
(s) IBP ID;
(t) Company IDs issued by private entities or institutions registered with or supervised or regulated either by the BSP, SEC, or IC; and
(u) Passports issued by foreign governments.

b. Students who are beneficiaries of remittances/fund transfers who are not yet of voting age may be allowed to present the original and submit a clear copy of one (1) valid photo-bearing school ID duly signed by the principal or head of the school.

c. NSSLAs shall require their clients to submit a clear copy of one (1) valid ID on a one-time basis only, or at the commencement of a business relationship. They shall require their clients to submit an updated photo and other relevant information whenever the need for it arises.

The foregoing shall be in addition to the customer identification requirements under Rule 9.1.c of the Revised IRRs of R.A. No. 9160, as amended (*Appendix S-7)*

For purposes of this Section, financial transactions may include remittances, among others, as falling under the definition of financial transaction. Under the Anti-Money Laundering Act of 2001, as amended, a *financial transaction* is any act establishing any right or obligation or giving rise to any contractual or legal relationship between the parties thereto. It also includes any movement of funds by any means with a covered institution.

(Circular No. 564 dated 03 April 2007 as amended by Circular Nos. 657 dated 16 June 2009 and 608 dated 20 May 2008)

Secs. 4696S - 4698S (Reserved)

Sec. 4699S General Provision on Sanctions
Unless otherwise provided, any violation of the provisions of this Part shall be subject to the sanctions provided in Sections 34, 35, 36 and 37 of R. A. No. 7653, whenever applicable.

SAFEGUARDS IN BONDING OF NSSLA ACCOUNTABLE OFFICERS AND EMPLOYEES

(Appendix to Sec. 4145S)

1. *The Teller*. He should not be allowed to accumulate more than a specific maximum amount to be determined by the association but in no case to exceed ₱10,000 in cash at any given time while in the performance of his duties. The procedures in this regard are as follows:

a. *Cash*. All cash in excess of the maximum amount determined by the association shall be turned over to the cashier. When deposits received by a teller will increase his cash in excess of the maximum limit, the teller shall immediately make a cash turn-over of, at least, the excess. Thus, although his transactions during the day may total more than the maximum limit, the amount of money directly in his custody at any given time will never exceed the limit.

b. *Checks and Other Cash Items (COCIs)*. All COCIs received by a teller should be stamped as "non-negotiable." The stamping should be made diagonally on the face of the check. Thus, all checks that are received by the tellers lose their further negotiability. There should, however, be an agreement with the association's depository banks whereby they will accept for deposit only to the account of the association the COCI previously stamped by the tellers as "non-negotiable." Therefore, only the association and nobody else can further negotiate these checks, and only the association's depository bank will accept them and solely for deposit to its account. Thus, even in the remote possibility that someone presents a COCI stolen from the association to one of its depository banks, it will not be accepted for encashment.

2. *The COCIs Clerk*. In view of the fact that all COCIs received by the tellers are stamped "non-negotiable" as detailed above, the COCIs clerk who records and processes these checks carries no accountabilities whatsoever. From the moment that a check is received up to the moment that it is deposited to the account of the association with one of its depository banks, that check is just a piece of paper to be processed and recorded. It will only reassume its negotiability upon its receipt by the association's depository bank. In cases, however, where checks are received by mail, the COCIs clerk shall be charged with the duty of stamping the checks as "non-negotiable."

3. As an added precautionary measure, the manager/accountant/loan officer should check from time to time whether all COCIs received are stamped "non-negotiable." In the event that a COCI is not so stamped and it results in financial loss on the part of the association, the employee charged with the duty to stamp and who failed to do so, shall be held personally responsible, together with the manager/accountant/loan officer, for the loss.

LIST OF REPORTS REQUIRED FROM NON-STOCK SAVINGS AND LOAN ASSOCIATIONS

(Appendix to Sec. 4162S)

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	BSP 7-26-02H	4162S *(As amended by M-029 dated 09.24.07)*	Consolidated Statement of Condition	Quarterly	on or before the end of the immediate following month	Original to SDC
A-2	Unnumbered	4691S *(Rev. May 2002, as amended by Cir. No. 612 dated 06.03.08)*	Report on Suspicious Transactions	As transaction occurs	10th business day from date of transaction/ knowledge	Original and duplicate - Anti-Money Laundering Council (AMLC)
A-2	Unnumbered	4691S	Report on Covered Transactions	-do-	-do-	-do-
A-3	BSP 7-26-03H	4162S *(As amended by M-029 dated 09.24.07)*	Consolidated Statement of Income and Expenses	Quarterly	on or before the end of the immediate following month	Original to SDC
A-3	BSP 7-26-18.1H	4358S	Copy of entry in NSSLA records of written approval of majority of directors on credit accommodation to directors and officers with accompanying Certification on Loans Granted to Directors/Officers	As approved	20th business day from date of approval	Original - ISD I

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	Unnumbered	4162S *(CL-050 dated 10.04.07 and CL-059 dated 11.28.07)*	Report on Borrowings of BSP Personnel	Quarterly	15th banking days after end of reference quarter	Original to SDC
B		4172S	Audited/Unaudited Financial Statements required in Sec. 4181S accompanied by annual report[1] (to members, if any)	Annually	120th/60th day after end of fiscal year as required in Sec. 4181S	Original - ISD I
		4162S *SES II Form 15 (NP08-TB) As amended by M-024 dated 07.31.08*	Biographical Data of Directors/Officers - If submitted in diskette form - Notarized first page of each of the directors'/officers' bio-data saved in diskette and control prooflist - If sent by electronic mail - Notarized first page of Biographical Data or Notarized list of names of Directors/Officers whose Biographical Data were submitted thru electronic mail to be faxed to SDC (CL dated 01.09.01)	Annually[2] and as changes occur	January 31st and 15th business day from the date of the meeting of the board of directors in which the directors/ officers are elected or appointed	Electronic mail or diskette form to SDC or if hard copy original to appropriate department of the SES, duplicate to SDC
B	BSP 7-26-20H	4162S	Report on Crimes/Losses	As crime/ incident occurs	See Annex S-2-a for guidelines on reporting crimes and losses	-do-
B	-	4306S.3	Notice/Application for Write-Off of Loans	As write-off occurs	30th day prior to the intended date of write-off	-do-

[1] Required of NSSLAs with total resources of ₱ 10 million or more
[2] Not required where no change occurs

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	-	4162S	Board Resolution on NSSLA's signatories to reports submitted to Bangko Sentral	As authorized	3rd day from date of resolution	Electronic mail or diskette form to SDC or if hard copy original to appropriate department of the SES, duplicate to SDC
	Unnumbered (no prescribed form)	4691S	Certification of compliance with existing anti-money laundering regulations	Annually	20th business day after end of reference year	-do-
B			General Information Sheet	Annually	30th day from date of annual stockholders' meeting	Drop Box - SEC Central Receiving Section Original - SEC Duplicate - BSP
B	Form I Schedule 1	*M-031 dated 09.11.09 and Cir. No. 649 dated 03.09.09*	Report on Electronic Money Transactions Quarterly Statement of E-Money Transactions - Volume and Amount of E-Money Transactions Quarterly Statement of LIquidity Cover Schedules 1 - E-Money Balances	Quarterly	15 banking days after end of refernce quarter	e-mail - sdcothers-emoney@bsp.gov.ph Hardcopy- SDC

APP. S-2
08.12.31

Annex S-2-a

REPORTING GUIDELINES ON CRIMES/LOSSES

1. NSSLAs shall report on the following matters through the appropriate supervising and examining department:

a. Crimes whether consummated, frustrated or attempted against property/ facilities (such as robbery, theft, swindling or estafa, forgery and other deceits) and other crimes involving loss/ destruction of property of the NSSLA when the amount involved in each crime is ₱20,000 or more.

Crimes involving NSSLA personnel, regardless of whether or not such crimes involve the loss/destruction of property of the NSSLA, even if the amount involved is less than those above specified, shall likewise be reported to the BSP.

b. Incidents involving material loss, destruction or damage to the institution's property/facilities, other than arising from a crime, when the amount involved per incident is ₱20,000 or more.

2. The following guidelines shall be observed in the preparation and submission of the report.

a. The report shall be prepared in two (2) copies and shall be submitted within five (5) business days from knowledge of the crime or incident, the original to the appropriate supervising department and the duplicate to the BSP Security Coordinator, thru the Director, Security Investigation and Transport Department.

b. Where a thorough investigation and evaluation of facts is necessary to complete the report, an initial report submitted within the five (5)-business day deadline may be accepted: *Provided*, That a complete report is submitted not later than fifteen (15) business days from termination of investigation.

GUIDELINES ON PRESCRIBED REPORTS SIGNATORIES AND SIGNATORY AUTHORIZATION
(Appendix to Subsec. 4162S.1)

Category A-1 reports shall be signed by the chief executive officer, or in his absence, by the executive vice-president, and by the comptroller, or in his absence, by the chief accountant, or by officers holding equivalent positions. The designated signatories in this category, including their specimen signatures, shall be contained in a resolution approved by the board of directors in the format prescribed in Annex S-3-a.

Category A-2 reports of head offices shall be signed by the president, executive vice-presidents, vice-presidents or officers holding equivalent positions. Such reports of other offices/units (such as branches) shall be signed by their respective managers/officers in-charge. Likewise, the signing authority in this category shall be contained in a resolution approved by the board of directors in the format prescribed in Annex S-3-b.

Categories A-3 and B reports shall be signed by officers or their alternates, who shall be duly designated by the board of directors. A copy of the board resolution, with format as prescribed in Annex S-3-c.

Copies of the board resolutions on the report signatory designations shall be submitted to the appropriate supervising and examining department of the BSP within three (3) business days from the date of resolution.

Annex S-3-a

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-1 REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4162S.1 that Category A-1 reports be signed by the Chief Executive Officer, or in his absence, by the Executive Vice-President, and by the Comptroller, or in his absence, by the Chief Accountant, or by officers holding equivalent positions.

Whereas, it is also required that aforesaid officers of the institution be authorized under a resolution duly approved by the institution's Board of Directors;

Whereas, we, the members of the Board of Directors of ___(Name of Institution)___, are conscious that, in designating the officials who would sign said Category A-1 reports, we are actually empowering and authorizing said officers to represent and act for or in behalf of the Board of Directors in particular and _____(Name of Institution)_____ in general;

Whereas, this Board has full faith and confidence in the institution's Chief Executive Officer, Executive Vice-President, Comptroller and Chief Accountant, as the case may be, and, therefore, assumes responsibility for all the acts which may be performed by aforesaid officers under their delegated authority;

Now, therefore, we, the members of the Board of Directors, resolve, as it is hereby resolved that:

1. Mr._____	President	_____ Specimen Signature
	or	
	Executive	
2. Mr._____	Vice-President	_____ Specimen Signature
	and	
3. Mr._____	Comptroller	_____ Specimen Signature
	or	
	Chief	
4. Mr._____	Accountant	_____ Specimen Signature

are hereby authorized to sign Category A-1 reports of ____(Name of Institution)____.

Done in the City of _____ Philippines, this ____day of_____, 20____.

_____
CHAIRMAN OF THE BOARD

_____ DIRECTOR	_____ DIRECTOR
_____ DIRECTOR	_____ DIRECTOR
_____ DIRECTOR	_____ DIRECTOR

ATTESTED BY:

_____
CORPORATE SECRETARY

Annex S-3-b

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-2 REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4162S.1 that Category A-2 reports of head offices be signed by the President, Executive Vice-Presidents, Vice-Presidents or officers holding equivalent positions, and that such reports of other offices be signed by the respective managers/officers-in-charge;

Whereas, it is also required that aforesaid officers of the institution be authorized under a resolution duly approved by the institution's Board of Directors;

Whereas, we, the members of the Board of Directors of __(Name of Institution)___, are conscious that, in designating the officials who would sign said Category A-2 reports, we are actually empowering and authorizing said officers to represent and act for or in behalf of the Board of Directors in particular and __(Name of Institution)__ in general;

Whereas, this Board has full faith and confidence in the institution's President (and/or the Executive Vice-President, etc., as the case may be) and, therefore, assumes responsibility for all the acts which may be performed by aforesaid officers under their delegated authority;

Now, therefore, we, the members of the Board of Directors, resolve, as it is hereby resolved that:

Name of Officer	*Specimen Signature*	*Position Title*	*Report No.*
_____	_____	_____	_____

are hereby authorized to sign the Category A-2 reports of ____(Name of Institution)____.

Done in the City of _____ Philippines, this ____day of ____, 20____.

_____
CHAIRMAN OF THE BOARD

_____ _____
DIRECTOR DIRECTOR

_____ _____
DIRECTOR DIRECTOR

_____ _____
DIRECTOR DIRECTOR

ATTESTED BY:

_____
CORPORATE SECRETARY

Annex S-3-c

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORIES A-3 AND B REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4162S.1 that Categories A-3 and B reports be signed by officers or their alternates;

Whereas, it is also required that aforesaid officers of the institution be authorized under a resolution duly approved by the institution's Board of Directors;

Whereas, we the members of the Board of Directors of __(Name of Institution)__, are conscious that, in designating the officials who would sign said Categories A-3 and B reports, we are actually empowering and authorizing said officers to represent and act for or in behalf of the Board of Directors in particular and __(Name of Institution)__ in general;

Whereas, this Board has full faith and confidence in the institution's authorized signatories and, therefore, assumes responsibility for all the acts which may be performed by aforesaid officers under their delegated authority;

Now, therefore, we, the members of the Board of Directors, resolve, as it is hereby resolved that:

Name of Authorized Signatory/Alternate	Specimen Signature	Position Title	Report
1. Authorized			
(Alternate)			
2. Authorized			
(Alternate)			
etc.			

are hereby authorized to sign the Category A-2 reports of _____(Name of Institution)_____.

Done in the City of _____ Philippines, this ____day of ____, 20____.

_____
CHAIRMAN OF THE BOARD

_____ _____
DIRECTOR DIRECTOR

_____ _____
DIRECTOR DIRECTOR

ATTESTED BY:

_____
CORPORATE SECRETARY

FORMAT-DISCLOSURE STATEMENT OF LOAN/CREDIT TRANSACTION
(Appendix to Subsec. 4307S.2)

_____
(Business Name of Creditor)

DISCLOSURE STATEMENT OF LOAN/CREDIT TRANSACTION (SINGLE PAYMENT OR INSTALLMENT PLAN)
(As required under R.A. 3765, Truth in Lending Act)

Name of Borrower _____

Address _____

1. Cash/Purchase Price _____ or Net Proceeds of Loan ₱ _____
(Item Purchased)

2. LESS: Downpayment and/or Trade-in Value (Not applicable for loan transaction) _____
3. Unpaid Balance of Cash/Purchase Price or Net Proceeds of Loan _____

4. Non-Finance Charges [Advanced by Seller/Creditor]:
   a. Insurance Premium ₱ _____
   b. Taxes _____
   c. Registration Fees _____
   d. Documentary/Science Stamps _____
   e. Notarial Fees _____
   f. Others:
   _____ _____
   _____ _____
   _____ _____

   Total Non-Finance Charges _____

5. Amount to be Financed (Items 3 + 4) ₱ _____

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08.12.31

6. Finance Charges[1]
   a. Interest _____% p.a.
      from _____ to _____ ₱_____

      [ ] Simple [ ] Monthly
      [ ] Compound [ ] Quarterly
      [ ] Semi-Annual
      [ ] Annual

   b. Discounts _____
   c. Service/Handling Charges _____
   d. Collection Charges _____
   e. Credit Investigation Fees _____
   f. Appraisal Fees _____
   g. Attorney's/Legal Fees _____
   h. Other charges incidental to the extension of credit (specify):

      _____ _____
      _____ _____
      _____ _____

      Total Non-Finance Charges ₱ _____

7. Percentage of Finance Charges to Total Amount Financed
   (Computed in accordance with Subsec. 4307S.1) _____%

8. Effective Interest Rate _____%
   (Method of computation attached)

9. Payment
   a. Single Payment due _____ ₱ _____
      (Date)
   b. Total Installment Payments
      (Payable in _____ weeks/months @ ₱_____) ₱ _____

[1] Time price differential should be disclosed as a finance charge. If an itemization cannot be made, a lump-sum figure may be reported under Other charges incidental to the extension of credit in Item 6h.

10. Additional charges in case certain stipulations in the contract are not met by the debtor:

Nature	Rate	Amount

CERTIFIED CORRECT:

_____
(Signature of Creditor/
Authorized Representative
Over Printed Name)

_____
Position

I ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT PRIOR TO THE CONSUMMATION OF THE CREDIT TRANSACTION AND THAT I UNDERSTAND AND FULLY AGREE TO THE TERMS AND CONDITIONS THEREOF.

_____
(Signature of Buyer/Borrower
Over Printed Name)

DATE _____

NOTICE TO BUYER/BORROWER: YOU ARE ENTITLED TO A COPY OF THIS PAPER WHICH YOU SHALL SIGN.

ABSTRACT OF "TRUTH IN LENDING ACT" (Republic Act No. 3765)

(*Appendix to Subsec. 4307S.4)*

Section 1. This Act shall be known as the "Truth in Lending Act."

Sec. 2. Declaration of Policy. It is hereby declared to be the policy of the State to protect its citizens from a lack of awareness of the true cost of credit to the user by assuring a full disclosure of such cost with a view of preventing the uninformed use of credit to the detriment of the national economy.

xxx xxx xxx

Sec. 3. As used in this Act, the term -

xxx xxx xxx

(3) "Finance charge" includes interest, fees, service charges, discounts, and such other charges incident to the extension of credit as the Board may by regulation prescribe.

xxx xxx xxx

Sec. 4. Any creditor shall furnish to each person to whom credit is extended, prior to the consummation of the transaction a clear statement in writing setting forth, to the extent applicable and in accordance with rules and regulations prescribed by the Board, the following information:

(1) the cash price or delivered price of the property or service to be acquired;

(2) the amounts, if any, to be credited as down payment and/or trade-in;

(3) the difference between the amounts set forth under clauses (1) and (2);

(4) the charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit;

(5) the total amount to be financed;

(6) the finance charge expressed in terms of pesos and centavos; and

(7) the percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the outstanding unpaid balance of the obligation.

xxx xxx xxx

Sec. 6. (a) Any creditor who in connection with any credit transaction fails to disclose to any person any information in violation of this Act or any regulation issued thereunder shall be liable to such person in the amount of ₱100 or in an amount equal to twice the finance charge required by such creditor in connection with such transaction, whichever is the greater, except that such liability shall not exceed ₱2,000 on any credit transaction.

xxx xxx xxx

(c) Any person who willfully violates any provision of this Act or any regulation issued thereunder shall be fined by not less than ₱1,000 nor more than ₱5,000 or imprisonment for not less than 6 months nor more than one year or both.

xxx xxx xxx

(d) Any final judgment hereafter rendered in any criminal proceeding under this Act to the effect that a defendant has willfully violated this Act shall be prima facie evidence against such defendant in an action or proceeding brought by any other party against such defendant under this Act as to all matters respecting which said judgment would be an estoppel as between the parties thereto.

Sec. 7. This Act shall become effective upon approval.

Approved, 22 June 1963.

ANTI-MONEY LAUNDERING REGULATIONS
(Appendix to Section 4691S)

Banks, QBs, trust entities and all other institutions, and their subsidiaries and affiliates supervised or regulated by the BSP (covered institutions) shall strictly comply with the provisions of Section 9 of R.A. No. 9160 and the following rules and regulations on anti-money laundering.

1. *Customer identification*. Covered institutions shall establish and record the true identity of its clients based on official documents. They shall maintain a system of verifying the true identity of their clients and, in case of corporate clients, require a system of verifying their legal existence and organizational structure, as well as the authority and identification of all persons purporting to act on their behalf.

When establishing business relations or conducting transactions (particularly opening of deposit accounts, accepting deposit substitutes, entering into trust and other fiduciary transactions, renting of safety deposit boxes, performing remittances and other large cash transactions) covered institutions should take reasonable measures to establish and record the true identity of their clients. Said client identification may be based on official or other reliable documents and records.

a. In cases of corporate and other legal entities, the following measures should be taken, when necessary:

(1) Verification of the legal existence and structure of the client from the appropriate agency or from the client itself or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors, principal officers and provisions regulating the power behind the entity.

(2) Verification of the authority and identification of the person purporting to act on behalf of the client.

b. In case of doubt as to whether their purported clients or customers are acting for themselves or for another, reasonable measures should be taken to obtain the true identity of the persons on whose behalf an account is opened or a transaction conducted.

c. The provisions of existing laws to the contrary notwithstanding, anonymous accounts, accounts under fictitious names, and all other similar accounts shall be absolutely prohibited. In case where numbered accounts is allowed (i.e., peso and foreign currency non-checking numbered accounts), covered institutions should ensure that the client is identified in an official or other identifying documents.

The BSP may conduct annual testing solely limited to the determination of the existence and the identity of the owners of such accounts.

Covered institutions shall phase out within a period of one (1) year from 2 April 2001 or upon their maturity, whichever is earlier, anonymous accounts or accounts under fictitious names as well as numbered accounts being kept or managed by them, which are not expressly allowed under existing law.

d. The identity of existing clients or beneficial owners of deposits and other funds held or being managed by the covered institutions should be renewed/ updated at least every other year.

e. All records of all transactions of covered institutions shall be maintained and safely stored for five (5) years from the dates of transactions. With respect to closed accounts, the records on customer

identification, account files and business correspondence, shall be preserved and safely stored for at least five (5) years from the dates when they were closed.

Such records must be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal behaviour.

f. Special attention should be given to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies.

g. Covered institutions should not, or should at least avoid, transacting business with criminals. Reasonable measures should be adopted to prevent the use of their facilities for laundering of proceeds of crimes and other illegal activities.

2. *Programs against money laundering*. Programs against money laundering should be developed. These programs, should include, as a minimum:

a. The development of internal policies, procedures and controls, including the designation of compliance officers at management level, and adequate screening procedures to ensure high standards when hiring employees;

b. An ongoing employee training program; and

c. An audit function to test the system.

3. *Submission of plans of action* Covered institutions shall submit a plan of action on how to comply with the requirements of App. S-6 nos. 1, 2 and 4 within thirty (30) business days from 31 July 2000 or from opening of the institution.

4. *Required reporting of certain transactions*. If there is reasonable ground to believe that the funds are proceeds of an unlawful activity as defined under R.A. No. 9160 and/or its IRRs, the transactions involving such funds or attempts to transact the same, should be reported to the Anti-Money Laundering Council (AMLC) in accordance with Rules 5.2 and 5.3 of the AMLA IRRs.

a. *Report on suspicious transactions*.[1] Banks shall report covered transactions and suspicious transactions, as defined in Rules 5.2 and 5.3 of the AMLA IRRs, to the AMLC using the forms prescribed by the AMLC. Reportable transactions shall include the following:

(1) Outward remittances without visible lawful purpose;

(2) Inward remittances without visible lawful purpose or without underlying trade transactions;

(3) Unusual purchases of foreign exchange without visible lawful purpose;

(4) Unusual sales of foreign exchange whose sources are not satisfactorily established;

(5) Complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent or visible lawful purpose;

(6) Funds being managed or held as deposit substitutes if there is reasonable ground to believe that the same are proceeds of criminal and other illegal activities; and

(7) Suspicious Transaction Indicators or "Red Flags" as a Guide in the Submission to the AMLC of Reports of Suspicious Transactions Relating To Potential or Actual Financing of Terrorism.

(a) Wire transfers between accounts, without visible economic or business purpose, especially if the wire transfers are effected through countries which are identified or connected with terrorist activities.

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[1]Amended by AMLC Resolution No. 292 dated 11.20.03 (Annex S-6-b)

(b) Sources and/or beneficiaries of wire transfers are citizens of countries which are identified or connected with terrorist activities.

(c) Repetitive deposits or withdrawals that cannot be explained or do not make sense.

(d) Value of the transaction is over and above what the client is capable of earning.

(e) Client is conducting a transaction that is out of the ordinary for his known business interest.

(f) Deposits being made by individuals who have no known connection or relation with the account holder.

(g) An individual receiving remittances, but has no family members working in the country from which the remittance is made.

(h) Client was reported and/or mentioned in the news to be involved in terrorist activities.

(i) Client is under investigation by law enforcement agencies for possible involvement in terrorist activities.

(j) Transactions of individuals, companies or non-governmental organizations (NGOs) that are affiliated or related to people suspected of being connected to a terrorist group or a group that advocates violent overthrow of a government.

(k) Transactions of individuals, companies or NGOs that are suspected as being used to pay or receive funds from revolutionary taxes.

(l) The NGO does not appear to have expenses normally related to relief or humanitarian effort.

(m) The absence of contributions from donors located within the country of origin of the NGO.

(n) A mismatch between the pattern and size of financial transactions on the one hand and the stated purpose and activity of the NGO on the other.

(o) Incongruities between apparent sources and amount of funds raised or moved by the NGO.

(p) Any other transaction that is similar, identical or analogous to any of the foregoing.

(8) All other suspicious transactions/ activities which can be reported without violating any law.

The *report on suspicious transactions* shall provide the following minimum information:

(a) Name or names of the parties involved.

(b) A brief description of the transaction or transactions.

(c) Date or date the transaction(s) occurred.

(d) Amount(s) involved in every transaction.

(e) Such other relevant information which can be of help to the authorities should there be an investigation.

b. *Exemption from Bank Secrecy Law*. When reporting covered transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates shall not be deemed to have violated R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791 and other similar laws, but are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. In case of violation thereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, shall be criminally liable. However, no administrative, criminal or civil proceedings, shall lie against any person for having made a covered transaction report in the regular performance of his duties and in good faith, whether or not such reporting results in any

criminal prosecution under R.A. No. 9160 or any other Philippine law.

c. *Prohibition from disclosure of the covered transaction report*. When reporting covered transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person, entity, the media, the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. Neither may such reporting be published or aired in any manner or form by the mass media, electronic mail, or other similar devices. In case of violation thereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, or media shall be held criminally liable.

5. *Certification of compliance with anti-money laundering regulations*. Covered institution shall submit annually to the BSP thru the appropriate supervising and examining department a certification (*Annex S-6-a*) signed by the President or officer of equivalent rank and by their Compliance Officer to the effect that they have monitored compliance with existing anti-money laundering regulations.

The certification shall be submitted in accordance with *Appendix S-2* and shall be considered a *Category A-2* report.

Annex S-6-a

CERTIFICATION OF COMPLIANCE WITH ANTI-MONEY LAUNDERING REGULATIONS

C E R T I F I C A T I O N

Pursuant to the provisions of Section 2 of BSP Circular No. 279 dated 2 April 2001, we hereby certify:

1. That we have monitored (Name of NSSLA)'s compliance with R.A. No. 9160 (Anti-Money Laundering Act of 2001) as well as with BSP Circular Nos. 251, 253, 259 and 302;

2. That the NSSLA is complying with the required customer identification, documentation of all new clients, and continued monitoring of customer's activities;

3. That the NSSLA is also complying with the requirement to record all transactions and to maintain such records including the record of customer identification for at least five (5) years;

4. That the NSSLA does not maintain anonymous or fictitious accounts; and

5. That we conduct regular anti-money laundering training sessions for all NSSLA officers and selected staff members holding sensitive positions.

_____ _____

(Name of President or officer of equivalent rank) (Name of Compliance Officer)

SUBSCRIBED AND SWORN to before me, _____ this ____ day of _____, affiant/s exhibiting to me their Residence Certificates as follows:

Name	**Community Tax Cert. No**	**Date/Place Issued**

Doc. No. _____; Notary Public
Page No. _____;
Book No. _____;
Series of 20___

Annex S-6-b

AMLC Resolution No. 292

RULES ON SUBMISSION OF COVERED TRANSACTION REPORTS AND SUSPICIOUS TRANSACTION REPORTS BY COVERED INSTITUTIONS[1]

(Annex to Appendix S-6)

1. All covered institutions are required to file Suspicious Transaction Reports (STRs) on transactions involving all kinds of monetary instruments or property.

2. Banks shall file covered transaction reports (CTRs) on transactions involving all kinds of monetary instruments or property, i.e., in cash or non-cash, whether in domestic or foreign currency.

3. Covered institutions, other than banks, shall file CTRs on transactions in cash or foreign currency or other monetary instruments (other than checks) or properties. Due to the nature of the transactions in the stock exchange, only the brokers-dealers shall be required to file CTRs and STRs. The PSE, PCD, SCCP and transfer agents are exempt from filing CTRs. They, are however, required to file STRs when the transactions that pass through them are deemed to be suspicious.

4. Where the covered institution engages in bulk transactions with a bank, i.e., deposits of premium payments in bulk or settlements of trade, and the bulk transactions do not distinguish clients and their respective transaction amounts, said covered institutions shall be required to file CTRs on its clients whose transactions exceed ₱500,000 and are included in the bulk transactions.

5. With respect to insurance companies, when the total amount of the premiums for the entire year, regardless of the mode of payment (monthly, quarterly, semi-annually or annually), exceeds ₱500,000, such amount shall be reported as a covered transaction, even if the amounts of the amortizations are less than the threshold amount. The CTR shall be filed upon payment of the first premium amount, regardless of the mode of payment. Under this rule, the insurance company shall file the CTR only once every year until the policy matures or rescinded, whichever comes first.

6. The submission of CTRs is deferred until the AMLC directs otherwise. Submission of STRs, however, are not deferred and covered institutions are mandated to submit such STRs when the circumstances so require.

---

[1] a. The Anti-Money Laundering Council (AMLC), in the exercise of its authority under Sections 7(1) and 9 of Republic Act No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001", as amended, and its Revised Implementing Rules and Regulations, resolved to:

(1) Defer reporting by covered institutions to AMLC of the following "non-cash, no/low risk covered transactions:

- Transactions between banks and the BSP;
- Transactions between banks operating in the Philippines;
- Internal operating expenses of the banks;
- Transactions between banks and government agencies;
- Transactions involving transfer of funds from one deposit account to another deposit account of the same person within the same bank;
- Roll-overs of placements of time deposits; and
- Loan interest/principal payment debited against borrower's deposit account maintained with the lending bank.

(2) Request the BSP-supervised institutions, through the Association of Bank Compliance Officers (ABCOMP), to determine and report to AMLC the specific transactions falling within the purview of the aforesaid BSP-identified categories on "non-cash, no/low risk" covered transactions.

b. All covered institutions should:

(1) Submit corresponding electronic copy versions, in the required format, of those STRs previously submitted in hard copy or the hard copy version of those submitted only in electronic form, as the case may be, retroactive to 05 January 2004; and

(2) Re-submit in required electronic form, those CTRs that have been submitted previously in hard copy or in diskette not in the required format, retroactive to 23 March 2003.

REVISED IMPLEMENTING RULES AND REGULATIONS R.A. NO. 9160, AS AMENDED BY R.A. NO. 9194

(Appendix to Sec. 4691S)

RULE 1
TITLE

Rule 1.a. Title. - These Rules shall be known and cited as the "Revised Rules and Regulations Implementing R.A. No. 9160", (the Anti-Money Laundering Act of 2001 [AMLA]), as amended by R.A. No. 9194.

Rule 1.b. Purpose. - These Rules are promulgated to prescribe the procedures and guidelines for the implementation of the AMLA, as amended by R.A. No. 9194.

RULE 2
DECLARATION OF POLICY

Rule 2. Declaration of Policy. - It is hereby declared the policy of the State to protect the integrity and confidentiality of bank accounts and to ensure that the Philippines shall not be used as a money-laundering site for the proceeds of any unlawful activity. Consistent with its foreign policy, the Philippines shall extend cooperation in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed.

RULE 3
DEFINITIONS

Rule 3. Definitions. – For purposes of this Act, the following terms are hereby defined as follows:

Rule 3.a. *Covered Institution* refers to:

Rule 3.a.1. Banks, offshore banking units, quasi-banks, trust entities, non-stock savings and loan associations, pawnshops, and all other institutions, including their subsidiaries and affiliates supervised and/or regulated by the Bangko Sentral ng Pilipinas (BSP).

(a) A *subsidiary* means an entity more than fifty percent (50%) of the outstanding voting stock of which is owned by a bank, quasi-bank, trust entity or any other institution supervised or regulated by the BSP.

(b) An *affiliate* means an entity at least twenty percent (20%) but not exceeding fifty percent (50%) of the voting stock of which is owned by a bank, quasi-bank, trust entity, or any other institution supervised and/or regulated by the BSP.

Rule 3.a.2. Insurance companies, insurance agents, insurance brokers, professional reinsurers, reinsurance brokers, holding companies, holding company systems and all other persons and entities supervised and/or regulated by the Insurance Commission (IC).

(a) An *insurance company* includes those entities authorized to transact insurance business in the Philippines, whether life or non-life and whether domestic, domestically incorporated or branch of a foreign entity. A contract of insurance is an agreement whereby one undertakes for a consideration to indemnify another against loss, damage or liability arising from an unknown or contingent event. Transacting insurance business includes making or proposing to make, as insurer, any insurance contract, or as surety, any contract of suretyship as a vocation and not as merely incidental to any other legitimate

business or activity of the surety, doing any kind of business specifically recognized as constituting the doing of an insurance business within the meaning of Presidential Decree (P.D.) No. 612, as amended, including a reinsurance business and doing or proposing to do any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of P.D. No. 612, as amended.

(b) An *insurance agent* includes any person who solicits or obtains insurance on behalf of any insurance company or transmits for a person other than himself an application for a policy or contract of insurance to or from such company or offers or assumes to act in the negotiation of such insurance.

(c) An *insurance broker* includes any person who acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract or in placing risk or taking out insurance, on behalf of an insured other than himself.

(d) A *professional reinsurer* includes any person, partnership, association or corporation that transacts solely and exclusively reinsurance business in the Philippines, whether domestic, domestically incorporated or a branch of a foreign entity. A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance.

(e) A *reinsurance broker* includes any person who, not being a duly authorized agent, employee or officer of an insurer in which any reinsurance is effected, acts or aids in any manner in negotiating contracts of reinsurance or placing risks of effecting reinsurance, for any insurance company authorized to do business in the Philippines.

(f) A *holding company* includes any person who directly or indirectly controls any authorized insurer. A holding company system includes a holding company together with its controlled insurers and controlled persons.

Rule 3.a.3. (i) Securities dealers, brokers, salesmen, associated persons of brokers or dealers, investment houses, investment agents and consultants, trading advisors, and other entities managing securities or rendering similar services, (ii) mutual funds or open-end investment companies, close-end investment companies, common trust funds, pre-need companies or issuers and other similar entities; (iii) foreign exchange corporations, money changers, money payment, remittance, and transfer companies and other similar entities, and (iv) other entities administering or otherwise dealing in currency, commodities or financial derivatives based thereon, valuable objects, cash substitutes and other similar monetary instruments or property supervised and/or regulated by the Securities and Exchange Commission (SEC).

(a) A *securities broker* includes a person engaged in the business of buying and selling securities for the account of others.

(b) A *securities dealer* includes any person who buys and sells securities for his/her account in the ordinary course of business.

(c) A *securities salesman* includes a natural person, employed as such or as an agent, by a dealer, issuer or broker to buy and sell securities.

(d) An *associated person of a broker or dealer* includes an employee thereof who directly exercises control or supervisory authority, but does not include a salesman, or an agent or a person whose functions are solely clerical or ministerial.

(e) An *investment house* includes an enterprise which engages or purports to engage, whether regularly or on an isolated basis, in the underwriting of securities of another person or enterprise, including securities of the Government and its instrumentalities.

(f) A *mutual fund or an open-end investment* company includes an investment company which is offering for sale or has outstanding, any redeemable security of which it is the issuer.

(g) A *closed-end investment company* includes an investment company other than open-end investment company.

(h) A *common trust fund* includes a fund maintained by an entity authorized to perform trust functions under a written and formally established plan, exclusively for the collective investment and reinvestment of certain money representing participation in the plan received by it in its capacity as trustee, for the purpose of administration, holding or management of such funds and/or properties for the use, benefit or advantage of the trustor or of others known as beneficiaries.

(i) A *pre-need company or issuer* includes any corporation supervised and/or regulated by the SEC and is authorized or licensed to sell or offer for sale pre-need plans. *Pre-need plans* are contracts which provide for the performance of future service(s) or payment of future monetary consideration at the time of actual need, payable either in cash or installment by the planholder at prices stated in the contract with or without interest or insurance coverage and includes life, pension, education, internment and other plans, which the Commission may, from time to time, approve.

(j) A *foreign exchange corporation* includes any enterprise which engages or purports to engage, whether regularly or on an isolated basis, in the sale and purchase of foreign currency notes and such other foreign-currency denominated non-bank deposit transactions as may be authorized under its articles of incorporation.

(k) *Investment Advisor/Agent/Consultant* shall refer to any person:

(1) who for an advisory fee is engaged in the business of advising others, either directly or through circulars, reports, publications or writings, as to the value of any security and as to the advisability of trading in any security; or

(2) who for compensation and as part of a regular business, issues or promulgates, analyzes reports concerning the capital market, except:

(a) any bank or trust company;
(b) any journalist, reporter, columnist, editor, lawyer, accountant, teacher;
(c) the publisher of any bonafide newspaper, news, business or financial publication of general and regular circulation, including their employees;
(d) any contract market;
(e) such other person not within the intent of this definition, provided that the furnishing of such service by the foregoing persons is solely incidental to the conduct of their business or profession.

(3) any person who undertakes the management of portfolio securities of investment companies, including the arrangement of purchases, sales or exchanges of securities.

(l) A *moneychanger* includes any person in the business of buying or selling foreign currency notes.

(m) A *money payment, remittance and transfer company* includes any person offering to pay, remit or transfer or transmit money on behalf of any person to another person.

(n) *"Customer"* refers to any person or entity that keeps an account, or otherwise transacts business, with a covered institution and any person or entity on whose behalf an account is maintained or a transaction is conducted, as well as the beneficiary of said transactions. A customer also includes the beneficiary of a trust, an investment fund, a pension fund or a company or person whose assets are managed by an asset manager, or a grantor of a trust. It includes any insurance policy holder, whether actual or prospective.

(o) *"Property"* includes any thing or item of value, real or personal, tangible or intangible, or any interest therein or any benefit, privilege, claim or right with respect thereto.

Rule 3.b. *Covered Transaction* is a transaction in cash or other equivalent monetary instrument involving a total amount in excess of Php500,000.00 within one (1) banking day.

Rule 3.b.1. *Suspicious transactions* are transactions, regardless of amount, where any of the following circumstances exists:

(1) There is no underlying legal or trade obligation, purpose or economic justification;

(2) The client is not properly identified;

(3) The amount involved is not commensurate with the business or financial capacity of the client;

(4) Taking into account all known circumstances, it may be perceived that the client's transaction is structured in order to avoid being the subject of reporting requirements under the act;

(5) Any circumstance relating to the transaction which is observed to deviate from the profile of the client and/or the client's past transactions with the covered institution;

(6) The transaction is in any way related to an unlawful activity or any money laundering activity or offense under this act that is about to be, is being or has been committed; or

(7) Any transaction that is similar, analogous or identical to any of the foregoing.

Rule 3.c. *Monetary Instrument* refers to:

(1) Coins or currency of legal tender of the Philippines, or of any other country;

(2) Drafts, checks and notes;

(3) Securities or negotiable instruments, bonds, commercial papers, deposit certificates, trust certificates, custodial receipts or deposit substitute instruments, trading orders, transaction tickets and confirmations of sale or investments and money market instruments;

(4) Contracts or policies of insurance, life or non-life, and contracts of suretyship; and

(5) Other similar instruments where title thereto passes to another by endorsement, assignment or delivery.

Rule 3.d. *Offender* refers to any person who commits a money laundering offense.

Rule 3.e. *Person* refers to any natural or juridical person.

Rule 3.f. *Proceeds* refers to an amount derived or realized from an unlawful activity. It includes:

(1) All material results, profits, effects and any amount realized from any unlawful activity;

(2) All monetary, financial or economic means, devices, documents, papers or things used in or having any relation to any unlawful activity; and

(3) All moneys, expenditures, payments, disbursements, costs, outlays, charges, accounts, refunds and other similar items for the financing,

operations, and maintenance of any unlawful activity.

Rule 3.g. *Supervising Authority* refers to the BSP, the SEC and the IC. Where the BSP, SEC or IC supervision applies only to the registration of the covered institution, the BSP, the SEC or the IC, within the limits of the AMLA, shall have the authority to require and ask assistance from the government agency having regulatory power and/or licensing authority over said covered institution for the implementation and enforcement of the AMLA and these Rules.

Rule 3.h. *Transaction* refers to any act establishing any right or obligation or giving rise to any contractual or legal relationship between the parties thereto. It also includes any movement of funds by any means with a covered institution.

Rule 3.i. *Unlawful activity* refers to any act or omission or series or combination thereof involving or having relation, to the following:

(A) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code, as amended;

(1) Kidnapping for ransom

(B) Sections 4, 5, 6, 8, 9, 10, 12, 13, 14, 15 and 16 of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002;

(2) Importation of prohibited drugs;
(3) Sale of prohibited drugs;
(4) Administration of prohibited drugs;
(5) Delivery of prohibited drugs
(6) Distribution of prohibited drugs
(7) Transportation of prohibited drugs
(8) Maintenance of a Den, Dive or Resort for prohibited users
(9) Manufacture of prohibited drugs
(10)Possession of prohibited drugs
(11)Use of prohibited drugs
(12)Cultivation of plants which are sources of prohibited drugs
(13)Culture of plants which are sources of prohibited drugs

(C) Section 3 paragraphs b, c, e, g, h and i of R.A. No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act;

(14)Directly or indirectly requesting or receiving any gift, present, share, percentage or benefit for himself or for any other person in connection with any contract or transaction between the Government and any party, wherein the public officer in his official capacity has to intervene under the law;

(15) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any government permit or license, in consideration for the help given or to be given, without prejudice to Section 13 of R.A. No. 3019;

(16) Causing any undue injury to any party, including the government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence;

(17) Entering, on behalf of the government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby;

(18) Directly or indirectly having financial or pecuniary interest in any business contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest;

(19) Directly or indirectly becoming interested, for personal gain, or having material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which exercise of discretion in such approval, even if he votes against the same or he does not participate in the action of the board, committee, panel or group.

(D) Plunder under R.A. No. 7080, as amended;

(20) Plunder through misappropriation, conversion, misuse or malversation of public funds or raids upon the public treasury;

(21) Plunder by receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;

(22) Plunder by the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies, instrumentalities or government-owned or controlled corporations or their subsidiaries;

(23) Plunder by obtaining, receiving or accepting, directly or indirectly, any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;

(24) Plunder by establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests;

(25) Plunder by taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the republic of the Philippines.

(E) Robbery and extortion under Articles 294, 295, 296, 299, 300, 301 and 302 of the Revised Penal Code, as amended;

(26) Robbery with violence or intimidation of persons;

(27) Robbery with physical injuries, committed in an uninhabited place and by a band, or with use of firearms on a street, road or alley;

(28) Robbery in an uninhabited house or public building or edifice devoted to worship.

(F) Jueteng and Masiao punished as illegal gambling under P.D. No. 1602;

(29) Jueteng;

(30) Masiao.

(G) Piracy on the high seas under the Revised Penal Code, as amended and P.D. No. 532;

(31) Piracy on the high seas;

(32) Piracy in inland Philippine waters;

(33) Aiding and abetting pirates and brigands.

(H) Qualified theft under Article 310 of the Revised Penal Code, as amended;

(34) Qualified theft.

(I) Swindling under Article 315 of the Revised Penal Code, as amended;

(35) Estafa with unfaithfulness or abuse of confidence by altering the substance, quality or quantity of anything of value which the offender shall deliver by virtue of an obligation to do so, even though such obligation be based on an immoral or illegal consideration;

(36) Estafa with unfaithfulness or abuse of confidence by misappropriating or converting, to the prejudice of another, money, goods or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the

duty to make delivery or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property;

(37) Estafa with unfaithfulness or abuse of confidence by taking undue advantage of the signature of the offended party in blank, and by writing any document above such signature in blank, to the prejudice of the offended party or any third person;

(38) Estafa by using a fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits;

(39) Estafa by altering the quality, fineness or weight of anything pertaining to his art or business;

(40) Estafa by pretending to have bribed any government employee;

(41) Estafa by postdating a check, or issuing a check in payment of an obligation when the offender has no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check;

(42) Estafa by inducing another, by means of deceit, to sign any document;

(43) Estafa by resorting to some fraudulent practice to ensure success in a gambling game;

(44) Estafa by removing, concealing or destroying, in whole or in part, any court record, office files, document or any other papers.

(J) Smuggling under R.A. Nos. 455 and 1937;

(45) Fraudulent importation of any vehicle;

(46) Fraudulent exportation of any vehicle;

(47) Assisting in any fraudulent importation;

(48) Assisting in any fraudulent exportation;

(49) Receiving smuggled article after fraudulent importation;

(50) Concealing smuggled article after fraudulent importation;

(51) Buying smuggled article after fraudulent importation;

(52) Selling smuggled article after fraudulent importation;

(53) Transportation of smuggled article after fraudulent importation;

(54) Fraudulent practices against customs revenue.

(K) Violations under R.A. No. 8792, otherwise known as the Electronic Commerce Act of 2000;

K.1. *Hacking or cracking*, which refers to:

(55) unauthorized access into or interference in a computer system/server or information and communication system; or

(56) any access in order to corrupt, alter, steal, or destroy using a computer or other similar information and communication devices, without the knowledge and consent of the owner of the computer or information and communications system, including

(57) the introduction of computer viruses and the like, resulting in the corruption, destruction, alteration, theft or loss of electronic data messages or electronic document;

K.2. *Piracy*, which refers to:

(58) the unauthorized copying, reproduction,

(59) the unauthorized dissemination, distribution,

(60) the unauthorized importation,

(61) the unauthorized use, removal, alteration, substitution, modification,

(62) the unauthorized storage, uploading, downloading, communication, making available to the public, or

(63) the unauthorized broadcasting, of protected material, electronic signature or copyrighted works including legally protected sound recordings or phonograms

or information material on protected works, through the use of telecommunication networks, such as, but not limited to, the internet, in a manner that infringes intellectual property rights;

K.3. Violations of the Consumer Act or R.A. No. 7394 and other relevant or pertinent laws through transactions covered by or using electronic data messages or electronic documents:

(64) Sale of any consumer product that is not in conformity with standards under the Consumer Act;

(65) Sale of any product that has been banned by a rule under the Consumer Act;

(66) Sale of any adulterated or mislabeled product using electronic documents;

(67) Adulteration or misbranding of any consumer product;

(68) Forging, counterfeiting or simulating any mark, stamp, tag, label or other identification device;

(69) Revealing trade secrets;

(70) Alteration or removal of the labeling of any drug or device held for sale;

(71) Sale of any drug or device not registered in accordance with the provisions of the E-Commerce Act;

(72) Sale of any drug or device by any person not licensed in accordance with the provisions of the E-Commerce Act;

(73) Sale of any drug or device beyond its expiration date;

(74) Introduction into commerce of any mislabeled or banned hazardous substance;

(75) Alteration or removal of the labeling of a hazardous substance;

(76) Deceptive sales acts and practices;

(77) Unfair or unconscionable sales acts and practices;

(78) Fraudulent practices relative to weights and measures;

(79) False representations in advertisements as the existence of a warranty or guarantee;

(80) Violation of price tag requirements;

(81) Mislabeling consumer products;

(82) False, deceptive or misleading advertisements;

(83) Violation of required disclosures on consumer loans;

(84) Other violations of the provisions of the E-Commerce Act;

(L) Hijacking and other violations under R.A. No. 6235; destructive arson and murder, as defined under the Revised Penal Code, as amended, including those perpetrated by terrorists against non-combatant persons and similar targets;

(85) Hijacking;

(86) Destructive arson;

(87) Murder;

(88) Hijacking, destructive arson or murder perpetrated by terrorists against non-combatant persons and similar targets;

(M) Fraudulent practices and other violations under R.A. No. 8799, otherwise known as the Securities Regulation Code of 2000;

(89) Sale, offer or distribution of securities within the Philippines without a registration statement duly filed with and approved by the SEC;

(90) Sale or offer to the public of any pre-need plan not in accordance with the rules and regulations which the SEC shall prescribe;

(91) Violation of reportorial requirements imposed upon issuers of securities;

(92) Manipulation of security prices by creating a false or misleading appearance of active trading in any listed security traded in an Exchange or any other trading market;

(93) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that raises their prices to induce the purchase of a security, whether of the same or different class, of

the same issuer or of a controlling, controlled or commonly controlled company by others;

(94) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that depresses their price to induce the sale of a security, whether of the same or different class, of the same issuer or of a controlling, controlled or commonly controlled company by others;

(95) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that creates active trading to induce such a purchase or sale though manipulative devices such as marking the close, painting the tape, squeezing the float, hype and dump, boiler room operations and such other similar devices;

(96) Manipulation of security prices by circulating or disseminating information that the price of any security listed in an Exchange will or is likely to rise or fall because of manipulative market operations of any one or more persons conducted for the purpose of raising or depressing the price of the security for the purpose of inducing the purchase or sale of such security;

(97) Manipulation of security prices by making false or misleading statements with respect to any material fact, which he knew or had reasonable ground to believe was so false and misleading, for the purpose of inducing the purchase or sale of any security listed or traded in an Exchange;

(98) Manipulation of security prices by effecting, alone or with others, any series of transactions for the purchase and/or sale of any security traded in an Exchange for the purpose of pegging, fixing or stabilizing the price of such security, unless otherwise allowed by the Securities Regulation Code or by the rules of the SEC;

(99) Sale or purchase of any security using any manipulative deceptive device or contrivance;

(100) Execution of short sales or stop-loss order in connection with the purchase or sale of any security not in accordance with such rules and regulations as the SEC may prescribe as necessary and appropriate in the public interest or the protection of the investors;

(101) Employment of any device, scheme or artifice to defraud in connection with the purchase and sale of any securities;

(102) Obtaining money or property in connection with the purchase and sale of any security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(103) Engaging in any act, transaction, practice or course of action in the sale and purchase of any security which operates or would operate as a fraud or deceit upon any person;

(104) Insider trading;

(105) Engaging in the business of buying and selling securities in the Philippines as a broker or dealer, or acting as a salesman, or an associated person of any broker or dealer without any registration from the Commission;

(106) Employment by a broker or dealer of any salesman or associated person or by an issuer of any salesman, not registered with the SEC;

(107) Effecting any transaction in any security, or reporting such transaction, in an Exchange or using the facility of an Exchange which is not registered with the SEC;

(108) Making use of the facility of a clearing agency which is not registered with the SEC;

(109) Violations of margin requirements;

(110) Violations on the restrictions on borrowings by members, brokers and dealers;

(111) Aiding and Abetting in any violations of the Securities Regulation Code;

(112) Hindering, obstructing or delaying the filing of any document required under the Securities Regulation Code or the rules and regulations of the SEC;

(113) Violations of any of the provisions of the implementing rules and regulations of the SEC;

(114) Any other violations of any of the provisions of the Securities Regulation Code.

(N) Felonies or offenses of a similar nature to the afore-mentioned unlawful activities that are punishable under the penal laws of other countries.

In determining whether or not a felony or offense punishable under the penal laws of other countries, is "of a similar nature", as to constitute the same as an unlawful activity under the AMLA, the nomenclature of said felony or offense need not be identical to any of the predicate crimes listed under Rule 3.i.

RULE 4
MONEY LAUNDERING OFFENSE

Rule 4.1. Money Laundering Offense. - Money laundering is a crime whereby the proceeds of an unlawful activity as herein defined are transacted, thereby making them appear to have originated from legitimate sources. It is committed by the following:

(a) Any person knowing that any monetary instrument or property represents, involves, or relates to, the proceeds of any unlawful activity, transacts or attempts to transact said monetary instrument or property.

(b) Any person knowing that any monetary instrument or property involves the proceeds of any unlawful activity, performs or fails to perform any act as a result of which he facilitates the offense of money laundering referred to in paragraph (a) above.

(c) Any person knowing that any monetary instrument or property is required under this Act to be disclosed and filed with the Anti-Money Laundering Council (AMLC), fails to do so.

RULE 5
JURISDICTION OF MONEY LAUNDERING CASES AND MONEY LAUNDERING INVESTIGATION PROCEDURES

Rule 5.1. Jurisdiction of Money Laundering Cases. - The Regional Trial Courts shall have the jurisdiction to try all cases on money laundering. Those committed by public officers and private persons who are in conspiracy with such public officers shall be under the jurisdiction of the Sandiganbayan.

Rule 5.2. Investigation of Money Laundering Offenses. - The AMLC shall investigate:

(a) Suspicious transactions;

(b) Covered transactions deemed suspicious after an investigation conducted by the AMLC;

(c) Money laundering activities; and

(d) Other violations of this act.

Rule 5.3. Attempts at Transactions. - Section 4 (a) and (b) of the AMLA provides that any person who attempts to transact any monetary instrument or property representing, involving or relating to the proceeds of any unlawful activity shall be prosecuted for a money laundering offense. Accordingly, the reports required under Rule 9.3 (a) and (b) of these Rules shall include those pertaining to any attempt by any person to transact any monetary instrument or property representing, involving or relating to the proceeds of any unlawful activity.

RULE 6
PROSECUTION OF MONEY LAUNDERING

Rule 6.1. Prosecution of Money Laundering

(a) Any person may be charged with and convicted of both the offense of money laundering and the unlawful activity as defined under Rule 3 (i) of the AMLA.

(b) Any proceeding relating to the unlawful activity shall be given precedence over the prosecution of any offense or violation under the AMLA without prejudice to the application *Ex-Parte* by the AMLC to the Court of Appeals for a Freeze Order with respect to the monetary instrument or property involved therein and resort to other remedies provided under the AMLA, the rules of court and other pertinent laws and rules.

Rule 6.2. When the AMLC finds, after investigation, that there is probable cause to charge any person with a money laundering offense under Section 4 of the AMLA, it shall cause a complaint to be filed, pursuant to Section 7 (4) of the AMLA, before the Department of Justice or the Ombudsman, which shall then conduct the preliminary investigation of the case.

Rule 6.3. After due notice and hearing in the preliminary investigation proceedings before the Department of Justice, or the Ombudsman, as the case may be, and the latter should find probable cause of a money laundering offense, it shall file the necessary information before the Regional Trial Courts or the Sandiganbayan.

Rule 6.4. Trial for the money laundering offense shall proceed in accordance with the Code of Criminal Procedure or the Rules of Procedure of the Sandiganbayan, as the case may be.

Rule 6.5. Knowledge of the offender that any monetary instrument or property represents, involves, or relates to the proceeds of an unlawful activity or that any monetary instrument or property is required under the AMLA to be disclosed and filed with the AMLC, may be established by direct evidence or inferred from the attendant circumstances.

Rule 6.6. All the elements of every money laundering offense under Section 4 of the AMLA must be proved by evidence beyond reasonable doubt, including the element of knowledge that the monetary instrument or property represents, involves or relates to the proceeds of any unlawful activity.

Rule 6.7. No element of the unlawful activity, however, including the identity of the perpetrators and the details of the actual commission of the unlawful activity need be established by proof beyond reasonable doubt. The elements of the offense of money laundering are separate and distinct from the elements of the felony or offense constituting the unlawful activity.

RULE 7
CREATION OF ANTI-MONEY LAUNDERING COUNCIL (AMLC)

Rule 7.1.a. Composition. - The Anti-Money Laundering Council is hereby created and shall be composed of the Governor of the BSP as Chairman, the Commissioner of the Insurance Commission and the Chairman of the SEC as members.

Rule 7.1.b. Unanimous Decision. - The AMLC shall act unanimously in discharging its functions as defined in the AMLA and in these Rules. However, in the case of the incapacity, absence or disability of any member to discharge his functions, the officer duly designated or authorized to

discharge the functions of the Governor of the BSP, the Chairman of the SEC or the Insurance Commissioner, as the case may be, shall act in his stead in the AMLC.

Rule 7.2. Functions. - The functions of the AMLC are defined hereunder:

(1) to require and receive covered or suspicious transaction reports from covered institutions;

(2) to issue orders addressed to the appropriate Supervising Authority or the covered institution to determine the true identity of the owner of any monetary instrument or property subject of a covered or suspicious transaction report, or request for assistance from a foreign State, or believed by the Council, on the basis of substantial evidence, to be, in whole or in part, wherever located, representing, involving, or related to, directly or indirectly, in any manner or by any means, the proceeds of an unlawful activity;

(3) to institute civil forfeiture proceedings and all other remedial proceedings through the Office of the Solicitor General;

(4) to cause the filing of complaints with the Department of Justice or the Ombudsman for the prosecution of money laundering offenses;

(5) to investigate suspicious transactions and covered transactions deemed suspicious after an investigation by the AMLC, money laundering activities and other violations of this Act;

(6) to apply before the Court of Appeals, Ex-Parte, for the freezing of any monetary instrument or property alleged to be proceeds of any unlawful activity as defined under Section 3(i) hereof;

(7) to implement such measures as may be inherent, necessary, implied, incidental and justified under the AMLA to counteract money laundering. Subject to such limitations as provided for by law, the AMLC is authorized under Rule 7 (7) of the AMLA to establish an information sharing system that will enable the AMLC to store, track and analyze money laundering transactions for the resolute prevention, detection and investigation of money laundering offenses. For this purpose, the AMLC shall install a computerized system that will be used in the creation and maintenance of an information database;

(8) to receive and take action in respect of any request from foreign states for assistance in their own anti-money laundering operations as provided in the AMLA. The AMLC is authorized under Sections 7 (8) and 13 (b) and (d) of the AMLA to receive and take action in respect of any request of foreign states for assistance in their own anti-money laundering operations, in respect of conventions, resolutions and other directives of the United Nations (UN), the UN Security Council, and other international organizations of which the Philippines is a member. However, the AMLC may refuse to comply with any such request, convention, resolution or directive where the action sought therein contravenes the provisions of the Constitution, or the execution thereof is likely to prejudice the national interest of the Philippines.

(9) to develop educational programs on the pernicious effects of money laundering, the methods and techniques used in money laundering, the viable means of preventing money laundering and the effective ways of prosecuting and punishing offenders.

(10) to enlist the assistance of any branch, department, bureau, office, agency or instrumentality of the government, including government-owned and -controlled corporations, in undertaking any and all anti-money laundering operations, which may include the use of its personnel, facilities and resources for the more resolute

prevention, detection and investigation of money laundering offenses and prosecution of offenders. The AMLC may require the intelligence units of the Armed Forces of the Philippines, the Philippine National Police, the Department of Finance, the Department of Justice, as well as their attached agencies, and other domestic or transnational governmental or non-governmental organizations or groups to divulge to the AMLC all information that may, in any way, facilitate the resolute prevention, investigation and prosecution of money laundering offenses and other violations of the AMLA.

(11) To impose administrative sanctions for the violation of laws, rules, regulations and orders and resolutions issued pursuant thereto.

Rule 7.3. Meetings. - The AMLC shall meet every first Monday of the month, or as often as may be necessary at the call of the Chairman.

RULE 8
CREATION OF A SECRETARIAT

Rule 8.1. The Executive Director. - The Secretariat shall be headed by an Executive Director who shall be appointed by the AMLC for a term of five (5) years. He must be a member of the Philippine Bar, at least thirty-five (35) years of age, must have served at least five (5) years either at the BSP, the SEC or the IC and of good moral character, unquestionable integrity and known probity. He shall be considered a regular employee of the BSP with the rank of Assistant Governor, and shall be entitled to such benefits and subject to such rules and regulations, as well as prohibitions, as are applicable to officers of similar rank.

Rule 8.2. Composition. - In organizing the Secretariat, the AMLC may choose from those who have served, continuously or cumulatively, for at least five (5) years in the BSP, the SEC or the IC. All members of the Secretariat shall be considered regular employees of the BSP and shall be entitled to such benefits and subject to such rules and regulations as are applicable to BSP employees of similar rank.

Rule 8.3. Detail and Secondment. - The AMLC is authorized under Section 7 (10) of the AMLA to enlist the assistance of the BSP, the SEC or the IC, or any other branch, department, bureau, office, agency or instrumentality of the government, including government-owned and controlled corporations, in undertaking any and all anti-money laundering operations. This includes the use of any member of their personnel who may be detailed or seconded to the AMLC, subject to existing laws and Civil Service Rules and Regulations. Detailed personnel shall continue to receive their salaries, benefits and emoluments from their respective mother units. Seconded personnel shall receive, in lieu of their respective compensation packages from their respective mother units, the salaries, emoluments and all other benefits to which their AMLC Secretariat positions are entitled to.

Rule 8.4. Confidentiality Provisions. - The members of the AMLC, the Executive Director, and all the members of the Secretariat, whether permanent, on detail or on secondment, shall not reveal, in any manner, any information known to them by reason of their office. This prohibition shall apply even after their separation from the AMLA. In case of violation of this provision, the person shall be punished in accordance with the pertinent provisions of the Central Bank Act.

RULE 9
PREVENTION OF MONEY LAUNDERING; CUSTOMER IDENTIFICATION REQUIREMENTS AND RECORD KEEPING

Rule 9.1. Customer Identification Requirements

Rule 9.1.a. Customer Identification. - Covered institutions shall establish and record the true identity of its clients based on official documents. They shall maintain a system of verifying the true identity of their clients and, in case of corporate clients, require a system of verifying their legal existence and organizational structure, as well as the authority and identification of all persons purporting to act on their behalf. Covered institutions shall establish appropriate systems and methods based on internationally compliant standards and adequate internal controls for verifying and recording the true and full identity of their customers.

Rule 9.1.b. Trustee, Nominee and Agent Accounts. - When dealing with customers who are acting as trustee, nominee, agent or in any capacity for and on behalf of another, covered institutions shall verify and record the true and full identity of the person(s) on whose behalf a transaction is being conducted. Covered institutions shall also establish and record the true and full identity of such trustees, nominees, agents and other persons and the nature of their capacity and duties. In case a covered institution has doubts as to whether such persons are being used as dummies in circumvention of existing laws, it shall immediately make the necessary inquiries to verify the status of the business relationship between the parties.

Rule 9.1.c. Minimum Information/ Documents Required for Individual Customers. - Covered institutions shall require customers to produce original documents of identity issued by an official authority, bearing a photograph of the customer. Examples of such documents are identity cards and passports. The following minimum information/ documents shall be obtained from individual customers:

(1) Name;
(2) Present address;
(3) Permanent address;
(4) Date and place of birth;
(5) Nationality;
(6) Nature of work and name of employer or nature of self-employment/ business;
(7) Contact numbers;
(8) Tax identification number, Social Security System number or Government Service and Insurance System number;
(9) Specimen signature;
(10) Source of fund(s); and
(11) Names of beneficiaries in case of insurance contracts and whenever applicable.

Rule 9.1.d. Minimum Information/ Documents Required for Corporate and Juridical Entities. - Before establishing business relationships, covered institutions shall endeavor to ensure that the customer is a corporate or juridical entity which has not been or is not in the process of being, dissolved, wound up or voided, or that its business or operations has not been or is not in the process of being, closed, shut down, phased out, or terminated. Dealings with shell companies and corporations, being legal entities which have no business substance in their own right but through which financial transactions may be conducted, should be undertaken with extreme caution. The

following minimum information/ documents shall be obtained from customers that are corporate or juridical entities, including shell companies and corporations:

(1) Articles of Incorporation/ Partnership;

(2) By-laws;

(3) Official address or principal business address;

(4) List of directors/partners;

(5) List of principal stockholders owning at least two percent (2%) of the capital stock;

(6) Contact numbers;

(7) Beneficial owners, if any; and

(8) Verification of the authority and identification of the person purporting to act on behalf of the client.

Rule 9.1.e. Prohibition Against Certain Accounts. Covered institutions shall maintain accounts only in the true and full name of the account owner or holder. The provisions of existing laws to the contrary notwithstanding, anonymous accounts, accounts under fictitious names, and all other similar accounts shall be absolutely prohibited.

Rule 9.1.f. Prohibition Against Opening of Accounts Without Face-to-face Contact. - No new accounts shall be opened and created without face-to-face contact and full compliance with the requirements under Rule 9.1.c of these Rules.

Rule 9.1.g. Numbered Accounts. - Peso and foreign currency non-checking numbered accounts shall be allowed: *Provided*, That the true identity of the customers of all peso and foreign currency non-checking numbered accounts are satisfactorily established based on official and other reliable documents and records, and that the information and documents required under the provisions of these Rules are obtained and recorded by the covered institution. No peso and foreign currency non-checking accounts shall be allowed without the establishment of such identity and in the manner herein provided. The BSP may conduct annual testing for the purpose of determining the existence and true identity of the owners of such accounts. The SEC and the IC may conduct similar testing more often than once a year and covering such other related purposes as may be allowed under their respective charters.

Rule 9.2. Record Keeping Requirements

Rule 9.2.a. Record Keeping: Kinds of Records and Period for Retention. – All records of all transactions of covered institutions shall be maintained and safely stored for five (5) years from the dates of transactions. Said records and files shall contain the full and true identity of the owners or holders of the accounts involved in the covered transactions and all other customer identification documents. Covered institutions shall undertake the necessary adequate security measures to ensure the confidentiality of such file. Covered institutions shall prepare and maintain documentation, in accordance with the aforementioned client identification requirements, on their customer accounts, relationships and transactions such that any account, relationship or transaction can be so reconstructed as to enable the AMLC, and/ or the courts to establish an audit trail for money laundering.

Rule 9.2.b. Existing and New Accounts and New Transactions. - All records of existing and new accounts and of new transactions shall be maintained and safely stored for five (5) years from 17 October 2001 or from the dates of the accounts or transactions, whichever is later.

Rule 9.2.c. Closed Accounts.- With respect to closed accounts, the records on customer identification, account files and business correspondence shall be preserved and safely stored for at least five (5) years from the dates when they were closed.

Rule 9.2.d. Retention of Records in Case a Money Laundering Case has been Filed in Court. – If a money laundering case based on any record kept by the covered institution concerned has been filed in court, said file must be retained beyond the period stipulated in the three (3) immediately preceding sub-Rules, as the case may be, until it is confirmed that the case has been finally resolved or terminated by the court.

Rule 9.2.e. Form of Records. – Records shall be retained as originals in such forms as are admissible in court pursuant to existing laws and the applicable rules promulgated by the Supreme Court.

Rule 9.3. Reporting of Covered Transactions. -

Rule 9.3.a. Period of Reporting Covered Transactions and SuspiciousTransactions. - Covered institutions shall report to the AMLC all covered transactions and suspicious transactions within five (5) working days from occurrence thereof, unless the supervising authority concerned prescribes a longer period not exceeding ten (10) working days.

Should a transaction be determined to be both a covered and a suspicious transaction, the covered institution shall report the same as a suspicious transaction.

The reporting of covered transactions by covered institutions shall be deferred for a period of sixty (60) days after the effectivity of R.A. No. 9194, or as may be determined by the AMLC, in order to allow the covered institutions to configure their respective computer systems; provided that, all covered transactions during said deferment period shall be submitted thereafter.

Rule 9.3.b. Covered* and Suspicious *Transaction Report Forms. - The Covered Transaction Report (CTR) and the Suspicious Transaction Report (STR) shall be in the forms prescribed by the AMLC.

Rule 9.3.b.1. Covered institutions shall use the existing forms for Covered Transaction Reports and Suspicious Transaction Reports, until such time as the AMLC has issued new sets of forms.

Rule 9.3.b.2. Covered Transaction Reports and Suspicious Transaction Reports shall be submitted in a secured manner to the AMLC in electronic form, either via diskettes, leased lines, or through internet facilities, with the corresponding hard copy for suspicious transactions. The final flow and procedures for such reporting shall be mapped out in the manual of operations to be issued by the AMLC.

Rule 9.3.c. Exemption from Bank Secrecy Laws. – When reporting covered or suspicious transactions to the AMLC, covered institutions and their officers and employees, shall not be deemed to have violated R.A. No. 1405, as amended, R.A. No. 6426, as amended, R.A. No. 8791 and other similar laws, but are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person the fact that a covered or suspicious transaction report was made, the contents thereof, or any other information in relation thereto. In case of violation thereof, the concerned officer and employee of the covered institution, shall be criminally liable.

Rule 9.3.d. Confidentiality Provisions. – When reporting covered transactions or suspicious transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person, entity, or the media, the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. Neither may such reporting be published or aired in any manner or form by the mass media, electronic mail, or other similar devices. In case of violation hereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, or media shall be held criminally liable.

Rule 9.3.e. Safe Harbor Provisions. – No administrative, criminal or civil proceedings, shall lie against any person for having made a covered transaction report or a suspicious transaction report in the regular performance of his duties and in good faith, whether or not such reporting results in any criminal prosecution under this Act or any other Philippine law.

RULE 10
APPLICATION FOR FREEZE ORDERS

Rule 10.1. When the AMLC May Apply for the Freezing of Any Monetary Instrument or Property. -

(a) After an investigation conducted by the AMLC and upon determination that probable cause exists that a monetary instrument or property is in any way related to any unlawful activity as defined under Section 3 (i), the AMLC may file an Ex-Parte application before the Court of Appeals for the issuance of a freeze order on any monetary instrument or property subject thereof prior to the institution or in the course of, the criminal proceedings involving the unlawful activity to which said monetary instrument or property is any way related.

(b) Considering the intricate and diverse web of related and interlocking accounts pertaining to the monetary instrument(s) or property(ies) that any person may create in the different covered institutions, their branches and/or other units, the AMLC may apply to the Court of Appeals for the freezing, not only of the monetary instruments or properties in the names of the reported owner(s)/holder(s), and monetary instruments or properties named in the application of the AMLC but also all other related web of accounts pertaining to other monetary instruments and properties, the funds and sources of which originated from or are related to the monetary instrument(s) or property(ies) subject of the freeze order(s).

(c) The freeze order shall be effective for twenty (20) days unless extended by the Court of Appeals upon application by the AMLC.

Rule 10.2. Definition of Probable Cause - Probable cause includes such facts and circumstances which would lead a reasonably discreet, prudent or cautious man to believe that an unlawful activity and/or a money laundering offense is about to be, is being or has been committed and that the account or any monetary instrument or property subject thereof sought to be frozen is in any way related to said unlawful activity and/or money laundering offense.

Rule 10.3. Duty of Covered Institution Upon Receipt Thereof. –

Rule 10.3.a. Upon receipt of the notice of the freeze order, the covered institution concerned shall immediately freeze the monetary instrument or property and related web of accounts subject thereof.

Rule 10.3.b. The covered institution shall likewise immediately furnish a copy of the notice of the freeze order upon the owner or holder of the monetary instrument or property or related web of accounts subject thereof.

Rule 10.3.c. Within twenty-four (24) hours from receipt of the freeze order, the covered institution concerned shall submit to the Court of Appeals and the AMLC, by personal delivery, a detailed written return on the freeze order, specifying all the pertinent and relevant information which shall include the following:

1. The account number(s);
2. The name(s) of the account owner(s) or holder(s);
3. The amount of the monetary instrument, property or related web of accounts as of the time they were frozen;
4. All relevant information as to the nature of the monetary instrument or property;
5. Any information on the related web of accounts pertaining to the monetary instrument or property subject of the freeze order; and
6. The time when the freeze thereon took effect.

Rule 10.4. Definition of Related Web of Accounts. -

Related Web of Accounts pertaining to the money instrument or property subject of the freeze order is defined as those accounts, the funds and sources of which originated from and/or are materially linked to the monetary instrument(s) or property(ies) subject of the freeze order(s).

Upon receipt of the freeze order issued by the court of appeals and upon verification by the covered institution that the related web of accounts originated from and/or are materially linked to the monetary instrument or property subject of the freeze order, the covered institution shall freeze these related web of accounts wherever these funds may be found.

The return of the covered institution as required under rule 10.3.c shall include the fact of such freezing and an explanation as to the grounds for the identification of the related web of accounts.

Rule 10.5. Extension of the Freeze Order. - Before the twenty (20) day period of the freeze order issued by the court of appeals expires, the AMLC may apply in the same court for an extension of said period. Upon the timely filing of such application and pending the decision of the Court of Appeals to extend the period, said period shall be deemed suspended and the freeze order shall remain effective.

However, the covered institution shall not lift the effects of the freeze order without securing official confirmation from the AMLC.

Rule 10.6. Prohibition Against Issuance of Freeze Orders Against Candidates for an Electoral Office During Election Period. - No assets shall be frozen to the prejudice of a candidate for an electoral office during an election period.

RULE 11
AUTHORITY TO INQUIRE INTO BANK DEPOSITS

Rule 11.1. Authority to Inquire into Bank Deposits with Court Order. - Notwithstanding the provisions of R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791, and other laws, the AMLC may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution and their subsidiaries and affiliates upon order of any competent court in cases of violation of this Act, when it has been established that there is probable cause that the deposits or investments involved are

related to an unlawful activity as defined in Section 3 (i) hereof or a money laundering offense under Section 4 hereof; except in cases as provided under Rule 11.2.

Rule 11.2. Authority to Inquire into Bank Deposits Without Court Order. - The AMLC may inquire into or examine deposit and investments with any banking institution or non-bank financial institution and their subsidiaries and affiliates without a Court Order where any of the following unlawful activities are involved:

(a) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code, as amended;

(b) Sections 4,5,6, 8, 9, 10. 12, 13, 14, 15 and 16 of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002;

(c) Hijacking and other violations under R.A. No. 6235; destructive arson and murder, as defined under the Revised Penal Code, as amended, including those perpetrated by terrorists against non-combatant persons and similar targets.

Rule 11.2.a. Procedure For Examination Without A Court Order. - Where any of the unlawful activities enumerated under the immediately preceding Rule 11.2 are involved, and there is probable cause that the deposits or investments with any banking or non-banking financial institution and their subsidiaries and affiliates are in anyway related to these unlawful activities the AMLC shall issue a resolution authorizing the inquiry into or examination of any deposit or investment with such banking or non-banking financial institution and their subsidiaries and affiliates concerned.

Rule 11.2.b. Duty of the banking institution or non- banking institution upon receipt of the AMLC Resolution. - The banking institution or the non-banking financial institution and their subsidiaries and affiliates shall, immediately upon receipt of the AMLC Resolution, allow the AMLC and/or its authorized representative(s) full access to all records pertaining to the deposit or investment account.

Rule 11.3. - BSP Authority to Examine deposits and investments; Additional Exception to the Bank Secrecy Act. - To ensure compliance with this act, the BSP may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution and their subsidiaries and affiliates when the examination is made in the course of a periodic or special examination, in accordance with the rules of examination of the BSP.

Rule 11.3.a. BSP Rules of Examination - The BSP shall promulgate its rules of examination for ensuring compliance by banks and non-bank financial institutions and their subsidiaries and affiliates with the AMLA and these rules.

Any findings of the BSP which may constitute a violation of any provision of this act shall be transmitted to the AMLC for appropriate action.

RULE 12
FORFEITURE PROVISIONS

Rule 12.1. Authority to Institute Civil Forfeiture Proceedings. – The AMLC is authorized under Section 7 (3) of the AMLA to institute civil forfeiture proceedings and all other remedial proceedings through the Office of the Solicitor General.

Rule 12.2. When Civil Forfeiture May be Applied. – When there is a Suspicious Transaction Report or a Covered Transaction Report deemed suspicious after investigation by the AMLC, and the court has, in a petition filed for the purpose, ordered the seizure of any monetary instrument or property, in whole or in part, directly or indirectly, related to said report, the Revised Rules of Court on civil forfeiture shall apply.

Rule 12.3. Claim on Forfeited Assets. - Where the court has issued an order of forfeiture of the monetary instrument or property in a criminal prosecution for any money laundering offense under Section 4 of the AMLA, the offender or any other person claiming an interest therein may apply, by verified petition, for a declaration that the same legitimately belongs to him, and for segregation or exclusion of the monetary instrument or property corresponding thereto. The verified petition shall be filed with the court which rendered the judgment of conviction and order of forfeiture within fifteen (15) days from the date of the order of forfeiture, in default of which the said order shall become final and executory. This provision shall apply in both civil and criminal forfeiture.

Rule 12.4. Payment in Lieu of Forfeiture - Where the court has issued an order of forfeiture of the monetary instrument or property subject of a money laundering offense under Section 4 of the AMLA, and said order cannot be enforced because any particular monetary instrument or property cannot, with due diligence, be located, or it has been substantially altered, destroyed, diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly, attributable to the offender, or it has been concealed, removed, converted or otherwise transferred to prevent the same from being found or to avoid forfeiture thereof, or it is located outside the Philippines or has been placed or brought outside the jurisdiction of the court, or it has been commingled with other monetary instruments or property belonging to either the offender himself or a third person or entity, thereby rendering the same difficult to identify or be segregated for purposes of forfeiture, the court may, instead of enforcing the order of forfeiture of the monetary instrument or property or part thereof or interest therein, accordingly order the convicted offender to pay an amount equal to the value of said monetary instrument or property. This provision shall apply in both civil and criminal forfeiture.

RULE 13
MUTUAL ASSISTANCE AMONG STATES

Rule 13.1. Request for Assistance from a Foreign State. - Where a foreign state makes a request for assistance in the investigation or prosecution of a money laundering offense, the AMLC may execute the request or refuse to execute the same and inform the foreign state of any valid reason for not executing the request or for delaying the execution thereof. The principles of mutuality and reciprocity shall, for this purpose, be at all times recognized.

Rule 13.2. Powers of the AMLC to Act on a Request for Assistance from a Foreign State. - The AMLC may execute a request for assistance from a foreign state by: (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity under the procedures laid down in the AMLA and in these Rules; (2) giving information needed by the foreign state within the procedures laid down in the AMLA and in these Rules; and (3) applying for an order of forfeiture of any

monetary instrument or property in the court: *Provided,* That the court shall not issue such an order unless the application is accompanied by an authenticated copy of the order of a court in the requesting state ordering the forfeiture of said monetary instrument or property of a person who has been convicted of a money laundering offense in the requesting state, and a certification or an affidavit of a competent officer of the requesting state stating that the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

Rule 13.3. Obtaining Assistance from Foreign States. - The AMLC may make a request to any foreign state for assistance in (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity; (2) obtaining information that it needs relating to any covered transaction, money laundering offense or any other matter directly or indirectly related thereto; (3) to the extent allowed by the law of the foreign state, applying with the proper court therein for an order to enter any premises belonging to or in the possession or control of, any or all of the persons named in said request, and/or search any or all such persons named therein and/or remove any document, material or object named in said request: *Provided,* That the documents accompanying the request in support of the application have been duly authenticated in accordance with the applicable law or regulation of the foreign state; and (4) applying for an order of forfeiture of any monetary instrument or property in the proper court in the foreign state: *Provided,* That the request is accompanied by an authenticated copy of the order of the Regional Trial Court ordering the forfeiture of said monetary instrument or property of a convicted offender and an affidavit of the clerk of court stating that the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

Rule 13.4. Limitations on Requests for Mutual Assistance. - The AMLC may refuse to comply with any request for assistance where the action sought by the request contravenes any provision of the Constitution or the execution of a request is likely to prejudice the national interest of the Philippines, unless there is a treaty between the Philippines and the requesting state relating to the provision of assistance in relation to money laundering offenses.

Rule 13.5. Requirements for Requests for Mutual Assistance from Foreign States. - A request for mutual assistance from a foreign state must (1) confirm that an investigation or prosecution is being conducted in respect of a money launderer named therein or that he has been convicted of any money laundering offense; (2) state the grounds on which any person is being investigated or prosecuted for money laundering or the details of his conviction; (3) give sufficient particulars as to the identity of said person; (4) give particulars sufficient to identify any covered institution believed to have any information, document, material or object which may be of assistance to the investigation or prosecution; (5) ask from the covered institution concerned any information, document, material or object which may be of assistance to the investigation or prosecution; (6) specify the manner in which and to whom said information, document, material or object obtained pursuant to said request, is to be produced; (7) give all the particulars necessary for the issuance by the court in the requested state of the writs, orders or processes needed by the requesting state; and (8) contain such other information as may assist in the execution of the request.

Rule 13.6. Authentication of Documents - For purposes of Section 13 (f) of the AMLA and Section 7 of the AMLA, a document is authenticated if the same is signed or certified by a judge, magistrate or equivalent officer in or of, the requesting state, and authenticated by the oath or affirmation of a witness or sealed with an official or public seal of a minister, secretary of state, or officer in or of, the government of the requesting state, or of the person administering the government or a department of the requesting territory, protectorate or colony. The certificate of authentication may also be made by a secretary of the embassy or legation, consul general, consul, vice consul, consular agent or any officer in the foreign service of the Philippines stationed in the foreign state in which the record is kept, and authenticated by the seal of his office.

Rule 13.7. Suppletory Application of the Revised Rules of Court. –

Rule 13.7.1. For attachment of Philippine properties in the name of persons convicted of any unlawful activity as defined in Section 3 (i) of the AMLA, execution and satisfaction of final judgments of forfeiture, application for examination of witnesses, procuring search warrants, production of bank documents and other materials and all other actions not specified in the AMLA and these Rules, and assistance for any of the aforementioned actions, which is subject of a request by a foreign state, resort may be had to the proceedings pertinent thereto under the Revised Rules of Court.

Rule 13.7.2. Authority to Assist the United Nations and other International Organizations and Foreign States. – The AMLC is authorized under Section 7 (8) and 13 (b) and (d) of the AMLA to receive and take action in respect of any request of foreign states for assistance in their own anti-money laundering operations. It is also authorized under Section 7 (7) of the AMLA to cooperate with the National Government and/or take appropriate action in respect of conventions, resolutions and other directives of the United Nations (UN), the UN Security Council, and other international organizations of which the Philippines is a member. However, the AMLC may refuse to comply with any such request, convention, resolution or directive where the action sought therein contravenes the provision of the Constitution or the execution thereof is likely to prejudice the national interest of the Philippines.

Rule 13.8. Extradition. – The Philippines shall negotiate for the inclusion of money laundering offenses as defined under Section 4 of the AMLA among the extraditable offenses in all future treaties. With respect, however, to the state parties that are signatories to the United Nations Convention Against Transnational Organized Crime that was ratified by the Philippine Senate on 22 October 2001, money laundering is deemed to be included as an extraditable offense in any extradition treaty existing between said state parties, and the Philippines shall include money laundering as an extraditable offense in every extradition treaty that may be concluded between the Philippines and any of said state parties in the future.

RULE 14
PENAL PROVISIONS

Rule 14.1. Penalties for the Crime of Money Laundering.

Rule 14.1.a. Penalties under Section 4 (a) of the AMLA. - The penalty of imprisonment ranging from seven (7) to fourteen (14) years and a fine of not less than Php3.0 Million but not more than twice the value of the

monetary instrument or property involved in the offense, shall be imposed upon a person convicted under Section 4 (a) of the AMLA.

Rule 14.1.b. Penalties under Section 4 (b) of the AMLA. - The penalty of imprisonment from four (4) to seven (7) years and a fine of not less than Php1.5 Million but not more than Php3.0 Million, shall be imposed upon a person convicted under Section 4 (b) of the AMLA.

Rule 14.1.c. Penalties under Section 4 (c) of the AMLA. - The penalty of imprisonment from six (6) months to four (4) years or a fine of not less than Php100,000.00 but not more than Php500,000.00, or both, shall be imposed on a person convicted under Section 4(c) of the AMLA.

Rule 14.1.d. Administrative Sanctions. - (1) After due notice and hearing, the AMLC shall, at its discretion, impose fines upon any covered institution, its officers and employees, or any person who violates any of the provisions of R.A. No. 9160, as amended by R.A. No. 9194 and rules, regulations, orders and resolutions issued pursuant thereto. The fines shall be in amounts as may be determined by the council, taking into consideration all the attendant circumstances, such as the nature and gravity of the violation or irregularity, but in no case shall such fines be less than Php100,000.00 but not to exceed Php500,000.00. The imposition of the administrative sanctions shall be without prejudice to the filing of criminal charges against the persons responsible for the violations.

Rule 14.2. Penalties for Failure to Keep Records - The penalty of imprisonment from six (6) months to one (1) year or a fine of not less than Php100,000.00 but not more than Php500,000.00, or both, shall be imposed on a person convicted under Section 9 (b) of the AMLA.

Rule 14.3. Penalties for Malicious Reporting. - Any person who, with malice, or in bad faith, reports or files a completely unwarranted or false information relative to money laundering transaction against any person shall be subject to a penalty of six (6) months to four (4) years imprisonment and a fine of not less than Php100,000.00 but not more than Php500,000.00, at the discretion of the court: *Provided,* That the offender is not entitled to avail the benefits of the Probation Law.

Rule 14.4. Where Offender is a Juridical Person. - If the offender is a corporation, association, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or allowed by their gross negligence the commission of the crime. If the offender is a juridical person, the court may suspend or revoke its license. If the offender is an alien, he shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed. If the offender is a public official or employee, he shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

Rule 14.5. Refusal by a Public Official or Employee to Testify. - Any public official or employee who is called upon to testify and refuses to do the same or purposely fails to testify shall suffer the same penalties prescribed herein.

Rule 14.6. Penalties for Breach of Confidentiality. – The punishment of imprisonment ranging from three (3) to eight (8) years and a fine of not less than

Php500,000.00 but not more than Php1.0 Million, shall be imposed on a person convicted for a violation under Section 9(c). In case of a breach of confidentiality that is published or reported by media, the responsible reporter, writer, president, publisher, manager and editor-in-chief shall be liable under this act.

RULE 15
PROHIBITIONS AGAINST POLITICAL HARASSMENT

Rule 15.1. Prohibition against Political Persecution. - The AMLA and these Rules shall not be used for political persecution or harassment or as an instrument to hamper competition in trade and commerce. No case for money laundering may be filed to the prejudice of a candidate for an electoral office during an election period.

Rule 15.2. Provisional Remedies Application; Exception. –

Rule 15.2.a. - The AMLC may apply, in the course of the criminal proceedings, for provisional remedies to prevent the monetary instrument or property subject thereof from being removed, concealed, converted, commingled with other property or otherwise to prevent its being found or taken by the applicant or otherwise placed or taken beyond the jurisdiction of the court. However, no assets shall be attached to the prejudice of a candidate for an electoral office during an election period.

Rule 15.2.b. - Where there is conviction for money laundering under Section 4 of the AMLA, the court shall issue a judgment of forfeiture in favor of the Government of the Philippines with respect to the monetary instrument or property found to be proceeds of one or more unlawful activities. However, no assets shall be forfeited to the prejudice of a candidate for an electoral office during an election period.

RULE 16
RESTITUTION

Rule 16. Restitution. - Restitution for any aggrieved party shall be governed by the provisions of the New Civil Code.

RULE 17
IMPLEMENTING RULES AND REGULATIONS AND MONEY LAUNDERING PREVENTION PROGRAMS

Rule 17.1. Implementing Rules and Regulations. –

(a) Within thirty (30) days from the effectivity of R.A. No. 9160, as amended by R.A. No. 9194, the BSP, the Insurance Commission and the Securities and Exchange Commission shall promulgate the Implementing Rules and Regulations of the AMLA, which shall be submitted to the Congressional Oversight Committee for approval.

(b) The Supervising Authorities, the BSP, the SEC and the IC shall, under their own respective charters and regulatory authority, issue their Guidelines and Circulars on anti-money laundering to effectively implement the provisions of R.A. No. 9160, as amended by R.A. No. 9194.

Rule 17.2. Money Laundering Prevention Programs. –

Rule 17.2.a. Covered institutions shall formulate their respective money laundering prevention programs in accordance with Section 9 and other pertinent provisions of the AMLA and these Rules, including, but not limited to, information dissemination on money laundering activities and their prevention,

detection and reporting, and the training of responsible officers and personnel of covered institutions, subject to such guidelines as may be prescribed by their respective supervising authority. Every covered institution shall submit its own money laundering program to the supervising authority concerned within the non-extendible period that the supervising authority has imposed in the exercise of its regulatory powers under its own charter.

Rule 17.2.b. Every money laundering program shall establish detailed procedures implementing a comprehensive, institution-wide "know-your-client" policy, set-up an effective dissemination of information on money laundering activities and their prevention, detection and reporting, adopt internal policies, procedures and controls, designate compliance officers at management level, institute adequate screening and recruitment procedures, and set-up an audit function to test the system.

Rule 17.2.c. Covered institutions shall adopt, as part of their money laundering programs, a system of flagging and monitoring transactions that qualify as suspicious transactions, regardless of amount or covered transactions involving amounts below the threshold to facilitate the process of aggregating them for purposes of future reporting of such transactions to the AMLC when their aggregated amounts breach the threshold. All covered institutions, including banks insofar as non-deposit and non-government bond investment transactions are concerned, shall incorporate in their money laundering programs the provisions of these Rules and such other guidelines for reporting to the AMLC of all transactions that engender the reasonable belief that a money laundering offense is about to be, is being, or has been committed.

Rule 17.3. Training of Personnel. - Covered institutions shall provide all their responsible officers and personnel with efficient and effective training and continuing education programs to enable them to fully comply with all their obligations under the AMLA and these Rules.

Rule 17.4. Amendments. - These Rules or any portion thereof may be amended by unanimous vote of the members of the AMLC and submitted to the Congressional Oversight Committee as provided for under Section 19 of R.A. No. 9160, as amended by R.A. No. 9194.

RULE 18
CONGRESSIONAL OVERSIGHT COMMITTEE

Rule 18.1. Composition of Congressional Oversight Committee. - There is hereby created a Congressional Oversight Committee composed of seven (7) members from the Senate and seven (7) members from the House of Representatives. The members from the Senate shall be appointed by the Senate President based on the proportional representation of the parties or coalitions therein with at least two (2) Senators representing the minority. The members from the House of Representatives shall be appointed by the Speaker also based on proportional representation of the parties or coalitions therein with at least two (2) members representing the minority.

Rule 18.2. Powers of the Congressional Oversight Committee. - The Oversight Committee shall have the power to promulgate its own rules, to oversee the implementation of this Act, and to review or revise the implementing rules issued by the Anti-Money Laundering Council within thirty (30) days from the promulgation of the said rules.

RULE 19
APPROPRIATIONS FOR AND BUDGET OF THE AMLC

Rule 19.1. Budget. – The budget of 25 Million Pesos appropriated by Congress under the AMLA shall be used to defray the initial operational expenses of the AMLC. Appropriations for succeeding years shall be included in the General Appropriations Act. The BSP shall advance the funds necessary to defray the capital outlay, maintenance and other operating expenses and personnel services of the AMLC subject to reimbursement from the budget of the AMLC as appropriated under the AMLA and subsequent appropriations.

Rule 19.2. Costs and Expenses. - The budget shall answer for indemnification for legal costs and expenses reasonably incurred for the services of external counsel in connection with any civil, criminal or administrative action, suit or proceedings to which members of the AMLC and the Executive Director and other members of the Secretariat may be made a party by reason of the performance of their functions or duties. The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the AMLC in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the member to repay the amount advanced should it be ultimately determined that said member is not entitled to such indemnification.

RULE 20
SEPARABILITY CLAUSE

Rule 20. Separability Clause. – If any provision of these Rules or the application thereof to any person or circumstance is held to be invalid, the other provisions of these Rules, and the application of such provision or Rule to other persons or circumstances, shall not be affected thereby.

RULE 21
REPEALING CLAUSE

Rule 21. Repealing Clause. – All laws, decrees, executive orders, rules and regulations or parts thereof, including the relevant provisions of R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791, as amended, and other similar laws, as are inconsistent with the AMLA, are hereby repealed, amended or modified accordingly.

RULE 22
EFFECTIVITY OF THE RULES

Rule 22. Effectivity. – These Rules shall take effect after its approval by the Congressional Oversight Committee and fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.

RULE 23
TRANSITORY PROVISIONS

Rule 23.1. - Transitory Provisions. - Existing freeze orders issued by the AMLC shall remain in force for a period of thirty (30) days after effectivity of this act, unless extended by the Court of Appeals.

Rule 23.2. - Effect of R.A. No. 9194 on Cases for Extension of Freeze Orders Resolved by the Court of Appeals. - All existing freeze orders which the Court of Appeals has extended shall remain effective, unless otherwise dissolved by the same court.

GUIDELINES TO GOVERN THE SELECTION, APPOINTMENT, REPORTING REQUIREMENTS AND DELISTING OF EXTERNAL AUDITORS AND/OR AUDITING FIRM OF COVERED ENTITIES

(Appendix to Secs. 4180S and 4190S)

Pursuant to Section 58 of the Republic Act No. 8791, otherwise known as "The General Banking Law of 2000", and the existing provisions of the executed Memorandum of Agreement (hereinafter referred to as the MOA) dated 12 August 2009, binding the Bangko Sentral ng Pilipinas (BSP), Securities and Exchange Commission (SEC), Professional Regulation Commission (IC) - Board of Accountancy (BOA) and the Insurance Commission (IC) for a simplified and synchronized accreditation requirements for external auditor and/or auditing firm, the Monetary Board, in its Resolution No. 950 dated 02 July 2009, approved the following revised rules and regulations that shall govern the selection and delisting by the BSP of covered institution which under special laws are subject to BSP supervision.

A. STATEMENT OF POLICY

It is the policy of the BSP to ensure effective audit and supervision of banks, QBs, trust entities and/or NSSLAs including their subsidiaries and affiliates engaged in allied activities and other FIs which under special laws are subject to BSP supervision, and to ensure reliance by BSP and the public on the opinion of external auditors and auditing firms by prescribing the rules and regulations that shall govern the selection, appointment, reporting requirements and delisting for external auditors and auditing firms of said institutions, subject to the binding provisions and implementing regulations of the aforesaid MOA.

B. COVERED ENTITIES

The proposed amendment shall apply to the following supervised institution, as categorized below, and their external auditors:

1. *Category A*
   a. UBs/KBs;
   b. Foreign banks and branches or subsidiaries of foreign banks, regardless of unimpaired capital; and
   c. Banks, trust department of qualified banks and other trust entities with additional derivatives authority, pursuant to Sec. X611 regardless of classification, category and capital position.
2. *Category B*
   a. TBs;
   b. QBs;
   c. Trust department of qualified banks and other trust entities;
   d. National Coop Banks; and
   e. NBFIs with quasi-banking functions.
3. *Category C*
   a. RBs;
   b. NSSLAs;
   c. Local Coop Banks; and
   d. Pawnshops.

The above categories include their subsidiaries and affiliates engaged in allied activities and other FIs which are subject to BSP risk-based and consolidated supervision: *Provided,* That an external auditor who has been selected by the BSP to audit entities under *Category B* and *C* and if selected by the BSP to audit covered entities under *Category B* is automatically qualified to audit entities under *Category C*.

C. DEFINITION OF TERMS

The following terms shall be defined as follows:

1. *Audit* – an examination of the financial statements of any issuer by an external auditor in compliance with the rules

of the BSP or the SEC in accordance with then applicable generally accepted auditing and accounting principles and standards, for the purpose of expressing an opinion on such statements.

2. *Non-audit services* – any professional services provided to the covered institution by an external auditor, other than those provided to a covered institution in connection with an audit or a review of the financial statements of said covered institution.

3. *Professional Standards* - includes: (a) accounting principles that are (1) established by the standard setting body; and (2) relevant to audit reports for particular issuers, or dealt with in the quality control system of a particular registered public accounting firm; and (b) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards that the BSP or SEC determines (1) relate to the preparation or issuance of audit reports for issuers; and (2) are established or adopted by the BSP or promulgated as SEC rules.

4. *Fraud* – an intentional act by one (1) or more individuals among management, employees, or third parties that results in a misrepresentation of financial statements, which will reduce the consolidated total assets of the company by five percent (5%). It may involve:

a. Manipulation, falsification or alteration of records or documents;

b. Misappropriation of assets;

c. Suppression or omission of the effects of transactions from records or documents;

d. Recording of transactions without substance;

e. Intentional misapplication of accounting policies; or

f. Omission of material information.

5. *Error* - an intentional mistake in financial statements, which will reduce the consolidated total assets of the company by five percent (5%). It may involve:

a. Mathematical or clerical mistakes in the underlying records and accounting data;

b. Oversight or misinterpretation of facts; or

c. Unintentional misapplication of accounting policies.

6. *Gross negligence* - wanton or reckless disregard of the duty of due care in complying with generally accepted auditing standards.

7. *Material fact/information* - any fact/information that could result in a change in the market price or value of any of the issuer's securities, or would potentially affect the investment decision of an investor.

8. *Subsidiary* - a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by a bank, QB, trust entity or NSSLA.

9. *Affiliate* - a corporation, not more than fifty percent (50%) but not less than ten percent (10%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by a bank, QB, trust entity or NSSLA and a juridical person that is under common control with the bank, QB, trust entity or NSSLA.

10. *Control* - exists when the parent owns directly or indirectly more than one half of the voting power of an enterprise unless, in exceptional circumstance, it can be clearly demonstrated that such ownership does not constitute control.

Control may also exist even when ownership is one half or less of the voting power of an enterprise when there is:

a. Power over more than one half of the voting rights by virtue of an agreement with other stockholders;

b. Power to govern the financial and operating policies of the enterprise under a statute or an agreement;

c. Power to appoint or remove the majority of the members of the board of directors or equivalent governing body; or

d. Power to cast the majority votes at meetings of the board of directors or equivalent governing body.

11. *External auditor* - means a single practitioner or a signing partner in an auditing firm.

12. *Auditing firm* – includes a proprietorship, partnership limited liability company, limited liability partnership, corporation (if any), or other legal entity, including any associated person of any of these entities, that is engaged in the practice of public accounting or preparing or issuing audit reports.

13. *Associate* – any director, officer, manager or any person occupying a similar status or performing similar functions in the audit firm including employees performing supervisory role in the auditing process.

14. *Partner* - all partners including those not performing audit engagements.

15. *Lead partner* – also referred to as engagement partner/partner-in-charge/ managing partner who is responsible for signing the audit report on the consolidated financial statements of the audit client, and where relevant, the individual audit report of any entity whose financial statements form part of the consolidated financial statements.

16. *Concurring partner* - the partner who is responsible for reviewing the audit report.

17. *Auditor-in-charge* – refers to the team leader of the audit engagement.

D. GENERAL CONSIDERATION AND LIMITATIONS OF THE SELECTION PROCEDURES

1. Subject to mutual recognition provision of the MOA and as implemented in this regulation, only external auditors and auditing firms included in the list of BSP selected external auditors and auditing firms shall be engaged by all the covered institutions detailed in Item *"B"*. The external auditor and/or auditing firm to be hired shall also be in-charge of the audit of the entity's subsidiaries and affiliates engaged in allied activities: *Provided,* That the external auditor and/or auditing firm shall be changed or the lead and concurring partner shall be rotated every five (5) years or earlier: *Provided further,* That the rotation of the lead and concurring partner shall have an interval of at least two (2) years.

2. Category A covered entities which have engaged their respective external auditors and/or auditing firm for a consecutive period of five (5) years or more as of 18 September 2009 shall have a one (1)-year period from said date within which to either change their external auditors and/or auditing firm or to rotate the lead and/or concurring partner.

3. The selection of the external auditors and/or auditing firm does not exonerate the covered institution or said auditors from their responsibilities. Financial statements filed with the BSP are still primarily the responsibility of the management of the reporting institution and accordingly, the fairness of the representations made therein is an implicit and integral part of the institution's responsibility. The independent certified public accountant's responsibility for the financial statements required to be filed with the BSP is confined to the expression of his opinion, or lack thereof, on such statements which he has audited/examined.

4. The BSP shall not be liable for any damage or loss that may arise from its selection of the external auditors and/or auditing firm to be engaged by banks for regular audit or non-audit services.

5. Pursuant to paragraph (5) of the MOA, SEC, BSP and IC shall mutually recognize the accreditation granted by any of them for external auditors and firms of Group C or D companies under SEC,

Category B and C under BSP, and insurance brokers under IC. Once accredited/selected by any one (1) of them, the above-mentioned special requirements shall no longer be prescribed by the other regulators.

For corporations which are required to submit financial statements to different regulators and are not covered by the mutual recognition policy of this MOA, the following guidance shall be observed:

a. The external auditors of UBs which are listed in the Exchange, should be selected/accredited by both the BSP and SEC, respectively; and

b. For insurance companies and banks that are not listed in the Exchange, their external auditors must each be selected/ accredited by BSP or IC, respectively. For purposes of submission to the SEC, the financial statements shall be at least audited by an external auditor registered/accredited with BOA.

This mutual recognition policy shall however be subject to the BSP restriction that for banks and its subsidiary and affiliate bank, QBs, trust entities, NSSLAs, their subsidiaries and affiliates engaged in allied activities and other FIs which under special laws are subject to BSP consolidated supervision, the individual and consolidated financial statements thereof shall be audited by only one (1) external auditor/auditing firm.

6. The selection of external auditors and/or auditing firm shall be valid for a period of three (3) years. The SES shall make an annual assessment of the performance of external auditors and/or auditing firm and will recommend deletion from the list even prior to the three (3)-year renewal period, if based on assessment, the external auditors' report did not comply with BSP requirements.

E. QUALIFICATION REQUIREMENT

The following qualification requirements are required to be met by the individual external auditor and the auditing firm at the time of application and on continuing basis, subject to BSP's provisions on the delisting and suspension of accreditation:

1. Individual external auditor

a. General requirements

(1) The individual applicant must be primarily accredited by the BOA. The individual external auditor or partner in-charge of the auditing firm must have at least five (5) years of audit experience.

(2) Auditor's independence.

In addition to the basic screening procedures of BOA on evaluating auditor's independence, the following are required for BSP purposes to be submitted in the form of notarized certification that:

(a) No external auditor may be engaged by any of the covered institutions under Item *"B"* hereof if he or any member of his immediate family had or has committed to acquire any direct or indirect financial interest in the concerned covered institution, or if his independence is considered impaired under the circumstances specified in the Code of Professional Ethics for CPAs. In case of a partnership, this limitation shall apply to the partners, associates and the auditor-in-charge of the engagement and members of their immediate family;

(b) The external auditor does not have/ shall not have outstanding loans or any credit accommodations or arranged for the extension of credit or to renew an extension of credit (except credit card obligations which are normally available to other credit card holders and fully secured auto loans and housing loans which are not past due) with the covered institutions under Item *"B"* at the time of signing the engagement and during the engagement. In the case of partnership, this prohibition shall apply to the partners and the auditor-in-charge of the engagement; and

(c) It shall be unlawful for an external auditor to provide any audit service to a covered institution if the covered

institution's CEO, CFO, Chief Accounting Officer (CAO), or comptroller was previously employed by the external auditor and participated in any capacity in the audit of the covered institution during the one-year preceding the date of the initiation of the audit;

(3) Individual applications as external auditor of entities under *Category A* above must have established adequate quality assurance procedures, such consultation policies and stringent quality control, to ensure full compliance with the accounting and regulatory requirements.

b. Specific requirements

(1) At the time of application, regardless of the covered institution, the external auditor shall have at least five (5) years experience in external audits;

(2) The audit experience above refers to experience required as an associate, partner, lead partner, concurring partner or auditor-in-charge; and

(3) At the time of application, the applicant must have the following track record:

(a) For *Category A,* he/she must have at least five (5) corporate clients with total assets of at least P50.0 million each.

(b) For *Category B,* he/she must have had at least three (3) corporate clients with total assets of at least P25.0 million each.

(c) For *Category C,* he/she must have had at least three (3) corporate clients with total assets of at least P5.0 million each;

2. Auditing firms

a. The auditing firm must be primarily accredited by the BOA and the name of the firm's applicant partner's should appear in the attachment to the certificate of accreditation issued by BOA. Additional partners of the firm shall be furnished by BOA to the concerned regulatory agencies (e.g. BSP, SEC and IC) as addendum to the firm's accreditation by BOA.

b. Applicant firms to act as the external auditor of entities under *Category A* in Item *"B"* must have established adequate quality assurance procedures, such consultation policies and stringent quality control, to ensure full compliance with the accounting and regulatory requirements.

c. At the time of application, the applicant firm must have at least one (1) signing practitioner or partner who is already selected/accredited, or who is already qualified and is applying for selection by BSP.

d. A registered accounting/auditing firm may engage in any non-auditing service for an audit client only if such service is approved in advance by the client's audit committee. Exemptions from the prohibitions may be granted by the Monetary Board on a case-by-case basis to the extent that such exemption is necessary or appropriate in the public interest. Such exemptions are subject to review by the BSP.

e. At the time of application, the applicant firm must have the following track record:

(1) For *Category A,* the applicant firm must have had at least twenty (20) corporate clients with total assets of at least P50.0 million each;

(2) For *Category B,* the applicant firm must have had at least five (5) corporate clients with total assets of at least P20.0 million each;

(3) For *Category C,* the applicant firm must have had at least five (5) corporate clients with total assets of at least P5.0 million each.

F. APPLICATION FOR AND/OR RENEWAL OF THE SELECTION OF INDIVIDUAL EXTERNAL AUDITOR

1. The initial application for BSP selection shall be signed by the external auditor and shall be submitted to the appropriate department of the SES together with the following documents/information:

a. Copy of effective and valid BOA Certificate of Accreditation with the attached list of qualified partner/s of the firm;

b. A notarized undertaking of the external auditor that he is in compliance with the qualification requirements under Item *"E"* and that the external auditor shall keep an audit or review working papers for at least seven (7) years in sufficient detail to support the conclusion in the audit report and making them available to the BSP's authorized representative/s when required to do so;

c. Copy of Audit Work Program which shall include assessment of the audited institution's compliance with BSP rules and regulations, such as, but not limited to the following:

(1) capital adequacy ratio, as currently prescribed by the BSP;

(2) AMLA framework;

(3) risk management system, particularly liquidity and market risks; and

(4) loans and other risk assets review and classification, as currently prescribed by the BSP rules and regulations.

d. If the applicant will have clients falling under *Category A,* copy of the Quality Assurance Manual which, aside from the basic elements as required under the BOA basic quality assurance policies and procedures, specialized quality assurance procedures should be provided consisting of, among other, review asset quality, adequacy of risk-based capital, risk management systems and corporate governance framework of the covered entities.

e. Copy of the latest AFS of the applicant's two (2) largest clients in terms of total assets.

2. Subject to BSP's provision on early deletion from the list of selected external auditor, the selection may be renewed within two (2) months before the expiration of the three (3)-year effectivity of the selection upon submission of the written application for renewal to the appropriate department of the SES together with the following documents/information:

(a) copy of updated BOA Certificate of Accreditation with the attached list of qualified partner/s of the firm;

(b) notarized certification of the external auditor that he still possess all qualification required under Item *"F.1.b"* of this Appendix;

(c) list of corporate clients audited during the three (3)-year period of being selected as external auditor by BSP. Such list shall likewise indicate the findings noted by the BSP and other regulatory agencies on said AFS including the action thereon by the external auditor; and

(d) written proof that the auditor has attended or participated in trainings for at least thirty (30) hours in addition to the BOA's prescribed training hours. Such training shall be in subjects like international financial reporting standards, international standards of auditing, corporate governance, taxation, code of ethics, regulatory requirements of SEC, IC and BSP or other government agencies, and other topics relevant to his practice, conducted by any professional organization or association duly recognized/accredited by the BSP, SEC or by the BOA/PRC through a CPE Council which they may set up.

The application for initial or renewal accreditation of an external auditor shall be accomplished by a fee of P2,000.00.

G. APPLICATION FOR AND/OR RENEWAL OF THE SELECTION OF AUDITING FIRMS

1. The initial application shall be signed by the managing partner of the auditing firm and shall be submitted to the appropriate department of the SES together with the following documents/information:

a. copy of effective and valid BOA Certificate of Accreditation with attachment listing the names of qualified partners;

b. notarized certification that the firm is in compliance with the general qualification requirements under Item *"E.2"*

and that the firm shall keep an audit or review working papers for at least seven (7) years insufficient detail to support the conclusions in the audit report and making them available to the BSP's authorized representative/s when required to do so;

c. copy of audit work program which shall include assessment of the audited institution's compliance with BSP rules and regulations, such as, but not limited to the following;

(1) capital adequacy ratio, as currently prescribed by the BSP;

(2) AMLA framework;

(3) risk management system, particularly liquidity and market risks; and

(4) loans and other risk assets review and classification, as currently prescribed by the BSP rules and regulations.

d. If the applicant firm will have clients falling under *Category A,* copy Quality Assurance Manual where, aside from the basic elements as required under the BOA basic quality assurance policies and procedures, specialized quality assurance procedures should be provided relative to, among others review asset quality, adequacy of risk-based capital, risk management systems and corporate governance framework of covered entities;

e. Copy of the latest AFS of the applicant's two (2) largest clients in terms of total assets; and

f. Copy of firm's AFS for the immediately preceding two (2) years.

2. Subject to BSP's provision on early deletion from the list of selected auditing firm, the selection may be renewed within two (2) months before the expiration of the three (3)-year effectivity of the selection upon submission of the written application for renewal to the appropriate department of the SES together with the following documents/information:

a. a copy of updated BOA Certificate of Registration with the attached list of qualified partner/s of the firm;

b. amendments on Quality Assurance Manual, inclusive of written explanation on such revision, if any; and

c. notarized certification that the firm is in compliance with the general qualification requirements under Item *"G.1.b"* hereof;

The application for initial or renewal accreditation of an auditing firm shall be accompanied by a fee of P5,000.00.

H. REPORTORIAL REQUIREMENTS

1. To enable the BSP to take timely and appropriate remedial action, the external auditor and/or auditing firm must report to the BSP within thirty (30) calendar days after discovery, the following cases:

a. Any material finding involving fraud or dishonesty (including cases that were resolved during the period of audit);

b. Any potential losses the aggregate of which amounts to at least one percent (1%) of the capital;

c. Any finding to the effect that the consolidated assets of the company, on a going concern basis, are no longer adequate to cover the total claims of creditors; and

d. Material internal control weaknesses which may lead to financial reporting problems.

2. The external auditor/auditing firm shall report directly to the BSP within fifteen (15) calendar days from the occurrence of the following:

a. Termination or resignation as external auditor and stating the reason therefor;

b. Discovery of a material breach of laws or BSP rules and regulations such as, but not limited to:

(1) CAR; and

(2) Loans and other risk assets review and classification.

c. Findings on matters of corporate governance that may require urgent action by the BSP.

3. In case there are no matters to report (e.g. fraud, dishonesty, breach of laws, etc.) the external auditor/auditing firm shall submit directly to BSP within fifteen (15) calendar days after the closing of the audit engagement a notarized certification that there is none to report.

The management of the covered institutions, including its subsidiaries and affiliates, shall be informed of the adverse findings and the report of the external auditor/auditing firm to the BSP shall include pertinent explanation and/or corrective action.

The management of the covered institutions, including its subsidiaries and affiliates, shall be given the opportunity to be present in the discussions between the BSP and the external auditor/auditing firm regarding the audit findings, except in circumstances where the external auditor believes that the entity's management is involved in fraudulent conduct.

It is, however, understood that the accountability of an external auditor/ auditing firm is based on matters within the normal coverage of an audit conducted in accordance with generally accepted auditing standards and identified non-audit services.

I. DELISTING AND SUSPENSION OF SELECTED EXTERNAL AUDITOR/ AUDITING FIRM

1. An external auditor's duly selected pursuant to this regulation shall be suspended or delisted, in a manner provided under this regulation, under any of the following grounds:

a. Failure to submit the report under Item *"H"* of this Appendix or the required reports under Subsec. X190.1;

b. Continuous conduct of audit despite loss of independence as provided under Item *"E.1"* or contrary to the requirements under the Code of Professional Ethics;

c. Any willful misrepresentation in the following information/documents;

(1) application and renewal for accreditation;

(2) report required under Item *"H"*; and

(3) Notarized certification of the external auditor and/or auditing firm.

d. The BOA found that, after due notice and hearing, the external auditor committed an act discreditable to the profession as specified in the Code of Professional Ethics for CPAs. In this case, the BOA shall inform the BSP of the results thereof;

e. Declaration of conviction by a competent court of a crime involving moral turpitude, fraud (as defined in the Revised Penal Code), or declaration of liability for violation of the banking laws, rules and regulation, the Corporation Code of the Philippines, the Securities Regulation Code (SRC); and the rules and regulations of concerned regulatory authorities;

f. Refusal for no valid reason, upon lawful order of the BSP, to submit the requested documents in connection with an ongoing investigation. The external auditor should however been made aware of such investigation;

g. Gross negligence in the conduct of audits which would result, among others, in non-compliance with generally accepted auditing standards in the Philippines or issuance of an unqualified opinion which is not supported with full compliance by the auditee with generally accepted accounting principles in the Philippines (GAAP). Such negligence shall be determined by the BSP after proper investigation during which the external auditor shall be given due notice and hearing;

h. Conduct of any of the non-audit services enumerated under Item *"E.1"* for his statutory audit clients, if he has not undertaken the safeguards to reduce the threat to his independence; and

i. Failure to comply with the Philippine Auditing Standards and Philippine Auditing Practice Statements.

2. An auditing firms; accreditation shall be suspended or delisted, after due notice and hearing, for the following grounds:

a. Failure to submit the report under Item *"H"* or the required reports under Sec. X190.1.

b. Continuous conduct of audit despite loss of independence of the firm as provided under this regulation and under the Code of Professional Ethics;

c. Any willful misrepresentation in the following information/ documents;

(1) Application and renewal for accreditation;

(2) Report required under Item *"H"*; and

(3) Notarized certification of the managing partner of the firm.

d. Dissolution of the auditing firm/ partnership, as evidenced by an Affidavit of Dissolution submitted to the BOA, or upon findings by the BSP that the firm/ partnership is dissolved. The accreditation of such firm/partnership shall however be reinstated by the BSP upon showing that the said dissolution was solely for the purpose of admitting new partner/s have complied with the requirements of this regulation and thereafter shall be reorganized and re-registered;

e. There is a showing that the accreditation of the following number or percentage of external auditors, whichever is lesser, have been suspended or delisted for whatever reason, by the BSP:

(1) at least ten (10) signing partners and currently employed selected/accredited external auditors, taken together; or

(2) such number of external auditors constituting fifty percent (50%) or more of the total number of the firm's signing partners and currently selected/accredited auditors, taken together.

f. The firm or any one (1) of its auditors has been involved in a major accounting/ auditing scam or scandal. The suspension or delisting of the said firm shall depend on the gravity of the offense or the impact of said scam or scandal on the investing public or the securities market, as may be determined by the BSP;

g. The firm has failed reasonably to supervise an associated person and employed auditor, relating to the following:

(1) auditing or quality control standards, or otherwise, with a view to preventing violations of this regulations;

(2) provisions under SRC relating to preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto;

(3) the rules of the BSP under this Appendix; or

(4) professional standards.

h. Refusal for no valid reason, upon order of the BSP, to submit requested documents in connection with an ongoing investigation. The firm should however be made aware of such investigation.

3. Pursuant to paragraph 8 of the aforesaid MOA, the SEC, BSP and IC shall inform BOA of any violation by an accredited/selected external auditor which may affect his/her accreditation status as a public practitioner. The imposition of sanction by BOA on an erring practitioner shall be without prejudice to the appropriate penalty that the SEC, IC or BSP may assess or impose on such external auditor pursuant to their respective rules and regulations. In case of revocation of accreditation of a public practitioner by BOA, the accreditation by SEC, BSP and IC shall likewise be automatically revoked/derecognized.

The SEC, BSP and IC shall inform each other of any violation committed by an external auditor who is accredited/selected by any one (1) or all of them. Each agency shall undertake to respond on any referral or endorsement by another agency within ten (10) working days from receipt thereof.

4. Procedure and Effects of Delisting/ Suspension.

a. An external auditor/auditing firm shall only be delisted upon prior notice to him/it and after giving him/it the opportunity to be heard and defend himself/itself by presenting witnesses/ evidence in his favor. Delisted external auditor and/or auditing firm may re-apply for BSP selection after the period prescribed by the Monetary Board.

b. BSP shall keep a record of its proceeding/investigation. Said proceedings/ investigation shall not be public, unless otherwise ordered by the Monetary Board for good cause shown, with the consent of the parties to such proceedings.

c. A determination of the Monetary Board to impose a suspension or delisting under this section shall be supported by a clear statement setting forth the following:

(1) Each act or practice in which the selected/accredited external auditor or auditing firm, or associated entry, if applicable, has engaged or omitted to engage, or that forms a basis for all or part of such suspension/delisting;

(2) The specific provision/s of this regulation, the related SEC rules or professional standards which the Monetary Board determined as has been violated; and

(3) The imposed suspension or delisting, including a justification for either sanction and the period and other requirements specially required within which the delisted auditing firm or external auditor may apply for re-accreditation.

d. The suspension/delisting, including the sanctions/penalties provided in Sec. X189 shall only apply to:

(1) Intentional or knowing conduct, including reckless conduct, that results in violation or applicable statutory, regulatory or professional standards; or

(2) Repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory or professional standards.

e. No associate person or employed auditor of a selected/accredited auditing firm shall be deemed to have failed reasonably to supervise any other person for purpose of Item *"I.2.g"* above, if:

(1) There have been established in and for that firm procedures, and a system for applying such procedures, that comply with applicable rules of BSP and that would reasonably be expected to prevent and detect any such violation by such associated person; and

(2) Such person or auditor has reasonably discharged the duties and obligations incumbent upon that person by reason of such procedures and system, and had no reasonable cause to believe that such procedures and system were not being complied with.

f. The BSP shall discipline any selected external auditor that is suspended or delisted from being associated with any selected auditing firm, or for any selected auditing firm that knew, or in the exercise or reasonable care should have known, of the suspension or delisting of any selected external auditor, to permit such association, without the consent of the Monetary Board.

g. The BSP shall discipline any covered institution that knew or in the exercise of reasonable care should have known, of the suspension or delisting of its external auditor or auditing firm, without the consent of the Monetary Board.

h. The BSP shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the duration of stay of any such disciplinary action pending review of any disciplinary action of the BSP under this Section.

J. SPECIFIC REVIEW

When warranted by supervisory concern, the Monetary Board may, at the expense of the covered institution require the external auditor and/or auditing firm to undertake a specific review of a particular

aspect of the operations of these institutions. The report shall be submitted to the BSP and the audited institution simultaneously, within thirty (30) calendar days after the conclusion of said review.

K. AUDIT BY THE BOARD OF DIRECTORS

Pursuant to Section 58 of RA. No. 8791, otherwise known as "The General Banking Law of 2000" the Monetary Board may also direct the board of directors of a covered institution or the individual members thereof, to conduct, either personally or by a committee created by the board, an annual balance sheet audit of the covered institution to review the internal audit and the internal control system of the concerned entity and to submit a report of such audit to the Monetary Board within thirty (30) calendar days after the conclusion thereof.

L. AUDIT ENGAGEMENT

Covered institutions shall submit the audit engagement contract between them, their subsidiaries and affiliates and the external auditor/auditing firm to the appropriate department of the SES within fifteen (15) calendar days from signing thereof. Said contract shall include the following provisions:

1. That the covered institution shall be responsible for keeping the auditor fully informed of existing and subsequent changes to prudential regulatory and statutory requirements of the BSP and that both parties shall comply with said requirements;
2. That disclosure of information by the external auditor/auditing firm to the BSP as required under Items *"H"* and *"J"* hereof, shall be allowed; and
3. That both parties shall comply with all the requirements under this Appendix.

(As amended by Circular No. 660 dated 25 August 2009)

P REGULATIONS
(Regulations Governing Pawnshops)

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SECTION 4691P Anti-Money Laundering Regulations
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LIST OF APPENDICES

PART ONE

ORGANIZATION, MANAGEMENT AND ADMINISTRATION

A. SCOPE OF AUTHORITY

Section 4101P Basic Law Governing Pawnshops. P.D. No. 114, known as the Pawnshop Regulation Act, regulates the establishment and operation of pawnshops.
(Circular No. 656 dated 02 June 2009)

§ 4101P.1 ***Scope of authority of pawnshops.*** A duly organized and licensed pawnshop has, in general, the power to engage in the business of lending money on the security of personal property within the framework and limitations of P.D. No. 114 and the following regulations, subject to the regulatory and supervisory powers of the BSP.
(Circular No. 656 dated 02 June 2009)

§ 4101P.2 ***Form of organization.*** A pawnshop may be established as a single proprietorship, a partnership or corporation.

Only Filipino citizens may establish and own a pawnshop organized as a single proprietorship. A pawnshop established as a single proprietorship by a non-Filipino owner prior to 29 January 1973 may continue as such during the lifetime of the registered owner.

If a pawnshop is organized as a partnership, at least seventy percent (70%) of its capital shall be owned by Filipino citizens. Pawnshops established as partnerships prior to 29 January 1973, with non-Filipino partners whose aggregate holdings amount to more than thirty percent (30%) of the capital may retain the percentage of their aggregate holdings as of 29 January 1973, and said percentage shall not be increased, but may be reduced, and once reduced shall not be increased thereafter beyond thirty percent (30%) of the capital stock of such pawnshop.

In the case of a pawnshop organized as a corporation, at least seventy percent (70%) of the voting stock therein shall be owned by citizens of the Philippines, or if there be no capital stock, at least seventy percent (70%) of the members entitled to vote shall be citizens of the Philippines.

Pawnshops registered as a corporation with foreign equity participation in excess of thirty percent (30%) of the voting stock, or members entitled to vote, of the pawnshop may retain the percentage of foreign equity as of 29 January 1973, and said percentage shall not be increased, but may be reduced and once reduced, shall not be increased thereafter beyond thirty percent (30%) of the voting stock, or number of members entitled to vote, of such pawnshop.

The percentage of foreign-owned voting stock in a pawnshop corporation shall be determined by the citizenship of its individual stockholders. If the voting stock in a pawnshop corporation is held by another corporation, the percentage of foreign ownership in that pawnshop, shall be computed on the basis of the foreign citizenship of the individuals owning voting stocks in, or members entitled to vote of, the stockholder corporation.
(Circular No. 656 dated 02 June 2009)

§ 4101P.3 ***Organizational requirements*** Any person or entity desiring to establish a pawnshop shall register with the Department of Trade and Industry (DTI), in the case of a single proprietorship; or with the Securities and Exchange Commission (SEC), in the case of a partnership/corporation.

Pawnshops with foreign equity participation shall also register with the Board of Investments.

After registering with the DTI or with the SEC, the single proprietorship or the partnership/corporation, as the case may be, shall secure a business license from the city or municipality where the pawnshop is to be established and operated, in accordance with the requirements of the pertinent ordinance in that city or municipality.

(Circular No. 656 dated 02 June 2009)

§ 4101P.4 ***Requirement to register with the Bangko Sentral.*** Pursuant to Section 6 of P.D. No. 114, which requires pawnbrokers to register with the BSP before commencing actual business operations, every pawnshop shall submit to the BSP an Information Sheet on the entity (using BSP-prescribed form) duly accomplished by the proprietor/ managing partner/president under oath that shall be the basis for the issuance by the BSP of an Acknowledgement of Registration (AOR). The Information Sheet shall be accompanied by the following documents:

a. A Certificate of Registration (COR) of business name from the DTI, in case of a sole proprietorship;

b. Articles of Partnership/Incorporation and by-laws duly registered with the SEC, in the case of a partnership or a corporation which Articles shall indicate that the primary purpose of the partnership/corporation is to engage in the business of a pawnshop or a pawnbroker;

c. City/municipal license/business license/mayor's permit for the current period;

d. Personal data sheet (using BSP-prescribed form) with passport size picture duly accomplished by the proprietor or partners or incorporators, directors, officers and individual stockholders owning 10% or more of voting stock; and

e. Such other documents that may be required by the BSP that are enumerated in a list attached to the Information Sheet.

No application for registration shall be accepted from a person or entity other than the proprietor, partner, or incorporator of a pawnshop unless the person or entity applying on behalf of the proprietor, partner or incorporator submits a duly executed and notarized special power of attorney authorizing the person or entity to act on behalf of the proprietor, partner, or incorporator. In the case of a corporate applicant, a certified true copy of the board resolution authorizing the person or entity shall likewise be submitted.

A pawnshop shall commence actual operations within six (6) months from the date of issuance of the AOR. Failure to commence actual operations within the aforementioned six (6) months period shall render the BSP AOR as automatically cancelled.

The pawnshop shall notify the BSP in writing of the start of operations within five (5) business days from the actual start of operations.

Any pawnshop that is found operating that does not have a current business permit issued by the city or municipality where it is located and an AOR issued by the BSP is considered operating illegally. Such pawnshop shall be reported to the Office of the Mayor of the concerned city or municipality, for appropriate action, without prejudice to whatever legal action the BSP may pursue under Section 18 of P.D. No. 114 and other applicable laws against the pawnshop, its proprietor, partners, incorporators, stockholders, directors, president and officers.

(Circular No. 656 dated 02 June 2009)

§ 4101P.5 ***Anti-money laundering seminar/training.*** As a prerequisite for the issuance by the BSP of the AOR, the officer(s) as well as the personnel directly involved in pawnshop operations shall submit proof that he/they have attended a seminar on the Anti-Money Laundering Act as prescribed in Subsec. 4691P.1.

(Circular No. 656 dated 02 June 2009)

§ 4101P.6 *Bangko Sentral processing and registration fees.* A non-refundable processing fee in the amount of P1,000.00 shall be collected from a person or entity applying to register a pawnshop upon completion of the documentary requirements in Subsec. 4101P.4.

In addition to the processing fee, P3,000.00 shall be collected every pawnshop unit as registration fee which shall be valid for a period of three (3) years.

(Circular No. 656 dated 02 June 2009)

§ 4101P.7 *Renewal of the Bangko Sentral registration of pawnshop head office and branches.* The registration with BSP of a pawnshop head office and each of its branches, if any, shall be valid for a period of three (3) years from the date of issuance of the Acknowledgement of Registration (AOR) of a pawnshop head office and Authority to Operate (AO) of a pawnshop branch.

Every pawnshop shall renew its AOR and/or AO after three (3) years on the anniversary month when it was originally registered and a renewal fee of P3,000.00 shall be collected for each pawnshop office.

A pawnshop that renews its AOR and/or AO after the prescribed period of renewal shall pay, in addition to the P3,000.00 renewal fee, a fine of P500.00 for each pawnshop office.

A pawnshop that fails to renew its AOR and/or AO within six (6) months after the anniversary month shall render the AOR and/or AO automatically cancelled as provided in Subsec. 4183P.3.

Pawnshops established prior to the effectivity of these rules shall renew the BSP AOR of its head office and/or AO of branches not later than date shown in the following schedule:

Number of Offices	Deadline for Renewal
First 25 offices	31 March 2010
26th to 50th offices	30 June 2010
51st to 75th offices	30 September 2010
76th to 100th offices	31 December 2010
101st onward	30 June 2011

Pawnshops with over 100 offices may spread the renewal of their AOR and/or AO as may be arranged with the BSP. Renewal(s) made after the above deadlines or after the dates arranged with the BSP shall be subject to a fine of P500.00 for each pawnshop office.

Subsequent renewals shall be made after three (3) years based on the anniversary month of the renewal in the preceding paragraph.

(Circular No. 656 dated 02 June 2009)

§ 4101P.8 *Documentary requirements to renew the Bangko Sentral registration* A pawnshop shall submit an application for the renewal of its AOR and/or AO which application shall be accompanied by the following documents:

a. City/municipal license/business license/ mayor's permit for the current period;

b. Unexpired registration of business name with DTI, in the case of a sole proprietorship;

c. Updated Personal data sheet (using BSP prescribed form) with passport size picture duly accomplished by the proprietor or partners or incorporators, directors, officers, individual stockholders owning 10% or more of voting stock and branch managers or officers-in-charge, as may be applicable; and

d. Such other documents that may be required by the BSP that are enumerated in a list attached to the application for renewal of AOR/AO.

(Circular No. 656 dated 02 June 2009)

Sec. 4102P Definition of Terms

a. *Pawnshop* shall refer to a person or entity engaged in the business of lending money on personal property that is physically delivered to the pawnshop premises as loan collateral. The term shall be synonymous,

and may be used interchangeably, with *pawnbroker* or *pawnbrokerage*.

b. *Pawner* shall refer to the borrower from a pawnshop.

c. *Pawnee* shall refer to the pawnshop or pawnbroker.

d. *Pawn* is the personal property delivered by the pawner to the pawnee as security for a loan.

e. *Pawn ticket* is the pawnbroker's receipt for a pawn and shall not be considered as an official receipt for amounts collected.

f. *Property* shall include only such personal property which can be physically delivered to the control and possession of the pawnee.

g. *Voting stock* is that portion of the authorized capital which is subscribed and entitled to vote.

h. *Vital records* shall consist of the Loans Extended/Paid Registers, General Ledger/Journal, that may in electronic form, covering the current and at least the preceding five (5) years of operation, unused accountable forms and permanent records, e.g., articles of incorporation/co-partnership, by-laws, stock certificates, etc.

i. *Bulky pawns* shall refer to household appliances, office machines and the like, which occupy considerable amount of space, i.e., measuring at least 1.5 x 1.5 x 0.5 feet.

j. *Premises* shall refer to the area where the pawnshop conducts its business and maintains office. It includes office or storage spaces maintained and/or used by the pawnshop which are adjacent to the pawnshop's location.

(Circular No. 656 dated 02 June 2009)

Secs. 4103P - 4105P (Reserved)

B. CAPITALIZATION

Sec. 4106P Capital of Pawnshops. Every pawnshops shall have a minimum paid-in capital of ₱100,000.

A pawnshop's paid-in capital may be in the form of:

a. Cash;

b. Tangible properties, including real estate and improvements thereon; and

c. A combination of cash and tangible properties.

Tangible properties shall be limited to those that are necessary for the conduct of the pawnshop business. They may be valued at fair value which is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm's length transaction. The fair value of land and buildings is usually determined from market-based evidence by appraisal that is normally undertaken by professionally qualified appraisers.

The value of the tangible properties contributed as capital shall not exceed twenty-five percent (25%) of said paid-in capital and surplus/acumulated surplus: For pawnshops existing as at 29 January 1973 whose value of properties exceeds the prescribed ratio, such percentage may be retained or reduced but shall not be increased thereafter. Should the ratio, on the other hand, fall below the prescribed level, it may be increased but not beyond twenty-five percent (25%).

(Circular No. 656 dated 02 June 2009)

§ 4106P.1 *Sanctions*. The following sanctions shall be imposed on pawnshops that fail to comply with the minimum paid-in capital:

a. Suspension of branching privilege; or

b. Cancellation of BSP AOR as a pawnshop.

(Circular No. 656 dated 02 June 2009)

Sec. 4107P Prudential Capital Ratio. The minimum capital ratio of a pawnshop, expressed as a percentage of total capital to pledge loans, shall not be less than fifty percent (50%): *Provided,* That total pledge

loans shall not exceed P3.0 million. If and when the pledge loans exceed P3.0 million, additional capital of 30% of pledge loans in excess of P3.0 million shall be required.

For this purpose, the term total capital shall be defined as total assets minus:

(a) total liabilities;
(b) deferred tax assets;
(c) unbooked valuation reserves; and
(d) other capital adjustments as may be required by the BSP.

Any appraisal surplus or appreciation credit as a result of appreciation or an increase in book value of the assets of the pawnshop shall be excluded.

(Circular No. 656 dated 02 June 2009)

§ 4107P.1 *Sanctions.* Any pawnshop that fails to comply with the prudential capital requirement shall submit within thirty (30) days from date of notice from the BSP, a Letter of Undertaking to implement a capital build-up program for a period not to exceed one (1) year from date of undertaking.

The following sanctions shall be imposed on any pawnshop that fails to submit a Letter of Undertaking or implement the Letter of Undertaking:

a. Suspension of branching privileges; or
b. Revocation of BSP registration as a pawnshop.

(Circular No. 656 dated 02 June 2009)

Secs. 4108P - 4110P (Reserved)

C. - F. (RESERVED)

Secs. 4111P - 4140P (Reserved)

G. PROPRIETOR/PARTNERS/ DIRECTORS, OFFICERS AND EMPLOYEES

Sec. 4141P Bonding of Officers and Employees. Accountable officers and employees of pawnshops especially those who have access to pawned articles shall be required to post bonds with reputable insurance/surety companies accredited by the Insurance Commissioner.

(Circular No. 656 dated 02 June 2009)

§ 4141P.1 *Sanctions.* A pawnshop that fails to post bonds for its accountable officers and employees shall be subject to the following sanctions:

a. Warning for the first three (3) offense, whether incurred at the main office or branch, if the pawnshop has any;

b. For succeeding offenses, fine of P500.00 per day of non-compliance per officer/employee, from the time the pawnshop was informed of the violation until such time that the pawnshop shall have secured a bond.

(Circular No. 656 dated 02 June 2009)

Sec. 4142P Definitions, Qualifications, Responsibilities and Duties of Proprietor/ Partners/Incorporators/Directors/Officers

For purposes of this Section the following shall be the definitions and qualifications, responsibilities and duties of proprietor/ partners/incorporators/directors/officers.

(Circular No. 656 dated 02 June 2009)

§ 4142P.1 *Definitions*

a. *Proprietor* is the person named in the Certificate of Registration issued by the DTI and in the city/municipal license and mayor's permit as the owner of the business.

b. *Partners* are the persons named in the articles of partnership.

c. *Incorporators* are those mentioned as such in the articles of incorporation as originally forming and composing the corporation and who are signatories thereof.

d. *Directors* – Directors shall include:

(1) directors who are named as such in the articles of incorporation;

(2) directors duly elected in subsequent meetings of the pawnshop's stockholders; and

(3) those elected to fill vacancies in the board of directors.

The number of members of the board of directors, pursuant to Section 10 of Batas Pambansa No. 68, shall be at least five (5), and a maximum of fifteen (15) directors.

e. *Officers* – are those persons whose duties as such are defined in the by-laws (for corporations) or those who are generally known to be the officers of the pawnshop either thru announcement, representation, publication or any kind of communication made by the pawnshop.

(Circular No. 656 dated 02 June 2009)

§ 4142P.2 ***General qualifications of a proprietor, partner, incorporator, director, officer including branch manager or officer-in-charge.*** Any person can be a proprietor, partner, incorporator, director, officer, branch manager or officer-in-charge of a pawnshop provided he/she:

a. Must have undergone a briefing on pawnshop regulations conducted by the BSP or any accredited service provider;

b. Must have undergone a briefing on the Anti-Money Laundering Law (AMLA) as prescribed by Subsec. 4691P.1;

c. Must not be included in the BSP Watchlist of directors and officers; and

d. Must not possess any derogatory information from the National Bureau of Investigation (NBI) and the Barangay where the person resides and where the pawnshop conducts business. The NBI clearance and Barangay clearance shall be submitted pursuant to Subsecs. 4101P.4 and 4151P.4.

Proprietors, partners, stockholders, directors, officers including branch managers or officers-in-charge of pawnshops established prior to 25 June 2009 shall submit the NBI and Barangay clearances when the pawnshops apply for the renewal of their BSP AOR and/or AO as prescribed in Subsec. 4101P.8.

(Circular No. 656 dated 02 June 2009)

§ 4142P.3 ***Qualifications of a director***
In addition to the requirements of Subsec. 4142P.2 a, c and d above, a director must have attended a special seminar on corporate governance conducted by a service provider accredited by the SEC or BSP.

(Circular No. 656 dated 02 June 2009)

Sec. 4143P Disqualification of Directors and Officers. The following regulations shall govern the disqualification of pawnshop directors and officers.

(Circular No. 656 dated 02 June 2009)

§ 4143P.1 ***Persons disqualified from becoming directors.*** Without prejudice to specific provisions of law prescribing disqualifications for directors/trusteees, the following are disqualified from becoming directors of pawnshops:

a. *Permanently disqualified*

Directors/trustees/officers/employees permanently disqualified by the Monetary Board from holding a director/trustee position:

(1) Persons who have been convicted by final judgment of the court for offenses involving dishonesty or breach of trust such as estafa, embezzlement, extortion, forgery, malversation, swindling and theft;

(2) Persons who have been convicted by final judgment of the court for violation of banking laws and/or relevant laws of other FIs under the supervisory and regulatory authority of the BSP;

(3) Persons who have been judicially declared insolvent, spendthrift or incapacitated to contract; or

(4) Directors, trustees, officers of closed institutions under the supervisory and regulatory authority of the BSP who were responsible for such institutions' closure as determined by the Monetary Board.

b. *Temporarily disqualified*

Directors/trustees/officers/employees disqualified by the Monetary Board from

holding a director/trustee position for a specific/indefinite period of time. Included are:

(1) Persons who refuse to fully disclose the extent of their business interest to the appropriate department of the SES when required pursuant to a provision of law or of a circular, memorandum or rule or regulation of the BSP. This disqualification shall be in effect as long as the refusal persists;

(2) Directors who have been absent or who have not participated for whatever reasons in more than fifty percent (50%) of all meetings, both regular and special, of the board of directors during their incumbency, or any twelve (12)-month period during said incumbency. The disqualification applies for purposes of the succeeding election;

(3) Persons who are delinquent in the payment of their obligations as defined hereunder:

(a) *Delinquency in the payment of obligations* means that an obligation of a person with the institution where he/she is a director or officer, or at least two (2) obligations with other FIs, under different credit lines or loan contracts, are past due pursuant to Secs. X306, 4308Q, 4306S and 4305P;

(b) *Obligations* shall include all borrowings from any FI obtained by:

(i) A director/trustee or officer for his own account or as representative or agent of others or where he/she acts as guarantor, endorser or surety for loans from such FIs;

(ii) The spouse or child under the parental authority of the director/trustee or officer;

(iii) Any person whose borrowings or loan proceeds were credited to the account of, or used for the benefit of a director/ trustee or officer;

(iv) A partnership of which a director/ trustee or officer, or his/her spouse is the managing partner or a general partner owning a controlling interest in the partnership; and

(v) A corporation, association or firm wholly-owned or majority of the capital of which is owned by any or a group of persons mentioned in the foregoing Items *"(i)"*, *"(ii)"* and *"(iv)"*.

This disqualification shall be in effect as long as the delinquency persists.

(4) Persons convicted for offenses involving dishonesty, breach of trust or violation of banking laws and/or relevant laws of other FIs under the supervision of the BSP but whose conviction has not yet become final and executory;

(5) Directors/trustees and officers of closed institutions under the supervisory and regulatory powers of the BSP pending their clearance by the Monetary Board;

(6) Directors/ trustees disqualified for failure to observe/discharge their duties and responsibilities prescribed under existing regulations. This disqualification applies until the lapse of the specific period of disqualification or upon approval by the Monetary Board or the appropriate department of the SES of such directors'/ trustees' election/reelection;

(7) Persons dismissed from employment for cause. This disqualification shall be in effect until they have cleared themselves of involvement in the alleged irregularity or upon clearance, on their request, from the Monetary Board after showing good and justifiable reasons, or after the lapse of five (5) years from the time they were officially advised by the appropriate department of the SES of their disqualification;

(8) Those under preventive suspension; and

(9) Persons with derogatory records with the NBI, court, police, Interpol and monetary authority (central bank) of other countries (for foreign directors/trustees and officers) involving violation of any law, rule or regulation of the Government or any of its instrumentalities adversely affecting the

integrity and/or ability to discharge the duties of a director/trustee or officer. This disqualification applies until they have cleared themselves of involvement in the alleged irregularity.
(Circular No. 656 dated 02 June 2009)

§ 4143P.2 *Persons disqualified from becoming officers*

a. The disqualifications for directors mentioned in Subsec. 4143P.1 shall likewise apply to officers, except those stated in Items *"b(2)"*.

b. Except as may be authorized by the Monetary Board or the Governor, the spouse or a relative within the second degree of consanguinity or affinity of any person holding the position of chairman, president, executive vice president or any position of equivalent rank, general manager, treasurer, chief cashier or chief accountant is disqualified from holding or being elected or appointed to any of said positions in the same pawnshop and the spouse or relative within the second degree of consanguinity or affinity of any person holding the position of manager, cashier, or accountant of a branch or office of a pawnshop is disqualified from holding or being appointed to any of said positions in the same branch or office.
(Circular No. 656 dated 02 June 2009)

§ 4143P.3 *Disqualification procedures*

a. The board of directors/trustees and management of every pawnshop shall be responsible for determining the existence of the ground for disqualification of the pawnshop's directors/trustees/officer or employee and for reporting the same to the BSP. While the concerned pawnshop may conduct its own investigation and impose appropriate sanction/s as are allowable, this shall be without prejudice to the authority of the Monetary Board to disqualify a pawnshop director/trustee/officer/employee from being elected/appointed as director/trustee/officer in any FI under the supervision of the BSP. Grounds for disqualification made known to the institution shall be reported to the appropriate department of the SES of the BSP within 72 hours from knowledge thereof.

b. On the basis of knowledge and evidence on the existence of any of the grounds for disqualification mentioned in Subsecs. 4143P.1 and 4143P.2, the director or officer concerned shall be notified in writing either by personal service or through registered mail with registry return receipt card at his/her last known address by the appropriate department of the SES of the existence of the ground for his/her disqualification and shall be allowed to submit within 15 calendar days from receipt of such notice an explanation on why he/she should not be disqualified and included in the watchlisted file, together with the evidence in support of his/her position. The head of said department may allow an extension on meritorious ground.

c. Upon receipt of the reply/explanation of the director/trustee/officer concerned, the appropriate department of the SES shall proceed to evaluate the case. The director/trustee/officer concerned shall be afforded to defend/clear himself/herself.

d. If no reply has been received from the director/trustee/officer concerned upon the expiration of the period prescribed under Item "*b*" above, said failure to reply shall be deemed a waiver and the appropriate department of the SES shall proceed to evaluate the case based on available records/evidence.

e. If the grounds for disqualification is delinquency in the payment of obligation, the concerned director/trustee or officer shall be given a period of thirty (30) calendar days within which to settle said obligation or, restore it to current status or, to explain why he/she should not be disqualified and included in the watchlisted file, before the evaluation on his disqualification and

watchlisting is elevated to the Monetary Board.

f. For directors/trustees/officers of closed banks, the concerned department of the SES shall make appropriate recommendation to the Monetary Board clearing said directors/trustees/officers when there is no pending case/complaint or evidence against them. When there is evidence that a director/trustee/officer has committed irregularity, the appropriate department of the SES shall make recommendation to the Monetary Board that his/her case be referred to the Office of Special Investigation (OSI) for further investigation and that he/she be included in the master list of temporarily disqualified persons until the final resolution of his/her case. Directors/trustee/officer with pending cases/complaints shall also be included in said master list of temporarily disqualified persons upon approval by the Monetary Board until the final resolution of their cases, If the director/trustee/officer is cleared from involvement in any irregularity, the appropriate department of the SES shall recommend to the Monetary Board his/her delisting. On the other hand, if the director/trustee/officer concerned is found to be responsible for the closure of the institution, the concerned department of the SES shall recommend to the Monetary Board his/her delisting from the disqualified persons and his/her inclusion in the master list of permanently disqualified persons.

g. If the disqualification is based on dismissal from employment for cause, the appropriate department of the SES shall, as much as practicable, endeavor to establish the specific acts or omissions constituting the offense of the ultimate facts which resulted in the dismissal to be able to determine if the disqualification of the director/trustee/officer concerned is warranted or not. The evaluation of the case shall be made for the purpose of determining if disqualification would be appropriate and not for the purpose of passing judgment on the findings and decision of the entity concerned. The appropriate department of the SES may decide to recommend to the Monetary Board a penalty lower than disqualification (e.g., reprimand, suspension, etc.) if, in its judgment the act committed or omitted by the director/trustee/officer concerned does not warrant disqualification.

h. All other cases of disqualification, whether permanent or temporary shall be elevated to the Monetary Board for approval and shall be subject to the procedures provided in Items *"a", "b", "c"* and *"d"* above.

i. Upon approval by the Monetary Board, the concerned directors/trustees/officers shall be informed by the appropriate department of the SES in writing either by personal service or through registered mail with registry return receipt card, at his/her last known address of his/her disqualification from being elected/appointed as director/trustee/officer in any FI under the supervision of BSP and/or of his/her inclusion in the master list of watchlisted persons so disqualified.

j. The board of directors/trustees of the concerned institution shall be immediately informed of cases of disqualification approved by the Monetary Board and shall be directed to act thereon not later than the following board meeting. Within seventy-two (72) hours thereafter, the corporate secretary shall report to the Governor of the BSP through the appropriate department of the SES the action taken by the board on the director/trustee/officer involved.

k. Persons who are elected or appointed as director/trustee or officer in any of the BSP-supervised institutions for the first time but are subject to any of the grounds for disqualification provided for under Subsecs. 4143P.1 and 4143P.2 shall be afforded the procedural due process prescribed above.

l. Whenever a director/trustee/officer is cleared in the process mentioned under

Item "c" above or, when the ground for disqualification ceases to exist, he/she would be eligible to become director/trustees or officer of any bank, QB, trust entity or any institution under the supervision of the BSP only upon prior approval by the Monetary Board. It shall be the responsibility of the appropriate department of the SES to elevate to the Monetary Board the lifting of the disqualification of the concerned director/ trustee/officer and his/her delisting from the masterlist or watchlisted persons.
(Circular No. 656 dated 02 June 2009)

§ 4143P.4 *Effect of possession of disqualifications.* Directors/trustees/officers elected or appointed possessing any of the disqualifications as enumerated herein, shall vacate their respective positions immediately.
(Circular No. 656 dated 02 June 2009)

§ 4143P.5 *(Reserved)*

§ 4143P.6 *Watchlisting.* To provide the BSP with a central information file to be used as reference in passing upon and reviewing the qualifications of persons elected or appointed as directors/trustees or officer of an institution under the supervisory and regulatory powers of the BSP, the SES shall maintain a watchlist of disqualified directors/trustees/officers under the following procedures:

a. *Watchlist categories*. Watchlisting shall be categorized as follows:

(1) Disqualification File "A" (Permanent) - Directors/trustees/officers/ employees permanently disqualified by the Monetary Board from holding a director/ trustee/officer position.

(2) Disqualification File "B" (Temporary) - Directors/trustees/officers/ employees temporarily disqualified by the Monetary Board from holding a director/ trustee/officer position.

b. *Inclusion of directors/trustees/ officers/employees in the watchlist*. Upon recommendation by the appropriate department of the SES, the inclusion of directors/trustees/officers/employees in watchlist disqualification files "A" and "B" on the basis of decisions, actions or reports of the courts, institutions under the supervisory and regulatory powers of the BSP, NBI or other administrative agencies shall first be approved by the Monetary Board.

c. *Notification of directors/trustees/ officers/employees*. Upon approval by the Monetary Board, the concerned director/ trustee/officer/employee shall be informed through registered mail, with registry return receipt card, at his last known address of his inclusion in the masterlist of watchlisted persons disqualified to be a director/trustee/ officer in any institution under the supervisory and regulatory powers of the BSP.

d. *Confidentiality*. Watchlisting shall be for internal use only and may not be accessed or queried upon by outside parties including such institutions under the supervisory and regulatory powers of the BSP, except with the authority of the person concerned and with the approval of the Deputy Governor, SES, the Governor, or the Monetary Board.

The BSP will disclose information on its watchlist files only upon submission of a duly accomplished and notarized authorization from the concerned person and approval of such request by the Deputy Governor, SES or the Governor or the Monetary Board. The prescribed authorization form to be submitted to the concerned department of the SES is in *Appendix Q-45*.

Pawnshops can gain access to information in the said watchlist for the sole purpose of screening their applicants for hiring and/or confirming their elected directors/trustees and appointed officers. Pawnshops must obtain the said authorization on an individual basis.

e. *Delisting*. All delistings shall be approved by the Monetary Board upon

recommendation of the appropriate department of the SES except in cases of persons known to be dead where delisting shall be automatic upon proof of death and need not be elevated to the Monetary Board. Delisting may be approved by the Monetary Board in the following cases:

(1) Watchlist - Disqualification File "B" (Temporary) -

(a) After the lapse of the specific period of disqualification;

(b) When the conviction by the court for crimes involving dishonesty, breach of trust and/or violation of banking laws becomes final and executory, in which case the director/trustee/officer/employee is relisted to Watchlist - Disqualification File "A" (Permanent); or

(c) Upon favorable decision or clearance by the appropriate body, i.e., court, NBI, institutions under the supervisory and regulatory powers of the BSP, or such other agency/body where the concerned individual had derogatory record.

Directors/trustees/officers/employees delisted from the Watchlist - Disqualification File "B" other than those upgraded to Watchlist - Disqualification File "A" shall be eligible for re-employment with any institution under the supervisory and regulatory powers of the BSP.

(Circular No. 656 dated 02 June 2009)

§ 4143P.7 ***Applicability of section 4143P to the proprietor and managing partner of a pawnshop (in the case of a sole proprietorship/partnership).*** The foregoing disqualification and watchlisting provisions of this Section shall apply, where practicable, to the managing proprietor or managing partner of a pawnshop that is a sole proprietorship or partnership, in which case, the BSP shall initiate the disqualification proceedings against the managing proprietor/managing partner. For purposes of this subsection, a managing proprietor or managing partner shall refer to a person directly involved in the operation of a pawnshop business.

In case the disqualification shall cause the dissolution of the proprietorship or partnership, the AOR and AO, if any, shall be cancelled and the pawnshop shall be removed from the BSP List of Registered Pawnshops as prescribed in Subsec. 4183P.2.

(Circular No. 656 dated 02 June 2009)

Secs. 4144P - 4150P (Reserved)

H. BRANCH OFFICES

Sec. 4151P Establishment of Branch Offices. In line with Section 6 of P.D. No. 114 which requires pawnshops to register with the BSP before commencing actual business operations, no pawnshop shall open, maintain or operate a branch office without first applying for and obtaining from the BSP, through the appropriate department of the SES, an Authority to Operate (AO) such branch which shall be processed in accordance with the following guidelines.

(Circular No. 656 dated 02 June 2009)

§ 4151P.1 ***Definition of branch office*** As used in these rules, the term "*branch office"* refers to any place of business outside the head or main office of a pawnshop where pawnshop operations and transactions are conducted under the control and supervision of the head or main office.

(Circular No. 656 dated 02 June 2009)

§ 4151P.2 ***Operations and functions*** The operations and transactions of a branch office shall likewise be subject to the provisions of P.D. No. 114 governing operations and transactions of a head or main office, as well as by other pertinent laws, BSP rules and regulations.

The primary purpose of branching is to provide additional source of credit to

small borrowers not served by the banks and other FIs.
(Circular No. 656 dated 02 June 2009)

§ 4151P.3 ***Basis for establishment*** Branch offices shall be allowed on the basis of the head office's ability to conduct operations in accordance with P.D. No. 114 and BSP rules and regulations. The BSP department concerned shall not process an application for branching of a pawnshop if any of the following conditions:

a. has an approved but unopened branch;

b. has an unpaid penalty assessed by the BSP;

c. has not complied with the required prudential capital ratio as prescribed in Sec. 4107P;

d. has not complied with the required renewal of BSP AOR and/or AO as prescribed in Subsec. 4101P.7; and

e. has not submitted any of the periodic reports listed in *Appendix P-2*.
(Circular No. 656 dated 02 June 2009)

§ 4151P.4 ***Documentary requirements*** A pawnshop that intends to open a branch office shall submit to the BSP an application (using a BSP-prescribed form) duly accomplished and signed by the proprietor/ managing partner/president under oath that shall be the basis for the issuance by the BSP an Authority to Operate (AO). The following documents shall be submitted together with every application for a branch office:

a. Duly notarized certification from the head office as to its compliance with the minimum amount of capital under Secs. 4106P and 4107P;

b. Certified true copy of the board resolution authorizing the establishment of the branch (in case of corporation);

c. Information on branch location, facilities (such as vault) and insurance coverage thereon;

d. City/municipal license/business license/mayor's permit from the city or municipality where the pawnshop branch is to be established;

e. Personal data sheet (using BSP-prescribed form) with passport size picture duly accomplished by the proposed branch manager or officer-in-charge; and

f. Such other documents that may be required by the BSP for the evaluation of the branch application as enumerated in a list attached to the application form.
(Circular No. 656 dated 02 June 2009)

§ 4151P.5 ***Processing and registration fees.*** A non-refundable processing fee of P1,000.00 shall be collected from a person or entity applying to establish a pawnshop branch upon completion of the documentary requirements in Subsec. 4151P.4.

In addition to the processing fee, P3,000.00 shall be collected from such person or entity as registration fee which is valid for a period of three (3) years.
(Circular No. 656 dated 02 June 2009)

§ 4151P.6 ***Renewal of Bangko Sentral registration.*** Every branch of a pawnshop shall be subject to the provisions of Subsec. 4101P.7 on renewal of BSP registration.
(Circular No. 656 dated 02 June 2009)

§ 4151P.7 ***Date of opening for business.*** The pawnshop branch shall commence actual operations within six (6) months from the date of issuance of the AO. Failure to commence actual operations within the aforementioned six (6) months period shall render the BSP AO as automatically cancelled.

The pawnshop head office shall notify the BSP in writing of the start of operations of the branch within five (5) business days from the actual start of the operations of the branch.
(Circular No. 656 dated 02 June 2009)

§ 4151P.8 ***Pawnshop branches without business permit and authority to operate considered operating illegally.*** Any pawnshop branch that is found operating that does not have a current business permit issued by the city or municipality where it is located and an AO issued by the BSP is considered operating illegally. Such pawnshop shall be reported to the Office of the Mayor of the concerned city or municipality, for appropriate action, without prejudice to whatever legal action the BSP may pursue under Section 18 of P.D. No. 114 and other applicable laws against the pawnshop, its proprietor, partners, stockholders, directors and president or officer of equivalent rank.
(Circular No. 656 dated 02 June 2009)

Secs. 4152P - 4155P (Reserved)

I. BUSINESS DAYS AND HOURS

Sec. 4156P Business Days and Hours Pawnshops, including their branches, shall transact business at a minimum of five (5) days a week, for a minimum of six (6) hours a day, both to be selected by them. They may, at their discretion, remain open beyond the aforesaid requirement as they deem it necessary.

The business hours and business days shall be printed on the face of the pawn ticket and shall be posted together with the original BSP AOR/AO conspicuously at all times within the premises of the pawnshop, preferably at the window or door that is clearly visible to the pawning public.

Failure to display the original copy of the AOR/AO and the business days and hours shall subject the pawnshop to the following administrative sanctions:

a. Warning for the first three (3) offences of the pawnshop main office and/or its branches, if there is any;

b. Penalty of P300.00 each for the succeeding three (3) offenses; and

c. Cancellation of the AOR or AO, for a subsequent offense. Once the AOR of the main office is cancelled, the AO of the branch(es) is/are likewise cancelled.

Pawnshops shall only transact business in the pawnshops' registered place of business or premises of the head office and branches, if any. Transacting business outside the pawnshops' registered place of business or premises shall be a ground for cancellation of pawnshop's AOR or AO, as the case may be.
(Circular No. 656 dated 02 June 2009)

Secs. 4157P - 4160P (Reserved)

J. RECORDS AND REPORTS

Sec. 4161P Records. The accounting period of pawnshops shall be on the calendar year basis.

The accounting records of pawnshops shall consist of records of original entry and books of final entry.

The records of original entry shall consist of pawn tickets, official receipts, vouchers and other supporting documents. The books of final entry shall consist of the general ledger, subsidiary ledgers and registers of loans extended and loans paid.

Pawnshops may use any form of loans extended and loans paid registers as long as they contain spaces and columns for the following information enumerated in Section 11 of P.D. No. 114, as well as the data required by the BSP:

(a) name of the pawner;
(b) amount of principal loan;
(c) pawn ticket number; and
(d) signature of the pawner.

A pawnshop that uses a computerized system may record its loan transactions in individual loan extended vouchers which shall contain the same information necessary to comply with Section 11 of P.D. No. 114 in lieu of the loan extended and loans paid registers. Such pawnshops

shall periodically compile or bind the loan extended vouchers and shall be made available for BSP examination upon request.

The Description of Loan Registers of Pawnshops provided in *Appendix P-1* shall be followed.

(Circular No. 656 dated 02 June 2009)

§ 4161P.1 ***Uniform system of accounts.*** Pawnshops shall strictly adopt/ implement the Uniform System of Accounts prescribed for pawnshops in the recording of daily transactions including reportorial requirements.

The Uniform Chart of Accounts for Pawnshops is provided in *Appendix P-1*.

(Circular No. 656 dated 02 June 2009)

§ 4161P.2 ***Philippine financial reporting standards/Philippine accounting standards*** *Statement of policy*. It is the policy of the BSP to promote fairness, transparency and accuracy in financial reporting. It is in this light that the BSP aims to adopt all Philippine Financial Reporting Standards (PFRS) and Philippine Accounting Standards (PAS) issued by the Accounting Standards Council (ASC) to the greatest extent possible.

Pawnshops shall adopt the PFRS and PAS which are in accordance with generally acceptable accounting principles in recording transactions and in the preparation of financial statements and reports to BSP. However, in cases where there are differences between BSP regulations and PFRS/PAS as when more than one (1) option are allowed or certain minimum limits are prescribed by the PFRS/PAS, the option or limit prescribed by BSP regulations shall be adopted by all banks/FIs.

For purposes hereof, the PFRS/PAS shall refer to issuances of the ASC and approved by the PRC.

Accounting treatment for prudential reporting. For prudential reporting, FIs shall adopt in all respect the PFRS and PAS except as follows:

a. In preparing consolidated financial statements, only investments in financial allied subsidiaries except insurance subsidiaries shall be consolidated on a line-by-line basis; while insurance and non-financial allied subsidiaries shall be accounted for using the equity method. Financial/non-financial allied/non-allied associates shall be accounted for using equity method in accordance with the provisions of PAS 28 "Investments in Associates".

b. For purposes of preparing separate financial statements, financial/non-financial allied/non-allied subsidiaries/associates, including insurance subsidiaries/associates, shall also be accounted for using the equity method; and

c. FIs shall be required to meet the BSP recommended valuation reserves.

Notwithstanding the exceptions in Items "*a*", "*b*" and "*c*", the audited annual financial statements required to be submitted to the BSP in accordance with *Appendix P-2* shall in all respect be PFRS/ PAS compliant: *Provided,* That FIs shall submit to the BSP adjusting entries reconciling the balances in the financial statements for prudential reporting with that in the audited annual financial statements.

(Circular No. 656 dated 02 June 2009)

§ 4161P.3 ***Accounting for pawnshops premises; other fixed assets.*** Pawnshop premises, furniture, fixture and equipment shall be accounted for using the cost model under PAS 16 "Property, Plant and Equipment".

(Circular No. 656 dated 02 June 2009)

§ 4161P.4 ***Retention of records*** Pawnshop records, ledgers, books and documents (including those in electronic media):

(a) shall not be destroyed or disposed of for at least five (5) years;

(b) shall have backup hard and/or soft copy to allow reconstruction of records in case of loss or destruction due to fire and other fortuitous events; and

(c) shall be made available for BSP examination upon request.

A pawnshop that does not have records, ledgers, registers, books or documents or refuses to permit access to its records, ledgers, registers, books or documents to an authorized BSP officer examiner may be considered as refusal to permit an examination, the penalty for which shall be the revocation/cancellation of the pawnshop's BSP registration under Subsec. 4651P.2.

(Circular No. 656 dated 02 June 2009)

Sec. 4162P Reports. Pawnshops shall submit to the appropriate department of the SES the reports listed in *Appendix P-2* in the forms as may be prescribed by the DG, SES.

Any change in, or amendment to, the articles of incorporation/co-partnership, by-laws or material documents required to be submitted to the BSP shall be reported by submitting copies of the amended articles of incorporation, by-laws or material document to the appropriate department of the SES within fifteen (15) days following such change.

(Circular No. 656 dated 02 June 2009)

§ 4162P.1 ***Categories of and signatories to reports.*** Reports required to be submitted to the BSP are classified into *Categories A-1, A-2, A-3* and *B* reports as indicated in the list of reports required to be submitted to the BSP in *Appendix P-2*.

Appendix P-3 prescribes the signatories for each report category and the requirements on signatory authorization. Reports submitted in computer media shall be subject to the same requirements.

A report submitted to the BSP under the signature of an officer who is not authorized in accordance with the requirements in this Subsection shall be considered as not having submitted.

(Circular No. 656 dated 02 June 2009)

§ 4162P.2 ***Manner of filing.*** The submission of the reports shall be effected by filing them personally with the appropriate department of the SES or with the BSP Regional Offices/Units, or by sending them by registered mail or special delivery through private couriers, unless otherwise specified in the circular or memorandum of the BSP.

(Circular No. 656 dated 02 June 2009)

§ 4162P.3 ***Sanctions***

a. *Definition of terms*. For purposes of these rules, the following definitions shall apply:

(1) *Report* shall refer to any report or statement required of a pawnshop to be submitted to the BSP periodically or within a specified period.

(2) *Faulty report* shall refer to an inaccurate/improperly accomplished report.

(3) *Willful delay or default in the submission of reports* shall refer to the failure of a pawnshop to submit a report on time. Failure to submit a report on time due to fortuitous events, such as fire and other natural calamities and public disorders, including strike or lockout affecting a pawnshop as defined in the Labor Code or a national emergency affecting operations of pawnshops, shall not be considered as willful delay.

(4) *False statement* shall refer to any untruthful data or information or falsehoods made in a report to the BSP or its authorized agents, with intent to deceive or mislead. Any false statement which tends to favor the pawnshop submitting the report shall be *prima facie* evidence of intent to deceive or mislead.

(5) *Repeated violation* shall mean the commission of the same offense for at least two (2) times.

(6) *Persistent violation* shall mean the commission of the same offense for at least three (3) times.

(7) *Offense* shall refer to submission of faulty report, willful delay in submission of reports, or making of false statements in reports.

(8) *Continuing offenses/violations* are acts, omissions or transactions entered into, in violations of laws, BSP rules and regulations, MB directives, and orders of the Governor which persist from the time the particular acts were committed or omitted or the transactions were entered into until the same were corrected/rectified by subsequent acts or transactions. They shall be penalized on a per calendar day basis from the time the acts were committed/ omitted or the transactions were effected up to the time they were corrected/ rectified.

(9) *Transactional offenses/violations* are acts, omissions or transactions entered into in violation of laws, BSP rules and regulations, Monetary Board directives, and orders of the Governor which cannot be corrected/rectified by subsequent acts or transactions. They shall be meted with one-time monetary penalty on a per transaction basis.

(10) *Continuing penalty* refers to the monetary penalty imposed on continuing offenses/violations on a per calendar day basis reckoned from the time the offense/ violation occurred or was committed until the same was corrected/rectified.

(11) *Transactional penalty* refers to a one-time penalty imposed on transactional offense/violation.

b. *Fine for submission of faulty report*. Any pawnshop which submits a faulty report shall pay to the BSP a fine of thirty pesos (₱30) per calendar day which shall accrue beginning on the sixth business day from the day the written notice of faulty report is received by the pawnshop concerned until a correct report is submitted.

c. *Fines for willful delay in submission of reports*. Pawnshops incurring willful delay in the submission of required reports shall pay a fine in accordance with the following schedule:

I. For *Categories A-1, A-2 and A-3* reports -
Per calendar day of ninety pesos (P90) default until the report is filed

II. For *Category B* reports -
Per calendar day of thirty pesos (P30) default until the report is filed

Delay or default shall start to run on the day following the last day required for the submission of reports. However, should the last day of filing fall on a non-working day in the locality where the reporting pawnshop is situated, delay or default shall start to run on the day following the next working day. The due date/deadline for submission of reports to BSP as prescribed under Sec. 4162P governing the frequency and deadlines indicated in *Appendix P-2* shall be automatically moved to the next banking day whenever a half-day suspension of business operations in government offices is declared due to an emergency such as typhoon, floods, etc.

For the purpose of establishing delay or default, the date of acknowledgment by the appropriate department of the SES or the BSP Regional Offices/Units appearing on the copies of such reports filed or submitted or the date of mailing postmarked on the envelope or the date of registry or special delivery receipt, as the case may be, shall be considered as the date of filing.

Delayed schedules or attachments and amendments shall be considered late reporting subject to the above penalties.

d. *Fine for making false statements*. Any pawnshop which makes a false statement in any of its reports to the BSP or

its authorized agents shall pay to the BSP a fine in accordance with the following schedule:

(1) For the first and second offense, a fine payable on the business day following the receipt of BSP advice -

P300.00 and sixty pesos (P60.00) for every calendar day of delay in payment until the fine is fully paid.

(2) For repeat violations -

P 600.00 and P120.00 for every calendar day of delay in payment until the fine is fully paid.

(3) For persistent violations -

Suspension, after due hearing, of the pawnshop's directors/trustees/officers/ proprietor/managing partner.

Any false statement made in a previous report which was not immediately known but was discovered only in later reports shall constitute only one (1) violation. The penalty shall operate on the sixth working day counted from receipt of notice of submission of a false statement from the BSP or its authorized agents until a correct statement is submitted.

e. *Manner of collection and payment of fines*. A pawnshop shall be billed by the appropriate department of the SES. The pawnshop shall thereupon remit the amount of the fine to the BSP through the appropriate department of the SES.

Late payment of monetary penalty shall be subject to an additional charge of six percent (6%) per annum to be reckoned from the business day immediately following the day said penalty becomes due and payable up to the day of actual payment. The penalty shall become due and payable fifteen (15) calendar days from receipt of the Statement of Account from BSP.

Failure of a pawnshop to effect the settlement of the full amount of the fine within a period of fifteen (15) days from receipt of the bill shall subject it to other administrative sanctions and/or to the penal provisions of P.D. No. 114.

f. *Appeal to the Monetary Board*. A one-time appeal or request for reconsideration on the monetary penalty approved by the Governor/Monetary Board to be imposed on the pawnshop, its directors/trustees and/or officers, in the case of a corporation; its partners, in the case of a partnership; its proprietor/owner, in the case of a sole proprietorship, shall be allowed.

The appeal shall be filed with the appropriate department of the SES within fifteen (15) calendar days from receipt of the Statement of Account/billing letter. The appropriate department of the SES shall evaluate the appeal or request for reconsideration of the entity/individual and make recommendations thereon within thirty (30) calendar days from receipt thereof.

The appeal or request for reconsideration of the monetary penalty approved by the Governor/Monetary Board shall be elevated to the Monetary Board for resolution/ decision. The running of the monetary penalty period in case of continuing penalty and/or the period for computing additional charge shall be interrupted from the time the appeal or request for reconsideration was received by the appropriate department of the SES up to the time that the notice of the Monetary Board decision was received by the entity/individual concerned.

The imposition of the foregoing penalties shall be without prejudice to imposition of the other sanctions pursuant to Sections 17 and 18 of P.D. No. 114.

(As amended by Circular Nos. 662 dated 09 September 2009 and 656 dated 02 June 2009)

Sec. 4163P Report on Crimes/Losses

Pawnshops shall submit a report on crimes and losses in accordance with *Appendix P-2* together with the following:

a. Notarized list of lost pawned articles, indicating the pawn ticket number, name of the pawner, date loan granted, brief description of pawn, and amount of loan;

b. Police report on the investigation of the fire/robbery incident;

c. Proof of notification in writing to all concerned pawners about the incident; and

d. Plan of settlement of pawners' claim for lost pawned items, if any.

(Circular No. 656 dated 02 June 2009)

Sec. 4164P Audited Financial Statements/ Annual Report of Pawnshops. The following rules shall govern the submission of audited financial statements (annual reports) by pawnshops.

(Circular No. 656 dated 02 June 2009)

§ 4164P.1 ***Financial audit.*** Every pawnshop shall cause an annual financial audit and a report of such audit shall be made and submitted to the appropriate department of the SES not later than 30 June following the reference calendar year.

The financial audit of a pawnshop with total consolidated assets of at least P50.0 million shall be conducted by an external auditor who is in the list of accredited external auditors of the SEC or the Office of the Insurance Commissioner (OIC) or in the list of BSP-selected external auditors.

The proprietor, partners or the board of directors/trustee, in a regular or special meeting, (in the case of a corporation), shall consider and act on the financial audit report. A copy of the action/s taken on the report by the proprietor/partner, while in the case of a corporation, its board resolution which shall show, among other things, the names of the directors/trustees who are present and absent, shall be included in the financial audit report to be submitted to the BSP every 30 June.

The proprietor, partner or board of directors/trustees shall also consider and act on the Letter of Comments (LOC) submitted by the external auditor. A copy of the LOC together with the action/s taken on the findings and recommendations by the proprietor/ partners, while in case of corporation, its board resolution which shall show the names of the directors present and absent shall be made available to the BSP upon request.

(Circular No. 656 dated 02 June 2009)

§ 4164P.2 ***Disclosure of external auditor's adverse findings to the Bangko Sentral***

a. *Findings to be disclosed.* Pawnshops shall require their external auditors to report to the BSP any matter adversely affecting the condition or soundness of the pawnshop, such as, but not limited to:

(1) Any serious irregularity, including those involving fraud or dishonesty, that may jeopardize the interest of the public;

(2) Losses incurred which substantially reduce the capital funds of the pawnshop;

(3) Capital deficiency as prescribed in Secs. 4106P and 4107P; and

(4) Inability of the auditor to confirm the physical presence of pawned items.

The disclosure of information by the external auditor to the BSP shall not be a ground for civil, criminal or disciplinary proceedings against the former.

Pawnshop management shall be present during discussions or at least be informed of the adverse findings in order to preserve the concerns of the supervisory authority and external auditors regarding the confidentiality of information.

(Circular No. 656 dated 02 June 2009)

§ 4164P.3 ***Sanction.*** An auditing firm or external auditor who fails to report to the BSP any matter adversely affecting the condition or soundness of the pawnshop shall be referred to the SEC, OIC or to the appropriate department of the SES, as the case may be, for appropriate action.

(Circular No. 656 dated 02 June 2009)

§ 4164P.4 ***Selection, appointment, reporting requirements and delisting of external auditors and/or auditing firm; sanction.*** Pursuant to Section 58, R.A. No. 8791, and the existing provisions of the

executed MOA dated 12 August 2009, binding the BSP, SEC, PRC – BoA and the IC for a simplified and synchronized accreditation requirements for external auditor and/or auditing firm, following are the revised rules and regulations that shall govern the selection and delisting by the BSP of covered institutions which under special laws are subject to BSP supervision.

Statement of policy. It is the policy of the BSP to ensure effective audit and supervision of banks, QBs, trust entities and/or NSSLAs including their subsidiaries and affiliates engaged in allied activities and other FIs which under special laws are subject to BSP supervision, and to ensure the reliance by BSP and the public on the opinion of external auditors and auditing firms by prescribing the rules and regulations that shall govern the selection, appointment, reporting requirements and delisting for external auditors and auditing firms of said institutions, subject to the binding provisions of and implementing regulations pursuant to the aforesaid MOA.

a. *Rules and regulation*s. The revised rules and regulations that shall govern the selection and delisting by the BSP of covered institutions which under special laws are subject to BSP supervision are shown in *Appendix S-8*.

Sanctions. The applicable sanctions/ penalties prescribed under Sections 36 and 37 of R.A. 7653 to the extent applicable shall be imposed on the covered institutions, its audit committee and the directors approving the hiring of external auditors/ auditing firm who/which are not in the BSP list of selected auditors for covered institutions or for hiring, and/or retaining the services of the external auditor/auditing firm in violation of any of the provisions of this Section and for non-compliance with the Monetary Board directive under Item "*K*" in *Appendix P-9*. Erring external auditors/ auditing firm may also be reported by the BSP to the PRC for appropriate disciplinary action.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 660 dated 25 September 2009)

Sec. 4165P General Information Sheet Pawnshops organized as a corporation shall submit to the SDC a copy of the general information sheet duly stamped received by the SEC five (5) days from submission to SEC.

(Circular No. 656 dated 02 June 2009)

Secs. 4166P - 4170P (Reserved)

K. INTERNAL CONTROL

Sec. 4171P Internal Control System. The following provisions are the minimum internal control standards for pawnshops to help promote effective control system.or safe but within the pawnshop premises.

(Circular No. 656 dated 02 June 2009)

§ 4171P.1 ***Proper accounting records***

a. All pawnshops shall maintain proper and adequate accounting records which include reconciliation of due to/from head office/branches, if the pawnshop has several offices.

b. Records should be kept up-to-date and shall contain sufficient detail so that an audit trail is established.

(Circular No. 656 dated 02 June 2009)

§ 4171P.2 ***Number control***

The following are the forms, instruments and accounts that shall be number-controlled:

(1) Pawn tickets;
(2) Official receipts; and
(3) Expense vouchers.

(Circular No. 656 dated 02 June 2009)

§ 4171P.3 ***Safekeeping of pawns, records and insurance of premises.*** Except for bulky pawns, all pawns shall be placed inside a tamper-proof sealed envelope or

plastic bag and must be kept inside the safe or concrete vault. Bulky pawns may be placed outside the safe or vault but within the pawnshop premises.

Vital records for the current year must be kept inside the safe or vault when not in use. Other pawnshop records/documents may be placed in filing cabinets/shelves outside the vault or safe but within the pawnshop premises.

For this purpose, a pawnshop's vault, i.e., its walls, ceiling and floor shall be made of steel-reinforced concrete or such other equally safe materials/specifications. Vault doors shall be made of steel or other drill and torch-resistant materials. Safes should be sufficiently heavy or be securely anchored to the floor of the premises. The door shall be equipped with a combination lock and the body shall consist of steel with an ultimate tensile strength of 50,000 pounds per square inch or its equivalent in the metric system.

Vital records kept in electronic media including back-up copies thereof shall be kept in safes or vaults designed to protect them from damage due to fire or other fortuitous events.

The pawnshop premises, furniture, fixtures and equipment and all pawns of the pawnshops, except those which are kept inside a fireproof vault, must be insured against fire.
(Circular No. 656 dated 02 June 2009)

§ 4171P.4 *Miscellaneous.* Every pawnshop shall adopt minimum internal control measures to safeguard the assets of the pawnshop. Such measures may include but is not limited to, dual control, check and balance and internal audit. No employee shall be permitted to process a transaction affecting his own account.
(Circular No. 656 dated 02 June 2009)

Sec. 4172P Separation of Pawnshop Business from Other Businesses. A pawnshop that is at the same time engaged in another business not directly related to the business of a pawnshop, shall keep such business distinct and separate from the pawnshop operation.

Allowable corollary business activities of pawnshops shall include acting as foreign exchange dealer/money changer and/or as remittance agent, acting as bills payment agent for utility companies and other entities and such other activities as may be allowed by the BSP.

A pawnshop must secure the necessary business permit from the city or municipality for the corollary business. A pawnshop that will engage in the business of a foreign exchange dealer/money changer or act as a remittance agent shall register with the BSP before engaging in such business pursuant to Sec. 4511N.

The pawnshop should be able to show in its financial statements the appropriate accounts as well as the income or loss pertaining to the corollary business.
(Circular No. 656 dated 02 June 2009)

Secs. 4173P - 4180P (Reserved)

L. MISCELLANEOUS PROVISIONS

Sec. 4181P Registered/Business Name. The registered name of a pawnshop shall refer to the name appearing in the Certificate of Registration (COR) of business name from the DTI, in the case of a sole proprietorship, or in the Articles of Partnership/Incorporation and By-Laws duly registered with the SEC, in the case of a partnership or corporation. In case, the registered name shall include the word "pawnshop" to reflect the nature of business it is engaged in.

Conversely, no person or entity shall advertise, use signage or hold itself out as being engaged in the business of a pawnshop or use in its business name the words "pawnshop", "pawnbrokerage", or words of similar import, or transact in any manner the business of a pawnshop without

having first complied with the provisions of P.D. No. 114 and these regulations.

A pawnshop that shall use/uses a name that is different from its registered name with DTI or SEC shall cause to have such name to also appear parenthetically under its registered name in the certificate of registration with DTI or articles of partnership/incorporation and by-laws with SEC, as well as in the business permit issued by the city or municipality.

(Circular No. 656 dated 02 June 2009)

§ 4181P.1 ***Change of registered/ business name.*** A pawnshop shall not change its registered/business name without submitting the following documents to the appropriate department of the SES:

a. Certificate of Registration from DTI or SEC, as the case may be, indicating the new business/registered name;

b. Mayor's/municipal license/permit; and

c. Original BSP Acknowledgement of Registration of Head Office (AOR) and/or Authority to Operate (AO) issued under the old name.

A new BSP AOR and/or AO shall be issued indicating the new registered/ business name of the pawnshop.

(Circular No. 656 dated 02 June 2009)

§ 4181P.2 ***Use of registered business name in signage, pawn tickets and other forms.*** The following regulations shall be observed with respect to the use of the business/registered name in the signage, pawn ticket and other forms of a pawnshop:

a. As a general rule, the registered name appearing in the Certificate of Registration of DTI or SEC, as the case may be, shall be used consistently in the pawnshop's signage and in all documents including pawn tickets, official receipts, stationery, etc. of the pawnshop.

b. A pawnshop that uses or will use a name that is different from its registered name as mentioned in Sec. 4181P above or that uses or will use a name already registered and being used by another pawnshop shall indicate parenthetically under the such name, the registered name of the pawnshop with the DTI or SEC, as the case may be, with the words "*owned and operated by*" before the registered name in the pawnshop's signage, pawn tickets, official receipts, stationery, etc.

c. A pawnshop that is a subsidiary or affiliate of another pawnshop shall likewise indicate such relationship in the signage, pawn tickets, official receipts, stationery, etc.

A subsidiary is a corporation more than fifty percent (50%) of the voting stock of which is owned by another corporation; while an affiliate is a corporation less than fifty (50%) of the voting stock of which is owned by another corporation.

d. The exact address of the pawnshop shall be indicated consistently in all pawnshop documents (e.g., pawn tickets, official receipts, stationery, etc.) and in the business permit issued by the city or municipality.

e. All pawnshops using a signage prior to the effectivity of this regulation, which signage does not conform to the provisions of this Subsection shall be given ninety (90) days from effectivity date to replace said signage.

(Circular No. 656 dated 02 June 2009)

§ 4181P.3 ***Sanctions.*** A pawnshop that fails to comply with the foregoing provisions shall be subject to the following administrative sanctions as may be determined by the Monetary Board:

a. Reprimand or warning on the proprietor, managing partner, directors/ trustees or officers, as the case may be, for not more than two (2) offenses;

b. Suspension of operations of the pawnshop for a certain period;

c. Suspension of managing proprietor, managing partner, directors/trustees or officers for a certain period;

d. Fine of P500.00 at a single instance; and

e. Such other sanction/s as the Monetary Board may deem warranted.

(Circular No. 656 dated 02 June 2009)

Sec. 4182P Transfer/Relocation of Business The following shall govern the transfer/ relocation of pawnshops.

No pawnshop shall transfer or relocate its place of business within three (3) months following the maturity of any loan or pledge, or before any pawn shall have been sold or disposed of as provided under existing regulations. A notice of transfer shall be submitted to the appropriate department of the SES within ten (10) days before the effectivity of such transfer.

A pawnshop may transfer its place of business from one location to another within the territorial limits of the city or municipality upon compliance with the following requirements:

a. Notice of transfer shall be published in English and in Filipino or in the local dialect in two (2) daily newspapers of general circulation in the city or municipality where the pawnshop is closing business, and posted in English and Filipino or in the local dialect for one (1) month after date of publication in a conspicuous place in the premises to be vacated and to be transferred to;

b. The notice shall be published for at least three (3) consecutive days, the last day of which shall be five (5) days before the actual transfer; and

c. Notice shall contain the following information:

(1) Date of transfer;

(2) Address of the premises to be vacated; and

(3) Address of the premises to which pawnshop intends to transfer.

In remote areas where newspapers are not available, the publication requirement shall be complied with by posting notices at the city hall or municipal building of the city or municipality where the pawnshop has its place of business.

(Circular No. 656 dated 02 June 2009)

§ 4182P.1 ***Documentary requirements for transfer within the same city/ municipality.*** The following documents shall be filed with the appropriate department of the SES in connection with transfer of location within the same city or municipality:

a. A certification signed by the proprietor/managing partner/president informing the appropriate department of the SES of the intended transfer and that the requirements prescribed under Sec. 4182P have been complied with;

b. Copy of notice of transfer duly acknowledged by the DTI and by the licensing authority of the locality where the pawnshop is operating;

c. Sample copy of the pawn ticket bearing the new address;

d. Sketch of pawnshop's new location;

e. Original BSP AOR and/or AO issued to the pawnshop, or an affidavit in case of loss;

f. Board resolution authorizing the transfer of the pawnshop (in case of corporations)

(Circular No. 656 dated 02 June 2009)

§ 4182P.2 ***Documentary requirements for transfer outside the city/municipality*** A pawnshop that intends to transfer/relocate its business outside the city or municipality where it is located shall comply with the following:

(1) requirements on closure of business under Sec. 4183P; and

(2) requirements for the establishment and registration of a new pawnshop or branch under Subsecs. 4101P.4 and 4151P.4, respectively, where applicable.

(Circular No. 656 dated 02 June 2009)

Sec. 4183P Closure of Pawnshops. The following rules shall govern the closure of pawnshops:
(Circular No. 656 dated 02 June 2009)

§ 4183P.1 *Voluntary closure*. Voluntary closure of a pawnshop may be effected only after three (3) months following the maturity of any loan or pledge, or before any pawn shall have been sold or disposed of and after it has complied with the following requirements:

(1) Submission of the following documentary requirement within thirty calendar (30) days after the provision of Subsec. 4183P.1:

a. Notarized statement stating that:

(i) The pawnshop's books of accounts, reports, records and documents shall be preserved for at least five (5) years from date of last entry;

(ii) All unused accountable forms have been destroyed to prevent their unauthorized use;

(iii) Proprietor/partners/president of the pawnshop shall be held liable for present or future claims arising from its pawnbroking transactions; and

(iv) All outstanding pawns have been redeemed/sold at public auction, or otherwise disposed of, in accordance with law.

b. Copy of the pawnshop's application for retirement of business approved by the licensing authority of the city or municipality where the pawnshop operated.

c. Original BSP AOR and/or AO issued to the pawnshop.

(2) Remittance of penalties or BSP assessments on the pawnshop, if any, such as for non-submission/delayed submission of required reports.
(Circular No. 656 dated 02 June 2009)

§ 4183P.2 *Delisting of pawnshops/ involuntary closure*

A pawnshop that fails to submit the required financial reports for three (3) consecutive years, starting from the 2009 financial reports, shall be considered to have ceased operations and shall be delisted from the BSP List of Registered Pawnshops starting 2012.

It may be reinstated in the BSP Registry, if within thirty (30) business days from the date of BSP notification, it:

(a) submits the 3-year required reports; and

(b) pays a fine of P100,000 for delayed reporting.

If no action/advice is received from the pawnshop after the lapse of the 30-day deadline, the BSP Registration shall be automatically cancelled and the city or municipality shall be informed of the delisted pawnshops operating within their area of jurisdiction, for appropriate action.

The appropriate department of the SES shall not register any new pawnshop whose owner(s), partner(s) or stockholder(s) owned a pawnshop that has been delisted from the Registry for non-submission of the financial reports, unless the fine of P100,000 shall have been paid.

For this purpose, the term partner(s) and stockholder(s) shall refer to those partner(s) or stockholder(s) who have controlling ownership/interest and management of the pawnshop. If said owner(s), partner(s) or stockholder(s) shall use another person to establish a new pawnshop, such pawnshop shall also be delisted from the Registry.
(Circular No. 656 dated 02 June 2009)

§ 4183P.3 *Other grounds for delisting*

Aside from failure to submit financial reports, pawnshops may also be delisted from the BSP List of Registered Pawnshops in the following cases:

a. Failure to comply with the minimum capital as prescribed in Secs. 4106P and 4107P;

b. Failure to post in conspicuous place the BSP AOR and/or AO as prescribed in Sec. 4156;

c. Failure to start operations within six (6) months from date of issuance of the BSP AOR and/or AO as prescribed in Subsecs. 4101P.4 and 4151P.7;

d. Failure to renew the BSP AOR and/or AO as prescribed in Subsec. 4101P.7;

e. Disqualification of managing proprietor/managing partner as provided in Subsec. 4143P.7;

f. Refusal to permit BSP examination as prescribed in Subsec. 4651P.2;

g. Cancellation of registration by the SEC, in case of corporations and partnerships;

h. Cancellation of DTI registration of business/trade name for failure to renew registration after the expiry of the five-year period, in case of sole proprietorship;

i. Cancellation of business license/permit by the city or municipality; and

j. Conducting pawnbrokering activities outside the pawnshop premises.

Pawnshops that cease to operate but fail to comply with the closure requirements under Subsec. 4183P.1 shall still be subject to the reportorial requirements and the imposition of penalty for delayed/non-submission of reports.

The city or municipality shall be informed of the delisted pawnshops operating within their area of jurisdiction, for appropriate action.

(Circular No. 656 dated 02 June 2009)

Sec. 4184P Transfer of Ownership. No pawnshop proprietor/partners/stockholders shall transfer ownership over the pawnshop business without securing prior BSP approval.

(Circular No. 656 dated 02 June 2009)

§ 4184P.1 ***Requirements for transfer of ownership.*** The owner(s) shall file the following documents ten (10) days before transferring the ownership of the pawnshop:

(1) Notarized statement by owner/managing partner/president or its equivalent rank stating that:

a. The pawnshop's books of accounts, records and documents shall be preserved for five (5) years from date of last entries before the transfer of ownership;

b. All unused accountable forms such as official receipts and pawn tickets have been destroyed to prevent their unauthorized use.

c. The owner/managing partner/president shall be held accountable for present and future claims arising from transactions of the pawnshop under the former owner (new owner may assume this liability, in which case, he/she shall submit a notarized statement to that effect).

d. All outstanding pawns have been redeemed or sold at public auction, or otherwise disposed of in accordance with law; or the owners of outstanding pawns have been notified by registered mail on the transfer of ownership of the pawnshop.

(2) Copy of pawnshop's notice of retirement of business acknowledged by the licensing authority where the pawnshop operated.

(3) Original BSP AOR and/or AO issued to the pawnshop, or an affidavit in case of loss.

(4) Payment of Bangko Sentral assessment on the pawnshop, if any, such as for non-submission or delayed submission of required reports.

If the vendee shall continue the operation of the pawnshop, he shall comply with the provisions of Subsecs. 4101P.3 and 4142P.2. The vendee shall also submit a copy of the duly executed contract affecting the transfer of ownership.

(Circular No. 656 dated 02 June 2009)

§ 4184P.2 ***Processing and registration fees.*** A pawnshop that is the subject of change of ownership shall be subject to the

BSP processing and registration fees under Subsec. 4101P.6.
(Circular No. 656 dated 02 June 2009)

Sec. 4185P Processing Fee for Replacement of Acknowledgement of Registration of Head Office/Authority to Operate. A non-refundable processing fee of P300.00 shall be collected from each pawnshop that will request for a replacement AOR or AO due to:

(a) loss of AOR/AO;

(b) change of business/registered name under Subsec. 4181P.1; and

(c) transfer of location or address under Subsec. 4182P.

(Circular No. 656 dated 02 June 2009)

Secs. 4186P - 4189P (Reserved)

Sec. 4190P Duties and Responsibilities of Pawnshops and their Directors/Officers in Cases of Outsourcing of Pawnshop Functions. The rules on outsourcing of banking functions as shown in *Appendix Q-37* shall be adopted in so far as they are applicable to pawnshops.
(Circular No. 656 dated 02 June 2009)

Sec. 4191P (Reserved)

Sec. 4192P Prompt Corrective Action Framework. The framework for the enforcement of prompt corrective action (PCA) on banks which is in *Appendix Q-40*, shall govern the PCA taken on pawnshops to the extent applicable, or by analogy.
(Circular No. 664 dated 15 September 2009)

Secs. 4193P - 4198P (Reserved)

Sec. 4199P General Provision on Sanctions The imposition of administrative sanctions pursuant to Section 17 of P.D. No. 114 for violation of the provisions of this Part shall be without prejudice to any action that may be taken under Section 18 of P.D. No. 114.

PART TWO

BORROWING OPERATIONS

A. - J. (RESERVED)

Sections 4201P - 4284P (Reserved)

K. OTHER BORROWINGS

Sec. 4285P Securities and Exchange Commission Registration of Borrowing Borrowing by any pawnshop through the issuance of any instrument shall be subject to the registration provisions of Section 8 of the Securities Regulation Code (SRC) and the applicable implementing rules and regulations of the Securities and Exchange Commission (SEC). While borrowing from nineteen (19) individuals or less is exempt from the registration requirement under Section 10 of the SRC, Rule 10-1 of the SEC implementing rules and regulations still requires SEC to be notified of the issuance of the debt instrument.
(Circular No. 656 dated 02 June 2009)

Sec. 4286P Borrowings Constituting Quasi-Banking Functions. Borrowing from twenty (20) or more lenders for the purpose of relending or purchase of receivables or other obligations constitutes quasi-banking. A pawnshop cannot engage in quasi-banking unless it meets the pre-qualification requirements under the MORNBFI-QBs and obtains authority or a separate license to engage in quasi-banking from the BSP.
(Circular No. 656 dated 02 June 2009)

Secs. 4287P - 4298P (Reserved)

Sec. 4299P General Provision on Sanctions. Any violation of the provisions of this Part may be a ground for the revocation of the AOR that shall require the winding down of the pawnshop business and shall be subject to the applicable sanctions under Sections 36 and 37 of R.A. No. 7653 (New Central Bank Act) and/or R.A. No. 8799 (Securities Regulation Code).
(Circular No. 656 dated 02 June 2009)

PART THREE

LOANS AND INVESTMENTS

A. LOANS IN GENERAL

Section 4301P Grant of Loans. The following regulations shall be observed in the grant of loans by pawnshops.
(Circular No. 656 dated 02 June 2009)

§4301P.1 *General guidelines.* A pawnshop shall extend a loan only if such is secured by personal property that could be physically delivered to the control and possession of the pawnshop.

Before accepting articles as pawn, the pawnshop must ascertain whether the pawner is the true owner of the article offered as pawn. In the conduct of business, a pawnshop shall be guided by the standard of diligence that is expected of "a good father of a family", ensuring always that there is no ground to suspect that the article/s offered as pawn was an object of robbery or theft.
(Circular No. 656 dated 02 June 2009)

§4301P.2 *Prohibitions.* Pawnshop owners/managers/officers/directors employees shall not:

a. Use pawned articles for themselves or allowing employees to use said articles for any purpose without the express consent or authority of the pawner unless continued use is necessary to preserve the pawn;

b. Grant loans to minors or incompetent persons; or

c. Re-pledge/re-pawn the pawned article in his possession to another pawnshop or lending entity.
(Circular No. 656 dated 02 June 2009)

§4301P.3 *Know your pawner* Pawnshops who transact with any pawner for the first time shall require the pawner to present the original and submit a clear copy of at least one (1) valid photo bearing identification document (ID) issued by an official authority.

The valid ID should indicate the address where the pawner resides, otherwise, pawner shall be required to present, together with the valid ID, a barangay certification or a copy of a billing statement that indicates the address where the pawner resides.

For this purpose, the term *"official authority"* shall refer to any of the following:

(i) Government of the Republic of the Philippines;

(ii) Its political subdivisions and instrumentalities;

(iii) Government-owned and/or controlled corporations (GOCCs); and

(iv) Private entities or institutions registered with or supervised or regulated either by the BSP or the SEC or the Insurance Commission (IC).

Valid IDs include the following:

(a) Passport;
(b) Driver's License;
(c) Professional Regulation Commission (PRC) ID;
(d) National Bureau of Investigation (NBI) Clearance;
(e) Police Clearance;
(f) Postal ID;
(g) Voter's ID;
(h) Barangay Certification;
(i) Government Service Insurance System (GSIS) e- Card;
(j) Social Security System (SSS) Card;
(k) Senior Citizen Card;
(l) Overseas Workers Welfare Administration (OWWA) ID;

(m) OFW ID;

(n) Seaman's Book;

(o) Alien Certification of Registration/ Immigrant Certificate of Registration;

(p) Government Office and GOCC ID, e.g., Armed Forces of the Philippines (AFP ID), Home Development Mutual Fund (HDMF ID);

(q) Certification from the National Council for the Welfare of Disabled Persons (NCWDP);

(r) Department of Social Welfare and Development (DSWD) Certification;

(s) Integrated Bar of the Philippines ID;

(t) Company IDs issued by private entities or institutions registered with or supervised or regulated either by the BSP, SEC or IC; and

(u) Passports issued by foreign governments.

The foregoing shall be in addition to the customer identification requirements under Rule 9.1.c of the Revised Implementing Rules and Regulations (RIRRs) of R.A. No. 9160, as amended (Anti-Money Laundering Act), which requires pawnshop to obtain the following minimum information/ documents from pawners:

(1) Name;

(2) Present address;

(3) Permanent address;

(4) Date and place of birth;

(5) Nationality;

(6) Nature of work and name of employer or nature of self-employment/ business;

(7) Contact numbers; and

(8) Specimen signature.

A copy of the ID, barangay certificate and/or billing statement shall be kept by pawnshops for convenience of the pawner who continues to transact with the pawnshop but said documents should be updated at least every three (3) years.

Pawnshops shall post excerpts of the above requirements conspicuously in its principal place of business and branches. The poster (shown as *Appendix 7*) shall not be smaller than 8.5 x 11 inches.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 657 dated 16 June 2009)

§ 4301P.4 *Sanctions*. Any pawnshop that violates any of the foregoing provisions as determined by BSP in the spot checking of pawnshops or whenever a complaint brought to the attention of BSP is found to be true, shall be imposed the following sanctions:

a. Fine of P500.00 for each of the first three (3) offenses;

b. Fine of P1,000.00 for the next three (3) offenses;

c. For subsequent violation, cancellation of BSP Acknowledgement of Registration (AOR) or Authority to Operate (AO) issued to the pawnshop head office or branch, as the case may be, and issuance of a letter to the concerned city or municipality advising them of the cancellation of the BSP AOR/AO and recommending the revocation of their business/mayor's permit(s). It is understood that if the AOR of the HO is cancelled, the AO of the branch/es is/are likewise cancelled; and

d. Such other sanctions as the Monetary Board may deem warranted.

A pawnshop that fails to post the requirements of 4301P.3 as determined in the spot checking done by BSP shall be imposed the following sanctions:

a. Warning for the first three (3) offences;

b. Penalty of P300.00 each for the succeeding three (3) offenses;

c. Penalty of P750.00 each for the next three (3) offenses; and

d. Cancellation of the AOR or AO, for a subsequent offense. Once the AOR of the main office is cancelled, the Authority to Operate (AO) of the branch/es is/are likewise cancelled.

(Circular No. 656 dated 02 June 2009)

Sec. 4302P Loan Limit. Pawnshops may grant such amount of loans as may be agreed upon between the parties. The amount of loan shall in no case be less than thirty percent (30%) of the appraised value of the security offered, unless the pawner manifests in writing that he is applying for a lesser amount. Pawnshops shall not under-appraise the security offered for the loan to circumvent the restriction prescribed by this Section.

(Circular No. 656 dated 02 June 2009)

§ 4302P.1 *Sanctions.* Any pawnshop that violates the foregoing provisions as determined by BSP in the spot checking of pawnshops or whenever a complaint brought to the attention of BSP is found to be true, shall be imposed the following sanctions:

a. Fine of P500.00 for each of the first three (3) offenses;

b. Fine of P1,000.00 each for the next three (3) offenses;

c. For subsequent violation, cancellation of BSP Acknowledgement of Registration (AOR) or Authority to Operate (AO) issued to the pawnshop head office or branch, as the case may be, and issuance of a letter to the concerned city or municipality advising them of the cancellation of the BSP AOR/AO and recommending the revocation of their business/mayor's permit(s). It is understood that if the AOR of the HO is cancelled, the AO of the branch/es is/are likewise cancelled; and

d. Such other sanctions as the Monetary Board may deem warranted.

(Circular No. 656 dated 02 June 2009)

Sec. 4303P Interest and Surcharges. The rate of interest including surcharges on any loan or forbearance of money extended by a pawnshop shall not be subject to any ceiling. However, pursuant to a decision of the Supreme Court (case of Medel, et al vs Court of Appeals, GR No. 131622 dated 27 November 1998) the interest rate shall not be iniquitous, unconscionable, or contrary to morals, if not against the law as may be determined by the Court.

No pawnshop shall collect interest on loans in advance for a period of more than one (1) year.

(Circular No. 656 dated 02 June 2009)

§ 4303P.1 *Rate of interest in the absence of stipulation.* The rate of interest for a loan or forbearance of money in the absence of an expressed contract as to such rate of interest, shall be twelve percent (12%) per annum.

(Circular No. 656 dated 02 June 2009)

§ 4303P.2 *Other charges.* In addition to interest, pawnshops may impose a maximum service charge of five pesos (P5.00), but in no case to exceed one percent (1%) of the principal loan. No other charges, such as but not limited to insurance premium for the safekeeping and conservation of the pawned item, shall be collected.

(Circular No. 656 dated 02 June 2009)

§ 4303P.3 *Posting of interest rate and other charges.* Pawnshops shall post conspicuously in its principal place of business and branches the interest rate in percent, specifying therein if such interest rate is yearly, monthly or daily, as well as the other charges, if any, to be charged by the pawnshop. The poster shall not be smaller than 8.5 x 11 inches.

(Circular No. 656 dated 02 June 2009)

§ 4303P.4 *Sanctions.* Any pawnshop that violates the foregoing provisions as determined by BSP in the spot checking of pawnshops or whenever a complaint brought to the attention of BSP is found to be true, shall be imposed the following sanctions:

a. Fine of P500.00 for each of the first three (3) offenses;

b. Fine of P1,000.00 for the next three (3) offenses;

c. For subsequent violation, cancellation of BSP Acknowledgement of Registration (AOR) or Authority to Operate (AO) issued to the pawnshop head office or branch, as the case may be, and issuance of a letter to the concerned city or municipality advising them of the cancellation of the BSP AOR/AO and recommending the revocation of their business/mayor's permit(s). It is understood that if the AOR of the HO is cancelled, the AO of the branch/es is/are likewise cancelled; and

d. Such other sanctions as the Monetary Board may deem warranted.

A pawnshop that fails to post the interest rate and other charges pursuant to Subsection 4303P.3 as determined in the spot checking done by BSP shall be imposed the following sanctions:

a. Warning for the first three (3) offenses;

b. Penalty of P300.00 each for the succeeding three (3) offenses;

c. Penalty of P750.00 for the next three (3) offenses; and

d. Cancellation of the AOR or AO, for a subsequent offense. Once the AOR of the main office is cancelled, the Authority to Operate (AO) of the branch(es) is/are likewise cancelled.

(Circular No. 656 dated 02 June 2009)

Sec. 4304P (Reserved)

Sec. 4305P Past Due Accounts; Renewal

A loan may be renewed for such amount and period as may be agreed upon between the pawnshop and the pawner, subject to the same conditions provided in this Part for new loans.

No loan shall be renewed or its maturity date extended unless a new pawn ticket as defined in Sec. 4102P shall be issued indicating the new term of the loan agreed upon by the pawnshop and the pawner.

(Circular No. 656 dated 02 June 2009)

§ 4305P.1 ***Right of pawner to redeem pawn within ninety (90) days from maturity***

A pawner who fails to pay or renew his loan with a pawnshop on the date it falls due shall have ninety (90) days from the date of maturity of the loan within which to redeem the pawn by paying the principal amount of the loan plus the amount of interest that shall have accrued thereon. The amount of interest due and payable after the maturity date of the loan shall be computed upon redemption based on the sum of the principal loan and interest earned as of the date of maturity. The procedures to be followed in case the pawner fails to redeem his pawn are prescribed in Sec. 4324P.

If the maturity date of the loan or expiry date of redemption period falls on the pawnshop's non-business day, a regular holiday or a special non-working holiday in the locality, then the maturity date of the loan or expiry date of redemption period shall be on the next business day.

If the pawnshop is closed on the maturity date of the loan or expiry of the redemption period, with or without prior notice to the pawner, then the maturity date of the loan or expiry of redemption period shall be on the next business day and the pawnshop shall not charge additional interest or surcharge to the pawner.

If the pawnshop is closed due to a robbery, then the maturity date of the pledge or expiry of redemption period shall be on the next business day when the pawnshop opens for business and the pawnshop shall not charge additional interest or surcharge to the pawners.

(Circular No. 656 dated 02 June 2009)

§ 4305P.2 ***Sanctions***. Any pawnshop that violates the foregoing provisions as determined by BSP in the spot checking of

pawnshops or whenever a complaint brought to the attention of BSP is found to be true, shall be imposed the following sanctions:

a. Fine of P500.00 for each of the first three (3) offenses;

b. Fine of P1,000.00 each for the next three (3) offenses;

c. For subsequent violation, cancellation of BSP Acknowledgement of Registration (AOR) or Authority to Operate (AO) issued to the pawnshop head office or branch, as the case may be, and issuance of a letter to the concerned city or municipality advising them of the cancellation of the BSP AOR/AO and recommending the revocation of their business/mayor's permit(s). It is understood that if the AOR of the HO is cancelled, the AO of the branch/es is/are likewise cancelled; and

d. Such other sanctions as the Monetary Board may deem warranted.

(Circular No. 656 dated 02 June 2009)

Sec. 4306P Interest Accrual on Past Due Loans. Interest income on past due loans arising from discount amortization (and not from the contractual interest of the account) shall be accrued as provided in PAS 39.

(Circular No. 656 dated 02 June 2009)

Secs. 4307P - 4320P (Reserved)

B. LOAN COLLATERAL/SECURITY

Sec. 4321P Kinds of Security. Only personal property that is capable of being physically delivered to the control and possession of the pawnshop shall be accepted as security for loans. Certain specified chattels, such as guns, knives, or similar weapons, whose reception in pawn is expressly prohibited by other laws, decrees, or regulations, shall not be accepted by pawnshops as security for loans.

Except for bulky pawns, pawns shall be placed in a tamper-proof sealed plastic envelop or bag which must be kept inside the safe or concrete vault. Bulky pawns may be placed outside the safe or vault but within the pawnshop premises.

Pawnshop owners shall be liable for any pawned item lost or destroyed arising out of their negligence, fault, delay in delivery or willful violation of the loan agreement.

(Circular No. 656 dated 02 June 2009)

Sec. 4322P Redemption of Pawns. A pawnshop shall not release any pawn without first requiring the pawner to present and surrender the corresponding pawn ticket. If the pawn ticket was lost and could not be presented or surrendered, the pawnshop shall require the owner-pawner to execute and submit an affidavit of loss and shall ascertain the identity of the pawner, to ensure that the pawned item is released only to the owner-pawner.

The pawnshop shall return the pawn in the same condition when they were first pawned by pawner, upon full settlement of the loan.

(Circular No. 656 dated 02 June 2009)

§ 4322P.1 *Sanctions.* Whenever a pawnshop allows redemption of pawned items without the surrender of the corresponding original pawn ticket/affidavit of loss, the pawnshop shall be imposed the following sanctions:

a. Fine of P500.00 for each of the first three (3) offenses;

b. Fine of P1,000.00 for each of the next three (3) offenses;

c. For subsequent violation, cancellation of BSP Acknowledgement of Registration (AOR) or Authority to Operate (AO) issued to the pawnshop head office or branch, as the case may be, and issuance of a letter to the concerned city or municipality

advising them of the cancellation of the BSP AOR/AO and recommending the revocation of their business/mayor's permit(s). It is understood that if the AOR of the HO is cancelled, the AO of the branch/es is/are likewise cancelled; and

d. Such other sanctions as the Monetary Board may deem warranted.

(Circular No. 656 dated 02 June 2009)

Sec. 4323P Pawn Ticket. Pawnshops shall at the time of the loan, deliver to each pawner a pawn ticket which shall contain the following:

a. The business/registered name, address, tax identification number, business days and hours, of the pawnshop. The business name indicated in the pawn ticket shall be in accordance with the provision of Subsec. 4181P.2;

b. Name of pawner;

c. Pawner's residential address;

d. Pawner's telephone/mobile phone number and/or e-mail address, if applicable;

e. Preferred mode of notification (telephone, mobile phone, e-mail or mail);

f. Description of the pawner (sex, date of birth, nationality, height, weight);

g. Date the loan was granted;

h. Amount of the principal loan and net proceeds;

i. Interest rate in percent, indicating if daily, monthly or annually;

j. Interest in absolute amount;

k. Service charge in amount;

l. Penalty interest in percent, if any;

m. Appraised value of pawn;

n. Period of maturity;

o. Description of the pawn;

p. Expiry date of the redemption period;

q. Signature of the pawnshop's authorized representative;

r. ID presented; and

s. Such other terms and conditions as may be agreed upon between the pawnshop and the pawner.

No other document or instrument shall be used/issued by a pawnshop for any loan granted by it to a pawner/borrower.

(Circular No. 656 dated 02 June 2009)

§ 4323P.1 ***Additional regulations on pawn ticket.*** The contents on the face of the standard pawn ticket, prescribed for pawnshops pursuant to the requirements of P.D. No. 114, and the terms and conditions thereof, are in *Appendices P-4* and *P-4a*. Unnecessary data shall be avoided.

Additional terms and conditions which pawnshops may wish to incorporate shall be subject to prior approval by the appropriate department of the SES.

Pawn ticket shall not be smaller than 8 x 11″.

Pawn tickets shall at least be in duplicate. The first copy shall contain the word "Original" which shall be given to the pawner when the loan is granted and surrendered upon redemption of pawn, while the second copy shall be marked "Duplicate" which shall remain on file with the pawnshop.

Pawn tickets shall be serially numbered.

Pawnshops may choose the color or quality of the paper used as pawn ticket.

Standard Additional Stipulations and Stipulations not allowed in pawn tickets are in *Appendices P-4-b* and *P-4-c*.

(Circular No. 656 dated 02 June 2009)

§ 4323P.2 ***Sanctions.*** Any pawnshop which violates or fails to comply with the requirements of Subsec. 4323P.1 shall be imposed the following sanctions:

a. Fine of P500.00 for each of the first three (3) offenses;

b. Fine of P1,000.00 for each of the next three (3) offenses;

c. For subsequent violation, cancellation of BSP Acknowledgement of Registration (AOR) or Authority to Operate (AO) issued to the pawnshop head office or branch, as the case may be, and issuance

of a letter to the concerned city or municipality advising them of the cancellation of the BSP AOR/AO and recommending the revocation of their business/mayor's permit(s). It is understood that if the AOR of the HO is cancelled, the AO of the branch/es is/are likewise cancelled; and

d. Such other sanctions as the Monetary Board may deem warranted.

The owner, partner, manager, or officer-in-charge of the pawnshop responsible for the violation or non-compliance shall be jointly liable with the pawnshop.

(Circular No. 656 dated 02 June 2009)

Sec. 4324P Reminder to Pawner; Notice to the Public. At least thirty (30) days before the expiration of the ninety (90)-day grace period allowed in Section 4305P, the pawnshop shall duly notify the pawner in writing that the pawn shall be sold or otherwise disposed of in the event that the pawner fails to redeem the pawn within the ninety (90)-day grace period, specifying in the same notification the date, hour and place where the sale shall take place.

The notice shall be sent through the preferred mode of notification indicated by the pawner in the pawn ticket at the time the loan was granted which may be through text/SMS message, electronic mail, or by mail to the residential address. If sent through text/SMS, the pawnshop shall obtain a report from the appropriate Telecommunications Company (TELCO) indicating that a text/SMS message was sent to the mobile phone number given by the pawner. The report of the TELCO shall be made available to BSP upon request.

If upon the expiration of the ninety (90) -day grace period, the pawner fails to redeem his pawn, the pawnshop may sell or dispose of the pawn only after it has published a notice of public auction of unredeemed articles held as security for loans in at least two (2) newspapers circulated in the city or municipality where the pawnshop has its place of business, six (6) days prior to the date set for the public auction.

The notice shall be in English, and in either Filipino or the local dialect and shall contain the following:

a. Name and address of the owner of the pawnshop; and

b. Date, hour and place of the auction sale.

In remote areas where newspapers are neither published nor circulated, the publication requirement shall be complied with by posting notices at the city hall or municipal building of the city or municipality and in two (2) other conspicuous public places where the pawnshop has its place of business.

(Circular No. 656 dated 02 June 2009)

§ 4324P.1 *Poster*. Pawnshops shall post conspicuously in the principal place of business and branches an abstract of the provision of Section 4324P (*Appendix P-7*) which shall be not be smaller than 8.5 x 11 inches.

(Circular No. 656 dated 02 June 2009)

§ 4324P.2 *Sanctions*. Any pawnshop which violates or fails to comply with the requirements of Subsec. 4324P.1 shall be imposed the following sanctions:

a. Fine of P500.00 for each of the first three (3) offenses;

b. Fine of P1,000.00 for each of the next three (3) offenses;

c. For subsequent violation, cancellation of BSP Acknowledgement of Registration (AOR) or Authority to Operate (AO) issued to the pawnshop head office or branch, as the case may be, and issuance of a letter to the concerned city or municipality advising them of the cancellation of the BSP AOR/AO and recommending the revocation of their business/mayor's permit(s). It is understood that if the AOR of the HO is

cancelled, the AO of the branch/es is/are likewise cancelled; and

d. Such other sanctions as the Monetary Board may deem warranted.

The owner, partner, manager, or officer-in-charge of the pawnshop responsible for the violation or non-compliance shall be jointly liable with the pawnshop.

A pawnshop that fails to post the abstract of Sec. 4324P as may be determined in the spot checking done by BSP shall be imposed the following sanctions:

a. Warning for the first three (3) offenses;

b. Penalty of P300.00 each for the succeeding three (3) offenses;

c. Penalty of P750 each for the next three (3) offenses; and

d. Cancellation of the AOR or AO, for a subsequent offense. Once the AOR of the main office is cancelled, the Authority to Operate (AO) of the branch(es) is/are likewise cancelled.

(Circular No. 656 dated 02 June 2009)

Sec. 4325P Public Auction of Pawns. No pawnshop shall sell or otherwise dispose of any article or thing received as security for a loan except by public auction at any of the following places:

a. Pawnshop's place of business; or

b. Any public place within the territorial limits of the municipality or city where the pawnshop conducts its business.

The auction shall be conducted under the control and direction of a duly licensed auctioneer. In cities and municipalities where there is no duly licensed auctioneer, the public auction may be conducted by a notary public of the city or province where the pawnshop has its place of business.

The Auction Sheet/Book containing entries of auctioned pawned articles duly signed by the auctioneer or notary public under oath shall be maintained by the pawnshop.

(Circular No. 656 dated 02 June 2009)

§ 4325P.1 ***Auction of pawned items covered by a single pawn ticket.*** If one pawn ticket covers two or more pledged articles, and only one of the articles was sold during the auction, the pawnshop shall allocate the loan value for each article based on their appraised value.

(Circular No. 656 dated 02 June 2009)

Sec. 4326P - 4335P (Reserved)

C. - J. (RESERVED)

Secs. 4336P - 4395P (Reserved)

K. MISCELLANEOUS

Secs. 4396P - 4398P (Reserved)

Sec. 4399P General Provisions on Sanctions. Any violation of the provisions of this part shall be subject to Section 18 of P.D. No. 114.

The imposition of administrative sanctions pursuant to Section 17 of P.D. No. 114 for violation of the provisions of this Part shall be without prejudice to the imposition of other administrative sanctions and to the filing of a criminal case as provided for in other provisions of law.

(Circular No. 656 dated 02 June 2009)

PART FOUR

Sections 4401P - 4499P (Reserved)

PART FIVE

Sections 4501P - 4599P (Reserved)

PART SIX

MISCELLANEOUS

A. (RESERVED)

Sections 4601P - 4640P (Reserved)

Sec. 4641P Electronic Services. The guidelines concerning electronic activities as may be applicable, are found in Sec. 4701Q and its Subsections.
(Circular No. 649 dated 09 March 2009)

Sec. 4642P Issuance and Operations of Electronic Money. The following guidelines shall govern the issuance of electronic money (e-money) and the operations of electronic money issuers (EMIs).
(Circular No. 649 dated 09 March 2009)

§ 4642P.1 *Declaration of policy.* It is the policy of the BSP to foster the development of efficient and convenient retail payment and fund transfer mechanisms in the Philippines. The availability and acceptance of e-money as a retail payment medium will be promoted by providing the necessary safeguards and controls to mitigate the risks associated in an e-money business.
(Circular No. 649 dated 09 March 2009)

§ 4642P.2 *Definitions*

E-money shall mean monetary value as represented by a claim on its issuer, that is:

a. electronically stored in an instrument or device;

b. issued against receipt of funds of an amount not lesser in value than the monetary value issued;

c. accepted as a means of payment by persons or entities other than the issuer;

d. withdrawable in cash or cash equivalent; and

e. issued in accordance with this Section.

Electronic money issuer shall be classified as follows:

a. Banks (hereinafter called EMI-Bank);

b. NBFI supervised by the BSP (hereinafter called EMI-NBFI); and

c. Non-bank institutions registered with the BSP as a monetary transfer agent under Sec. 4511N of the MORNBFI (hereinafter called EMI-Others).

For purposes of this Section:

a. *Electronic instruments or devices* shall mean cash cards e-wallets accessible via mobile phones or other access device, stored value cards, and other similar products.

b. E-money issued by QBs shall not be considered as deposits.
(Circular No. 649 dated 09 March 2009)

§ 4642P.3 *Prior Bangko Sentral approval.* Pawnshops planning to be an EMI-NBFI shall comply with the requirements of Sec. 4632P and Sec. 4190Q, when applicable.
(Circular No. 649 dated 09 March 2009)

§ 4642P.4 *Common provisions.* The following provisions are applicable to all EMIs:

a. E-money instrument issued shall be subject to aggregate monthly load limit of P100,000 unless a higher amount has been approved by BSP. In case an EMI issues several e-money instruments to a person (e-money holder), the total amount loaded in all the e-money instruments shall be consolidated in determining compliance with the aggregate monthly load limit;

b. EMIs shall put in place a system to maintain accurate and complete record of e-money instruments issued, the identity

of e-money holders, and the individual and consolidated balances thereof. The system must have the capability to monitor the movement of e-money transactions and link e-money instruments issued to common e-money holders. The susceptibility of a system to intentional or unintentional misreporting of transactions and balances shall be sufficient ground for imposition by the BSP of sanctions, as may be applicable.

c. E-money may only be redeemed at face value. It shall not earn interest nor rewards and other similar incentives convertible to cash, nor be purchased at a discount. E-money is not considered a deposit hence it is not insured with the PDIC.

d. EMIs shall not ensure that e-money instruments clearly identify the issuer who is ultimately responsible to the e-money holders. This shall be communicated to the client who shall acknowledge the same in writing.

e. It is the responsibility of EMIs to ensure that their distributors/e-money agents comply with all applicable requirements of the Anti-Money Laundering laws, rules and regulations.

f. EMIs shall provide an acceptable redress mechanism to address the complaints of its customers.

g. EMIs shall disclose in writing and its customers shall signify agreement to the information embodied in Item "c" above upon their participation in the e-money system. In addition, it shall provide clear guidance in English and Filipino on consumers' right of redemption, including conditions and fees for redemption, if any. Information on available redress procedures for complaints together with the address and contact information of the issuer shall also be provided.

h. Prior to the issuance of e-money. EMIs should ensure that the following minimum systems and controls are in place:

(1) Sound and prudent management, administrative and accounting procedures and adequate internal control mechanisms;

(2) Properly-designed computer systems which are thoroughly tested prior to implementation;

(3) Appropriate security policies and measures intended to safeguard the integrity, authenticity and confidentiality of data and operating processes;

(4) Adequate business continuity and disaster recovery plan; and

(5) Effective audit function to provide periodic review of the security control environment and critical systems.

i. EMIs shall provide the SDC quarterly statements containing, among others, information on investments, volume of transactions, total outstanding e-money balances, and liquid assets in such forms as may be prescribed later on.

j. EMIs shall notify BSP in writing of any change or enhancement in the e-money facility thirty (30) days prior to implementation. If said change or enhancement requires prior BSP approval, the same shall be evaluated accordingly. Any change or enhancement that shall expand the scope or change the nature of the e-money instrument shall be subject to prior approval of the Deputy Governor, SES. These changes or enhancements may include the following:

(1) Additional capabilities of the e-money instrument/s, like access to new channels (e.g. inclusion of internet channel in addition to merchant Point of Sale terminals);

(2) Change in technology service providers and other major partners in the e-money business (excluding partner merchants), if any; and

(3) Other changes or enhancements.

(Circular No. 649 dated 09 March 2009)

§ 4642P.5 *Quasi-bank license requirement.* EMI-NBFIs and EMI-Others that engage in lending activities must secure a quasi-banking license from the BSP.

(Circular No. 649 dated 09 March 2009)

§ 4642P.6 *Sanctions*. Monetary penalties and other sanctions for the following violations committed by EMI-NBFIs shall be imposed:

Nature of Violation/ Exception	Sanction/Penalties
1. Issuing e-money without prior BSP approval	Applicable penalties under Sections 36 & 37 of R.A. No. 7653; Watchlisting of owners/partners/ principal officers
2. Violation of any of the provisions of R.A. No. 9160 (Anti-Money Laundering Law of 2001 as amended by R.A.No. 9194) and its implementing rules and regulations	Applicable penalties prescribed under the Act
3. Violation/s of this Section	Penalties and sanctions under the abovementioned laws and other applicable laws, rules and regulations

In addition, the susceptibility of a system to intentional or unintentional misreporting of transactions and balances shall be sufficient ground for appropriate BSP action or imposition of sanctions, whenever applicable.

(Circular No. 649 dated 09 March 2009)

§ 4642P.7 *Transitory provisions.* An EMI-NBFI granted an authority to issue e-money prior to 26 March 2009 may continue to exercise such authority: *Provided,* That it shall submit to the BSP, within one (1) month from the 26 March 2009 a certification signed by the President or Officer with equivalent rank and function that it is in compliance with all the applicable requirements of this Section. Otherwise, they are required to submit within the same period the measures they will undertake, with the corresponding timelines, to conform to the provisions that they have not complied with subject to BSP approval.

(Circular No. 649 dated 09 March 2009)

Secs. 4643P - 4650P (Reserved)

B. SUNDRY PROVISIONS

Sec. 4651P Supervisory Powers of the Bangko Sentral. The head of the appropriate department of the SES and his duly designated representatives are authorized to conduct an examination, inspection, or investigation of books, records, business affairs, administration, and financial condition of any pawnshop, whenever said official deems it necessary for the effective implementation of P.D. No. 114, and other pertinent rules and regulations. Said official and his duly designated representatives may administer oaths to any director, officer, or employee of the pawnshop.

If, upon such examination, inspection, or investigation, the official or his deputies shall establish that the pawnshop is violating or is not complying with the requirements of P.D. No. 114 and of the provisions of other pertinent rules and regulations, said official shall immediately inform the Monetary Board of his findings and recommendations, and the Monetary Board shall take appropriate action to stop such violation or non-compliance, and punish the pawnshop and/or the persons responsible.

Any business establishment which represents itself as a pawnshop and/or regularly grants loans against pawns/ collaterals physically delivered to the establishment or is suspected to be a pawnshop may be subject to the visitatorial authority of the BSP to determine whether the establishment is engaged in the business of a pawnshop or in pawnbrokering.

Any establishment that is found to be operating as a pawnshop illegally shall be

reported to the office of the city or municipal mayor where the establishment is located, for appropriate action, without prejudice to whatever legal action that the BSP may take against the owners and operators of the establishment.
(Circular No. 656 dated 02 June 2009)

§ 4651P.1 ***Refusal to permit examination*** Refusal to permit examination shall mean any act or omission which impedes, delays or obstructs the duly authorized BSP officer/ examiner/employee from conducting an examination, including the act of refusing to accept or honor a letter of authority to examine presented by any officer/examiner/ employee of the BSP and the act of refusing to present pawnshop's vital records referred to in Sec. 4102P upon request by any officer/ examiner/employee of the BSP.
(Circular No. 656 dated 02 June 2009)

§ 4651P.2 ***Sanctions.*** Whenever a pawnshop refuses to permit a BSP examination, the BSP officer/examiner/ employee shall report the matter to the head of the appropriate supervising and examining department of the BSP, who shall then make a written demand upon the pawnshop concerned for such examination.

If the pawnshop continues to refuse said examination without any satisfactory explanation, the said department head shall recommend to the Monetary Board the revocation of the registration of the pawnshop's AOR or AO, as the case may be. The Office of the Mayor of the concerned city or municipality shall be informed of the revocation to take appropriate action on the pawnshop without prejudice to whatever legal action that the BSP may take against the owners, operators and officers of the pawnshop.

An establishment which represents itself as a pawnshop or is suspected to be engaged in the business of a pawnshop or in pawnbrokering that refuses to permit BSP examination shall be subject to whatever legal action that the BSP may take against the owners, operators and officers of the establishment.
(Circular No. 656 dated 02 June 2009)

Secs. 4652P - 4656P (Reserved)

Sec. 4657P Batas Pambansa Blg. 344 - An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments and Public Utilities to Install Facilities and Other Devices. In order to promote the realization of the rights of disabled persons to participate fully in the social life and the development of the societies in which they live and the enjoyment of the opportunities available to other citizens, no license or permit for the construction, repair or renovation of public and private buildings for public use, educational institutions, airports, sports and recreation centers and complexes, shopping centers or establishments, public parking places, workplaces, public utilities, shall be granted or issued unless the owner or operator thereof shall install and incorporate in such building, establishment or public utility, such architectural facilities or structural features as shall reasonably enhance the mobility of disabled persons such as sidewalks, ramps, railings and the like. If feasible, all such existing buildings, institutions, establishments, or public utilities may be renovated or altered to enable the disabled persons to have access to them.
(Circular No. 656 dated 02 June 2009)

Secs. 4658P - 4690P (Reserved)

Sec. 4691P Anti-Money Laundering Regulations. Banks, offshore banking units(OBUs), QBs, trust entities, non-stock savings and loan associations (NSSLAs), pawnshops, and all other institutions, including their subsidiaries and affiliates

supervised and/or regulated by the BSP, otherwise known as "covered institutions" shall comply with the provisions of R.A. No. 9160, as amended, otherwise known as the "Anti-Money Laundering Act of 2001" and its Implementing Rules and Regulations (IRRs) in *Appendix P-6*.
(Circular No. 656 dated 02 June 2009, as amended by Circular No. 661 dated 01 September 2009)

§ 4691P.1 *Required seminar/training* Pawnshop personnel directly involved in pawnshop operations shall attend a seminar on the requirements of the anti-money laundering law, particularly on customer identification, record keeping and reporting of covered and suspicious transactions, to be conducted by the Anti-Money Laundering Council (AMLC) or by any of its recognized accredited service providers. The provisions of this subsection shall also apply to officer(s) of the branch(es).

The officer(s) in-charge and the personnel who have attended the required seminar may echo the said training to all employees within thirty (30) calendar days from such attendance or as new employees are hired.

In case of pawnshops belonging to the same group of related companies, the training/seminars may be cascaded to other pawnshops within the group, subject to the following conditions:

(1) training officers shall have attended the AMLA lectures conducted by the AMLC;

(2) lecture materials to be used by training officers should be approved by the AML Examination Group of the BSP; and

(3) training officers shall submit to the BSP, the list, under oath, of pawnshop personnel who have attended the lectures.
(Circular No. 656 dated 02 June 2009)

§ 4691P.2 *Anti-Money Laundering Program.* Every pawnshop is required to formulate an anti-money laundering prevention program as prescribed in *Appendix 5* and to submit a plan of action to comply with anti-money laundering requirements within thirty (30) business days from opening of a pawnshop.
(Circular No. 656 dated 02 June 2009)

§§ 4691P.3 - 4691P.8 *(Reserved)*

§ 4691P.9 *Sanctions and penalties*

a. Whenever a covered institution violates the provisions of Section 9 of R.A. No. 9160 of this Section, the officer(s) or other persons responsible for such violation shall be punished by a fine of not less than ₱50,000 nor more than ₱200,000 or by imprisonment of not less than two (2) years nor more than ten (10) years, or both, at the discretion of the court pursuant to Section 36 of R.A. No. 7653, otherwise known as "The New Central Bank Act".

b. Without prejudice to the criminal sanctions prescribed above against the culpable persons, the Monetary Board may, at its discretion, impose upon any covered institution, its directors and/or officers for any violation of Section 9 of R.A. No. 9160, the administrative sanctions provided under Section 37 of R.A. No. 7653.
(Circular No. 656 dated 02 June 2009)

Secs. 4692P - 4698P (Reserved)

Sec. 4699P Administrative Sanctions. The Monetary Board shall impose upon pawnshops, their owners, partners, directors and officers for any violation of the provisions of the rules on pawnshops, P.D. No. 114, pertinent laws or any order or instruction of the Monetary Board or its authorized official; or any commission of irregularities in the conduct of its business, the following administrative sanctions:

a. For a violation consummated at a single instance and not punishable on a per-day basis, a fine of not more than ₱500; or for a violation which is continuing and punishable on a per-day basis, a fine of not

more than ₱600 for every day of violation or non-compliance; and/or

b. Suspension or, after due hearing, removal of partners/directors/trustees or officers: *Provided,* That, in case the removal of managing proprietor/managing partners shall cause the dissolution of the proprietorship or partnership, the pawnshop shall be delisted from the BSP List of Registered Pawnshops as prescribed in Subsec. 4183P.2.

For purposes of this Section, the phrase any commission of irregularities in the conduct of its business shall include any act or omission described hereunder.

1. Failure to produce pawn upon redemption or in any other case where the pawnshop has the obligation to produce the pawn.

2. Allowing the redemption of pawn without the surrender of the corresponding original pawn ticket/substitute pawn ticket/ affidavit of loss.

3. Falsifying pawn tickets.

4. Actual collection of interest in advance and or service charges without reflecting the same on the pawn ticket.

5. Tampering or substitution of pawn.

6. Failure to issue official receipts for amounts collected.

7. Any other act or omission analogous to the above-enumerated acts and omissions.

The imposition of administrative sanctions pursuant to Section 17 of P.D. No. 114 for violation of the provisions of this Part shall be without prejudice to any action that may be taken under Section 18 of P.D. No. 114.

(Circular No. 656 dated 02 June 2009)

CHART OF ACCOUNTS AND DESCRIPTION OF LOAN REGISTER OF PAWNSHOPS

(Appendix to Sec. 4161P)

A. *General Ledger*. The General Ledger is the controlling record of all subsidiary ledger accounts. The general ledger accounts shall be grouped as follows:

(1) *Assets* - Asset accounts shall consist of the following:

(a) Cash on hand and in banks;
(b) Pledge loans;
(c) Land;
(d) Building;
(e) Furniture and fixtures;
(f) Office equipment;
(g) Leasehold improvements;
(h) Investment in securities; and
(i) Other assets.

Other assets shall include all assets not included in any of the above classification, such as prepaid expenses, advances, accounts receivables.

(2) *Liabilities* - Liabilities represent obligations of the pawnshop, such as:

(a) Loans payable;
(b) Accounts payable; and
(c) Other liabilities.

Other liabilities are liabilities not included in the above classification, such as SSS premiums and medicare, tax withheld, accruals.

(3) *Capital* - Capital at the end of the year is the excess of assets over liabilities, or the sum of paid-in capital, surplus or retained earnings accounts and net income for the year. The accounts under this group shall consist of the following:

(a) Capital/capital stock;
(b) Drawings;
(c) Retained earnings; and
(d) Net income for the year.

(4) *Income* - This account represents the "general ledger control" account for all income of the pawnshop. An "Income Subsidiary Ledger" shall be maintained and the total of this ledger shall equal the balance of "Income Control" account of the general ledger at all times.

The "Income Subsidiary Ledger" shall contain the following accounts:

(a) Interests - pledge loans;
(b) Service charges;
(c) Gain or loss at auction sale;
(d) Interests on securities; and
(e) Other income

(5) *Expenses* - The expenses account shall include the following:

(a) Salaries and allowances;
(b) Interest on borrowed money;
(c) Rental;
(d) Depreciation;
(e) Light and water;
(f) Taxes and licenses;
(g) SSS contribution;
(h) Costs of telephone, postage and/or telegram;
(i) Stationery and/or supplies; and
(j) Miscellaneous expenses.

B. *Registers*. The following registers shall be maintained to trace loan transactions.

(1) *Loans Extended Register* - Every pawnbroker shall keep a "Loans Extended Register" in which shall be entered in ink, at the time of each loan or pledge transaction, an accurate account and description in English, with corresponding translation in the local dialect, the following minimum data:

(a) Date of transaction;
(b) Number of pawn ticket;

(c) Amount of money loaned or principal;

(d) Rate of interest to be paid, in percent;

(e) Service charge collected;

(f) Description of pawn;

(g) Appraised value of pawn;

(h) Name of pawner;

(i) Address of pawner;

(j) Description of the pawner, including:

(i) Nationality;

(ii) Sex; and

(iii) General appearance; and

(k) Signature or thumbmark of the pawner and the name of the pawner written by and signature of the witness to the thumbmarking.

(2) *Loans Paid Register* - A "Loans Paid Register" shall be maintained in which shall be entered in ink, the principal and interest payments of loans. It shall contain the following minimum data:

(a) Date of payment;

(b) Number of pawn ticket;

(c) Name of pawner;

(d) Principal amount;

(e) Amount of interest paid; and

(f) Signature or thumbmark of the pawner and the name of the pawner written by and signature of the witness to the thumbmarking.

A pawnshop that uses a computerized system may record its loan transactions in individual loan extended vouchers which shall contain the same information enumerated above in lieu of the loan extended and loans paid registers. Such pawnshops shall periodically compile or bind the loan extended vouchers and shall be made available for BSP examination upon request.

(As amended by Circular No. 656 dated 02 June 2009)

LIST OF REPORTS REQUIRED FROM PAWNSHOPS

(Appendix to Sec. 4162P)

Category	Form No.	MOR Ref.	Report Title	Frequency	Deadline of Submission	Other Instructions/Requirements
B	BSP 7-26-01.1C	4165P	General Information Sheet (for corporation)	Annually	5 days from submission to SEC	To be submitted to SEC within 30 calendar days from the date of annual stockholders' meeting.
A-2	BSP 7-26-02C	4161P *(As amended by CL-079 dated 12.17.09)*	Statement of Condition (SOC)	-do-	January 31	To be submitted to Supervisory Data Center (SDC). For pawnshops with branches, the SOC shall be submitted on a consolidated basis (i.e., head office plus branches) together with a list of all its branches in the report. Branches are not required to submit individual reports.
A-3	BSP 7-26-03C	4161P *(As amended by CL-079 dated 12.17.09)*	Statement of Income and Expenses	-do-	-do-	do-
B	Unnumbered (no prescribed form)	4164P	Audited Financial Statement (AFS) for the previous year ended prepared by an external auditor together with actions taken on the financial audit report	-do-	June 30 of the following reference calendar year	To be submitted to appropriate supervising and examining department. For pawnshops with assets of P50 million and above, the AFS shall be prepared by independent external auditors that are in the list of accredited external auditors of the SEC, Office of the Insurance Commissioner or in the list of BSP-selected external auditors.

Category	Form No.	MOR Ref.	Report Title	Frequency	Deadline of Submission	Other Instructions/Requirements
B	Unnumbered	4163P	Report on Crimes/Losses	As crime or incident occurs	See Appendix P-2a for guidelines on reporting crimes and losses	
A-2	Unnumbered	4691P	Report on Suspicious Transactions	As transaction occurs	10th business day from date of transaction/ knowledge	To be submitted to the Anti-Money Laundering Council
A-2	Unnumbered	4691P	Report on Covered Transactions	-do-	-do-	-do-
A-2	Unnumbered	4691P	Certification of compliance with existing anti-money laundering regulations	Annually	20th business day after end of reference year	To be submitted to the appropriate department of the SES
A-3	Unnumbered	4162P *(CL-059 dated 11.28.07 and CL-050 dated 10.04.07)*	Report on Borrowings of BSP Personnel	Quarterly	15 banking days after end of reference quarter	Original-SDC
B	Forms I and II Schedule 1	*M-031 dated 09.11.09 and Cir. No. 649 dated 03.09.09*	Report on Electronic Money Transactions Quarterly Statement of E-Money Balances and Activity - Volume and Amount of E-Money Transactions Quarterly Statement of Liquidity Cover Schedules 1 - E- Money Balances	-do-	-do-	e-mail - sdcothers-emoney@bsp.gov.ph hard copy - SDC

Annex P-2-a

REPORTING GUIDELINES ON CRIMES/LOSSES

(Annex to App. P-2)

1. Pawnshops shall report on the following matters through the appropriate department of the SES:

a. Crimes whether consummated, frustrated or attempted against pawned articles/property/facilities (such as robbery, theft, swindling or estafa, forgery and other deceits) and other crimes involving loss/ destruction of pawn/property of the pawnshop: *Provided,* That if no pawned article is involved, the amount involved in each crime is ₱20,000 or more.

Crimes involving the pawnshop personnel, regardless of whether or not such crimes involve the loss/destruction of pawned articles/property of the pawnshop, even if the amount involved is less than those above specified, shall likewise be reported to the BSP.

b. Incidents involving material loss, destruction or damage to the institution's pawned articles/property/facilities, other than arising from a crime: *Provided,* That if no pawned article is involved, the amount involved per incident is ₱20,000 or more.

2. The following guidelines shall be observed in the preparation and submission of the report.

a. The report shall be prepared in two (2) copies and shall be submitted within ten (10) business days from knowledge of the crime or incident, the original to the appropriate department of the SES and the duplicate to the BSP Security Coordinator, thru the Director, Security Investigation and Transport Department.

b. Where a thorough investigation and evaluation of facts is necessary to complete the report, an initial report submitted within the ten (10) business day deadline may be accepted: *Provided,* That a complete report is submitted not later than fifteen (15) business days from termination of investigation.

(As amended by Circular No. 656 dated 02 June 2009)

GUIDELINES ON PRESCRIBED REPORTS SIGNATORIES AND SIGNATORY AUTHORIZATION

(Appendix to Subsec. 4162P.1)

Category A-1 reports shall be signed by the chief executive officer, or in his absence, by the executive vice-president, and by the comptroller, or in his absence, by the chief accountant, or by officers holding equivalent positions. The designated signatories in this category, including their specimen signatures, shall be contained in a resolution approved by the board of directors in the format prescribed in *Annex P-3-a*.

Category A-2 reports of head offices shall be signed by the president, executive vice-presidents, vice-presidents or officers holding equivalent positions. Such reports of other offices/units (such as branches) shall be signed by their respective managers/officers in-charge. Likewise, the signing authority in this category shall be contained in a resolution approved by the board of directors in the format prescribed in *Annex P-3-b*.

Categories A-3 and *B* reports shall be signed by officers or their alternates, who shall be duly designated in a resolution approved by the board of directors in the format as prescribed in *Annex P-3-c*.

Copies of the board resolutions on the report signatory designations shall be submitted to the appropriate department of the SES within three (3) days from the date of resolution.

In the case of pawnshops organized as single proprietorship or partnership, the reports shall be signed by the proprietor or managing partner, as the case may be, in place of chief executive officer or president. Other signatories shall be authorized by the proprietor/managing partner in a letter of authority to be submitted to the appropriate department of the SES indicating the names, positions and specimen signatures of the designated signatories as well as the reports they are to sign.

(As amended by Circular No. 656 dated 02 June 2009)

Annex P-3-a

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-1 REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4162P.1 of the revised Manual of Regulations for Non-Bank Financial Institutions - Pawnshops, that Category A-1 reports be signed by the chief executive officer, or in his absence, by the executive vice-president, and by the comptroller, or in his absence, by the chief accountant, or by officers holding equivalent positions.

Whereas, it is also required that aforesaid officers of the institution be authorized under a resolution duly approved by the institution's Board of Directors;

Whereas, we, the members of the Board of Directors of ____(Name of Pawnshop)___, are conscious that, in designating the officials who would sign said Category A-1 reports, we are actually empowering and authorizing said officers to represent and act for or in behalf of the Board of Directors in particular and _____(Name of Pawnshop)_____ in general;

Whereas, this Board has full faith and confidence in the institution's Chief Executive Officer, Executive Vice-President, Comptroller and Chief Accountant, as the case may be, and, therefore, assumes responsibility for all the acts which may be performed by aforesaid officers under their delegated authority;

Now, therefore, we, the members of the Board of Directors, resolve, as it is hereby resolved that:

1. Mr._____, President _____ Specimen Signature

or

2. Mr._____, Executive Vice-President _____ Specimen Signature

and

3. Mr._____, Comptroller _____ Specimen Signature

or

4. Mr._____, Chief Accountant _____ Specimen Signature

are hereby authorized to sign Category A-1 reports of ____(Name of Pawnshop)____;

Done in the City of _____Philippines, this ____day of ____, 20____.

_____
CHAIRMAN OF THE BOARD

_____ DIRECTOR	_____ DIRECTOR
_____ DIRECTOR	_____ DIRECTOR
_____ DIRECTOR	_____ DIRECTOR

ATTESTED BY:

_____
CORPORATE SECRETARY

(As amended by Circular No. 656 dated 02 June 2009)

Annex P-3-b

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-2 REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4162P.1 of the revised Manual of Regulations for Non-Bank Financial Institutions - Pawnshops, that Category A-2 reports be signed by the president, executive vice-presidents, vice-presidents or officer holding equivalent position, and that such reports of other offices be signed by the respective manager/officers-in-charge;

Whereas, it is also required that aforesaid officers of the institution be authorized under a resolution duly approved by the institution's Board of Directors;

Whereas, we, the members of the Board of Directors of __(Name of Pawnshop)___, are conscious that, in designating the officials who would sign said Category A-2 reports, we are actually empowering and authorizing said officers to represent and act for or in behalf of the Board of Directors in particular and __(Name of Pawnshop)__ in general;

Whereas, this Board has full faith and confidence in the Institution's President (and/or the Executive Vice-President, etc., as the case may be) and, therefore, assumes responsibility for all the acts which may be performed by aforesaid officers under their delegated authority;

Now, therefore, we, the members of the Board of Directors, resolve, as it is hereby resolved that:

Name of Officer	Specimen Signature	Position Title	Report No.
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

are hereby authorized to sign the Category A-2 reports of ____(Name of Pawnshop)____.

Done in the City of _____ Philippines, this ____day of ____, 20____.

_____
CHAIRMAN OF THE BOARD

_____ _____
DIRECTOR DIRECTOR

_____ _____
DIRECTOR DIRECTOR

ATTESTED BY:

_____
CORPORATE SECRETARY

(As amended by Circular No. 656 dated 02 June 2009)

Annex P-3-c

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORIES A-3 AND B REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4162P.1 of the revised BSP Manual of Regulations for Non-Bank Financial Institutions (Pawnshops), that Categories A-3 and B reports be signed by officers or their alternates;

Whereas, it is also required that aforesaid officers of the institution be authorized under a resolution duly approved by the institution's Board of Directors;

Whereas, we the members of the Board of Directors of (Name of Pawnshop), are conscious that, in designating the officials who would sign said Categories A-3 and B reports, we are actually empowering and authorizing said officers to represent and act for or in behalf of the Board of Directors in particular and (Name of Pawnshop) in general;

Whereas, this Board has full faith and confidence in the Institution's Chief Executive Officer, Executive Vice-President, Comptroller, and Chief Accountant , as the case may be, and , therefore, assumes responsibility for all the acts which may be performed by aforesaid officers under their delegated authority;

Now, therefore, we, the members of the Board of Directors, resolve, as it is hereby resolved that:

Name of Authorized Signatory/Alternate	Specimen Signature	Position Title	Report No.
1. Authorized			
(Alternate)			
2. Authorized			
(Alternate)			

are hereby authorized to sign the Category A-3 and B reports of (Name of Pawnshop).

Done in the City of _____, Philippines, this ____day of ____, 20____.

_____
CHAIRMAN OF THE BOARD

_____	_____
DIRECTOR	DIRECTOR
_____	_____
DIRECTOR	DIRECTOR
_____	_____
DIRECTOR	DIRECTOR

ATTESTED BY:

_____
CORPORATE SECRETARY

(As amended by Circular No. 656 dated 02 June 2009)

STANDARD PAWN TICKET
(Appendix to Subsec. 4323P.1)

BUSINESS/REGISTERED NAME
Address
Taxpayer Identification Number
Business Days and Hours

Serial No.:001 **Original**

Principal	
Interes in absolute amount [1]	
Service Charge in amount	
Net Proceeds	

[1] Formula (Principal x Rate x Time)

Amount of Loan	
Date Loan Granted	
Maturity Date	
Expiry Date of Redemption	
Interest Rate in percent: _____ Please check: Per annum ☐ Per Month ☐ Per Day ☐	
Penalty interest in percent, if any	

Description of the Pawn	Appraised Value

Information on the Pawner			
Name		Sex	
Complete Residential Address		Date of Birth	
Telephone/mobile phone No.		Nationality	
E-mail address, if any:		Height	
Preferred Mode of notification: Please check ☐ Mail to above address ☐ Text/SMS ☐ E-Mail		Weight	
		ID Presented	

TERMS AND CONDITIONS OF STANDARD PAWN TICKET

1. The pawner hereby accepts the pawnshop's appraisal as proper.
2. The pawnshop hereby agrees not to collect advance interest for a period of more than one (1) year.
3. The service charge is equivalent to one percent (1%) of the principal loan, but shall not exceed five pesos (P5.00). No other charges shall be collected.
4. This loan is renewable for such amount and period as may be agreed upon between the pawnshop and the pawner subject to the same requirements for a new loan.
5. Upon maturity of this loan, as indicated above, the pawner still has ninety (90) days from maturity date within which to redeem the pawn by paying the principal loan plus the interest that shall have accrued thereon.
6. The amount of interest due and payable after the maturity date of the loan up to the redemption period shall be computed upon redemption at the rate of interest provided

above based on the sum of the principal loan and interest earned as of the date of maturity. Any additional penalty and/or interest shall also be computed in the same manner.

7. The pawnshop shall notify the pawner of any change in its business address/location.
8. The pawner shall advise the pawnshop of any change of address/contact number/ e-mail address.
9. The pawnshop shall send a reminder to the pawner in the preferred mode of notification given above, or at the new address/mobile phone number or e-mail address, if such was provided by the pawner before the expiration of the ninety (90) day grace period. The pawnshop shall have the right to sell or dispose of the pawn if the pawner fails to redeem it within the ninety (90) day grace period.
10. This ticket shall be surrendered at maturity date upon payment of the loan. In case of loss or destruction of this ticket, the pawner hereby undertakes to personally present an affidavit to the pawnshop before the redemption period expires. The pawnshop has two (2) days to decide whether to accept (1) the affidavit in place of the original pawn ticket; or (2) to issue a substitute pawn ticket, thereby cancelling the original.
11. The pawner shall not assign, sell or in any other way alienate the pawn securing this loan without prior written consent of the pawnshop. If the pawnshop agrees, the terms and conditions of this contract remain enforceable.
12. In case of pre-payment of this loan by pawner, the interest collected in advance shall accrue in full to the pawnshop.
13. The pawner shall not be entitled to the excess of the public auction sale price over the amount of principal, interest and service fee; neither shall the pawnshop be entitled to recover the deficiency from the pawner.

(Signature or Thumbmark) Pawner	(Signature) Pawnshop's Authorized Representative

(As amended by Circular 656 dated 02 June 2009)

FORMAT OF STATEMENT OF UNDERSTANDING ON PAWNSHOP TRANSACTION

(Appendix to Subsec. 4323P.1)

_____
(Business Name of Pawnshop)

STATEMENT OF UNDERSTANDING

I ACKNOWLEDGE THAT I UNDERSTAND AND FULLY AGREE TO THE TERMS AND CONDITIONS OF THIS CONTRACT OF PLEDGE/PAWNSHOP TRANSACTION, AND TO THE FOLLOWING:

1. **Agreement as to Interest Rates.** The parties are generally free to agree in writing on the interest rates to be imposed in loans secured by pledge/pawned properties. In case of dispute, the regular courts of law have the vested power to determine the reasonableness and legality of interest rates.
2. **Degree of Diligence Required of a Pawnshop.** In accordance with Republic Act No. 386, as amended, the Civil Code of the Philippines, pawnshops shall take care of the thing pawned by exercising reasonable care and caution that an ordinary prudent person would as to his own property.
   a. Accountability in case of Fire. The office building/premises and all pawns in the pawnshop, except those which are kept inside a fireproof vault, are insured against fire in accordance with the pertinent regulations of the Bangko Sentral ng Pilipinas (BSP). The amount of indemnity shall be dependent on the insurance policy agreement between the pawnshop and the insurance company.
   b. Accountability in case of robbery and other fortuitous events. Any claim for restitution by pawners in case of loss, destruction or defect of the pawn due to robbery and other fortuitous event, with or without the fault or negligence of the pawnshop, its officers and directors, are cognizable by the regular courts.

I DECLARE UNDER THE PENALTY OF THE ANTI-FENCING LAW THAT I AM THE OWNER OF THE PROPERTY SUBJECT OF THIS AGREEMENT.

(Signature of Pawner over Printed Name)
Date: _____

(As amended by Circular No. 656 dated 02 June 2009)

STANDARD ADDITIONAL STIPULATIONS IN PAWN TICKETS
(Appendix to Subsec. 4323P.1)

On Face of Pawn Ticket

1. Member: Chamber of Pawnbrokers of the Philippines

On Reverse Side of Pawn Ticket

1. I hereby authorize M_____, whose signature appears below, to redeem (or renew[1]) my pawn covered by this pawn ticket.

_____ _____
Signature of Representative Signature of Pawner
(Signed in the presence of pawner)

Received by: _____
Pawner/Authorized Representative
(Signed in the presence of pawnshop owner/employee)

2. Pinahihintulutan ko si G_____, na may lagda sa ibaba, para tubusin (o mapanibago*) ang aking sangla na binanggit sa papel na ito.

_____ _____
Lagda ng Kinatawan Lagda ng Nagsangla
(Nilagdaan sa harap ng nagsangla)

Tinatanggap ko ang bagay/mga bagay na binanggit sa papel na ito:

_____
Lagda ng Tumanggap

3. Received the article(s) in the same condition when pawned and redeemed.

_____
Pawner

4. Acknowledgment: I hereby declare that the above-mentioned article(s) are my personal property and are free from liens and encumbrances.

_____
Pawner

[1] As pawnshop may opt to allow/include in the pawn ticket.

5. Venue of all judicial and administrative cases or proceedings and other legal incidents arising out of or in connection with this contract shall solely and exclusively be brought before appropriate courts, departments, offices or agencies of the government situated in (locality of pawnshop head office).
6. The authorized representative must present valid identification papers.
7. Upon expiration of the redemption period, the pawnshop has the right to open the sealed pawn for purposes of public auction.
8. For purposes of computing the amount of interest for pledge loans paid after maturity date, a fraction of (less than) a month shall be considered as one whole month.
9. Any one of the following:
   a. In case this loan is not paid on maturity date, the pawner hereby agrees to pay in addition to accrued interest, two percent (2%) per month of the principal, as liquidated damages. For purposes of computing the amount of liquidated damages, a fraction of a month shall be considered as one (1) full month.
   b. The pawnshop may at its sole option, allow redemption of pawn after expiration of the 90-day grace period. Provided the pawner shall pay the principal plus interest due at the rate prescribed herein and liquidated damages of two percent (2%) per month on the principal, counted after grace period. For purposes of computing the amount of liquidated damages, a fraction of a month shall be considered as one (1) full month.
   c. In case this loan is not paid on maturity date, the pawner hereby agrees to pay in addition to accrued interest, two percent (2%) per month of the principal, as liquidated damages. For purposes of computing the amount of liquidated damages, a fraction of a month shall be considered as one (1) full month. The pawnshop may, at its sole option, allow redemption of pawn after expiration of the 90-day grace period upon payment by the pawner of the loan principal plus interest due and liquidated damages at the rates and manner of computation herein prescribed.
10. The pawner shall hereby notify the pawnshop of his/her intention to redeem the pawn twenty-four (24) hours prior to actual redemption.

(As amended by Circular No. 656 dated 02 June 2009)

STIPULATIONS NOT ALLOWED IN STANDARD PAWN TICKETS

(Appendix to Subsec. 4323P.1)

1. Advertisements such as "highest appraisal in town, dependable, honest", or other similar terms.

2. Facsimile signature of authorized pawnshop representative.

3. "Terms and conditions accepted and payment received."

4. "By ordinary or registered mail" in standard Term and Condition No. 9.

5. "Letter of authorization", as title of third-party redemption/authorization feature.

6. Additional features such as "demand for receipt", "authorized by the Bangko Sentral ng Pilipinas" and heading of ticket as "pawnshop receipt".

(As amended by Circular No. 656 dated 02 June 2009)

ANTI-MONEY LAUNDERING REGULATIONS
(Appendix to Sec. 4691P)

Banks, QBs, trust entities and all other institutions, and their subsidiaries and affiliates supervised or regulated by the BSP (covered institutions) shall strictly comply with the provisions of Section 9 of R.A. No. 9160 and the following rules and regulations on anti-money laundering.

1. ***Customer identification.*** Covered institutions shall establish and record the true identity of its clients based on official documents. They shall maintain a system of verifying the true identity of their clients and, in case of corporate clients, require a system of verifying their legal existence and organizational structure, as well as the authority and identification of all persons purporting to act on their behalf.

When establishing business relations or conducting transactions (particularly opening of deposit accounts, accepting deposit substitutes, entering into trust and other fiduciary transactions, renting of safety deposit boxes, performing remittances and other large cash transactions) covered institutions should take reasonable measures to establish and record the true identity of their clients. Said client identification may be based on official or other reliable documents and records.

a. In cases of corporate and other legal entities, the following measures should be taken, when necessary:

(1) Verification of the legal existence and structure of the client from the appropriate agency or from the client itself or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors, principal officers and provisions regulating the power behind the entity.

(2) Verification of the authority and identification of the person purporting to act on behalf of the client.

b. In case of doubt as to whether their purported clients or customers are acting for themselves or for another, reasonable measures should be taken to obtain the true identity of the persons on whose behalf an account is opened or a transaction conducted.

c. The provisions of existing laws to the contrary notwithstanding, anonymous accounts, accounts under fictitious names, and all other similar accounts shall be absolutely prohibited. In case where numbered accounts is allowed (i.e., peso and foreign currency non-checking numbered accounts), covered institutions should ensure that the client is identified in an official or other identifying documents.

The BSP may conduct annual testing solely limited to the determination of the existence and the identity of the owners of such accounts.

Covered institutions shall phase out within a period of one (1) year from 2 April 2001 or upon their maturity, whichever is earlier, anonymous accounts or accounts under fictitious names as well as numbered accounts being kept or managed by them, which are not expressly allowed under existing law.

d. The identity of existing clients or beneficial owners of deposits and other funds held or being managed by the covered institutions should be renewed/updated at least every other year.

e. All records of all transactions of covered institutions shall be maintained and safely stored for five (5) years from the dates of transactions. With respect to closed accounts, the records on customer identification, account files and business correspondence, shall be preserved and

safely stored for at least five (5) years from the dates when they were closed.

Such records must be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal behaviour.

f. Special attention should be given to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies.

g. Covered institutions should not, or should at least avoid, transacting business with criminals. Reasonable measures should be adopted to prevent the use of their facilities for laundering of proceeds of crimes and other illegal activities.

2. ***Programs against money laundering.*** Programs against money laundering should be developed. These programs, should include, as a minimum:

a. The development of internal policies, procedures and controls, including the designation of compliance officers at management level, and adequate screening procedures to ensure high standards when hiring employees;

b. An ongoing employee training program; and

c. An audit function to test the system.

3. ***Submission of plans of action*** Covered institutions shall submit a plan of action on how to comply with the requirements of *Appendix P-5* Nos. 1, 2 and 4 within thirty (30) business days from July 31, 2000 or from opening of the institution.

4. ***Required reporting of certain transactions.*** If there is reasonable ground to believe that the funds are proceeds of an unlawful activity as defined under R.A. No. 9160 and/or its IRRs, the transactions involving such funds or attempts to transact the same, should be reported to the Anti-Money Laundering Council (AMLC) in accordance with Rules 5.2 and 5.3 of the AMLA IRRs.

a. Report on suspicious transactions.[1] Banks shall report covered transactions and suspicious transactions, as defined in Rules 5.2 and 5.3 of the AMLA IRRs, to the AMLC using the forms prescribed by the AMLC. Reportable transactions shall include the following:

(1) Outward remittances without visible lawful purpose;

(2) Inward remittances without visible lawful purpose or without underlying trade transactions;

(3) Unusual purchases of foreign exchange without visible lawful purpose;

(4) Unusual sales of foreign exchange whose sources are not satisfactorily established;

(5) Complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent or visible lawful purpose;

(6) Funds being managed or held as deposit substitutes if there is reasonable ground to believe that the same are proceeds of criminal and other illegal activities; and

(7) Suspicious Transaction Indicators or "Red Flags" as a guide in the submission to the AMLC of reports of suspicious transactions relating to potential or actual financing of terrorism.

(a) Wire transfers between accounts, without visible economic or business purpose, especially if the wire transfers are effected through countries which are identified or connected with terrorist activities.

(b) Sources and/or beneficiaries of wire transfers are citizens of countries which are identified or connected with terrorist activities.

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[1] Amended by AMLC Resolution No. 292 dated 20 November 2003 (Annex P-5-b).

(c) Repetitive deposits or withdrawals that cannot be explained or do not make sense.

(d) Value of the transaction is over and above what the client is capable of earning.

(e) Client is conducting a transaction that is out of the ordinary for his known business interest.

(f) Deposits being made by individuals who have no known connection or relation with the account holder.

(g) An individual receiving remittances, but has no family members working in the country from which the remittance is made.

(h) Client was reported and/or mentioned in the news to be involved in terrorist activities.

(i) Client is under investigation by law enforcement agencies for possible involvement in terrorist activities.

(j) Transactions of individuals, companies or non-governmental organizations (NGOs) that are affiliated or related to people suspected of being connected to a terrorist group or a group that advocates violent overthrow of a government.

(k) Transactions of individuals, companies or NGOs that are suspected as being used to pay or receive funds from revolutionary taxes.

(l) The NGO does not appear to have expenses normally related to relief or humanitarian effort.

(m) The absence of contributions from donors located within the country of origin of the NGO.

(n) A mismatch between the pattern and size of financial transactions on the one hand and the stated purpose and activity of the NGO on the other.

(o) Incongruities between apparent sources and amount of funds raised or moved by the NGO.

(p) Any other transaction that is similar, identical or analogous to any of the foregoing.

(8) All other suspicious transactions/ activities which can be reported without violating any law.

The report on suspicious transactions shall provide the following minimum information:

(a) Name or names of the parties involved.

(b) A brief description of the transaction or transactions.

(c) Date or date the transaction(s) occurred.

(d) Amount(s) involved in every transaction.

(e) Such other relevant information which can be of help to the authorities should there be an investigation.

b. Exemption from Bank Secrecy Law. When reporting covered transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates shall not be deemed to have violated R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791 and other similar laws, but are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. In case of violation thereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, shall be criminally liable. However, no administrative, criminal or civil proceedings, shall lie against any person for having made a covered transaction report in the regular performance of his duties and in good faith, whether or not such reporting results in any criminal prosecution under R.A. 9160 or any other Philippine law.

c. Prohibition from disclosure of the covered transaction report. When reporting covered transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants

or associates are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person, entity, the media, the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. Neither may such reporting be published or aired in any manner or form by the mass media, electronic mail, or other similar devices. In case of violation thereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, or media shall be held criminally liable.

5. ***Certification of compliance with anti-money laundering regulations.*** Covered institution shall submit annually to the BSP thru the appropriate department of the SES a certification (Annex P-5-a) signed by the president or officer of equivalent rank and by their compliance officer to the effect that they have monitored compliance with existing anti-money laundering regulations.

The certification shall be submitted in accordance with *Appendix P-2* and shall be considered a *Category A-2* report.

(As amended by Circular No. 656 dated 02 June 2009)

Annex P-5-a

CERTIFICATION OF COMPLIANCE WITH ANTI-MONEY LAUNDERING REGULATIONS

C E R T I F I C A T I O N

Pursuant to the provisions of Section 2 of BSP Circular No. 279 dated 2 April 2001, we hereby certify:

1. That we have monitored (Name of Pawnshop')s compliance with R.A. No. 9160 (Anti-Money Laundering Act of 2001), as well as with BSP Circular Nos. 251, 253, 259 and 302;

2. That the Pawnshop is complying with the required customer identification, documentation of all new clients, and continued monitoring of customer's activities;

3. That the Pawnshop is also complying with the requirement to record all transactions and to maintain such records including the record of customer identification for at least five (5) years;

4. That the Pawnshop does not maintain anonymous or fictitious accounts; and

5. That we conduct regular anti-money laundering training sessions for all Pawnshop officers and selected staff members holding sensitive positions.

_____ _____
(Name of President or officer of equivalent rank) (Name of Compliance Officer)

SUBSCRIBED AND SWORN to before me, _____ this ____ day of _____, affiant/s exhibiting to me their Community Tax Certificate No.(s) as follows:

Name	Community Tax Cert. No	Date/Place Issued

Doc. No. _____; Notary Public
Page No. _____;
Book No. _____;
Series of 20___

(As amended by Circular No. 656 dated 02 June 2009)

Annex P-5-b

Anti-Money Laundering Council Resolution No. 292

RULES ON SUBMISSION OF COVERED TRANSACTION REPORTS AND SUSPICIOUS TRANSACTION REPORTS BY COVERED INSTITUTIONS

1. All covered institutions are required to file Suspicious Transaction Reports (STRs) on transactions involving all kinds of monetary instruments or property.

2. Banks shall file Covered Transaction Reports (CTRs) on transactions involving all kinds of monetary instruments or property, i.e., in cash or non-cash, whether in domestic or foreign currency.

3. Covered institutions, other than banks, shall file CTRs on transactions in cash or foreign currency or other monetary instruments (other than checks) or properties. Due to the nature of the transactions in the stock exchange, only the brokers-dealers shall be required to file CTRs and STRs. The PSE, PCD, SCCP and transfer agents are exempt from filing CTRs. They, are however, required to file STRs when the transactions that pass through them are deemed to be suspicious.

4. Where the covered institution engages in bulk transactions with a bank, i.e., deposits of premium payments in bulk or settlements of trade, and the bulk transactions do not distinguish clients and their respective transaction amounts, said covered institutions shall be required to file CTRs on its clients whose transactions exceed ₱500,000 and are included in the bulk transactions.

5. With respect to insurance companies, when the total amount of the premiums for the entire year, regardless of the mode of payment (monthly, quarterly, semi-annually or annually), exceeds ₱500,000, such amount shall be reported as a covered transaction, even if the amounts of the amortizations are less than the threshold amount. The CTR shall be filed upon payment of the first premium amount, regardless of the mode of payment. Under this rule, the insurance company shall file the CTR only once every year until the policy matures or rescinded, whichever comes first.

6. The submission of CTRs is deferred until the AMLC directs otherwise. Submission of STRs, however, are not deferred and covered institutions are mandated to submit such STRs when the circumstances so require.

(As amended by Circular No. 656 dated 02 June 2009)

REVISED IMPLEMENTING RULES AND REGULATIONS
R.A. NO. 9160, AS AMENDED BY R.A. NO. 9194
(Appendix to Sec. 4691P)

RULE 1
TITLE

Rule 1.a. Title. These Rules shall be known and cited as the "Revised Rules and Regulations Implementing R.A. No. 9160", [the Anti-Money Laundering Act of 2001 (AMLA)], as amended by R.A. No. 9194.

Rule 1.b. Purpose. These Rules are promulgated to prescribe the procedures and guidelines for the implementation of the AMLA, as amended by R.A. No. 9194.

RULE 2
DECLARATION OF POLICY

Rule 2. Declaration of Policy. It is hereby declared the policy of the State to protect the integrity and confidentiality of bank accounts and to ensure that the Philippines shall not be used as a money-laundering site for the proceeds of any unlawful activity. Consistent with its foreign policy, the Philippines shall extend cooperation in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed.

RULE 3
DEFINITIONS

Rule 3. Definitions. For purposes of this Act, the following terms are hereby defined as follows:

Rule 3.a. *Covered Institution* refers to:

Rule 3.a.1. Banks, offshore banking units, QBs, trust entities, non-stock savings and loan associations, pawnshops, and all other institutions, including their subsidiaries and affiliates supervised and/or regulated by the BSP.

(a) A *subsidiary* means an entity more than fifty percent (50%) of the outstanding voting stock of which is owned by a bank, QB, trust entity or any other institution supervised or regulated by the BSP.

(b) An *affiliate* means an entity at least twenty percent (20%) but not exceeding fifty percent (50%) of the voting stock of which is owned by a bank, QB, trust entity, or any other institution supervised and/or regulated by the BSP.

Rule 3.a.2. Insurance companies, insurance agents, insurance brokers, professional reinsurers, reinsurance brokers, holding companies, holding company systems and all other persons and entities supervised and/or regulated by the Insurance Commission (IC).

(a) An *insurance company* includes those entities authorized to transact insurance business in the Philippines, whether life or non-life, and whether domestic, domestically incorporated or branch of a foreign entity. A contract of insurance is an agreement whereby one undertakes for a consideration to indemnify another against loss, damage or liability arising from an unknown or contingent event. Transacting insurance business includes making or proposing to make, as insurer, any insurance contract, or as surety, any contract of suretyship as a vocation and not as merely incidental to any other legitimate business or activity of the surety, doing any kind of business specifically recognized as constituting the doing of an insurance business within the meaning of P.D. No. 612, as amended, including a reinsurance business and doing or proposing

to do any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of P.D. No. 612, as amended.

(b) An *insurance agent* includes any person who solicits or obtains insurance on behalf of any insurance company or transmits for a person other than himself an application for a policy or contract of insurance to or from such company or offers or assumes to act in the negotiation of such insurance.

(c) An *insurance broker* includes any person who acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract or in placing risk or taking out insurance, on behalf of an insured other than himself.

(d) A *professional reinsurer* includes any person, partnership, association or corporation that transacts solely and exclusively reinsurance business in the Philippines, whether domestic, domestically incorporated or a branch of a foreign entity. A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance.

(e) A *reinsurance broker* includes any person who, not being a duly authorized agent, employee or officer of an insurer in which any reinsurance is effected, acts or aids in any manner in negotiating contracts of reinsurance or placing risks of effecting reinsurance, for any insurance company authorized to do business in the Philippines.

(f) A *holding company* includes any person who directly or indirectly controls any authorized insurer. A holding company system includes a holding company together with its controlled insurers and controlled persons.

Rule 3.a.3. (i) Securities dealers, brokers, salesmen, associated persons of brokers or dealers, investment houses, investment agents and consultants, trading advisors, and other entities managing securities or rendering similar services, (ii) mutual funds or open-end investment companies, close-end investment companies, common trust funds, pre-need companies or issuers and other similar entities; (iii) foreign exchange corporations, money changers, money payment, remittance, and transfer companies and other similar entities, and (iv) other entities administering or otherwise dealing in currency, commodities or financial derivatives based thereon, valuable objects, cash substitutes and other similar monetary instruments or property supervised and/or regulated by the SEC.

(a) A *securities broker* includes a person engaged in the business of buying and selling securities for the account of others.

(b) A *securities dealer* includes any person who buys and sells securities for his/her account in the ordinary course of business.

(c) A *securities salesman* includes a natural person, employed as such or as an agent, by a dealer, issuer or broker to buy and sell securities.

(d) An *associated person of a broker or dealer* includes an employee thereof who directly exercises control or supervisory authority, but does not include a salesman, or an agent or a person whose functions are solely clerical or ministerial.

(e) An *investment house* includes an enterprise which engages or purports to engage, whether regularly or on an isolated basis, in the underwriting of securities of another person or enterprise, including securities of the Government and its instrumentalities.

(f) A *mutual fund or an open-end investment* company includes an investment company which is offering for sale or has outstanding, any redeemable security of which it is the issuer.

(g) A *closed-end investment company* includes an investment company other than open-end investment company.

(h) A *common trust fund* includes a fund maintained by an entity authorized to perform trust functions under a written and formally established plan, exclusively for the collective investment and reinvestment of certain money representing participation in the plan received by it in its capacity as trustee, for the purpose of administration, holding or management of such funds and/or properties for the use, benefit or advantage of the trustor or of others known as beneficiaries.

(i) A *pre-need company or issuer* includes any corporation supervised and/or regulated by the SEC and is authorized or licensed to sell or offer for sale pre-need plans. *Pre-need plans* are contracts which provide for the performance of future service(s) or payment of future monetary consideration at the time of actual need, payable either in cash or installment by the planholder at prices stated in the contract with or without interest or insurance coverage and includes life, pension, education, internment and other plans, which the Commission may, from time to time, approve.

(j) A *foreign exchange corporation* includes any enterprise which engages or purports to engage, whether regularly or on an isolated basis, in the sale and purchase of foreign currency notes and such other foreign-currency denominated non-bank deposit transactions as may be authorized under its articles of incorporation.

(k) *Investment Advisor/Agent/Consultant* shall refer to any person:

(1) who for an advisory fee is engaged in the business of advising others, either directly or through circulars, reports, publications or writings, as to the value of any security and as to the advisability of trading in any security; or

(2) who for compensation and as part of a regular business, issues or promulgates, analyzes reports concerning the capital market, except:

(a) any bank or trust company;

(b) any journalist, reporter, columnist, editor, lawyer, accountant, teacher;

(c) the publisher of any bonafide newspaper, news, business or financial publication of general and regular circulation, including their employees;

(d) any contract market;

(e) such other person not within the intent of this definition: *Provided*. That the furnishing of such service by the foregoing persons is solely incidental to the conduct of their business or profession.

(3) any person who undertakes the management of portfolio securities of investment companies, including the arrangement of purchases, sales or exchanges of securities.

(l) A *moneychanger* includes any person in the business of buying or selling foreign currency notes.

(m) A *money payment, remittance and transfer company* includes any person offering to pay, remit or transfer or transmit money on behalf of any person to another person.

(n) *"Customer"* refers to any person or entity that keeps an account, or otherwise transacts business, with a covered institution and any person or entity on whose behalf an account is maintained or a transaction is conducted, as well as the beneficiary of said transactions. A customer also includes the beneficiary of a trust, an investment fund, a pension fund or a company or person whose assets are managed by an asset manager, or a grantor of a trust. It includes any insurance policy holder, whether actual or prospective.

(o) *"Property"* includes any thing or item of value, real or personal, tangible or intangible, or any interest therein or any benefit, privilege, claim or right with respect thereto.

Rule 3.b. *Covered Transaction* is a transaction in cash or other equivalent

monetary instrument involving a total amount in excess of PhP500,000.00 within one (1) banking day.

Rule 3.b.1. *Suspicious transactions* are transactions, regardless of amount, where any of the following circumstances exist:

(1) There is no underlying legal or trade obligation, purpose or economic justification;

(2) The client is not properly identified;

(3) The amount involved is not commensurate with the business or financial capacity of the client;

(4) Taking into account all known circumstances, it may be perceived that the client's transaction is structured in order to avoid being the subject of reporting requirements under the act;

(5) Any circumstance relating to the transaction which is observed to deviate from the profile of the client and/or the client's past transactions with the covered institution;

(6) The transaction is in any way related to an unlawful activity or any money laundering activity or offense under this act that is about to be, is being or has been committed; or

(7) Any transaction that is similar, analogous or identical to any of the foregoing.

Rule 3.c. *Monetary Instrument* refers to:

(1) Coins or currency of legal tender of the Philippines, or of any other country;

(2) Drafts, checks and notes;

(3) Securities or negotiable instruments, bonds, commercial papers, deposit certificates, trust certificates, custodial receipts or deposit substitute instruments, trading orders, transaction tickets and confirmations of sale or investments and money market instruments;

(4) Contracts or policies of insurance, life or non-life, and contracts of suretyship; and

(5) Other similar instruments where title thereto passes to another by endorsement, assignment or delivery.

Rule 3.d. *Offender* refers to any person who commits a money laundering offense.

Rule 3.e. *Person* refers to any natural or juridical person.

Rule 3.f. *Proceeds* refers to an amount derived or realized from an unlawful activity. It includes:

(1) All material results, profits, effects and any amount realized from any unlawful activity;

(2) All monetary, financial or economic means, devices, documents, papers or things used in or having any relation to any unlawful activity; and

(3) All moneys, expenditures, payments, disbursements, costs, outlays, charges, accounts, refunds and other similar items for the financing, operations, and maintenance of any unlawful activity.

Rule 3.g. *Supervising Authority* refers to the BSP, the SEC and the IC. Where the BSP, SEC or IC supervision applies only to the registration of the covered institution, the BSP, the SEC or the IC, within the limits of the AMLA, shall have the authority to require and ask assistance from the government agency having regulatory power and/or licensing authority over said covered institution for the implementation and enforcement of the AMLA and these Rules.

Rule 3.h. *Transaction* refers to any act establishing any right or obligation or giving rise to any contractual or legal relationship between the parties thereto. It also includes any movement of funds by any means with a covered institution.

Rule 3.i. *Unlawful activity* refers to any act or omission or series or combination

thereof involving or having relation, to the following:

(A) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code, as amended;

(1) Kidnapping for ransom.

(B) Sections 4, 5, 6, 8, 9, 10, 12, 13, 14, 15 and 16 of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002;

(2) Importation of prohibited drugs;

(3) Sale of prohibited drugs;

(4) Administration of prohibited drugs;

(5) Delivery of prohibited drugs;

(6) Distribution of prohibited drugs;

(7) Transportation of prohibited drugs;

(8) Maintenance of a Den, Dive or Resort for prohibited users;

(9) Manufacture of prohibited drugs;

(10) Possession of prohibited drugs;

(11) Use of prohibited drugs;

(12) Cultivation of plants which are sources of prohibited drugs; and

(13) Culture of plants which are sources of prohibited drugs.

(C) Section 3 paragraphs b, c, e, g, h and i of R.A. No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act;

(14) Directly or indirectly requesting or receiving any gift, present, share, percentage or benefit for himself or for any other person in connection with any contract or transaction between the Government and any party, wherein the public officer in his official capacity has to intervene under the law;

(15) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any government permit or license, in consideration for the help given or to be given, without prejudice to Section 13 of R.A. No. 3019;

(16) Causing any undue injury to any party, including the government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence;

(17) Entering, on behalf of the government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby;

(18) Directly or indirectly having financial or pecuniary interest in any business contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest;

(19) Directly or indirectly becoming interested, for personal gain, or having material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which exercise of discretion in such approval, even if he votes against the same or he does not participate in the action of the board, committee, panel or group.

(D) Plunder under R.A. No. 7080, as amended;

(20) Plunder through misappropriation, conversion, misuse or malversation of public funds or raids upon the public treasury;

(21) Plunder by receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;

(22) Plunder by the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies, instrumentalities or government-owned or - controlled corporations or their subsidiaries;

(23) Plunder by obtaining, receiving or accepting, directly or indirectly, any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;

(24) Plunder by establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests;

(25) Plunder by taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

(E) Robbery and extortion under Articles 294, 295, 296, 299, 300, 301 and 302 of the Revised Penal Code, as amended;

(26) Robbery with violence or intimidation of persons;

(27) Robbery with physical injuries, committed in an uninhabited place and by a band, or with use of firearms on a street, road or alley;

(28) Robbery in an uninhabited house or public building or edifice devoted to worship.

(F) Jueteng and Masiao punished as illegal gambling under P.D. No. 1602;

(29) Jueteng;

(30) Masiao.

(G) Piracy on the high seas under the Revised Penal Code, as amended and P.D. No. 532;

(31) Piracy on the high seas;

(32) Piracy in inland Philippine waters;

(33) Aiding and abetting pirates and brigands.

(H) Qualified theft under Article 310 of the Revised Penal Code, as amended;

(34) Qualified theft.

(I) Swindling under Article 315 of the Revised Penal Code, as amended;

(35) Estafa with unfaithfulness or abuse of confidence by altering the substance, quality or quantity of anything of value which the offender shall deliver by virtue of an obligation to do so, even though such obligation be based on an immoral or illegal consideration;

(36) Estafa with unfaithfulness or abuse of confidence by misappropriating or converting, to the prejudice of another, money, goods or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property;

(37) Estafa with unfaithfulness or abuse of confidence by taking undue advantage of the signature of the offended party in blank, and by writing any document above such signature in blank, to the prejudice of the offended party or any third person;

(38) Estafa by using a fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits;

(39) Estafa by altering the quality, fineness or weight of anything pertaining to his art or business;

(40) Estafa by pretending to have bribed any government employee;

(41) Estafa by postdating a check, or issuing a check in payment of an obligation

when the offender has no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check;

(42) Estafa by inducing another, by means of deceit, to sign any document;

(43) Estafa by resorting to some fraudulent practice to ensure success in a gambling game;

(44) Estafa by removing, concealing or destroying, in whole or in part, any court record, office files, document or any other papers.

(J) Smuggling under R.A. Nos. 455 and 1937;

(45) Fraudulent importation of any vehicle;

(46) Fraudulent exportation of any vehicle;

(47) Assisting in any fraudulent importation;

(48) Assisting in any fraudulent exportation;

(49) Receiving smuggled article after fraudulent importation;

(50) Concealing smuggled article after fraudulent importation;

(51) Buying smuggled article after fraudulent importation;

(52) Selling smuggled article after fraudulent importation;

(53) Transportation of smuggled article after fraudulent importation;

(54) Fraudulent practices against customs revenue.

(K) Violations under R.A. No. 8792, otherwise known as the Electronic Commerce Act of 2000;

K.1. *Hacking or cracking*, which refers to:

(55) unauthorized access into or interference in a computer system/server or information and communication system; or

(56) any access in order to corrupt, alter, steal, or destroy using a computer or other similar information and communication devices, without the knowledge and consent of the owner of the computer or information and communications system; including

(57) the introduction of computer viruses and the like, resulting in the corruption, destruction, alteration, theft or loss of electronic data messages or electronic document.

K.2. *Piracy*, which refers to:

(58) the unauthorized copying, reproduction;

(59) the unauthorized dissemination, distribution;

(60) the unauthorized importation;

(61) the unauthorized use, removal, alteration, substitution, modification;

(62) the unauthorized storage, uploading, downloading, communication, making available to the public; or

(63) the unauthorized broadcasting, of protected material, electronic signature or copyrighted works including legally protected sound recordings or phonograms or information material on protected works, through the use of telecommunication networks, such as, but not limited to, the internet, in a manner that infringes intellectual property rights.

K.3. Violations of the Consumer Act or R.A. No. 7394 and other relevant or pertinent laws through transactions covered by or using electronic data messages or electronic documents:

(64) Sale of any consumer product that is not in conformity with standards under the Consumer Act;

(65) Sale of any product that has been banned by a rule under the Consumer Act;

(66) Sale of any adulterated or mislabeled product using electronic documents;

(67) Adulteration or misbranding of any consumer product;

(68) Forging, counterfeiting or simulating any mark, stamp, tag, label or other identification device;

(69) Revealing trade secrets;

(70) Alteration or removal of the labeling of any drug or device held for sale;

(71) Sale of any drug or device not registered in accordance with the provisions of the E-Commerce Act;

(72) Sale of any drug or device by any person not licensed in accordance with the provisions of the E-Commerce Act;

(73) Sale of any drug or device beyond its expiration date;

(74) Introduction into commerce of any mislabeled or banned hazardous substance;

(75) Alteration or removal of the labeling of a hazardous substance;

(76) Deceptive sales acts and practices;

(77) Unfair or unconscionable sales acts and practices;

(78) Fraudulent practices relative to weights and measures;

(79) False representations in advertisements as the existence of a warranty or guarantee;

(80) Violation of price tag requirements;

(81) Mislabeling consumer products;

(82) False, deceptive or misleading advertisements;

(83) Violation of required disclosures on consumer loans;

(84) Other violations of the provisions of the E-Commerce Act.

(L) Hijacking and other violations under R.A. No. 6235; destructive arson and murder, as defined under the Revised Penal Code, as amended, including those perpetrated by terrorists against non-combatant persons and similar targets:

(85) Hijacking;

(86) Destructive arson;

(87) Murder;

(88) Hijacking, destructive arson or murder perpetrated by terrorists against non-combatant persons and similar targets.

(M) Fraudulent practices and other violations under R.A. No. 8799, otherwise known as the Securities Regulation Code of 2000;

(89) Sale, offer or distribution of securities within the Philippines without a registration statement duly filed with and approved by the SEC;

(90) Sale or offer to the public of any pre-need plan not in accordance with the rules and regulations which the SEC shall prescribe;

(91) Violation of reportorial requirements imposed upon issuers of securities;

(92) Manipulation of security prices by creating a false or misleading appearance of active trading in any listed security traded in an Exchange or any other trading market;

(93) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that raises their prices to induce the purchase of a security, whether of the same or different class, of the same issuer or of a controlling, controlled or commonly controlled company by others;

(94) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that depresses their price to induce the sale of a security, whether of the same or different class, of the same issuer or of a controlling, controlled or commonly controlled company by others;

(95) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that creates active trading to induce such a purchase or sale though manipulative devices such as marking the close, painting the tape, squeezing the float, hype and dump, boiler room operations and such other similar devices;

(96) Manipulation of security prices by circulating or disseminating information that the price of any security listed in an Exchange will or is likely to rise or fall because of manipulative market operations

of any one or more persons conducted for the purpose of raising or depressing the price of the security for the purpose of inducing the purchase or sale of such security;

(97) Manipulation of security prices by making false or misleading statements with respect to any material fact, which he knew or had reasonable ground to believe was so false and misleading, for the purpose of inducing the purchase or sale of any security listed or traded in an Exchange;

(98) Manipulation of security prices by effecting, alone or with others, any series of transactions for the purchase and/or sale of any security traded in an Exchange for the purpose of pegging, fixing or stabilizing the price of such security, unless otherwise allowed by the Securities Regulation Code or by the rules of the SEC;

(99) Sale or purchase of any security using any manipulative deceptive device or contrivance;

(100) Execution of short sales or stop-loss order in connection with the purchase or sale of any security not in accordance with such rules and regulations as the SEC may prescribe as necessary and appropriate in the public interest or the protection of the investors;

(101) Employment of any device, scheme or artifice to defraud in connection with the purchase and sale of any securities;

(102) Obtaining money or property in connection with the purchase and sale of any security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(103) Engaging in any act, transaction, practice or course of action in the sale and purchase of any security which operates or would operate as a fraud or deceit upon any person;

(104) Insider trading;

(105) Engaging in the business of buying and selling securities in the Philippines as a broker or dealer, or acting as a salesman, or an associated person of any broker or dealer without any registration from the Commission;

(106) Employment by a broker or dealer of any salesman or associated person or by an issuer of any salesman, not registered with the SEC;

(107) Effecting any transaction in any security, or reporting such transaction, in an Exchange or using the facility of an Exchange which is not registered with the SEC;

(108) Making use of the facility of a clearing agency which is not registered with the SEC;

(109) Violations of margin requirements;

(110) Violations on the restrictions on borrowings by members, brokers and dealers;

(111) Aiding and Abetting in any violations of the Securities Regulation Code;

(112) Hindering, obstructing or delaying the filing of any document required under the Securities Regulation Code or the rules and regulations of the SEC;

(113) Violations of any of the provisions of the implementing rules and regulations of the SEC;

(114) Any other violations of any of the provisions of the Securities Regulation Code.

(N) Felonies or offenses of a similar nature to the afore-mentioned unlawful activities that are punishable under the penal laws of other countries.

In determining whether or not a felony or offense punishable under the penal laws of other countries, is "of a similar nature", as to constitute the same as an unlawful activity under the AMLA, the nomenclature of said felony or offense need not be identical to any of the predicate crimes listed under Rule 3.i.

RULE 4
MONEY LAUNDERING OFFENSE

Rule 4.1. Money Laundering Offense Money laundering is a crime whereby the proceeds of an unlawful activity as herein defined are transacted, thereby making them appear to have originated from legitimate sources. It is committed by the following:

(a) Any person knowing that any monetary instrument or property represents, involves, or relates to, the proceeds of any unlawful activity, transacts or attempts to transact said monetary instrument or property.

(b) Any person knowing that any monetary instrument or property involves the proceeds of any unlawful activity, performs or fails to perform any act as a result of which he facilitates the offense of money laundering referred to in paragraph (a) above.

(c) Any person knowing that any monetary instrument or property is required under this Act to be disclosed and filed with the Anti-Money Laundering Council (AMLC), fails to do so.

RULE 5
JURISDICTION OF MONEY LAUNDERING CASES AND MONEY LAUNDERING INVESTIGATION PROCEDURES

Rule 5.1. Jurisdiction of Money Laundering Cases. The Regional Trial Courts shall have the jurisdiction to try all cases on money laundering. Those committed by public officers and private persons who are in conspiracy with such public officers shall be under the jurisdiction of the Sandiganbayan.

Rule 5.2. Investigation of Money Laundering Offenses. The AMLC shall investigate:

(a) Suspicious transactions;

(b) Covered transactions deemed suspicious after an investigation conducted by the AMLC;

(c) Money laundering activities; and

(d) Other violations of this act.

Rule 5.3. Attempts at Transactions. Section 4 (a) and (b) of the AMLA provides that any person who attempts to transact any monetary instrument or property representing, involving or relating to the proceeds of any unlawful activity shall be prosecuted for a money laundering offense. Accordingly, the reports required under Rule 9.3 (a) and (b) of these Rules shall include those pertaining to any attempt by any person to transact any monetary instrument or property representing, involving or relating to the proceeds of any unlawful activity.

RULE 6
PROSECUTION OF MONEY LAUNDERING

Rule 6.1. Prosecution of Money Laundering

(a) Any person may be charged with and convicted of both the offense of money laundering and the unlawful activity as defined under Rule 3 (i) of the AMLA.

(b) Any proceeding relating to the unlawful activity shall be given precedence over the prosecution of any offense or violation under the AMLA without prejudice to the application *Ex-Parte* by the AMLC to the Court of Appeals for a Freeze Order with respect to the monetary instrument or property involved therein and resort to other remedies provided under the AMLA, the rules of court and other pertinent laws and rules.

Rule 6.2. When the AMLC finds, after investigation, that there is probable cause to charge any person with a money laundering offense under Section 4 of the AMLA, it shall cause a complaint to be filed,

pursuant to Section 7 (4) of the AMLA, before the Department of Justice or the Ombudsman, which shall then conduct the preliminary investigation of the case.

Rule 6.3. After due notice and hearing in the preliminary investigation proceedings before the Department of Justice, or the Ombudsman, as the case may be, and the latter should find probable cause of a money laundering offense, it shall file the necessary information before the Regional Trial Courts or the Sandiganbayan.

Rule 6.4. Trial for the money laundering offense shall proceed in accordance with the Code of Criminal Procedure or the Rules of Procedure of the Sandiganbayan, as the case may be.

Rule 6.5. Knowledge of the offender that any monetary instrument or property represents, involves, or relates to the proceeds of an unlawful activity or that any monetary instrument or property is required under the AMLA to be disclosed and filed with the AMLC, may be established by direct evidence or inferred from the attendant circumstances.

Rule 6.6. All the elements of every money laundering offense under Section 4 of the AMLA must be proved by evidence beyond reasonable doubt, including the element of knowledge that the monetary instrument or property represents, involves or relates to the proceeds of any unlawful activity.

Rule 6.7. No element of the unlawful activity, however, including the identity of the perpetrators and the details of the actual commission of the unlawful activity need be established by proof beyond reasonable doubt. The elements of the offense of money laundering are separate and distinct from the elements of the felony or offense constituting the unlawful activity.

RULE 7
CREATION OF ANTI-MONEY LAUNDERING COUNCIL (AMLC)

Rule 7.1.a. Composition. The Anti-Money Laundering Council is hereby created and shall be composed of the Governor of the BSP as Chairman, the Commissioner of the Insurance Commission and the Chairman of the SEC as members.

Rule 7.1.b. Unanimous Decision. The AMLC shall act unanimously in discharging its functions as defined in the AMLA and in these Rules. However, in the case of the incapacity, absence or disability of any member to discharge his functions, the officer duly designated or authorized to discharge the functions of the Governor of the BSP, the Chairman of the SEC or the Insurance Commissioner, as the case may be, shall act in his stead in the AMLC.

Rule 7.2. Functions. The functions of the AMLC are defined hereunder:

(1) to require and receive covered or suspicious transaction reports from covered institutions;

(2) to issue orders addressed to the appropriate Supervising Authority or the covered institution to determine the true identity of the owner of any monetary instrument or property subject of a covered or suspicious transaction report, or request for assistance from a foreign State, or believed by the Council, on the basis of substantial evidence, to be, in whole or in part, wherever located, representing, involving, or related to, directly or indirectly, in any manner or by any means, the proceeds of an unlawful activity;

(3) to institute civil forfeiture proceedings and all other remedial proceedings through the Office of the Solicitor General;

(4) to cause the filing of complaints with the Department of Justice or the

Ombudsman for the prosecution of money laundering offenses;

(5) to investigate suspicious transactions and covered transactions deemed suspicious after an investigation by the AMLC, money laundering activities and other violations of this Act;

(6) to apply before the Court of Appeals, Ex-Parte, for the freezing of any monetary instrument or property alleged to be proceeds of any unlawful activity as defined under Section 3(i) hereof;

(7) to implement such measures as may be inherent, necessary, implied, incidental and justified under the AMLA to counteract money laundering. Subject to such limitations as provided for by law, the AMLC is authorized under Rule 7 (7) of the AMLA to establish an information sharing system that will enable the AMLC to store, track and analyze money laundering transactions for the resolute prevention, detection and investigation of money laundering offenses. For this purpose, the AMLC shall install a computerized system that will be used in the creation and maintenance of an information database;

(8) to receive and take action in respect of any request from foreign states for assistance in their own anti-money laundering operations as provided in the AMLA. The AMLC is authorized under Sections 7 (8) and 13 (b) and (d) of the AMLA to receive and take action in respect of any request of foreign states for assistance in their own anti-money laundering operations, in respect of conventions, resolutions and other directives of the United Nations (UN), the UN Security Council, and other international organizations of which the Philippines is a member. However, the AMLC may refuse to comply with any such request, convention, resolution or directive where the action sought therein contravenes the provisions of the Constitution, or the execution thereof is likely to prejudice the national interest of the Philippines.

(9) to develop educational programs on the pernicious effects of money laundering, the methods and techniques used in money laundering, the viable means of preventing money laundering and the effective ways of prosecuting and punishing offenders.

(10) to enlist the assistance of any branch, department, bureau, office, agency or instrumentality of the government, including government-owned or-controlled corporations, in undertaking any and all anti-money laundering operations, which may include the use of its personnel, facilities and resources for the more resolute prevention, detection and investigation of money laundering offenses and prosecution of offenders. The AMLC may require the intelligence units of the Armed Forces of the Philippines, the Philippine National Police, the Department of Finance, the Department of Justice, as well as their attached agencies, and other domestic or transnational governmental or non-governmental organizations or groups to divulge to the AMLC all information that may, in any way, facilitate the resolute prevention, investigation and prosecution of money laundering offenses and other violations of the AMLA.

(11) To impose administrative sanctions for the violation of laws, rules, regulations and orders and resolutions issued pursuant thereto.

Rule 7.3. Meetings. The AMLC shall meet every first Monday of the month, or as often as may be necessary at the call of the Chairman.

RULE 8
CREATION OF A SECRETARIAT

Rule 8.1. The Executive Director. The Secretariat shall be headed by an Executive Director who shall be appointed by the AMLC for a term of five (5) years. He must be a member of the Philippine Bar, at

least thirty-five (35) years of age, must have served at least five (5) years either at the BSP, the SEC or the IC and of good moral character, unquestionable integrity and known probity. He shall be considered a regular employee of the BSP with the rank of Assistant Governor, and shall be entitled to such benefits and subject to such rules and regulations, as well as prohibitions, as are applicable to officers of similar rank.

Rule 8.2. Composition. In organizing the Secretariat, the AMLC may choose from those who have served, continuously or cumulatively, for at least five (5) years in the BSP, the SEC or the IC. All members of the Secretariat shall be considered regular employees of the BSP and shall be entitled to such benefits and subject to such rules and regulations as are applicable to BSP employees of similar rank.

Rule 8.3. Detail and Secondment. The AMLC is authorized under Section 7 (10) of the AMLA to enlist the assistance of the BSP, the SEC or the IC, or any other branch, department, bureau, office, agency or instrumentality of the government, including government-owned or -controlled corporations, in undertaking any and all anti-money laundering operations. This includes the use of any member of their personnel who may be detailed or seconded to the AMLC, subject to existing laws and Civil Service Rules and Regulations. Detailed personnel shall continue to receive their salaries, benefits and emoluments from their respective mother units. Seconded personnel shall receive, in lieu of their respective compensation packages from their respective mother units, the salaries, emoluments and all other benefits to which their AMLC Secretariat positions are entitled to.

Rule 8.4. Confidentiality Provisions. The members of the AMLC, the Executive Director, and all the members of the Secretariat, whether permanent, on detail or on secondment, shall not reveal, in any manner, any information known to them by reason of their office. This prohibition shall apply even after their separation from the AMLA. In case of violation of this provision, the person shall be punished in accordance with the pertinent provisions of the Central Bank Act.

RULE 9
PREVENTION OF MONEY LAUNDERING; CUSTOMER IDENTIFICATION REQUIREMENTS AND RECORD KEEPING

Rule 9.1. Customer Identification Requirements

Rule 9.1.a. Customer Identification Covered institutions shall establish and record the true identity of its clients based on official documents. They shall maintain a system of verifying the true identity of their clients and, in case of corporate clients, require a system of verifying their legal existence and organizational structure, as well as the authority and identification of all persons purporting to act on their behalf. Covered institutions shall establish appropriate systems and methods based on internationally compliant standards and adequate internal controls for verifying and recording the true and full identity of their customers.

Rule 9.1.b. Trustee, Nominee and Agent Accounts. When dealing with customers who are acting as trustee, nominee, agent or in any capacity for and on behalf of another, covered institutions shall verify and record the true and full identity of the person(s) on whose behalf a transaction is being conducted. Covered institutions shall also establish and record the true and full identity of such trustees, nominees, agents and other persons and the nature of their

capacity and duties. In case a covered institution has doubts as to whether such persons are being used as dummies in circumvention of existing laws, it shall immediately make the necessary inquiries to verify the status of the business relationship between the parties.

Rule 9.1.c. Minimum Information/ Documents Required for Individual Customers. Covered institutions shall require customers to produce original documents of identity issued by an official authority, bearing a photograph of the customer. Examples of such documents are identity cards and passports. The following minimum information/documents shall be obtained from individual customers:

(1) Name;
(2) Present address;
(3) Permanent address;
(4) Date and place of birth;
(5) Nationality;
(6) Nature of work and name of employer or nature of self-employment/ business;
(7) Contact numbers;
(8) Tax identification number, Social Security System number or Government Service and Insurance System number;
(9) Specimen signature;
(10) Source of fund(s); and
(11) Names of beneficiaries in case of insurance contracts and whenever applicable.

Rule 9.1.d. Minimum Information/ Documents Required for Corporate and Juridical Entities. Before establishing business relationships, covered institutions shall endeavor to ensure that the customer is a corporate or juridical entity which has not been or is not in the process of being, dissolved, wound up or voided, or that its business or operations has not been or is not in the process of being, closed, shut down, phased out, or terminated. Dealings with shell companies and corporations, being legal entities which have no business substance in their own right but through which financial transactions may be conducted, should be undertaken with extreme caution. The following minimum information/documents shall be obtained from customers that are corporate or juridical entities, including shell companies and corporations:

(1) Articles of Incorporation/ Partnership;
(2) By-laws;
(3) Official address or principal business address;
(4) List of directors/partners;
(5) List of principal stockholders owning at least two percent (2%) of the capital stock;
(6) Contact numbers;
(7) Beneficial owners, if any; and
(8) Verification of the authority and identification of the person purporting to act on behalf of the client.

Rule 9.1.e. Prohibition Against Certain Accounts. Covered institutions shall maintain accounts only in the true and full name of the account owner or holder. The provisions of existing laws to the contrary notwithstanding, anonymous accounts, accounts under fictitious names, and all other similar accounts shall be absolutely prohibited.

Rule 9.1.f. Prohibition Against Opening of Accounts Without Face-to-face Contact No new accounts shall be opened and created without face-to-face contact and full compliance with the requirements under Rule 9.1.c of these Rules.

Rule 9.1.g. Numbered Accounts. Peso and foreign currency non-checking numbered accounts shall be allowed: *Provided*, That the true identity of the customers of all peso and foreign currency non-checking

numbered accounts are satisfactorily established based on official and other reliable documents and records, and that the information and documents required under the provisions of these Rules are obtained and recorded by the covered institution. No peso and foreign currency non-checking accounts shall be allowed without the establishment of such identity and in the manner herein provided. The BSP may conduct annual testing for the purpose of determining the existence and true identity of the owners of such accounts. The SEC and the IC may conduct similar testing more often than once a year and covering such other related purposes as may be allowed under their respective charters.

Rule 9.2. Record Keeping Requirements

Rule 9.2.a. Record Keeping: Kinds of Records and Period for Retention. All records of all transactions of covered institutions shall be maintained and safely stored for five (5) years from the dates of transactions. Said records and files shall contain the full and true identity of the owners or holders of the accounts involved in the covered transactions and all other customer identification documents. Covered institutions shall undertake the necessary adequate security measures to ensure the confidentiality of such file. Covered institutions shall prepare and maintain documentation, in accordance with the aforementioned client identification requirements, on their customer accounts, relationships and transactions such that any account, relationship or transaction can be so reconstructed as to enable the AMLC, and/or the courts to establish an audit trail for money laundering.

Rule 9.2.b. Existing and New Accounts and New Transactions. All records of existing and new accounts and of new transactions shall be maintained and safely stored for five (5) years from 17 October 2001 or from the dates of the accounts or transactions, whichever is later.

Rule 9.2.c. Closed Accounts. With respect to closed accounts, the records on customer identification, account files and business correspondence shall be preserved and safely stored for at least five (5) years from the dates when they were closed.

Rule 9.2.d. Retention of Records in Case a Money Laundering Case has been Filed in Court. If a money laundering case based on any record kept by the covered institution concerned has been filed in court, said file must be retained beyond the period stipulated in the three (3) immediately preceding Sub-Rules, as the case may be, until it is confirmed that the case has been finally resolved or terminated by the court.

Rule 9.2.e. Form of Records. Records shall be retained as originals in such forms as are admissible in court pursuant to existing laws and the applicable rules promulgated by the Supreme Court.

Rule 9.3. Reporting of Covered Transaction

Rule 9.3.a. Period of Reporting Covered Transactions and SuspiciousTransactions Covered institutions shall report to the AMLC all covered transactions and suspicious transactions within five (5) working days from occurrence thereof, unless the supervising authority concerned prescribes a longer period not exceeding ten (10) working days.

Should a transaction be determined to be both a covered and a suspicious transaction, the covered institution shall report the same as a suspicious transaction.

The reporting of covered transactions by covered institutions shall be deferred for a period of sixty (60) days after the effectivity of R.A. No. 9194, or as may be determined

by the AMLC, in order to allow the covered institutions to configure their respective computer systems: *Provided,* That all covered transactions during said deferment period shall be submitted thereafter.

***Rule 9.3.b. Covered* and Suspicious Transaction Report Forms.** The Covered Transaction Report (CTR) and the Suspicious Transaction Report (STR) shall be in the forms prescribed by the AMLC.

Rule 9.3.b.1. Covered institutions shall use the existing forms for Covered Transaction Reports and Suspicious Transaction Reports, until such time as the AMLC has issued new sets of forms.

Rule 9.3.b.2. Covered Transaction Reports and Suspicious Transaction Reports shall be submitted in a secured manner to the AMLC in electronic form, either via diskettes, leased lines, or through internet facilities, with the corresponding hard copy for suspicious transactions. The final flow and procedures for such reporting shall be mapped out in the manual of operations to be issued by the AMLC.

Rule 9.3.c. Exemption from Bank Secrecy Laws. When reporting covered or suspicious transactions to the AMLC, covered institutions and their officers and employees, shall not be deemed to have violated R.A. No. 1405, as amended, R.A. No. 6426, as amended, R.A. No. 8791 and other similar laws, but are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person the fact that a covered or suspicious transaction report was made, the contents thereof, or any other information in relation thereto. In case of violation thereof, the concerned officer and employee of the covered institution, shall be criminally liable.

Rule 9.3.d. Confidentiality Provisions When reporting covered transactions or suspicious transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person, entity, or the media, the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. Neither may such reporting be published or aired in any manner or form by the mass media, electronic mail, or other similar devices. In case of violation hereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, or media shall be held criminally liable.

Rule 9.3.e. *Safe Harbor Provisions.* No administrative, criminal or civil proceedings, shall lie against any person for having made a covered transaction report or a suspicious transaction report in the regular performance of his duties and in good faith, whether or not such reporting results in any criminal prosecution under this Act or any other Philippine law.

RULE 10
APPLICATION FOR FREEZE ORDERS

Rule 10.1. When the Anti-Money Laundering Council May Apply for the Freezing of Any Monetary Instrument or Property.

(a) After an investigation conducted by the AMLC and upon determination that probable cause exists that a monetary instrument or property is in any way related to any unlawful activity as defined under Section 3 (i), the AMLC may file an Ex-Parte application before the Court of Appeals for the issuance of a freeze order on any monetary instrument or property subject thereof prior to the institution or in the

course of, the criminal proceedings involving the unlawful activity to which said monetary instrument or property is any way related.

(b) Considering the intricate and diverse web of related and interlocking accounts pertaining to the monetary instrument(s) or property(ies) that any person may create in the different covered institutions, their branches and/or other units, the AMLC may apply to the Court of Appeals for the freezing, not only of the monetary instruments or properties in the names of the reported owner(s)/holder(s), and monetary instruments or properties named in the application of the AMLC but also all other related web of accounts pertaining to other monetary instruments and properties, the funds and sources of which originated from or are related to the monetary instrument(s) or property(ies) subject of the freeze order(s).

(c) The freeze order shall be effective for twenty (20) days unless extended by the Court of Appeals upon application by the AMLC.

Rule 10.2. Definition of Probable Cause Probable cause includes such facts and circumstances which would lead a reasonably discreet, prudent or cautious man to believe that an unlawful activity and/or a money laundering offense is about to be, is being or has been committed and that the account or any monetary instrument or property subject thereof sought to be frozen is in any way related to said unlawful activity and/or money laundering offense.

Rule 10.3. Duty of Covered Institution Upon Receipt Thereof.

Rule 10.3.a. Upon receipt of the notice of the freeze order, the covered institution concerned shall immediately freeze the monetary instrument or property and related web of accounts subject thereof.

Rule 10.3.b. The covered institution shall likewise immediately furnish a copy of the notice of the freeze order upon the owner or holder of the monetary instrument or property or related web of accounts subject thereof.

Rule 10.3.c. Within twenty-four (24) hours from receipt of the freeze order, the covered institution concerned shall submit to the Court of Appeals and the AMLC, by personal delivery, a detailed written return on the freeze order, specifying all the pertinent and relevant information which shall include the following:

1. The account number(s);
2. The name(s) of the account owner(s) or holder(s);
3. The amount of the monetary instrument, property or related web of accounts as of the time they were frozen;
4. All relevant information as to the nature of the monetary instrument or property;
5. Any information on the related web of accounts pertaining to the monetary instrument or property subject of the freeze order; and
6. The time when the freeze thereon took effect.

Rule 10.4. Definition of Related Web of Accounts.

Related Web of Accounts pertaining to the money instrument or property subject of the freeze order is defined as those accounts, the funds and sources of which originated from and/or are materially linked to the monetary instrument(s) or property(ies) subject of the freeze order(s).

Upon receipt of the freeze order issued by the court of appeals and upon verification by the covered institution that the related web of accounts originated from and/or are materially linked to the monetary instrument or property subject of the freeze order, the covered institution shall freeze these related

web of accounts wherever these funds may be found.

The return of the covered institution as required under rule 10.3.c shall include the fact of such freezing and an explanation as to the grounds for the identification of the related web of accounts.

Rule 10.5. Extension of the Freeze Order Before the twenty (20) day period of the freeze order issued by the court of appeals expires, the AMLC may apply in the same court for an extension of said period. Upon the timely filing of such application and pending the decision of the Court of Appeals to extend the period, said period shall be deemed suspended and the freeze order shall remain effective.

However, the covered institution shall not lift the effects of the freeze order without securing official confirmation from the AMLC.

Rule 10.6. Prohibition Against Issuance of Freeze Orders Against Candidates for an Electoral Office During Election Period. - No assets shall be frozen to the prejudice of a candidate for an electoral office during an election period.

RULE 11
AUTHORITY TO INQUIRE INTO BANK DEPOSITS

Rule 11.1. Authority to Inquire into Bank Deposits with Court Order. Notwithstanding the provisions of R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791, and other laws, the AMLC may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution and their subsidiaries and affiliates upon order of any competent court in cases of violation of this Act, when it has been established that there is probable cause that the deposits or investments involved are related to an unlawful activity as defined in Section 3 (i) hereof or a money laundering offense under Section 4 hereof; except in cases as provided under Rule 11.2.

Rule 11.2. Authority to Inquire into Bank Deposits Without Court Order. The AMLC may inquire into or examine deposit and investments with any banking institution or non-bank financial institution and their subsidiaries and affiliates without a Court Order where any of the following unlawful activities are involved:

(a) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code, as amended;

(b) Sections 4,5,6, 8, 9, 10, 12, 13, 14, 15 and 16 of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002;

(c) Hijacking and other violations under R.A. No. 6235; destructive arson and murder, as defined under the Revised Penal Code, as amended, including those perpetrated by terrorists against non-combatant persons and similar targets.

Rule 11.2.a. Procedure For Examination Without A Court Order. Where any of the unlawful activities enumerated under the immediately preceding Rule 11.2 are involved, and there is probable cause that the deposits or investments with any banking or non-banking financial institution and their subsidiaries and affiliates are in anyway related to these unlawful activities the AMLC shall issue a resolution authorizing the inquiry into or examination of any deposit or investment with such banking or non-banking financial institution and their subsidiaries and affiliates concerned.

Rule 11.2.b. Duty of the Banking Institution or Non-Banking Institution upon Receipt of the Anti-Money Laundering Council Resolution. The banking institution or the non-banking financial institution and their subsidiaries and affiliates shall,

immediately upon receipt of the AMLC Resolution, allow the AMLC and/or its authorized representative(s) full access to all records pertaining to the deposit or investment account.

Rule 11.3. Bangko Sentral Authority to Examine Deposits and Investments; Additional Exception to the Bank Secrecy Act. To ensure compliance with this act, the BSP may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution and their subsidiaries and affiliates when the examination is made in the course of a periodic or special examination, in accordance with the rules of examination of the BSP.

Rule 11.3.a. Bangko Sentral Rules of Examination. The BSP shall promulgate its rules of examination for ensuring compliance by banks and non-bank financial institutions and their subsidiaries and affiliates with the AMLA and these rules.

Any findings of the BSP which may constitute a violation of any provision of this act shall be transmitted to the AMLC for appropriate action.

RULE 12
FORFEITURE PROVISIONS

Rule 12.1. Authority to Institute Civil Forfeiture Proceedings. The AMLC is authorized under Section 7 (3) of the AMLA to institute civil forfeiture proceedings and all other remedial proceedings through the Office of the Solicitor General.

Rule 12.2. When Civil Forfeiture May be Applied. When there is a Suspicious Transaction Report or a Covered Transaction Report deemed suspicious after investigation by the AMLC, and the court has, in a petition filed for the purpose, ordered the seizure of any monetary instrument or property, in whole or in part, directly or indirectly, related to said report, the Revised Rules of Court on civil forfeiture shall apply.

Rule 12.3. Claim on Forfeited Assets Where the court has issued an order of forfeiture of the monetary instrument or property in a criminal prosecution for any money laundering offense under Section 4 of the AMLA, the offender or any other person claiming an interest therein may apply, by verified petition, for a declaration that the same legitimately belongs to him, and for segregation or exclusion of the monetary instrument or property corresponding thereto. The verified petition shall be filed with the court which rendered the judgment of conviction and order of forfeiture within fifteen (15) days from the date of the order of forfeiture, in default of which the said order shall become final and executory. This provision shall apply in both civil and criminal forfeiture.

Rule 12.4. Payment in Lieu of Forfeiture Where the court has issued an order of forfeiture of the monetary instrument or property subject of a money laundering offense under Section 4 of the AMLA, and said order cannot be enforced because any particular monetary instrument or property cannot, with due diligence, be located, or it has been substantially altered, destroyed, diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly, attributable to the offender, or it has been concealed, removed, converted or otherwise transferred to prevent the same from being found or to avoid forfeiture thereof, or it is located outside the Philippines or has been placed or brought outside the jurisdiction of the court, or it has been commingled with other monetary instruments or property belonging to either the offender himself or a third person or entity, thereby rendering the same difficult to identify or be segregated

for purposes of forfeiture, the court may, instead of enforcing the order of forfeiture of the monetary instrument or property or part thereof or interest therein, accordingly order the convicted offender to pay an amount equal to the value of said monetary instrument or property. This provision shall apply in both civil and criminal forfeiture.

RULE 13
MUTUAL ASSISTANCE AMONG STATES

Rule 13.1. Request for Assistance from a Foreign State. Where a foreign state makes a request for assistance in the investigation or prosecution of a money laundering offense, the AMLC may execute the request or refuse to execute the same and inform the foreign state of any valid reason for not executing the request or for delaying the execution thereof. The principles of mutuality and reciprocity shall, for this purpose, be at all times recognized.

Rule 13.2. Powers of the Anti-Money Laundering Council to Act on a Request for Assistance from a Foreign State. The AMLC may execute a request for assistance from a foreign state by: (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity under the procedures laid down in the AMLA and in these Rules; (2) giving information needed by the foreign state within the procedures laid down in the AMLA and in these Rules; and (3) applying for an order of forfeiture of any monetary instrument or property in the court: *Provided,* That the court shall not issue such an order unless the application is accompanied by an authenticated copy of the order of a court in the requesting state ordering the forfeiture of said monetary instrument or property of a person who has been convicted of a money laundering offense in the requesting state, and a certification or an affidavit of a competent officer of the requesting state stating that the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

Rule 13.3. Obtaining Assistance from Foreign States. The AMLC may make a request to any foreign state for assistance in (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity; (2) obtaining information that it needs relating to any covered transaction, money laundering offense or any other matter directly or indirectly related thereto; (3) to the extent allowed by the law of the foreign state, applying with the proper court therein for an order to enter any premises belonging to or in the possession or control of, any or all of the persons named in said request, and/or search any or all such persons named therein and/or remove any document, material or object named in said request: *Provided,* That the documents accompanying the request in support of the application have been duly authenticated in accordance with the applicable law or regulation of the foreign state; and (4) applying for an order of forfeiture of any monetary instrument or property in the proper court in the foreign state: *Provided,* That the request is accompanied by an authenticated copy of the order of the Regional Trial Court ordering the forfeiture of said monetary instrument or property of a convicted offender and an affidavit of the clerk of court stating that the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

Rule 13.4. Limitations on Requests for Mutual Assistance. The AMLC may refuse to comply with any request for assistance where the action sought by the request contravenes any provision of the Constitution or the execution of a request is likely to prejudice the national interest of the Philippines, unless there is a treaty

between the Philippines and the requesting state relating to the provision of assistance in relation to money laundering offenses.

Rule 13.5. Requirements for Requests for Mutual Assistance from Foreign States. A request for mutual assistance from a foreign state must (1) confirm that an investigation or prosecution is being conducted in respect of a money launderer named therein or that he has been convicted of any money laundering offense; (2) state the grounds on which any person is being investigated or prosecuted for money laundering or the details of his conviction; (3) give sufficient particulars as to the identity of said person; (4) give particulars sufficient to identify any covered institution believed to have any information, document, material or object which may be of assistance to the investigation or prosecution; (5) ask from the covered institution concerned any information, document, material or object which may be of assistance to the investigation or prosecution; (6) specify the manner in which and to whom said information, document, material or object obtained pursuant to said request, is to be produced; (7) give all the particulars necessary for the issuance by the court in the requested state of the writs, orders or processes needed by the requesting state; and (8) contain such other information as may assist in the execution of the request.

Rule 13.6. Authentication of Documents For purposes of Section 13 (f) of the AMLA and Section 7 of the AMLA, a document is authenticated if the same is signed or certified by a judge, magistrate or equivalent officer in or of, the requesting state, and authenticated by the oath or affirmation of a witness or sealed with an official or public seal of a minister, secretary of state, or officer in or of, the government of the requesting state, or of the person administering the government or a department of the requesting territory, protectorate or colony. The certificate of authentication may also be made by a secretary of the embassy or legation, consul general, consul, vice consul, consular agent or any officer in the foreign service of the Philippines stationed in the foreign state in which the record is kept, and authenticated by the seal of his office.

Rule 13.7. Suppletory Application of the Revised Rules of Court.

Rule 13.7.1. For attachment of Philippine properties in the name of persons convicted of any unlawful activity as defined in Section 3 (i) of the AMLA, execution and satisfaction of final judgments of forfeiture, application for examination of witnesses, procuring search warrants, production of bank documents and other materials and all other actions not specified in the AMLA and these Rules, and assistance for any of the aforementioned actions, which is subject of a request by a foreign state, resort may be had to the proceedings pertinent thereto under the Revised Rules of Court.

Rule 13.7.2. Authority to Assist the United Nations and other International Organizations and Foreign States. The AMLC is authorized under Section 7 (8) and 13 (b) and (d) of the AMLA to receive and take action in respect of any request of foreign states for assistance in their own anti-money laundering operations. It is also authorized under Section 7 (7) of the AMLA to cooperate with the National Government and/or take appropriate action in respect of conventions, resolutions and other directives of the United Nations (UN), the UN Security Council, and other international organizations of which the Philippines is a member. However, the AMLC may refuse to comply with any such

request, convention, resolution or directive where the action sought therein contravenes the provision of the Constitution or the execution thereof is likely to prejudice the national interest of the Philippines.

Rule 13.8. Extradition. The Philippines shall negotiate for the inclusion of money laundering offenses as defined under Section 4 of the AMLA among the extraditable offenses in all future treaties. With respect, however, to the state parties that are signatories to the United Nations Convention Against Transnational Organized Crime that was ratified by the Philippine Senate on 22 October 2001, money laundering is deemed to be included as an extraditable offense in any extradition treaty existing between said state parties, and the Philippines shall include money laundering as an extraditable offense in every extradition treaty that may be concluded between the Philippines and any of said state parties in the future.

RULE 14
PENAL PROVISIONS

Rule 14.1. Penalties for the Crime of Money Laundering.

Rule 14.1.a. Penalties under Section 4 (a) of the Anti-Money Laundering Act. The penalty of imprisonment ranging from seven (7) to fourteen (14) years and a fine of not less than Php3.0 Million but not more than twice the value of the monetary instrument or property involved in the offense, shall be imposed upon a person convicted under Section 4 (a) of the AMLA.

Rule 14.1.b. Penalties under Section 4 (b) of the Anti-Money Laundering Act. The penalty of imprisonment from four (4) to seven (7) years and a fine of not less than Php1.5 Million but not more than Php3.0 Million, shall be imposed upon a person convicted under Section 4 (b) of the AMLA.

Rule 14.1.c. Penalties under Section 4 (c) of the Anti-Money Laundering Act. The penalty of imprisonment from six (6) months to four (4) years or a fine of not less than Php100,000.00 but not more than Php500,000.00, or both, shall be imposed on a person convicted under Section 4(c) of the AMLA.

Rule 14.1.d. Administrative Sanctions (1) After due notice and hearing, the AMLC shall, at its discretion, impose fines upon any covered institution, its officers and employees, or any person who violates any of the provisions of R.A. No. 9160, as amended by R.A. No. 9194 and rules, regulations, orders and resolutions issued pursuant thereto. The fines shall be in amounts as may be determined by the council, taking into consideration all the attendant circumstances, such as the nature and gravity of the violation or irregularity, but in no case shall such fines be less than Php100,000.00 but not to exceed Php500,000.00. The imposition of the administrative sanctions shall be without prejudice to the filing of criminal charges against the persons responsible for the violations.

Rule 14.2. Penalties for Failure to Keep Records. The penalty of imprisonment from six (6) months to one (1) year or a fine of not less than Php100,000.00 but not more than Php500,000.00, or both, shall be imposed on a person convicted under Section 9 (b) of the AMLA.

Rule 14.3. Penalties for Malicious Reporting. Any person who, with malice, or in bad faith, reports or files a completely unwarranted or false information relative to money laundering transaction against any person shall be subject to a penalty

of six (6) months to four (4) years imprisonment and a fine of not less than Php100,000.00 but not more than Php500,000.00, at the discretion of the court: *Provided,* That the offender is not entitled to avail the benefits of the Probation Law.

Rule 14.4. Where Offender is a Juridical Person. If the offender is a corporation, association, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or allowed by their gross negligence the commission of the crime. If the offender is a juridical person, the court may suspend or revoke its license. If the offender is an alien, he shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed. If the offender is a public official or employee, he shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

Rule 14.5. Refusal by a Public Official or Employee to Testify. Any public official or employee who is called upon to testify and refuses to do the same or purposely fails to testify shall suffer the same penalties prescribed herein.

Rule 14.6. Penalties for Breach of Confidentiality. The punishment of imprisonment ranging from three (3) to eight (8) years and a fine of not less than Php500,000.00 but not more than Php1.0 Million, shall be imposed on a person convicted for a violation under Section 9(c). In case of a breach of confidentiality that is published or reported by media, the responsible reporter, writer, president, publisher, manager and editor-in-chief shall be liable under this act.

RULE 15
PROHIBITIONS AGAINST POLITICAL HARASSMENT

Rule 15.1. Prohibition against Political Persecution. The AMLA and these Rules shall not be used for political persecution or harassment or as an instrument to hamper competition in trade and commerce. No case for money laundering may be filed to the prejudice of a candidate for an electoral office during an election period.

Rule 15.2. Provisional Remedies Application; Exception.

Rule 15.2.a. The AMLC may apply, in the course of the criminal proceedings, for provisional remedies to prevent the monetary instrument or property subject thereof from being removed, concealed, converted, commingled with other property or otherwise to prevent its being found or taken by the applicant or otherwise placed or taken beyond the jurisdiction of the court. However, no assets shall be attached to the prejudice of a candidate for an electoral office during an election period.

Rule 15.2.b. Where there is conviction for money laundering under Section 4 of the AMLA, the court shall issue a judgment of forfeiture in favor of the Government of the Philippines with respect to the monetary instrument or property found to be proceeds of one or more unlawful activities. However, no assets shall be forfeited to the prejudice of a candidate for an electoral office during an election period.

RULE 16
RESTITUTION

Rule 16. Restitution. Restitution for any aggrieved party shall be governed by the provisions of the New Civil Code.

RULE 17
IMPLEMENTING RULES AND REGULATIONS AND MONEY LAUNDERING PREVENTION PROGRAMS

Rule 17.1. Implementing Rules and Regulations.

(a) Within thirty (30) days from the effectivity of R.A. No. 9160, as amended by R.A. No. 9194, the BSP, the Insurance Commission and the Securities and Exchange Commission shall promulgate the Implementing Rules and Regulations of the AMLA, which shall be submitted to the Congressional Oversight Committee for approval.

(b) The Supervising Authorities, the BSP, the SEC and the IC shall, under their own respective charters and regulatory authority, issue their Guidelines and Circulars on anti-money laundering to effectively implement the provisions of R.A. No. 9160, as amended by R.A. No. 9194.

Rule 17.2. Money Laundering Prevention Programs.

Rule 17.2.a. Covered institutions shall formulate their respective money laundering prevention programs in accordance with Section 9 and other pertinent provisions of the AMLA and these Rules, including, but not limited to, information dissemination on money laundering activities and their prevention, detection and reporting, and the training of responsible officers and personnel of covered institutions, subject to such guidelines as may be prescribed by their respective supervising authority. Every covered institution shall submit its own money laundering program to the supervising authority concerned within the non-extendible period that the supervising authority has imposed in the exercise of its regulatory powers under its own charter.

Rule 17.2.b. Every money laundering program shall establish detailed procedures implementing a comprehensive, institution-wide "know-your-client" policy, set-up an effective dissemination of information on money laundering activities and their prevention, detection and reporting, adopt internal policies, procedures and controls, designate compliance officers at management level, institute adequate screening and recruitment procedures, and set-up an audit function to test the system.

Rule 17.2.c. Covered institutions shall adopt, as part of their money laundering programs, a system of flagging and monitoring transactions that qualify as suspicious transactions, regardless of amount or covered transactions involving amounts below the threshold to facilitate the process of aggregating them for purposes of future reporting of such transactions to the AMLC when their aggregated amounts breach the threshold. All covered institutions, including banks insofar as non-deposit and non-government bond investment transactions are concerned, shall incorporate in their money laundering programs the provisions of these Rules and such other guidelines for reporting to the AMLC of all transactions that engender the reasonable belief that a money laundering offense is about to be, is being, or has been committed.

Rule 17.3. Training of Personnel. Covered institutions shall provide all their responsible officers and personnel with efficient and effective training and continuing education programs to enable them to fully comply with all their obligations under the AMLA and these Rules.

Rule 17.4. Amendments. These Rules or any portion thereof may be amended by unanimous vote of the members of the

AMLC and submitted to the Congressional Oversight Committee as provided for under Section 19 of R.A. No. 9160, as amended by R.A. No. 9194.

RULE 18
CONGRESSIONAL OVERSIGHT COMMITTEE

Rule 18.1. Composition of Congressional Oversight Committee. There is hereby created a Congressional Oversight Committee composed of seven (7) members from the Senate and seven (7) members from the House of Representatives. The members from the Senate shall be appointed by the Senate President based on the proportional representation of the parties or coalitions therein with at least two (2) Senators representing the minority. The members from the House of Representatives shall be appointed by the Speaker also based on proportional representation of the parties or coalitions therein with at least two (2) members representing the minority.

Rule 18.2. Powers of the Congressional Oversight Committee. The Oversight Committee shall have the power to promulgate its own rules, to oversee the implementation of this Act, and to review or revise the implementing rules issued by the Anti-Money Laundering Council within thirty (30) days from the promulgation of the said rules.

RULE 19
APPROPRIATIONS FOR AND BUDGET OF THE ANTI-MONEY LAUNDERING COUNCIL

Rule 19.1. Budget. The budget of Php25.0 million appropriated by Congress under the AMLA shall be used to defray the initial operational expenses of the AMLC. Appropriations for succeeding years shall be included in the General Appropriations Act. The BSP shall advance the funds necessary to defray the capital outlay, maintenance and other operating expenses and personnel services of the AMLC subject to reimbursement from the budget of the AMLC as appropriated under the AMLA and subsequent appropriations.

Rule 19.2. Costs and Expenses. The budget shall answer for indemnification for legal costs and expenses reasonably incurred for the services of external counsel in connection with any civil, criminal or administrative action, suit or proceedings to which members of the AMLC and the Executive Director and other members of the Secretariat may be made a party by reason of the performance of their functions or duties. The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the AMLC in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the member to repay the amount advanced should it be ultimately determined that said member is not entitled to such indemnification.

RULE 20
SEPARABILITY CLAUSE

Rule 20. Separability Clause. If any provision of these Rules or the application thereof to any person or circumstance is held to be invalid, the other provisions of these Rules, and the application of such provision or Rule to other persons or circumstances, shall not be affected thereby.

RULE 21
REPEALING CLAUSE

Rule 21. Repealing Clause. All laws, decrees, executive orders, rules and regulations or parts thereof, including the relevant

provisions of R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791, as amended, and other similar laws, as are inconsistent with the AMLA, are hereby repealed, amended or modified accordingly.

RULE 22
EFFECTIVITY OF THE RULES

Rule 22. Effectivity. These Rules shall take effect after its approval by the Congressional Oversight Committee and fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.

RULE 23
TRANSITORY PROVISIONS

Rule 23.1. Transitory Provisions. Existing freeze orders issued by the AMLC shall remain in force for a period of thirty (30) days after effectivity of this act, unless extended by the Court of Appeals.

Rule 23.2. Effect of R.A. No. 9194 on Cases for Extension of Freeze Orders Resolved by the Court of Appeals. All existing freeze orders which the Court of Appeals has extended shall remain effective, unless otherwise dissolved by the same court.

(As amended by Circular No. 656 dated 02 June 2009)

"Know-Your-Pawner" Policy
(Appendix to Subsection 4301P.3)

A pawner who transacts with a pawnshop for the first time shall be required to present the original and submit a clear copy of at least one (1) valid photo-bearing identification document (ID) issued by an official authority.

The valid ID should indicate the pawner's residential address, otherwise, he she is also required to present the original and submit a clear copy of a certification from the barangay where the pawner resides or a billing statement that indicates his/her residential address.

Valid IDs include the following:

- Passport;
- Driver's License;
- Professional Regulation Commission (PRC) ID;
- National Bureau of Investigation (NBI) Clearance;
- Police Clearance;
- Postal ID;
- Voter's ID;
- Barangay Certification;
- Government Service Insurance System (GSIS) e-Card;
- Social Security System (SSS) Card;
- Senior Citizen Card;
- Overseas Workers Welfare Administration (OWWA) ID;
- OFW ID;
- Seaman's Book;
- Alien Certification of Registration/ Immigrant Certificate of Registration;
- Government Office and GOCC ID, e.g. Armed forces of the Philippines (AFP ID), Home Development Mutual Fund (HDMF ID);
- Certification from the National Council for the Welfare of Disabled Persons (NCWDP);
- Department of Social Welfare and Development (DSWD) Certification;
- Integrated Bar of the Philippines (IBP) ID;
- Company IDs issued by private entities or institutions registered with or supervised or regulated either by the Bangko Sentral ng Pilipinas, Securities and Exchange Commission or Insurance Commission.

The copy of the ID, barangay certificate or billing statement shall be kept by the pawnshop for convenience of the pawner who continues to transact with the pawnshop but said documents should be updated at least every three (3) years.

(As amended by Circular No. 656 dated 02 June 2009)

ABSTRACT OF "SECTION 13 AND 14 OF P.D. NO. 114" (PAWNSHOP REGULATION ACT)

(Appendix to Subsection 4324P.1)

Redemption of Pawn Items

A pawner who fails to pay his obligation has ninety (90) days from maturity date to redeem the pawn by paying the principal and interest.

Disposition of Unredeemed Pawn Items

- Unredeemed pawn items shall be sold/disposed of only through public auction;
- Pawner shall be notified of the public auction at least thirty (30) days before the expiration of the ninety (90)-day grace period through his/her preferred mode of notification;
- The notice to pawner shall contain the date, hour and place where the public auction shall be conducted;
- A pawnshop shall publish a notice of public auction in at least two newspapers circulated in the city or municipality where the pawnshop has its place of business six (6) days prior to the date of public auction. In remote areas where newspapers are neither published nor circulated, notice by newspaper publication shall be complied with by posting notices at the city or municipal hall and in two (2) other conspicuous public places where the pawnshop has its place of business;
- Pawner may participate in the said public auction.

(Circular No. 656 dated 02 June 2009)

GUIDELINES TO GOVERN THE SELECTION, APPOINTMENT, REPORTING REQUIREMENTS AND DELISTING OF EXTERNAL AUDITORS AND/OR AUDITING FIRM OF COVERED ENTITIES

(Appendix to Sec. 4190P and Subsec. 4164P.4)

Pursuant to Section 58 of the Republic Act No. 8791, otherwise known as "The General Banking Law of 2000", and the existing provisions of the executed Memorandum of Agreement (hereinafter referred to as the MOA) dated 12 August 2009, binding the Bangko Sentral ng Pilipinas (BSP), Securities and Exchange Commission (SEC), Professional Regulation Commission (IC) - Board of Accountancy (BOA) and the Insurance Commission (IC) for a simplified and synchronized accreditation requirements for external auditor and/or auditing firm, the Monetary Board, in its Resolution No. 950 dated 02 July 2009, approved the following revised rules and regulations that shall govern the selection and delisting by the BSP of covered institution which under special laws are subject to BSP supervision.

A. STATEMENT OF POLICY

It is the policy of the BSP to ensure effective audit and supervision of banks, QBs, trust entities and/or NSSLAs including their subsidiaries and affiliates engaged in allied activities and other FIs which under special laws are subject to BSP supervision, and to ensure reliance by BSP and the public on the opinion of external auditors and auditing firms by prescribing the rules and regulations that shall govern the selection, appointment, reporting requirements and delisting for external auditors and auditing firms of said institutions, subject to the binding provisions and implementing regulations of the aforesaid MOA.

B. COVERED ENTITIES

The proposed amendment shall apply to the following supervised institution, as categorized below, and their external auditors:

1. *Category A*
   a. UBs/KBs;
   b. Foreign banks and branches or subsidiaries of foreign banks, regardless of unimpaired capital; and
   c. Banks, trust department of qualified banks and other trust entities with additional derivatives authority, pursuant to Sec. X611 regardless of classification, category and capital position.
2. *Category B*
   a. TBs;
   b. QBs;
   c. Trust department of qualified banks and other trust entities;
   d. National Coop Banks; and
   e. NBFIs with quasi-banking functions.
3. *Category C*
   a. RBs;
   b. NSSLAs;
   c. Local Coop Banks; and
   d. Pawnshops.

The above categories include their subsidiaries and affiliates engaged in allied activities and other FIs which are subject to BSP risk-based and consolidated supervision: *Provided,* That an external auditor who has been selected by the BSP to audit entities under *Category B* and *C* and if selected by the BSP to audit covered entities under *Category B* is automatically qualified to audit entities under *Category C*.

C. DEFINITION OF TERMS

The following terms shall be defined as follows:

1. *Audit* – an examination of the financial statements of any issuer by an external auditor in compliance with the rules

of the BSP or the SEC in accordance with then applicable generally accepted auditing and accounting principles and standards, for the purpose of expressing an opinion on such statements.

2. *Non-audit services* – any professional services provided to the covered institution by an external auditor, other than those provided to a covered institution in connection with an audit or a review of the financial statements of said covered institution.

3. *Professional Standards* - includes: (a) accounting principles that are (1) established by the standard setting body; and (2) relevant to audit reports for particular issuers, or dealt with in the quality control system of a particular registered public accounting firm; and (b) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards that the BSP or SEC determines (1) relate to the preparation or issuance of audit reports for issuers; and (2) are established or adopted by the BSP or promulgated as SEC rules.

4. *Fraud* – an intentional act by one (1) or more individuals among management, employees, or third parties that results in a misrepresentation of financial statements, which will reduce the consolidated total assets of the company by five percent (5%). It may involve:

a. Manipulation, falsification or alteration of records or documents;

b. Misappropriation of assets;

c. Suppression or omission of the effects of transactions from records or documents;

d. Recording of transactions without substance;

e. Intentional misapplication of accounting policies; or

f. Omission of material information.

5. *Error* - an intentional mistake in financial statements, which will reduce the consolidated total assets of the company by five percent (5%). It may involve:

a. Mathematical or clerical mistakes in the underlying records and accounting data;

b. Oversight or misinterpretation of facts; or

c. Unintentional misapplication of accounting policies.

6. *Gross negligence* - wanton or reckless disregard of the duty of due care in complying with generally accepted auditing standards.

7. *Material fact/information* - any fact/information that could result in a change in the market price or value of any of the issuer's securities, or would potentially affect the investment decision of an investor.

8. *Subsidiary* - a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by a bank, QB, trust entity, NSSLA or pawnshop.

9. *Affiliate* - a corporation, not more than fifty percent (50%) but not less than ten percent (10%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by a bank, QB, trust entity, NSSLA or pawnshop and a juridical person that is under common control with the bank, QB, trust entity, NSSLA or pawnshop.

10. *Control* - exists when the parent owns directly or indirectly more than one half of the voting power of an enterprise unless, in exceptional circumstance, it can be clearly demonstrated that such ownership does not constitute control.

Control may also exist even when ownership is one half or less of the voting power of an enterprise when there is:

a. Power over more than one half of the voting rights by virtue of an agreement with other stockholders;

b. Power to govern the financial and operating policies of the enterprise under a statute or an agreement;

c. Power to appoint or remove the majority of the members of the board of directors or equivalent governing body; or

d. Power to cast the majority votes at meetings of the board of directors or equivalent governing body.

11. *External auditor* - means a single practitioner or a signing partner in an auditing firm.

12. *Auditing firm* – includes a proprietorship, partnership limited liability company, limited liability partnership, corporation (if any), or other legal entity, including any associated person of any of these entities, that is engaged in the practice of public accounting or preparing or issuing audit reports.

13. *Associate* – any director, officer, manager or any person occupying a similar status or performing similar functions in the audit firm including employees performing supervisory role in the auditing process.

14. *Partner* - all partners including those not performing audit engagements.

15. *Lead partner* – also referred to as engagement partner/partner-in-charge/ managing partner who is responsible for signing the audit report on the consolidated financial statements of the audit client, and where relevant, the individual audit report of any entity whose financial statements form part of the consolidated financial statements.

16. *Concurring partner* - the partner who is responsible for reviewing the audit report.

17. *Auditor-in-charge* – refers to the team leader of the audit engagement.

D. GENERAL CONSIDERATION AND LIMITATIONS OF THE SELECTION PROCEDURES

1. Subject to mutual recognition provision of the MOA and as implemented in this regulation, only external auditors and auditing firms included in the list of BSP selected external auditors and auditing firms shall be engaged by all the covered institutions detailed in Item *"B"*. The external auditor and/or auditing firm to be hired shall also be in-charge of the audit of the entity's subsidiaries and affiliates engaged in allied activities: *Provided,* That the external auditor and/or auditing firm shall be changed or the lead and concurring partner shall be rotated every five (5) years or earlier: *Provided further,* That the rotation of the lead and concurring partner shall have an interval of at least two (2) years.

2. Category A covered entities which have engaged their respective external auditors and/or auditing firm for a consecutive period of five (5) years or more as of 18 September 2009 shall have a one (1)-year period from said date within which to either change their external auditors and/or auditing firm or to rotate the lead and/or concurring partner.

3. The selection of the external auditors and/or auditing firm does not exonerate the covered institution or said auditors from their responsibilities. Financial statements filed with the BSP are still primarily the responsibility of the management of the reporting institution and accordingly, the fairness of the representations made therein is an implicit and integral part of the institution's responsibility. The independent certified public accountant's responsibility for the financial statements required to be filed with the BSP is confined to the expression of his opinion, or lack thereof, on such statements which he has audited/examined.

4. The BSP shall not be liable for any damage or loss that may arise from its selection of the external auditors and/or auditing firm to be engaged by banks for regular audit or non-audit services.

5. Pursuant to paragraph (5) of the MOA, SEC, BSP and IC shall mutually recognize the accreditation granted by any of them for external auditors and firms of Group C or D companies under SEC,

Category B and C under BSP, and insurance brokers under IC. Once accredited/selected by any one (1) of them, the above-mentioned special requirements shall no longer be prescribed by the other regulators.

For corporations which are required to submit financial statements to different regulators and are not covered by the mutual recognition policy of this MOA, the following guidance shall be observed:

a. The external auditors of UBs which are listed in the Exchange, should be selected/accredited by both the BSP and SEC, respectively; and

b. For insurance companies and banks that are not listed in the Exchange, their external auditors must each be selected/ accredited by BSP or IC, respectively. For purposes of submission to the SEC, the financial statements shall be at least audited by an external auditor registered/accredited with BOA.

This mutual recognition policy shall however be subject to the BSP restriction that for banks and its subsidiary and affiliate bank, QBs, trust entities, NSSLAs, their subsidiaries and affiliates engaged in allied activities and other FIs which under special laws are subject to BSP consolidated supervision, the individual and consolidated financial statements thereof shall be audited by only one (1) external auditor/auditing firm.

6. The selection of external auditors and/or auditing firm shall be valid for a period of three (3) years. The SES shall make an annual assessment of the performance of external auditors and/or auditing firm and will recommend deletion from the list even prior to the three (3)-year renewal period, if based on assessment, the external auditors' report did not comply with BSP requirements.

E. QUALIFICATION REQUIREMENT

The following qualification requirements are required to be met by the individual external auditor and the auditing firm at the time of application and on continuing basis, subject to BSP's provisions on the delisting and suspension of accreditation:

1. Individual external auditor

a. General requirements

(1) The individual applicant must be primarily accredited by the BOA. The individual external auditor or partner in-charge of the auditing firm must have at least five (5) years of audit experience.

(2) Auditor's independence.

In addition to the basic screening procedures of BOA on evaluating auditor's independence, the following are required for BSP purposes to be submitted in the form of notarized certification that:

(a) No external auditor may be engaged by any of the covered institutions under Item *"B"* hereof if he or any member of his immediate family had or has committed to acquire any direct or indirect financial interest in the concerned covered institution, or if his independence is considered impaired under the circumstances specified in the Code of Professional Ethics for CPAs. In case of a partnership, this limitation shall apply to the partners, associates and the auditor-in-charge of the engagement and members of their immediate family;

(b) The external auditor does not have/ shall not have outstanding loans or any credit accommodations or arranged for the extension of credit or to renew an extension of credit (except credit card obligations which are normally available to other credit card holders and fully secured auto loans and housing loans which are not past due) with the covered institutions under Item *"B"* at the time of signing the engagement and during the engagement. In the case of partnership, this prohibition shall apply to the partners and the auditor-in-charge of the engagement; and

(c) It shall be unlawful for an external auditor to provide any audit service to a covered institution if the covered

institution's CEO, CFO, Chief Accounting Officer (CAO), or comptroller was previously employed by the external auditor and participated in any capacity in the audit of the covered institution during the one-year preceding the date of the initiation of the audit;

(3) Individual applications as external auditor of entities under *Category A* above must have established adequate quality assurance procedures, such consultation policies and stringent quality control, to ensure full compliance with the accounting and regulatory requirements.

b. Specific requirements

(1) At the time of application, regardless of the covered institution, the external auditor shall have at least five (5) years experience in external audits;

(2) The audit experience above refers to experience required as an associate, partner, lead partner, concurring partner or auditor-in-charge; and

(3) At the time of application, the applicant must have the following track record:

(a) For *Category A,* he/she must have at least five (5) corporate clients with total assets of at least P50.0 million each.

(b) For *Category B,* he/she must have had at least three (3) corporate clients with total assets of at least P25.0 million each.

(c) For *Category C,* he/she must have had at least three (3) corporate clients with total assets of at least P5.0 million each;

2. Auditing firms

a. The auditing firm must be primarily accredited by the BOA and the name of the firm's applicant partner's should appear in the attachment to the certificate of accreditation issued by BOA. Additional partners of the firm shall be furnished by BOA to the concerned regulatory agencies (e.g. BSP, SEC and IC) as addendum to the firm's accreditation by BOA.

b. Applicant firms to act as the external auditor of entities under *Category A* in Item *"B"* must have established adequate quality assurance procedures, such consultation policies and stringent quality control, to ensure full compliance with the accounting and regulatory requirements.

c. At the time of application, the applicant firm must have at least one (1) signing practitioner or partner who is already selected/accredited, or who is already qualified and is applying for selection by BSP.

d. A registered accounting/auditing firm may engage in any non-auditing service for an audit client only if such service is approved in advance by the client's audit committee. Exemptions from the prohibitions may be granted by the Monetary Board on a case-by-case basis to the extent that such exemption is necessary or appropriate in the public interest. Such exemptions are subject to review by the BSP.

e. At the time of application, the applicant firm must have the following track record:

(1) For *Category A,* the applicant firm must have had at least twenty (20) corporate clients with total assets of at least P50.0 million each;

(2) For *Category B,* the applicant firm must have had at least five (5) corporate clients with total assets of at least P20.0 million each;

(3) For *Category C,* the applicant firm must have had at least five (5) corporate clients with total assets of at least P5.0 million each.

F. APPLICATION FOR AND/OR RENEWAL OF THE SELECTION OF INDIVIDUAL EXTERNAL AUDITOR

1. The initial application for BSP selection shall be signed by the external auditor and shall be submitted to the appropriate department of the SES together with the following documents/information:

a. Copy of effective and valid BOA Certificate of Accreditation with the attached list of qualified partner/s of the firm;

b. A notarized undertaking of the external auditor that he is in compliance with the qualification requirements under Item *"E"* and that the external auditor shall keep an audit or review working papers for at least seven (7) years in sufficient detail to support the conclusion in the audit report and making them available to the BSP's authorized representative/s when required to do so;

c. Copy of Audit Work Program which shall include assessment of the audited institution's compliance with BSP rules and regulations, such as, but not limited to the following:

(1) capital adequacy ratio, as currently prescribed by the BSP;

(2) AMLA framework;

(3) risk management system, particularly liquidity and market risks; and

(4) loans and other risk assets review and classification, as currently prescribed by the BSP rules and regulations.

d. If the applicant will have clients falling under *Category A,* copy of the Quality Assurance Manual which, aside from the basic elements as required under the BOA basic quality assurance policies and procedures, specialized quality assurance procedures should be provided consisting of, among other, review asset quality, adequacy of risk-based capital, risk management systems and corporate governance framework of the covered entities.

e. Copy of the latest AFS of the applicant's two (2) largest clients in terms of total assets.

2. Subject to BSP's provision on early deletion from the list of selected external auditor, the selection may be renewed within two (2) months before the expiration of the three (3)-year effectivity of the selection upon submission of the written application for renewal to the appropriate department of the SES together with the following documents/information:

(a) copy of updated BOA Certificate of Accreditation with the attached list of qualified partner/s of the firm;

(b) notarized certification of the external auditor that he still possess all qualification required under Item *"F.1.b"* of this Appendix;

(c) list of corporate clients audited during the three (3)-year period of being selected as external auditor by BSP. Such list shall likewise indicate the findings noted by the BSP and other regulatory agencies on said AFS including the action thereon by the external auditor; and

(d) written proof that the auditor has attended or participated in trainings for at least thirty (30) hours in addition to the BOA's prescribed training hours. Such training shall be in subjects like international financial reporting standards, international standards of auditing, corporate governance, taxation, code of ethics, regulatory requirements of SEC, IC and BSP or other government agencies, and other topics relevant to his practice, conducted by any professional organization or association duly recognized/accredited by the BSP, SEC or by the BOA/PRC through a CPE Council which they may set up.

The application for initial or renewal accreditation of an external auditor shall be accomplished by a fee of P2,000.00.

G. APPLICATION FOR AND/OR RENEWAL OF THE SELECTION OF AUDITING FIRMS

1. The initial application shall be signed by the managing partner of the auditing firm and shall be submitted to the appropriate department of the SES together with the following documents/information:

a. copy of effective and valid BOA Certificate of Accreditation with attachment listing the names of qualified partners;

b. notarized certification that the firm is in compliance with the general qualification requirements under Item *"E.2"*

and that the firm shall keep an audit or review working papers for at least seven (7) years insufficient detail to support the conclusions in the audit report and making them available to the BSP's authorized representative/s when required to do so;

c. copy of audit work program which shall include assessment of the audited institution's compliance with BSP rules and regulations, such as, but not limited to the following;

(1) capital adequacy ratio, as currently prescribed by the BSP;

(2) AMLA framework;

(3) risk management system, particularly liquidity and market risks; and

(4) loans and other risk assets review and classification, as currently prescribed by the BSP rules and regulations.

d. If the applicant firm will have clients falling under *Category A,* copy Quality Assurance Manual where, aside from the basic elements as required under the BOA basic quality assurance policies and procedures, specialized quality assurance procedures should be provided relative to, among others review asset quality, adequacy of risk-based capital, risk management systems and corporate governance framework of covered entities;

e. Copy of the latest AFS of the applicant's two (2) largest clients in terms of total assets; and

f. Copy of firm's AFS for the immediately preceding two (2) years.

2. Subject to BSP's provision on early deletion from the list of selected auditing firm, the selection may be renewed within two (2) months before the expiration of the three (3)-year effectivity of the selection upon submission of the written application for renewal to the appropriate department of the SES together with the following documents/information:

a. a copy of updated BOA Certificate of Registration with the attached list of qualified partner/s of the firm;

b. amendments on Quality Assurance Manual, inclusive of written explanation on such revision, if any; and

c. notarized certification that the firm is in compliance with the general qualification requirements under Item *"G.1.b"* hereof;

The application for initial or renewal accreditation of an auditing firm shall be accompanied by a fee of P5,000.00.

H. REPORTORIAL REQUIREMENTS

1. To enable the BSP to take timely and appropriate remedial action, the external auditor and/or auditing firm must report to the BSP within thirty (30) calendar days after discovery, the following cases:

a. Any material finding involving fraud or dishonesty (including cases that were resolved during the period of audit);

b. Any potential losses the aggregate of which amounts to at least one percent (1%) of the capital;

c. Any finding to the effect that the consolidated assets of the company, on a going concern basis, are no longer adequate to cover the total claims of creditors; and

d. Material internal control weaknesses which may lead to financial reporting problems.

2. The external auditor/auditing firm shall report directly to the BSP within fifteen (15) calendar days from the occurrence of the following:

a. Termination or resignation as external auditor and stating the reason therefor;

b. Discovery of a material breach of laws or BSP rules and regulations such as, but not limited to:

(1) CAR; and

(2) Loans and other risk assets review and classification.

c. Findings on matters of corporate governance that may require urgent action by the BSP.

3. In case there are no matters to report (e.g. fraud, dishonesty, breach of laws, etc.) the external auditor/auditing firm shall submit directly to BSP within fifteen (15) calendar days after the closing of the audit engagement a notarized certification that there is none to report.

The management of the covered institutions, including its subsidiaries and affiliates, shall be informed of the adverse findings and the report of the external auditor/auditing firm to the BSP shall include pertinent explanation and/or corrective action.

The management of the covered institutions, including its subsidiaries and affiliates, shall be given the opportunity to be present in the discussions between the BSP and the external auditor/auditing firm regarding the audit findings, except in circumstances where the external auditor believes that the entity's management is involved in fraudulent conduct.

It is, however, understood that the accountability of an external auditor/ auditing firm is based on matters within the normal coverage of an audit conducted in accordance with generally accepted auditing standards and identified non-audit services.

I. DELISTING AND SUSPENSION OF SELECTED EXTERNAL AUDITOR/ AUDITING FIRM

1. An external auditor's duly selected pursuant to this regulation shall be suspended or delisted, in a manner provided under this regulation, under any of the following grounds:

a. Failure to submit the report under Item *"H"* of this Appendix or the required reports under Subsec. X190.1;

b. Continuous conduct of audit despite loss of independence as provided under Item *"E.1"* or contrary to the requirements under the Code of Professional Ethics;

c. Any willful misrepresentation in the following information/documents;

(1) application and renewal for accreditation;

(2) report required under Item *"H"*; and

(3) Notarized certification of the external auditor and/or auditing firm.

d. The BOA found that, after due notice and hearing, the external auditor committed an act discreditable to the profession as specified in the Code of Professional Ethics for CPAs. In this case, the BOA shall inform the BSP of the results thereof;

e. Declaration of conviction by a competent court of a crime involving moral turpitude, fraud (as defined in the Revised Penal Code), or declaration of liability for violation of the banking laws, rules and regulation, the Corporation Code of the Philippines, the Securities Regulation Code (SRC); and the rules and regulations of concerned regulatory authorities;

f. Refusal for no valid reason, upon lawful order of the BSP, to submit the requested documents in connection with an ongoing investigation. The external auditor should however been made aware of such investigation;

g. Gross negligence in the conduct of audits which would result, among others, in non-compliance with generally accepted auditing standards in the Philippines or issuance of an unqualified opinion which is not supported with full compliance by the auditee with generally accepted accounting principles in the Philippines (GAAP). Such negligence shall be determined by the BSP after proper investigation during which the external auditor shall be given due notice and hearing;

h. Conduct of any of the non-audit services enumerated under Item *"E.1"* for his statutory audit clients, if he has not undertaken the safeguards to reduce the threat to his independence; and

i. Failure to comply with the Philippine Auditing Standards and Philippine Auditing Practice Statements.

2. An auditing firms; accreditation shall be suspended or delisted, after due notice and hearing, for the following grounds:

a. Failure to submit the report under Item *"H"* or the required reports under Sec. X190.1.

b. Continuous conduct of audit despite loss of independence of the firm as provided under this regulation and under the Code of Professional Ethics;

c. Any willful misrepresentation in the following information/ documents;

(1) Application and renewal for accreditation;

(2) Report required under Item *"H"*; and

(3) Notarized certification of the managing partner of the firm.

d. Dissolution of the auditing firm/ partnership, as evidenced by an Affidavit of Dissolution submitted to the BOA, or upon findings by the BSP that the firm/ partnership is dissolved. The accreditation of such firm/partnership shall however be reinstated by the BSP upon showing that the said dissolution was solely for the purpose of admitting new partner/s have complied with the requirements of this regulation and thereafter shall be reorganized and re-registered;

e. There is a showing that the accreditation of the following number or percentage of external auditors, whichever is lesser, have been suspended or delisted for whatever reason, by the BSP:

(1) at least ten (10) signing partners and currently employed selected/accredited external auditors, taken together; or

(2) such number of external auditors constituting fifty percent (50%) or more of the total number of the firm's signing partners and currently selected/accredited auditors, taken together.

f. The firm or any one (1) of its auditors has been involved in a major accounting/ auditing scam or scandal. The suspension or delisting of the said firm shall depend on the gravity of the offense or the impact of said scam or scandal on the investing public or the securities market, as may be determined by the BSP;

g. The firm has failed reasonably to supervise an associated person and employed auditor, relating to the following:

(1) auditing or quality control standards, or otherwise, with a view to preventing violations of this regulations;

(2) provisions under SRC relating to preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto;

(3) the rules of the BSP under this Appendix; or

(4) professional standards.

h. Refusal for no valid reason, upon order of the BSP, to submit requested documents in connection with an ongoing investigation. The firm should however be made aware of such investigation.

3. Pursuant to paragraph 8 of the aforesaid MOA, the SEC, BSP and IC shall inform BOA of any violation by an accredited/selected external auditor which may affect his/her accreditation status as a public practitioner. The imposition of sanction by BOA on an erring practitioner shall be without prejudice to the appropriate penalty that the SEC, IC or BSP may assess or impose on such external auditor pursuant to their respective rules and regulations. In case of revocation of accreditation of a public practitioner by BOA, the accreditation by SEC, BSP and IC shall likewise be automatically revoked/derecognized.

The SEC, BSP and IC shall inform each other of any violation committed by an external auditor who is accredited/selected by any one (1) or all of them. Each agency shall undertake to respond on any referral or endorsement by another agency within ten (10) working days from receipt thereof.

4. Procedure and Effects of Delisting/ Suspension.

a. An external auditor/auditing firm shall only be delisted upon prior notice to him/it and after giving him/it the opportunity to be heard and defend himself/itself by presenting witnesses/ evidence in his favor. Delisted external auditor and/or auditing firm may re-apply for BSP selection after the period prescribed by the Monetary Board.

b. BSP shall keep a record of its proceeding/investigation. Said proceedings/ investigation shall not be public, unless otherwise ordered by the Monetary Board for good cause shown, with the consent of the parties to such proceedings.

c. A determination of the Monetary Board to impose a suspension or delisting under this section shall be supported by a clear statement setting forth the following:

(1) Each act or practice in which the selected/accredited external auditor or auditing firm, or associated entry, if applicable, has engaged or omitted to engage, or that forms a basis for all or part of such suspension/delisting;

(2) The specific provision/s of this regulation, the related SEC rules or professional standards which the Monetary Board determined as has been violated; and

(3) The imposed suspension or delisting, including a justification for either sanction and the period and other requirements specially required within which the delisted auditing firm or external auditor may apply for re-accreditation.

d. The suspension/delisting, including the sanctions/penalties provided in Sec. X189 shall only apply to:

(1) Intentional or knowing conduct, including reckless conduct, that results in violation or applicable statutory, regulatory or professional standards; or

(2) Repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory or professional standards.

e. No associate person or employed auditor of a selected/accredited auditing firm shall be deemed to have failed reasonably to supervise any other person for purpose of Item *"I.2.g"* above, if:

(1) There have been established in and for that firm procedures, and a system for applying such procedures, that comply with applicable rules of BSP and that would reasonably be expected to prevent and detect any such violation by such associated person; and

(2) Such person or auditor has reasonably discharged the duties and obligations incumbent upon that person by reason of such procedures and system, and had no reasonable cause to believe that such procedures and system were not being complied with.

f. The BSP shall discipline any selected external auditor that is suspended or delisted from being associated with any selected auditing firm, or for any selected auditing firm that knew, or in the exercise or reasonable care should have known, of the suspension or delisting of any selected external auditor, to permit such association, without the consent of the Monetary Board.

g. The BSP shall discipline any covered institution that knew or in the exercise of reasonable care should have known, of the suspension or delisting of its external auditor or auditing firm, without the consent of the Monetary Board.

h. The BSP shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the duration of stay of any such disciplinary action pending review of any disciplinary action of the BSP under this Section.

J. SPECIFIC REVIEW

When warranted by supervisory concern, the Monetary Board may, at the expense of the covered institution require the external auditor and/or auditing firm to undertake a specific review of a particular

aspect of the operations of these institutions. The report shall be submitted to the BSP and the audited institution simultaneously, within thirty (30) calendar days after the conclusion of said review.

K. AUDIT BY THE BOARD OF DIRECTORS

Pursuant to Section 58 of RA. No. 8791, otherwise known as "The General Banking Law of 2000" the Monetary Board may also direct the board of directors of a covered institution or the individual members thereof, to conduct, either personally or by a committee created by the board, an annual balance sheet audit of the covered institution to review the internal audit and the internal control system of the concerned entity and to submit a report of such audit to the Monetary Board within thirty (30) calendar days after the conclusion thereof.

L. AUDIT ENGAGEMENT

Covered institutions shall submit the audit engagement contract between them, their subsidiaries and affiliates and the external auditor/auditing firm to the appropriate department of the SES within fifteen (15) calendar days from signing thereof. Said contract shall include the following provisions:

1. That the covered institution shall be responsible for keeping the auditor fully informed of existing and subsequent changes to prudential regulatory and statutory requirements of the BSP and that both parties shall comply with said requirements;
2. That disclosure of information by the external auditor/auditing firm to the BSP as required under Items *"H"* and *"J"* hereof, shall be allowed; and
3. That both parties shall comply with all the requirements under this Appendix.

(As amended by Circular No. 660 dated 25 August 2009)

N REGULATIONS
(Regulations Governing Other Non-Bank Financial Institutions)

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N Regulations
(Regulations Governing Other Non-Bank Financial Institutions)

Section 4101N Applicable Regulations on Trust and Other Fiduciary Activities. Trust operations and investment management activities of NBFIs not performing quasi-banking functions shall be subject to the applicable regulations on such activities of NBFIs performing quasi-banking functions in Part IV of the *Q* Regulations of this Manual, to the regulations in the other parts of the *Q* Regulations addressed also to trust entities and to the regulations implementing the Truth in Lending Act in Sec. 4307Q.

§ 4101N.1 ***Sanctions.*** Pursuant to Section 91 of R.A. No. 8791, the Monetary Board may impose sanctions and monetary penalty for any violation of the provisions of Part IV of the *Q* Regulations, of the regulations in the other parts of the *Q* Regulations addressed also to trust entities, and of the regulations implementing the Truth in Lending Act in Sec. 4309Q. This is without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted that may include the suspension or revocation of an institution's authority to engage in trust and other fiduciary business or in investment management activities, and such other sanctions as may be provided by law. If the offender is a director or officer of the trust entity, the Monetary Board may also suspend or remove such director or officer. If the violation is committed by a corporation, such corporation may be dissolved by *quo warranto* proceedings instituted by the Solicitor General.

The guidelines for the imposition of monetary penalty shown in *Appendix Q-39* shall govern the imposition of monetary penalty for violations/offenses with administrative sanctions falling under Section 37 of R.A. No. 7653 on NBFIs not performing quasi-banking functions, their directors and/or officers.

(Circular No. 673 dated 10 December 2009)

Sec. 4102N Minimum Capital for Investment Houses. Investment houses not performing quasi-banking functions shall also be subject to the minimum capital requirement in Sec. 4112Q of this Manual.

Sec. 4103N Prior Bangko Sentral Authority on Quasi-Banking Functions. Borrowing by NBFIs from twenty (20) or more lenders for the purpose of relending or purchase of receivables or other obligations, which constitutes quasi-banking functions, shall be subject to prior BSP authority on performance of quasi-banking functions under BSP regulations.

§ 4103N.1 ***Quasi-banking functions*** *Quasi-banking functions* shall consist of the following:

a. Borrowing funds for the borrower's own account;

b. Twenty (20) or more lenders at any one (1) time;

c. Methods of borrowing: issuance, endorsement, or acceptance of debt instruments of any kind, other than deposits, such as:

(1) acceptances;
(2) promissory notes;
(3) participations;
(4) certificates of assignment or similar instruments with recourse;

(5) trust certificates;

(6) repurchase agreements; and

(7) such other instruments as the Monetary Board may determine; and

d. Purpose:

(1) relending, or

(2) purchasing receivables or other obligations.

As used in the definition of *quasi-banking functions*, the following terms and phrases shall be understood as follows:

Borrowing shall refer to all forms of obtaining or raising funds through any of the methods and for any of the purposes provided in Item *"c"* and *"d"*, above whether the borrower's liability thereby is treated as real or contingent.

For the borrower's own account shall refer to the assumption of liability in one's own capacity and not in representation, or as an agent or trustee, of another.

Purchasing of receivables or other obligations shall refer to the acquisition of claims collectible in money, including interbank borrowings or borrowings between FIs, or of securities, of any amount and maturity, from domestic or foreign sources.

Relending shall refer to the extension of loans by an institution with antecedent borrowing transactions. Relending shall be presumed in the absence of express stipulation, when the institution is regularly engaged in lending.

Regularly engaged in lending shall refer to the practice of extending loans, advances, discounts or rediscounts as a matter of business, i.e., continuous or consistent lending as distinguished from isolated lending transactions.

The following guidelines shall govern lender count on borrowings or funds mobilized by NBFIs not performing quasi-banking functions:

1. For purposes of ascertaining the number of lenders/placers to determine whether or not an NBFI is engaged in quasi-banking functions, the names of payees on the face of each debt instrument shall serve as the primary basis for counting the lenders/placers except when proof to the contrary is adduced such as the official receipts or documents other than the debt instrument itself. In such case the actual/real lenders/placers as appearing in such proof, shall be the basis for counting the number of lenders/placers.

In a debt instrument issued to two (2) or more named payees under an *and/or* and *or* arrangement, the number of payees appearing on the instrument shall be the basis for counting the number of lenders/placers: *Provided, however,* That a debt instrument issued in the name of a husband and wife followed by the word *spouses*, whether under an *and, and/or* or *or* arrangement or in the name of a designated payee under an *in trust for* (ITF) arrangement shall be counted as one borrowing/placement.

2. Each debt instrument payable to bearer shall be counted as one (1) lender/placer, except when the NBFI can prove that there is only one (1) owner for several debt instruments so payable.

3. Two (2) or more debt instruments issued to the same payee, irrespective of the date and amount shall be counted as one (1) borrowing or placement.

4. Debt instruments underwritten by investment houses or traded by securities dealers/brokers whether on a firm, standby or best efforts basis shall be counted on the basis of the number or purchasers thereof and shall not be treated as having been issued solely to the underwriter or trader: *Provided, however,* That in case of unsold debt instruments in a firm commitment underwriting, the underwriter shall be counted as a lender.

5. Each buyer, assignee, and/or indorsee shall be counted in determining the number of lenders/placers of funds mobilized through sale, assignment, and/or indorsement of securities or

receivables on a without recourse basis whenever the terms and/or attendant documentation, practice, or circumstances indicate that the sale, assignment, and/or indorsement thereof legally obligates the NBFI not performing quasi-banking functions to repurchase or reacquire the securities/receivables sold, assigned, indorsed or to pay the buyer, assignee, or indorsee at some subsequent time.

6. Funds obtained by way of advances from stockholders, directors, or officers, regardless of nature, shall be considered borrowed funds or funds mobilized and such stockholders, directors or officers shall be counted in determining the number of lenders/placers.

§ 4103N.2 ***Transactions not considered quasi-banking.*** The following shall not constitute quasi-banking:

a. Borrowing by commercial, industrial and other non-financial companies, through the means listed in Subsec. 4103N.1 for the limited purpose of financing their own needs or the needs of their agents or dealers; and

b. The mere buying and selling without recourse of instruments mentioned in Subsec. 4103N.1: *Provided,* That:

(Next page is Page 3)

(1) The institution selling without recourse shall indicate or stamp in conspicuous print on the instrument/s, as well as on the confirmation of sale, the phrase *without recourse* or *sans recourse* and the following statement:

(Name of non-bank) assumes
no liability for the payment,
directly or indirectly, of
this instrument.

(2) In the absence of the phrase *without recourse* or *sans recourse* and the above-required accompanying statement, the instrument so issued, endorsed or accepted shall automatically be considered as falling within the purview of the rules on quasi-banking:

Provided, further, That any of the following practices or practices similar and/or tantamount thereto in connection with a without recourse transaction renders such transaction as with recourse and within the purview of the rules on quasi-banking.

(a) Issuance of postdated checks by a financial intermediary, whether for its own account or as an agent of the debt instrument issuer, in payment of the debt instrument sold, assigned or transferred without recourse;

(b) Issuance by a financial intermediary of any form of guaranty on sale transactions or on negotiations or assignment of debt instruments without recourse; or

(c) Payment with the funds of the financial intermediary which assigned, sold or transferred the debt instrument without recourse, unless the financial intermediary can show that the issuer has with the said financial intermediary funds corresponding to the amount of the obligation.

Any investment house violating the provisions of this Subsection shall be subject to the sanctions provided in Sections 12 and 16 of P.D. No. 129, as amended.

§ 4103N.3 *Delivery of securities*[1]

a. Securities sold *on a without recourse basis* allowed under Subsec. 4101Q.3 (b) shall be delivered physically to the purchaser, or to his designated custodian duly accredited by the BSP, if certificated, or by means of book-entry transfer to the appropriate securities account of the purchaser or his designated BSP accredited custodian in a registry for said securities, if immobilized or dematerialized, while the confirmation of sale or document of conveyance by the seller shall be physically delivered to the purchaser. The custodian shall hold the securities in the name of the buyer: *Provided,* That an NBFI authorized by the BSP to perform custodianship function may not be allowed to be custodian of securities issued or sold on a without recourse basis by said NBFI, its subsidiaries or affiliates, or of securities in bearer form.

The delivery shall be effected upon payment and shall be evidenced by a securities delivery receipt duly signed by the authorized officer of the custodian and delivered to the purchaser.

Sanctions. Violation of any provision of Item *"a"* shall be subject to the following sanctions/penalties:

(1) *Monetary penalties*

First offense – Fine of P10,000 a day for each violation reckoned from the date the violation was committed up to the date it was corrected.

Subsequent offenses – Fine of P20,000 a day for each violation reckoned from the date the violation was committed up to the date it was corrected.

(2) *Other sanctions*

First offense – Reprimand for the directors/officers responsible for the violation.

Subsequent offense –

(a) Suspension for ninety (90) days without pay of directors/officers responsible for the violation;

[1] Effective 16 November 2004 under Circular No. 450 dated 06 September 2004.

(b) Suspension or revocation of the accreditation to perform custodianship function;

(c) Suspension or revocation of the authority to engage in quasi-banking function; and/or

(d) Suspension or revocation of the authority to engage in trust and other fiduciary business.

b. The guidelines to implement the delivery by the seller of securities to the buyer or to his designated third party custodian are shown in *Appendix Q-38*.

Sanctions. Violation of any of the provisions of *Appendix Q-38* shall be subject to the sanctions/penalties under Subsec. 4144N.29.

(As amended by M-2007-002 dated 23 January 2007, M-2006-009 dated 18 July 2006, M-2006-002 dated 05 June 2006 and Circular No. 524 dated 31 March 2006)

§ 4103N.4 *Securities custodianship operations*

a. Securities sold on a *without recourse* basis shall be delivered to the purchaser, or to his designated custodian duly accredited by the BSP: *Provided*, That the other entity authorized by the BSP to perform custodianship function may not be allowed to be custodian of securities issued or sold on a *without recourse basis* by said entity, its subsidiaries or affiliates, or of securities in bearer form. Existing securities being held under custodianship by other entities under BSP supervision, which are not in accordance with said regulation, must therefore, be delivered to a BSP accredited third party custodian. However, other FIs under BSP supervision may maintain custody of existing securities of their clients who are unable or unwilling to take delivery pursuant to the provisions of this Subsection but who declined to deliver their existing securities to a BSP accredited third party custodian subject to the following conditions:

(1) the custody arrangements with clients have been in existence prior to 05 November 2004 (effectivity date of Circular 457 dated 14 October 2004);

(2) the dealing NBFI under BSP supervision had been informed in writing by the client that he is not willing to have his existing securities delivered to a third party custodian;

(3) any BSP-regulated institution shall not enter into securities transactions with a client who has outstanding securities not delivered to a BSP accredited third party custodian; and

(4) it shall be the responsibility of any BSP-regulated institution to satisfy itself that the person purchasing securities from it has no outstanding securities holdings which were not delivered to a BSP accredited third party custodian.

Sanctions. Without prejudice to the penal and administrative sanctions provided for under Sections 36 and 37, respectively, of the R.A. No. 7653, violation of any provision of this Subsection shall be subject to the following sanctions/penalties:

(1) *First offense* –

(a) Fine of up to P10,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and

(b) Reprimand for the directors/officers responsible for the violation.

(2) *Second offense* -

(a) Fine of up to P20,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and

(b) Suspension for ninety (90) days without pay of directors/officers responsible for the violation.

(3) *Subsequent offenses* –

(a) Fine of up to P30,000 a day for the institution for each violation from the date the violation was committed up to the date it was corrected;

(b) Suspension or revocation of the authority to act as securities custodian and/or registry; and

(c) Suspension for 120 days without pay of the directors/officers responsible for the violation.

b. Sec. 4144N and its subsections shall also govern the securities custodianship and securities registry operations relative to the sale of securities on a *without recourse basis*.

(As amended by M-2006-009 dated 18 July 2006, M-2006-002 dated 05 June 2006 and Circular No. 524 dated 31 March 2006)

Sec. 4104N Anti-Money Laundering Regulations. Banks, OBUs, QBs, trust entities, NSSLAs, pawnshops, and all other institutions, including their subsidiaries and affiliates supervised and/or regulated by the BSP, otherwise known as "covered institutions" shall comply with the provisions of R.A. No. 9160, as amended, otherwise known as the "Anti-Money Laundering Act of 2001" and its Revised Implementing Rules and Regulations (IRRs) in *Appendix N-4* and those in *Appendix N-3*.

(As amended by Circular No. 612 dated 13 June 2008)

§§ 4104N.1 - 4104N.8 *(Reserved)*

§ 4104N.9 *Sanctions and penalties*

a. Whenever a covered institution violates the provisions of Section 9 of R.A. No. 9160, as amended the officer(s) or other persons responsible for such violation shall be punished by a fine of not less than P50,000 nor more than P200,000 or by imprisonment of not less than two (2) years nor more than ten (10) years, or both, at the discretion of the court pursuant to Section 36 of R.A. No. 7653, otherwise known as "The New Central Bank Act".

b. Without prejudice to the criminal sanctions prescribed above against the culpable persons, the Monetary Board may, at its discretion, impose upon any covered institution, its directors and/or officers for any violation of Section 9 of R.A. No. 9160, as amended, the administrative sanctions provided under Section 37 of R.A. No. 7653.

Secs. 4105N - 4109N (Reserved)

§§ 4109N.1 - 4109N.15 *(Reserved)*

§ 4109N.16 *Qualification and accreditation of non-bank financial institutions acting as trustee on any mortgage or bond issuance by any municipality, GOCC, or any body politic*

a. *Applicability*. NBFIs duly accredited by the BSP may act as trustee on any mortgage or bond issued by any municipality, GOCC, or any body politic.

b. *Application for accreditation*. An NBFI desiring to act as trustee on any mortgage or bond issued by any municipality, GOCC, or any body politic shall file an application for accreditation with the appropriate department of the SES. The application shall be signed by the president or officer of equivalent rank of the NBFI and shall be accompanied by the following documents:

(1) certified true copy of the resolution of the institution's board of directors authorizing the application; and

(2) a certification signed by the president or officer of equivalent rank that the institution has complied with all the qualification requirements for accreditation.

c. *Qualification requirements*. An NBFI applying for accreditation to act as trustee on any mortgage or bond issued by any municipality, GOCC, or any body politic must comply with the requirements in *Appendix N-6*.

d. *Independence of the trustee*. An NBFI is prohibited from acting as trustee of a mortgage or bond issuance if any elective or appointive official of the LGU, GOCC, or body politic which issued said

mortgage or bond and/or his related interests own such number of shares of the NBFI that will allow him or his related interests to elect at least one (1) member of the board of directors of such NBFI or is directly or indirectly the registered or beneficial owner of more than ten percent (10%) of any class of its equity security.

e. *Investment and management of the funds*. A domestic NBFI designated as trustee of a mortgage or bond issuance may hold and manage, in accordance with the provisions of the trust indenture or agreement, the proceeds of the mortgage or bond issuance and such assets and funds of the issuing municipality, GOCC, or body politic as may be required to be delivered to the trustee under the trust indenture/agreement, subject to the following conditions/restrictions:

(1) Pending the utilization of such funds pursuant to the provisions of the trust indenture/agreement, the same shall only be (i) deposited in any bank authorized to accept deposits from the Government or government entities: *Provided,* That the depository bank is not a subsidiary or affiliate of the trustee NBFI, or (ii) invested in peso-denominated treasury bills acquired/purchased from any securities dealer/entity, other than the trustee or any of its unit/department, its subsidiary or affiliate.

(2) Investments of funds constituting or forming part of the sinking fund created as the primary source for the payment of the principal and interests due the mortgage or bonds shall also be limited to deposits in any bank authorized to accept deposits from the Government or government entities and investments in government securities that are consistent with such purpose which must be acquired/ purchased from any securities dealer/entity, other than the trustee or any of its unit/ department, its subsidiary or affiliate.

f. *Waiver of confidentiality*. An NBFI designated as trustee of any mortgage or bond issued by any municipality, GOCC, or any body politic shall submit to the appropriate department of the SES a waiver of the confidentiality of information under Sections 2 and 3 of R.A. No. 1405, as amended, duly executed by the issuer of the mortgage or bond in favor of the BSP.

g. *Reportorial requirements*. An NBFI authorized by the BSP to act as trustee of the proceeds of mortgage or bond issuance of a municipality, GOCC, or body politic shall comply with reportorial requirements that may be prescribed by the BSP.

h. *Applicability of the rules and regulations on trust, other fiduciary business and investment management activities*. The provisions of the Rules and Regulations on Trust, Other Fiduciary Business and Investment Management Activities not inconsistent with the provisions of this Subsection shall form part of these rules.

i. *Sanctions*. Without prejudice to the penal and administrative sanctions provided for under Sections 36 and 37, respectively, of R.A. No. 7653, violation of any provision of this Subsection shall be subject to the following sanctions/penalties depending on the gravity of the offense:

(1) *First offense* –

(a) Fine of up to P10,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and

(b) Reprimand for the directors/officers responsible for the violation.

(2) *Second offense* –

(a) Fine of up to P20,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected;

(b) Suspension for ninety (90) days without pay for directors/officers responsible for the violation; and

(c) Revocation of the authority to act as trustee on any mortgage or bond issuance by any municipality, GOCC, or body politic.

(3) *Subsequent offense* –

(a) Fine of up to P30,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected;

(b) Suspension or revocation of the trust license;

(c) Suspension for 120 days without pay of the directors/officers responsible for the violation.

Secs. 4110N - 4139N (Reserved)

Sec. 4140N Interlocking Directorships and/or Officerships. In order to safeguard against the excessive concentration of economic power, unfair competitive advantage or conflict of interest situations to the detriment of others through the exercise by the same person or group of persons of undue influence over the policy-making and/or management functions of similar FIs while at the same time allowing banks, QBs and NBFIs without quasi-banking functions to benefit from organizational synergy or economies of scale and effective sharing of managerial and technical expertise, the following regulations shall govern interlocking directorships and/or officerships within the financial system consisting of banks, QBs and NBFIs.

For purposes of this Section, *QBs* shall refer to investment houses, finance companies, trust entities and all other QBs while *NBFIs* shall refer to investment houses, finance companies, trust entities, insurance companies, securities dealers/brokers, credit card companies, NSSLAs, holding companies, investment companies, government NBFIs, asset management companies, insurance agencies/brokers, venture capital corporations, FX dealers, money changers, lending investors, pawnshops, fund managers, mutual building and loan associations, remittance agents and all other NBFIs without quasi-banking functions.

a. *Interlocking directorships.*

While concurrent directorship may be the least prejudicial of the various relationships cited in this Section to the interests of the FIs involved, certain measures are still necessary to safeguard against the disadvantages that could result from indiscriminate concurrent directorship.

(1) Except as may be authorized by the Monetary Board or as otherwise provided hereunder, there shall be no concurrent directorships between QBs or between a QB and a bank; and

(2) Without the need for prior approval of the Monetary Board, concurrent directorships between entities not involving an investment house shall be allowed in the following cases:

(a) A bank and one (1) or more of its subsidiary bank/s, QB/s, and NBFI/s; and

(b) A QB and an NBFI.

For purposes of the foregoing, a husband and his wife shall be considered as one (1) person.

b. *Interlocking directorships and officerships.*

In order to prevent any conflict of interest resulting from the exercise of directorship coupled with the reinforcing influence of an officer's decision-making and implementing powers, the following rules shall be observed.

(1) Except as may be authorized by the Monetary Board or as otherwise provided hereunder, there shall be no concurrent directorship and officership between QBs, or between a QB and a bank, and between a QB and an NBFI.

(2) Without the need for prior approval of the Monetary Board, concurrent directorship and officership between a bank and one (1) or more of its subsidiary

bank/s, QB/s, and NBFI/s, other than investment house/s, shall be allowed.

c. *Interlocking officerships*.

A concurrent officership in different FIs may present more serious problems of self-dealing and conflict of interest. Multiple positions may result in poor governance or unfair competitive advantage. Considering the full-time nature of officer positions, the difficulties of serving two (2) offices at the same time, and the need for effective and efficient management, the following rules shall be observed:

As a general rule, there shall be no concurrent officerships, including secondments, between QBs or between a QB and a bank or between a QB and an NBFI. For this purpose, *secondment* shall refer to the transfer/detachment of a person from his regular organization for temporary assignment elsewhere where the seconded employee remains the employee of the home employer although his salaries and other remuneration may be borne by the host organization.

However, subject to prior approval of the Monetary Board, concurrent officerships, including secondments, may be allowed in the following cases:

(1) Between a QB, other than an investment house, and not more than two (2) of its subsidiary bank/s, QB/s, and NBFI/s, other than investment house/s;

(2) Between two (2) QBs, or between a QB, other than an investment house, and a bank, or between a QB and an NBFI: *Provided*, That at least twenty percent (20%) of the equity of each of the banks, QBs or NBFIs is owned by a holding company or a QB/bank and the interlocking arrangement is necessary for the holding company or the QB/bank to provide technical expertise or managerial assistance to its subsidiaries/ affiliates;

(3) Between a QB and not more than two (2) of its subsidiary QB/s, and NBFI/s;

(4) Between a bank and not more than two (2) of its subsidiary bank/s, QB/s, and NBFIs, other than investment house/s;

(5) Between a bank and not more than two (2) of its subsidiary QB/s, and NBFI/s.

Aforementioned concurrent officerships may be allowed, subject to the following conditions:

(a) that the positions do not involve any functional conflict of interests;

(b) that any officer holding the positions of president, chief executive officer, chief operating officer or chief financial officer may not be concurrently appointed to any of said positions or their equivalent;

(c) that the officer involved, or his spouse or any of his relatives within the first degree of consanguinity or affinity or by legal adoption, or a corporation, association or firm wholly- or majority-owned or controlled by such officer or his relatives enumerated above, does not own in his/its own capacity more than twenty percent (20%) of the subscribed capital stock of the entities in which the QB has equity investments; and

(d) that where any of the positions involved is held on full-time basis, adequate justification shall be submitted to the Monetary Board; or

(6) Concurrent officership positions in the same capacity which do not involve management functions, i.e., internal auditors, corporate secretary, assistant corporate secretary and security officer, between a QB and one (1) or more of its subsidiary QB/s and NBFI/s, or between a bank and one (1) or more of its subsidiary QBs and NBFIs, or between bank/s, QB/s and NBFI/s, other than investment house/s: *Provided*, That at least twenty percent (20%) of the equity of each of the banks, QBs and NBFIs is owned by a holding company or by any of the banks/QBs within the group.

For purposes of this Section, 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, shall likewise be considered as officers.

It shall be the responsibility of the Corporate Governance Committee to conduct an annual performance evaluation of the board of directors and senior management. When a director or officer has multiple positions, the Committee should determine whether or not said director or officer is able to and has been adequately carrying out his/her duties and, if necessary, recommend changes to the board based upon said performance/review.
(Circular No. 592 dated 28 December 2007)

§ 4140N.1 *Representatives of government.* The provisions of this Section shall apply to persons appointed to such positions as representatives of the government or government-owned or controlled entities unless otherwise provided under existing laws.
(Circular No. 592 dated 28 December 2007)

Secs. 4141N - 4142N (Reserved)

Sec. 4143N Disqualification of Directors and Officers. The following regulations shall govern the disqualification of directors and officers of institutions under the supervisory and regulatory powers of the BSP other than banks, QBs, NSSLAs and pawnshops.

§ 4143N.1 *Persons disqualified to become directors.* Without prejudice to specific provisions of law prescribing disqualifications for directors, the following are disqualified from becoming directors:

a. *Permanently disqualified*

Directors/trustees/officers/employees permanently disqualified by the Monetary Board from holding a director/trustee position:

(1) Persons who have been convicted by final judgment of the court for offenses involving dishonesty or breach of trust such as estafa, embezzlement, extortion, forgery, malversation, swindling and theft;

(2) Persons who have been convicted by final judgment of the court for violation of banking laws;

(3) Persons who have been judicially declared insolvent, spendthrift or incapacitated to contract; or

(4) Directors, trustees, officers or employees of closed institutions under the supervisory and regulatory powers of the BSP who were responsible for such institutions' closure as determined by the Monetary Board.

b. *Temporarily disqualified*

Directors/trustees/officers/employees disqualified by the Monetary Board from holding a director/trustee position for a specific/indefinite period of time. Included are:

(1) Persons who refuse to fully disclose the extent of their business interest to the appropriate department of the SES when required pursuant to a provision of law or of a circular, memorandum or rule or regulation of the BSP. This disqualification shall be in effect as long as the refusal persists;

(2) Directors who have been absent or who have not participated for whatever reasons in more than fifty percent (50%) of all meetings, both regular and special, of the board of directors during their incumbency, or any twelve (12)-month period during said incumbency. This disqualification applies for purposes of the succeeding election;

(3) Persons who are delinquent in the payment of their obligations as defined hereunder:

(a) *Delinquency in the payment of obligations* means that an obligation of a person with the institution where he/she is a director or officer, or at least two (2) obligations with other FIs, under different

credit lines or loan contracts, are past due pursuant to Secs. X306, 4306Q, 4306S and 4303P;

(b) *Obligations* shall include all borrowings from any FI obtained by:

(i) A director, trustee or officer for his own account or as the representative or agent of others or where he/she acts as a guarantor, endorser or surety for loans from such FIs;

(ii) The spouse or child under the parental authority of the director, trustee or officer;

(iii) Any person whose borrowings or loan proceeds were credited to the account of, or used for the benefit of a director, trustee or officer;

(iv) A partnership of which a director, trustee or officer, or his/her spouse is the managing partner or a general partner owning a controlling interest in the partnership; and

(v) A corporation, association or firm wholly-owned or majority of the capital of which is owned by any or a group of persons mentioned in the foregoing Items *"(i)"*, *"(ii)"* and *"(iv)"*;

This disqualification shall be in effect as long as the delinquency persists.

(4) Persons convicted for offenses involving dishonesty, breach of trust or violation of banking laws but whose conviction has not yet become final and executory;

(5) Directors, trustees and officers of closed institutions under the supervisory and regulatory powers of the BSP pending their clearance by the Monetary Board;

(6) Directors and trustees disqualified for failure to observe/discharge their duties and responsibilities prescribed under existing regulations. This disqualification applies until the lapse of the specific period of disqualification or upon approval by the Monetary Board on recommendation by the appropriate department of the SES of such directors' election/re-election;

(7) Persons dismissed from employment for cause. This disqualification shall be in effect until they have cleared themselves of involvement in the alleged irregularity or upon clearance, on their request, from the Monetary Board after showing good and justifiable reasons, or after the lapse of five (5) years from the time they were officially advised by the appropriate department of the SES of their disqualification;

(8) Those under preventive suspension; and

(9) Persons with derogatory records with the NBI, court, police, Interpol and monetary authority (central bank) of other countries (for foreign directors and officers) involving violation of any law, rule or regulation of the Government or any of its instrumentalities adversely affecting the integrity and/or ability to discharge the duties of a director/trustee/officer. This disqualification applies until they have cleared themselves of involvement in the alleged irregularity.

(As amended by Circular No. 584 dated 28 September 2007)

§ 4143N.2 *Persons disqualified to become officers*

a. The disqualifications for directors mentioned in Subsec. 4143N.1 shall likewise apply to officers, except those stated in Item *"b(2)"*.

b. Except as may be authorized by the Monetary Board or the Governor, the spouse or a relative within the second degree of consanguinity or affinity of any person holding the position of chairman, president, executive vice president or any position of equivalent rank, general manager, treasurer, chief cashier or chief accountant is disqualified from holding or being elected or appointed to any of said positions in the same NBFI; and the spouse or relative within the second degree of consanguinity or affinity of any person holding the position of manager, cashier,

or accountant of a branch or office of an NBFI is disqualified from holding or being appointed to any of said positions in the same branch or office.

§ 4143N.3 *Disqualification procedures*

a. The board of directors and management of every institution shall be responsible for determining the existence of the ground for disqualification of the institution's director/officer or employee and for reporting the same to the BSP. While the concerned institution may conduct its own investigation and impose appropriate sanction/s as are allowable, this shall be without prejudice to the authority of the Monetary Board to disqualify a director/officer/employee from being elected/appointed as director/officer in any FI under the supervision of the BSP. Grounds for disqualification made known to the institution shall be reported to the appropriate department of the SES within seventy-two (72) hours from knowledge thereof.

b. On the basis of knowledge and evidence on the existence of any of the grounds for disqualification mentioned in Subsecs. 4143N.1 and 4143N.2, the director or officer concerned shall be notified in writing either by personal service or through registered mail with registry return receipt card at his/her last known address by the appropriate department of the SES of the existence of the ground for his/her disqualification and shall be allowed to submit within fifteen (15) calendar days from receipt of such notice an explanation on why he/she should not be disqualified and included in the watchlisted file, together with the evidence in support of his/her position. The head of said department may allow an extension on meritorious ground.

c. Upon receipt of the reply/ explanation of the director/officer concerned, the appropriate department of the SES shall proceed to evaluate the case. The director/officer concerned shall be afforded the opportunity to defend/clear himself/herself.

d. If no reply has been received from the director/officer concerned upon the expiration of the period prescribed under Item *"b"* above, said failure to reply shall be deemed a waiver and the appropriate department of the SES shall proceed to evaluate the case based on available records/evidence.

e. If the ground for disqualification is delinquency in the payment of obligation, the concerned director or officer shall be given a period of thirty (30) calendar days within which to settle said obligation or, restore it to its current status or, to explain why he/she should not be disqualified and included in the watchlisted file, before the evaluation on his disqualification and watchlisting is elevated to the Monetary Board.

f. For directors/officers of closed banks, the concerned department of the SES shall make appropriate recommendation to the Monetary Board clearing said directors/officers when there is no pending case/complaint or evidence against them. When there is evidence that a director/officer has committed irregularity, the appropriate department of the SES shall make recommendation to the Monetary Board that his/her case be referred to the OSI for further investigation and that he/she be included in the masterlist of temporarily disqualified persons until the final resolution of his/her case. Directors/ officers with pending cases/complaints shall also be included in said masterlist of temporarily disqualified persons upon approval by the Monetary Board until the final resolution of their cases. If the director/ officer is cleared from involvement in any irregularity, the appropriate department of the SES shall recommend to the Monetary Board his/her delisting. On the other hand,

if the director/officer concerned is found to be responsible for the closure of the institution, the concerned department of the SES shall recommend to the Monetary Board his/her delisting from the masterlist of temporarily disqualified persons and his/her inclusion in the masterlist of permanently disqualified persons.

g. If the disqualification is based on dismissal from employment for cause, the appropriate department of the SES shall, as much as practicable, endeavor to establish the specific acts or omissions constituting the offense or the ultimate facts which resulted in the dismissal to be able to determine if the disqualification of the director/officer concerned is warranted or not. The evaluation of the case shall be made for the purpose of determining if disqualification would be appropriate and not for the purpose of passing judgment on the findings and decision of the entity concerned. The appropriate department of the SES may decide to recommend to the Monetary Board a penalty lower than disqualification (e.g., reprimand, suspension, etc.) if, in its judgment the act committed or omitted by the director officer concerned does not warrant disqualification.

h. All other cases of disqualification, whether permanent or temporary shall be elevated to the Monetary Board for approval and shall be subject to the procedures provided in paragraphs *"a"*, *"b"*, *"c"* and *"d"* above.

i. Upon approval by the Monetary Board, the concerned director/officer shall be informed by the appropriate department of the SES in writing either by personal service or through registered mail with registry return receipt card, at his/her last known address of his/her disqualification from being elected/appointed as director officer in any FI under the supervision of BSP and/or of his/her inclusion in the masterlist of watchlisted persons so disqualified.

j. The board of directors of the concerned institution shall be immediately informed of cases of disqualification approved by the Monetary Board and shall be directed to act thereon not later than the following board meeting. Within seventy-two (72) hours thereafter, the corporate secretary shall report to the Governor of the BSP through the appropriate department of the SES the action taken by the board on the director/officer involved.

k. Persons who are elected or appointed as director or officer in any of the BSP-supervised institutions for the first time but are subject to any of the grounds for disqualification provided for under Subsecs. 4143N.1 and 4143N.2, shall be afforded the procedural due process prescribed above.

l. Whenever a director/officer is cleared in the process mentioned under Item *"c"* above or, when the ground for disqualification ceases to exist, he/she would be eligible to become director or officer of any bank, QB, trust entity or any institution under the supervision of the BSP only upon prior approval by the Monetary Board. It shall be the responsibility of the appropriate department of the SES to elevate to the Monetary Board the lifting of the disqualification of the concerned director/officer and his/her delisting from the masterlist of watchlisted persons.

(As amended by Circular No. 584 dated 28 September 2007)

§ 4143N.4 ***Effect of possession of disqualifications.*** Directors/officers elected or appointed possessing any of the disqualifications as enumerated herein, shall vacate their respective positions immediately.

§ 4143N.5 ***(Reserved)***

§ 4143N.6 ***Watchlisting***. To provide the BSP with a central information file to be used as reference in passing upon and

reviewing the qualifications of persons elected or appointed as trustee or officer of an institution under the supervisory and regulatory powers of the BSP, the SES shall maintain a watchlist of disqualified directors/trustees/officers under the following procedures:

a. *Watchlist categories*. Watchlisting shall be categorized as follows:

(1) Disqualification File "A" (Permanent) –Directors/trustees/officers/ employees permanently disqualified by the Monetary Board from holding a director/ trustee/officer position.

(2) Disqualification File "B" (Temporary) – Directors/trustees/officers/ employees temporarily disqualified by the Monetary Board from holding a director/ trustee/officer position.

b. *Inclusion of directors/trustees/ officers/employees in the watchlist*. Upon recommendation by the appropriate department of the SES, the inclusion of directors/trustees/officers/employees in watchlist disqualification files "A" and "B" on the basis of decisions, actions or reports of the courts, institutions under the supervisory and regulatory powers of the BSP, NBI or any other administrative agencies shall first be approved by the Monetary Board.

c. *Notification of directors/trustees/ officer s/employees*. Upon approval by the Monetary Board, the concerned director/ trustee/officer/employee shall be informed through registered mail, with registry return receipt card, at his last known address of his inclusion in the masterlist of watchlisted persons disqualified to be a director/trustee/officer in any institution under the supervisory and regulatory powers of the BSP.

d. *Confidentiality*. Watchlisting shall be for internal use only and may not be accessed or queried upon by outside parties including such institutions under the supervisory and regulatory powers of the BSP, except with the authority of the person concerned and with the approval of the Deputy Governor, SES, the Governor, or the Monetary Board.

The BSP will disclose information on its watchlist files only upon submission of a duly accomplished and notarized authorization from the concerned person and approval of such request by the Deputy Governor, SES or the Governor or the Monetary Board. The prescribed authorization form to be submitted to the appropriate department of the SES is in *Appendix Q-45*.

FIs can gain access to information in the said watchlist for the sole purpose of screening their applicants for hiring and/or confirming their elected directors and appointed officers. FIs must obtain the said authorization on an individual basis.

e. *Delisting*. All delistings shall be approved by the Monetary Board upon recommendation of the appropriate department of the SES except in cases of persons known to be dead where delisting shall be automatic upon proof of death and need not be elevated to the Monetary Board. Delisting may be approved by the Monetary Board in the following cases:

(1) Watchlist - Disqualification File "B" (Temporary) -

(a) After the lapse of the specific period of disqualification;

(b) When the conviction by the court for crimes involving dishonesty, breach of trust and/or violation of banking laws becomes final and executory, in which case the director/trustee/officer/employee is relisted to Watchlist – Disqualification File "A" (Permanent); or

(c) Upon favorable decision or clearance by the appropriate body, i.e., court, NBI, institutions under the supervisory and regulatory powers of the BSP, or such other agency/body where the concerned individual had derogatory record.

Directors/trustees/officers/employees delisted from the Watchlist – Disqualification File "B" other than those upgraded to Watchlist – Disqualification File "A" shall be eligible for re-employment with any institution under the supervisory and regulatory powers of the BSP.

(As amended by CL-2007-001 dated 04 January 2007; and CL-2006-046 dated 21 December 2006)

Sec. 4144N Securities Custodianship and Securities Registry Operations. The following rules and regulations shall govern securities custodianship and securities registry operations of NBFIs under BSP supervision.

The guidelines to implement the delivery by the seller of securities to the buyer or to his designated third party custodian are shown in *Appendix Q-38*.

Violation of any provision of the guidelines in *Appendix Q-38* shall be subject to the sanctions/penalties under Subsec. 4144N.29.

(As amended by M-2007-002 dated 23 January 2007; M-2006-009 dated 06 July 2006, M-2006-002 dated 05 June 2006 and Circular No. 524 dated 31 March 2006)

§ 4144N.1 ***Statement of policy.*** It is the policy of the BSP to promote the protection of investors in order to gain their confidence and encourage their participation in the development of the domestic capital market. Therefore, the following rules and regulations are promulgated to enhance transparency of securities transactions with the end in view of protecting investors.

§ 4144N.2 ***Applicability of this regulation.*** This regulation shall govern securities custodianship and securities registry operations of banks and NBFIs under BSP supervision. It shall cover all their transactions in securities as defined in Section 3 of the SRC, whether exempt or required to be registered with the SEC, that are sold, borrowed, purchased, traded, held under custody or otherwise transacted in the Philippines where at least one (1) of the parties is a bank or an NBFI under BSP supervision. However, this regulation shall not cover the operations of stock and transfer agents duly registered with the SEC pursuant to the provisions of SRC Rule 36-4.1 and whose only function is to maintain the stock and transfer book for shares of stock.

§ 4144N.3 ***Prior Bangko Sentral approval.*** NBFIs under BSP supervision may act as securities custodian and/or registry only upon prior Monetary Board approval.

§ 4144N.4 ***Application for authority*** A BSP-supervised entity desiring to act as securities custodian and/or registry shall file an application with the appropriate department of the SES. The application shall be signed by the highest ranking officer of the NBFI and shall be accompanied by a certified true copy of the resolution of the NBFI's board of directors authorizing the NBFI to engage in securities custodianship and/or registry.

§ 4144N.5 ***Pre-qualification requirements for a securities custodian/ registry***

a. It must be an NBFI under BSP supervision;

b. It must have complied with the minimum capital accounts required under existing regulations not lower than an adjusted capital of P 300.0 million or such amounts as may be required by the Monetary Board in the future;

c. It must have a CAMELS composite rating of at least "4" (as rounded off) in the last regular examination**;**

d. It must have in place a comprehensive risk management system approved by its board of directors

appropriate to its operations characterized by a clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal control and complete, timely and efficient risk reporting systems. In this connection, a manual of operations (which includes custody and/or registry operations) and other related documents embodying the risk management system must be submitted to the appropriate department of the SES at the time of application for authority and within thirty (30) days from updates;

e. It must have adequate technological capabilities and the necessary technical expertise to ensure the protection, safety and integrity of client assets, such as:

(1) It can maintain an electronic registry dedicated to recording of accountabilities to its clients; and

(2) It has an updated and comprehensive computer security system covering system, network and telecommunication facilities that will:

(a) limit access only to authorized users;

(b) preserve data integrity; and

(c) provide for audit trail of transactions.

f. It has complied, during the period immediately preceding the date of application, with the following:

(1) ceilings on credit accommodation to DOSRI; and

(2) single borrower's limit.

g. It has no reserve deficiencies during the eight (8) weeks immediately preceding the date of application;

h. It has set up the prescribed allowances for probable losses, both general and specific, as of date of application;

i. It has not been found engaging in unsafe and unsound practices during the last six (6) months preceding the date of application;

j. It has generally complied with laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management;

k. It has submitted additional documents/information which may be requested by the appropriate department of the SES, such as, but not limited to:

(1) Standard custody/registry agreement and other standard documents;

(2) Organizational structure of the custody/registry business;

(3) Transaction flow; and

(4) For those already in the custody or registry business, a historical background for the past three (3) years;

l. It shall be conducted in a separate unit headed by a qualified person with at least two (2) years experience in custody/ registry operations; and

m. It can interface with the clearing and settlement system of any recognized exchange in the country capable of achieving a real time gross settlement of trades.

§ 4144N.6 *Functions and responsibilities of a securities custodian.* A securities custodian shall have the following basic functions and responsibilities:

a. Safekeeps the securities of the client;

b. Holds title to the securities in a nominee capacity;

c. Executes purchase, sale and other instructions;

d. Performs at least a monthly reconciliation to ensure that all positions are properly recorded and accounted for;

e. Confirms tax withheld;

f. Represents clients in corporate actions in accordance with the direction provided by the securities owner;

g. Conducts mark-to-market valuation and statement rendition;

h. Does earmarking of encumbrances or liens such as, but not limited to, deeds of assignment and court orders; and

In addition to the above basic functions, it may perform the following value-added service to clients:

i. Acts as a collecting and paying agent: *Provided*, That the management of funds that may be collected shall be clearly defined in the custody contract or in a separate document or agreement attached thereto: *Provided, further*, That the custodian shall immediately make known to the securities owner all payments made and collections received with respect to the securities under custody; and

j. Securities borrowing and lending operations as agent.

§ 4144N.7 *Functions and responsibilities of a securities registry*

a. Maintains an electronic registry book;

b. Delivers confirmation of transactions and other documents within agreed trading periods;

c. Issues registry confirmations for transfers of ownership as it occurs;

d. Prepares regular statement of securities balances at such frequency as may be required by the owner on record but not less frequent than every quarter; and

e. Follows appropriate legal documentation to govern its relationship with the Issuer.

§ 4144N.8 *Protection of securities of the customer.* A custodian must incorporate the following procedures in the discharge of its functions in order to protect the securities of the customer:

a. *Accounting and recording for securities*. Custodians must employ accounting and safekeeping procedures that fully protect customer securities. It is essential that custodians segregate customer securities from one another and from its proprietary holdings to protect the same from the claims of its general creditors.

All securities held under custodianship shall be recorded in the books of the custodian at the face value of said securities in a separate subsidiary ledger account "*Securities Held Under Custodianship*" if booked in the Bank Proper or the subsidiary ledger account "*Safekeeping and Custodianship – Securities Held Under Custodianship*", if booked in the Trust Department: *Provided*, That securities held under custodianship where the custodian also performs securities borrowing and lending as agent shall be booked in the Trust Department.

b. *Documentation*. The appropriate documentation for custodianship shall be made and it shall clearly define, among others, the authority, role, responsibilities, fees and provision for succession in the event the custodian can no longer discharge its functions. It shall be accepted in writing by the counterparties.

The governing custodianship agreement shall be pre-numbered and this number shall be referred to in all amendments and supplements thereto.

c. *Confirmation of custody*. The custodian shall issue a custody confirmation to the purchaser or borrower of securities to evidence receipt or transfer of securities as they occur. It shall contain, as a minimum, the following information on the securities under custody:

(1) Owner of securities;
(2) Issuer;
(3) Securities type;
(4) Identification or serial numbers;
(5) Quantity;
(6) Face value; and
(7) Other information, which may be requested by the parties.

d. *Periodic reporting*. The custodian shall prepare at least quarterly (or as frequent as the owner of securities will require) securities statements delivered to the registered owner's address on record.

Said statement shall present detailed information such as, but not limited to, inventory of securities, outstanding balances, and market values.

§ 4144N.9 *Independence of the registry and custodian.* A BSP-accredited securities registry must be a third party with no subsidiary/affiliate relationship with the issuer of securities while a BSP-accredited custodian must be a third party with no subsidiary/affiliate relationship with the issuer or seller of securities. An NBFI accredited by BSP as securities custodian may, however, continue holding securities it sold under the following cases:

a. where the purchaser is a related entity acting in its own behalf and not as agent or representative of another;

b. where the purchaser is a non-resident with existing global custody agreement governed by foreign laws and conventions wherein the NBFI is designated as custodian or sub-custodian; and

c. upon approval by the BSP, where the purchaser is an insurance company whose custody arrangement is either governed by a global custody agreement where the NBFI is designated as custodian or sub-custodian or by a direct custody agreement with features at par with the standards set under this Subsection drawn or prepared by the parent company owning more than fifty percent (50%) of the capital stock of the purchaser and executed by the purchaser itself and its custodian.

Purchases by non-residents and insurance companies that are exempted from the independence requirement of this Subsection shall, however, be subject to all other provisions of this Subsection.

§ 4144N.10 *Registry of Scripless Securities of the Bureau of the Treasury* The Registry of Scripless Securities (RoSS), operated by the Bureau of the Treasury, which is acting as a registry for government securities is deemed to be automatically accredited for purposes of this Section and is likewise exempted from the independence requirement under Subsec. 4144N.9. However, securities registered under the RoSS shall only be considered delivered if said securities were transferred by means of book entry to the appropriate securities account of the purchaser or his designated custodian. Book entry transfer to a sub-account for clients under the primary account of the seller shall not constitute delivery for purposes of this Section.

§ 4144N.11 *Confidentiality.* A BSP-accredited securities custodian/registry shall not disclose to any unauthorized person any information relative to the securities under its custodianship/registry. The management shall likewise ensure the confidentiality of client accounts of the custody or registry unit from other units within the same organization.

§ 4144N.12 *Compliance with anti-money laundering laws/regulations.* For purposes of compliance with the requirements of R.A. No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001," as amended, particularly the provisions regarding customer identification, record keeping and reporting of suspicious transactions, a BSP-accredited custodian may rely on referral by the seller/issuer of securities: *Provided,* That it maintains a record of such referral together with the minimum identification, information/documents required under the law and its implementing rules and regulations.

A BSP accredited custodian must maintain accounts only in the true and full name of the owners of the security. However, said securities owners may be identified by number or code in reports and

correspondences to keep his identity confidential.

Securities subject of pledge and/or deed of assignment as of 14 October 2004 (date of Circular 457), may be held by a lending NBFI up to the original maturity of the loan or full payment thereof, whichever comes earlier.

§ 4144N.13 *Basic security deposit* Securities held under custodianship whether booked in the Trust Department or carried in the regular books of the NBFI shall be subject to a security deposit for faithful performance of duties at the rate of 1/25 of one percent (1%) of the total face value or P500,000 whichever is higher.

However, securities held under custodianship where the custodian also performs securities borrowing and lending as agent shall be subject to a higher basic security deposit of one percent (1%) of the total face value. For this purpose, the following subsidiary ledger account shall be created in the Trust Department Books:

"Safekeeping and Custodianship - Securities Held Under Custodianship with Securities Borrowing and Lending As Agent"

Compliance shall be in the form of government securities deposited with the BSP eligible pursuant to existing regulations governing security for the faithful performance of trust and other fiduciary business.

§ 4144N.14 *Reportorial requirements* An accredited securities custodian shall comply with reportorial requirements that may be prescribed by the BSP, which shall include as a minimum, the face and market value of securities held under custodianship.

§§ 4144N.15 - 4144N.28 *(Reserved)*

§ 4144N.29 *Sanctions.* Without prejudice to the penal and administrative sanctions provided for under Sections 36 and 37, respectively, of the R.A. No. 7653, violation of any provision of this Section shall be subject to the following sanctions penalties:

a. *First offense* –

(1) Fine of up to P10,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and

(2) Reprimand for the directors/officers responsible for the violation.

b. *Second offense* -

(1) Fine of up to P20,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and

(2) Suspension for ninety (90) days without pay of directors/officers responsible for the violation.

c. *Subsequent offenses*–

(1) Fine of up to P30,000 a day for the institution for each violation from the date the violation was committed up to the date it was corrected;

(2) Suspension or revocation of the authority to act as securities custodian and/or registry; and

(3) Suspension for 120 days without pay of the directors/officers responsible for the violation.

Secs. 4145N – 4149N (Reserved)

Sec. 4150N Rules of Procedure on Administrative Cases Involving Directors and Officers of Trust Entities. The rules of procedure on administrative cases involving directors and officers of quasi-banks in Sec. 4150Q shall apply to directors and officers of trust entities.

Secs. 4151N – 4156N (Reserved)

Sec. 4157N Batas Pambansa Blg. 344 –An Act To Enhance The Mobility Of Disabled Persons By Requiring Certain Buildings, Institutions, Establishments And Public Utilities To Install Facilities And Other Devices. In order to promote the realization of the rights of disabled persons to participate fully in the social life and the development of the societies in which they live and the enjoyment of the opportunities available to other citizens, no license or permit for the construction, repair or renovation of public and private buildings for public use, educational institutions, airports, sports and recreation centers and complexes, shopping centers or establishments, public parking places, workplaces, public utilities, shall be granted or issued unless the owner or operator thereof shall install and incorporate in such building, establishment or public utility, such architectural facilities or structural features as shall reasonably enhance the mobility of disabled persons such as sidewalks, ramps, railings and the like. If feasible, all such existing buildings, institutions, establishments, or public utilities may be renovated or altered to enable the disabled persons to have access to them.

Secs. 4158N-4160N (Reserved)

Sec. 4161N Philippine Financial Reporting Standards/Philippine Accounting Standards

Statement of policy. It is the policy of the BSP to promote fairness, transparency and accuracy in financial reporting. It is in this light that the BSP aims to adopt all PFRS and PAS issued by the ASC to the greatest extent possible.

Other NBFIs not performing quasi-banking functions shall adopt the PFRS and PAS which are in accordance with generally accepted accounting principles in recording transactions and in the preparation of financial statements and reports to BSP. However, in cases where there are differences between BSP regulations and PFRS/PAS as when more than one (1) option are allowed or certain maximum or minimum limits are prescribed by the PFRS/PAS, the option or limit prescribed by BSP regulations shall be adopted by banks.

For purposes hereof, the PFRS/PAS shall refer to issuances of the ASC and approved by the PRC.

Accounting treatment for prudential reporting. For prudential reporting, FIs shall adopt in all respect the PFRS and PAS except as follows:

a. In preparing consolidated financial statements, only investments in financial allied subsidiaries except insurance subsidiaries shall be consolidated on a line-by-line basis; while insurance and non-financial allied subsidiaries shall be accounted for using the equity method. Financial/non-financial allied/non-allied associates shall be accounted for using the equity method in accordance with the provisions of PAS 28 "Investments in Associates".

b. For purposes of preparing separate financial statements, financial/non-financial allied/non-allied subsidiaries/associates, including insurance subsidiaries/associates, shall also be accounted for using the equity method; and

c. FIs shall be required to meet the BSP recommended valuation reserves.

Government grants extended in the form of loans bearing nil or low interest rates shall be measured upon initial recognition at its fair value (i.e., the present value of the future cash flows of the financial instrument discounted using the market interest rate). The difference between the fair value and the net proceeds of the loan shall be recorded under "*Unearned Income-Others*", which shall be amortized over the term of the loan using the effective interest method.

The provisions on government grants shall be applied retroactively to all

outstanding government grants received. FI that adopted an accounting treatment other than the foregoing shall consider the adjustment as a change in accounting policy, which shall be accounted for in accordance with PAS 8.

Notwithstanding the exceptions in Items *"a", "b" and "c",* the audited annual financial statements required to be submitted to the BSP in accordance with the provision of Sec. 4172N shall in all respect be PFRS/PAS compliant: *Provided,* That FIs shall submit to the BSP adjusting entries reconciling the balances in the financial statements for prudential reporting with that in the audited annual financial statements.

(As amended by Circular Nos. 572 dated 22 June 2007 and 494 dated 20 September 2004)

Sec. 4162N Reports. NBFIs without quasi-banking functions but are subsidiaries/affiliates of banks and QBs and investment houses without quasi-banking functions but with trust operations shall submit to the appropriate department of the SES the reports listed in *Appendix N-1* in the forms as may be prescribed by the Deputy Governor, SES, BSP.

Any change in, or amendment to, the articles of incorporation, by-laws or material documents required to be submitted to the BSP shall be reported by submitting copies of the amended articles of incorporation, by-laws, or material documents to the appropriate department of the SES within fifteen (15) days following such change.

§ 4162N.1 ***Categories and signatories of reports.*** Reports required to be submitted to the BSP are classified into Categories A-2 and B reports as indicated in the list of reports required to be submitted to the BSP in *Appendix N-1.*

Appendix N-2 prescribes the signatories for each report category and the requirements on signatory authorization. Reports submitted by NBFIs in computer media shall be subject to the same requirements.

A report submitted to the BSP under the signature of an officer who is not authorized in accordance with the requirements in this Subsection shall be considered as not having been submitted.

§ 4162N.2 ***Manner of filing.*** The submission of the reports shall be effected by filing them personally with the appropriate department of the SES or with the BSP Regional Offices/Units, or by sending them by registered mail or special delivery through private couriers unless otherwise specified in the circular or memorandum of the BSP.

§ 4162N.3 ***Sanctions in case of willful delay in the submission of reports***

a. *Definition of terms*. For purposes of this Subsection, the following definitions shall apply:

(1) *Report* shall refer to any report or statement required of an NBFI to be submitted to the BSP periodically or within a specified period.

(2) *Willful delay in the submission of reports* shall refer to the failure of an NBFI to submit a report on time. Failure to submit a report on time due to fortuitous events, such as fire and other natural calamities and public disorders, including strike or lockout affecting an NBFI as defined in the Labor Code or national emergency affecting operations of NBFIs, shall not be considered as willful delay.

b. *Fines for willful delay in submission of reports*. NBFIs incurring willful delay in the submission of required reports shall pay a fine in accordance with the following schedule:

I.	For Categories A-2 reports Per day of default until the report is filed	P300
II.	For Category B reports Per day of default until the report is filed	P 60

Delay or default shall start to run on the day following the last day required for the submission of reports. However, should the last day of filing fall on a non-working day in the locality where the reporting FI is situated, delay or default shall start to run on the day following the next working day. The due date/deadline for submission of reports to BSP as prescribed under Sec. 4162N governing the frequency and deadlines indicated in *Appendix N-1* shall be automatically moved to the next business day whenever a half-day suspension of business operations in government offices is declared due to an emergency such as typhoon, floods, etc.

For purposes of establishing delay or default, the date of acknowledgment by the appropriate department of the SES or the BSP Regional Offices/Units appearing on the copies of such reports filed or submitted, or the date of mailing postmarked on the envelope/the date of registry/special delivery receipt, as the case may be, shall be considered as the date of filing by the NBFI.

c. *Manner of payment or collection of fines* – NBFIs shall, within fifteen (15) calendar days from receipt of the statement of account from the appropriate department of the BSP, pay the fines imposed thereon for willful delay on the submission of reports.

(As amended by Circular No. 585 dated 15 October 2007)

Sec. 4163N (Reserved)

Sec. 4164N Internal Audit Function Internal audit is an independent, objective assurance and consulting function established to examine, evaluate and improve the effectiveness of risk management, internal control, and governance processes of an organization.

§ 4164N.1 *Status.* The internal audit function must be independent of the activities audited and from day-to-day internal control process. It must be free to report audit results, findings, opinions, appraisals and other information to the appropriate level of management. It shall have authority to directly access and communicate with any officer or employee, to examine any activity or entity of the institution, as well as to access any records, files or data whenever relevant to the exercise of its assignment. The Audit Committee or senior management should take all necessary measures to provide the appropriate resources and staffing that would enable internal audit to achieve its objectives.

§ 4164N.2 *Scope.* The scope of internal audit shall include:

a. Examination and evaluation of the adequacy and effectiveness of the internal control systems;

b. Review of the application and effectiveness of risk management procedures and risk assessment methodologies;

c. Review of the management and financial information systems, including the electronic information system and electronic banking services;

d. Assessment of the accuracy and reliability of the accounting system and of the resulting financial reports;

e. Review of the systems and procedures of safeguarding assets;

f. Review of the system of assessing capital in relation to the estimate of organizational risk;

g. Transaction testing and assessment of specific internal control procedures; and

h. Review of the compliance system and the implementation of established policies and procedures.

§ 4164N.3 ***Qualification standards of the internal auditor.*** The internal auditor of subsidiaries and/or affiliates of a UB or a KB must be a CPA and must have at least five (5) years experience in the regular audit (internal or external) of a UB or KB as auditor-in-charge, senior auditor or audit manager. He must possess the knowledge, skills, and other competencies to examine all areas in which the institution operates. Professional competence as well as continuing training and education shall be required to face up to the increasing complexity and diversity of the institution's operations.

The internal auditor of subsidiaries and/or affiliates of a TB, QB, trust entity or national cooperative bank must be a CPA with at least five (5) years experience in the regular audit (internal or external) of a TB, QB, trust entity or national cooperative bank as auditor-in-charge, senior auditor or audit manager or, in lieu thereof, at least three (3) years experience in the regular audit (internal or external) of a UB or KB as auditor-in-charge, senior auditor or audit manager.

The internal auditor of subsidiaries and/or affiliates of an RB, NSSLA or local cooperative bank must be at least an accounting graduate with two (2) years experience in external audit or in the regular audit of an RB, NSSLA or local coop bank or, in lieu thereof, at least one (1) year experience in the regular audit (internal or external) of a UB, KB, TB, QB, trust entity or national coop bank as auditor-in-charge, senior auditor or audit manager.

A qualified internal auditor of a UB or a KB shall be qualified to audit TBs, QBs, trust entities, national cooperative banks, RBs, NSSLAs, local coop banks, subsidiaries and affiliates engaged in allied activities, and other FIs under BSP supervision.

A qualified internal auditor of a TB or national coop bank shall likewise be qualified to audit QBs, trust entities, RBs, NSSLAs, local coop banks, subsidiaries and affiliates engaged in allied activities, and other FIs under BSP supervision.

§ 4164N.4 ***Code of Ethics and Internal Auditing Standards.*** The internal auditor should conform with the Code of Professional Ethics for CPAs and ensure compliance with sound internal auditing standards, such as the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* (e-mail: standards@theiia.org; Web: http://www.theiia.org.) and other supplemental standards issued by regulatory authorities/government agencies. The standards address independence and objectivity, professional proficiency, scope of work, performance of audit work, management of internal audit, quality assurance reviews, communication and monitoring of results.

Secs. 4165N - 4171N (Reserved)

Sec. 4172N Financial Audit. NBFIs shall cause an annual financial audit by an external auditor acceptable to the BSP not later than thirty (30) calendar days after the close of the calendar year or the fiscal year adopted by the FI. Report of such audit shall be submitted to the board of directors and the appropriate department of the SES not later than 120 calendar days after the close of the calendar year or the fiscal year adopted by the FI. The report to the BSP shall be accompanied by the: (1) certification by the external auditor on the: (a) dates of start and termination of audit; (b) date of submission of the financial audit report and certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the FI to the board of directors; and (c) the absence of any direct or indirect financial interest and other

circumstances that may impair the independence of the external auditor; (2) reconciliation statement between the AFS and the balance sheet and income statement for FI and trust department submitted to the BSP including copies of adjusting entries on the reconciling items; and (3) other information that may be required by the BSP.

In addition, the external auditor shall be required by the FI to submit to the board of directors, a LOC indicating any material weakness or breach in the institution's internal control and risk management systems within thirty (30) calendar days after submission of the financial audit report. If no material weakness or breach is noted to warrant the issuance of an LOC, a Certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the FI shall be submitted in its stead, together with the financial audit report.

Material weakness shall be defined as a significant control deficiency, or combination of deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be detected or prevented by the entity's internal control. A material weakness does not mean that a material misstatement has occurred or will occur, but that it could occur. A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles. The term more than remote likelihood shall mean that future events are likely to occur or are reasonably possible to occur.

The board of directors, in a regular or special meeting, shall consider and act on the financial audit report and the certification under oath submitted in lieu of the LOC and shall submit, within thirty (30) banking days after receipt of the reports, a copy of its resolution to the appropriate department of the SES. The resolution shall show, among other things, the actions(s) taken on the reports and the names of the directors present and absent.

The board shall likewise consider and act on the LOC and shall submit, within thirty (30) banking days after receipt thereof, a copy of its resolution together with said LOC to the appropriate department of SES. The resolution shall show the action(s) taken on the findings and recommendations and, the names of the directors present and absent, among other things.

The LOC shall be accompanied by the certification of the external auditor of the date of its submission to the board of directors.

Government-owned or -controlled banks, including their subsidiaries and affiliates, as well as other FIs under BSP supervision which are under the concurrent jurisdiction of the COA shall be exempt from the aforementioned annual financial audit by an acceptable external auditor: *Provided*, That when warranted by supervisory concern such as material weakness/breach in internal control and/or risk management systems, the Monetary Board may, upon recommendation of the appropriate department of the SES, require the financial audit to be conducted by an external auditor acceptable to the BSP, at the expense of the institution concerned: *Provided, further*, That when circumstances such as, but not limited to, loans from multilateral FIs, privatization, or public listing warrant, the financial audit of the concerned institution by an acceptable external auditor may also be allowed.

Banks and other FIs under the concurrent jurisdiction of the BSP and COA shall, however, submit a copy of the AAR of the COA to the appropriate department of the SES within thirty (30) banking days after receipt of the report by the board of directors. The AAR shall be accompanied by the: (1) certification by the institution concerned on the date of receipt of the AAR by the board of directors; (2) reconciliation statement between the AFS in the AAR and the balance sheet and income statement of the FI and trust department submitted to the BSP, including copies of adjusting entries on the reconciling items; and (3) other information that may be required by the BSP.

The board of directors of said institutions, in a regular or special meeting, shall consider and act on the AAR, as well as on the comments and observations and shall submit, within thirty (30) banking days after receipt of the report, a copy of its resolution to the appropriate department of the SES. The resolution shall show the action(s) taken on the report, including the comments and observations and the names of the directors present and absent, among other things."

FIs as well as external auditors shall strictly observe the requirements in the submission of the financial audit report and reports required to be submitted under *Appendix Q-33*.

The audited annual financial statements required to be submitted shall in all respect be PFRS/PAS compliant: *Provided,* That FIs shall submit to the BSP adjusting entries reconciling the balances in the financial statements for prudential reporting with that in the audited annual financial statements.

The reports and certifications of institutions concerned, schedules and attachments required under this Subsection shall be considered *Category B* reports, delayed submission of which shall be subject to the penalties under Subsec. 4162N.3

(As amended by Circular Nos. 554 dated 22 December 2006 and 540 dated 09 August 2006)

§ 4172N.1 ***Audited financial statements of non-bank financial institutions.*** The following rules shall govern the utilization and submission of AFS of NBFIs.

For purposes of this Section, AFS shall include the balance sheets, income statements, statements of changes in equity, statements of cash flows and notes to financial statements which shall include among other information, disclosure of the volume of past due loans as well as loan-loss provisions. On the other hand, financial audit report shall refer to the AFS and the opinion of the auditor. The AFS of NBFIs with subsidiaries shall be presented side by side on a solo basis (parent) and on a consolidated basis (parent and subsidiaries).

(Circular No. 540 dated 09 August 2006)

§ 4172N.2 ***Posting of audited financial statements.*** FIs shall post in conspicuous places in their head offices, all their branches and other offices, as well as in their respective websites, their latest financial audit report.

(Circular No. 540 dated 09 August 2006)

Secs. 4173N - 4179N (Reserved)

Sec. 4180N Selection, Appointment, Reporting Requirements and Delisting of External Auditors and/or Auditing Firm; Sanction

a. *Rules and regulations*. The revised rules and regulations that shall govern the selection, appointment, reporting requirements and delisting of external auditors and auditing firms by the BSP of covered institutions which under special laws are subject to BSP supervision are shown in *Appendix N-5*.

b. *Sanctions*. The applicable sanctions/ penalties prescribed under Sections 36 and 37 of R.A. No. 7653 to the extent applicable shall be imposed on the covered institution, its audit committee and the directors approving the hiring of external auditors/ auditing firm who/which are not in the BSP list of selected auditors for covered institutions or for hiring, and/or retaining the services of the external auditor/auditing firm in violation of any of the provisions of this Section and for non-compliance with the Monetary Board directive under Item "*K*" in *Appendix N-5*. Erring external auditors/ auditing firm may also be reported by the BSP to the PRC for appropriate disciplinary action.
(As amended by Circular Nos. 660 dated 25 August 2009 and 529 dated 11 May 2006)

Sec. 4181N Publication Requirements. The quarterly CSOC of a trust entity and its subsidiaries and affiliates shall be published side by side with the statement of condition of its head office and its branches/other offices as of such dates as the BSP may require within twenty (20) working days from receipt of call letter, in any newspaper of general circulation in the country in the prescribed format.

The CSOC of a QB/trust entity and its subsidiaries and associates shall conform with the guidelines of PAS 27 "Consolidated and Separate Financial Statements", except that for purposes of consolidated financial statements, only investments in financial allied subsidiaries except insurance subsidiaries shall be consolidated on a line-by-line basis; while insurance and non-financial allied subsidiaries shall be accounted for using the equity method. Financial/non-financial allied/non-allied associates shall be accounted for using the equity method in accordance with the provisions of PAS 28 "Investments in Associates". For purposes of separate financial statements, investments in financial/non-financial allied/non-allied subsidiaries/associates, including insurance subsidiaries/associates, shall be accounted for using the equity method.
(As amended by Circular No. 494 dated 20 September 2004)

Secs. 4182N - 4189N (Reserved)

Sec. 4190N Duties and Responsibilities of Non-Bank Financial Institutions and their Directors/Officers in All Cases of Outsourcing of Non-Bank Financial Institution Functions. The rules on outsourcing of banking functions as shown in *Appendix Q-37* shall be adopted in so far as they are applicable to FIs.
(As amended by Circular Nos. 642 dated 30 January 2009, 610 dated 26 May 2008, 596 dated 11 January 2008, 548 dated 25 September 2006 and 543 dated 08 September 2006)

Sec. 4191N (Reserved)

Sec. 4192N Prompt Corrective Action Framework. The framework for the enforcement of PCA on banks which is in *Appendix Q-40,* shall govern the PCA taken on FIs to the extent applicable, or by analogy.
(Circular No. 523 dated 31 March 2006, as amended by Circular No. 664 dated 15 September 2009)

Sec. 4193N Supervision by Risks. The guidelines on supervision by risk in *Appendix Q-42* which provide guidance on how QBs should identify, measure, monitor and control risks shall govern the supervision by risks of FIs to the extent applicable.

The guidelines set forth the expectations of the BSP with respect to the management of risks and are intended to provide more consistency in how the risk-focused supervision function is applied to these risks. The BSP will review the risks to ensure that an FI's internal risk management processes are integrated and comprehensive. All FIs should follow the guidance in risk management efforts.
(Circular No. 510 dated 03 February 2006)

Sec. 4194N Market Risk Management The guidelines on market risk management for QBs as shown in *Appendix Q-43* shall govern the market risk management of FIs to the extent applicable.

The guidelines set forth the expectations of the BSP with respect to the management of market risk and are intended to provide more consistency in how the risk-focused supervision is applied to this risk. FIs are expected to have an integrated approach to risk management to identify, measure, monitor and control risks. Market risk should be reviewed together with other risks to determine overall risk profile.

The BSP is aware of the increasing diversity of financial products and that industry techniques for measuring and managing market risk are continuously evolving. As such, the guidelines are intended for general application; specific application will depend to some extent on the size, complexity and range of activities undertaken by individual FIs.

(Circular No. 544 dated 15 September 2006)

Sec. 4195N Liquidity Risk Management. The guidelines on liquidity risk management for QBs as shown in *Appendix Q-44* shall govern

the liquidity risk management of FIs to the extent applicable.

The guidelines set forth the expectations of the BSP with respect to the management of liquidity risk and are intended to provide more consistency in how the risk-focused supervision function is applied to this risk. FIs are expected to have an integrated approach to risk management to identify, measure, monitor and control risks. Liquidity risk should be reviewed together with other risks to determine overall risk profile.

These guidelines are intended for general application; specific application will depend on the size and sophistication of a particular FI and the nature and complexity of its activities.

(Circular No. 545 dated 15 September 2006)

Secs. 4196N - 4200N (Reserved)

Secs. 4201N - 4300N (Reserved)

Sec. 4301N Credit Card Operations; General Policy. The BSP shall foster the development of consumer credit through innovative products such as credit cards under conditions of fair and sound consumer credit practices. The BSP likewise encourages competition and transparency to ensure more efficient delivery of services and fair dealings with customers.

Towards this end, the following rules and regulations shall govern the credit card operations of subsidiary/affiliate credit card companies of banks/QBs, aligned with global best practices.

§ 4301N.1 *Definition of terms*

a. *Credit card*. Means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor or services on credit.

b. *Credit card receivables*. Represents the total outstanding balance of credit cardholders arising from purchases of goods and services, cash advances, annual membership/renewal fees as well as interest, penalties, insurance fees, processing/service fees and other charges.

c. *Minimum amount due* or *minimum payment required*. Means the minimum amount that the credit cardholder needs to pay on or before the payment due date for a particular billing period/cycle as defined under the terms and conditions or reminders stated in the statement of account/billing statement which may include: (1) total outstanding balance multiplied by the required payment percentage or a fixed amount whichever is higher; (2) any amount which is part of any fixed monthly installment that is charged to the card; (3) any amount in excess of the credit line; and (4) all past due amounts, if any.

d. *Default* or *delinquency*. Shall mean non-payment of, or payment of any amount less than, the "*Minimum Amount Due*" or "*Minimum Payment Required*" within two (2) cycle dates, in which case, the "*Total Amount Due*" for the particular billing period as reflected in the monthly statement of account may be considered in default or delinquent.

e. *Acceleration clause*. Shall mean any provision in the contract between the bank and the cardholder that gives the bank the right to demand the obligation in full in case of default or non-payment of any amount due or for whatever valid reason.

f. *Subsidiary* refers to a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with the power to vote by a bank or other FI.

g. *Affiliate* refers to an entity linked directly or indirectly to a bank or other FI through any one (1) or a combination of any of the following:

(1) Ownership, control or power to vote, whether by permanent or temporary

proxy or voting trust, or other similar contracts, by a bank or other FI of at least ten percent (10%) or more of the outstanding voting stock of the entity, or vice-versa;

(2) Interlocking directorship or officership, except in cases involving independent directors as defined under existing regulations;

(3) Common stockholders owning at least ten percent (10%) of the outstanding voting stock of each FI and the entity; or

(4) Management contract or any arrangement granting power to the bank or other FI to direct or cause the direction of management and policies of the entity, or vice-versa.

§ 4301N.2 ***Risk management system*** To safeguard their interests, subsidiary/ affiliate credit card companies of banks/QBs are required to establish an appropriate system for managing risk exposures from credit card operations which shall be documented in a complete and concise manner. The risk management system shall cover the organizational set-up, records and reports, accounting, policies and procedures and internal control.

Written policies, procedures and internal control guidelines shall be established on the following aspects of credit card operations:

a. Requirements for application;

b. Solicitation and application processing;

c. Determination and approval of credit limits;

d. Pre-approved cards;

e. Issuance, distribution and activation of cards;

f. Supplementary or extension cards;

g. Cash advances;

h. Billing and payments;

i. Deferred payment program or special installment plans;

j. Collection of past due accounts;

k. Handling of accounts for write-off;

l. Suspension, cancellation and withdrawal or termination of card;

m. Renewal of cards, upgrade or downgrade of credit limit;

n. Lost or stolen cards and their replacement;

o. Accounts of DOSRI and employees;

p. Disposition of errors and/or questions about the billing statement statement of account and other customers' complaints; and

q. Dealings with marketing agents/ collection agents.

§ 4301N.3 ***Minimum requirements*** Before issuing credit cards, subsidiary/ affiliate credit card companies of banks/QBs must exercise proper diligence by ascertaining that applicants possess good credit standing and are financially capable of fulfilling their credit commitments. The net take home pay of applicants who are employed, the net monthly receipts of those engaged in trade or business, or the net worth or cash flow inferred from deposits of those who are neither employed nor engaged in trade or business or the credit behavior exhibited by the applicant from his other existing credit cards, or other lifestyle indicators such as but not limited to club memberships, ownership and location of residence and motor vehicle ownership shall be determined and used as basis for setting credit limits. The gross monthly income may also be used provided reasonable deductions are estimated for income taxes, premium contributions, loan amortizations and other deductions.

All credit card applications, especially those solicited by third party representatives agents, shall undergo a strict credit risk assessment process and the information stated thereon validated and verified by persons other than those handling marketing.

§ 4301N.4 *Information to be disclosed* Subsidiary/affiliate credit card companies of banks/QBs shall disclose to each person to whom the credit card privilege is extended in the agreement, contract or any equivalent document governing the issuance or use of the credit card or any amendment thereto or in such other statement furnished the cardholder from time to time, prior to the imposition of the charges and to the extent applicable, the following information:

a. non-finance charges, individually itemized, which are paid or to be paid by the cardholder in connection with the transaction but which are not incident to the extension of credit;

b. the percentage that the interest bears to the total amount to be financed expressed as a simple monthly or annual rate, as the case may be, on the outstanding balance of the obligation;

c. the effective interest rate per annum;

d. for installment loans, the number of installments, amount and due dates or periods of payment schedules to repay the indebtedness;

e. the default, late payment/penalty fees or similar delinquency-related charges payable in the event of late payments;

f. the conditions under which interest may be imposed, including the time period, within which any credit extended may be repaid without interest;

g. the method of determining the balance upon which interest and/or delinquency charges may be imposed;

h. the method of determining the amount of interest and/or delinquency charges, including any minimum or fixed amount imposed as interest and/or delinquency charge;

i. where one (1) or more periodic rates may be used to compute interest, each such rate, the range of balances to which it is applicable, and the corresponding simple annual rate; and

j. other fees, such as membership/ renewal fees, processing fees, collection fees, credit investigation fees and attorney's fees.

k. for transactions made in foreign currencies and/or outside the Philippines, for dual currency accounts (peso and dollar billings), as well as payments made by credit cardholders in any currency other than the billing currency: the application of payments; the manner of conversion from the transaction currency and payment currency to Philippine pesos or billing currency; definition or general description of verifiable blended exchange/conversion rates (e.g., MASTERCARD and/or VISA International rates on the day the item was processed/posted to the billing statement, plus mark-up, if any) including conversion commission; and/or other currency conversion charges and costs arising from the purchase by the card company of foreign currency to settle the customer's transactions shall also be disclosed.

§ 4301N.5 *Interest accrual on past due loans.* Interest income on past due loans arising from discount amortization (and not from the contractual interest of the accounts) shall be accrued as provided in PAS 39.

§ 4301N.6 *Finance charges.* The amount of finance charges in connection with any credit card transaction shall refer to interest charged to the cardholder.

§ 4301N.7 *Deferral charges.* The bank and the cardholder may, prior to the consummation of the transaction, agree in writing to a deferral of all or part of one or more unpaid installments and the bank may collect a deferral charge which shall not exceed the rate previously disclosed pursuant to the provisions on disclosure.

§ 4301N.8 ***Late payment/penalty fees*** No late payment or penalty fee shall be collected from cardholders unless the collection thereof is fully disclosed in the contract between the issuer and the cardholder: *Provided,* That late payment or penalty fees shall be based on the unpaid minimum amount due or a prescribed minimum fixed amount: *Provided, further,* That said late payment or penalty fees may be based on the total outstanding balance of the credit card obligation, including amounts payable under installment terms or deferred payment schemes, if the contract between the issuer and the cardholder contains an "*acceleration clause*" and the total outstanding balance of the credit card is classified and reported as past due.

§ 4301N.9 ***Confidentiality of information.*** Subsidiary/affiliate credit card companies of banks/QBs shall keep strictly confidential the data on the cardholder or consumer, except under the following circumstances:

a. disclosure of information is with the consent of the cardholder or consumer;

b. release, submission or exchange of customer information with other FIs, credit information bureaus, credit card issuers, their subsidiaries and affiliates;

c. upon orders of court of competent jurisdiction or any government office or agency authorized by law, or under such conditions as may be prescribed by the Monetary Board;

d. disclosure to collection agencies, counsels and other agents of the bank or card company to enforce its rights against the cardholder;

e. disclosure to third party service providers solely for the purpose of assisting or rendering services to the bank or card company in the administration of its credit card business; and

f. disclosure to third parties such as insurance companies, solely for the purpose of insuring the bank from cardholder default or other credit loss, and the cardholder from fraud or unauthorized charges.

§ 4301N.10 ***Suspension, termination of effectivity and reactivation.*** Subsidiary/affiliate credit card companies of banks/QBs shall formulate criteria or parameters for suspension, revocation and reactivation of the right to use the card and shall include in their contract with cardholders a provision authorizing the issuer to suspend or terminate its effectivity, if circumstances warrant.

§ 4301N.11 ***Inspection of records covering credit card transactions*** Subsidiary/affiliate credit card companies of banks/QBs shall make available for inspection or examination by the appropriate department of the SES complete and accurate files on card applicant/cardholder to support the consideration for approval of the application and determination of the credit limit which shall be in accordance with the verified debt repayment ability and/or net worth of the card applicant/cardholder.

§ 4301N.12 ***Offsets.*** For purposes of transparency and adequate disclosure, the credit card issuer shall inform/notify the credit cardholder in the agreement, contract or any equivalent document governing the issuance or use of the credit card that, pursuant to the provisions of Articles 1278 to 1290 of the New Civil Code of the Philippines, as amended the use of his credit card will subject his deposit/s with the bank to offset against any amount/s due and payable on his credit card which have not been paid in accordance with the terms of the agreement/contract.

§ 4301N.13 ***Handling of complaints*** Subsidiary/affiliate credit card companies of banks/QBs shall give cardholders at least twenty (20) calendar days from statement date to examine charges posted in his/her statement of account and inform the credit card company in writing of any billing error or discrepancy. Within ten (10) calendar days from receipt of such written notice, the credit card company shall send a written acknowledgement to the cardholder unless the action required is taken within such ten (10)-day period.

Not later than two (2) billing cycles or two (2) months which in no case shall exceed ninety (90) days after receipt of the notice and prior to taking any action to collect the contested amount, or any part thereof, banks/subsidiary credit card companies shall make appropriate corrections in their records and/or send a written explanation or clarification to the cardholder after conducting an investigation. Nothing in this Subsection shall be construed to prohibit any action by the bank/subsidiary credit card company to collect any amount which has not been indicated by the cardholder to contain a billing error or apply against the credit limit of the cardholder the amount indicated to be in error.

§ 4301N.14 ***Unfair collection practices.*** Subsidiary/affiliate credit card companies of banks/QBs, collection agencies, counsels and other agents may resort to all reasonable and legally permissible means to collect amounts due them under the credit card agreement: *Provided,* That in the exercise of their rights and performance of duties, they must observe good faith and reasonable conduct and refrain from engaging in unscrupulous or untoward acts. Without limiting the general application of the foregoing, the following conduct is a violation of this Subsection:

a. the use or threat of violence or other criminal means to harm the physical person, reputation, or property of any person;

b. the use of obscenities, insults, or profane language which amount to a criminal act or offense under applicable laws;

c. disclosure of the names of credit cardholders who allegedly refuse to pay debts, except as allowed under Subsec. 4301N.9;

d. threat to take any action that cannot legally be taken;

e. communicating or threat to communicate to any person credit information which is known to be false, including failure to communicate that a debt is being disputed;

f. any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a cardholder; and

g. making contact at unreasonable/ inconvenient times or hours which shall be defined as contact before 6:00 A.M. or after 10:00 P.M., unless the account is past due for more than sixty (60) days or the cardholder has given express permission or said times are the only reasonable or convenient opportunities for contact.

§ 4301N.15 ***Sanctions.*** Violations of the provisions of this Section shall be subject to any or all of the following sanctions depending upon their severity:

a. Disqualification of the bank concerned from the credit facilities of the BSP except as may be allowed under Section 84 of R.A. No. 7653;

b. Prohibition of the bank concerned from the extension of additional credit accommodation against personal security; and

c. Penalties and sanctions provided under Sections 36 and 37 of R.A. No. 7653.

Sec. 4302N Classification of Credit Card Receivables. Credit card receivables shall be classified in accordance with age as follows:

No. of days past due	Classification
91 - 120	Substandard
121 - 180	Doubtful
181 or more	Loss

The foregoing is the minimum classification requirement. Management may therefore formulate additional specific guidelines.

Sec. 4303N Updating of Information Provided to Credit Information Bureaus FIs which have provided adverse information, such as the past due or litigation status of loan accounts, to credit information bureaus, or any organization performing similar functions, shall submit monthly reports to these bureaus or organizations on the full payment or settlement of the previously reported accounts within five (5) business days from the end of the month when such full payment was received. For this purpose, it shall be the responsibility of the reporting FIs to ensure that their disclosure of any information about their borrowers/clients is with the consent of borrowers/clients concerned.

(Circular No. 589 dated 18 December 2007)

Secs. 4304N – 4311N (Reserved)

Sec. 4312N Grant of Loans and Other Credit Accommodations. The following regulations shall be observed in the grant of loans and other credit accommodations.

§ 4312N.1 *General guidelines* Consistent with safe and sound business practices, an NBFI shall grant loans or other credit accommodations only in amounts and for the periods of time essential for the effective completion of the operation to be financed.

Before granting loans or other credit accommodations, an NBFI must ascertain that the borrower, co-maker, endorser, surety and/or guarantor, if applicable, is/are financially capable of fulfilling his/their commitments to the NBFI. For this purpose, an NBFI shall obtain adequate information on his/their credit standing and financial capacities.

In addition to the usual information sheet about the borrower, an NBFI shall require from the credit applicant the following:

a. A copy of the latest ITR of the borrower and his co-maker, if applicable, duly stamped as received by the BIR;

b. Except as otherwise provided by law and in other regulations, if the borrower is engaged in business, a copy of the borrower's latest financial statements as submitted for taxation purposes to the BIR; and

c. A waiver of confidentiality of client information and/or an authority of the NBFI to conduct random verification with the BIR in order to establish authenticity of the ITR and accompanying financial statements submitted by the client.

The documents under Items *"a"* and *"b"* above shall be required to be submitted annually for as long as the loan and/or credit accommodation is outstanding. The consistency of the data/figures in said ITRs and financial statements shall also be checked and considered in the evaluation of the financial capacity and creditworthiness of credit applicants. The waiver of confidentiality of client information and/or an authority of the NBFI to conduct random verification with the BIR need not be submitted annually since once submitted these documents remain valid unless revoked.

Should the document(s) submitted prove to be spurious or incorrect in material detail, the NBFI may terminate any loan or other credit accommodation granted on the basis of said document(s) and shall have the right to demand immediate repayment or liquidation of the obligation. Moreover, the

NBFI may seek redress from the court for any harm done by the borrower's submission of spurious documents.

The required submission of additional documents shall cover loans, other credit accommodations, and credit lines granted, restructured, renewed or extended after 02 November 2006, including any availment and/or re-availment against existing credit lines, except:

(1) *Microfinance loans*. This represents small loans granted to the basic sectors such as farmer-peasant, artisanal fisher folk, workers in the formal and informal sector, migrant workers, indigenous peoples and cultural communities, women, differently-abled persons, senior citizens, victims of calamities and disasters, youth and students, children, and urban poor, as defined in the Social Reform and Poverty Alleviation Act of 1997 (R.A. No. 8425), and other loans granted to poor and low-income households for their microenterprises and small businesses. The maximum principal amount of microfinance loans shall not exceed P150,000 and may be amortized on a daily, weekly, semi-monthly or monthly basis, depending on the cash flow conditions of the borrowers. Said loans are usually unsecured, for relatively short periods of time (180 days) and often featuring joint and several guarantees of one (1) or more persons;

(2) Loans to registered BMBEs;

(3) Interbank loans;

(4) Loans secured by hold-outs on or assignment of deposits or other assets considered non-risk by the Monetary Board;

(5) Loans to individuals who are not required to file ITRs under BIR regulations, as follows:

(a) Individuals whose gross compensation income does not exceed their total personal and additional exemptions, or whose compensation income derived from one (1) employer does not exceed P60,000 and the income tax on which has been correctly withheld;

(b) Those whose income has been subjected to final withholding tax;

(c) Senior citizens not required to file a return pursuant to R.A. No. 7432, as amended by R.A. No. 9257, in relation to the provisions of the NIRC or the Tax Reform Act of 1997; and

(d) An individual who is exempt from income tax pursuant to the provisions of the NIRC and other laws, general or special; and

(6) Loans to borrowers, whose only source of income is compensation and the corresponding taxes on which has been withheld at source: *Provided*, That the borrowers submitted, in lieu of the ITR, a copy of their Employer's Certificate of Compensation Payment/Tax Withheld (BIR Form 2316) or their payslips for at least three (3) months immediately preceding the date of loan application.

Loans to micro and small enterprises which are not specifically exempted from the additional documentary requirements specified under the third paragraph of this Subsection shall be exempted from said additional documentary requirement up to 31 December 2011.

Consumer loans, with original amounts not exceeding P2.0 million, are exempted from updating requirements or the required annual submission of the same requirements forwarded during the initial submission under this Subsection but not in their restructuring, renewal, or extensions or availment/re-availment against existing credit lines: *Provided,* That these loans are supported by ITRs or by BIR Form 2316 or payslips for at least three (3) months immediately preceding the date of loan application, and financial statements submitted for taxation purposes to the BIR, as may be applicable at the time the loans were granted, restructured, renewed, or extended.

For purposes of this Section, the following definitions shall apply:

1. *Micro and small enterprises* shall be defined as any business activity or enterprise engaged in industry, agribusiness and/or services whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have a value of up to P3.0 million and P15.0 million, respectively, or as may be defined by the MSME Development Council or other competent government agency.

2. *Consumer loans* is defined to include housing loans, loans for purchase of car, household appliance(s), furniture and fixtures, loans for payment of educational and hospital bills, salary loans and loans for personal consumption, including credit card loans.

(As amended by Circular Nos. 622 dated 16 September 2008, and 549 dated 09 October 2006)

§ 4312N.2 *Purpose of loans and other credit accommodations.* Before granting a loan or other credit accommodation, an NBFI shall ascertain the purpose of the loan or other credit accommodation which shall be clearly stated in the application and in the contract between the NBFI and borrower. The proceeds of a loan or other credit accommodation shall be utilized only for the purpose(s) stated in the application and contract; otherwise, the NBFI may terminate the loan or other credit accommodation and demand immediate repayment of the obligation. Notwithstanding the preceding sentence, the proceeds of a loan or other credit accommodation may be utilized by the borrower for a purpose(s) other than that originally stated in the application and contract: *Provided,* That such other purpose(s) is/are among those for which the lending NBFI may grant loans and other credit accommodations under existing laws and regulations: *Provided, further,* That such utilization shall be with prior written approval of duly authorized officer(s) committee/board of directors of the lending NBFI and such written approval shall form part of the contract between the NBFI and the borrower.

(Circular No. 622 dated 16 September 2008)

§ 4312N.3 *Prohibited use of loan proceeds.* NBFIs are prohibited from requiring their borrowers to acquire shares of stock of the lending NBFI out of the loan or other credit accommodation proceeds from the same NBFI.

(Circular No. 622 dated 16 September 2008)

§ 4312N.4 *Signatories.* NBFIs shall require that loans and other credit accommodations be made under the signature of the principal borrower and, in the case of unsecured loans and other credit accommodations to an individual borrower, at least one (1) co-maker, except that a co-maker is not required when the principal borrower has the financial capacity and a good track record of paying his obligations.

(As amended by Circular No. 622 dated 16 September 2008)

§ 4312N.5 *Sanctions.* Any violation of the provisions of this Section shall be subject to the sanctions provided under Sections 36 and 37 of R.A. No. 7653.

Sec. 4313N Bank DOSRI Rules and Regulations Applicable to Government Borrowings in Government-Owned Or - Controlled Financial Institutions. The provisions of Secs. X326 to X337 of the Manual of Regulations for Banks (MORB), to the extent applicable, shall also apply to loans, other credit accommodations, and guarantees granted to the National

Government or Republic of the Philippines, its political subdivisions and instrumentalities as well as GOCCs, subject to the following clarifications:

a. Loans, other credit accommodations, and guarantees to the Republic of the Philippines and/or its agencies/departments/bureaus shall be considered: (1) non-risk; and (2) not subject to any ceiling;

b. Loans, other credit accommodations, and/or guarantees to: (1) GOCCs; and (2) corporations where the Republic of the Philippines, its agencies/departments/bureaus, and/or GOCCs own at least twenty percent (20%) of the subscribed capital stock shall be considered indirect borrowings of the Republic of the Philippines and shall form part of the individual ceiling as well as the aggregate ceiling: *Provided*, That the following loans, other credit accommodations, and/or guarantees to GOCCs and corporations where the Republic of the Philippines, its agencies/departments/bureaus, and/or GOCCs own at least twenty percent (20%) of the subscribed capital stock, shall be excluded from the thirty percent (30%) ceiling on unsecured loans under Secs. X330 and X331 of the MORB:

(1) Loans, other credit accommodations, and/or guarantees for the purpose of undertaking priority infrastructure projects consistent with the Medium-Term Development Plan/Medium-Term Public Investment Program of the National Government, duly certified as such by the Secretary of Socio-Economic Planning;

(2) Loans, other credit accommodations, and/or guarantees granted to participating financial institutions (PFIs) in the lending programs of the government wherein the funds borrowed are intended for relending to other PFIs or end-user borrowers; and

(3) Loans, other credit accommodations, and/or guarantees granted for the purpose of providing (i) wholesale and retail loans to the agricultural sector and MSMEs; and/or (ii) rediscounting and guarantee facilities for loans granted to the said sector or enterprises;

c. Loans, other credit accommodations, and/or guarantees granted to state universities and colleges (SUCs) shall be excluded from the thirty percent (30%) ceiling on unsecured loans under Secs. X330 and X331 of the MORB;

d. In view of the fiscal autonomy granted under R.A. No. 7653 and the independence prescribed under the Constitution, the BSP shall be considered an independent entity, hence, not a related interest of the Republic of the Philippines and/or its agencies/departments/bureaus. Loans, other credit accommodations and guarantees of the BSP shall be considered: (1) non-risk; and (2) not subject to any ceiling;

e. LGUs shall be considered separate from the Republic of the Philippines, other government entities, and from one another due to the full autonomy in the exercise of their proprietary functions and in the management of their economic enterprises granted to them under the Local Government Code of the Philippines, subject to certain limitations provided by law, hence, not a related interest of the Republic of the Philippines and/or its agencies/departments/bureaus;

f. Local Water Districts (LWDs), although GOCCs shall be considered separate from the Republic of the Philippines, other government entities, and from one another due to their fiscal independence from the National Government, hence, not related interests of the Republic of the Philippines and/or its agencies/department/bureaus, for purposes of these regulations;

g. A director who acts as a government representative in the lending institution shall not be excluded in the

deliberation as well as in the determination of majority of the directors in cases of loans, other credit accommodations, and guarantees to the Republic of the Philippines and/or its agencies/departments/bureaus; and

h. A director of the lending institution shall be excluded in the deliberation as well as in the determination of majority of the directors in cases of loans, other credit accommodations, and guarantees to the borrowing government entity other than the Republic of the Philippines, its agencies, departments or bureaus where said director is also a director, officer or stockholder under existing DOSRI regulations.

(Circular No. 514 dated 06 March 2006 as amended by Circular Nos. 635 dated 10 November 2008, 616 dated 30 July 2008, and 580 dated 09 September 2007)

Sec. 4314N Loans Against Personal Security. The grant, renewal, restructuring or extension of unsecured loans shall, in addition to the requirements of Section 4312N, be made under the signature of the principal borrower and at least one (1) co-maker, except that a co-maker is not required when the principal borrower has the financial capacity and a good track record of paying his obligations.

(Circular No. 622 dated 16 September 2008)

Secs. 4315N-4390N (Reserved)

Sec. 4391N Investments in Debt and Marketable Equity Securities. The classification, accounting procedures, valuation, sales and transfers of investments in debt securities and marketable equity securities shall be in accordance with the guidelines in *Appendices Q-20* and *Q-20- a*.

Penalties and sanctions. The following penalties and sanctions shall be imposed on FIs and concerned officers found to violate the provisions of these regulations:

a. Fines of P2,000/day to be imposed on NBFIs for each violation, reckoned from the date the violation was committed up to the date it was corrected; and

b. Sanctions to be imposed on concerned officers:

(1) First offense – reprimand the officers responsible for the violation; and

(2) Subsequent offenses – suspension of ninety (90) days without pay for officers responsible for the violation.

(Circular No. 476 dated 16 February 2005 as amended by Circular Nos. 628 dated 31 October 2008, 626 dated 23 October 2008 and 585 dated 15 October 2007)

Secs. 4392N - 4400N (Reserved)

Secs. 4401N - 4500N (Reserved)

Secs. 4501N - 4510N (Reserved)

Sec. 4511N Foreign Exchange Dealers/ Money Changers and/or Remittance Agents Operations. The following rules and regulations shall govern the registration and operations of foreign exchange dealers (FXDs)/money changers (MCs) and/or remittance agents:

§ 4511N.1 *Registration*. Qualified persons or non-bank institutions wishing to act as FXDs/MCs and/or remittance agents are required to register with the BSP before they can operate as such.

For this purpose, the term *money changers*, interchangeably referred to as *foreign exchange dealers*, shall refer to those regularly engaged in the business of buying and/or selling foreign currencies.

Remittance agents, on the other hand, shall refer to persons or entities that offer to remit, transfer or transmit money on behalf of any person to another person and/or entity. These include money or cash couriers, money transmission agents, remittance companies and the like.

§ 4511N.2 *Application for registration* The application for a certificate of registration to act as FXD/MC and/or remittance agent, in the prescribed form (Item "*A*", *Appendix N-8*), must be duly supported by the following documents:

a. Incorporation papers duly authenticated by the SEC (for *corporation/partnership);* or copy of the certificate of registration duly authenticated by the Department of Trade and Industry (DTI) (*for single proprietorship);*

b. Copy of business license/permit from the city or municipality having territorial jurisdiction over the place of establishment and operation;

c. List of stockholders/partners/proprietor/directors/principal officers as the case maybe;

d. Notarized Deed of Undertaking (Item "*B*", *Appendix N-8*) to strictly comply with the requirements of all relevant laws, rules and regulations, signed either by the owner, partner, president or officer of equivalent rank; and

e. Any additional document which the BSP may require from time to time.

FXDs/MCs and remittance agents existing prior to 12 May 2005 (effectivity date of Circular 471 dated 24 January 2005) may continue to operate as such: *Provided*, That an application for registration supported by documents mentioned above has been filed within ninety (90) calendar days from 12 May 2005.

A certificate of registration to act as FXD/MC or remittance agent shall be issued by the BSP and shall become the basis for an electronic registry of all BSP registered FXDs/MCs and remittance agents in the country.

§ 4511N.3 *Applicability of other laws/regulations*. FXDs/MCs and remittance agents are subject to the provisions of R.A. No. 7653 and R.A. No. 9160, as amended, and its implementing rules and regulations, particularly on customer identification, record keeping and reporting of covered transactions and suspicious transactions as well as those which may hereafter be issued.

§ 4511N.4 *Required seminar/training* Prior to the issuance of the certificate of registration, the officer(s) as well as the personnel directly involved in foreign exchange operations shall attend a seminar on the requirements of the Anti-Money Laundering Act (AMLA) particularly on customer identification, record keeping and reporting of covered and suspicious transactions, to be conducted by the AMLC or by any of its recognized or accredited service providers. The provisions of this Section shall also apply to officers appointed after the issuance of the certificate of registration.

The officer(s)-in-charge and the personnel who attended the required seminar shall echo the said training to all employees within thirty (30) calendar days from such attendance or as new employees are hired.

§ 4511N.5 *Sale and purchase of foreign currencies by FXDs/MCs*. The following minimum procedures shall be observed on sale and purchase of foreign currencies by FXDs/MCs:

a. Official receipts, in case of sales, and accountable forms in case of purchases, shall be issued in numerical order to evidence sale/purchase of foreign currencies;

b. The amount of foreign currencies sold shall be indicated in the official receipts both in words and in figures. The staff serving the particular transaction as well as the person buying/selling foreign currency shall sign in their usual signatures on the receipt;

c. A daily record of foreign exchange transactions shall be maintained where all foreign exchange sale and purchase

transactions shall be posted chronologically. The daily record shall be kept on file at the FXD/MC premises and shall be available for AMLC inspection/examination any time;

d. All copies of cancelled receipts shall be marked and stamped "CANCELLED" for internal control purposes; and

e. Foreign exchange transactions shall be conducted only at the entity's principal place of business and other authorized branches.

§ 4511N.6 ***Application to sell/purchase foreign currencies by FXDs/MCs.*** FXDs/MCs shall require the seller or buyer of foreign currency to fill up and sign an application form, which shall contain the following minimum data and information:

a. *For individual customers* -

(1) Date;

(2) Printed name and signature of customer;

(3) Present address;

(4) Permanent address;

(5) Date and place of birth;

(6) Telephone number;

(7) Nationality;

(8) Amount and currency sold/purchased in words and figures; and

(9) Source of foreign currency/ies or purpose of purchase

b. *For corporate/juridical customers* - In addition to a signed application containing the applicable information in Item *"a"* above, photocopies of the following documents shall be required:

(1) Articles of incorporation/partnership;

(2) By-Laws;

(3) Official address or principal business address;

(4) List of directors/partners/principal stockholders; and

(5) Authority and identification of the person purporting to act in behalf of the client.

For subsequent transactions with the same corporate client, FXDs/MCs need not require submission of additional documents enumerated in Item *"b"* above unless there are changes thereto.

As a means of further identification, FXDs/MCs shall require the presentation of a government-issued identification document such as SSS/GSIS/voter's ID, driver's license or passport.

A sample of application to sell/purchase foreign currencies is shown in Item *"C"*, *Appendix N-8*.

§ 4511N.7 ***Additional requirement*** FXDs/MCs shall require an accomplished application form and submission/presentation of supporting documents listed in Item *"D"* of *Appendix N-8* for the sale of foreign exchange in the amount exceeding US$10,000 or its equivalent for non-trade current account purposes. For the sale of foreign exchange for all other purposes, FXDs/MCs shall require submission of an accomplished application form and supporting documents listed in Items *"B"*, *"C"* and *"D"* of *Appendix N-8*, regardless of the amount involved.

(As amended by Circular No. 652 dated 05 May 2009)

§ 4511N.8 ***Requirements for remittance agents.*** RAs shall maintain accurate and meaningful originator information on funds transferred/remitted by requiring the sender/remitter to fill up and sign an application form, which shall contain the following minimum data and information:

a. *For individual customers* -

(1) Date;

(2) Printed name and signature of remitter;

(3) Present address;

(4) Permanent address;
(5) Date and place of birth;
(6) Telephone number;
(7) Nationality;
(8) Amount and currency to be remitted;
(9) Source of foreign currency; and
(10) Name of and relationship with beneficiary/ies.

b. *For corporate/juridical customers* In addition to a signed application containing the applicable information in Item *"a"*, a photocopy of the authority and identification of the person purporting to act in behalf of the client shall be required.

As a means of further identification, RAs shall require the presentation of a government-issued identification document such as SSS/GSIS/voter's ID, driver's license or passport.

For purposes of compliance with the requirements, an RA may rely on the referral of its office/correspondent bank abroad: *Provided,* That the RA maintains a record of such referral together with the minimum identification, information documents required under the law and its implementing rules and regulations.

§ 4511N.9 *Anti-money laundering council reportorial requirements.* FXDs/MCs and RAs are required to submit to the AMLC a report on covered transactions and suspicious transactions within five (5) banking days from the date of said transaction or from date the FXDs/MCs and RAs gained information that the transaction was done for the purpose of laundering proceeds of criminal or other illegal activities or from the time the FXDs/MCs and RAs had reasonably suspected that said transactions were entered into for the purpose of laundering proceeds of criminal and other illegal activities.

For this purpose, covered transactions shall refer to transactions in cash or other equivalent monetary instrument involving a total amount in excess of P500,000.00 within one (1) banking day while suspicious transactions are transactions, regardless of amount, where any of the following circumstances exists:

a. There is no underlying legal or trade obligation, purpose or economic justification;
b. The client is not properly identified;
c. The amount involved is not commensurate with the business or financial capacity of the client;
d. Taking into account all known circumstances, it may be perceived that the client's transaction is structured in order to avoid being the subject of reporting requirements under the AMLA;
e. Any circumstance relating to the transaction which is observed to deviate from the profile of the client and/or the client's past transactions with the covered institution;
f. The transaction is in any way related to an unlawful activity or any money laundering activity or offense under the AMLA that is about to be, is being or has been committed; or
g. Any transaction that is similar, analogous or identical to any of the foregoing.

§ 4511N.10 - 4511N.14 *(Reserved)*

§ 4511N.15 *Sanctions.* Monetary penalties and other sanctions for the following violations committed by erring FXDs/MCs and RAs may be imposed:

Nature of Violation/ Exception	Sanctions/Penalties
a. Operating without prior BSP registration	Applicable penalties under Section 36 of R.A. No. 7653; Watchlisting of partners/principal officers

Nature of Violation/ Exception	Sanctions/Penalties
b. Violation of any of the provisions of R.A. No. 9160, as amended and its IRR	Applicable penalty prescribed under the Act
c. Other violations of the provisions/ requirements in this Section	Penalties and sanctions which may be imposed by the AMLC

§ 4511N.16 *Industry association* Membership in an existing association of BSP-registered FXDs/MCs as well as RAs is encouraged.

Secs. 4512N - 4600N (Reserved)

Sec. 4601N Fines and Other Charges. The following regulations shall govern imposition of monetary penalties on NBFIs, their directors and/or officers and the payment of such penalties or fines and other charges by these entities .

(Circular No. 585 dated 15 October 2007)

§ 4601N.1 *Guidelines on the imposition of monetary penalties; payment of penalties or fines.* The following are the guidelines on the imposition of monetary penalties on NBFIs, their directors and/or officers and the payment of such penalties or fines and other charges by these entities:

a. *Definition of terms*. For purposes of the imposition of monetary penalties, the following definitions are adopted:

(1) *Continuing offenses/violations* are acts, omissions or transactions entered into, in violation of laws, BSP rules and regulations, Monetary Board directives, and orders of the Governor which persist from the time the particular acts were committed or omitted or the transactions were entered into until the same were corrected/rectified by subsequent acts or transactions. They shall be penalized on a per calendar day basis from the time the acts were committed/ omitted or the transactions were effected up to the time they were corrected/rectified.

(2) *Transactional offenses/violations* are acts, omissions or transactions entered into in violation of laws, BSP rules and regulations, Monetary Board directives, and orders of the Governor which cannot be corrected/rectified by subsequent acts or transactions. They shall be meted with one (1)-time monetary penalty on a per transaction basis.

(3) *Continuing penalty* refers to the monetary penalty imposed on continuing offenses/violations on a per calendar day basis reckoned from the time the offense/ violation occurred or was committed until the same was corrected/rectified.

(4) *Transactional penalty* refers to a one (1)-time penalty imposed on a transactional offense/violation.

b. *Basis for the computation of the period or duration of penalty*. The computation of the period or duration of all penalties shall be based on calendar days.

For this purpose the terms "*per banking day*", "*per business day*", "*per day*" and/or "*a day*" as used in this Manual, and other BSP rules and regulations shall mean "*per calendar day*" and/or "*calendar day*" as the case may be.

c. *Additional charge for late payment of monetary penalty*. Late payment of monetary penalty shall be subject to an additional charge of six percent (6%) per annum to be reckoned from the business day immediately following the day said penalty becomes due and payable up to the day of actual payment. The penalty approved by the Governor/MB to be imposed on the NBFI, its directors and/or officers shall become due and payable fifteen (15) calendar days from receipt of the Statement of Account from the BSP. For banks which maintain DDA with the BSP, penalties which remain unpaid after the lapse of the

fifteen (15) day period shall be automatically debited against their corresponding DDA on the following business day without additional charge. If the balance of the concerned NBFI's DDA is insufficient to cover the amount of the penalty, said penalty shall already be subject to an additional charge of six percent (6%) per annum to be reckoned from the business day immediately following the end of said fifteen (15)-day period up to the day of actual payment.

d. *Appeal or request for reconsideration* A one (1)-time appeal or request for reconsideration on the monetary penalty approved by the Governor/Monetary Board to be imposed on the NBFI, its directors and/or officers shall be allowed: *Provided,* That the same is filed with the appropriate department of the SES within fifteen (15) calendar days from receipt of the Statement of Account billing letter. The appropriate department of the SES shall evaluate the appeal or request for reconsideration of the NBFI individual and make recommendations thereon within thirty (30) calendar days from receipt thereof. The appeal or request for reconsideration on the monetary penalty approved by the Governor/Monetary Board shall be elevated to the Monetary Board for resolution/decision. The running of the penalty period in case of continuing penalty and/or the period for computing additional charge shall be interrupted from the time the appeal or request for reconsideration was received by the appropriate department of the SES up to the time that the notice of the Monetary Board decision was received by the NBFI/individual concerned.

(Circular No. 585 dated 15 October 2007, as amended by Circular No .662 dated 09 September 2009)

Sec. 4602N (Reserved)

Sec. 4603N Non-Bank BSP Supervised Entities. NBBSEs that may subsequently be authorized to engage in FX forwards and swaps as dealers shall be covered by the provisions under Subsecs. 4625Q to 4625Q.9, and 4625Q.14.

(Circular No. 591 dated 27 December 2007)

Secs. 4604N - 4640N (Reserved)

Sec. 4641N Electronic Services. The guidelines concerning electronic activities as may be applicable, are found in Sec. 4701Q and its Subsections.

(Circular No. 649 dated 09 March 2009)

Sec. 4642N Issuance and Operations of Electronic Money. The following guidelines shall govern the issuance of electronic money (e-money) and the operations of electronic money issuers (EMIs).

(Circular No. 649 dated 09 March 2009)

§ 4642N.1 *Declaration of policy.* It is the policy of the BSP to foster the development of efficient and convenient retail payment and fund transfer mechanisms in the Philippines. The availability and acceptance of e-money as a retail payment medium will be promoted by providing the necessary safeguards and controls to mitigate the risks associated in an e-money business.

(Circular No. 649 dated 09 March 2009)

§ 4642N.2 *Definitions*

E-money shall mean monetary value as represented by a claim on its issuer, that is -

a. electronically stored in an instrument or device;

b. issued against receipt of funds of an amount not lesser in value than the monetary value issued;

c. accepted as a means of payment by persons or entities other than the issuer;

d. withdrawable in cash or cash equivalent; and

e. issued in accordance with this Section.

Electronic money issuer shall be classified as follows:

a. Banks (hereinafter called EMI-Bank);

b. NBFI supervised by the BSP (hereinafter called EMI-NBFI); and

c. Non-bank institutions registered with the BSP as a money transfer agent under Section 4511N of the MORNBFI (hereinafter called EMI-Others).

For purposes of this Section:

a. *Electronic instruments or devices* shall mean cash cards e-wallets accessible via mobile phones or other access device, stored value cards, and other similar products.

b. E-money issued by NBFIs shall not be considered as deposits.

(Circular No. 649 dated 09 March 2009)

§ 4642N.3 *Prior Bangko Sentral approval.* NBFIs planning to be an EMI-NBFI shall comply with the requirements of Sec. 4641N and Sec. 4190N, when applicable.

NBFIs planning to be an EMI-Others shall register with the BSP as a money transfer agent in accordance with the provisions of Sec. 4511N. To qualify for registration, they have to comply with the following requirements:

a. They must be a stock corporation with a minimum paid-up capital of P100 million;

b. They shall engage only in the business of e-money and other activities related or incidental to the business of e-money, such as money transfer/remittance. An existing entity engaged in activities not related to the business of e-money but wishing to act as EMI-Others must do so through a separate entity duly incorporated exclusively for such purpose;

c. They shall not engage in the extension of credit, unless they comply with the provisions of Subsec. 4633N.5;

d. To further protect the e-money holders and ensure that e-money redemptions are adequately met at all times, the entity should have sufficient liquid assets equal to the amount of outstanding e-money issued. The liquid assets should remain unencumbered and may take any of the following forms:

(1) bank deposits separately maintained for liquidity purposes;

(2) government securities set aside for the purpose; and

(3) such other liquid assets as the BSP may allow.

Records pertaining to the above liquid assets shall be made available for inspection by BSP at any time and the confidentiality of bank deposits and government securities shall be waived.

e. The BSP shall be allowed access to review the e-money systems and databases of the entity. Whenever the circumstances warrant, such access shall extend to the agents, partners, service providers or outsourced entities of the EMI-Others in view of their participation in the e-money business; and

f. EMI-Others shall submit to the SDC, its AFS within thirty (30) days from date of report of its external auditors.

In case the NBFI is already registered with the BSP as a money transfer agent, it is required to meet the additional requirements mentioned above to qualify as EMI-Others.

(Circular No. 649 dated 09 March 2009)

§ 4642N.4 *Common provisions.* The following provisions are applicable to all EMIs:

a. E-money instrument issued shall be subject to aggregate monthly load limit of P100,000 unless a higher amount has been approved by BSP. In case an EMI issues several e-money instruments to a person (e-money holder), the total amount loaded in all the e-money instruments shall be consolidated in determining compliance with the aggregate monthly load limit;

b. EMIs shall put in place a system to maintain accurate and complete record of e-money instruments issued, the identity of

e-money holders, and the individual and consolidated balances thereof. The system must have the capability to monitor the movement of e-money transactions and link e-money instruments issued to common e-money holders. The susceptibility of a system to intentional or unintentional misreporting of transaction and balances shall be sufficient ground for imposition by the BSP of sanctions, as may be applicable.

c. E-money may only be redeemed at face value. It shall not earn interest nor rewards and other similar incentives convertible to cash, nor be purchased at a discount. E-money is not considered a deposit hence it is not insured with the PDIC.

d. EMIs shall not ensure that e-money instruments clearly identify the issuer who is ultimately responsible to the e-money holders. This shall be communicated to the client who shall acknowledge the same in writing.

e. It is the responsibility of EMIs to ensure that their distributors/e-money agents comply with all applicable requirements of the Anti-Money Laundering laws, rules and regulations.

f. EMIs shall provide an acceptable redress mechanism to address the complaints of its customers.

g. EMIs shall disclose in writing and its customers shall signify agreement to the information embodied in Item "c" above upon their participation in the e-money system. In addition, it shall provide clear guidance in English and Filipino on consumers' right of redemption, including conditions and fees for redemption, if any. Information on available redress procedures for complaints together with the address and contact information of the issuer shall also be provided.

h. Prior to the issuance of e-money, EMIs should ensure that the following minimum systems and controls are in place:

(1) Sound and prudent management, administrative and accounting procedures and adequate internal control mechanisms;

(2) Properly-designed computer systems which are thoroughly tested prior to implementation;

(3) Appropriate security policies and measures intended to safeguard the integrity, authenticity and confidentiality of data and operating processes;

(4) Adequate business continuity and disaster recovery plan; and

(5) Effective audit function to provide periodic review of the security control environment and critical systems.

i. EMIs shall provide the SDC quarterly statements containing, among others, information on investments, volume of transactions, total outstanding e-money balances, and liquid assets in such forms as may be prescribed later on.

j. EMIs shall notify BSP in writing of any change or enhancement in the e-money facility thirty (30) days prior to implementation. If said change or enhancement requires prior BSP approval, the same shall be evaluated accordingly. Any change or enhancement that shall expand the scope or change the nature of the e-money instrument shall be subject to prior approval of the Deputy Governor, SES. These changes or enhancements may include the following:

(1) Additional capabilities of the e-money instrument/s, like access to new channels (e.g. inclusion of internet channel in addition to merchant Point of Sale terminals);

(2) Change in technology service providers and other major partners in the e-money business (excluding partner merchants), if any; and

(3) Other changes or enhancements.

(Circular No. 649 dated 09 March 2009)

§ 4642N.5 *Quasi-bank license requirement.* EMI-NBFIs and EMI-Others that engage in lending activities must secure a quasi-banking license from the BSP.

(Circular No. 649 dated 09 March 2009)

§ 4642N.6 *Sanctions.* Monetary penalties and other sanctions for the following violations committed by EMI-NBFIs, and EMI-Others shall be imposed:

Nature of Violation Exception	Sanction/Penalties
1. Issuing e-money without prior BSP approval	Applicable penalties under Sections 36 & 37 of R.A. No. 7653; Watchlisting of owners/partners/ principal officers
2. Violation of any of the provisions of R.A. No. 9160 (Anti-Money Laundering Law of 2001 as amended by R.A.No. 9191 and its implementing rules and regulations	Applicable penalties prescribed under the Act
3. Violation/s of this Section	Penalties and sanctions under the abovementioned laws and other applicable laws, rules and regulations

In addition, the susceptibility of a system to intentional or unintentional misreporting of transactions and balances shall be sufficient ground for appropriate BSP action or imposition of sanctions, whenever applicable.

(Circular No. 649 dated 09 March 2009)

§ 4642N.7 *Transitory provisions.* An EMI-NBFI and EMI-Other granted an authority to issue e-money prior to 26 March 2009 may continue to exercise such authority: *Provided,* That it shall submit to the BSP, within one (1) month from the 26 March 2009 a certification signed by the President or Officer with equivalent rank and function that it is in compliance with all the applicable requirements of this Section. Otherwise, they are required to submit within the same period the measures they will undertake, with the corresponding timelines, to conform to the provisions that they have not complied with subject to BSP approval.

(Circular No. 649 dated 09 March 2009)

Secs. 4643N - 4652N (Reserved)

Sec. 4653N Accounting for Financial Institution Premises; Other Fixed Assets
FI premises, furniture, fixture and equipment shall be accounted for using the cost model under PAS 16 "Property, Plant and Equipment."

(Circular No. 494 dated 20 September 2004)

Secs. 4654N - 4659N (Reserved)

Sec. 4660N Disclosure of Remittance Charges and Other Relevant Information
It is the policy of the BSP to promote the efficient delivery of competitively-priced remittance services by banks and other remittance service providers by promoting competition and the use of innovative payment systems, strengthening the financial infrastructure, enhancing access to formal remittance channels in the source and destination countries, deepening the financial literacy of consumers, and improving transparency in remittance transactions, consistent with sound practices.

Towards this end, NBFIs under BSP supervision, including FXDs/MCs and RAs, providing overseas remittance services shall disclose to the remittance sender and to the recipient/beneficiary, the following minimum items of information regarding remittance transactions, as defined herein:

a. *Transfer/remittance fee* - charge for processing/sending the remittance from the country of origin to the country of destination and/or charge for receiving the remittance at the country of destination;

b. *Exchange rate* - rate of conversion from foreign currency to local currency, e.g., peso-dollar rate;

c. *Exchange rate differential/spread* - foreign exchange mark-up or the difference between the prevailing BSP reference/ guiding rate and the exchange conversion rate;

d. *Other currency conversion charges* - commissions or service fees, if any;

e. *Other related charges* - e.g., surcharges, postage, text message or telegram;

f. *Amount/currency paid out in the recipient country* - exact amount of money the recipient should receive in local currency or foreign currency; and

g. *Delivery time to recipients/ beneficiaries* - delivery period of remittance to beneficiary stated in number of days, hours or minutes.

Non-bank remittance service providers shall likewise post said information in their respective websites and display them prominently in conspicuous places within their premises and/or remittance/service centers.

(Circular No. 534 dated 26 June 2006)

Secs. 4661N - 4694N (Reserved)

Sec. 4695N Valid Identification Cards for Financial Transactions. The following guidelines govern the acceptance of valid ID cards for all types of financial transactions by NBFIs, including financial transactions involving OFWs, in order to promote access of Filipinos to services offered by formal FIs, particularly those residing in the remote areas, as well as to encourage and facilitate remittances of OFWs through the banking system:

a. Clients who engage in a financial transaction with covered institutions for the first time shall be required to present the original and submit a clear copy of at least one (1) valid photo-bearing ID document issued by an official authority.

For this purpose, the term *official authority* shall refer to any of the following:

(1) Government of the Republic of the Philippines;

(2) Its political subdivisions and instrumentalities;

(3) GOCCs; and

(4) Private entities or institutions registered with or supervised or regulated either by the BSP or SEC or IC.

Valid IDs include the following:

(a) Passport;
(b) Driver's license;
(c) PRC ID;
(d) NBI clearance;
(e) Police clearance;
(f) Postal ID;
(g) Voter's ID;
(h) Barangay certification;
(i) GSIS e-Card;
(j) SSS card;
(k) Senior Citizen card;
(l) OWWA ID;
(m) OFW ID;
(n) Seaman's Book;
(o) Alien Certification of Registration/ Immigrant Certificate of Registration;
(p) Government office and GOCC ID (e.g., AFP, HDMF IDs);
(q) Certification from the NCWDP;
(r) DSWD certification;
(s) IBP ID; and
(t) Company IDs issued by private entities or institutions registered with or supervised or regulated either by the BSP, SEC or IC; and
(u) Passports issued by foreign governments

b. Students who are beneficiaries of remittances/fund transfers who are not yet of voting age may be allowed to present the original and submit a clear copy of one (1) valid photo-bearing school ID duly signed by the principal or head of the school.

c. NBFIs shall require their clients to submit a clear copy of one (1) valid ID on a

one-time basis only, or at the commencement of a business relationship. They shall require their clients to submit an updated photo and other relevant information whenever the need for it arises.

The foregoing shall be in addition to the customer identification requirements under Rule 9.1.c of the Revised IRRs of R.A. No. 9160, as amended (*Appendix N-4)*.

For purposes of this Section, financial transactions may include remittances, among others, as falling under the definition of financial transaction. Under the Anti-Money Laundering Act of 2001, as amended, a *financial transaction* is any act establishing any right or obligation or giving rise to any contractual or legal relationship between the parties thereto. It also includes any movement of funds by any means with a covered institution.

(Circular No. 564 dated 03 April 2007 as amended by Circular Nos. 657 dated 16 June 2009 and 608 dated 20 May 2008)

Secs. 4696N - 4698N (Reserved)

Sec. 4699N General Provision on Sanctions. Any violation of the preceding provisions shall be subject to Section 36 of R.A. No. 7653.

LIST OF REPORTS REQUIRED FROM NON-BANK FINANCIAL INSTITUTIONS

(Appendix to Sec. 4162N)

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	BSP-7-26-02-A	4162N *(M-008 dated 02.14.08)*	Consolidated Statement of Condition (CSOC)	Monthly	15th banking day after end of the reference month	Email to SDC @ sdcnbfi@bsp.gov.ph
	BSP-7-26-03B		Consolidated Statement of Income and Expenses (CSIE)	-do-	-do-	-do-
			Control Prooflist	-do-	-do-	messengerial or postal services
A-2	BSP-7-26-02 Schedule 1 (IHs only)	4162N	Schedule of Loans/Receivables, Trading Account Securities (TAS) - Loans and Underwritten Debt Securities	Monthly	15th business day from end of reference month	Original - Appropriate department of the SES Duplicate - SDC or cc:mail/electronic transmission Separate report for Head Office and each Branch; and a Consolidated Report for Head Office and Branches
A-2	BSP-7-26-02 Schedule 1	4162N	Schedule of Loans/Receivables and Trading Account Securities - Loans	-do-	-do-	-do-
A-2	BSP-7-26-02 Schedule 2 (FCs only)	4162N	Schedule of Trading Account Securities - Investments, Available for Sale Securities and Investment in Bonds and Other Debt Instruments (IBODI)	-do-	-do-	-do-
A-2	BSP-7-26-02 Schedule 3	4162N	Interest Rate and Maturities Matching	-do-	-do-	-do-

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	BSP-7-26-02 Schedule 4	4162N	Remaining Maturities of Selected Accounts	Monthly	15th business day from end of reference month	Original - Appropriate department of the SES Duplicate - SDC or cc:mail/electronic transmission
A-2	BSP-7-26-02 Schedule 5	4162N	Schedule of Bills Payables and Bonds	-do-	-do-	-do-
A-2	BSP-7-26-02 Schedule 6 (FCs only)	4162N	Data on Firm's Businesses	-do-	-do-	-do-
A-2	BSP-7-26-03	4162N	Statement of Income and Expenses	-do-	-do-	-do-
A-2	BSP-7-26-24	4162N *(Rev. Aug. 2003 per CL dated 08.06.03)*	Credit and Equity Exposures to Individuals/ Companies/Groups Aggregating ₱ 1.0 Million and above	Quarterly	15th business day from end of reference quarter	Electronic submission/ diskette - SDC Fax to SDC
A-2	Unnumbered (no prescribed form) (Entities with Trust/ Fund Management Only)	4101N	Report on required and available reserves on Peso-denominated Common Trust Funds (CTFs), such other managed peso funds and TOFA-Others	Weekly	3rd business day following reference week	Original - Appropriate department of the SES Duplicate - SDC or cc:mail/electronic transmission
A-2	Unnumbered	4144N.12 *(Rev. May 2002 as amended by Cir. No. 612 dated 06.03.08)*	Report on Suspicious Transactions	As transaction occurs	10th business day from date of transaction/ knowledge	Original and duplicate - Anti-Money Laundering Council (AMLC)
			Report on Covered Transactions	As transaction occurs	10th business day from date of transaction/ knowledge	To be submitted to the Anti-Money Laundering Council

Category	Form No.	MOR Ref.	Report Title		Frequency	Submission Deadline	Submission Procedure
A-2	Unnumbered	4144N.12	Certification of compliance with existing anti-money laundering regulations		Annually	20th business day after end of reference year	To be submitted to the appropriate department of the SES
A-2	Unnumbered	4144N.12	Financial Reporting Package for Trust Institutions		Quarterly	20th banking day after end of reference quarter	SDC sdc-frpti@bsp.gov.ph
			Schedules:				
A-2	Unnumbered	*(Cir. No. 609 dated 05.26.08 as amended by M-2008-022 dated 06.26.08)*	Balance Sheet				
			A1 to A2	Main Report			
			B to B2	Details of Investments in Debt and Equity Securities			
			C to C2	Details of Loans and Receivables			
			D to D2	Wealth/Assets/Fund Management - UITF			
			E	Fiduciary Accounts			
			E1 to E1b	Other Fiduciary Services - UITF			
			Income Statement				
			Control Prooflist		-do-	-do-	-do-
		4101N.16	Waiver of the Confidentiality of Information under Sections 2 and 3 of R.A. No. 1405, as amended		As transaction occurs		

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	Unnumbered	4162N *(CL-2007-050 dated 10.04.07 and CL-2007-059 dated 11.28.07)*	Report on Borrowings of BSP Personnel	Quarterly	15 banking days after end of reference quarter	Original to SDC
	SES II Form 15 (NP08-TB)	4162N *(As amended by M-2008-024 dated 07.31.08)*	Biographical Data of Directors/Officers - If submitted in diskette form - Notarized first page of each of the directors'/officers' bio-data saved in diskette and control prooflist - If sent by electronic mail - Notarized first page of Biographical Data or Notarized list of names of Directors/Officers whose Biographical Data were submitted thru electronic mail to be faxed to SDC (CL dated 01.09.01)	After election or appointment and as changes occur	7th banking day from the date of the meeting of the board of directors in which the directors/ officers are elected or appointed	Electronic mail or diskette form to SDC or if hard copy Original to appropriate department of the SES, Duplicate to SDC
B	Unnumbered	4162N	Board Resolution on NBFIs signatories of reports submitted to Bangko Sentral	As authorized	3rd day from date of resolution	
B			General Information Sheet	Annually	30th day from date of annual stockholders' meeting	Drop Box - SEC Central Receiving Section Original - SEC Duplicate - BSP
B	Forms I and II Schedules 1 to 3	*M-031 dated 09.11.09 and Cir. No. 649 dated 03.09.09*	Report on Electronic Money Transactions Quarterly Statement of E-Money Balances and Activity - Volume and Amount of E-Money Transacations Quarterly Statement of Liquidity Cover Schedules 1 - E-Money Balances 2 - Bank Deposits 3 - Government Securities and Others	Quarterly	15 banking days after end of reference quarter	e-mail - sdcothers-emoney @ bsp.gov.ph hard copy - SDC

GUIDELINES ON PRESCRIBED REPORTS SIGNATORIES AND SIGNATORY AUTHORIZATION
(Appendix to Subsec. 4162N.1)

Category A-2 reports of head offices shall be signed by the president, executive vice-presidents, vice-presidents or officers holding equivalent positions. Such reports of other offices/units (such as branches) shall be signed by their respective managers/officers in-charge. Likewise, the signing authority in this category shall be contained in a resolution approved by the board of directors in the format prescribed in Annex N-2-a.

Category B reports shall be signed by officers or their alternates, who shall be duly designated in a resolution approved by the board of directors in the format as prescribed in Annex N-2-b.

Copies of the board resolutions on the report signatory designations shall be submitted to the appropriate supervising and examining department of the BSP within three (3) days from the date of resolution.

Annex N-2-a

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-2 REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4162N.1 that Category A-2 reports of head offices be signed by the president, executive vice-presidents, vice-presidents or officers holding equivalent positions, and that such reports of other offices be signed by the respective managers/officers-in-charge;

Whereas, it is also required that aforesaid officers of the institution be authorized under a resolution duly approved by the institution's Board of Directors;

Whereas, we, the members of the Board of Directors of (Name of Institution), are conscious that, in designating the officials who would sign said Category A-2 reports, we are actually empowering and authorizing said officers to represent and act for or in behalf of the Board of Directors in particular and (Name of Institution) in general;

Whereas, this Board has full faith and confidence in the institution's President (and/or the Executive Vice-President, etc., as the case may be) and, therefore, assumes responsibility for all the acts which may be performed by aforesaid officers under their delegated authority;

Now, therefore, we, the members of the Board of Directors, resolve, as it is hereby resolved that:

Name of Officer	Specimen Signature	Position Title	Report No.
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

are hereby authorized to sign the Category A-2 reports of _____.
(Name of Institution)

Done in the City of _____, Philippines, this _____ day of _____, 20__ .

CHAIRMAN OF THE BOARD

_____ DIRECTOR

_____ DIRECTOR

_____ DIRECTOR

_____ DIRECTOR

ATTESTED BY:

_____
CORPORATE SECRETARY

Annex N-2-b

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY B REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4162N.1 that Category B reports be signed by officers or their alternates;

Whereas, it is also required that aforesaid officers of the institution be authorized under a resolution duly approved by the institution's Board of Directors;

Whereas, we the members of the Board of Directors of (Name of Institution) are conscious that, in designating the officials who would sign said Category B reports, we are actually empowering and authorizing said officers to represent and act for or in behalf of the Board of Directors in particular and (Name of Institution) in general;

Whereas, this Board has full faith and confidence in the institution's authorized signatories and, therefore, assumes responsibility for all the acts which may be performed by aforesaid officers under their delegated authority;

Now, therefore, we, the members of the Board of Directors, resolve, as it is hereby resolved that:

	Name of Authorized Signatory/Alternate	Specimen Signature	Position Title	Report No.
1. Authorized	_____	_____	_____	_____
(Alternate)	_____	_____	_____	_____
2. Authorized	_____	_____	_____	_____
(Alternate)	_____	_____	_____	_____
etc.				

are hereby authorized to sign the Category B reports of _____.
(Name of Institution)

Done in the City of _____, Philippines, this ____ day of _____, 20__ .

CHAIRMAN OF THE BOARD

_____ DIRECTOR

_____ DIRECTOR

_____ DIRECTOR

_____ DIRECTOR

ATTESTED BY:

_____
CORPORATE SECRETARY

ANTI-MONEY LAUNDERING REGULATIONS
(Appendix to Section 4104N)

Banks, QBs, trust entities and all other institutions, and their subsidiaries and affiliates supervised or regulated by the BSP (covered institutions) shall strictly comply with the provisions of Section 9 of R.A. No. 9160 and the following rules and regulations on anti-money laundering.

1. ***Customer identification.*** Covered institutions shall establish and record the true identity of its clients based on official documents. They shall maintain a system of verifying the true identity of their clients and, in case of corporate clients, require a system of verifying their legal existence and organizational structure, as well as the authority and identification of all persons purporting to act on their behalf.

When establishing business relations or conducting transactions (particularly opening of deposit accounts, accepting deposit substitutes, entering into trust and other fiduciary transactions, renting of safety deposit boxes, performing remittances and other large cash transactions) covered institutions should take reasonable measures to establish and record the true identity of their clients. Said client identification may be based on official or other reliable documents and records.

a. In cases of corporate and other legal entities, the following measures should be taken, when necessary:

(1) Verification of the legal existence and structure of the client from the appropriate agency or from the client itself or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors, principal officers and provisions regulating the power behind the entity.

(2) Verification of the authority and identification of the person purporting to act on behalf of the client.

b. In case of doubt as to whether their purported clients or customers are acting for themselves or for another, reasonable measures should be taken to obtain the true identity of the persons on whose behalf an account is opened or a transaction conducted.

c. The provisions of existing laws to the contrary notwithstanding, anonymous accounts, accounts under fictitious names, and all other similar accounts shall be absolutely prohibited. In case where numbered accounts is allowed (i.e., peso and foreign currency non-checking numbered accounts), covered institutions should ensure that the client is identified in an official or other identifying documents.

The BSP may conduct annual testing solely limited to the determination of the existence and the identity of the owners of such accounts.

Covered institutions shall phase out within a period of one (1) year from 2 April 2001 or upon their maturity, whichever is earlier, anonymous accounts or accounts under fictitious names as well as numbered accounts being kept or managed by them, which are not expressly allowed under existing law.

d. The identity of existing clients or beneficial owners of deposits and other funds held or being managed by the covered institutions should be renewed/updated at least every other year.

e. All records of all transactions of covered institutions shall be maintained and safely stored for five (5) years from the dates of transactions. With respect to closed accounts, the records on customer identification, account files and business

correspondence, shall be preserved and safely stored for at least five (5) years from the dates when they were closed.

Such records must be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal behaviour.

f. Special attention should be given to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies.

g. Covered institutions should not, or should at least avoid, transacting business with criminals. Reasonable measures should be adopted to prevent the use of their facilities for laundering of proceeds of crimes and other illegal activities.

2. ***Programs against money laundering.*** Programs against money laundering should be developed. These programs, should include, as a minimum:

a. The development of internal policies, procedures and controls, including the designation of compliance officers at management level, and adequate screening procedures to ensure high standards when hiring employees;

b. An ongoing employee training program; and

c. An audit function to test the system.

3. ***Submission of plans of action*** Covered institutions shall submit a plan of action on how to comply with the requirements of App. N-3 nos. 1, 2 and 4 within thirty (30) business days from 31 July 2000 or from opening of the institution.

4. ***Required reporting of certain transactions.*** If there is reasonable ground to believe that the funds are proceeds of an unlawful activity as defined under R.A. No. 9160 and/or its IRRs, the transactions involving such funds or attempts to transact the same, should be reported to the Anti-Money Laundering Council (AMLC) in accordance with Rules 5.2 and 5.3 of the AMLA IRRs.

a. *Report on suspicious transactions.*[1] Banks shall report covered transactions and suspicious transactions, as defined in Rules 5.2 and 5.3 of the AMLA IRRs, to the AMLC using the forms prescribed by the AMLC. Reportable transactions shall include the following:

(1) Outward remittances without visible lawful purpose;

(2) Inward remittances without visible lawful purpose or without underlying trade transactions;

(3) Unusual purchases of foreign exchange without visible lawful purpose;

(4) Unusual sales of foreign exchange whose sources are not satisfactorily established;

(5) Complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent or visible lawful purpose;

(6) Funds being managed or held as deposit substitutes if there is reasonable ground to believe that the same are proceeds of criminal and other illegal activities; and

(7) Suspicious transaction indicators or "red flags" as a guide in the submission to the AMLC of reports of suspicious transactions relating to potential or actual financing of terrorism.

(a) Wire transfers between accounts, without visible economic or business purpose, especially if the wire transfers are effected through countries which are identified or connected with terrorist activities.

[1] Amended by AMLC Resolution No. 292 dated 11.20.03 (Annex N-3-b).

(b) Sources and/or beneficiaries of wire transfers are citizens of countries which are identified or connected with terrorist activities.

(c) Repetitive deposits or withdrawals that cannot be explained or do not make sense.

(d) Value of the transaction is over and above what the client is capable of earning.

(e) Client is conducting a transaction that is out of the ordinary for his known business interest.

(f) Deposits being made by individuals who have no known connection or relation with the account holder.

(g) An individual receiving remittances, but has no family members working in the country from which the remittance is made.

(h) Client was reported and/or mentioned in the news to be involved in terrorist activities.

(i) Client is under investigation by law enforcement agencies for possible involvement in terrorist activities.

(j) Transactions of individuals, companies or non-governmental organizations (NGOs) that are affiliated or related to people suspected of being connected to a terrorist group or a group that advocates violent overthrow of a government.

(k) Transactions of individuals, companies or NGOs that are suspected as being used to pay or receive funds from revolutionary taxes.

(l) The NGO does not appear to have expenses normally related to relief or humanitarian effort.

(m) The absence of contributions from donors located within the country of origin of the NGO.

(n) A mismatch between the pattern and size of financial transactions on the one hand and the stated purpose and activity of the NGO on the other.

(o) Incongruities between apparent sources and amount of funds raised or moved by the NGO.

(p) Any other transaction that is similar, identical or analogous to any of the foregoing.

(8) All other suspicious transactions/ activities which can be reported without violating any law.

The *report on suspicious transactions* shall provide the following minimum information:

(a) Name or names of the parties involved.

(b) A brief description of the transaction or transactions.

(c) Date or date the transaction(s) occurred.

(d) Amount(s) involved in every transaction.

(e) Such other relevant information which can be of help to the authorities should there be an investigation.

b. *Exemption from Bank Secrecy Law*. When reporting covered transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates shall not be deemed to have violated R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791 and other similar laws, but are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. In case of violation thereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, shall be criminally liable. However, no administrative, criminal or civil proceedings, shall lie against any person for having made a covered transaction report in the regular performance of his duties and in good faith, whether or not such reporting results in any criminal prosecution under R.A. No. 9160 or any other Philippine law.

c. *Prohibition from disclosure of the covered transaction report*. When reporting covered transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person, entity, the media, the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. Neither may such reporting be published or aired in any manner or form by the mass media, electronic mail, or other similar devices. In case of violation thereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, or media shall be held criminally liable.

5. ***Certification of compliance with anti-money laundering regulations*** Covered institution shall submit annually to the BSP thru the appropriate supervising and examining department a certification (*Annex N-3-a*) signed by the President or officer of equivalent rank and by their Compliance Officer to the effect that they have monitored compliance with existing anti-money laundering regulations.

The certification shall be submitted in accordance with *Appendix N-1* and shall be considered a *Category A-2* report.

Annex N-3-a

CERTIFICATION OF COMPLIANCE WITH ANTI-MONEY LAUNDERING REGULATIONS

C E R T I F I C A T I O N

Pursuant to the provisions of Section 2 of BSP Circular No. 279 dated 2 April 2001, we hereby certify:

1. That we have monitored (Name of NBFI)'s compliance with R.A. No. 9160 (Anti-Money Laundering Act of 2001) as well as with BSP Circular Nos. 251, 253, 259 and 302;

2. That the NBFI is complying with the required customer identification, documentation of all new clients, and continued monitoring of customer's activities;

3. That the NBFI is also complying with the requirement to record all transactions and to maintain such records including the record of customer identification for at least five (5) years;

4. That the NBFI does not maintain anonymous or fictitious accounts; and

5. That we conduct regular anti-money laundering training sessions for all NBFI officers and selected staff members holding sensitive positions.

_____ _____
(Name of President or officer of equivalent rank) (Name of Compliance Officer)

SUBSCRIBED AND SWORN to before me, _____ this ___ day of _____, affiant/s exhibiting to me their Community Tax Certificate No.(s) as follows:

Name	Community Tax Cert. No	Date/Place Issued

Doc. No. _____; Notary Public
Page No. _____;
Book No. _____;
Series of 20___

Annex N-3-b

AMLC Resolution No. 292

RULES ON SUBMISSION OF COVERED TRANSACTION REPORTS AND SUSPICIOUS TRANSACTION REPORTS BY COVERED INSTITUTIONS

1. All covered institutions are required to file Suspicious Transaction Reports (STRs) on transactions involving all kinds of monetary instruments or property.

2. Banks shall file covered transaction reports (CTRs) on transactions involving all kinds of monetary instruments or property, i.e., in cash or non-cash, whether in domestic or foreign currency.

3. Covered institutions, other than banks, shall file CTRs on transactions in cash or foreign currency or other monetary instruments (other than checks) or properties. Due to the nature of the transactions in the stock exchange, only the brokers-dealers shall be required to file CTRs and STRs. The PSE, PCD, SCCP and transfer agents are exempt from filing CTRs. They, are however, required to file STRs when the transactions that pass through them are deemed to be suspicious.

4. Where the covered institution engages in bulk transactions with a bank, i.e., deposits of premium payments in bulk or settlements of trade, and the bulk transactions do not distinguish clients and their respective transaction amounts, said covered institutions shall be required to file CTRs on its clients whose transactions exceed ₱500,000.00 and are included in the bulk transactions.

5. With respect to insurance companies, when the total amount of the premiums for the entire year, regardless of the mode of payment (monthly, quarterly, semi-annually or annually), exceeds ₱500,000.00, such amount shall be reported as a covered transaction, even if the amounts of the amortizations are less than the threshold amount. The CTR shall be filed upon payment of the first premium amount, regardless of the mode of payment. Under this rule, the insurance company shall file the CTR only once every year until the policy matures or rescinded, whichever comes first.

6. The submission of CTRs is deferred until the AMLC directs otherwise. Submission of STRs, however, are not deferred and covered institutions are mandated to submit such STRs when the circumstances so require.

REVISED IMPLEMENTING RULES AND REGULATIONS
R.A. NO. 9160, AS AMENDED BY R.A. NO. 9194
(Appendix to Sec. 4104N)

RULE 1
TITLE

Rule 1.a. Title. - These Rules shall be known and cited as the "Revised Rules and Regulations Implementing R.A. No. 9160", (the Anti-Money Laundering Act of 2001 [AMLA]), as amended by R.A. No. 9194.

Rule 1.b. Purpose. - These Rules are promulgated to prescribe the procedures and guidelines for the implementation of the AMLA, as amended by R.A. No. 9194.

RULE 2
DECLARATION OF POLICY

Rule 2. Declaration of Policy. - It is hereby declared the policy of the State to protect the integrity and confidentiality of bank accounts and to ensure that the Philippines shall not be used as a money-laundering site for the proceeds of any unlawful activity. Consistent with its foreign policy, the Philippines shall extend cooperation in transnational investigations and prosecutions of persons involved in money laundering activities wherever committed.

RULE 3
DEFINITIONS

Rule 3. Definitions. – For purposes of this Act, the following terms are hereby defined as follows:

Rule 3.a. *Covered Institution* refers to:

Rule 3.a.1. Banks, offshore banking units, quasi-banks, trust entities, non-stock savings and loan associations, pawnshops, and all other institutions, including their subsidiaries and affiliates supervised and/or regulated by the Bangko Sentral ng Pilipinas (BSP).

(a) A *subsidiary* means an entity more than fifty percent (50%) of the outstanding voting stock of which is owned by a bank, quasi-bank, trust entity or any other institution supervised or regulated by the BSP.

(b) An *affiliate* means an entity at least twenty percent (20%) but not exceeding fifty percent (50%) of the voting stock of which is owned by a bank, quasi-bank, trust entity, or any other institution supervised and/or regulated by the BSP.

Rule 3.a.2. Insurance companies, insurance agents, insurance brokers, professional reinsurers, reinsurance brokers, holding companies, holding company systems and all other persons and entities supervised and/or regulated by the Insurance Commission (IC).

(a) An *insurance company* includes those entities authorized to transact insurance business in the Philippines, whether life or non-life, and whether domestic, domestically incorporated or branch of a foreign entity. A contract of insurance is an agreement whereby one undertakes for a consideration to indemnify another against loss, damage or liability arising from an unknown or contingent event. Transacting insurance business includes making or proposing to make, as insurer, any insurance contract, or as surety, any contract of suretyship as a vocation and not as merely incidental to any other legitimate business or activity of the surety, doing any kind of business specifically recognized as constituting the doing of an insurance business within the

meaning of Presidential Decree (P.D.) No. 612, as amended, including a reinsurance business and doing or proposing to do any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of P.D. No. 612, as amended.

(b) An *insurance agent* includes any person who solicits or obtains insurance on behalf of any insurance company or transmits for a person other than himself an application for a policy or contract of insurance to or from such company or offers or assumes to act in the negotiation of such insurance.

(c) An *insurance broker* includes any person who acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract or in placing risk or taking out insurance, on behalf of an insured other than himself.

(d) A *professional reinsurer* includes any person, partnership, association or corporation that transacts solely and exclusively reinsurance business in the Philippines, whether domestic, domestically incorporated or a branch of a foreign entity. A contract of reinsurance is one by which an insurer procures a third person to insure him against loss or liability by reason of such original insurance.

(e) A *reinsurance broker* includes any person who, not being a duly authorized agent, employee or officer of an insurer in which any reinsurance is effected, acts or aids in any manner in negotiating contracts of reinsurance or placing risks of effecting reinsurance, for any insurance company authorized to do business in the Philippines.

(f) A *holding company* includes any person who directly or indirectly controls any authorized insurer. A holding company system includes a holding company together with its controlled insurers and controlled persons.

Rule 3.a.3. (i) Securities dealers, brokers, salesmen, associated persons of brokers or dealers, investment houses, investment agents and consultants, trading advisors, and other entities managing securities or rendering similar services, (ii) mutual funds or open-end investment companies, close-end investment companies, common trust funds, pre-need companies or issuers and other similar entities; (iii) foreign exchange corporations, money changers, money payment, remittance, and transfer companies and other similar entities, and (iv) other entities administering or otherwise dealing in currency, commodities or financial derivatives based thereon, valuable objects, cash substitutes and other similar monetary instruments or property supervised and/or regulated by the Securities and Exchange Commission (SEC).

(a) A *securities broker* includes a person engaged in the business of buying and selling securities for the account of others.

(b) A *securities dealer* includes any person who buys and sells securities for his/her account in the ordinary course of business.

(c) A *securities salesman* includes a natural person, employed as such or as an agent, by a dealer, issuer or broker to buy and sell securities.

(d) An *associated person of a broker or dealer* includes an employee thereof who directly exercises control or supervisory authority, but does not include a salesman, or an agent or a person whose functions are solely clerical or ministerial.

(e) An *investment house* includes an enterprise which engages or purports to engage, whether regularly or on an isolated basis, in the underwriting of securities of another person or enterprise, including securities of the Government and its instrumentalities.

(f) A *mutual fund or an open-end investment* company includes an investment company which is offering for sale or has outstanding, any redeemable security of which it is the issuer.

(g) A *closed-end investment company* includes an investment company other than open-end investment company.

(h) A *common trust fund* includes a fund maintained by an entity authorized to perform trust functions under a written and formally established plan, exclusively for the collective investment and reinvestment of certain money representing participation in the plan received by it in its capacity as trustee, for the purpose of administration, holding or management of such funds and/or properties for the use, benefit or advantage of the trustor or of others known as beneficiaries.

(i) A *pre-need company or issuer* includes any corporation supervised and/or regulated by the SEC and is authorized or licensed to sell or offer for sale pre-need plans. *Pre-need plans* are contracts which provide for the performance of future service(s) or payment of future monetary consideration at the time of actual need, payable either in cash or installment by the planholder at prices stated in the contract with or without interest or insurance coverage and includes life, pension, education, internment and other plans, which the Commission may, from time to time, approve.

(j) A *foreign exchange corporation* includes any enterprise which engages or purports to engage, whether regularly or on an isolated basis, in the sale and purchase of foreign currency notes and such other foreign-currency denominated non-bank deposit transactions as may be authorized under its articles of incorporation.

(k) *Investment Advisor/Agent/Consultant* shall refer to any person:

(1) who for an advisory fee is engaged in the business of advising others, either directly or through circulars, reports, publications or writings, as to the value of any security and as to the advisability of trading in any security; or

(2) who for compensation and as part of a regular business, issues or promulgates, analyzes reports concerning the capital market, except:

(a) any bank or trust company;

(b) any journalist, reporter, columnist, editor, lawyer, accountant, teacher;

(c) the publisher of any bonafide newspaper, news, business or financial publication of general and regular circulation, including their employees;

(d) any contract market;

(e) such other person not within the intent of this definition, provided that the furnishing of such service by the foregoing persons is solely incidental to the conduct of their business or profession.

(3) any person who undertakes the management of portfolio securities of investment companies, including the arrangement of purchases, sales or exchanges of securities.

(l) A *moneychanger* includes any person in the business of buying or selling foreign currency notes.

(m) A *money payment, remittance and transfer company* includes any person offering to pay, remit or transfer or transmit money on behalf of any person to another person.

(n) *"Customer"* refers to any person or entity that keeps an account, or otherwise transacts business, with a covered institution and any person or entity on whose behalf an account is maintained or a transaction is conducted, as well as the beneficiary of said transactions. A customer also includes the beneficiary of a trust, an investment fund, a pension fund or a company or person whose assets are managed by an asset manager, or a grantor of a trust. It includes any insurance policy holder, whether actual or prospective.

(o) *"Property"* includes any thing or item of value, real or personal, tangible or intangible, or any interest therein or any benefit, privilege, claim or right with respect thereto.

Rule 3.b. *Covered Transaction* is a transaction in cash or other equivalent monetary instrument involving a total amount in excess of PhP500,000.00 within one (1) banking day.

Rule 3.b.1. *Suspicious transactions* are transactions, regardless of amount, where any of the following circumstances exist:

(1) There is no underlying legal or trade obligation, purpose or economic justification;

(2) The client is not properly identified;

(3) The amount involved is not commensurate with the business or financial capacity of the client;

(4) Taking into account all known circumstances, it may be perceived that the client's transaction is structured in order to avoid being the subject of reporting requirements under the act;

(5) Any circumstance relating to the transaction which is observed to deviate from the profile of the client and/or the client's past transactions with the covered institution;

(6) The transaction is in any way related to an unlawful activity or any money laundering activity or offense under this act that is about to be, is being or has been committed; or

(7) Any transaction that is similar, analogous or identical to any of the foregoing.

Rule 3.c. *Monetary Instrument* refers to:

(1) Coins or currency of legal tender of the Philippines, or of any other country;

(2) Drafts, checks and notes;

(3) Securities or negotiable instruments, bonds, commercial papers, deposit certificates, trust certificates, custodial receipts or deposit substitute instruments, trading orders, transaction tickets and confirmations of sale or investments and money market instruments;

(4) Contracts or policies of insurance, life or non-life, and contracts of suretyship; and

(5) Other similar instruments where title thereto passes to another by endorsement, assignment or delivery.

Rule 3.d. *Offender* refers to any person who commits a money laundering offense.

Rule 3.e. *Person* refers to any natural or juridical person.

Rule 3.f. *Proceeds* refers to an amount derived or realized from an unlawful activity. It includes:

(1) All material results, profits, effects and any amount realized from any unlawful activity;

(2) All monetary, financial or economic means, devices, documents, papers or things used in or having any relation to any unlawful activity; and

(3) All moneys, expenditures, payments, disbursements, costs, outlays, charges, accounts, refunds and other similar items for the financing, operations, and maintenance of any unlawful activity.

Rule 3.g. *Supervising Authority* refers to the BSP, the SEC and the IC. Where the BSP, SEC or IC supervision applies only to the registration of the covered institution, the BSP, the SEC or the IC, within the limits of the AMLA, shall have the authority to require and ask assistance from the government agency having regulatory power and/or licensing authority over said covered institution for the implementation and enforcement of the AMLA and these Rules.

Rule 3.h. *Transaction* refers to any act establishing any right or obligation or giving rise to any contractual or legal relationship between the parties thereto. It also includes any movement of funds by any means with a covered institution.

Rule 3.i. *Unlawful activity* refers to any act or omission or series or combination thereof involving or having relation, to the following:

(A) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code, as amended;

(1) Kidnapping for ransom.

(B) Sections 4, 5, 6, 8, 9, 10, 12, 13, 14, 15 and 16 of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002;

(2) Importation of prohibited drugs;

(3) Sale of prohibited drugs;

(4) Administration of prohibited drugs;

(5) Delivery of prohibited drugs;

(6) Distribution of prohibited drugs;

(7) Transportation of prohibited drugs;

(8) Maintenance of a den, dive or resort for prohibited users;

(9) Manufacture of prohibited drugs;

(10)Possession of prohibited drugs;

(11)Use of prohibited drugs;

(12)Cultivation of plants which are sources of prohibited drugs; and

(13)Culture of plants which are sources of prohibited drugs.

(C) Section 3 paragraphs b, c, e, g, h and i of R.A. No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act;

(14)Directly or indirectly requesting or receiving any gift, present, share, percentage or benefit for himself or for any other person in connection with any contract or transaction between the Government and any party, wherein the public officer in his official capacity has to intervene under the law;

(15) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any government permit or license, in consideration for the help given or to be given, without prejudice to Section 13 of R.A. No. 3019;

(16) Causing any undue injury to any party, including the government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence;

(17) Entering, on behalf of the government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby;

(18) Directly or indirectly having financial or pecuniary interest in any business contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest;

(19) Directly or indirectly becoming interested, for personal gain, or having material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which exercise of discretion in such approval, even if he votes against the same or he does not participate in the action of the board, committee, panel or group.

(D) Plunder under R.A. No. 7080, as amended;

(20) Plunder through misappropriation, conversion, misuse or malversation of

public funds or raids upon the public treasury;

(21) Plunder by receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;

(22) Plunder by the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies, instrumentalities or government-owned or-controlled corporations or their subsidiaries;

(23) Plunder by obtaining, receiving or accepting, directly or indirectly, any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;

(24) Plunder by establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests;

(25) Plunder by taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

(E) Robbery and extortion under Articles 294, 295, 296, 299, 300, 301 and 302 of the Revised Penal Code, as amended;

(26) Robbery with violence or intimidation of persons;

(27) Robbery with physical injuries, committed in an uninhabited place and by a band, or with use of firearms on a street, road or alley;

(28) Robbery in an uninhabited house or public building or edifice devoted to worship.

(F) Jueteng and Masiao punished as illegal gambling under P.D. No. 1602;

(29) Jueteng;

(30) Masiao.

(G) Piracy on the high seas under the Revised Penal Code, as amended and P.D. No. 532;

(31) Piracy on the high seas;

(32) Piracy in inland Philippine waters;

(33) Aiding and abetting pirates and brigands.

(H) Qualified theft under Article 310 of the Revised Penal Code, as amended;

(34) Qualified theft.

(I) Swindling under Article 315 of the Revised Penal Code, as amended;

(35) Estafa with unfaithfulness or abuse of confidence by altering the substance, quality or quantity of anything of value which the offender shall deliver by virtue of an obligation to do so, even though such obligation be based on an immoral or illegal consideration;

(36) Estafa with unfaithfulness or abuse of confidence by misappropriating or converting, to the prejudice of another, money, goods or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property;

(37) Estafa with unfaithfulness or abuse of confidence by taking undue advantage of the signature of the offended party in blank, and by writing any document above such signature in blank, to the prejudice of the offended party or any third person;

(38) Estafa by using a fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit,

agency, business or imaginary transactions, or by means of other similar deceits;

(39) Estafa by altering the quality, fineness or weight of anything pertaining to his art or business;

(40) Estafa by pretending to have bribed any government employee;

(41) Estafa by postdating a check, or issuing a check in payment of an obligation when the offender has no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check;

(42) Estafa by inducing another, by means of deceit, to sign any document;

(43) Estafa by resorting to some fraudulent practice to ensure success in a gambling game;

(44) Estafa by removing, concealing or destroying, in whole or in part, any court record, office files, document or any other papers.

(J) Smuggling under R.A. Nos. 455 and 1937;

(45) Fraudulent importation of any vehicle;

(46) Fraudulent exportation of any vehicle;

(47) Assisting in any fraudulent importation;

(48) Assisting in any fraudulent exportation;

(49) Receiving smuggled article after fraudulent importation;

(50) Concealing smuggled article after fraudulent importation;

(51) Buying smuggled article after fraudulent importation;

(52) Selling smuggled article after fraudulent importation;

(53) Transportation of smuggled article after fraudulent importation;

(54) Fraudulent practices against customs revenue.

(K) Violations under R.A. No. 8792, otherwise known as the Electronic Commerce Act of 2000;

K.1. *Hacking or cracking*, which refers to:

(55) unauthorized access into or interference in a computer system/server or information and communication system; or

(56) any access in order to corrupt, alter, steal, or destroy using a computer or other similar information and communication devices, without the knowledge and consent of the owner of the computer or information and communications system, including

(57) the introduction of computer viruses and the like, resulting in the corruption, destruction, alteration, theft or loss of electronic data messages or electronic document;

K.2. *Piracy*, which refers to:

(58) the unauthorized copying, reproduction,

(59) the unauthorized dissemination, distribution,

(60) the unauthorized importation,

(61) the unauthorized use, removal, alteration, substitution, modification,

(62) the unauthorized storage, uploading, downloading, communication, making available to the public, or

(63) the unauthorized broadcasting, of protected material, electronic signature or copyrighted works including legally protected sound recordings or phonograms or information material on protected works, through the use of telecommunication networks, such as, but not limited to, the internet, in a manner that infringes intellectual property rights;

K.3. Violations of the Consumer Act or R.A. No. 7394 and other relevant or pertinent laws through transactions covered by or using electronic data messages or electronic documents:

(64) Sale of any consumer product that is not in conformity with standards under the Consumer Act;

(65) Sale of any product that has been banned by a rule under the Consumer Act;

(66) Sale of any adulterated or mislabeled product using electronic documents;

(67) Adulteration or misbranding of any consumer product;

(68) Forging, counterfeiting or simulating any mark, stamp, tag, label or other identification device;

(69) Revealing trade secrets;

(70) Alteration or removal of the labeling of any drug or device held for sale;

(71) Sale of any drug or device not registered in accordance with the provisions of the E-Commerce Act;

(72) Sale of any drug or device by any person not licensed in accordance with the provisions of the E-Commerce Act;

(73) Sale of any drug or device beyond its expiration date;

(74) Introduction into commerce of any mislabeled or banned hazardous substance;

(75) Alteration or removal of the labeling of a hazardous substance;

(76) Deceptive sales acts and practices;

(77) Unfair or unconscionable sales acts and practices;

(78) Fraudulent practices relative to weights and measures;

(79) False representations in advertisements as the existence of a warranty or guarantee;

(80) Violation of price tag requirements;

(81) Mislabeling consumer products;

(82) False, deceptive or misleading advertisements;

(83) Violation of required disclosures on consumer loans;

(84) Other violations of the provisions of the E-Commerce Act;

(L) Hijacking and other violations under R.A. No. 6235; destructive arson and murder, as defined under the Revised Penal Code, as amended, including those perpetrated by terrorists against non-combatant persons and similar targets;

(85) Hijacking;

(86) Destructive arson;

(87) Murder;

(88) Hijacking, destructive arson or murder perpetrated by terrorists against non-combatant persons and similar targets;

(M) Fraudulent practices and other violations under R.A. No. 8799, otherwise known as the Securities Regulation Code of 2000;

(89) Sale, offer or distribution of securities within the Philippines without a registration statement duly filed with and approved by the SEC;

(90) Sale or offer to the public of any pre-need plan not in accordance with the rules and regulations which the SEC shall prescribe;

(91) Violation of reportorial requirements imposed upon issuers of securities;

(92) Manipulation of security prices by creating a false or misleading appearance of active trading in any listed security traded in an Exchange or any other trading market;

(93) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that raises their prices to induce the purchase of a security, whether of the same or different class, of the same issuer or of a controlling, controlled or commonly controlled company by others;

(94) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that depresses their price to induce the sale of a security, whether of the same or different class, of the same issuer or of a controlling, controlled or commonly controlled company by others;

(95) Manipulation of security prices by effecting, alone or with others, a series of transactions in securities that creates active trading to induce such a purchase or sale though manipulative devices such as marking the close, painting the tape, squeezing the float, hype and dump, boiler room operations and such other similar devices;

(96) Manipulation of security prices by circulating or disseminating information that the price of any security listed in an Exchange will or is likely to rise or fall because of manipulative market operations of any one or more persons conducted for the purpose of raising or depressing the price of the security for the purpose of inducing the purchase or sale of such security;

(97) Manipulation of security prices by making false or misleading statements with respect to any material fact, which he knew or had reasonable ground to believe was so false and misleading, for the purpose of inducing the purchase or sale of any security listed or traded in an Exchange;

(98) Manipulation of security prices by effecting, alone or with others, any series of transactions for the purchase and/or sale of any security traded in an Exchange for the purpose of pegging, fixing or stabilizing the price of such security, unless otherwise allowed by the Securities Regulation Code or by the rules of the SEC;

(99) Sale or purchase of any security using any manipulative deceptive device or contrivance;

(100) Execution of short sales or stop-loss order in connection with the purchase or sale of any security not in accordance with such rules and regulations as the SEC may prescribe as necessary and appropriate in the public interest or the protection of the investors;

(101) Employment of any device, scheme or artifice to defraud in connection with the purchase and sale of any securities;

(102) Obtaining money or property in connection with the purchase and sale of any security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

(103) Engaging in any act, transaction, practice or course of action in the sale and purchase of any security which operates or would operate as a fraud or deceit upon any person;

(104) Insider trading;

(105) Engaging in the business of buying and selling securities in the Philippines as a broker or dealer, or acting as a salesman, or an associated person of any broker or dealer without any registration from the Commission;

(106) Employment by a broker or dealer of any salesman or associated person or by an issuer of any salesman, not registered with the SEC;

(107) Effecting any transaction in any security, or reporting such transaction, in an Exchange or using the facility of an Exchange which is not registered with the SEC;

(108) Making use of the facility of a clearing agency which is not registered with the SEC;

(109) Violations of margin requirements;

(110) Violations on the restrictions on borrowings by members, brokers and dealers;

(111) Aiding and Abetting in any violations of the Securities Regulation Code;

(112) Hindering, obstructing or delaying the filing of any document required under the Securities Regulation Code or the rules and regulations of the SEC;

(113) Violations of any of the provisions of the implementing rules and regulations of the SEC;

(114) Any other violations of any of the provisions of the Securities Regulation Code.

(N) Felonies or offenses of a similar nature to the afore-mentioned unlawful activities that are punishable under the penal laws of other countries.

In determining whether or not a felony or offense punishable under the penal laws of other countries, is "of a similar nature", as to constitute the same as an unlawful activity under the AMLA, the nomenclature of said felony or offense need not be identical to any of the predicate crimes listed under Rule 3.i.

RULE 4
MONEY LAUNDERING OFFENSE

Rule 4.1. Money Laundering Offense. - Money laundering is a crime whereby the proceeds of an unlawful activity as herein defined are transacted, thereby making them appear to have originated from legitimate sources. It is committed by the following:

(a) Any person knowing that any monetary instrument or property represents, involves, or relates to, the proceeds of any unlawful activity, transacts or attempts to transact said monetary instrument or property.

(b) Any person knowing that any monetary instrument or property involves the proceeds of any unlawful activity, performs or fails to perform any act as a result of which he facilitates the offense of money laundering referred to in paragraph (a) above.

(c) Any person knowing that any monetary instrument or property is required under this Act to be disclosed and filed with the Anti-Money Laundering Council (AMLC), fails to do so.

RULE 5
JURISDICTION OF MONEY LAUNDERING CASES AND MONEY LAUNDERING INVESTIGATION PROCEDURES

Rule 5.1. Jurisdiction of Money Laundering Cases. - The Regional Trial Courts shall have the jurisdiction to try all cases on money laundering. Those committed by public officers and private persons who are in conspiracy with such public officers shall be under the jurisdiction of the Sandiganbayan.

Rule 5.2. Investigation of Money Laundering Offenses. - The AMLC shall investigate:

(a) Suspicious transactions;

(b) Covered transactions deemed suspicious after an investigation conducted by the AMLC;

(c) Money laundering activities; and

(d) Other violations of this act.

Rule 5.3. Attempts at Transactions. - Section 4 (a) and (b) of the AMLA provides that any person who attempts to transact any monetary instrument or property representing, involving or relating to the proceeds of any unlawful activity shall be prosecuted for a money laundering offense. Accordingly, the reports required under Rule 9.3 (a) and (b) of these Rules shall include those pertaining to any attempt by any person to transact any monetary instrument or property representing, involving or relating to the proceeds of any unlawful activity.

RULE 6
PROSECUTION OF MONEY LAUNDERING

Rule 6.1. Prosecution of Money Laundering

(a) Any person may be charged with and convicted of both the offense of money

laundering and the unlawful activity as defined under Rule 3 (i) of the AMLA.

(b) Any proceeding relating to the unlawful activity shall be given precedence over the prosecution of any offense or violation under the AMLA without prejudice to the application *Ex-Parte* by the AMLC to the Court of Appeals for a Freeze Order with respect to the monetary instrument or property involved therein and resort to other remedies provided under the AMLA, the rules of court and other pertinent laws and rules.

Rule 6.2. When the AMLC finds, after investigation, that there is probable cause to charge any person with a money laundering offense under Section 4 of the AMLA, it shall cause a complaint to be filed, pursuant to Section 7 (4) of the AMLA, before the Department of Justice or the Ombudsman, which shall then conduct the preliminary investigation of the case.

Rule 6.3. After due notice and hearing in the preliminary investigation proceedings before the Department of Justice, or the Ombudsman, as the case may be, and the latter should find probable cause of a money laundering offense, it shall file the necessary information before the Regional Trial Courts or the Sandiganbayan.

Rule 6.4. Trial for the money laundering offense shall proceed in accordance with the Code of Criminal Procedure or the Rules of Procedure of the Sandiganbayan, as the case may be.

Rule 6.5. Knowledge of the offender that any monetary instrument or property represents, involves, or relates to the proceeds of an unlawful activity or that any monetary instrument or property is required under the AMLA to be disclosed and filed with the AMLC, may be established by direct evidence or inferred from the attendant circumstances.

Rule 6.6. All the elements of every money laundering offense under Section 4 of the AMLA must be proved by evidence beyond reasonable doubt, including the element of knowledge that the monetary instrument or property represents, involves or relates to the proceeds of any unlawful activity.

Rule 6.7. No element of the unlawful activity, however, including the identity of the perpetrators and the details of the actual commission of the unlawful activity need be established by proof beyond reasonable doubt. The elements of the offense of money laundering are separate and distinct from the elements of the felony or offense constituting the unlawful activity.

RULE 7
CREATION OF ANTI-MONEY LAUNDERING COUNCIL (AMLC)

Rule 7.1.a. Composition. - The Anti-Money Laundering Council is hereby created and shall be composed of the Governor of the BSP as Chairman, the Commissioner of the Insurance Commission and the Chairman of the SEC as members.

Rule 7.1.b. Unanimous Decision. - The AMLC shall act unanimously in discharging its functions as defined in the AMLA and in these Rules. However, in the case of the incapacity, absence or disability of any member to discharge his functions, the officer duly designated or authorized to discharge the functions of the Governor of the BSP, the Chairman of the SEC or the Insurance Commissioner, as the case may be, shall act in his stead in the AMLC.

Rule 7.2. Functions. - The functions of the AMLC are defined hereunder:

(1) to require and receive covered or suspicious transaction reports from covered institutions;

(2) to issue orders addressed to the appropriate Supervising Authority or the covered institution to determine the true identity of the owner of any monetary instrument or property subject of a covered or suspicious transaction report, or request for assistance from a foreign State, or believed by the Council, on the basis of substantial evidence, to be, in whole or in part, wherever located, representing, involving, or related to, directly or indirectly, in any manner or by any means, the proceeds of an unlawful activity;

(3) to institute civil forfeiture proceedings and all other remedial proceedings through the Office of the Solicitor General;

(4) to cause the filing of complaints with the Department of Justice or the Ombudsman for the prosecution of money laundering offenses;

(5) to investigate suspicious transactions and covered transactions deemed suspicious after an investigation by the AMLC, money laundering activities and other violations of this Act;

(6) to apply before the Court of Appeals, Ex-Parte, for the freezing of any monetary instrument or property alleged to be proceeds of any unlawful activity as defined under Section 3(i) hereof;

(7) to implement such measures as may be inherent, necessary, implied, incidental and justified under the AMLA to counteract money laundering. Subject to such limitations as provided for by law, the AMLC is authorized under Rule 7 (7) of the AMLA to establish an information sharing system that will enable the AMLC to store, track and analyze money laundering transactions for the resolute prevention, detection and investigation of money laundering offenses. For this purpose, the AMLC shall install a computerized system that will be used in the creation and maintenance of an information database;

(8) to receive and take action in respect of any request from foreign states for assistance in their own anti-money laundering operations as provided in the AMLA. The AMLC is authorized under Sections 7 (8) and 13 (b) and (d) of the AMLA to receive and take action in respect of any request of foreign states for assistance in their own anti-money laundering operations, in respect of conventions, resolutions and other directives of the United Nations (UN), the UN Security Council, and other international organizations of which the Philippines is a member. However, the AMLC may refuse to comply with any such request, convention, resolution or directive where the action sought therein contravenes the provisions of the Constitution, or the execution thereof is likely to prejudice the national interest of the Philippines.

(9) to develop educational programs on the pernicious effects of money laundering, the methods and techniques used in money laundering, the viable means of preventing money laundering and the effective ways of prosecuting and punishing offenders.

(10) to enlist the assistance of any branch, department, bureau, office, agency or instrumentality of the government, including government-owned and-controlled corporations, in undertaking any and all anti-money laundering operations, which may include the use of its personnel, facilities and resources for the more resolute prevention, detection and investigation of money laundering offenses and prosecution of offenders. The AMLC may require the intelligence units of the Armed Forces of the Philippines, the Philippine National Police, the Department of Finance, the Department of Justice, as well as their attached agencies, and other domestic or transnational governmental or non-governmental organizations or groups to divulge to the AMLC all information that may, in any way, facilitate the resolute prevention,

investigation and prosecution of money laundering offenses and other violations of the AMLA.

(11) To impose administrative sanctions for the violation of laws, rules, regulations and orders and resolutions issued pursuant thereto.

Rule 7.3. Meetings. - The AMLC shall meet every first Monday of the month, or as often as may be necessary at the call of the Chairman.

RULE 8
CREATION OF A SECRETARIAT

Rule 8.1. The Executive Director. - The Secretariat shall be headed by an Executive Director who shall be appointed by the AMLC for a term of five (5) years. He must be a member of the Philippine Bar, at least thirty-five (35) years of age, must have served at least five (5) years either at the BSP, the SEC or the IC and of good moral character, unquestionable integrity and known probity. He shall be considered a regular employee of the BSP with the rank of Assistant Governor, and shall be entitled to such benefits and subject to such rules and regulations, as well as prohibitions, as are applicable to officers of similar rank.

Rule 8.2. Composition. - In organizing the Secretariat, the AMLC may choose from those who have served, continuously or cumulatively, for at least five (5) years in the BSP, the SEC or the IC. All members of the Secretariat shall be considered regular employees of the BSP and shall be entitled to such benefits and subject to such rules and regulations as are applicable to BSP employees of similar rank.

Rule 8.3. Detail and Secondment. - The AMLC is authorized under Section 7 (10) of the AMLA to enlist the assistance of the BSP, the SEC or the IC, or any other branch, department, bureau, office, agency or instrumentality of the government, including government-owned and controlled corporations, in undertaking any and all anti-money laundering operations. This includes the use of any member of their personnel who may be detailed or seconded to the AMLC, subject to existing laws and Civil Service Rules and Regulations. Detailed personnel shall continue to receive their salaries, benefits and emoluments from their respective mother units. Seconded personnel shall receive, in lieu of their respective compensation packages from their respective mother units, the salaries, emoluments and all other benefits to which their AMLC Secretariat positions are entitled to.

Rule 8.4. Confidentiality Provisions. - The members of the AMLC, the Executive Director, and all the members of the Secretariat, whether permanent, on detail or on secondment, shall not reveal, in any manner, any information known to them by reason of their office. This prohibition shall apply even after their separation from the AMLA. In case of violation of this provision, the person shall be punished in accordance with the pertinent provisions of the Central Bank Act.

RULE 9
PREVENTION OF MONEY LAUNDERING; CUSTOMER IDENTIFICATION REQUIREMENTS AND RECORD KEEPING

Rule 9.1. Customer Identification Requirements

Rule 9.1.a. Customer Identification. - Covered institutions shall establish and record the true identity of its clients based on official documents. They shall maintain a system of verifying the true identity of their clients and, in case of corporate clients, require a system of

verifying their legal existence and organizational structure, as well as the authority and identification of all persons purporting to act on their behalf. Covered institutions shall establish appropriate systems and methods based on internationally compliant standards and adequate internal controls for verifying and recording the true and full identity of their customers.

Rule 9.1.b. Trustee, Nominee and Agent Accounts. - When dealing with customers who are acting as trustee, nominee, agent or in any capacity for and on behalf of another, covered institutions shall verify and record the true and full identity of the person(s) on whose behalf a transaction is being conducted. Covered institutions shall also establish and record the true and full identity of such trustees, nominees, agents and other persons and the nature of their capacity and duties. In case a covered institution has doubts as to whether such persons are being used as dummies in circumvention of existing laws, it shall immediately make the necessary inquiries to verify the status of the business relationship between the parties.

Rule 9.1.c. Minimum Information/ Documents Required for Individual Customers. - Covered institutions shall require customers to produce original documents of identity issued by an official authority, bearing a photograph of the customer. Examples of such documents are identity cards and passports. The following minimum information/documents shall be obtained from individual customers:

(1) Name;
(2) Present address;
(3) Permanent address;
(4) Date and place of birth;
(5) Nationality;
(6) Nature of work and name of employer or nature of self-employment/ business;
(7) Contact numbers;
(8) Tax identification number, Social Security System number or Government Service and Insurance System number;
(9) Specimen signature;
(10) Source of fund(s); and
(11) Names of beneficiaries in case of insurance contracts and whenever applicable.

Rule 9.1.d. Minimum Information/ Documents Required for Corporate and Juridical Entities. - Before establishing business relationships, covered institutions shall endeavor to ensure that the customer is a corporate or juridical entity which has not been or is not in the process of being, dissolved, wound up or voided, or that its business or operations has not been or is not in the process of being, closed, shut down, phased out, or terminated. Dealings with shell companies and corporations, being legal entities which have no business substance in their own right but through which financial transactions may be conducted, should be undertaken with extreme caution. The following minimum information/ documents shall be obtained from customers that are corporate or juridical entities, including shell companies and corporations:

(1) Articles of Incorporation/ Partnership;
(2) By-laws;
(3) Official address or principal business address;
(4) List of directors/partners;
(5) List of principal stockholders owning at least two percent (2%) of the capital stock;
(6) Contact numbers;
(7) Beneficial owners, if any; and
(8) Verification of the authority and identification of the person purporting to act on behalf of the client.

Rule 9.1.e. Prohibition Against Certain Accounts. Covered institutions shall maintain accounts only in the true and full name of the account owner or holder. The provisions of existing laws to the contrary notwithstanding, anonymous accounts, accounts under fictitious names, and all other similar accounts shall be absolutely prohibited.

Rule 9.1.f. Prohibition Against Opening of Accounts Without Face-to-face Contact. - No new accounts shall be opened and created without face-to-face contact and full compliance with the requirements under Rule 9.1.c of these Rules.

Rule 9.1.g. Numbered Accounts. - Peso and foreign currency non-checking numbered accounts shall be allowed: *Provided*, That the true identity of the customers of all peso and foreign currency non-checking numbered accounts are satisfactorily established based on official and other reliable documents and records, and that the information and documents required under the provisions of these Rules are obtained and recorded by the covered institution. No peso and foreign currency non-checking accounts shall be allowed without the establishment of such identity and in the manner herein provided. The BSP may conduct annual testing for the purpose of determining the existence and true identity of the owners of such accounts. The SEC and the IC may conduct similar testing more often than once a year and covering such other related purposes as may be allowed under their respective charters.

Rule 9.2. Record Keeping Requirements

Rule 9.2.a. Record Keeping: Kinds of Records and Period for Retention. – All records of all transactions of covered institutions shall be maintained and safely stored for five (5) years from the dates of transactions. Said records and files shall contain the full and true identity of the owners or holders of the accounts involved in the covered transactions and all other customer identification documents. Covered institutions shall undertake the necessary adequate security measures to ensure the confidentiality of such file. Covered institutions shall prepare and maintain documentation, in accordance with the aforementioned client identification requirements, on their customer accounts, relationships and transactions such that any account, relationship or transaction can be so reconstructed as to enable the AMLC, and/or the courts to establish an audit trail for money laundering.

Rule 9.2.b. Existing and New Accounts and New Transactions. - All records of existing and new accounts and of new transactions shall be maintained and safely stored for five (5) years from 17 October 2001 or from the dates of the accounts or transactions, whichever is later.

Rule 9.2.c. Closed Accounts. - With respect to closed accounts, the records on customer identification, account files and business correspondence shall be preserved and safely stored for at least five (5) years from the dates when they were closed.

Rule 9.2.d. Retention of Records in Case a Money Laundering Case has been Filed in Court. – If a money laundering case based on any record kept by the covered institution concerned has been filed in court, said file must be retained beyond the period stipulated in the three (3) immediately preceding sub-Rules, as the case may be, until it is confirmed that the case has been finally resolved or terminated by the court.

Rule 9.2.e. Form of Records. – Records shall be retained as originals in such forms as are admissible in court pursuant to

existing laws and the applicable rules promulgated by the Supreme Court.

Rule 9.3. Reporting of Covered Transactions. -

Rule 9.3.a. Period of Reporting Covered Transactions and SuspiciousTransactions. - Covered institutions shall report to the AMLC all covered transactions and suspicious transactions within five (5) working days from occurrence thereof, unless the supervising authority concerned prescribes a longer period not exceeding ten (10) working days.

Should a transaction be determined to be both a covered and a suspicious transaction, the covered institution shall report the same as a suspicious transaction.

The reporting of covered transactions by covered institutions shall be deferred for a period of sixty (60) days after the effectivity of R.A. No. 9194, or as may be determined by the AMLC, in order to allow the covered institutions to configure their respective computer systems; provided that, all covered transactions during said deferment period shall be submitted thereafter.

Rule 9.3.b. Covered* and Suspicious *Transaction Report Forms. - The Covered Transaction Report (CTR) and the Suspicious Transaction Report (STR) shall be in the forms prescribed by the AMLC.

Rule 9.3.b.1. Covered institutions shall use the existing forms for Covered Transaction Reports and Suspicious Transaction Reports, until such time as the AMLC has issued new sets of forms.

Rule 9.3.b.2. Covered Transaction Reports and Suspicious Transaction Reports shall be submitted in a secured manner to the AMLC in electronic form, either via diskettes, leased lines, or through internet facilities, with the corresponding hard copy for suspicious transactions. The final flow and procedures for such reporting shall be mapped out in the manual of operations to be issued by the AMLC.

Rule 9.3.c. Exemption from Bank Secrecy Laws. – When reporting covered or suspicious transactions to the AMLC, covered institutions and their officers and employees, shall not be deemed to have violated R.A. No. 1405, as amended, R.A. No. 6426, as amended, R.A. No. 8791 and other similar laws, but are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person the fact that a covered or suspicious transaction report was made, the contents thereof, or any other information in relation thereto. In case of violation thereof, the concerned officer and employee of the covered institution, shall be criminally liable.

Rule 9.3.d. Confidentiality Provisions. – When reporting covered transactions or suspicious transactions to the AMLC, covered institutions and their officers, employees, representatives, agents, advisors, consultants or associates are prohibited from communicating, directly or indirectly, in any manner or by any means, to any person, entity, or the media, the fact that a covered transaction report was made, the contents thereof, or any other information in relation thereto. Neither may such reporting be published or aired in any manner or form by the mass media, electronic mail, or other similar devices. In case of violation hereof, the concerned officer, employee, representative, agent, advisor, consultant or associate of the covered institution, or media shall be held criminally liable.

Rule 9.3.e. *Safe Harbor Provisions.* – No administrative, criminal or civil proceedings, shall lie against any person for having made a covered transaction report or a suspicious transaction report in the regular performance of his duties and in good faith, whether or not such reporting results in any criminal prosecution under this Act or any other Philippine law.

RULE 10
APPLICATION FOR FREEZE ORDERS

Rule 10.1. When the AMLC May Apply for the Freezing of Any Monetary Instrument or Property. -

(a) After an investigation conducted by the AMLC and upon determination that probable cause exists that a monetary instrument or property is in any way related to any unlawful activity as defined under Section 3 (i), the AMLC may file an Ex-Parte application before the Court of Appeals for the issuance of a freeze order on any monetary instrument or property subject thereof prior to the institution or in the course of, the criminal proceedings involving the unlawful activity to which said monetary instrument or property is any way related.

(b) Considering the intricate and diverse web of related and interlocking accounts pertaining to the monetary instrument(s) or property(ies) that any person may create in the different covered institutions, their branches and/or other units, the AMLC may apply to the Court of Appeals for the freezing, not only of the monetary instruments or properties in the names of the reported owner(s)/holder(s), and monetary instruments or properties named in the application of the AMLC but also all other related web of accounts pertaining to other monetary instruments and properties, the funds and sources of which originated from or are related to the monetary instrument(s) or property(ies) subject of the freeze order(s).

(c) The freeze order shall be effective for twenty (20) days unless extended by the Court of Appeals upon application by the AMLC.

Rule 10.2. Definition of Probable Cause - Probable cause includes such facts and circumstances which would lead a reasonably discreet, prudent or cautious man to believe that an unlawful activity and/or a money laundering offense is about to be, is being or has been committed and that the account or any monetary instrument or property subject thereof sought to be frozen is in any way related to said unlawful activity and/or money laundering offense.

Rule 10.3. Duty of Covered Institution Upon Receipt Thereof. –

Rule 10.3.a. Upon receipt of the notice of the freeze order, the covered institution concerned shall immediately freeze the monetary instrument or property and related web of accounts subject thereof.

Rule 10.3.b. The covered institution shall likewise immediately furnish a copy of the notice of the freeze order upon the owner or holder of the monetary instrument or property or related web of accounts subject thereof.

Rule 10.3.c. Within twenty-four (24) hours from receipt of the freeze order, the covered institution concerned shall submit to the Court of Appeals and the AMLC, by personal delivery, a detailed written return on the freeze order, specifying all the pertinent and relevant information which shall include the following:

1. The account number(s);
2. The name(s) of the account owner(s) or holder(s);
3. The amount of the monetary instrument, property or related web of accounts as of the time they were frozen;

4. All relevant information as to the nature of the monetary instrument or property;

5. Any information on the related web of accounts pertaining to the monetary instrument or property subject of the freeze order; and

6. The time when the freeze thereon took effect.

Rule 10.4. Definition of Related Web of Accounts. -

Related Web of Accounts pertaining to the money instrument or property subject of the freeze order is defined as those accounts, the funds and sources of which originated from and/or are materially linked to the monetary instrument(s) or property(ies) subject of the freeze order(s).

Upon receipt of the freeze order issued by the court of appeals and upon verification by the covered institution that the related web of accounts originated from and/or are materially linked to the monetary instrument or property subject of the freeze order, the covered institution shall freeze these related web of accounts wherever these funds may be found.

The return of the covered institution as required under rule 10.3.c shall include the fact of such freezing and an explanation as to the grounds for the identification of the related web of accounts.

Rule 10.5. Extension of the Freeze Order. - Before the twenty (20) day period of the freeze order issued by the court of appeals expires, the AMLC may apply in the same court for an extension of said period. Upon the timely filing of such application and pending the decision of the Court of Appeals to extend the period, said period shall be deemed suspended and the freeze order shall remain effective.

However, the covered institution shall not lift the effects of the freeze order without securing official confirmation from the AMLC.

Rule 10.6. Prohibition Against Issuance of Freeze Orders Against Candidates for an Electoral Office During Election Period. - No assets shall be frozen to the prejudice of a candidate for an electoral office during an election period.

RULE 11
AUTHORITY TO INQUIRE INTO BANK DEPOSITS

Rule 11.1. Authority to Inquire into Bank Deposits with Court Order. - Notwithstanding the provisions of R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791, and other laws, the AMLC may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution and their subsidiaries and affiliates upon order of any competent court in cases of violation of this Act, when it has been established that there is probable cause that the deposits or investments involved are related to an unlawful activity as defined in Section 3 (i) hereof or a money laundering offense under Section 4 hereof; except in cases as provided under Rule 11.2.

Rule 11.2. Authority to Inquire into Bank Deposits Without Court Order. - The AMLC may inquire into or examine deposit and investments with any banking institution or non-bank financial institution and their subsidiaries and affiliates without a Court Order where any of the following unlawful activities are involved:

(a) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code, as amended;

(b) Sections 4,5,6, 8, 9, 10, 12, 13, 14, 15 and 16 of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002;

(c) Hijacking and other violations under R.A. No. 6235; destructive arson and murder, as defined under the Revised

Penal Code, as amended, including those perpetrated by terrorists against noncombatant persons and similar targets.

Rule 11.2.a. Procedure For Examination Without A Court Order. - Where any of the unlawful activities enumerated under the immediately preceding Rule 11.2 are involved, and there is probable cause that the deposits or investments with any banking or non-banking financial institution and their subsidiaries and affiliates are in anyway related to these unlawful activities the AMLC shall issue a resolution authorizing the inquiry into or examination of any deposit or investment with such banking or non-banking financial institution and their subsidiaries and affiliates concerned.

Rule 11.2.b. Duty of the banking institution or non- banking institution upon receipt of the AMLC Resolution. - The banking institution or the non-banking financial institution and their subsidiaries and affiliates shall, immediately upon receipt of the AMLC Resolution, allow the AMLC and/or its authorized representative(s) full access to all records pertaining to the deposit or investment account.

Rule 11.3. - BSP Authority to Examine deposits and investments; Additional Exception to the Bank Secrecy Act. - To ensure compliance with this act, the BSP may inquire into or examine any particular deposit or investment with any banking institution or non-bank financial institution and their subsidiaries and affiliates when the examination is made in the course of a periodic or special examination, in accordance with the rules of examination of the BSP.

Rule 11.3.a. BSP Rules of Examination. - The BSP shall promulgate its rules of examination for ensuring compliance by banks and non-bank financial institutions and their subsidiaries and affiliates with the AMLA and these rules.

Any findings of the BSP which may constitute a violation of any provision of this act shall be transmitted to the AMLC for appropriate action.

RULE 12
FORFEITURE PROVISIONS

Rule 12.1. Authority to Institute Civil Forfeiture Proceedings. – The AMLC is authorized under Section 7 (3) of the AMLA to institute civil forfeiture proceedings and all other remedial proceedings through the Office of the Solicitor General.

Rule 12.2. When Civil Forfeiture May be Applied. – When there is a Suspicious Transaction Report or a Covered Transaction Report deemed suspicious after investigation by the AMLC, and the court has, in a petition filed for the purpose, ordered the seizure of any monetary instrument or property, in whole or in part, directly or indirectly, related to said report, the Revised Rules of Court on civil forfeiture shall apply.

Rule 12.3. Claim on Forfeited Assets. - Where the court has issued an order of forfeiture of the monetary instrument or property in a criminal prosecution for any money laundering offense under Section 4 of the AMLA, the offender or any other person claiming an interest therein may apply, by verified petition, for a declaration that the same legitimately belongs to him, and for segregation or exclusion of the monetary instrument or property corresponding thereto. The verified petition shall be filed with the court which rendered the judgment of conviction and order of forfeiture within fifteen (15) days from the date of the order of forfeiture, in default of which the said order shall become final and

executory. This provision shall apply in both civil and criminal forfeiture.

Rule 12.4. Payment in Lieu of Forfeiture. - Where the court has issued an order of forfeiture of the monetary instrument or property subject of a money laundering offense under Section 4 of the AMLA, and said order cannot be enforced because any particular monetary instrument or property cannot, with due diligence, be located, or it has been substantially altered, destroyed, diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly, attributable to the offender, or it has been concealed, removed, converted or otherwise transferred to prevent the same from being found or to avoid forfeiture thereof, or it is located outside the Philippines or has been placed or brought outside the jurisdiction of the court, or it has been commingled with other monetary instruments or property belonging to either the offender himself or a third person or entity, thereby rendering the same difficult to identify or be segregated for purposes of forfeiture, the court may, instead of enforcing the order of forfeiture of the monetary instrument or property or part thereof or interest therein, accordingly order the convicted offender to pay an amount equal to the value of said monetary instrument or property. This provision shall apply in both civil and criminal forfeiture.

RULE 13
MUTUAL ASSISTANCE AMONG STATES

Rule 13.1. Request for Assistance from a Foreign State. - Where a foreign state makes a request for assistance in the investigation or prosecution of a money laundering offense, the AMLC may execute the request or refuse to execute the same and inform the foreign state of any valid reason for not executing the request or for delaying the execution thereof. The principles of mutuality and reciprocity shall, for this purpose, be at all times recognized.

Rule 13.2. Powers of the AMLC to Act on a Request for Assistance from a Foreign State. - The AMLC may execute a request for assistance from a foreign state by: (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity under the procedures laid down in the AMLA and in these Rules; (2) giving information needed by the foreign state within the procedures laid down in the AMLA and in these Rules; and (3) applying for an order of forfeiture of any monetary instrument or property in the court: *Provided,* That the court shall not issue such an order unless the application is accompanied by an authenticated copy of the order of a court in the requesting state ordering the forfeiture of said monetary instrument or property of a person who has been convicted of a money laundering offense in the requesting state, and a certification or an affidavit of a competent officer of the requesting state stating that the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

Rule 13.3. Obtaining Assistance from Foreign States. - The AMLC may make a request to any foreign state for assistance in (1) tracking down, freezing, restraining and seizing assets alleged to be proceeds of any unlawful activity; (2) obtaining information that it needs relating to any covered transaction, money laundering offense or any other matter directly or indirectly related thereto; (3) to the extent allowed by the law of the foreign state, applying with the proper court therein for an order to enter any premises belonging to or in the possession or control of, any or all of the persons named in said request,

and/or search any or all such persons named therein and/or remove any document, material or object named in said request: *Provided,* That the documents accompanying the request in support of the application have been duly authenticated in accordance with the applicable law or regulation of the foreign state; and (4) applying for an order of forfeiture of any monetary instrument or property in the proper court in the foreign state: *Provided,* That the request is accompanied by an authenticated copy of the order of the Regional Trial Court ordering the forfeiture of said monetary instrument or property of a convicted offender and an affidavit of the clerk of court stating that the conviction and the order of forfeiture are final and that no further appeal lies in respect of either.

Rule 13.4. Limitations on Requests for Mutual Assistance. - The AMLC may refuse to comply with any request for assistance where the action sought by the request contravenes any provision of the Constitution or the execution of a request is likely to prejudice the national interest of the Philippines, unless there is a treaty between the Philippines and the requesting state relating to the provision of assistance in relation to money laundering offenses.

Rule 13.5. Requirements for Requests for Mutual Assistance from Foreign States. - A request for mutual assistance from a foreign state must (1) confirm that an investigation or prosecution is being conducted in respect of a money launderer named therein or that he has been convicted of any money laundering offense; (2) state the grounds on which any person is being investigated or prosecuted for money laundering or the details of his conviction; (3) give sufficient particulars as to the identity of said person; (4) give particulars sufficient to identify any covered institution believed to have any information, document, material or object which may be of assistance to the investigation or prosecution; (5) ask from the covered institution concerned any information, document, material or object which may be of assistance to the investigation or prosecution; (6) specify the manner in which and to whom said information, document, material or object obtained pursuant to said request, is to be produced; (7) give all the particulars necessary for the issuance by the court in the requested state of the writs, orders or processes needed by the requesting state; and (8) contain such other information as may assist in the execution of the request.

Rule 13.6. Authentication of Documents - For purposes of Section 13 (f) of the AMLA and Section 7 of the AMLA, a document is authenticated if the same is signed or certified by a judge, magistrate or equivalent officer in or of, the requesting state, and authenticated by the oath or affirmation of a witness or sealed with an official or public seal of a minister, secretary of state, or officer in or of, the government of the requesting state, or of the person administering the government or a department of the requesting territory, protectorate or colony. The certificate of authentication may also be made by a secretary of the embassy or legation, consul general, consul, vice consul, consular agent or any officer in the foreign service of the Philippines stationed in the foreign state in which the record is kept, and authenticated by the seal of his office.

Rule 13.7. Suppletory Application of the Revised Rules of Court. –

Rule 13.7.1. For attachment of Philippine properties in the name of persons convicted of any unlawful activity as defined in Section 3 (i) of the AMLA,

execution and satisfaction of final judgments of forfeiture, application for examination of witnesses, procuring search warrants, production of bank documents and other materials and all other actions not specified in the AMLA and these Rules, and assistance for any of the aforementioned actions, which is subject of a request by a foreign state, resort may be had to the proceedings pertinent thereto under the Revised Rules of Court.

Rule 13.7.2. Authority to Assist the United Nations and other International Organizations and Foreign States. – The AMLC is authorized under Section 7 (8) and 13 (b) and (d) of the AMLA to receive and take action in respect of any request of foreign states for assistance in their own anti-money laundering operations. It is also authorized under Section 7 (7) of the AMLA to cooperate with the National Government and/or take appropriate action in respect of conventions, resolutions and other directives of the United Nations (UN), the UN Security Council, and other international organizations of which the Philippines is a member. However, the AMLC may refuse to comply with any such request, convention, resolution or directive where the action sought therein contravenes the provision of the Constitution or the execution thereof is likely to prejudice the national interest of the Philippines.

Rule 13.8. Extradition. – The Philippines shall negotiate for the inclusion of money laundering offenses as defined under Section 4 of the AMLA among the extraditable offenses in all future treaties. With respect, however, to the state parties that are signatories to the United Nations Convention Against Transnational Organized Crime that was ratified by the Philippine Senate on 22 October 2001, money laundering is deemed to be included as an extraditable offense in any extradition treaty existing between said state parties, and the Philippines shall include money laundering as an extraditable offense in every extradition treaty that may be concluded between the Philippines and any of said state parties in the future.

RULE 14
PENAL PROVISIONS

Rule 14.1. Penalties for the Crime of Money Laundering.

Rule 14.1.a. Penalties under Section 4 (a) of the AMLA. - The penalty of imprisonment ranging from seven (7) to fourteen (14) years and a fine of not less than Php3.0 Million but not more than twice the value of the monetary instrument or property involved in the offense, shall be imposed upon a person convicted under Section 4 (a) of the AMLA.

Rule 14.1.b. Penalties under Section 4 (b) of the AMLA. - The penalty of imprisonment from four (4) to seven (7) years and a fine of not less than Php1.5 Million but not more than Php3.0 Million, shall be imposed upon a person convicted under Section 4 (b) of the AMLA.

Rule 14.1.c. Penalties under Section 4 (c) of the AMLA. - The penalty of imprisonment from six (6) months to four (4) years or a fine of not less than Php100,000.00 but not more than Php500,000.00, or both, shall be imposed on a person convicted under Section 4(c) of the AMLA.

Rule 14.1.d. Administrative Sanctions. - (1) After due notice and hearing, the AMLC shall, at its discretion, impose fines upon any covered institution, its officers and employees, or any person who violates any of the provisions of R.A. No. 9160, as amended by

R.A. No. 9194 and rules, regulations, orders and resolutions issued pursuant thereto. The fines shall be in amounts as may be determined by the council, taking into consideration all the attendant circumstances, such as the nature and gravity of the violation or irregularity, but in no case shall such fines be less than Php100,000.00 but not to exceed Php500,000.00. The imposition of the administrative sanctions shall be without prejudice to the filing of criminal charges against the persons responsible for the violations.

Rule 14.2. Penalties for Failure to Keep Records - The penalty of imprisonment from six (6) months to one (1) year or a fine of not less than Php100,000.00 but not more than Php500,000.00, or both, shall be imposed on a person convicted under Section 9 (b) of the AMLA.

Rule 14.3. Penalties for Malicious Reporting. - Any person who, with malice, or in bad faith, reports or files a completely unwarranted or false information relative to money laundering transaction against any person shall be subject to a penalty of six (6) months to four (4) years imprisonment and a fine of not less than Php100,000.00 but not more than Php500,000.00, at the discretion of the court: *Provided,* That the offender is not entitled to avail the benefits of the Probation Law.

Rule 14.4. Where Offender is a Juridical Person. - If the offender is a corporation, association, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or allowed by their gross negligence the commission of the crime. If the offender is a juridical person, the court may suspend or revoke its license. If the offender is an alien, he shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed. If the offender is a public official or employee, he shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

Rule 14.5. Refusal by a Public Official or Employee to Testify. - Any public official or employee who is called upon to testify and refuses to do the same or purposely fails to testify shall suffer the same penalties prescribed herein.

Rule 14.6. Penalties for Breach of Confidentiality. – The punishment of imprisonment ranging from three (3) to eight (8) years and a fine of not less than Php500,000.00 but not more than Php1.0 Million, shall be imposed on a person convicted for a violation under Section 9(c). In case of a breach of confidentiality that is published or reported by media, the responsible reporter, writer, president, publisher, manager and editor-in-chief shall be liable under this act.

RULE 15
PROHIBITIONS AGAINST POLITICAL HARASSMENT

Rule 15.1. Prohibition against Political Persecution. - The AMLA and these Rules shall not be used for political persecution or harassment or as an instrument to hamper competition in trade and commerce. No case for money laundering may be filed to the prejudice of a candidate for an electoral office during an election period.

Rule 15.2. Provisional Remedies Application; Exception. –

Rule 15.2.a. - The AMLC may apply, in the course of the criminal proceedings, for provisional remedies to prevent the

monetary instrument or property subject thereof from being removed, concealed, converted, commingled with other property or otherwise to prevent its being found or taken by the applicant or otherwise placed or taken beyond the jurisdiction of the court. However, no assets shall be attached to the prejudice of a candidate for an electoral office during an election period.

Rule 15.2.b. - Where there is conviction for money laundering under Section 4 of the AMLA, the court shall issue a judgment of forfeiture in favor of the Government of the Philippines with respect to the monetary instrument or property found to be proceeds of one or more unlawful activities. However, no assets shall be forfeited to the prejudice of a candidate for an electoral office during an election period.

RULE 16
RESTITUTION

Rule 16. Restitution. - Restitution for any aggrieved party shall be governed by the provisions of the New Civil Code.

RULE 17
IMPLEMENTING RULES AND REGULATIONS AND MONEY LAUNDERING PREVENTION PROGRAMS

Rule 17.1. Implementing Rules and Regulations. –

(a) Within thirty (30) days from the effectivity of R.A. No. 9160, as amended by R.A. No. 9194, the BSP, the Insurance Commission and the Securities and Exchange Commission shall promulgate the Implementing Rules and Regulations of the AMLA, which shall be submitted to the Congressional Oversight Committee for approval.

(b) The Supervising Authorities, the BSP, the SEC and the IC shall, under their own respective charters and regulatory authority, issue their Guidelines and Circulars on anti-money laundering to effectively implement the provisions of R.A. No. 9160, as amended by R.A. No. 9194.

Rule 17.2. Money Laundering Prevention Programs. –

Rule 17.2.a. Covered institutions shall formulate their respective money laundering prevention programs in accordance with Section 9 and other pertinent provisions of the AMLA and these Rules, including, but not limited to, information dissemination on money laundering activities and their prevention, detection and reporting, and the training of responsible officers and personnel of covered institutions, subject to such guidelines as may be prescribed by their respective supervising authority. Every covered institution shall submit its own money laundering program to the supervising authority concerned within the non-extendible period that the supervising authority has imposed in the exercise of its regulatory powers under its own charter.

Rule 17.2.b. Every money laundering program shall establish detailed procedures implementing a comprehensive, institution-wide "know-your-client" policy, set-up an effective dissemination of information on money laundering activities and their prevention, detection and reporting, adopt internal policies, procedures and controls, designate compliance officers at management level, institute adequate screening and recruitment procedures, and set-up an audit function to test the system.

Rule 17.2.c. Covered institutions shall adopt, as part of their money laundering programs, a system of flagging and monitoring transactions that qualify as suspicious transactions, regardless of amount or covered

transactions involving amounts below the threshold to facilitate the process of aggregating them for purposes of future reporting of such transactions to the AMLC when their aggregated amounts breach the threshold. All covered institutions, including banks insofar as non-deposit and non-government bond investment transactions are concerned, shall incorporate in their money laundering programs the provisions of these Rules and such other guidelines for reporting to the AMLC of all transactions that engender the reasonable belief that a money laundering offense is about to be, is being, or has been committed.

Rule 17.3. Training of Personnel. - Covered institutions shall provide all their responsible officers and personnel with efficient and effective training and continuing education programs to enable them to fully comply with all their obligations under the AMLA and these Rules.

Rule 17.4. Amendments. - These Rules or any portion thereof may be amended by unanimous vote of the members of the AMLC and submitted to the Congressional Oversight Committee as provided for under Section 19 of R.A. No. 9160, as amended by R.A. No. 9194.

RULE 18
CONGRESSIONAL OVERSIGHT COMMITTEE

Rule 18.1. Composition of Congressional Oversight Committee. - There is hereby created a Congressional Oversight Committee composed of seven (7) members from the Senate and seven (7) members from the House of Representatives. The members from the Senate shall be appointed by the Senate President based on the proportional representation of the parties or coalitions therein with at least two (2) Senators representing the minority. The members from the House of Representatives shall be appointed by the Speaker also based on proportional representation of the parties or coalitions therein with at least two (2) members representing the minority.

Rule 18.2. Powers of the Congressional Oversight Committee. - The Oversight Committee shall have the power to promulgate its own rules, to oversee the implementation of this Act, and to review or revise the implementing rules issued by the Anti-Money Laundering Council within thirty (30) days from the promulgation of the said rules.

RULE 19
APPROPRIATIONS FOR AND BUDGET OF THE AMLC

Rule 19.1. Budget. – The budget of Php25.0 million appropriated by Congress under the AMLA shall be used to defray the initial operational expenses of the AMLC. Appropriations for succeeding years shall be included in the General Appropriations Act. The BSP shall advance the funds necessary to defray the capital outlay, maintenance and other operating expenses and personnel services of the AMLC subject to reimbursement from the budget of the AMLC as appropriated under the AMLA and subsequent appropriations.

Rule 19.2. Costs and Expenses. - The budget shall answer for indemnification for legal costs and expenses reasonably incurred for the services of external counsel in connection with any civil, criminal or administrative action, suit or proceedings to which members of the AMLC and the Executive Director and other members of the Secretariat may be made a party by reason of the performance of their functions or duties. The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the AMLC in advance of the

final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the member to repay the amount advanced should it be ultimately determined that said member is not entitled to such indemnification.

RULE 20
SEPARABILITY CLAUSE

Rule 20. Separability Clause. – If any provision of these Rules or the application thereof to any person or circumstance is held to be invalid, the other provisions of these Rules, and the application of such provision or Rule to other persons or circumstances, shall not be affected thereby.

RULE 21
REPEALING CLAUSE

Rule 21. Repealing Clause. – All laws, decrees, executive orders, rules and regulations or parts thereof, including the relevant provisions of R.A. No. 1405, as amended; R.A. No. 6426, as amended; R.A. No. 8791, as amended, and other similar laws, as are inconsistent with the AMLA, are hereby repealed, amended or modified accordingly.

RULE 22
EFFECTIVITY OF THE RULES

Rule 22. Effectivity. – These Rules shall take effect after its approval by the Congressional Oversight Committee and fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.

RULE 23
TRANSITORY PROVISIONS

Rule 23.1. - Transitory Provisions. - Existing freeze orders issued by the AMLC shall remain in force for a period of thirty (30) days after effectivity of this act, unless extended by the Court of Appeals.

Rule 23.2. - Effect of R.A. No. 9194 on Cases for Extension of Freeze Orders Resolved by the Court of Appeals. - All existing freeze orders which the Court of Appeals has extended shall remain effective, unless otherwise dissolved by the same court.

GUIDELINES TO GOVERN THE SELECTION, APPOINTMENT, REPORTING REQUIREMENTS AND DELISTING OF EXTERNAL AUDITORS AND/OR AUDITING FIRM OF COVERED ENTITIES

(Appendix to Secs. 4180N and 4190N)

Pursuant to Section 58 of the Republic Act No. 8791, otherwise known as "The General Banking Law of 2000", and the existing provisions of the executed Memorandum of Agreement (hereinafter referred to as the MOA) dated 12 August 2009, binding the Bangko Sentral ng Pilipinas (BSP), Securities and Exchange Commission (SEC), Professional Regulation Commission (IC) - Board of Accountancy (BOA) and the Insurance Commission (IC) for a simplified and synchronized accreditation requirements for external auditor and/or auditing firm, the Monetary Board, in its Resolution No. 950 dated 02 July 2009, approved the following revised rules and regulations that shall govern the selection and delisting by the BSP of covered institution which under special laws are subject to BSP supervision.

A. STATEMENT OF POLICY

It is the policy of the BSP to ensure effective audit and supervision of banks, QBs, trust entities and/or NSSLAs including their subsidiaries and affiliates engaged in allied activities and other FIs which under special laws are subject to BSP supervision, and to ensure reliance by BSP and the public on the opinion of external auditors and auditing firms by prescribing the rules and regulations that shall govern the selection, appointment, reporting requirements and delisting for external auditors and auditing firms of said institutions, subject to the binding provisions and implementing regulations of the aforesaid MOA.

B. COVERED ENTITIES

The proposed amendment shall apply to the following supervised institution, as categorized below, and their external auditors:

1. *Category A*
   a. UBs/KBs;
   b. Foreign banks and branches or subsidiaries of foreign banks, regardless of unimpaired capital; and
   c. Banks, trust department of qualified banks and other trust entities with additional derivatives authority, pursuant to Sec. X611 regardless of classification, category and capital position.
2. *Category B*
   a. TBs;
   b. QBs;
   c. Trust department of qualified banks and other trust entities;
   d. National Coop Banks; and
   e. NBFIs with quasi-banking functions.
3. *Category C*
   a. RBs;
   b. NSSLAs;
   c. Local Coop Banks; and
   d. Pawnshops.

The above categories include their subsidiaries and affiliates engaged in allied activities and other FIs which are subject to BSP risk-based and consolidated supervision: *Provided,* That an external auditor who has been selected by the BSP to audit entities under *Category B* and *C* and if selected by the BSP to audit covered entities under *Category B* is automatically qualified to audit entities under *Category C*.

C. DEFINITION OF TERMS

The following terms shall be defined as follows:

1. *Audit* – an examination of the financial statements of any issuer by an external auditor in compliance with the rules

of the BSP or the SEC in accordance with then applicable generally accepted auditing and accounting principles and standards, for the purpose of expressing an opinion on such statements.

2. *Non-audit services* – any professional services provided to the covered institution by an external auditor, other than those provided to a covered institution in connection with an audit or a review of the financial statements of said covered institution.

3. *Professional Standards* - includes: (a) accounting principles that are (1) established by the standard setting body; and (2) relevant to audit reports for particular issuers, or dealt with in the quality control system of a particular registered public accounting firm; and (b) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards that the BSP or SEC determines (1) relate to the preparation or issuance of audit reports for issuers; and (2) are established or adopted by the BSP or promulgated as SEC rules.

4. *Fraud* – an intentional act by one (1) or more individuals among management, employees, or third parties that results in a misrepresentation of financial statements, which will reduce the consolidated total assets of the company by five percent (5%). It may involve:

a. Manipulation, falsification or alteration of records or documents;

b. Misappropriation of assets;

c. Suppression or omission of the effects of transactions from records or documents;

d. Recording of transactions without substance;

e. Intentional misapplication of accounting policies; or

f. Omission of material information.

5. *Error* - an intentional mistake in financial statements, which will reduce the consolidated total assets of the company by five percent (5%). It may involve:

a. Mathematical or clerical mistakes in the underlying records and accounting data;

b. Oversight or misinterpretation of facts; or

c. Unintentional misapplication of accounting policies.

6. *Gross negligence* - wanton or reckless disregard of the duty of due care in complying with generally accepted auditing standards.

7. *Material fact/information* - any fact/information that could result in a change in the market price or value of any of the issuer's securities, or would potentially affect the investment decision of an investor.

8. *Subsidiary* - a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by a bank, QB, trust entity or NSSLA.

9. *Affiliate* - a corporation, not more than fifty percent (50%) but not less than ten percent (10%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by a bank, QB, trust entity or NSSLA and a juridical person that is under common control with the bank, QB, trust entity or NSSLA.

10. *Control* - exists when the parent owns directly or indirectly more than one half of the voting power of an enterprise unless, in exceptional circumstance, it can be clearly demonstrated that such ownership does not constitute control.

Control may also exist even when ownership is one half or less of the voting power of an enterprise when there is:

a. Power over more than one half of the voting rights by virtue of an agreement with other stockholders;

b. Power to govern the financial and operating policies of the enterprise under a statute or an agreement;

c. Power to appoint or remove the majority of the members of the board of directors or equivalent governing body; or

d. Power to cast the majority votes at meetings of the board of directors or equivalent governing body.

11. *External auditor* - means a single practitioner or a signing partner in an auditing firm.

12. *Auditing firm* – includes a proprietorship, partnership limited liability company, limited liability partnership, corporation (if any), or other legal entity, including any associated person of any of these entities, that is engaged in the practice of public accounting or preparing or issuing audit reports.

13. *Associate* – any director, officer, manager or any person occupying a similar status or performing similar functions in the audit firm including employees performing supervisory role in the auditing process.

14. *Partner* - all partners including those not performing audit engagements.

15. *Lead partner* – also referred to as engagement partner/partner-in-charge/ managing partner who is responsible for signing the audit report on the consolidated financial statements of the audit client, and where relevant, the individual audit report of any entity whose financial statements form part of the consolidated financial statements.

16. *Concurring partner* - the partner who is responsible for reviewing the audit report.

17. *Auditor-in-charge* – refers to the team leader of the audit engagement.

D. GENERAL CONSIDERATION AND LIMITATIONS OF THE SELECTION PROCEDURES

1. Subject to mutual recognition provision of the MOA and as implemented in this regulation, only external auditors and auditing firms included in the list of BSP selected external auditors and auditing firms shall be engaged by all the covered institutions detailed in Item *"B"*. The external auditor and/or auditing firm to be hired shall also be in-charge of the audit of the entity's subsidiaries and affiliates engaged in allied activities: *Provided,* That the external auditor and/or auditing firm shall be changed or the lead and concurring partner shall be rotated every five (5) years or earlier: *Provided further,* That the rotation of the lead and concurring partner shall have an interval of at least two (2) years.

2. Category A covered entities which have engaged their respective external auditors and/or auditing firm for a consecutive period of five (5) years or more as of 18 September 2009 shall have a one (1)-year period from said date within which to either change their external auditors and/or auditing firm or to rotate the lead and/or concurring partner.

3. The selection of the external auditors and/or auditing firm does not exonerate the covered institution or said auditors from their responsibilities. Financial statements filed with the BSP are still primarily the responsibility of the management of the reporting institution and accordingly, the fairness of the representations made therein is an implicit and integral part of the institution's responsibility. The independent certified public accountant's responsibility for the financial statements required to be filed with the BSP is confined to the expression of his opinion, or lack thereof, on such statements which he has audited/examined.

4. The BSP shall not be liable for any damage or loss that may arise from its selection of the external auditors and/or auditing firm to be engaged by banks for regular audit or non-audit services.

5. Pursuant to paragraph (5) of the MOA, SEC, BSP and IC shall mutually recognize the accreditation granted by any of them for external auditors and firms of Group C or D companies under SEC,

Category B and C under BSP, and insurance brokers under IC. Once accredited/selected by any one (1) of them, the above-mentioned special requirements shall no longer be prescribed by the other regulators.

For corporations which are required to submit financial statements to different regulators and are not covered by the mutual recognition policy of this MOA, the following guidance shall be observed:

a. The external auditors of UBs which are listed in the Exchange, should be selected/accredited by both the BSP and SEC, respectively; and

b. For insurance companies and banks that are not listed in the Exchange, their external auditors must each be selected/ accredited by BSP or IC, respectively. For purposes of submission to the SEC, the financial statements shall be at least audited by an external auditor registered/accredited with BOA.

This mutual recognition policy shall however be subject to the BSP restriction that for banks and its subsidiary and affiliate bank, QBs, trust entities, NSSLAs, their subsidiaries and affiliates engaged in allied activities and other FIs which under special laws are subject to BSP consolidated supervision, the individual and consolidated financial statements thereof shall be audited by only one (1) external auditor/auditing firm.

6. The selection of external auditors and/or auditing firm shall be valid for a period of three (3) years. The SES shall make an annual assessment of the performance of external auditors and/or auditing firm and will recommend deletion from the list even prior to the three (3)-year renewal period, if based on assessment, the external auditors' report did not comply with BSP requirements.

E. QUALIFICATION REQUIREMENT

The following qualification requirements are required to be met by the individual external auditor and the auditing firm at the time of application and on continuing basis, subject to BSP's provisions on the delisting and suspension of accreditation:

1. Individual external auditor

a. General requirements

(1) The individual applicant must be primarily accredited by the BOA. The individual external auditor or partner in-charge of the auditing firm must have at least five (5) years of audit experience.

(2) Auditor's independence.

In addition to the basic screening procedures of BOA on evaluating auditor's independence, the following are required for BSP purposes to be submitted in the form of notarized certification that:

(a) No external auditor may be engaged by any of the covered institutions under Item *"B"* hereof if he or any member of his immediate family had or has committed to acquire any direct or indirect financial interest in the concerned covered institution, or if his independence is considered impaired under the circumstances specified in the Code of Professional Ethics for CPAs. In case of a partnership, this limitation shall apply to the partners, associates and the auditor-in-charge of the engagement and members of their immediate family;

(b) The external auditor does not have/ shall not have outstanding loans or any credit accommodations or arranged for the extension of credit or to renew an extension of credit (except credit card obligations which are normally available to other credit card holders and fully secured auto loans and housing loans which are not past due) with the covered institutions under Item *"B"* at the time of signing the engagement and during the engagement. In the case of partnership, this prohibition shall apply to the partners and the auditor-in-charge of the engagement; and

(c) It shall be unlawful for an external auditor to provide any audit service to a covered institution if the covered

institution's CEO, CFO, Chief Accounting Officer (CAO), or comptroller was previously employed by the external auditor and participated in any capacity in the audit of the covered institution during the one-year preceding the date of the initiation of the audit;

(3) Individual applications as external auditor of entities under *Category A* above must have established adequate quality assurance procedures, such consultation policies and stringent quality control, to ensure full compliance with the accounting and regulatory requirements.

b. Specific requirements

(1) At the time of application, regardless of the covered institution, the external auditor shall have at least five (5) years experience in external audits;

(2) The audit experience above refers to experience required as an associate, partner, lead partner, concurring partner or auditor-in-charge; and

(3) At the time of application, the applicant must have the following track record:

(a) For *Category A,* he/she must have at least five (5) corporate clients with total assets of at least P50.0 million each.

(b) For *Category B,* he/she must have had at least three (3) corporate clients with total assets of at least P25.0 million each.

(c) For *Category C,* he/she must have had at least three (3) corporate clients with total assets of at least P5.0 million each;

2. Auditing firms

a. The auditing firm must be primarily accredited by the BOA and the name of the firm's applicant partner's should appear in the attachment to the certificate of accreditation issued by BOA. Additional partners of the firm shall be furnished by BOA to the concerned regulatory agencies (e.g. BSP, SEC and IC) as addendum to the firm's accreditation by BOA.

b. Applicant firms to act as the external auditor of entities under *Category A* in Item *"B"* must have established adequate quality assurance procedures, such consultation policies and stringent quality control, to ensure full compliance with the accounting and regulatory requirements.

c. At the time of application, the applicant firm must have at least one (1) signing practitioner or partner who is already selected/accredited, or who is already qualified and is applying for selection by BSP.

d. A registered accounting/auditing firm may engage in any non-auditing service for an audit client only if such service is approved in advance by the client's audit committee. Exemptions from the prohibitions may be granted by the Monetary Board on a case-by-case basis to the extent that such exemption is necessary or appropriate in the public interest. Such exemptions are subject to review by the BSP.

e. At the time of application, the applicant firm must have the following track record:

(1) For *Category A,* the applicant firm must have had at least twenty (20) corporate clients with total assets of at least P50.0 million each;

(2) For *Category B,* the applicant firm must have had at least five (5) corporate clients with total assets of at least P20.0 million each;

(3) For *Category C,* the applicant firm must have had at least five (5) corporate clients with total assets of at least P5.0 million each.

F. APPLICATION FOR AND/OR RENEWAL OF THE SELECTION OF INDIVIDUAL EXTERNAL AUDITOR

1. The initial application for BSP selection shall be signed by the external auditor and shall be submitted to the appropriate department of the SES together with the following documents/information:

a. Copy of effective and valid BOA Certificate of Accreditation with the attached list of qualified partner/s of the firm;

b. A notarized undertaking of the external auditor that he is in compliance with the qualification requirements under Item *"E"* and that the external auditor shall keep an audit or review working papers for at least seven (7) years in sufficient detail to support the conclusion in the audit report and making them available to the BSP's authorized representative/s when required to do so;

c. Copy of Audit Work Program which shall include assessment of the audited institution's compliance with BSP rules and regulations, such as, but not limited to the following:

(1) capital adequacy ratio, as currently prescribed by the BSP;

(2) AMLA framework;

(3) risk management system, particularly liquidity and market risks; and

(4) loans and other risk assets review and classification, as currently prescribed by the BSP rules and regulations.

d. If the applicant will have clients falling under *Category A,* copy of the Quality Assurance Manual which, aside from the basic elements as required under the BOA basic quality assurance policies and procedures, specialized quality assurance procedures should be provided consisting of, among other, review asset quality, adequacy of risk-based capital, risk management systems and corporate governance framework of the covered entities.

e. Copy of the latest AFS of the applicant's two (2) largest clients in terms of total assets.

2. Subject to BSP's provision on early deletion from the list of selected external auditor, the selection may be renewed within two (2) months before the expiration of the three (3)-year effectivity of the selection upon submission of the written application for renewal to the appropriate department of the SES together with the following documents/information:

(a) copy of updated BOA Certificate of Accreditation with the attached list of qualified partner/s of the firm;

(b) notarized certification of the external auditor that he still possess all qualification required under Item *"F.1.b"* of this Appendix;

(c) list of corporate clients audited during the three (3)-year period of being selected as external auditor by BSP. Such list shall likewise indicate the findings noted by the BSP and other regulatory agencies on said AFS including the action thereon by the external auditor; and

(d) written proof that the auditor has attended or participated in trainings for at least thirty (30) hours in addition to the BOA's prescribed training hours. Such training shall be in subjects like international financial reporting standards, international standards of auditing, corporate governance, taxation, code of ethics, regulatory requirements of SEC, IC and BSP or other government agencies, and other topics relevant to his practice, conducted by any professional organization or association duly recognized/accredited by the BSP, SEC or by the BOA/PRC through a CPE Council which they may set up.

The application for initial or renewal accreditation of an external auditor shall be accomplished by a fee of P2,000.00.

G. APPLICATION FOR AND/OR RENEWAL OF THE SELECTION OF AUDITING FIRMS

1. The initial application shall be signed by the managing partner of the auditing firm and shall be submitted to the appropriate department of the SES together with the following documents/information:

a. copy of effective and valid BOA Certificate of Accreditation with attachment listing the names of qualified partners;

b. notarized certification that the firm is in compliance with the general qualification requirements under Item *"E.2"*

and that the firm shall keep an audit or review working papers for at least seven (7) years insufficient detail to support the conclusions in the audit report and making them available to the BSP's authorized representative/s when required to do so;

c. copy of audit work program which shall include assessment of the audited institution's compliance with BSP rules and regulations, such as, but not limited to the following;

(1) capital adequacy ratio, as currently prescribed by the BSP;

(2) AMLA framework;

(3) risk management system, particularly liquidity and market risks; and

(4) loans and other risk assets review and classification, as currently prescribed by the BSP rules and regulations.

d. If the applicant firm will have clients falling under *Category A,* copy Quality Assurance Manual where, aside from the basic elements as required under the BOA basic quality assurance policies and procedures, specialized quality assurance procedures should be provided relative to, among others review asset quality, adequacy of risk-based capital, risk management systems and corporate governance framework of covered entities;

e. Copy of the latest AFS of the applicant's two (2) largest clients in terms of total assets; and

f. Copy of firm's AFS for the immediately preceding two (2) years.

2. Subject to BSP's provision on early deletion from the list of selected auditing firm, the selection may be renewed within two (2) months before the expiration of the three (3)-year effectivity of the selection upon submission of the written application for renewal to the appropriate department of the SES together with the following documents/information:

a. a copy of updated BOA Certificate of Registration with the attached list of qualified partner/s of the firm;

b. amendments on Quality Assurance Manual, inclusive of written explanation on such revision, if any; and

c. notarized certification that the firm is in compliance with the general qualification requirements under Item *"G.1.b"* hereof;

The application for initial or renewal accreditation of an auditing firm shall be accompanied by a fee of P5,000.00.

H. REPORTORIAL REQUIREMENTS

1. To enable the BSP to take timely and appropriate remedial action, the external auditor and/or auditing firm must report to the BSP within thirty (30) calendar days after discovery, the following cases:

a. Any material finding involving fraud or dishonesty (including cases that were resolved during the period of audit);

b. Any potential losses the aggregate of which amounts to at least one percent (1%) of the capital;

c. Any finding to the effect that the consolidated assets of the company, on a going concern basis, are no longer adequate to cover the total claims of creditors; and

d. Material internal control weaknesses which may lead to financial reporting problems.

2. The external auditor/auditing firm shall report directly to the BSP within fifteen (15) calendar days from the occurrence of the following:

a. Termination or resignation as external auditor and stating the reason therefor;

b. Discovery of a material breach of laws or BSP rules and regulations such as, but not limited to:

(1) CAR; and

(2) Loans and other risk assets review and classification.

c. Findings on matters of corporate governance that may require urgent action by the BSP.

3. In case there are no matters to report (e.g. fraud, dishonesty, breach of laws, etc.) the external auditor/auditing firm shall submit directly to BSP within fifteen (15) calendar days after the closing of the audit engagement a notarized certification that there is none to report.

The management of the covered institutions, including its subsidiaries and affiliates, shall be informed of the adverse findings and the report of the external auditor/auditing firm to the BSP shall include pertinent explanation and/or corrective action.

The management of the covered institutions, including its subsidiaries and affiliates, shall be given the opportunity to be present in the discussions between the BSP and the external auditor/auditing firm regarding the audit findings, except in circumstances where the external auditor believes that the entity's management is involved in fraudulent conduct.

It is, however, understood that the accountability of an external auditor/ auditing firm is based on matters within the normal coverage of an audit conducted in accordance with generally accepted auditing standards and identified non-audit services.

I. DELISTING AND SUSPENSION OF SELECTED EXTERNAL AUDITOR/ AUDITING FIRM

1. An external auditor's duly selected pursuant to this regulation shall be suspended or delisted, in a manner provided under this regulation, under any of the following grounds:

a. Failure to submit the report under Item *"H"* of this Appendix or the required reports under Subsec. X190.1;

b. Continuous conduct of audit despite loss of independence as provided under Item *"E.1"* or contrary to the requirements under the Code of Professional Ethics;

c. Any willful misrepresentation in the following information/documents;

(1) application and renewal for accreditation;

(2) report required under Item *"H"*; and

(3) Notarized certification of the external auditor and/or auditing firm.

d. The BOA found that, after due notice and hearing, the external auditor committed an act discreditable to the profession as specified in the Code of Professional Ethics for CPAs. In this case, the BOA shall inform the BSP of the results thereof;

e. Declaration of conviction by a competent court of a crime involving moral turpitude, fraud (as defined in the Revised Penal Code), or declaration of liability for violation of the banking laws, rules and regulation, the Corporation Code of the Philippines, the Securities Regulation Code (SRC); and the rules and regulations of concerned regulatory authorities;

f. Refusal for no valid reason, upon lawful order of the BSP, to submit the requested documents in connection with an ongoing investigation. The external auditor should however been made aware of such investigation;

g. Gross negligence in the conduct of audits which would result, among others, in non-compliance with generally accepted auditing standards in the Philippines or issuance of an unqualified opinion which is not supported with full compliance by the auditee with generally accepted accounting principles in the Philippines (GAAP). Such negligence shall be determined by the BSP after proper investigation during which the external auditor shall be given due notice and hearing;

h. Conduct of any of the non-audit services enumerated under Item *"E.1"* for his statutory audit clients, if he has not undertaken the safeguards to reduce the threat to his independence; and

i. Failure to comply with the Philippine Auditing Standards and Philippine Auditing Practice Statements.

2. An auditing firms; accreditation shall be suspended or delisted, after due notice and hearing, for the following grounds:

a. Failure to submit the report under Item *"H"* or the required reports under Sec. X190.1.

b. Continuous conduct of audit despite loss of independence of the firm as provided under this regulation and under the Code of Professional Ethics;

c. Any willful misrepresentation in the following information/ documents;

(1) Application and renewal for accreditation;

(2) Report required under Item *"H"*; and

(3) Notarized certification of the managing partner of the firm.

d. Dissolution of the auditing firm/ partnership, as evidenced by an Affidavit of Dissolution submitted to the BOA, or upon findings by the BSP that the firm/ partnership is dissolved. The accreditation of such firm/partnership shall however be reinstated by the BSP upon showing that the said dissolution was solely for the purpose of admitting new partner/s have complied with the requirements of this regulation and thereafter shall be reorganized and re-registered;

e. There is a showing that the accreditation of the following number or percentage of external auditors, whichever is lesser, have been suspended or delisted for whatever reason, by the BSP:

(1) at least ten (10) signing partners and currently employed selected/accredited external auditors, taken together; or

(2) such number of external auditors constituting fifty percent (50%) or more of the total number of the firm's signing partners and currently selected/accredited auditors, taken together.

f. The firm or any one (1) of its auditors has been involved in a major accounting/ auditing scam or scandal. The suspension or delisting of the said firm shall depend on the gravity of the offense or the impact of said scam or scandal on the investing public or the securities market, as may be determined by the BSP;

g. The firm has failed reasonably to supervise an associated person and employed auditor, relating to the following:

(1) auditing or quality control standards, or otherwise, with a view to preventing violations of this regulations;

(2) provisions under SRC relating to preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto;

(3) the rules of the BSP under this Appendix; or

(4) professional standards.

h. Refusal for no valid reason, upon order of the BSP, to submit requested documents in connection with an ongoing investigation. The firm should however be made aware of such investigation.

3. Pursuant to paragraph 8 of the aforesaid MOA, the SEC, BSP and IC shall inform BOA of any violation by an accredited/selected external auditor which may affect his/her accreditation status as a public practitioner. The imposition of sanction by BOA on an erring practitioner shall be without prejudice to the appropriate penalty that the SEC, IC or BSP may assess or impose on such external auditor pursuant to their respective rules and regulations. In case of revocation of accreditation of a public practitioner by BOA, the accreditation by SEC, BSP and IC shall likewise be automatically revoked/derecognized.

The SEC, BSP and IC shall inform each other of any violation committed by an external auditor who is accredited/selected by any one (1) or all of them. Each agency shall undertake to respond on any referral or endorsement by another agency within ten (10) working days from receipt thereof.

4. Procedure and Effects of Delisting/ Suspension.

a. An external auditor/auditing firm shall only be delisted upon prior notice to him/it and after giving him/it the opportunity to be heard and defend himself/itself by presenting witnesses/ evidence in his favor. Delisted external auditor and/or auditing firm may re-apply for BSP selection after the period prescribed by the Monetary Board.

b. BSP shall keep a record of its proceeding/investigation. Said proceedings/ investigation shall not be public, unless otherwise ordered by the Monetary Board for good cause shown, with the consent of the parties to such proceedings.

c. A determination of the Monetary Board to impose a suspension or delisting under this section shall be supported by a clear statement setting forth the following:

(1) Each act or practice in which the selected/accredited external auditor or auditing firm, or associated entry, if applicable, has engaged or omitted to engage, or that forms a basis for all or part of such suspension/delisting;

(2) The specific provision/s of this regulation, the related SEC rules or professional standards which the Monetary Board determined as has been violated; and

(3) The imposed suspension or delisting, including a justification for either sanction and the period and other requirements specially required within which the delisted auditing firm or external auditor may apply for re-accreditation.

d. The suspension/delisting, including the sanctions/penalties provided in Sec. X189 shall only apply to:

(1) Intentional or knowing conduct, including reckless conduct, that results in violation or applicable statutory, regulatory or professional standards; or

(2) Repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory or professional standards.

e. No associate person or employed auditor of a selected/accredited auditing firm shall be deemed to have failed reasonably to supervise any other person for purpose of Item *"I.2.g"* above, if:

(1) There have been established in and for that firm procedures, and a system for applying such procedures, that comply with applicable rules of BSP and that would reasonably be expected to prevent and detect any such violation by such associated person; and

(2) Such person or auditor has reasonably discharged the duties and obligations incumbent upon that person by reason of such procedures and system, and had no reasonable cause to believe that such procedures and system were not being complied with.

f. The BSP shall discipline any selected external auditor that is suspended or delisted from being associated with any selected auditing firm, or for any selected auditing firm that knew, or in the exercise or reasonable care should have known, of the suspension or delisting of any selected external auditor, to permit such association, without the consent of the Monetary Board.

g. The BSP shall discipline any covered institution that knew or in the exercise of reasonable care should have known, of the suspension or delisting of its external auditor or auditing firm, without the consent of the Monetary Board.

h. The BSP shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the duration of stay of any such disciplinary action pending review of any disciplinary action of the BSP under this Section.

J. SPECIFIC REVIEW

When warranted by supervisory concern, the Monetary Board may, at the expense of the covered institution require the external auditor and/or auditing firm to undertake a specific review of a particular

aspect of the operations of these institutions. The report shall be submitted to the BSP and the audited institution simultaneously, within thirty (30) calendar days after the conclusion of said review.

K. AUDIT BY THE BOARD OF DIRECTORS

Pursuant to Section 58 of RA. No. 8791, otherwise known as "The General Banking Law of 2000" the Monetary Board may also direct the board of directors of a covered institution or the individual members thereof, to conduct, either personally or by a committee created by the board, an annual balance sheet audit of the covered institution to review the internal audit and the internal control system of the concerned entity and to submit a report of such audit to the Monetary Board within thirty (30) calendar days after the conclusion thereof.

L. AUDIT ENGAGEMENT

Covered institutions shall submit the audit engagement contract between them, their subsidiaries and affiliates and the external auditor/auditing firm to the appropriate department of the SES within fifteen (15) calendar days from signing thereof. Said contract shall include the following provisions:

1. That the covered institution shall be responsible for keeping the auditor fully informed of existing and subsequent changes to prudential regulatory and statutory requirements of the BSP and that both parties shall comply with said requirements;
2. That disclosure of information by the external auditor/auditing firm to the BSP as required under Items *"H"* and *"J"* hereof, shall be allowed; and
3. That both parties shall comply with all the requirements under this Appendix.

(As amended by Circular No. 660 dated 25 August 2009)

QUALIFICATION REQUIREMENTS FOR A BANK/NON-BANK FINANCIAL INSTITUTION APPLYING FOR ACCREDITATION TO ACT AS TRUSTEE ON ANY MORTGAGE OR BOND ISSUED BY ANY MUNICIPALITY, GOVERNMENT-OWNED OR CONTROLLED CORPORATION, OR ANY BODY POLITIC

(Appendix to Subsec. 4109N.16)

A bank/NBFI applying for accreditation to act as trustee on any mortgage or bond issued by any municipality, government-owned or controlled corporation, or any body politic must comply with the following requirements:

a. It must be a bank or NBFI under BSP supervision;

b. It must have a license to engage in trust and other fiduciary business;

c. It must have complied with the minimum capital accounts required under existing regulations, as follows:

UBs and KBs	The amount required under existing regulations or such amount as may be required by the Monetary Board in the future
Branches of Foreign Banks	The amount required under existing regulations
Thrift Banks	₱650.0 million or such amounts as may be required by the Monetary Board in the future
NBFIs	Adjusted capital of at least ₱300.0 million or such amount as may be required by the Monetary Board in the future.

d. Its risk-based capital adequacy ratio is not lower than twelve percent (12%) at the time of filing the application;

e. The articles of incorporation or governing charter of the institution shall include among its powers or purposes, acting as trustee or administering any trust or holding property in trust or on deposit for the use, or in behalf of others;

f. The by-laws of the institution shall include among others, provisions on the following:

(1) The organization plan or structure of the department, office or unit which shall conduct the trust and other fiduciary business of the institution;

(2) The creation of a trust committee, the appointment of a trust officer and subordinate officers of the trust department; and

(3) A clear definition of the duties and responsibilities as well as the line and staff functional relationships of the various units, officers and staff within the organization.

g. The bank's operation during the preceding calendar year and for the period immediately preceding the date of application has been profitable;

h. It has not incurred net weekly reserve deficiencies during the eight (8) weeks period immediately preceding the date of application;

i. It has generally complied with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management in the last two preceding examinations prior to the date of application, particularly on the following:

(1) election of at least two (2) independent directors;

(2) attendance by every member of the board of directors in a special seminar for board of directors conducted or accredited by the BSP;

(3) the ceilings on credit accommodations to DOSRI;

(4) liquidity floor requirements for government deposits;

(5) single borrower's loan limit; and

(6) investment in bank premises and other fixed assets.

j. It maintains adequate provisions for probable losses commensurate to the quality of its assets portfolio but not lower than the required valuation reserves as determined by the BSP;

k. It does not have float items outstanding for more than sixty (60) calendar days in the "Due From/To Head Office/Branches/Other Offices" accounts and the "Due from Bangko Sentral" account exceeding one percent (1%) of the total resources as of date of application;

l. It has established a risk management system appropriate to its operations characterized by clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system;

m. It has a CAMELS Composite Rating of at least "3" in the last regular examination with management rating of not lower than "3"; and

n. It is a member of the PDIC in good standing (for banks only).

Compliance with the foregoing as well as with other requirements under existing regulations shall be maintained up to the time the trust license is granted. A bank that fails in this respect shall be required to show compliance for another test period of the same duration.

FORMAT CERTIFICATION
(Appendix to Subsec. 4211N.12)

_____
Name of Bank

CERTIFICATION

Pursuant to the requirements of Subsec 4211N.12, I hereby certify that on all banking days of the semester ended _____ that the _____ (NBFI) did not enter into any repurchase agreement covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing BSP regulations and that it has strictly complied with the pertinent rules of the SEC and the BSP on the proper sale of securities to the public and performed the necessary representations and disclosures on the securities particularly the following:

1. Informed and explained to the client all the basic features of the security being sold on a without recourse basis, such as, but not limited to:

    a. Issuer and its financial condition;
    b. Term and maturity date;
    c. Applicable interest rate and its computation;
    d. Tax features (whether taxable, tax paid or tax-exempt);
    e. Risk factors and investment considerations;
    f. Liquidity feature of the instrument:

        f.1. Procedures for selling the security in the secondary market (e.g., OTC or exchange);
        f.2. Authorized selling agents; and
        f.3. Minimum selling lots.

    g. Disposition of the security

        g.1. Registry (address and contact numbers)
        g.2. Functions of the registry
        g.3. Pertinent registry rules and procedures

    h. Collecting and Paying Agent of the principal and interest
    i. Other pertinent terms and conditions of the security and if possible, a copy of the prospectus or information sheet of the security.

2. Informed the client that pursuant to BSP Circular No. 392 dated 23 July 2003 –
    - Securities sold under repurchase agreements shall be physically delivered, if certificated, to a BSP-accredited custodian that is mutually acceptable to the client and the NBFI, or by means of book-entry transfer to the appropriate securities account of the BSP-accredited custodian in a registry for said securities, if immobilized or dematerialized, and

- Securities sold on a without recourse basis are required to be delivered physically to the purchaser, or to his designated custodian duly accredited by the BSP, if certificated, or by means of book-entry transfer to the appropriate securities account of the purchaser or his designated custodian in a registry for said securities if immobilized or dematerialized

3. Clearly stated to the client that:

   a. The NBFI does not guarantee the payment of the security sold on a "without recourse basis" and in the event of default by the issuer, the sole credit risk shall be borne by the client; and

   b. The NBFI is not performing any advisory or fiduciary function.

_____
Name of Officer
Position

Date _____

SUBSCRIBED AND SWORN to before me, this _____ day of _____, affiant exhibiting his Community Tax Certificate No.(s) as indicated below:

Name	Community Tax Cert. No.	Date/Place Issued

Notary Public

Annex N-7-a

FORMAT CERTIFICATION

_____
Name of NBFI

CERTIFICATION

Pursuant to the requirements of Subsec. 4211N.12, I hereby certify that as of 31 January 2005, the _____ (name of NBFI) does not have any outstanding repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing BSP regulations.

_____
Name of Officer
Position

SUBSCRIBED AND SWORN to before me, this _____ day of _____, affiant exhibiting his Community Tax Certificate as indicated below:

Name	Community Tax Cert. No.	Date/Place Issued

Notary Public

REGISTRATION AND OPERATIONS OF FOREIGN EXCHANGE DEALERS/ MONEY CHANGERS AND REMITTANCE AGENTS

(Appendix to Sec. 4511N)

A. Application for Registration

Name of Applicant

Address

Telephone No./Fax No.

Date

Bangko Sentral ng Pilipinas
A. Mabini St., Malate, Manila

Gentlemen:

We hereby apply for authority to act as (foreign exchange dealer/money changer or remittance agent). We are currently engaged in this business since _____ (if applicable).

In support of this application, we submit the following documents:

- Incorporation papers duly authenticated by the Securities and Exchange Commission (for corporation or partnership);
- Copy of the Certificate of Registration with the Department of Trade and Industry (for single proprietorship);
- Copy of business license/permit from the city or municipality having territorial jurisdiction over the place of establishment and operation;
- List of stockholders/partners/proprietor/directors/principal officers as the case maybe;
- Notarized Deed of Undertaking to strictly comply with the requirements of all relevant laws, rules and regulations, signed by the owner, partner, president or officer of equivalent rank.

Very truly yours,

_____
(Signature of authorized officer over printed name)

_____
Designation

B. Deed of Undertaking

Name of Applicant

Address

Telephone No./Fax No.

DEED OF UNDERTAKING

I, (name and designation), of legal age and under oath, declare the following:

1. That I have been duly authorized by (name of institution) and its Board of Directors/ Partners/Owners to bind (name of institution) to strictly comply with all the requirements, rules and regulations of the Bangko Sentral ng Pilipinas regarding the registration and operations of foreign exchange dealers/money changers/remittance agents as well as the provisions of the Anti-Money Laundering Act of 2001 (R.A. No. 9160, as amended by R.A. No. 9194) and its implementing rules and regulations.

2. That I certify that (name of institution) undertakes to strictly comply with all the requirements, rules and regulations of the Bangko Sentral ng Pilipinas regarding the licensing and operations of foreign exchange dealers/money changers/remittance agents as well as with all the provisions of the Anti-Money Laundering Act of 2001 (R.A. No. 9160) and its implementing rules and regulations.

3. That I certify that (name of institution), through and with full knowledge and agreement of its Board of Directors/Partners/Owners, understands and accepts that in case of violations of any of the aforementioned laws, rules and regulations, (name of institution) and its Board of Directors/Partners/Owners/Stockholders/Officers/employees responsible for such violation/s shall be subject to the administrative sanctions prescribed under Section 36 of R.A. No. 7653, otherwise known as the "New Central Bank Act" and other applicable laws, rules and regulations.

_____
(Signature over printed name)

_____
Designation

Subscribed and sworn to before me this _____ of _____, 20____, affiant exhibiting to me his/her Community Tax Certificate No. _____ issued at _____ on _____.

NOTARY PUBLIC

C. Application to Sell/Purchase Foreign Currency

_____
Name of Foreign Exchange Dealer/Money Changer/Remittance Agent

_____
Address

APPLICATION TO SELL/PURCHASE FOREIGN CURRENCY

1. Date :_____
2. Printed Name of Customer :_____
3. Signature :_____
4. Present Address :_____
5. Date and Place of Birth :_____
6. Telephone Number :_____
7. Nationality :_____
8. Currency Sold/Purchased : US Dollar _____ Others (specify)
9. Amount Sold/Purchased : In figures _____
   In words _____
10. Source of Foreign Currency :_____

_____ OFW/Balikbayan/Returning Resident
_____ Tourist
_____ Expatriate based in the Philippines
_____ Foreign Currency Deposit Account Holder
_____ Domestic Resident – Excess Travel Funds
_____ Others (please specify)

11. Purpose of Purchase :_____

D. Minimum Documentary Requirements for the Sale of Foreign Currencies

A. Sale of foreign exchange for non-trade current account purposes exceeding USD10,000	
Purposes	Documents Required (All originals except as indicated)
1. Foreign travel funds	Applicant's passport and passenger ticket
2. Educational expenses/student maintenace abroad	Photocopy of proof of enrolment with, or billing statement from, school abroad
3. Correspondence studies	Photocopy of proof of enrolment with, or billing statement from, school abroad
4. Medical Expenses	Photocopy of billing statement (for services rendered/expenses incurred abroad) or certification issued by doctor/hospital abroad indicating cost estimate (on the treatment to be administered)
5. Emigrants' assets (including inheritance, legacies, and income from properties)	a. Photocopies of: i. Emigrant's visa or proof of residence of emigrant abroad ii. Notarized Deed of Sale covering assets (e.g., real estate, vehicles, machineries/equipment, etc.) and; iii. Proof of income received from properties in the Philippines. b. In the absence of the emigrant, a notarized Special Power of Attorney (SPA) for emigrant's representative/ agent. If SPA was executed abroad, original of SPA authenticated by Philippine consulate abroad.
6. Salary/bonus/dividend/other benefits of foreign expatriates (including peso savings)	a. Employment contract/Certification of employer on the amount of compensation paid to the foreign national during the validity of the contract stating whether the same had been paid in foreign exchange or in pesos, and if in foreign exchange, proof that the foreign exchange was previously sold for pesos to AABs; b. ACR I-Card and DOLE Alien Employment Permit of the foreign national;

Purposes	Documents Required (All originals except as indicated)
	c. Applicant's notarized certification that the FX remitted is net of local expenses incurred or net of previous transfers abroad; and d. If amount to be remitted comes from sources other than salaries, information regarding the sources supported by appropriate documents should be submitted.
7. Foreign nationals' income taxes due to foreign governments	a. ACR-I Card and DOLE Alien Employment Permit; and b. Photocopy of income tax return covering the income tax payment sought to be remitted.
8. Sales proceeds of domestic assets by foreign expatriates	a. ACR I-Card; and b. Photocopy of proof of sale of asset/s.
9. Producers' share in movie revenue/TV film rentals	1. Statement of remittable share rental or rental; and 2. Copy of contract/agreement.
10. Commissions on exports due foreign agents	a. Billing statement from non-resident agent; and b. Photocopy of contract/agreement.
11. Freight charges on exports/imports	a. Billing statement; and b. Photocopy of contract/agreement.
12. Charters and leases of vessels/aircrafts	a. Billing statement from non-resident lessor/owner of vessel/aircraft; and b. Photocopy of contract/agreement.
13. Port disbursements abroad for aircraft and vessels of Philippine registry or chartered by domestic operators and salvage fees	a. Billing statement; and b. Photocopy of contract/agreement.
14. Satellite and other telecommunication services	a. Billing Statement; and b. Photocopy of contract/agreement.
15. Other services such as advertising, consultancy, IT, fees for other professional services	a. Billing statement; and b. Photocopy of contract/agreement.

Purposes	Documents Required (All originals except as indicated)
16. Share in head office expenses (including reimbursements)	a. Audited schedules of allocation of expenses for the periods covered; b. Certification from the head office that the share in head office expenses remain unpaid and outstanding; and c. Audited financial statements of the Philippine branch.
17. Insurance/Reinsurance premium due to foreign insurance companies	Billings/Invoices of insurance companies/ brokers abroad.
18. Claims against domestic insurance companies by brokers abroad	Billings/Invoices from foreign insurer/ reinsurer.
19. Net Peso revenues of foreign airlines/ shipping companies	a. Statement of Net Peso Revenues (Peso revenues less expenses) certified by authorized officer of airline/shipping company; and b. Photocopy of contract/agreement.
20. Royalty/Copyright/Franchise/Patent/ Licensing fees	a. Statement/Computation of the royalty/ copyright/franchise/patent/licensing fee; and b. Photocopy of contract/agreement.
21. Net peso revenues of embassies/ consulates of foreign countries	Statement of net peso revenues (Peso revenues less expenses) certified by the Embassy's/Consulate's authorized officer.
22. FX obligations of Philippine credit card companies to international credit card companies/non-resident merchants	Summary billings
23. Support of dependents abroad	a. Consular certificate or its equivalent documents to prove that the dependent is permanently residing abroad not earlier than one (1) year from FX application date; and b. Certified true copy of birth certificate, marriage contract, adoption papers, whichever is applicable.

Purposes	Documents Required (All originals except as indicated)
24. Subscriptions to foreign magazines or periodicals	a. Billing statement
25. Membership dues and registration fees to associations abroad	a. Proof of membership; and b. Billing statement
26. Mail fees	a. Copy of contract or agreement; and b. Billing statement

B. Sale of foreign exchange for payment of foreign/foreign currency loans, regardless of amount	
Purposes	Documents Required (All originals except as indicated)
Foreign/foreign currency loan payments	Billing statement from creditor. Amounts that may be purchased shall be limited to maturing amounts on scheduled due dates. Remittance of FX purchased shall coincide with the due dates of the obligations to be serviced. FX-selling entity shall stamp "FX SOLD", date of sale and the amount/s sold on the original billing statement.
Payments related to guarantees and similar arrangements including risk take over arrangements Resulting FX liabilities arising from guarantees and similar arrangements including Risk Take Over Arrangements (RTO) not involving foreign/FCDU loans	Copies of: a. Arrangements/contracts covered by the guarantee/similar arrangement; b. Standby Letter of Credit (SLC) or guarantee contract/agreement; c. Proof/notice of original obligor's default and creditor's call on the guarantee; and d. Billing statement from the non-resident or local bank guarantor
Payments related to Build-Operate-Transfer and similar financing schemes with transfer arrangements	

Purposes	Documents Required (All originals except as indicated)
Regular Fees	Copies of: a. Covering arrangements/contracts; and b. Billing statement from private sector project company/proponent

C. Sale of foreign exchange for capital repatriation/remittance of dividends/profits/earnings, outward investments and residents' investments in foreign currency-denominated bonds/ notes issued by the Republic of the Philippines and other Philippine entities, regardless of amount	
Purposes	Documents Required (All originals except as indicated)
1. Capital repatriation of:	
a. Portfolio investments in: i. PSE-listed securities ii. Peso government securities	Broker's sales invoice Confirmation of purchase for peso government securities
iii. Money market instruments (MMI) iv. Peso bank deposits	Matured contract for MMI Proof of withdrawal of deposit or matured certificate of deposit, as applicable
b. Foreign direct equity investments	a. Photocopy of proof of sale or relevant documents showing the amount to be repatriated; in case of dissolution/ capital reduction, proof of distribution of funds/assets such as statement of net assets in liquidation; b. Detailed computation of the amount applied for in the attached format (Attachment 2) prepared by the selling stockholder's representative; and c. Photocopy of pertinent audited financial statements
2. Remittance of dividends/profits/earnings/ interests	a. Photocopy of PSE-cash dividends notice and Phil. Central Depository (PCD) printout of cash dividend payment or computation of interest earned issued by MMI issuer or bank;

Purposes	Documents Required (All originals except as indicated)
	b. Photocopy of secretary's sworn statement on the board resolution covering the dividend declaration; c. Photocopy of latest audited financial statements or interim financial statements covering the dividend declaration period (for direct foreign equity investments)
3. Residents' outward investment a. Direct equity investments	a. Photocopy of investment proposal/ agreement, or subscription agreement; and b. Photocopy of deed of sale or assignment of the investments
b. Portfolio investments	a. Photocopy of subscription agreement, or bond/stock offering; b. Swift payment order instruction from the counterparty/broker/trader indicating the name of payee and type kind of investment authenticated by the broker/trader; and c. Photocopy of investor's order to broker/ trader to buy the securities
4. Residents' investments in FX-denominated bonds/notes issued by the Republic of the Philippines and other Philippine entities	a. Photocopy of subscription agreement or bond offering; b. Swift payment order instruction from the counterparty/broker/trader indicating the name of payee and type/kind of investment authenticated by the broker/ trader; and c. Photocopy of investor's order to broker/ trader to buy the securties

D. Sale of foreign exchange for payment of importations, regardless of amount	
Purposes	Documents Required (All originals except as indicated)
Payment of merchandise imports	a. Bill of lading or airway bill covering the merchadise imports; and b. Commercial invoice

(As amended by Circular No. 652 dated 05 May 2009)

Annex N-8-a

Certificate of Registration of Foreign Exchange Dealers (FXDs)/ Money Changers (MCs) and Remittance Agents (RAs).

Banks are enjoined to require their clients FXDs/MCs and RAs to submit a copy of their certificate of registration issued by the BSP. This requirement shall be considered as part of "Know Your Customer" compliance procedures.

The certificates can be confirmed or verified with the BSP Supervision and Examination Department V. The registration of FXDs/MCs and RAs with BSP is provided for under Sec. 4511N.

Attachment 2

COMPUTATION SHEET

Name of FX FXD/MC: _____ Date of FX Sale: _____

TYPE OF INWARD FOREIGN INVESTMENT TRANSACTION

☐ Remittance of Cash Dividends/Profits
☐ Repatriation of Capital

Name of Investee Firm: _____
_____
Name of Investor: _____
_____

REMITTANCE OF CASH DIVIDENDS/PROFITS

Record Date: _____
Payment Date: _____
Amount of Dividends/Share
or Rate of Profits: _____

Base Shares (Php)	Dividends/Profits per Share	Total Amount (Php)
_____	_____	_____
_____	_____	_____

A. Gross Peso Amount Remittable	_____
B. Less: Taxes/Charges	_____
C. Net Peso Amount Remittable	_____
D. Foreign Exchange Applied for Remittance (C/FX rate[1/])	_____

REPATRIATION OF CAPITAL

Total Amount/ No. of Shares	Outstanding Balance Before This Repatriation	Amount/No. of Shares Applied for Repatriation
_____	_____	_____
_____	_____	_____

A. Total No. of Shares/Amount Applied For Repatriation	_____
B. Selling Price/Share (if applicable)	_____
C. Gross Peso Amount Repatriable (A x B)	_____
D. Taxes/Charges	_____
E. Net Peso Amount Repatriable (C - D)	_____
F. Foreign Exchange Applied for Repatriation (E/FX rate[1/])	_____

Prepared by:

_____ _____
Signature over Printed Name of Authorized Representative of Applicant — Company Affiliation of Investor's Representative

_____
Date

[1/] To be supplied by FX Selling Bank