MANUAL OF REGULATIONS

FOR NON-BANK FINANCIAL INSTITUTIONS

Volume 1

FOREWORD

The Manual of Regulations for Non-Bank Financial Institutions (MORNBFI) codifies and logically organizes Bangko Sentral rules and policy issuances governing non-bank financial institutions supervised by, or are under the regulatory ambit of, the Bangko Sentral such as quasi-banks, investment houses, non-stock savings and loan associations, pawnshops and trust corporations in the country.

The MORNBFI serves two fundamental objectives: one, a convenient reference for operators and regulators regarding the implementation of domestic laws and their pertinent rules and regulations governing said financial intermediaries; and two, a useful guide for all individuals, organizations, and agencies with interest in the country's non-bank financial institutions.

The MORNBFI is updated regularly to reflect regulatory developments. This edition covers issuances and regulations cumulatively issued as of End-June 2016.

AMANDO M. TETANGCO, JR.
Governor

PREFACE
Manual of Regulations for Non-Bank Financial Institutions

The 30 June 2016 Manual of Regulations for Non-Bank Financial Institutions (MORNBFI) is the latest edition from the initial issuance in 1996. The updates consist of the banking legislative reforms and its implementing rules and regulations and amendments to existing policies. It shall serve as the **principal source** of banking regulations issued by the Monetary Board and the Governor of the Bangko Sentral and shall be cited **as the authority** for enjoining compliance with the rules and regulations embodied therein.

The Monetary Board of the Bangko Sentral, in its Resolution No. 1203 dated 07 December 1994, directed the creation of a multi-departmental Ad Hoc Review Committee with representatives from the Supervision and Examination Sector (SES) and Office of the General Counsel and Legal Services (OGCLS). The Committee was officially constituted under Office Order No. 2 series of 1995 and was reconstituted several times thereafter, the latest of which was Office Order No. 0458 dated 21 June 2013. Under the aforesaid Office Order, the Committee is tasked to update the Manuals on a continuing basis to:

1. Incorporate relevant issuances;
2. Propose revisions/amendments/deletions of provisions which have become obsolete, redundant, irrelevant or inconsistent with laws/ rules and regulations;
3. Reformulate provisions as the need arises; and
4. Oversee the publication and printing of the MORNBFI in coordination with the Economic and Financial Learning Center and Corporate Affairs Office.

The present Committee, as reconstituted under Office Order No. 2257 dated 21 September 2015 is composed of:

Adviser	-	Nestor A. Espenilla Jr. Deputy Governor Supervision and Examination Sector
Chairman	-	Jose Recon S. Tano Officer-in-Charge Office of Supervisory Policy Development (OSPD)
Vice Chairman	-	Atty. Asma A. Panda Deputy Director Office of the General Counsel and Legal Services (OGCLS)

Members:

Ma. Belinda G. Caraan Director Central Point of Contact Department (CPCD) IV	Betty Christine C. Bunyi Director Examination Department (ED) II
Hazel C. Pajutagana Manager Integrated Supervision Department (ISD) II	Rhodora M. Brazil- De Vera Bank Officer V OSPD
Atty. Florabelle S. Madrid Deputy Director Anti-Money Laundering Specialist Group (AMLSG)	Amelia B. Damian Bank Officer V OSPD
Atty. Ma. Corazon Bilgera-Cordero Bank Officer V AMLSG	Celedina P. Garbosa Manager CPCD II
Atty. Vanessa P. Tabernero-Bunag Legal Officer IV OGCLS	Concepcion A. Garcia Acting Deputy Director Micro, Small and Medium Enterprise Finance Specialist Group (MFSG)
Ronaldo B. Ramos Manager ED IV	Roberto P. Castuciano Deputy Director ISD I

The Committee Secretariat is headed by Ms. Ma. Cecilia U. Contreras, Supervision and Examination (SE) Specialist II, OSPD, and is assisted by two (2) other personnel.

The Bangko Sentral ng Pilipinas

INSTRUCTIONS TO USERS

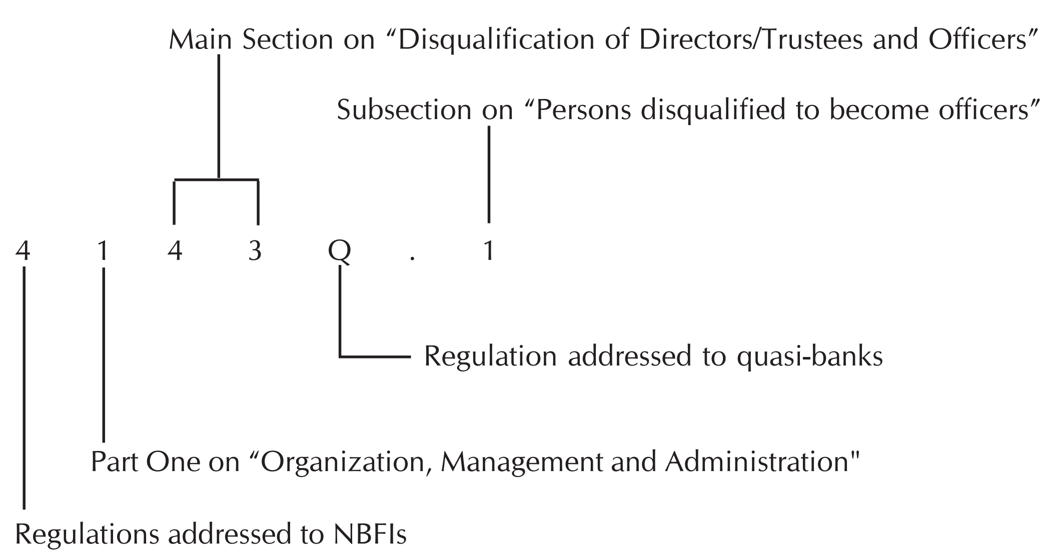
(30 June 2016 Edition)

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), other NBFIs, trust entities, subsidiaries and affiliates of banks and quasi-banks (N Regulations) and Trust Corporations (T Regulations).

The Manual is divided into five (5) books Q, S, P, N or T. Each book is divided into parts. Each part is divided into sections containing four (4) digits and the letter Q, S, P, N or T, 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.

MANUAL OF REGULATIONS FOR NON-BANK FINANCIAL INSTITUTIONS

Q REGULATIONS

(Regulations Governing Non-Bank Financial Institutions
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POWER OF THE BANGKO SENTRAL TO EXAMINE QUASI-BANKS

Section 4001Q Examination by the Bangko Sentral. The Bangko Sentral shall have supervision over, and conduct periodic or special examinations of Quasi-Banks(QBs), including their subsidiaries and affiliates in allied activities.

The head and examiners of the appropriate department of the Supervision and Examination Sector (SES) are authorized to administer oaths to any director, officer, or employee of QBs, including their subsidiaries and affiliates engaged in allied activities, and to compel the presentation of all books, documents, papers or records necessary in their judgment to ascertain the facts relative to the true condition of the institution as well as the books and records of persons and entities relative to or in connection with the operations, activities or transactions of the institution under examination, subject to the provision of existing laws protecting or safeguarding the secrecy or confidentiality of investments of private persons, natural or juridical, in debt instruments issued by the Government.

Sec. 4002Q Definitions.

a. *Subsidiary* is a corporation 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 QB.

b. *Affiliate* is an entity linked directly or indirectly to a QB by means of:

(1) Ownership, control as defined under Subsec. X146.1 of the MORB or power to vote of atleast twenty percent (20%) of the outstanding voting stock of the borrowing entity, or vice-versa;

(2) Interlocking directorship or officership, where the concerned director or officer owns; controls, as defined under Subsec. X146.1 of the MORB; or has the power to vote at least twenty percent (20%) of the outstanding voting stock of the borrowing entity;

(3) Common stockholders owning at least ten percent (10%) of the outstanding voting stock of the financial intermediary and at least twenty percent (20%) of the outstanding voting stock of borrowing entity;

(4) Management contract or any arrangement granting power to the financial intermediary to direct or cause the direction of management and policies of the borrowing entity; or

(5) Permanent proxy or voting trust in favor of the financial intermediary constituting at least twenty percent (20%) of the outstanding voting stock of the borrowing entity, or vice-versa.

c. *Financial allied undertakings* refer to enterprises or firms with homogeneous or similar activities/business/functions with the financial intermediary and may include, but not limited to, leasing companies, banks, IHs, financing companies, credit card operations, FIs addressed/catering to small and medium scale industries, and such other similar activities as the Monetary Board may declare as appropriate from time to time.

d. *Non-financial allied undertakings* may include, but not limited to, warehousing companies, storage companies, safe deposit box companies, companies engaged in the management of mutual funds but not in the mutual funds themselves, management corporations engaged or to be engaged in activities similar to the management of mutual funds, insurance agencies, companies engaged in home building and home development and companies providing drying and/or including facilities for agricultural crops such as rice and corn, companies engaged in merchant acquiring business and such other similar activities as the Monetary Board (MB) may declare as appropriate from time to time.

e. The term *"examination"* shall, refer to an investigation of an institution under the supervisory authority of the Bangko Sentral to determine whether the institution is operating on a safe and sound basis, inquire into its solvency and liquidity, and assess the effectiveness of its compliance function to ascertain that it is conducting business in accordance with laws and regulations. Consistent with a risk-based approach to supervision, the scope of examination may include, but need not be limited to, the following:

(1) Appraisal of the overall quality of corporate governance;

(2) Assessment of risk management system, which shall include the evaluation of the effectiveness of management oversight and self-assessment functions (e.g. internal audit, risk management and compliance), adequacy of policies, procedures, and limits, effectiveness of risk measurement, monitoring and management information system, and robustness of internal control;

(3) Review of the institution's operations and overall risk profile;

(4) Evaluation of financial performance, capital adequacy, asset quality and liquidity; and

(5) Any other activity relevant to the above.

Regular or periodic examination shall be done once a year, with an interval of twelve (12) months from the last date thereof. Special examination may be conducted earlier, or at a shorter interval, when authorized by the MB by an affirmative vote of five (5) members.

In the full exercise of the supervisory powers of the Bangko Sentral, examination by the Bangko Sentral of institutions shall be complemented by overseeing thereof. In this regard, the term *overseeing* shall refer to a limited investigation of an institution, or any investigation/s that is limited in scope, conducted to inquire into a particular area/aspect of an institution's operations, for the purpose of overseeing that laws and regulations are complied with, inquiring into the solvency and liquidity of the institution, enforcing prompt corrective action, or such other matters requiring immediate investigation: *Provided*, That (i) specific authorizations be issued by the Deputy Governor, SES, and (ii) periodic summary reports on overseeings made be submitted to the Monetary Board.

(Circular No. 442 dated 20 July 2004 as amended by Circular Nos. 914 dated 23 June 2016, 896 dated 17 December 2015 and 894 dated 07 December 2015 and Circular No. 862 dated 17 December 2014)

Secs. 4003Q - 4008Q (Reserved)

Sec. 4009Q Supervisory Enforcement Policy. The Policy sets forth guidance on the Bangko Sentral's supervision-by-risk framework. It also puts together in a holistic manner all the enforcement tools available to the Bangko Sentral as contained in various laws and rules and regulations[1] and communicates the deployment thereof in a consistent manner by the Bangko Sentral in the course of performing its supervisory function. It further sets out the guiding principles and objectives behind the deployment of such enforcement actions.

Nothing in this Section shall be construed as superseding enforcement actions previously imposed against Bangko Sentral-supervised FIs pursuant to existing laws, Bangko Sentral rules and regulations.

a. Statement of Policy and Rationale

The Bangko Sentral is issuing this Supervisory Enforcement Policy to provide guidance on its supervision-by-risk framework. The Bangko Sentral recognizes that risk-taking is integral to a

[1] Section 4 of R.A. No. 8791 (General Banking Law of 2000) defines the scope of Bangko Sentral's supervisory powers, which may be grouped into three categories: (i) issuance of rules; (ii) examination and investigation; and (iii) enforcement of Prompt Corrective Action (PCA)

financial institution's business. The existence of risk is not necessarily a reason for concern so long as Management exhibits the ability to effectively manage that level of risk and operates the financial institution (FI) in a safe and sound manner. Thus, when risk is not properly managed, the Bangko Sentral may deploy a wide range of enforcement actions provided under existing laws, Bangko Sentral rules and regulations, taking into consideration the nature and extent of the supervisory issues and concerns and the level of cooperation provided by Management.

The Bangko Sentral adopts a holistic approach to supervision with the objective of guiding FIs under its supervision to mitigate risk and achieve the desired changes.

Bangko Sentral's risk-based supervision, of which enforcement action is a key part, focuses on the safety and soundness of operations of the FIs. This policy sets forth the expectations of the Bangko Sentral when it deploys enforcement action and the consequences when expected actions are not performed within prescribed timelines.

Thus, this over-arching policy is needed - (a) as a collation of various enforcement actions already present in various laws, rules and regulations; (b) for better guidance of the FIs and the bank supervisors; and (c) as a means to broadcast to the banking/financial industry the consequences of failure to address the Bangko Sentral requirements and supervisory expectations.

b. Objectives of the enforcement policy

The Bangko Sentral's Supervisory Enforcement Policy aims to achieve the following two (2) key objectives:

(1) Achieving the desired change. Effect a change in the overall condition and governance of Bangko Sentral-supervised FIs consistent with the expectations set under relevant laws and regulations; and

(2) Mitigating risk. Mitigate risks to the FIs and other stakeholders in order to maintain the stability of the financial system.

c. General principles

The Bangko Sentral, in the deployment of enforcement actions, is guided by the following general principles:

(1) Root cause diagnosis. The enforcement action addresses the underlying cause of the supervisory issues and concerns.

(2) Consistently matching the severity of enforcement action to the supervisory issue. The deployment of appropriate enforcement action is commensurate to the severity of the supervisory issues and concerns. The severity of the supervisory issues and concerns is assessed in terms of *prevalence*[1] and *persistence*.

(3) Successive or simultaneous deployment of enforcement actions. Enforcement actions may be deployed successively or simultaneously taking into account the nature and seriousness of the difficulties encountered by the FIs and the ability and willingness of the FI's Management to address the supervisory issues and concerns.

(4) Monitorability and follow-through. The Bangko Sentral monitors the FI's progress/compliance with the expected actions to address the supervisory issues, concerns and problems.

(5) Escalation of enforcement actions. Enforcement actions may be escalated if the desired change is not achieved and the root causes of the FI's issues, concerns and

[1] Prevalence pertains to the pervasiveness of the supervisory issues, concerns and problems in relation to their impact on the FI's solvency, asset quality, operating performance and liquidity, among others.

problems are not addressed by the FI within prescribed timelines.

d. Categories of Enforcement Actions

The three (3) main categories of enforcement action are: (1) corrective actions, (2) sanctions and (3) other supervisory actions. These enforcement actions may be imposed singly or in combination with others.

(a) Corrective actions

Corrective actions are enforcement actions intended to require the FI to address the underlying cause of supervisory issues, concerns and problems. These include the following:

(i) Bangko Sentral Directives

Directives are basically orders and instructions communicated by the appropriate supervising department in Bangko Sentral requiring the FI to undertake a specific positive action or refrain from performing a particular activity within a prescribed timeline.

(ii) Letter of Commitment (LOC)

The LOC is an enforcement action where the FI's Board of Directors (Board) is required, upon approval and/or confirmation by the MB, to make a written commitment to undertake a specific positive action or refrain from performing a particular activity with a given time period.

The LOC is generally used to arrest emerging supervisory concerns before these develop into serious weaknesses or problems, or to address remaining supervisory issues and concerns.

(b) Sanctions

Sanctions that may be imposed on an FI and/or its directors and officers, as provided under existing laws, Bangko Sentral rules and regulations, are subject to the prior approval and/or confirmation by the MB. Such sanctions include the following:

(i) FIs

- Restrictions on activities and privileges
- Suspension of authorities, privileges and other activities
- Divestment and/or Unwinding
- Monetary sanction - penalties/fines Against the FI

(ii) Directors and officers

- Reprimand
- Restriction on compensation and benefits
- Divestment
- Suspension
- Disqualification
- Removal
- Monetary penalties/fines

The foregoing sanctions to individuals are without prejudice to the filing of separate civil or criminal actions against them, when appropriate.

(c) Other supervisory actions

Subject to prior MB approval, the Bangko Sentral, when warranted, may deploy other supervisory actions such as

(i) Initiation into the PCA Framework;

(ii) Issuance of a cease and desist order (CDO) against the FI as well as its directors and officers;

(iii) Conservatorship; and

(iv) Placement under receivership.

e. Due Process

An integral part of the deployment of enforcement actions is the observance of due process in all cases.

The FI and/or its directors and officers are afforded fair and reasonable opportunity to explain their side and to submit evidence/s in support thereof, which are given due consideration in determining the appropriate enforcement action(s) to be imposed.

(Circular No. 875 dated 15 April 2015, as amended by Circular Nos. 903 dated 29 February 2016 and 894 dated 07 December 2015)

PART ONE

ORGANIZATION, MANAGEMENT AND ADMINISTRATION

A. SCOPE OF AUTHORITY

Section 4101Q Quasi-Banking Functions *Quasi-banking functions* consist of the following:

a. Borrowing funds for the borrower's own account;

b. Twenty (20) or more lenders at any one 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 (repo) 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 Items "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 financial institutions (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.

§ 4101Q.1 *Financial intermediaries* *Financial intermediaries* shall mean persons or entities whose principal functions include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them, or otherwise coursed through them either for their own account or for the account of others.

Principal shall mean chief, main, most considerable or important, of first importance, leading, primary, foremost, dominant or preponderant, as distinguished from secondary or incidental.

Functions shall mean actions, activities or operations of a person or entity by which his/its business or purpose is fulfilled or carried out. The business or purpose of a person or entity may be determined from the purpose clause in its articles of incorporation/partnership, and from the nature of the business indicated in his/its application for registration of business filed with the appropriate government agency.

To be considered a financial intermediary, a person or entity must perform any of the following functions on a regular and recurring, not on an isolated basis:

a. Receive funds from one (1) group of persons, irrespective of number, through traditional deposits, or issuance of debt or equity securities; and make available/lend these funds to another person or entity, and in the process acquire debt or equity securities;

b. Use principally the funds received for acquiring various types of debt or equity securities;

c. Borrow against, or lend on, or buy or sell debt or equity securities;

d. Hold assets consisting principally of debt or equity securities such as promissory notes, bills of exchange, mortgages, stocks, bonds, and commercial papers;

e. Realize regular income in the nature of, but need not be limited to, interest, discounts, capital gains, underwriting fees, guarantees, fees, commissions, and service fees, principally from transactions in debt or equity securities or by being an intermediary between suppliers and users of funds.

Non-banking financial intermediaries shall include the following:

(1) A person or entity licensed and/or registered with any government regulatory body as a non-bank financial intermediary, such as investment house (IH), investment company, financing company, securities dealer/broker, lending investor (IH), pawnshop, money broker, fund manager, cooperative, insurance company, non-stock savings and loan association (NSSLA) and building and loan association.

(2) A person or entity which holds itself out as a non-banking financial intermediary, such as by the use of a business name, which includes the term *financing, finance, investment, lending* and/or any word/ phrase of similar import which connotes financial intermediation, or an entity which advertises itself as a financial intermediary and is engaged in the function(s) where financial intermediation is implied.

(3) A person or entity performing any of the functions enumerated in Items "a" to "e" of this Subsection.

§ 4101Q.2 *Guidelines on lender count.* The following guidelines shall govern lender count on borrowings or funds mobilized by non-bank financial intermediaries:

a. For purposes of ascertaining the number of lenders/placers to determine whether or not a non-bank financial intermediary 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 (1) borrowing/placement.

b. Each debt instrument payable to bearer shall be counted as one (1) lender/ placer except when the non-bank financial intermediary can prove that there is only one (1) owner for several debt instruments so payable.

c. 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.

d. Debt instruments underwritten by IHs or traded by securities dealers/brokers whether on a firm, standby or best efforts basis shall be counted on the basis of the number of 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.

e. 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 non-bank financial intermediary to repurchase or reacquire the securities/ receivables sold, assigned, indorsed or to pay the buyer, assignee, or indorsee at some subsequent time.

f. Funds obtained by way of advances from stockholders, directors, 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.

§ 4101Q.3 *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 Sec. 4101Q 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 Sec. 4101Q: *Provided,* That:

(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 (COS), the phrase *without recourse* or *sans recourse* and the following statement:

(Name of financial intermediary)
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.

(i) 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;

(ii) Issuance by a financial intermediary of any form of guaranty on sale transactions or on negotiations or assignment of debt instruments without recourse; or

(iii) 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 IH 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.

§ 4101Q.4 ***Delivery of securities.***

a. Securities sold on a without recourse basis allowed under Subsec. 4101Q.3(b) shall be delivered directly to the purchaser or to the purchaser's designated Bangko Sentral accredited securities custodian or SEC authorized central securities depository in accordance with the guidelines set forth in *Appendix Q-38*. The securities custodian shall hold the securities in the name of the buyer: *Provided,* That a QB/non-bank financial institution (NBFI)/other entity authorized by the Bangko Sentral to perform custodianship function or an SEC-authorized central securities depository may not be allowed to be custodian/depository of securities issued or sold by said custodian or central securities depository, by entities belonging to the same financial conglomerate or banking group as that of the custodian or depository, 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/central securities depository and delivered to the purchaser.

Sanctions. Violation of any provision of this Subsection 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;

(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 securities custodian or central securities depository are shown in *Appendix Q-38a*.

The guidelines on the delivery of government securities to the investor's principal securities account with the RoSS are in *Appendix Q-38a*.

Sanctions. Without prejudice to the penal and administrative sanctions provided for under Sections 36 and 37, respectively of R.A. No. 7653 (The New Central Bank Act), violation of any provision of the guidelines in *Appendix Q-38* shall be subject to the following sanctions/penalties depending on the gravity of the offense:

(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.

(As amended by Circular Nos. 873 dated 25 March 2015, 714 dated 10 March 2011, M-2007-002 dated 23 January 2007, M-2006-009 dated 06 July 2006 and M-2006-002 dated 05 June 2006, Circular No. 524 dated 31 March 2006)

§ 4101Q.5 *Securities custodianship operations.*

(Deleted by Circular No. 873 dated 25 March 2015)

§ 4101Q.6 *Sale, discounting, assignment or negotiation by quasi-banks of their credit rights arising from claims against the Bangko Sentral to clients.* Pursuant to the policy of the Bangko Sentral to promote investor protection and transparency in securities transactions as important components of capital markets development, placements in the Term Deposit Facility (TDF), the Overnight Deposit Facility (ODF) and Reverse Repurchase agreements with the Bangko Sentral, shall not be the subject of sale, discounting, assignment or negotiation on a with or without recourse basis.

Any violation of the provisions of this Subsection shall be considered a less serious offense and shall subject the QB and the director/s and/or officer/s concerned to the sanctions provided under Sec. 4199Q.

(Circular No. 636 dated 17 December 2008, as amended by Circular No. 913 dated 02 June 2016)

§ 4101Q.7 *(2008 - 4655Q) Applicability of rules governing universal banks to quasi-banks.* In case of conflict between rules applicable to banks with universal banking authority and those applicable to QBs in activities where they perform the same functions, the rules governing banks with universal banking authority shall prevail.

B. ESTABLISHMENT AND ORGANIZATION

Sec. 4102Q Statement of Policy. It is the policy of the Bangko Sentral to promote the development of the domestic financial market so as to foster a sound, efficient and inclusive financial system fully supportive of sustainable economic growth. Towards this end, the grant of authority to engage in quasi-banking functions to IHs and finance companies shall be allowed subject to the following conditions:

a. That quasi-banking activities shall be undertaken by the institution concerned to pursue its core business, i.e., underwriting of securities of other corporations and of the government or its instrumentalities, participating as soliciting dealer or selling group member in tender offers, block sales, or exchange offering of securities, and dealing in options, rights or warrants relating to securities and such other powers which a dealer may exercise under the Securities Regulation Code (SRC), in the case of IHs, and discounting or factoring commercial papers or accounts receivable, or by buying and selling contracts, leases, chattel mortgages (CHMs), or other evidences of indebtedness, or by leasing of motor vehicles, heavy equipment and industrial machinery, business and office machines and equipment, appliances and other movable property, or granting business and consumer loans, in the case of finance companies;

b. That the institution concerned shall fully inform investors of the nature of a deposit substitute instrument, e.g., that it is not covered by the Philippine Deposit Insurance Corporation (PDIC), that pre-termination thereof is subject to penalty, where applicable, and such other material risks involved in investing in such instrument; and

c. That the institution concerned shall conduct effective investor suitability testing procedures.
(Circular No. 557 dated 12 January 2007)

§ 4102Q.1 ***Preconditions for the exercise of quasi-banking functions.*** No person or entity shall engage in quasi-banking functions without authority from the Bangko Sentral. Only a duly incorporated IH and finance company may undertake or perform quasi-banking functions as defined in Sec. 4101Q. An institution securing Bangko Sentral authority to engage in quasi-banking functions must meet the following requirements:

a. It must have complied with the minimum adjusted capital accounts of at least P300.0 million or such amounts as may be required by the Monetary Board in the future;

b. It has generally complied with applicable laws, rules and regulations, orders or instructions of appropriate authority, including the Monetary Board and/or Bangko Sentral Management where applicable;

c. Its accounting records, systems and procedures as well as internal control systems are satisfactorily maintained;

d. It does not have float items outstanding for more than sixty (60) calendar days in the "Due From/To Head Office/ Branches/Offices" accounts exceeding one percent (1%) of the total resources as of end of preceding month;

e. It has no past due obligation with any FI as of date of application;

f. The officers who will be in-charge of the quasi-banking operations have actual experience of at least two (2) years in a bank or QB as in-charge (or at least as assistant-in-charge). The directors of the institution, officer-in-charge of the quasi-banking operations and the managerial staff must comply with the fit and proper rule prescribed under existing law/rules and regulations;

g. The institution has elected at least two (2) independent directors and all its directors have attended the required seminar for directors of QBs conducted or accredited by the BSP;

h. It has not engaged in unsafe and unsound practices during the past six (6) months immediately preceding the date of application where applicable;

i. 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 and other related documents embodying the risk management system must be submitted to the appropriate department of the Supervision and Examination Sector (SES) at the time of application for authority and within thirty (30) days from updates.

(As amended by Circular No. 557 dated 12 January 2007)

Sec. 4103Q Application for a Certificate of Authority from the Bangko Sentral[1]. An institution securing BSP's Certificate of Authority to engage in quasi-banking functions shall file an application with the appropriate department of the SES. The application shall be signed by the president or officer of equivalent rank of the institution and shall be accompanied by the following documents:

a. Certified true copy of the resolution of the board of directors of the institution authorizing the application;

b. A certification signed by the president or officer of equivalent rank that:

(1) the institution has complied with all conditions/prerequisites for the grant of authority to engage in quasi-banking functions;

(2) quasi-banking functions shall be pursued/undertaken by the institution in the furtherance of its core business, e.g., underwriting of and dealing in securities of other corporations and of the government or its instrumentalities, in the case of IHs, and leasing and/or discounting/factoring commercial papers or accounts receivable, or granting business and consumer loans, in the case of finance companies;

(3) investors shall be informed that their investments/placements are not insured by the PDIC and that any pre-termination thereof shall be subject to penalty, if applicable, as well as all other material risks; and

(4) investors shall be subjected to effective investor suitability testing procedures;

c. An information sheet;

d. Bio-data signed under oath, of the members of the managerial staff who will undertake quasi-banking operations; and

e. Borrowing-investment program for one (1) year, and annually thereafter on or before November 30, which should include at the minimum:

(1) planned distribution of portfolios as to:

(a) underwriting;
(b) commercial papers;
(c) stocks and bonds;
(d) government securities(GS);
(e) receivables financing, discounting and factoring;
(f) leasing; and
(g) direct loans;

(2) expected sources of funds to support investment program classified as to:

(a) maturity: short, medium and long-term;

[1] See SEC Circular Nos. 5 dated 17 July 2008, 3 dated 16 February 2006 and 14 dated 24 October 2000.

(b) interest rates; and

(c) domestic or foreign sources whether institutional or personal.

The foregoing requirement shall also apply to QBs existing as of 03 February 2007.

Transitory provisions. IHs and finance companies authorized to engage and are actually performing quasi-banking functions but do not meet the new capital requirement are hereby given a period of two (2) years reckoned from 03 February 2007 within which to comply with the minimum capital requirement in Subsec. 4102Q.1(a): *Provided,* That this may be substituted by a capital build-up program for a period of not more than three (3) years which must be approved by the Monetary Board. Such capital build-up program shall be in equal annual or diminishing amounts; and shall be submitted to the appropriate department of the SES within three (3) months from 03 February 2007. QBs which fail to comply with the required capitalization upon expiration of said two (2) year period given them or those which fail to comply with the approved capital build-up program shall liquidate their quasi-banking operations within one (1) year from said deadlines and their licenses shall be considered revoked/cancelled.

The licenses of existing QBs not actually performing quasi-banking functions which do not meet the required minimum capitalization provided in Subsec. 4102Q.1(a) on 03 February 2007 shall be automatically revoked.

(As amended by CL-2008-078 dated 15 December 2008, CL-2008-053 dated 21 August 2008, CL-2008-007 dated 05 February 2008 and Circular No. 557 dated 12 January 2007)

Sec. 4104Q Issuance of Bangko Sentral Certificate of Authority. The BSP shall issue a Certificate of Authority upon proof that the applicant has complied with the requirements of Secs. 4102Q and 4103Q and of pertinent laws and regulations.

In the case of a merger or consolidation of two (2) or more QBs, the authority shall continue to have full force and effect. For documentation purposes, in the case of a merger, the Certificate of Authority of the absorbing corporation shall be maintained; and with respect to consolidation, a new certificate shall be issued to the new corporation. The Certificate of Authority of the absorbed corporation in a merger and the certificates of the consolidated corporations in a consolidation shall be surrendered to the appropriate department of the BSP.

Sec. 4105Q Licensing of an Investment House. Applications for license as an IH referred to the BSP by the Securities and Exchange Commission (SEC) pursuant to P.D. No. 129 shall be evaluated in accordance with the Guidelines to Evaluate Investment Houses prescribed in *Appendix Q-1*.

Sec. 4106Q *(2008 - 4656Q)* Basic Laws Governing Investment Houses and Financing Companies. The following are the basic laws governing investment houses (IHs) and financing companies:

a. *IHs*. P.D. No. 129, as amended, known as *The Investment Houses Law,* governs the establishment, operation and regulation of IHs. To effectively carry out the provisions of this Decree, the SEC, pursuant to the powers vested in it by said Decree, promulgated basic rules and regulations *(Appendix Q-18)* to implement the provisions of the Decree.

b. *Financing companies*. R.A. No. 8556, known as *The Financing Company Act of 1998*, regulates the organization and operation of financing companies. To effectively carry out the provisions of this Act, the SEC, pursuant to the powers vested in it under said Act, promulgated basic rules and regulations to implement the provisions of the Act *(Appendix Q-19).*

Sec. 4107Q (Reserved)

C. MERGER/CONSOLIDATION

Sec. 4108Q *(2008 - 4111Q)* Merger/ Consolidation Involving Quasi-Banks. The merger/consolidation of QBs is encouraged to meet minimum capital requirements and to develop larger and stronger FIs. QBs which are IHs are likewise encouraged to merge with banks to obtain authority to perform expanded commercial banking functions.

For purposes of merger and consolidation of QBs, the following definitions shall apply:

a. *Merger* is the absorption of one (1) or more corporations by another existing corporation, which retains its identity and takes over the rights, privileges, franchises, and properties, and assumes all the liabilities and obligations of the absorbed corporation(s) in the same manner as if it had itself incurred such liabilities or obligations. The absorbing corporation continues its existence while the life or lives of the other corporation(s) is/are terminated.

b. *Consolidation* is the union of two(2) or more corporations into a single new corporation, called the consolidated corporation, all the constituent corporations thereby ceasing to exist as separate entities. The consolidated corporation shall thereupon and thereafter possess all the rights, privileges, immunities, franchises and properties, and assume all the liabilities and obligations of each of the constituent corporations in the same manner as if it had itself incurred such liabilities or obligations.

§ 4108Q.1 *Requirement of Bangko Sentral approval.* Mergers and consolidations involving QBs shall comply with the provisions of applicable law and shall be subject to approval by the Bangko Sentral.

The guidelines and procedures in the application for merger/consolidation as shown in *Appendix Q* -51 shall be observed by QBs.
(M-2009-028 dated 12 August 2009)

§ 4108Q.2 *(Reserved)*

§ 4108Q.3 *(2008 - 4112Q) Merger/ consolidation incentives.* In pursuance of the policy to promote mergers and consolidations among banks and other financial intermediaries, as well as purchases or acquisitions of majority or all of the outstanding shares of stock of a bank/ QB, as a means to develop larger and stronger FIs, constituent/participating entities may avail themselves of incentives or reliefs, subject to prior approval of the Monetary Board.
(As amended by Circular No. 771 dated 11 October 2012)

Secs. 4109Q - 4110Q (Reserved)

D. CAPITALIZATION

Sec. 4111Q *(2008 - 4106Q)* Minimum Required Capitalization. A QB shall have a minimum combined capital accounts of P300.0 million.

Combined capital accounts shall mean the total capital stock, retained earnings and profit and loss summary, net of (a) such unbooked valuation reserves and other capital adjustments as may be required by the Bangko Sentral, (b) total outstanding unsecured credit accommodations, both direct and indirect, to directors, officers, all stockholders and their related interests (DOSRI) (c) total outstanding unsecured loans, other credit accommodations and guarantees granted to subsidiaries, and (d) total outstanding loans, other credit accommodations and guarantees granted to related parties that are not at arm's length terms as determined by the appropriate supervising department of the Bangko Sentral. With respect to Item *"b"* hereof, the provisions of Sec. 4326Q shall apply except that in the definition of *stockholders* in Subsec. 4326Q.1, the qualification that his stockholdings, individually and/or together with his related interests in the lending QB, amount to ten percent (10%) or more of the total subscribed capital stock of the QB, shall not apply for purposes of this Item. Any appraisal surplus or appreciation credit as a result of appreciation or an increase in book value of the assets of the QB shall be excluded, except in the case of merger and consolidation, where the appraisal increment resulting from the revaluation shall form part of capital for purposes of determining single borrower's limit and capital-to-risk assets ratio.

Any foreign equity shall be registered with and approved by the Board of Investments and the appropriate department of the Bangko Sentral.

(As amended by Circular No. 560 dated 31 January 2007, as amended by Circular No. 914 dated 23 June 2016)

Sec. 4112Q *(2008 - 4107Q)* Minimum Capital of Investment House. The minimum paid-in capital requirement for an IH shall be P300 million pursuant to R.A. No. 129, as amended by R.A. No. 8366.

Sec. 4113Q *(2008 - 4108Q)* Sanctions. Any or all of the following sanctions may be imposed on any QB which fails to maintain at least the applicable minimum capital under Secs. 4111Q and 4112Q:

(1) Suspension of authority to engage in quasi-banking functions;

(2) Suspension of authority to engage in trust/investment management activities (in the case of an IH);

(3) Cease-and-desist order (in the case of an IH);

(4) No new/renewal/extension of credit accommodations to DOSRI;

(5) Prohibition against declaration of cash dividends;

(6) Suspension of the privilege to establish and/or open approved branches, agencies, offices, etc.; and

(7) Other sanctions as may be imposed by the Monetary Board.

Sec. 4114Q (Reserved)

E. RISK-BASED CAPITAL

Sec. 4115Q *(2008 - 4116Q)* Basel II Risk-Based Capital. The guidelines implementing the revised risk-based capital adequacy framework for the Philippine banking system to conform to Basel III recommendations are provided in *Appendix Q-46*.

These guidelines apply to all UBs and KBs, as well as their subsidiary banks and QBs. The risk-based capital ratio of a QB, expressed as a percentage of qualifying capital to risk-weighted assets, shall not be less than ten percent (10%) for both solo basis (head office plus branches) and consolidated basis (parent QB plus subsidiary financial allied undertakings, but excluding insurance companies). Other minimum capital ratios include CET1 ratio and Tier 1 capital ratios of six percent (6.0%) and seven and a half percent (7.5%), respectively. A capital conservation buffer of two and a half percent (2.5%), comprised of CET1 capital, shall likewise be imposed.

The ratios shall be maintained at all times.

(As amended by Circular Nos. 822 dated 13 December 2013, 781 dated 15 January 2013, M-2013-056 dated 10 December 2013, 762 dated 25 July 2012, 716 dated 25 March 2011, 709 dated 10 January 2011, 560 dated 31 January 2007, 588 dated 11 December 2007, M-2007-019 dated 21 June 2007 and Circular No. 538 dated 04 August 2006)

§ 4115Q.1 *(2008 - 4116Q) Scope.* The Basel III guidelines apply to all UBs and KBs as well as their subsidiary banks and QBs.

(As amended by Circular No. 781 dated 15 January 2013)

§ 4115Q.2 ***(Reserved)***

§ 4115Q.3 ***Required reports.*** QBs which are subsidiaries of UBs/KBs shall submit a report of their risk-based capital adequacy ratio on a solo basis (head office plus branches) and on a consolidated basis (parent QB plus subsidiary financial allied undertakings, but excluding insurance companies) quarterly to the appropriate department of the SES in the prescribed forms within the deadlines, i.e., fifteen (15) business days and thirty (30) business days after the end of reference quarter, respectively. Only QBs with subsidiary financial allied undertakings (excluding insurance companies) which under existing regulations are required to prepare consolidated statements of condition on a line-by-line basis shall be required to submit a report on a consolidated basis. The abovementioned reports shall be classified as *Category A-1* reports.

All UBs and KBs as well as their subsidiary banks and QBs shall be subject to all other reporting requirements under the Basel III risk-based capital as may be prescribed by the Bangko Sentral.

Late and/or erroneous reporting of all reports in compliance with the Basel III requirements shall be subject to penalties provided under Subsection 4192Q.2. QBs failing to submit the required reports within the prescribed deadline shall be subject to monetary penalties applicable for delayed reporting under existing regulations.
(Circular No. 842 dated 25 July 2014)

§ 4115Q.4 ***(Reserved)***

§ 4115Q.5 ***Domestic systemically important banks.*** It is the thrust of the Bangko Sentral to ensure that its capital adequacy framework is consistent with the Basel principles. Hence, the Bangko Sentral is adopting policy measures for Domestic Systemically Important Bank (DSIBs), which are essentially aligned with the documents issued by BCBS on global systemically important banks (GSIBs) and DSIBs. The broad aim of the policies is to reduce the probability of failure of DSIBs by increasing their going-concern loss absorbency and to reduce the extent or impact of failure of DSIBs on the domestic/real economy.

The guidelines shall apply on a consolidated basis to all UBs and KBs, including branches of foreign banks established under Republic Act No. 7721 (An Act Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines and for Other Purposes), as amended by R.A. No. 10641.

The framework for dealing with domestic systemically important banks consists of 3 parts, as follows:

a. Assessment methodology

The impact of a DSIB's failure to the domestic economy shall be assessed based on bank-specific factors, to wit: (a) size; (b) interconnectedness; (c) substitutability/financial institution infrastructure; and (d) complexity. Ten indicators related to these categories shall be used to identify DSIBs. These indicators reflect the factors or criteria which makes a bank significant for the stability of the financial system and the economy.

b. Higher loss absorbency (HLA) and interaction with other elements of Basel III framework

Banks that will be identified as DSIBs shall be required to have higher loss absorbency. The HLA requirement is aimed at ensuring that DSIBs have a higher share of their balance sheets funded by instruments which increase their resilience as a going concern, considering that the failure of a DSIB is expected to have a greater impact on the domestic financial system and economy.

To deternmine banks' compliance with the additional CET1 requirement for DSIBs, the minimum ratio should be complied with by the parent bank and its subsidiary banks and quasi-banks on both solo and consolidated bases.

c. Intensive supervisory approach

Banks identified as DSIBs shall include in their Internal Capital Adequacy Assessment Process (ICAAP) document concrete and reasonable recovery plans which shall be implemented in case the bank breaches the HLA capital requirement. The recovery plans shall include guidelines and action plans to be taken to restore the DSIB's financial condition to viable level in cases of significant detoriation in certain scenarios. This shall include specific initiatives appropriate to the Bank's risk profile such as capital rising activities, streamlining of businesses, restructuring and disposal of assets, to improve capital position.

The guidelines on the framework for dealing with domestic systemically important banks is shown in *Appendix Q-62.*

(Circular No. 856 dated 29 October 2014)

§ 4115Q.6 *Basel III Leverage Ratio Framework.*

a. The Basel III Leverage Ratio is designed to act as a supplementary measure to the risk-based capital requirements. The leverage ratio intends to restrict the build-up of leverage in the banking sector to avoid destabilizing deleveraging processes which can damage the broader financial system and the economy. Likewise, it reinforces the risk-based requirements with a simple, non-risk based "backstop" measure.

The Basel III leverage ratio is defined as the capital measure (the numerator) divided by the exposure measure (the denominator), with this ratio expressed as percentage:

$$\text{Basel III Leverage Ratio} = \frac{\text{Capital Measure (Tier 1 Capital)}}{\text{Exposure Measure}}$$

The leverage ratio shall not be less than 5.0 percent computed on both solo (head office plus branches) and consolidated bases (including subsidiary financial allied undertakings but excluding insurance companies).

The guidelines implementing the Basel III Leverage Ratio framework are provided in *Appendix Q-65*. The guidelines shall apply to subsidiary QBs of UBs and KBs.

Starting 31 December 2014 and every quarter thereafter until 31 December 2016, concerned QBs shall submit the Basel III Leverage Ratio reporting template, including required disclosure templates, on both solo and consolidated bases for monitoring purposes. For the periods ended 31 December 2014, 31 March 2015 and 30 June 2015, the reports shall be submitted within 30 banking days from 30 June 2015 on both solo and consolidated bases. For the succeeding quarters, the report shall be submitted semi-annually, each submission covering two quarters on both solo and consolidated bases. Report submission shall be 15 banking days and 30 banking days on solo and consolidated bases, respectively, from the end of the most recent reference quarter. The report submission is summarized below:

Report Date	Reference Date	Deadline of Submission
31 December 2014 31 March 2015 30 June 2015	30 June 2015	30 banking days on both solo and consolidated bases from end of reference date
30 September 2015 31 December 2015	31 December 2015	15 banking days on solo basis from end of reference date and 30 banking days on consolida-ted basis from end of reference date
31 March 2016 30 June 2016	30 June 2016	
30 September 2016 31 December 2016	31 December 2016	

During the monitoring period, the Bangko Sentral shall continue to assess the calibration as well as the treatment of the components of the leverage ratio. Final guidelines shall be issued in view of the changes to the framework as well as migration from monitoring of the leverage ratio to a Pillar 1 requirement starting 01 January 2017. Public disclosure of information relative to leverage ratio shall not be required during the monitoring period, i.e., 31 December 2014 to December 2016.

b. *Sanctions*. QBs shall not be penalized on any breach on the 5.0 percent minimum leverage ratio during the monitoring period, i.e., 31 December 2014 to 31 December 2016. However, late and/or erroneous reports shall be subject to penalties provided under Subsection 4192Q.2. QBs failing to submit the required reports within the prescribed deadlines shall be subject to monetary penalties applicable for delayed reporting under existing regulations. For purposes of imposing monetary penalties, the reports shall be classified as a *Category A-1* report.

(Circular No. 881 dated 09 June 2015 and M-2015-026 dated 16 July 2015)

§ 4115Q.7 - 4115Q.8 *(Reserved)*

§ 4115Q.9 *Sanctions.*

a. *For non-reporting of CAR breaches.* It is the responsibility of the QB CEO to cause the immediate reporting of CAR breaches both to its Board and to the Bangko Sentral. It is likewise the CEO's responsibility to ensure the accuracy of CAR calculations and the integrity of the associated monitoring and reporting system. Any willful violation of the above will be considered as a serious offense for purposes of determining the appropriate monetary penalty that will be imposed on the CEO. In addition, the CEO shall be subject to the following non-monetary sanctions:

1) First offense – warning;

2) Second offense – reprimand;

3) Third offense – 1 month suspension without pay; and

4) Further offense – disqualification.

b. *For non-compliance with required disclosures.* Willful non-disclosure or erroneous disclosure of any item required to be disclosed under this framework in either the Annual Report or the Published Statement of Condition shall be considered as a serious offense for purposes of determining the appropriate monetary penalty that will be imposed on the QB. In addition, the CEO and the Board shall be subject to the following non-monetary sanctions:

1) First offense – warning on CEO and the Board;

2) Second offense – reprimand on CEO and the Board;

3) Third offense – one (1) month suspension of CEO without pay; and

4) Further offense – possible disqualification of the CEO and/or the Board.

(Circular No. 538 dated 04 August 2006, as amended by Circular Nos. 762 dated 25 July 2012, 716 dated 25 March 2011, 709 dated 10 January 2011, 605 dated 05 March 2008, 588 dated 11 December 2007, M-2007-019 dated 21 June 2007, Circular No. 560 dated 31 January 2007 and M-2006-022 dated 24 November 2006)

Sec. 4116Q Basel I Risk-Based Capital. The risk-based capital ratio of a QB, expressed as a percentage of qualifying capital to risk-weighted assets, shall not be less than ten percent (10%) for both solo basis (head office plus branches) and consolidated basis (parent QB plus subsidiary financial allied undertakings, but excluding insurance companies).

(As amended by Circular No. 588 dated 11 December 2007, M-2007-019 dated 21 June 2007, Circular Nos. 560 dated 31 January 2007 and 538 dated 04 August 2006)

§ 4116Q.1 ***Scope.*** QBs that are not subsidiaries of UBs or KBs shall continue to be subject to the risk-based capital adequacy framework, as provided in Subsecs. 4116Q.2 to 4116Q.6.

§ 4116Q.2 ***(2008 - 4116Q.1) Qualifying capital.*** The qualifying capital shall be the sum of -

a. *Tier 1 (core) capital* -

(1) Paid-up common stock;

(2) Deposit for common stock subscription;

(3) Paid-up perpetual and non-cumulative preferred stock;

(4) Deposit for perpetual and non-cumulative preferred stock subscription;

(5) Common stock dividends distributable;

(6) Perpetual and non-cumulative preferred stocks dividends distributable;

(7) Surplus;

(8) Surplus reserves;

(9) Undivided profits; and

(10)Minority interest in the equity of subsidiary financial allied undertakings which are less than wholly-owned: *Provided,* That a QB shall not use minority interests in the equity accounts of consolidated subsidiaries as avenue for introducing into its capital structure elements that might not otherwise qualify as Tier 1 capital or that would, in effect, result in an excessive reliance on preferred stock within Tier 1:

Provided, further, That the following items shall be deducted from the total of Tier 1 capital:

(a) Common stock treasury shares;

(b) Perpetual and non-cumulative preferred stock treasury shares;

(c) Net unrealized losses on underwritten listed equity securities purchased (for IH);

(d) Unbooked valuation reserves and other capital adjustments based on the latest report of examination as approved by the Monetary Board;

(e) Total outstanding unsecured credit accommodations, both direct and indirect, to DOSRI;

(f) Total outstanding unsecured loans, other credit accommodations and guarantees granted to subsidiaries;

(g) Total outstanding loans, other credit accommodations and guarantees granted to related parties that are not at arm's length terms as determined by the appropriate supervising department of the Bangko Sentral;

(h) Deferred income tax; and

(i) Goodwill.

b. *Tier 2 (supplementary) capital which shall be the sum of* -

(1) *Upper Tier 2 (UT2) capital* -

(a) Paid-up perpetual and cumulative preferred stock;

(b) Deposit for perpetual and cumulative preferred stock subscription;

(c) Perpetual and cumulative preferred stock dividends distributable;

(d) Appraisal increment reserve - QB premises, as authorized by the Monetary Board;

(e) Net unrealized gains on underwritten listed equity securities purchased: *Provided,* That the amount thereof that may be included in UT2 capital shall be subject to a fifty-five percent (55%) discount (for IH);

(f) General loan loss provision: *Provided,* That the amount thereof that may be included in UT2 capital shall be limited to a maximum of one and twenty-five hundredths percent (1.25%) of gross risk-weighted assets, and any amount in excess thereof shall be deducted from the total risk-weighted assets in computing the denominator of the risk-based capital ratio; and

(g) With prior Bangko Sentral approval, unsecured subordinated debt (UnSD) with a minimum original maturity of at least ten (10) years, subject to the following conditions:

(i) It must not be secured nor covered by a guarantee of the issuer or related party;

(ii) It must be subordinated in the right of payment of principal and interest to all creditors of the QB, except those creditors expressed to rank equally with, or behind holders of the debt. Subordinated creditors must waive their right to set off any amounts they owe the QB against subordinated amounts owed to them by the QB. The issue documentation must clearly state that the debt is subordinated;

(iii) It must be fully paid-up. Only the net proceeds actually received from debt issues can be included as capital. If the debt is issued at a premium, the premium cannot be counted as part of capital;

(iv) It must not be redeemable at the initiative of the holder;

(v) It must not contain any clause which requires acceleration of payment of principal, except in the event of insolvency;

(vi) It must not be repayable prior to maturity without the prior consent of the Bangko Sentral: *Provided*, That repayment may be allowed in connection with call option only after a minimum of five (5) years from issue date and only if – (1) the QB's capital ratio is at least equal to the required minimum capital ratio; and (2) the debt is simultaneously replaced with issues of new capital which is neither smaller in size nor of lower quality than the original issue;

(vii) It may allow a moderate step-up in the interest rate in conjunction with a call option, only if the step-up occurs at a minimum of ten (10) years after the issue date and if it results in an increase over the initial rate that is not more than 100 basis points: *Provided*, That only one (1) rate step up shall be allowed over the life of the instrument;

(viii) It must provide for possible conversion into common shares or preferred shares or possible deferral of payment of principal and interest if the QB's capital ratio becomes less than the required minimum capital ratio;

(ix) It must provide for the principal and interest on the debt to absorb losses where the QB would not otherwise be solvent;

(x) It must allow deferment of interest payment on the debt in the event of, and at the same time as, the elimination of dividends on all outstanding common or preferred stock of the issuer. It is acceptable for the deferred interest to bear interest, but the interest rate payable on deferred interest should not exceed market rates;

(xi) It must be underwritten by a third party not related to the issuer QB nor acting in reciprocity for and in behalf of the issuer QB;

(xii) It must be issued in minimum denominations of at least P500,000 or its equivalent; and

(xiii) It must clearly state on its face that it is not a deposit and is not insured by the PDIC:

Provided, That it shall be subject to a cumulative discount factor of twenty percent (20%) per year during the last five (5) years to maturity [i.e., twenty percent (20%) if the remaining life is four (4) years to less than five (5) years, forty percent (40%) if the remaining life is three (3) years to less than four (4) years, etc.]: *Provided, further,* That where it is denominated in a foreign currency, it shall be revalued periodically (at least monthly) in Philippine peso at prevailing exchange rate using the same exchange rate used for revaluation of foreign currency-denominated assets, liabilities and forward contracts under existing regulations: *Provided, furthermore,* That, for purposes of reserve requirement regulation, it shall not be treated as a deposit substitute liability or other forms of borrowings:

Provided, That the following items shall be deducted from the total of UT2 capital:

(h) Perpetual and cumulative preferred stock treasury shares;

(2) *Lower Tier 2 (LT2) capital* -

(a) Paid-up limited life redeemable preferred stock: *Provided,* That these shall be subject to a cumulative discount factor of twenty percent (20%) per year during the last five (5) years to maturity [i.e., twenty percent (20%) if the remaining life is four (4) years to less than five (5) years, forty percent (40%) if the remaining life is three (3) years to less than four (4) years, etc.];

(b) Deposit for limited life redeemable preferred stock subscription;

(c) Limited life redeemable preferred stock dividends distributable; and

(d) With prior Bangko Sentral approval, UnSD with a minimum original maturity of at least five (5) years, subject to the following conditions:

(i) It must not be secured nor covered by a guarantee of the issuer or related party;

(ii) It must be subordinated in the right of payment of principal and interest to all creditors of the QB, except those creditors expressed to rank equally with, or behind holders of the debt. Subordinated creditors must waive their right to set off any amounts they owe the QB against subordinated amounts owed to them by the QB. The issue documentation must clearly state that the debt is subordinated;

(iii) It must be fully paid-up. Only the net proceeds actually received from debt issues can be included as capital. If the debt is issued at a premium, the premium cannot be counted as part of capital;

(iv) It must not be redeemable at the initiative of the holder;

(v) It must not contain any clause which requires acceleration of payment of principal, except in the event of insolvency;

(vi) It must not be repayable prior to maturity without the prior consent of the Bangko Sentral: *Provided*, That repayment may be allowed in connection with call option only after a minimum of five (5) years from issue date and only if – (1) the QB's capital ratio is at least equal to the required minimum capital ratio; and (2) the debt is simultaneously replaced with issues of new capital which is neither smaller in size nor of lower quality than the original issue;

(vii) It may allow a moderate step-up in the interest rate in conjunction with a call option, only if the step-up occurs at a minimum of five (5) years after the issue date and if it results in an increase over the initial rate that is not more than 100 basis points or fifty percent (50%) of the initial credit spread, at the option of the QB: *Provided*, That only one (1) rate step up shall be allowed over the life of the instrument;

(viii) It must be underwritten by a third party not related to the issuer QB nor acting in reciprocity for and in behalf of the issuer QB;

(ix) It must be issued in minimum denominations of at least P500,000 or its equivalent; and

(x) It must clearly state on its face that it is not a deposit and is not insured by the PDIC:

Provided, That it shall be subject to a cumulative discount factor of twenty percent (20%) per year during the last five (5) years to maturity [i.e., twenty percent (20%) if the remaining life is four (4) years to less than five (5) years, forty percent (40%) if the remaining life is three (3) years to less than four (4) years, etc.]: *Provided, further,* That where it is denominated in a foreign currency, it shall be revalued periodically (at least monthly) in Philippine peso using the same exchange rate used for revaluation of foreign currency denominated assets, liabilities and forward contracts under existing regulations: *Provided, finally,* That, for purposes of reserve requirement regulation, it shall not be treated as equivalent to a deposit substitute liability or other forms of borrowings.

Provided, That the following items shall be deducted from the total of LT2 capital:

(1) Limited life redeemable preferred stock treasury shares; and

(2) Sinking fund for redemption of limited life redeemable preferred stock: *Provided*, That the amount to be deducted shall be limited to the balance of redeemable preferred stock after applying the cumulative discount factor:

Provided, further, That the total amount of LT2 capital that may be included in the Tier 2 capital shall be a maximum of fifty percent (50%) of total Tier 1 capital (net of deductions therefrom): *Provided, furthermore*, That the total amount of UT2 and LT2 capital that may be included in the qualifying capital shall be a maximum of 100% of total Tier 1 capital (net of deductions therefrom);

c. *Less deductions from the total of Tier 1 and Tier 2 capital, as follows:*

(1) Investments in equity of unconsolidated subsidiary banks and other subsidiary financial allied undertakings, but excluding insurance companies (for solo basis);

(2) Investments in debt capital instruments of unconsolidated subsidiary banks (for solo basis);

(3) Investments in equity of subsidiary insurance companies and subsidiary non-financial allied undertakings;

(4) Reciprocal investments in equity of other banks/enterprises; and

(5) Reciprocal investments in unsecured subordinated term debt instruments of other banks/QBs in excess of the lower of (i) an aggregate ceiling of five percent (5%) of total Tier 1 capital of the QB; or (ii) ten percent (10%) of the total outstanding unsecured subordinated term debt issuance of the other bank/QB:

Provided, That any asset deducted from the qualifying capital in computing the numerator of the risk-based capital ratio shall not be included in the risk-weighted assets in computing the denominator of the ratio.

Capital instruments issued by QBs starting 01 January 2014 shall be subject to the criteria for inclusion as qualifying capital provided in *Appendices Q-46 Annexes A* to *C* and *Annexes E* to *F*.

(As amended by Circular Nos. 914 dated 23 June 2016, 781 dated 15 January 2013, 762 dated 25 July 2012, 716 dated 25 March 2011, 709 dated 10 January 2011 and 560 dated 31 January 2007)

§ 4116Q.3 *(2008 - 4116Q.2) Risk-weighted assets.* The risk-weighted assets shall be determined by assigning risk weights to amounts of on-balance sheet assets and to credit equivalent amounts of off-balance sheet items (inclusive of derivative contracts): *Provided,* That the following shall be deducted from the total risk-weighted assets:

(1) general loan loss provision (in excess of the amount permitted to be included in UT2 capital); and

(2) unbooked valuation reserves and other capital adjustments affecting asset accounts based on the latest report of examination as approved by the Monetary Board.

a. *On-balance sheet assets*. The risk-weighted amount shall be the product of the book value of the asset multiplied by the risk weight associated with that asset, as follows:

(1) *Zero percent (0%) risk weight*

(a) Cash on hand;

(b) Claims on or portions of claims guaranteed by or collateralized by securities issued by -

(i) Philippine national government and Bangko Sentral; and

(ii) Central governments and central banks of foreign countries with the highest credit quality as defined in Subsec. 4116Q.4;

(c) Loans to the extent covered by hold-out on, or assignment of deposit substitutes maintained with the lending QB;

(d) Portions of loans covered by Industrial Guarantee and Loan Fund (IGLF) guarantee;

(e) Real estate mortgage (REM) loans to the extent guaranteed by the Home Guaranty Corporation (HGC);

(f) Loans to the extent guaranteed by the Trade and Investment Development Corporation of the Philippines (TIDCORP);

(g) Residual value of leased equipment to the extent covered by deposits on lease contracts (for FCs);

(h) Lease contract receivables to the extent covered by the excess of deposits on lease contracts over residual value of leased equipment (for FCs); and

(i) Foreign currency notes and coins on hand acceptable as international reserves;

(2) *Twenty percent (20%) risk weight*

(a) Checks and other cash items (COCIs);

(b) Claims on or portions of claims guaranteed by or collateralized by securities issued by non-central government public sector entities of foreign countries with the highest credit quality as defined in Subsec. 4116Q.4;

(c) Claims on or portions of claims guaranteed by Philippine incorporated banks/QBs with the highest credit quality as defined in Subsec. 4116Q.4;

(d) Claims on or portions of claims guaranteed by foreign incorporated banks with the highest credit quality as defined in Subsec. 4116Q.4;

(e) Claims on or portions of claims guaranteed by or collateralized by securities issued by multilateral development banks (MDBs);

(f) Loans to exporters to the extent guaranteed by Small Business Guarantee and Finance Corporation (SBGFC); and

(g) Foreign currency COCIs denominated in currencies acceptable as international reserves;

(3) *Fifty percent (50%) risk weight* -

(a) Loans for housing purpose, fully secured by first mortgage on residential property that is or will be occupied or leased out by the borrower; and

(b) Local government unit (LGU) bonds which are covered by deed of assignment of Internal Revenue Allotment (IRA) of the LGU and guaranteed by the LGU Guarantee Corporation;

(4) *One hundred percent (100%) risk weight* -

All other assets including, among others, the following:

(a) Claims on central governments and central banks of foreign countries other than those with the highest credit quality;

(b) Claims on Philippine LGUs;

(c) Claims on non-central government public sector entities of foreign countries other than those with the highest credit quality;

(d) Claims on government-owned or controlled commercial corporations;

(e) Claims on Philippine incorporated banks/QBs other than those with the highest credit quality;

(f) Claims on foreign incorporated banks other than those with the highest credit quality;

(g) Loans to companies engaged in speculative residential building or property development;

(h) Claims on the private sector (except those deducted from capital);

(i) Equity investments (except those deducted from capital);

(j) Equipment and other real estate for lease (for FCs);

(k) Real estate for sale/lease;

(l) QB premises, furniture, fixtures and equipment (net);

(m) Appraisal increment - QB premises, furniture, fixtures and equipment (net);

(n) Real and other properties owned or acquired (net);

(o) Foreign currency notes and coins on hand not acceptable as international reserves; and

(p) Foreign COCIs not denominated in foreign currencies acceptable as international reserves, except those which are deducted from capital, as follows:

(i) Total outstanding unsecured credit accommodations, both direct and indirect, to DOSRI;

(ii) Total outstanding unsecured loans, other credit accommodations and guarantees granted to subsidiaries;

(iii) Total outstanding loans, other credit accommodations and guarantees granted to related parties that are not at arm's length terms as determined by the appropriate supervising department of the Bangko Sentral;

(iv) Deferred income tax;

(v) Goodwill;

(vi) Sinking fund for redemption of limited life redeemable preferred stock;

(vii) Equity investments in unconsolidated subsidiary banks and other subsidiary financial allied undertakings, but excluding insurance companies;

(viii) Investments in debt capital instruments of unconsolidated subsidiary banks;

(ix) Equity investments in subsidiary insurance companies and subsidiary non-financial allied undertakings;

(x) Reciprocal investments in equity of other banks/enterprises; and

(xi) Reciprocal investments in unsecured subordinated term debt instruments of other banks/QBs, in excess of the lower of (i) an aggregate ceiling of five percent (5%) of total Tier 1 capital of the QB; or (ii) ten percent (10%) of the total outstanding unsecured subordinated term debt issuance of the other bank/QB;

b. *Off-balance sheet items*. The risk-weighted amount shall be calculated using a two (2)-step process.

First, the credit equivalent amount of an off-balance sheet item shall be determined by multiplying its notional principal amount by the appropriate credit conversion factor, as follows:

(1) *One hundred percent (100%) credit conversion factor* -

This shall apply to direct credit substitutes, e.g., general guarantees of indebtedness and acceptances (including endorsements with the character of acceptances), and shall include -

(a) Outstanding guarantees issued

This shall also apply to sale and repo agreements and asset sales with recourse where the credit risk remains with the QB [to the extent not included in the (BS)], as well as to forward asset purchases, and partly-paid shares and securities, which represent commitments with certain drawdown: *Provided,* That these items shall be weighted according to the type of asset and not according to the type of counterparty with whom the transaction has been entered into.

(2) *Fifty percent (50%) credit conversion factor* - This shall apply to -

(a) Note issuance facilities and revolving underwriting facilities (for IHs); and

(b) Other commitments, e.g., formal standby facilities and credit lines with an original maturity of more than one (1) year. This shall include -

(i) Underwritten accounts unsold (for IHs).

(3) *Zero percent (0%) credit conversion factor* -

This shall apply to commitments with an original maturity of up to one (1) year.

This shall also apply to those not involving credit risk, and shall include -

(a) Items held for safekeeping/ custodianship;

(b) Trust department accounts;

(c) Items held as collaterals; etc.

Second, the credit equivalent amount shall be treated like any on-balance sheet asset and shall be assigned the appropriate risk weight, i.e., according to the obligor, or if relevant, the qualified guarantor or the nature of collateral.

c. *Derivative contracts*. The credit equivalent amount shall be the sum of the current credit exposure (or replacement cost) and an estimate of the potential future credit exposure (or add-on): *Provided*, That the following shall not be included in the computation:

(1) Instruments which are traded on exchange where they are subject to daily receipt and payment of cash variation margin; and

(2) Exchange rate contracts with original maturity of fourteen (14) calendar days or less.

The current credit exposure shall be the positive mark-to-market value of the contract (or zero if the mark-to-market value is zero or negative). The potential future credit exposure shall be the product of the notional principal amount of the contract multiplied by the appropriate potential future credit conversion factor, as indicated below:

Residual Maturity	Interest Rate Contract	Exchange Rate Contract
One (1) year or less	0.0%	1.0%
Over one (1) year to five (5) years	0.5%	5.0%
Over five (5) years	1.5%	7.5%

Provided, That for contracts with multiple exchanges of principal, the factors are to be multiplied by the number of remaining payments in the contract: *Provided, further,* That for contracts that are structured to settle outstanding exposure following specified payment dates and where the terms are reset such that the market value of the contract is zero on these specified dates, the residual maturity would be set equal to the time until the next reset date, and in the case of interest rate contracts with remaining maturities of more than one (1) year that meet these criteria, the potential future credit conversion factor is subject to a floor of five tenths percent (0.5%): *Provided, furthermore,* That no potential future credit exposure shall be calculated for single currency floating/floating interest rate swaps, i.e., the credit exposure on these contracts would be evaluated solely on the basis of their mark-to-market value.

The credit equivalent amount shall be treated like any on-balance sheet asset, and shall be assigned the appropriate risk weight, i.e., according to the obligor, or if relevant, the qualified guarantor or the nature of collateral: *Provided*, That a fifty percent (50%) risk weight shall be applied in respect of obligors which would otherwise attract a 100% risk weight.

The extent to which a claim is guaranteed/collateralized shall be determined by the amount of guarantee coverage/current market value of securities pledged, in comparison with the book value of the on-balance sheet asset or the notional principal amount of the off-balance sheet exposure, except for derivative contracts for which determination is generally made in relation to credit equivalent amount.

(As amended by Circular No. 914 dated 23 June 2016, as amended by Circular No. 914 dated 23 June 2016)

§ 4116Q.4 *(2008 - 4116Q.3) Definitions.*

a. *Amount due from the Bangko Sentral.* This refers to all deposits of the reporting QB with the Bangko Sentral.

b. *Appraisal increment reserve.* This shall form part of capital only if authorized by the Monetary Board.

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c. *QB premises, furniture, fixtures and equipment net of depreciation*. This refers to the cost of land and improvements used as the QB premises, and furniture, fixtures and equipment owned by the QB.

d. *Cash on hand*. This refers to total cash held by the QB consisting of both notes and coins in Philippine currency.

e. *Central government of a foreign country*. This refers to the central government which is regarded as such by a recognized banking supervisory authority in that country.

f. *Claims*. This refer to loans or debt obligations of the entity on whom the claim is held, and shall include, but shall not be limited to, the following accounts, inclusive of accumulated market gains/ (losses) and accumulated bond discount/ (premium amortization), and net of specific allowance for probable losses:

(1) Due from BSP;

(2) Due from other banks;

(3) Interbank loans receivable;

(4) Loans and discounts, including lease contract receivables, net of advance leasing income received and receivables financed for Financing Companies (FCs);

(5) Restructured loans;

(6) Trading account securities - loans;

(7) Underwriting accounts - debt securities (for IHs);

(8) Underwriting accounts - equity securities (for IHs);

(9) Trading account securities - debt securities;

(10) Trading account securities - equity securities (for IHs);

(11) Available for sale securities;

(12) Investments in bonds and other debt instruments (IBODI); and

(13) Others, e.g., accounts receivable and accrued interest receivable.

Accruals on a claim shall be classified and risk weighted in the same way as the claim.

g. *Consolidated basis*. This refers to combined statement of condition (SOC) of parent QB and subsidiary financial allied undertakings, but excluding insurance companies.

h. *Debt capital instruments*. This refers to unsecured subordinated term debt instruments qualifying as capital of banks.

i. *Equity investments*. This refers to investments in capital stock of companies, firms or enterprises, made for purposes of control, affiliation or other continuing business advantage.

j. *Exchange rate contracts*. This includes cross-currency interest rate swaps, forward foreign exchange (FX) contracts, currency futures, currency options purchased and similar instruments.

k. *Financial allied undertakings*. This refers to enterprises or firms with homogenous or similar activities/business/ functions with the financial intermediary and may include but not limited to leasing companies, banks, IHs, FCs, credit card companies, FIs catering to small and medium scale industries (including venture capital corporations), companies engaged in stock brokerage/securities dealership, companies engaged in FX dealership/ brokerage, holding companies, and such other similar activities as the Monetary Board may declare as appropriate from time to time, but excluding insurance companies.

l. *Foreign country/foreign incorporated bank and Philippine incorporated bank/QB with the highest credit quality*. This refers to a foreign country/foreign incorporated bank and Philippine incorporated bank/QB given the highest credit rating of any two (2) of the following internationally accepted rating agencies:

Rating Agency	Highest Rating
(1) Moody's	"Aa3" and above
(2) Standard and Poor's	"AA-" and above
(3) Fitch IBCA	"AA-" and above
(4) Others as may be approved by the Monetary Board	

m. *Forward asset purchases.* This refers to a commitment to purchase a loan, security or other asset at a specified future date, usually on pre-arranged terms.

n. *Goodwill.* This refers to an intangible asset that represents the excess of the purchase price over the fair market value of identifiable assets acquired less liabilities assumed in acquisitions accounted for under the purchase method of accounting.

o. *Interest rate contracts.* This includes single-currency interest rate swaps, basis swaps, forward rate agreements, interest rate futures, interest rate options purchased and similar instruments.

p. *Loans for housing purpose, fully secured by first mortgage on residential property that is or will be occupied or leased out by the borrower.* This shall not include loans to companies engaged in speculative residential building or property development.

q. *Loans to the extent covered by hold-out on, or assignment of deposit substitutes maintained in the lending QB.* A loan shall be considered as secured by a hold-out on, or assignment of deposit substitute only if such deposit substitute account is covered by a hold-out agreement or deed of assignment signed by the investor/placer in favor of the QB. This shall not include loans transferred to/carried by the QB's trust department secured by deposit substitute hold-out/assignment.

r. *MDBs.* This refers to International Bank for Reconstruction and Development (IBRD), Inter-American Development Bank, Asian Development Bank (ADB), African Development Bank (AfDB), European Investment Bank (EIB) and European Bank for Reconstruction and Development.

s. *Non-central government public sector entity of a foreign country.* This refers to entities which are regarded as such by a recognized banking supervisory authority in the country in which they are incorporated.

t. *Note issuance facilities and revolving underwriting facilities.* This refers to an arrangement whereby a borrower may draw down funds up to a prescribed limit over an extended period by repeated issues to the market of promissory notes which the QB committed to underwrite.

u. *Other commitments.* This includes undrawn portion of any binding arrangements which obligate the QB to provide funds at some future date.

v. *Other commitments with an original maturity of up to one (1) year.* This includes any revolving or undated open-ended commitments, e.g., unused credit lines: *Provided,* That these can be unconditionally cancelled at any time and are subject to credit revision at least annually.

w. *Partly-paid shares and securities.* This arises where only a part of the issue price or nominal face value of a security purchased has been subscribed and the issuer may call for the outstanding balance (or a further installment), either on a date predetermined at the time of issue, or at an unspecified future date.

x. *Perpetual preferred stock.* This refers to preferred stock that does not have a maturity date, that cannot be redeemed at the option of the holder of the instrument, and that has no provision that will require future redemption of the issue. Consistent with these provisions, any perpetual preferred stock with a feature permitting redemption at the option of the issuer may qualify as capital only if the redemption is subject to prior approval of the BSP.

y. *Philippine LGUs.* This refers to the Philippine government units below the level of national government, such as city, provincial, and municipal governments.

z. *Philippine national government.* This shall refer to the Philippine national government and its agencies such as departments, bureaus, offices, and instrumentalities, but excluding government owned and-controlled commercial corporations.

(1) *Private sector*. This refers to entities other than banks, QBs and governments. This shall also include commercial companies owned by the public sector, such as government-owned or-controlled commercial corporations.

(2) *Redeemable preferred stock*. This refers to preferred stock which may be redeemed at the specific dates or periods fixed for redemption.

(3) *Sale and repo agreements and asset sales with recourse*. This refers to arrangements whereby a QB sells a loan, security or fixed asset to a third party with a commitment to repurchase the asset after a certain time, or in the event of a certain contingency.

(4) *Solo basis*. This refers to combined SOC of head office and branches.

(5) *Subsidiary*. This 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 QB.

(6) *Treasury shares*. This refers to the QB's own shares of stock that have been issued and fully paid for, subsequently reacquired through purchase or donations and have not been cancelled or re-issued. This also refers to shares of a parent QB held by a subsidiary financial allied undertaking in a consolidated statement of condition (CSOC).

§ 4116Q.5 ***(2008 - 4116Q.4) Required reports.*** QBs shall submit a report of their risk-based CAR on a solo basis (head office plus branches) and on a consolidated basis (parent QB plus subsidiary financial allied undertakings, but excluding insurance companies) quarterly to the appropriate department of the SES in the prescribed forms within the deadlines, i.e., fifteen (15) business days and thirty (30) business days after the end of reference quarter, respectively. Only QBs with subsidiary financial allied undertakings (excluding insurance companies) which under existing regulations are required to prepare consolidated statements of condition on a line-by-line basis shall be required to submit report on consolidated basis. The above-mentioned reports shall be classified as *Category A-2* reports.

§ 4116Q.6 ***(2008 - 4116Q.5) Sanctions*** Whenever the capital accounts of a QB are deficient with respect to the prescribed CAR, the Monetary Board after considering a report of the appropriate department of the SES on the state of solvency of the institution concerned, shall limit or prohibit the distribution of the net profits and shall require that part or all of net profits be used to increase the capital accounts of the QB until the minimum requirement has been met. The Monetary Board may restrict or prohibit the making of new investments of any sort by the QB, with the exception of purchases of readily marketable evidences of indebtedness issued by the Philippine national government and BSP included in Item *"a(1)(b)i"* of Subsec. 4116Q.3, until the minimum required capital ratio has been restored.

§ 4116Q.7 ***(2008 - 4116Q.6) Temporary relief.*** In case of QB merger or consolidation, or when a QB is under rehabilitation under a program approved by the BSP, the Monetary Board may temporarily relieve the surviving QB, consolidated QB, or constituent QB or corporations under rehabilitation from full compliance with the required capital ratio for a maximum period of one (1) year.

Sec. 4117Q Treatment of Equity Investment with Reciprocal Stockholdings. For purposes of computing the prescribed ratio of net worth (or combined capital accounts) to risk assets, equity investments of a QB in another QB shall be deducted from its net worth if the investee QB has a reciprocal equity investment in the investing QB, in which case the investment of the QB or the reciprocal investment of the other QB, whichever is lower, shall be deducted from the net worth of the QBs.

Sec. 4118Q Sanctions on Net Worth Deficiency

a. Any QB which is deficient in the capital requirement under Sec. 4115Q shall be liable to the following sanctions:

(1) In case of capital deficiency for five (5) or more times within a reporting period:

(a) For the first offense - a fine of P3,000.

(b) For the second consecutive offense - prohibition from extending new loans or making new investments for a period of thirty (30) calendar days.

New loans and new investments shall refer to any loan or investment involving disbursement of funds, except GS.

(c) For the third consecutive offense - extension of the penalty under the preceding paragraph for another thirty (30) calendar days.

(d) For the fourth consecutive offense - suspension of the Certificate of Authority to engage in quasi-banking functions for a period of thirty (30) calendar days. The suspension shall be automatically lifted if in the final reporting period of the period of suspension, the entity maintains the minimum capital required under Sec. 4115Q and 4116Q as may be applicable for every day of such reporting period.

(2) In case of continuous capital deficiency:

(a) For two (2) consecutive reporting periods - suspension of the Certificate of Authority to engage in quasi-banking functions for a period of thirty (30) calendar days.

(b) For every consecutive reporting period, the suspension shall extend for another thirty (30) calendar days.

(c) The suspension shall be automatically lifted if on the final reporting period of the period of suspension, the entity maintains the minimum capital required under Secs. 4115Q and 4116Q as may be apllicable for every day of such reporting period.

(3) In all of the cases abovementioned, establishment of branches, agencies, extension offices, etc., shall be suspended.

b. For improperly accomplished report, QBs shall pay P600 per day for every day the report is not corrected, counted as of the date the error is brought to its attention until the corrected report is submitted.

c. For willfully making false statements in the report or submitting a false report, the Certificate of Authority for quasi-banking functions shall be suspended/revoked.

d. The Monetary Board may impose additional sanctions on the entity engaged in quasi-banking functions by:

(1) Revoking the Certificate of Authority to engage in quasi-banking functions; and

(2) Such other sanctions as the BSP may deem necessary.

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

Sec. 4119Q Internal Capital Adequacy Assessment Process and Supervisory Review Process. The guidelines on internal capital adequacy assessment process (ICAAP) and BSP's supervisory review process (SRP) are shown in *Appendices Q-53 and Q-54 respectively*.

The ICAAP guidelines shall apply to all UBs and KBs on a group-wide basis.

All covered UBs and KBs are required to submit the interim ICAAP document on or before 30 April 2010 and the final ICAAP document together with the Corporate Secretary's Certificate attesting to the approval by the bank's board of directors on or before 31 January 2011.

The guidelines shall take effect on 01 January 2011.

(Circular No. 639 dated 15 January 2009, as amended by Circular No. 29 December 2009)

Sec. 4120Q (Reserved)

F. (RESERVED)

Secs. 4121Q - 4135Q (Reserved)

G. STOCK, STOCKHOLDERS AND DIVIDENDS

Sec. 4136Q *(2008 - 4126Q)* Dividends. The following rules and regulations shall govern the declaration of dividends on shares of stock, regardless of feature, as well as interest payments on unsecured subordinated debt which meet the qualification requirements of Additional Tier 1 as defined under existing risk-based capital adequacy framework.

Pursuant to Section 57 of R.A. No. 8791, no QB shall declare dividends greater than its accumulated net profits then on hand, deducting therefrom its losses and bad debts. Neither shall the QB declare dividends if, at the time of declaration, it has not complied with the provisions of Subsec. 4136Q.2.

(As amended by Cir. No. 888 dated 09 October 2015)

§ 4136Q.1 *(2008 - 4126Q.1) Definition of terms.* For purposes of this Section, the following definitions shall apply:

a. *Bad debts* shall include any debt on which interest is past due for a period of six (6) months, unless it is well secured and in process of collection.

A loan payable in installment with an automatic acceleration clause shall be considered a bad debt within the contemplation of this Section where installments or amortizations have become past due for a period of six (6) months, unless the loan is well secured and in process of collection. For a loan payable in installments without an acceleration clause, only the installments or amortizations that have become past due for a period of six (6) months and which are not well secured and in the process of collection shall be considered bad debts within the contemplation of this Section.

b. *Well secured* - A debt shall be considered well secured (or fully secured) if it is covered by collateral in the form of a duly constituted mortgage, pledge, or lien on real or personal properties, including securities. The outstanding debt, accrued interest and other pertinent fees and expenses thereon shall not be in excess of seventy percent (70%) of the appraised value (AV) of real estate, or fifty percent (50%) of the other personal properties offered as lien.

c. *In process of collection* - A debt due to a QB shall be considered in process of collection when it is the subject of continuing extrajudicial or judicial proceedings aimed towards its full settlement or liquidation, or otherwise to place it in current status.

The extrajudicial proceedings, such as the writing of collection or demand letters, must have been initiated by the QB and/ or its lawyers before the interest or installments or amortizations on the debt become past due and unpaid for a period of six (6) months.

The debt shall continue to be considered in process of collection for a period of six (6) months counted from date of the first collection or demand letter and if, within this period, the debtor fails to make a payment of at least twenty percent (20%) of the outstanding balance of the principal on his account, plus all interests which may have accrued thereon, the same shall automatically be classified as bad debt unless judicial proceedings are instituted.

The debt shall continue to b considered in process of collection during the pendency of the judicial proceedings. When judgment against the debtor has been obtained, the QB must be active in enforcing the judgment for the debt to continue to be considered in process of collection.

§ 4136Q.2 *(2008 - 4126Q.2) Requirements on the declaration of dividends/net amount available for dividends.*

a. *Requirements on the declaration of dividends*. At the time of declaration, QBs shall have complied with the following:

(1) Clearing account with the BSP is not overdrawn;

(2) Minimum capitalization requirement and risk-based capital ratios as provided under applicable and existing capital adequacy framework;

(3) Capital conservation buffer requirement as defined in Appendix Q-46, Part III, for QBs that are subsidiaries of universal and commercial banks (UBs/KBs);

(4) Higher loss absorbency requirement, phased-in starting 1 January 2017 with full implementation by 01 January 2019, in accordance with DSIBs Framework as provided under 4115Q.5 for QBs that are subsidiaries of U/KBs identified as DSIBs; and

(5) Has not committed any unsafe or unsound practice as defined under existing regulations and/or major acts or omissions[1] as may be determined by the Bangko Sentral to be ground for suspension of dividend distribution, unless this has been addressed by the QB as confirmed by the Monetary Board or the Deputy Governor, SES, as may be applicable, upon recommendation of the appropriate department of SES.

QBs shall ensure compliance with the minimum capital requirement and risk-based capital ratio even after the dividend distribution.

b. *Amount available.* The net amount available for dividends shall be the amount of unrestricted or free retained earnings and undivided profits reported in the Bangko Sentral prudential reports as of the calendar/ fiscal year-end immediately preceding the date of dividend declaration.

The derivation of the amount of dividends from the unrestricted/free retained earnings shall be based on a sound accounting system and loss provisioning processes under existing regulations which takes into account relevant capital adjustments including losses, bad debts and unearned profits or income[2].

(As amended by Circular Nos. 888 dated 09 October 2015 and 571 dated 21 June 2007)

§ 4136Q.3 *(Reserved)*

§ 4136Q.4 *(2008 - 4126Q.3) Reporting and verification.* Declaration of cash dividend shall be reported by the QB concerned to the appropriate department of the SES within ten (10) business days from date of approval of the declaration in the following manner:

a. Submission of a duly notarized certification (*Appendix Q-67)* by the President, or an officer of equivalent rank, and the Chief Compliance Officer stating that the QB has complied with the requirements on the declaration of dividends provided under Subsec. 4136Q.2, as well as other existing applicable laws; and

b. Submission of the Report on Dividends Declared listed under *Appendix Q-3*, which shall be considered a Category A-1 report.

[1] Major acts or omissions is defined as QB's individual failure to comply with the requirements of banking laws, rules and regulations as well as Monetary Board directives having material impact on QB's capital, solvency, liquidity or profitability, and/or those violations classified as major offenses under the Report of Examination, except those classified under unsafe or unsound practice.

[2] Unearned profits or income refers to unrealized items which are considered not available for dividend declaration such as accumulated share/equity in net income of its subsidiaries, associates or joint venture accounted for under the equity method, recognized deferred tax asset, foreign exchange profit arising from revaluation of foreign exchange denominated accounts and others.

However, QBs with major supervisory concerns such as those initiated under prompt corrective action (PCA) or with specific Monetary Board directive to suspend/refrain/restrict dividend declaration, shall be subject to prior Bangko Sentral verification by the appropriate department of the SES. Pending verification of abovementioned reports, no announcement or communication on the declaration of cash dividends nor shall any payment be made thereon until receipt of Bangko Sentral advice thereof.
(As amended by Circular No. 888 dated 9 October 2015)

§ 4136Q.5 ***(2008 - 4126Q.4) Recording of dividends.*** The liability for cash dividends declared shall be taken up in the QB's books upon its declaration.

However, for dividend declarations that are subject to prior Bangko Sentral verification, the liability for cash dividends declared shall be taken up in the QB's books upon receipt of Bangko Sentral advice thereof. A memorandum entry may be made to record the dividend declaration on the date of approval by the board of directors.

For full disclosure purposes, the cash dividends shall be disclosed in the financial statements as a footnote in the statement of changes in equity or in the notes to the financial statements. For dividends declared that is still subject to prior Bangko Sentral verification, disclosure by means of a footnote should include a statement to the effect that the dividend declaration is subject to review by the Bangko Sentral.
(As amended by Circular No. 888 dated 09 October 2015)

§ 4136Q.6 ***(Reserved)***

§ 4136Q.7 ***(2008 - 4126Q.5) Rules on declaration of stock dividends.*** The declaration of stock dividends shall be subject to the preceding regulations on declaration of cash dividends. Additional paid-in capital may be included in the amount available for stock dividends.

§§ 4136Q.8 - 4136Q.9 ***(Reserved)***

§ 4136Q.10 ***Supervisory Enforcement Actions.*** Consistent with Sec. 4009Q the Bangko Sentral may deploy enforcement actions to promote adherence with the rules and regulations governing dividend declaration and bring about timely corrective actions. The Bangko Sentral may issue directives to suspend/refrain/restrict from performing a particular activity, or impose sanctions to limit the level of or suspend any business activity that has adverse effects on the safety or soundness of the QB, among others. Sanctions may likewise be imposed on a QB and/or its directors, officers and/or employees.

The imposition of sanctions shall be without prejudice to the imposition of administrative sanctions under Section 37 of R.A. No. 7653 including declaring as unsafe or unsound (as defined under Section 56 of R.A. No. 8791) the inappropriate dividend declarations, and/or to the filing of appropriate criminal charges against culpable persons as provided under Section 35 of R.A. No. 7653 for the willful making of a false/misleading statement.

Further, QBs subsequently found to have violated the provisions on dividend declaration or have falsely certified/ submitted misleading statements shall be reverted to the prior Bangko Sentral verification wherein the QB can only make an announcement or communication on the declaration of dividends or payment of dividends thereon[1] upon receipt of Bangko Sentral advice thereof.
(Circular No. 888 dated 09 October 2015)

[1] Subject QBs whose shares are listed with any domestic stock exchange may declare dividends and give immediate notice of such declaration to the SEC and the stock exchanges, in compliance with pertinent rules of the SEC: Provided, That, no record date is fixed for such dividend pending verification of the report on such declaration by the appropriate department of the SES.

Sec. 4137Q Deposits for Stock Subscription. Deposits for stock subscription refers to payments made by existing stockholders or new subscribers of the QB on subscription to the increase in the authorized capital, which may be recognized either as a liability or equity.

Deposits for stock subscription shall be recognized as part of equity for prudential reporting purposes when all of the following conditions are met:

a. The deposit for stock subscription meets the definition of an equity instrument under Philippine Accounting Standards (PAS) 32 *Financial Instruments: Presentation* such that the deposit for stock subscription shall not be interest-bearing nor withdrawable by the subscriber;

b. The QB's existing authorized capital is already fully subscribed;

c. The QB's stockholders and board of directors have approved the proposed increase in authorized capital;

d. The QB has filed an application for the amendment of its Articles of Incorporation for the increase in authorized capital with the appropriate department of the SES duly supported by complete documents as listed in Annex B of Circular Letter No. 2009-042 dated 14 May 2009;

Applications for the amendment of Articles of Incorporation for the increase in authorized capital, which have been returned due to insufficiency of supporting documents, shall not qualify for recognition as an equity instrument; and

e. The QB must have obtained approval of the Monetary Board on transactions involving significant ownership of voting shares of stock by any person, natural or juridical, or by one group of persons as provided in Subsec. X126.2.b, if applicable.

Deposits for stock subscription, which do not meet the abovementioned conditions shall be classified as a liability.

Deposits for stock subscription, which meet the conditions to be recognized as equity shall form part of a bank's qualifying capital for purposes of computing the risk-based capital adequacy ratio under Sec. 4115Q.

(Circular 762 dated 25 July 2012)

Secs. 4138Q - 4140Q (Reserved)

H. DIRECTORS, OFFICERS AND EMPLOYEES

Strengthening Corporate Governance. It is the thrust of the Bangko Sentral to continuously strengthen corporate governance in its supervised financial institutions cognizant that this is central in sustaining the resiliency and stability of the financial system. In this light, the Bangko Sentral is aligning its existing regulations with international best practices that promote good corporate governance such as the "Principles for Enhancing Corporate Governance" issued by the Basel Committee on Banking Supervision.

(Circular No. 749 dated 27 February 2012)

Sec. 4141Q Definition; Qualifications; Powers; Responsibilities and Duties of Board of Directors and Directors. The following shall be the definition, qualifications, powers, responsibilities and duties of the board of directors and directors.

§ 4141Q.1 ***Definition/limits.***

a. *Definition of 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 stockholders or those appointed by virtue of the charter of government-owned banks; and

(3) those elected to fill vacancies in the board of directors.

b. *Limits on the number of the members of the board of directors*. Pursuant to Sections 15 and 17 of R.A. No. 8791, there shall be at least five (5), and a maximum of fifteen (15) members of the board of directors of a QB/trust entity: *Provided,* That in case of a QB/trust entity merger or consolidation, the number of directors may be increased up to the total number of the members of board of directors of the merging or consolidating QB/trust entity as provided for in their respective Articles of Incorporation, but in no case to exceed twenty-one (21). The board shall determine the appropriate number of its members to ensure that the number thereof is commensurate with the size and complexity of the bank's operations.

To the extent practicable, the members of the board of directors shall be selected from a broad pool of qualified candidates. A sufficient number of qualified non executive members shall be elected to promote the independence of the board from the views of senior management. For this purpose, non-executive members of the board of directors shall refer to those who are not part of the day to day management of banking operations and shall include the independent directors.

c. *Minimum number of independent directors*[1]. At least twenty percent (20%) but not less than two (2) members of the board of directors shall be independent directors: *Provided*, That any fractional result from applying the required minimum proportion, i.e., twenty percent (20%) shall be roundedup to the nearest whole number.

d. *Limitation on nationality of directors*. Non-Filipino citizens may become members of the board of directors of a QB to the extent of the foreign participation in the equity of said QB: *Provided*, That pursuant to Section 23 of the Corporation Code of the Philippines (BP Blg. 68), a majority of the directors must be residents of the Philippines.

e. *Conduct of board meetings*. The meetings of the board of directors may be conducted through modern technologies such as, but not limited to, teleconferencing and video conferencing as long as the director who is taking part in said meetings can actively participate in the deliberations

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[1] The required number of independent directors in the board and the definition of "independent director" shall apply prospectively effective 17 March 2012 or in the succeeding election of the members of the board of directors.

on matters taken up therein: *Provided*, That every member of the board shall participate in at least fifty percent (50%) and shall physically attend at least twenty-five percent (25%) of all board meetings every year: *Provided, further,* That in the case of a director who is unable to physically attend or participate in board meetings via teleconferencing or videoconferencing, the corporate secretary shall execute a notarized certification attesting that said director was given the agenda materials prior to the meeting and that his/her comments/decisions thereon were submitted for deliberation/discussion and were taken up in the actual board meeting, and that the submission of said certification shall be considered compliance with the required fifty percent (50%) minimum attendance in board meetings.
(As amended by Circular Nos. 757 dated 08 May 2012 and 749 dated 27 February 2012)

§ 4141Q.2 ***Qualifications of a director.***
a. A director shall have the following minimum qualifications:

(1) He shall be at least twenty five (25) years of age at the time of his election or appointment;

(2) He shall be at least a college graduate or has at least five (5) years experience in business;

(3) He must have attended a special seminar on corporate governance for board of directors conducted or accredited by the Bangko Sentral: *Provided*, That incumbent directors as well as those elected after 17 September 2001 must attend said seminar on or before 30 June 2003 or within a period of six (6) months from date of election for those elected after 30 June 2003, as the case may be: *Provided, further,* That the following persons are exempted from attending said seminar:

i. Foreign nationals who have attended corporate governance training covering core topics in the Bangko Sentral-recommended syllabus and certified by the Corporate Secretary as having been made aware of the general responsibility and specific duties and responsibilities of the board of directors and specific duties and responsibilities of a director prescribed under Items *"b", "c"* and *"d"* of Subsection 4141Q.3;

ii. Filipino citizens with recognized stature, influence and reputation in the banking community and whose business practices stand as testimonies to good corporate governance;

iii. Distinguished Filipino and foreign nationals who served as senior officials in central banks and/or financial regulatory agencies, including former Monetary Board members; or

iv. Former Chief Justices of the Philippine Supreme Court; and

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

In assessing a director's integrity/ probity, consideration shall be given to the director's market reputation, observed conduct and behavior, as well as his ability to continuously comply with company policies and applicable laws and regulations, including market conduct rules, and the relevant requirements and standards of any regulatory body, professional body, clearing house or exchange, or government and any of its instrumentalities/agencies.

An elected director has the burden to prove that he/she possesses all the foregoing minimum qualifications and none of the disqualifications by submitting the documentary requirements listed in *Appendix Q-57*. Non-submission of complete documentary requirements within the prescribed period shall be construed as his/her failure to establish his/her qualifications for the position and results in his/her removal from the Board.

The members of the board of directors shall possess the foregoing qualifications in addition to those required or prescribed under R.A. No. 8791 and other applicable laws and regulations.

b. Independent directors

In selecting independent directors, the number and types of entities where the candidate is likewise elected as such, shall be considered to ensure that he will be able to devote sufficient time to effectively carry out his duties and responsibilities: *Provided*, That the rules and regulations of the SEC governing public and listed companies on the maximum number of companies of the conglomerate in which an individual can serve as an independent director shall apply to independent directors of all QBs.

An *independent director* shall refer to a person who-

(1) is not or has not been an officer or employee of the QB, its subsidiaries or affiliates or related interests during the past three (3) years counted from the date of his election;

(2) is not a director or officer of the related companies of the institution's majority stockholder;

(3) is not a stockholder with shares of stock sufficient to elect one seat in the board of directors of the institution, or in any of its related companies or of its majority corporate shareholders;

(4) is not a relative, legitimate or common-law of any director, officer or a stockholder holding shares of stock sufficient to elect one seat in the board of the QB/trust entity or any of its related companies. For this purpose, *relatives* refer to the spouse, parent, child, brother, sister, parent-in-law, son-/daughter-in-law, and brother-/sister-in-law;

(5) is not acting as a nominee or representative of any director or substantial shareholder of the QB, any of its related companies or any of its substantial shareholders; and

(6) is not retained as professional adviser, consultant, agent or counsel of the institution, any of its related companies or any of its substantial shareholders, either in his personal capacity or through his firm; is independent of management and free from any business or other relationship, has not engaged and does not engage in any transaction with the institution or with any of its related companies or with any of its substantial shareholders, whether by himself or with other persons or through a firm of which he is a partner or a company of which he is a director or substantial shareholder, other than transactions which are conducted at arm's length and could not materially interfere with or influence the exercise of his judgment.

An independent director of a QB may only serve as such for a total of five (5) consecutive years: *Provided*, That the maximum term and any *"cooling off"* period prescribed by the SEC for public and listed companies shall apply to all types of QBs.

The foregoing terms and phrases used in Items *"(1) to (6)"* of this Subsection shall have the following meaning:

(a) Parent is a corporation which has control over another corporation directly or indirectly through one (1) or more intermediaries.

(b) Subsidiary means a corporation more than fifty percent (50%) of the voting stock of which is owned or controlled directly or indirectly through one (1) or more intermediaries by a QB.

(c) Affiliate is a juridical person that directly or indirectly, through one (1) or more intermediaries, is controlled by, or is under common control with the QB or its affiliates.

(d) Related interests as defined under Section 12 and 13 of R.A. No. 8791 shall mean individuals related to each other within the fourth degree of consanguinity or affinity, legitimate or common law, and two (2) or more corporations owned or controlled by a single individual or by the same family group or the same group of persons.

(e) Control exists when the parent owns directly or indirectly through subsidiaries more than one-half (1/2) 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 (1/2) or less of the voting power of an enterprise when there is:

i. Power over more than one-half (1/2) of the voting rights by virtue of an agreement with other stockholders; or

ii. Power to govern the financial and operating policies of the enterprise under a statute or an agreement; or

iii. Power to appoint or remove the majority of the members of the board of directors or equivalent governing body; or

iv. Power to cast the majority votes at meetings of the board of directors or equivalent governing body; or

v. Any other arrangement similar to any of the above.

(f) Related company means another company which is:

i. Its parent or holding company;

ii. Its subsidiary or affiliate; or

iii. a corporation where a QB or its majority stockholder owns such number of shares that will allow/enable him to elect at least one (1) member of the board of directors or a partnership where such majority stockholder is a partner.

(g) Substantial or major shareholder shall mean a person, whether natural or juridical, owning such number of shares that will allow him to elect at least one (1) member of the board of directors of a QB or who is directly or indirectly the registered or beneficial owner of more than ten percent (10%) of any class of its equity security.

(h) Majority stockholder or majority shareholder means a person, whether natural or juridical, owning more than fifty percent (50%) of the voting stock of a QB.

(As amended by Circular Nos. 889 dated 02 November 2015, 887 dated 07 October 2015, 840 dated 02 July 2014, 793 dated 05 July 2013, 757 dated 08 May 2012 and 749 dated 27 February 2012)

§ 4141Q.3 *Powers/responsibilities and duties of directors.*

a. *Powers of the board of directors.* The corporate powers of a QB/trust entity shall be exercised, its business conducted and all its property controlled and held by its board of directors. The powers of the board of directors as conferred by law are original and cannot be revoked by the stockholders. The directors hold their office charged with the duty to exercise sound and objective judgment for the best interest of the QB/ trust entity.

b. *General responsibility of the board of directors.* The position of a QB/trust entity director is a position of trust. A director assumes certain responsibilities to different constituencies or stakeholders, i.e., the QB/ trust entity itself, its stockholders, its clients and other creditors, its management and employees, the regulators, deposit insurer 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 directors is primarily responsible for approving and overseeing the implementation of the QB/ trust entity's strategic objectives, risk strategy, corporate governance and corporate values. Further, the board of directors is also responsible for monitoring and overseeing the performance of senior management as the latter manages the day to day affairs of the institution.

c. *Specific duties and responsibilities of the board of directors*

(1) *To approve and monitor the implementation of strategic objectives* Consistent with the institution's strategic objectives, business plans shall be established for the QB/trust entity including its trust operations, and initiatives thereto shall be implemented with clearly defined responsibilities and accountabilities. These shall take into account the QB/trust entity's long-term financial interests, its level of risk tolerance and its ability to manage risks effectively. The board shall establish a system for measuring performance against plans through regular monitoring and reviews, with corrective action taken as needed.

The board shall likewise ensure that the QB/trust entity *has beneficial influence on the economy* by continuously providing services and facilities which will be supportive of the national economy.

(2) *To approve and oversee the implementation of policies governing major areas of QB/trust entity operations.* The board shall approve policies on all major business activities, e.g., investments, loans, asset and liability management, trust, business planning and budgeting. The board shall accordingly define the QB/trust entity's level of risk tolerance in respect of said activities. A mechanism to ensure compliance with said policies shall also be provided.

The board shall set out matters and authorities reserved to it for decision, which include, among others, major capital expenditures, equity investments and divestments. The board shall also establish the limits of the discretionary powers of each officer, committee, sub-committee and such other groups for purposes of lending, investing or any other financial undertaking that exposes the QB/ trust entity to significant risk.

(3) *To approve and oversee the implementation of risk management policies.* The board of directors shall be responsible for defining the QB/trust entity's level of risk tolerance and for the approval and oversight of the implementation of policies and procedures relating to the management of risks throughout the institution, including its trust operations. 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 directors shall ensure that a robust internal reporting system is in place that shall enable each employee to contribute to the appreciation of the QB/trust entity's overall risk exposures.

The board of directors shall ensure that the risk management function is given adequate resources to enable it to effectively perform its functions. The risk management function shall be afforded with adequate personnel, access to information technology systems and systems development resources, and support and access tointernal information.

(4) *To oversee selection and performance of senior management.* It is the primary responsibility of the board of

directors to appoint competent management team at all times, monitor and assess the performance of the management team based on established performance standards that are consistent with the QB/trust entity's strategic objectives, and conduct regular review of QB/trust entity's policies with the management team.

(a) The board of directors shall apply fit and proper standards on key personnel. Integrity, technical expertise and experience in the institution's business, either current or planned, shall be the key considerations in the selection process. And because mutual trust and a close working relationship are important, the members of senior management shall uphold the general operating philosophy, vision and core values of the institution. The board of directors shall replace members of senior management, when necessary, and have in place an appropriate plan of succession.

(b) The board of directors shall regularly monitor the actions of senior management and ensure that these are consistent with the policies that it has approved. It shall put in place formal performance standards to be able to effectively assess the performance of senior management. The performance standards shall be consistent with the QB/trust entity's strategic objectives and business plans, taking into account the QB/trust entity's long-term financial interests.

(c) The board of directors shall regularly meet with senior management to engage in discussions, question and critically review the reports and information provided by the latter. The board of directors shall set the frequency of meeting with senior management taking into account the size, complexity of operations and risk profile of the QB/trust entity.

(d) The board of directors shall regularly review policies, internal controls and self assessment functions (e.g., internal audit,

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risk management and compliance) with senior management to determine areas for improvement as well as to promptly identify and address significant risks and issues. The board of directors shall set the frequency of review taking into account the size, complexity of operations and risk profile of the QB/trust entity.

The board of directors shall ensure that senior management's expertise and knowledge shall remain relevant given the QB/trust entity's strategic objectives, complexity of operations and risk profile.

(5) *To consistently conduct the affairs of the institution with a high degree of integrity*. Since reputation is a very valuable asset, it is in the institution's best interest that in dealings with the public, it observes a high standard of integrity. The board of directors shall lead in establishing the tone of good governance from the top and in setting corporate values, codes of conduct and other standards of appropriate behavior for itself, the senior management and other employees. The board of directors shall:

(a) Articulate clear policies on the handling of any transaction with DOSRI and other related parties ensuring that there is effective compliance with existing laws, rules and regulations at all times and no stakeholder is unduly disadvantaged. In this regard, the board of directors shall define "related party transaction", which is expected to cover a wider definition than DOSRI under existing regulations and a broader spectrum of transactions (i.e., not limited to credit exposures), such that relevant transactions that could pose material risk or potential abuse to the QB/trust entity and its stakeholders are captured.

(b) Require the QB/trust entity's stockholders to confirm by majority vote, in the annual stockholders' meeting, the QB/trust entity's significant transactions with its DOSRI and other related parties.

(c) Articulate acceptable and unacceptable activities, transactions and behaviors that could result or potentially result in conflict of interest, personal gain at the expense of the institution, or unethical conduct.

(d) Articulate policies that will prevent the use of the facilities of the QB/trust entity in furtherance of criminal and other improper or illegal activities, such as but not limited to financial misreporting, money laundering, fraud, bribery or corruption.

(e) Explicitly discourage the taking of excessive risks as defined by internal policies and establish an employees' compensation scheme effectively aligned with prudent risk taking. The compensation scheme shall be adjusted for all types of risk and sensitive to the time horizon of risk. Further, the grant of compensation in forms other than cash shall be consistent with the overall risk alignment of the QB/trust entity. The board of directors shall regularly monitor and review the compensation scheme to ensure that it operates and achieves the objectives as intended.

(f) Ensure that employee pension funds are fully funded or the corresponding liability appropriately recognized in the books of the QB/trust entity at all times. Further, the board of directors shall ensure that all transactions involving the pension fund are conducted at arm's length terms.

(g) Allow employees to communicate, with protection from reprisal, legitimate concerns about illegal, unethical or questionable practices directly to the board of directors or to any independent unit. Policies shall likewise be set on how such concerns shall be investigated and addressed, for example, by an internal control function, an objective external party, senior management and/or the board itself.

(h) Articulate policies in communicating corporate values, codes of conduct and other standards in the QB/trust entity as well as the means to confidentially report concerns or violations to an appropriate body.

(6) *To define appropriate governance policies and practices for the QB/trust entity and for its own work and to establish means to ensure that such are followed and periodically reviewed for ongoing improvement*[1].

The board of directors, through policies and its own practices, shall establish and actively promote, communicate and recognize sound governance principles and practices to reflect a culture of strong governance in the QB/trust entity as seen by both internal and external stakeholders.

(a) The board of directors shall ensure that the QB/trust entity's organizational structure facilitates effective decision making and good governance. This includes clear definition and delineation of the lines of responsibility and accountability, especially between the roles of the chairman of the board of directors and chief executive officer/ president.

(b) The board of directors shall maintain, and periodically update, organizational rules, by-laws, or other similar documents setting out its organization, rights, responsibilities and key activities.

(c) The board of directors shall structure itself in a way, including in terms of size, frequency of meetings and the use of committees, so as to promote efficiency, critical discussion of issues and thorough review of matters. It shall meet regularly to properly discharge its functions. It shall also ensure that independent views in board meetings shall be given full consideration and all such meetings shall be duly minuted.

(d) The board shall conduct and maintain the affairs of the institution within the scope of its authority as prescribed in its charter and in existing laws, rules and regulations. It shall ensure effective compliance with the latter, which include prudential reporting obligations. Serious weaknesses in adhering to these duties and responsibilities may be considered as unsafe and unsound banking practice. The board shall appoint a compliance officer who shall be responsible for coordinating, monitoring and facilitating compliance with existing laws, rules and regulations. The compliance officer shall be vested with appropriate authority and provided with appropriate support and resources.

(e) The board of directors 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 over the chief executive officer and key managers and by the latter over the line officers of the QB/trust entity. Checks and balances in the board shall be enhanced by appointing a chairperson who is a non-executive, whenever possible.

(f) The board of directors shall assess at least annually its performance and effectiveness as a body, as well as its various committees, the chief executive officer, the individual directors, and the QB/trust entity itself, which may be facilitated by the corporate governance committee or external

[1] QBs shall submit the following to the appropriate department of the SES within 90 calendar days from 17 March 2012:

(1) A Secretary's Certificate attesting the approval of the board of directors to changes in the QB's policies aligning the same with the provisions on Secs. 4175Q to 4176Q and Subsecs. 4141Q.1 to 4141Q.3, 4142Q.3 and 4142Q.4; and

(2) Acknowledgement receipt of copies of specific duties and responsibilities of the board of directors and of a director and certification that they fully understand the same.

facilitators. The composition of the board 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 shall include, but not limited to, the setting of benchmark and peer group analysis.

(g) The board shall ensure that individual members of the board and the shareholders are accurately and timely informed. It shall provide all its members and to the shareholders a comprehensive and understandable assessment of the QB/trust entity's performance, financial condition and risk exposures. All members of the board shall have reasonable access to any information about the institution at all times. It shall also provide appropriate information that flows internally and to the public.

(7) *To constitute committees to increase efficiency and allow deeper focus in specific areas*. The board of directors shall create committees, the number and nature of which would depend on the size of the QB/ trust entity and the board, the complexity of operations, long-term strategies and risk tolerance level of the QB/trust entity.

(a) The board of directors shall approve, review and update at least annually or whenever there are significant changes therein, the respective charters of each committee or other documents that set out its mandate, scope and working procedures.

(b) The board of directors shall appoint members of the committees taking into account the optimal mix of skills and experience to allow the members to fully understand, be critical and objectively evaluate the issues. In order to promote objectivity, the board of directors, shall appoint independent directors and non-executive members of the board to the greatest extent possible while ensuring that such mix will not impair the collective skills, experience, and effectiveness of the committees. Towards this end, an independent director who is a member of any committee that exercises executive or management functions that can potentially impair such director's independence cannot accept membership in committees that perform independent oversight/control functions such as the audit, risk oversight and corporate governance committees, without prior approval of the Monetary Board.

(c) The board of directors shall ensure that each committee shall maintain appropriate records (e.g., minutes of meetings or summary of matters reviewed and decisions taken) of their deliberations and decisions. Such records shall document the committee's fulfillment of its responsibilities and facilitate the assessment of the effective performance of its functions.

(d) The board of directors shall constitute, at a minimum, the following committees:

(i) *Audit committee*. The audit committee shall be composed of at least three (3) members of the board of directors, wherein two (2) of whom shall be independent directors, including the chairperson, preferably with accounting, auditing, or related financial management expertise or experience commensurate with the size, complexity of operations and risk profile of the QB/trust entity. To the greatest extent possible, the audit committee shall be composed of a sufficient number of independent and non-executive board members. Further, the chief executive officer, chief financial officer and/or treasurer, or officers holding equivalent positions, shall not be appointed as members of the audit committee.

The audit committee provides oversight over the institution's financial reporting policies, practices and control and internal and external audit functions. 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 who shall both report directly to the audit committee. In cases of appointment or dismissal of external auditors, it is encouraged that the decision be made only by independent and non-executive audit committee members. It shall monitor and evaluate the adequacy and effectiveness of the internal control system.

The audit committee shall review and approve the audit scope and frequency. It shall receive key audit reports, and ensure that senior management is taking necessary corrective actions in a timely manner to address the weaknesses, non-compliance with policies, laws and regulations and other issues identified by auditors.

The audit committee shall have explicit authority to investigate any matter within its terms of reference, full access to and cooperation by management and full discretion to invite any director or executive officer to attend its meetings, and adequate resources to enable it to effectively discharge its functions. The audit committee shall ensure that a review of the effectiveness of the institution's internal controls, including financial, operational and compliance controls, and risk management, is conducted at least annually.

The audit committee shall establish and maintain mechanisms by which officers and staff shall, in confidence, raise concerns about possible improprieties or malpractices in matters of financial reporting, internal control, auditing or other issues to persons or entities that have the power to take corrective action. It shall ensure that arrangement are in place for the independent investigation, appropriate follow-up action, and subsequent resolution of complaints.

(ii) *Risk oversight committee*. The risk oversight committee shall be responsible for the development and oversight of the risk management program for the QB and its trust unit/trust entity. The committee shall be composed of at least three (3) members of the board of directors including at least one (1) independent director, and a chairperson who is a non-executive member. The member of the risk oversight committee shall possess a range of expertise as well as adequate knowledge of the institution's risk exposures to be able to develop appropriate strategies for preventing losses and minimizing the impact of losses when they occur. It shall oversee the system of limits to discretionary authority that the board delegates to management, ensure that the system remains effective, that the limits are observed and that immediate corrective actions are taken whenever limits are breached. The QB's risk management unit and the chief risk officer shall communicate formally and informally to the risk oversight committee any material information relative to the discharge of its function. The risk oversight committee, shall, where appropriate, have access to external expert advice, particularly in relation to proposed strategic transactions, such as mergers and acquisitions.

The core responsibilities of the risk oversight committee are to:

(a) *Identify and evaluate exposures*. The committee shall assess the probability of each risk becoming reality and shall estimate its possible effect and cost. Priority areas of concern are those risks that are most likely to occur and are costly when they happen.

(b) *Develop risk management strategies*. The risk oversight committee shall develop a written plan defining the strategies for managing and controlling the major risks. It shall identify practical strategies to reduce the chance of harm and failure or minimize losses if the risk becomes real.

(c) *Oversee the implementation of the risk management plan*. The risk oversight committee shall conduct regular discussion on the institution's current risk exposure based on regular management reports and assess how the concerned units or offices reduce these risks.

(d) *Review and revise the plan as needed.* The committee shall evaluate the risk management plan to ensure its continued relevance, comprehensiveness, and effectiveness. It shall revisit strategies, look for emerging or changing exposures, and stay abreast of developments that affect the likelihood of harm or loss. The committee shall report regularly to the board of directors the entity's over-all risk exposure, actions taken to reduce the risks, and recommend further action or plans as necessary.

(iii) *Corporate governance committee*. The corporate governance committee shall assist the board of directors in fulfilling its corporate governance responsibilities. It shall review and evaluate the qualifications of all persons nominated to the board as well as those nominated to other positions requiring appointment by the board of directors. The committee shall be composed of at least three (3) members of the board of directors, two (2) of whom shall be independent directors, including the chairperson.

The committee shall be responsible for ensuring the board's effectiveness and due observance of corporate governance principles and guidelines. It shall oversee the periodic performance evaluation of the board and its committees and executive management; and shall also conduct an annual self-evaluation of its performance. The corporate governance committee may coordinate with external facilitators in carrying out board assessment, within the frequency approved by the entire board. The corporate governance committee shall also decide whether or not a director is able to and has been adequately carrying out his/her duties as director based on its own assessment or the assessment of the external facilitators, bearing in mind the director's contribution and performance (e.g., competence, candor, attendance, preparedness and participation). Internal guidelines shall be adopted that address the competing time commitments that are faced when directors serve on multiple boards.

The committee shall make recommendations to the board regarding the continuing education of directors, assignment to board committees, succession plan for the board members and senior officers, and their remuneration commensurate with corporate and individual performance.

The corporate governance committee shall decide the manner by which the board's performance shall be evaluated and propose an objective performance criteria approved by the board. Such performance indicators shall address how the board has enhanced long term shareholders' value. *Provided*, That non-complex NBFIs performing quasi-banking functions shall, at a minimum, constitute the audit committee: *Provided, further*, That the board shall discuss risk management and corporate governance matters in their board meetings, with the views of the independent directors duly noted and minuted.

For this purpose, an NBFI performing quasi-banking function shall be deemed non-complex, unless declared as complex by the Bangko Sentral and therefore necessitates complete compliance with the aforementioned requirements.

Non-complex QBs that shall adopt the reduced minimum requirement under this Subsection shall submit the following to the appropriate department of the SES:

(1) A secretary's certificate attesting the approval of the board of directors to create only the audit committee/dissolve and other board-level committees if and when approved by the Bangko Sentral; and

(2) A letter signed by the president/chief executive officer requesting approval for creating/maintaining only the audit committee.

(8) *To effectively utilize the work conducted by the internal audit, risk management and compliance functions and the external auditors.* The board of directors shall recognize and acknowledge the importance of the assessment of the independent, competent and qualified internal and external auditors as well as the risk and compliance officers in ensuring the safety and soundness of the operations of a QB on a going-concern basis and communicate the same throughout the QB. This shall be displayed by undertaking timely and effective actions on issues identified.

Further, non-executive board members shall meet regularly, other than in meetings of the audit and risk oversight committees, in the absence of senior management, with the external auditor and heads of the internal audit, compliance and risk management functions.

d. *Specific duties and responsibilities of a director*

(1) *To remain fit and proper for the position for the duration of his term.* A director is expected to remain fit and proper for the position for the duration of his term. He should possess unquestionable credibility to make decisions objectively and resist undue influence. He shall treat board directorship as a profession and shall have a clear understanding of his duties and responsibilities as well as his role in promoting good governance. Hence, he shall maintain his professional integrity and continuously seek to enhance his skills, knowledge and understanding of the activities that the QB is engaged in or intends to pursue as well as the developments in the banking industry including regulatory changes through continuing education or training.

(2) *To conduct fair business transactions with the QB and to ensure that personal interest does not bias board decisions.* Directors 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 observe is that a director 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.

(3) *To act honestly and in good faith, with loyalty and in the best interest of the institution, its stockholders, regardless of the amount of their stockholdings, and other stakeholders such as its investors, borrowers, other clients and general public.* A director must always act in good faith, with the care which an ordinarily prudent man would exercise under similar circumstances. While a director should always strive to promote the interest of all stockholders, he should also give due regard to the rights and interests of other stakeholders.

(4) *To devote time and attention necessary to properly discharge their duties and responsibilities.* Directors should 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 should neither accept his nomination nor run for election as member of the board.

(5) *To act judiciously*. Before deciding on any matter brought before the (BOD) every director should thoroughly evaluate the issues, ask questions and seek clarifications when necessary.

(6) *To contribute significantly to the decision-making process of the board*. Directors should actively participate and exercise objective independent judgment on corporate affairs requiring the decision or approval of such board.

(7) *To exercise independent judgment*. A director 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.

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

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

(As amended by Circular Nos.757 dated 08 May 2012 and 749 dated 27 February 2012)

§ 4141Q.4 *Confirmation of the election/appointment of directors and officers.* The election/appointment of directors/officers of QBs and NBFIs with trust authority shall be subject to confirmation by the following:

Confirming Authority	Position Level
a. Monetary Board	Directors and senior vice president and above (or equivalent ranks) of QBs, and NBFIs with trust authority with total assets of at least ₱1.0 billion
b. An SES Committee to be composed of: · The Deputy Governor - SES · Heads of SES Sub-sectors I, II and III	Directors and senior vice president and above (or equivalent ranks) of QBs, and NBFIs with trust authority with total assets less than ₱1.0 billion

The election/appointment of above-mentioned directors/officers shall be deemed to have been confirmed by the Bangko Sentral, if after sixty (60) business days from receipt of the complete required reports, the appropriate supervising department of SES does not advise the QB/trust entity concerned against said election/appointment.

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

a. Re-election of a director (as a director) in the same QB or NBFI with trust authority or election of the same director in another bank, QB, NBFI with trust authority or trust corporation within a banking group;

b. Re-election of an independent director (as an independent director or not) in the same QB or NBFI with trust authority or election of the same director (as an independent director or not) in another bank, QB, NBFI with turst authority or trust corporation within a banking group; and

c. Promotion of an officer, other than to that which requires (i) prior Monetary Board approval, or (ii) a different set of minimum qualifications, or (iii) a different level of confirming authority as provided in the first paragraph hereof, in the same QB or NBFI with trust authority or appointment/transfer to another bank, QB, NBFI with trust authority or trust corporation within a banking group: *Provided*, That the director/officer concerned has been previously confirmed or in the case of compliance officer or trust officer who will be promoted to the rank of senior vice president or above (or equivalent rank), previously approved by the Monetary Board, or if previously confirmed by the SES Committee, his/her election/re-election/promotion/transfer requires the same level of confirming authority as provided in the first paragraph hereof: *Provided, further*, That said director/officer has had continuous service within the same QB/NBFI with trust authority or banking group. This exemption shall apply to directors/officers confirmed by the Monetary Board/SES Committee starting 01 January 2011.

The appointment of officers below the rank of SVP shall be subject neither to Monetary Board approval nor Bangko Sentral confirmation.

The appointment of compliance officers and trust officers regardless of rank shall be subject to prior Monetary Board approval as provided in Subsecs. 4180Q.2 and 4406Q.10, respectively.

For purposes of this Subsection, the term *banking group* shall refer to the parent bank and its subsidiary banks, QBs, NBFIs with trust authority and trust corporations as well as other banks, QBs, NBFIs with trust authority and trust corporations over which the parent bank has the power to exercise "control" as defined in Subsec. 4141Q.2.

The documentary requirements for the confirmation of the election/appointment of the directors/officers, and approval of the appointment of compliance officers and trust officers of banks/QBs/NBFIs with trust corporation/trust corporations are shown in *Appendix* Q-57.

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

A director/officer whose election/appointment was not confirmed for failure to submit the complete documentary requirements shall be deemed removed from office after due notice to the board of directors of the NBFI, even if he/she has assumed the position to which he/she was elected/appointed, pursuant to Section 16 of R.A. No. 8791.

(CL-2011-045 dated 01 July 2011, as amended by Cir. Nos. 887 dated 07 October 2015 and 758 dated 11 May 2012)

§§ 4141Q.5 - 4141Q.8 ***(Reserved)***

§ 4141Q.9 ***Certifications required.*** The QBs and NBFIs with trust authority shall furnish all of their first-time directors within a QB or NBFI with trust authority or banking group with a copy of the general responsibility and specific duties and responsibilities of the board of directors and of a director prescribed under Items *"b", "c" and "d"* of Subsec. 4141Q.3.

The QB/NBFI with trust authority must submit to the appropriate department of the SES, within twenty (20) business days from date of election, a certification under oath of the directors concerned that they have received copies of such general responsibility and specific duties and responsibilities and that they fully understand and accept the same, in accordance with *Appendix Q-3*.

The QB/NBFI with trust authority must submit to the appropriate department of the SES a certification under oath of the director/officer with rank of senior vice president

and above, and officer whose appointment requires prior Monetary Board approval that he/she has all the prescribed qualifications and none of the disqualifications within twenty (20) business days from the date of election/re-election of the directors/meeting of the board of directors in which the officers are appointed/promoted, in accordance with *Appendix Q-3*.
(As amended by Circular Nos. 887 dated 07 October 2015 and 758 dated 11 May 2012)

§ 4141Q.10 *Sanctions.* Without prejudice to the other sanctions prescribed under Section 37 of R.A. No. 7653 and to the provisions of Section 16 of R.A. No. 8791, any director/trustee of a QB/trust entity who violates or fails to observe and/or perform any of the above responsibilities and duties shall for each violation or offense, be penalized for P15,000.

Sec. 4142Q Definition and Qualifications of Officers. *Officers* shall include the president, executive vice president (EVP), senior vice-president, vice president, general manager, treasurer, secretary, trust officer and others mentioned as officers of the QB/trust entity, or those whose duties as such are defined in the by-laws, or are generally known to be the officers of the QB/trust entity (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 QB/trust entity: *Provided*, That a person holding the position of chairman or vice-chairman of the board or another position in the board shall not be considered as an officer unless the duties of his position in the board include functions of management such as those ordinarily performed by regular officers: *Provided, further,* That members of a group or committee, including sub-groups or sub-committees, whose duties include functions of management such as those ordinarily performed by regular officers, and are not purely recommendatory or advisory, shall likewise be considered as officers.

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 creditable experience or training in financial management or related activities, or in a field related to his position and responsibilities: *Provided, however*, That the trust officer who shall be appointed shall possess any of the following:

(1) at least five (5) years of actual experience[1] in trust operations;

(2) at least three (3) years of actual experience in trust operations and must have:

(a) completed at least ninety (90) training hours in trust, other fiduciary business or investment management activities acceptable to the Bangko Sentral; or

(b) completed a relevant global or local professional certification program; or

(3) At least five (5) years of actual experience as an officer of an NBFI and must have:

(a) completed at least ninety (90) training hours in trust, other fiduciary business, or investment management activities acceptable to the Bangko Sentral; or

(b) completed a relevant global or local professional certification program; and

c. He must be fit and proper for the position he is being proposed/appointed to. In determining whether a person is fit and proper for a particular position, the following matters must be considered: integrity/probity, education/training, and possession of competencies relevant to the function such as knowledge and experience, skills and diligence.

[1] *Actual experience* refers to exposures in trust operations either as officer of a trust entity or members of trust committee

In assessing an officer's integrity/probity, consideration shall be given to the officer's market reputation, observed conduct and behavior, as well as his ability to continuously comply with company policies and applicable laws and regulations, including market conduct rules, and the relevant requirements and standards of any regulatory body, professional body, clearing house or exchange, or government and any of its instrumentalities/agencies.

An appointed officer has the burden to prove that he/she possesses all the foregoing minimum qualifications and none of the disqualifications by submitting the documentary requirements listed in *Appendix Q-57.* Non-submission of complete documentary requirements within the prescribed period shall be construed as his/her failure to establish his/her qualifications for the position and results to his/her removal therefrom.

The foregoing qualifications for officers shall be in addition to those required or prescribed under R.A. No. 8791 and other applicable laws and regulations.

(As amended by Circular Nos. 889 dated 02 November 2015, 887 dated 07 October 2015, 766 dated 17 August 2012, 665 dated 04 September 2009 and 562 dated 13 March 2007)

§§ 4142Q.1 - 4142Q.2 *(Reserved)*

§ 4142Q.3 *Duties and responsibilities of officers.*

(1) To set the tone of good governance from the top. QB/trust entity officers shall promote the good governance practices within the QB by ensuring that policies on governance as approved by the board of directors are consistently adopted across the QB/trust entity.

(2) To oversee the day-to-day management of the QB/trust entity. QB/trust entity officers shall ensure that QB's activities and operations are consistent with the QB's strategic objectives, risk strategy, corporate values and policies as approved by the board of directors. They shall establish a QB-wide management system characterized by strategically aligned and mutually reinforcing performance standards across the organization.

(3) To ensure that duties are effectively delegated to the staff and to establish a management structure that promotes accountability and transparency. QB/trust entity officers shall establish measurable standards, initiatives and specific responsibilities and accountabilities for each QB/trust entity personnel. QB/trust entity officers shall oversee the performance of these delegated duties and responsibilities and shall ultimately be responsible to the board of directors for the performance of the QB/trust entity.

(4) To promote and strengthen checks and balances systems in the QB/trust entity. QB/trust entity officers shall promote sound internal controls and avoid activities that shall compromise the effective dispense of their functions. Further, they shall ensure that they give due recognition to the importance of the internal audit, compliance and external audit functions.

(Circular No. 749 dated 27 February 2012)

Sec. 4143Q Disqualification of Directors/ Trustees and Officers. The following regulations shall govern the disqualification of QB/trust entity directors/trustees and officers.

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

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 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 laws, rules and regulations;

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

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

(6) Directors/trustees and officers of QBs 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) Directors/trustees and officers of QBs or any person found by the Monetary Board to be unfit for the position of directors 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*
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 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 Bangko Sentral. This disqualification shall be in effect as long as the refusal persists;

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(2) Directors/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 directors/trustees during their incumbency, and directors/ 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 directors/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 directors/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 a QB/trust entity where he is a director/trustee or officer, or at least two (2) obligations with other QBs/trust entities/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 a QB/trust entity/FI obtained by:

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

(ii) The spouse or child under 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 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) Directors/trustees and officers of closed QBs/trust entities 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 on recommendation by the appropriate department of the SES of such directors'/trustees' election/re-election;

(7) Directors/trustees who failed to attend the special seminar for board of

directors/trustees required under Item *"c"* of Subsec. 4141Q.2. This disqualification applies until the director/trustee concerned had attended such seminar;

(8) 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;

(9) Those under preventive suspension;

(10) Persons with derogatory records as certified by, or on the official files of, the judiciary, National Bureau of Investigation (NBI), Philippine National Police (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 director/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) Directors/trustees and officers of QBs 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) Directors/trustees and officers of QBs or any person found by the Monetary Board to be unfit for the position of director/trustee or officer 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) Directors/trustees and officers of QBs 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)

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

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

b. The spouses or relatives within the second degree of consanguinity or affinity are prohibited from holding officership positions across the following functional categories within a QB:

1. Decision making and senior management function, e.g., chairman, president, chief executive officer (CEO), chief operating officer (COO), general manager, and chief financial officer (CFO) other than the treasurer or controller;
2. Treasury function, e.g., Treasurer and Vice President – Treasury;

3. Recordkeeping and financial reporting functions, e.g., controller and chief accountant;

4. Safekeeping of assets, e.g., chief cashier;

5. Risk management function, e.g., chief risk officer;

6. Compliance function, e.g., compliance officer; and

7. Internal audit function, e.g., internal auditor.

The spouse or a relative within the second degree of consanguinity or affinity of any person holding the position of manager, cashier, or accountant of a branch or extension office of a QB or their respective equivalent positions is disqualified from holding or being appointed to any of said positions in the same branch or extension office.
(As amended by Circular No. 699 dated 17 November 2010)

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§ 4143Q.3 *Effect of non-possession of qualifications or possession of disqualifications.* A director/officer elected/appointed who does not possess all the qualifications mentioned under Subsec. 4141Q.2 and the second and last paragraphs of Sec. 4142Q and/or has any of the disqualifications mentioned under Subsecs. 4143Q.1 and 4143Q.2 shall not be confirmed by the confirming authority under Subsec. 4141Q.4 and shall be removed from office even if he/she assumed the position to which he/she was elected/appointed. A confirmed director/officer or officer not requiring confirmation found to possess any of the disqualifications enumerated in the abovementioned subsections shall be subject to the disqualification procedures provided under Subsec. 4143Q.4.

(As amended by Circular Nos.758 dated 11 May 2012 and 513 dated 10 February 2006)

§ 4143Q.4 *Disqualification procedures*

a. The board of directors/trustees and management of every institution shall be responsible for determining the existence of the ground for disqualification of the institution's director/trustee/officer or employee and for reporting the same to the Bangko Sentral. 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/trustee/officer/employee from being elected/appointed as director/trustee/officer in any FI under the supervision of the Bangko Sentral. 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. 4143Q.1 and 4143Q.2, the director/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 director/trustee/officer concerned, the appropriate department of the SES shall proceed to evaluate the case. The director/trustee/officer concerned shall be afforded the opportunity 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 ground 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 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/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 masterlist of temporarily disqualified persons until the final resolution of his/her case. Directors/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 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 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/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 director/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 director/trustee/officer in any FI under the supervision of Bangko Sentral and/or of his/her inclusion in the masterlist 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 Bangko Sentral 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. 4143Q.1 and 4143Q.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/trustee or officer of any bank, QB, trust entity or any institution under the supervision of the Bangko Sentral 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 of watchlisted persons.

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

§ 4143Q.5 *Watchlisting.* To provide the Bangko Sentral with a central information file to be used as reference in passing upon and reviewing the qualifications of persons elected or appointed as director/trustee or officer of a bank, QB or trust entity, the SES shall maintain a watchlist of persons disqualified to be a director/trustee or officer of such entities under its supervision under the following procedures:

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

(1) Disqualification File "A (Permanent)

- Directors/trustees/office rs/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 theMonetary Board from holding a director/trustee/officer position.

b. *Inclusion of directors/trustees/officers/employees in the watchlist.*

Directors/trustees/officers/employees disqualified under Subsec. 4143Q.4 included in the watchlist disqualification files "A" or "B".

c. *Confidentiality.* Watchlist files shall be for internal use only of the Bangko Sentral and may not be accessed or queried upon by outside parties including banks, QBs, NBFIs with trust authority and trust corporations except with the authority of the person concerned (without prejudice to the authority of the Governor and the Monetary Board to authorize release of the information) and with the approval of the concerned SES Department Head or SES Subsector Head or the Deputy Governor, SES or the Governor or the Monetary Board.

The Bangko Sentral will disclose information on the persons included in its watchlist files only upon submission of a duly notarized authorization from the concerned person and approval of such request by the concerned SES Department Head or SES Subsector Head or 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*.

QBs and NBFIs with trust authority can gain access to said information in the said watchlist for the sole purpose of screening their nominees/applicants for directors/officers and/or confirming their elected directors and appointed officers. QBs and NBFIs with trust authority must obtain the said authorization on an individual basis.

d. *Delisting.* All delistings shall be approved by the Monetary Board upon recommendation of the operating departments of 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 law becomes final and executory, in which case the director/trustee/officer/employee is relisted to Watchlist - Disqualification File "A" (Permanent); and

(c) Upon favorable decision or clearance by the appropriate body, i.e., court, NBI, Bangko Sentral, bank, QB, trust entity 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 bank, QB or trust entity.

(As amended by Circular No. 758 dated 11 May 2012, CL-2007-001 dated 04 January 2007 and CL-2006-046 dated 21 December 2006)

§ 4143Q.6 ***Prohibition against foreign officers/employees of financing companies.*** Except in the case of technical personnel whose employment may be specifically authorized by the Secretary of Justice, foreigners cannot be officers or employees of financing companies.

Sec. 4144Q ***(2008 - 4146Q)*** **Bio-data of Directors and Officers.**

a. QBs and NBFIs with trust authority shall submit to the appropriate department of the SES a bio-data with ID picture of their

(i) directors/officers with rank of senior vice-president (SVP) and above (or equivalent ranks), (ii) officers below the rank of SVP requiring a different set of minimum qualifications or, (iii) officers whose appointment requires prior Monetary Board approval upon every election/re-election/appointment/promotion, in a prescribed form, and for first-time directors/officers with rank of SVP and above (or equivalent ranks) within a particular QB/NBFI with trust authority/banking group whose election/appointment requires Monetary Board/SES Committee confirmation, or officers whose appointment requires prior Monetary Board approval, the duly notarized authorization form per *Appendix Q-45*, within twenty (20) business days from the date of election/re-election of the directors/meeting of the board of directors in which the officers are appointed/promoted in accordance with *Appendix Q-3*.

The bio-data shall be updated and submitted (i) in case of change of name due to change in civil status and change of residential address, within twenty (20) business days from the date the change occurred and (ii) in cases of requests for prior Monetary Board approval of interlocks.

For other officers below the rank of SVP, the QB/NBFI with trust authority shall not be required to submit their bio-data to the Bangko Sentral.

b. The QB/NBFI with trust authority shall, however, keep a complete record of the bio-data of all its directors and officers and shall maintain a system of updating said records which shall be made available during on-site examination or when required by the Bangko Sentral for submission for off-site verification.

c. QBs/NBFIs with trust authority shall also submit to the appropriate department of the SES a duly notarized list of the incumbent members of the board of directors and officers (President or equivalent rank, down the line, format attached as *Appendix Q-57b*), within twenty (20) business days from the annual election of the board of directors as provided in the by-laws of the QB/NBFI with trust authority, in accordance with *Appendix Q-3*.

d. If after evaluation, the appropriate department of the SES finds grounds for disqualification, the director/officer so elected/re-elected/appointed/promoted may be recommended for removal from office even if he/she has assumed the position to which he/she was elected/re-elected/ appointed/promoted pursuant to Section 16 of R.A. No. 8791.

(As amended by Circular Nos. 887 dated 07 October 2015, 793 dated 05 July 2013 and 758 dated 11 May 2012)

Sec. 4145Q ***(2008 - 4144Q)*** **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 IHs, finance companies, trust entities and all other NBFIs with quasi-banking functions while NBFIs shall refer to IHs, 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 changerps (MCs), lending investors, pawnshops, fund managers, mutual building and loan associations, remittance agents and all other NBFIs without quasibanking 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

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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 IH shall be allowed in the following cases:

(a) A QB and a bank without quasi-banking functions; and

(b) A bank and one (1) or more of its subsidiary bank/s, QB/s, and NBFI/s; and

(c) 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 shall be allowed in the following cases:

(a) Between a QB and one (1) or more of its subsidiary QB/s and NBFI/s;

(b) Between a QB, other than an investment house and one (1) or more of its subsidiary banks, QBs and NBFI/s other than investment house/s; and

(c) Between a bank and one (1) or more of its subsidiary bank/s, QB/s, and NBFIs, other than investment house/s.

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 IH, and not more than two (2) of its subsidiary bank/s, QB/s,and NBFI/s other than IH/s; or

(2) Between two (2) QBs, or between a QB, other than an IH, 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; or

(4) Between a bank and not more than

two (2) of its subsidiary bank/s, QB/s, and NBFIs, other than IH/s; or

(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, CEO, 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.

(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 QB/s and NBFI/s, or between QB/s and/or NBFI/s or between bank/s, QB/s and NBFI/s, other than investment house/s: *Provided*, That in the last two instances, 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.

(7) Concurrent officership positions as corporate secretary or assistant corporate secretary between QB/s and/or NBFI/s or between bank/s, QB/s and NBFI/s, other than IH/s, outside of those covered by Item *"c(6)"* of this Section: *Provided,* That proof of disclosure to and consent from all of the involved FIs, on the concurrent officership positions, shall be submitted to the Bangko Sentral.

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/trustees and senior management. When a director/trustee or officer has multiple positions, the Committee should determine whether or not said director/trustee 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.

(As amended by Circular Nos. 851 dated 30 September 2014, 646 dated 23 February 2009 and 592 dated 28 December 2007)

§ 4145Q.1 *(2008 - 4144Q.1)* *Representatives of government.* The provisions of this Subsection 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.

(As amended by Circular No. 592 dated 28 December 2007)

Sec. 4146Q *(2008 - 4145Q)* Profit Sharing of Directors/Trustees/Officers and Employees. Profit sharing programs adopted in favor of directors/trustees/officers and employees shall be reflected in the by-laws of QBs, subject to the following guidelines:

a. The base in any profit sharing program shall be the net income for the year of the

QB, as shown in its Consolidated Statement of Income and Expenses (CSIE) for the year, net of the following:

(1) All cumulative dividends accruing to preferred stock to the extent not covered by earned surplus;

(2) Accrued interest receivable credited to income but not yet collected, net of reserves already set up for uncollected interest on loans;

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schedule approved by the Monetary Board, as well as all amortizations due on deferred charges;

(4) Provisions for the current year's taxes;

(5) Income tax deferred for the year: *Provided, however,* That in case of reversal of deferred income taxes excluded from net income in previous years' profit sharings, the deferred income tax reversed to expense shall be added back to net income to arrive at the basis for profit sharing for the year during which the reversal is made;

(6) Accumulated profits not yet received but already recorded by a QB representing its share in profits of its subsidiaries under the equity method of accounting; and

b. The QB may provide in its by-laws for other priorities in the computation of net profits for purposes of profit sharing: *Provided,* That in no case shall profit sharing take precedence over any of the items in the preceding paragraph.

Sec. 4147Q Compensation and Other Benefits of Directors/Trustees and Officers. To protect the funds of creditors, the Monetary Board may regulate/restrict the payment by the QB/trust entity of compensation, allowances, fees, bonuses, stock options, profit sharing and fringe benefits to its directors/trustees and officers in exceptional cases and when the circumstances warrant, such as, but not limited to, the following:

a. When the QB/trust entity is under controllership, conservatorship or when it has outstanding emergency loans and advances and such other forms of credit accommodation from the BSP which are intended to provide it with liquidity in times of need;

b. When the institution is found by the Monetary Board to be conducting business in an unsafe or unsound manner; and

c. When it 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;

(2) It has suffered continuous losses from operations for the past three (3) years;

(3) Its composite CAMELS rating in the latest examination is below "3"; and

(4) It is under rehabilitation by the BSP/PDIC which rehabilitation may include debt-to-equity conversion, etc.

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 directors and officers:

a. In the case of profit sharing, the provision of Sec. 4146Q shall be observed except that for purposes of this Section, the total amount of unbooked valuation reserves and deferred charges shall be deducted from the net income.

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

c. When the total compensation package including salaries, allowances, fees and bonuses of directors/trustees and officers are significantly excessive as compared with peer group averages, the Monetary Board may order their reduction to reasonable levels: *Provided*, That even if a QB/trust entity is in financial trouble, it may nevertheless be allowed to grant relatively higher salary packages in order to attract competent officers and quality staff as part of its rehabilitation program.

The foregoing provisions founded on Section 18 of R.A. No. 8791 shall be deemed part of the benefits and compensation programs of QBs/trust entities.

Sec. 4148Q (Reserved)

Sec. 4149Q Conducting Business in an Unsafe/Unsound Manner. Whether a particular activity may be considered as conducting business in an unsafe or unsound manner, all relevant facts must be considered. An analysis of the impact thereof on the QB's/trust entity's operations and financial conditions must be undertaken, including evaluation of capital position, asset condition, management, earnings posture and liquidity position.

In determining whether a particular act or omission, which is not otherwise prohibited by any law, rule or regulation affecting QBs/trust entities, may be deemed as conducting business in an unsafe or unsound manner, the Monetary Board, upon report of the head of the supervising or examining department based on findings in an examination or a complaint, shall consider any of the following circumstances:

a. The act or omission has resulted or may result in material loss or damage, or abnormal risk or danger to the safety, stability, liquidity or solvency of the institution;

b. The act or omission has resulted or may result in material loss or damage or abnormal risk to the institutions, creditors, investors, stockholders, or to the BSP, or to the public in general;

c. The act or omission has caused any undue injury, or has given unwarranted benefits, advantage or preference to the QB/trust entity or any party in the discharge by the director or officer of his duties and responsibilities through manifest partiality, evident bad faith or gross inexcusable negligence; or

d. The act or omission involves entering into any contract or transaction manifestly and grossly disadvantageous to the QB/trust entity, whether or not the director or officer profited or will profit thereby.

The list of activities which may be considered unsafe and unsound is shown in *Appendix Q-24*.

(As amended by Circular No. 640 dated 16 January 2009)

§§ 4149Q.1 - 4149Q.8 *(Reserved)*

§ 4149Q.9 *Sanctions*. The Monetary Board may, at its discretion and based on the seriousness and materiality of the acts or omissions, impose any or all of the following sanctions provided under Section 37 of R.A. No. 7653 and Section 56 of R.A. No. 8791, whenever a QB/trust entity conducts business in an unsafe and unsound manner:

a. Issue an order requiring the QB/trust entity to cease and desist from conducting business in an unsafe and unsound manner and may further order that immediate action be taken to correct the conditions resulting from such unsafe or unsound practice;

b. Fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed P30,000 a day on a per transaction basis taking into consideration the attendant circumstances, such as the gravity of the act or omission and the size of the QB/trust entity, to be imposed on the QB/trust entity, their directors and/or responsible officers;

c. Suspension of lending or FX operations or authority to accept new deposit substitutes and/or new trust accounts or to make new investments;

d. Suspension of responsible directors and/or officers;

e. Revocation of quasi-banking license and/or trust authority; and/or

f. Receivership and liquidation under Section 30 of R.A. No. 7653.

All other provisions of Sections 30 and 37 of R.A. No. 7653, whenever appropriate, shall also be applicable on the conduct of business in an unsafe or unsound manner.

The imposition of the above sanctions is without prejudice to the filing of appropriate criminal charges against culpable persons as provided in Sections 34, 35 and 36 of R.A. No. 7653.

Sec. 4150Q Rules of Procedure on Administrative Cases Involving Directors and Officers of Quasi-Banks. The rules of procedure on administrative cases involving directors and officers of QBs are shown in *Appendix Q-35*.

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I. BRANCHES AND OTHER OFFICES

Sec. 4151Q Establishment. Prior BSP authority shall be obtained before operating a branch, extension office or agency, including any arrangement whereby another person or entity is authorized to act as an agent for solicitation, issuance or servicing of deposit substitutes for the QB.

Agency arrangements shall refer to all or any type of services to be performed by another party as an agent other than collection agency for loans payable in installments/amortization, and paying agency under a definite and specific period for purposes of redeeming long-term notes and/or bonds.

§ 4151Q.1 ***Evaluation guideposts***. The rate at which branches, agencies, extension offices, etc. are to be established shall depend upon the ability of the company to conduct operations from the head office, as well as correspondent/banking arrangements.

§ 4151Q.2 ***Additional capital, if required.*** An applicant QB may be required to put up additional capital in an amount to be determined by the appropriate department of the SES, based on criteria which consider expected growth of risk assets and capital accounts and for this purpose, the methods of computing such additional capital, as shown in *Appendix Q-2,* shall be used.

§ 4151Q.3 ***Other requirements/factors to be considered.*** Other requirements/ factors to be considered are the applicant QB's general compliance with laws, rules, and regulations, and policies of the BSP, such as:

a. Capital adequacy and solvency;

b. Profitability and capacity to absorb losses; and

c. Reserve and liquidity position.

§ 4151Q.4 ***Conditions precluding processing of applications.*** The existence of any of the following conditions shall preclude/suspend the processing of the application:

a. The applicant has not complied with the ceilings on credit accommodations to DOSRI during the last sixty (60) days immediately preceding the date of application;

b. The net worth of the applicant is found to be deficient during the last sixty (60) days immediately preceding the date of application; and

c. The applicant has incurred net deficiencies in reserves against deposit substitute liabilities during the last eight (8) weeks immediately preceding the date of application.

§ 4151Q.5 ***Documentary requirements*** All applications shall be supported by the following documents:

a. Ability to conduct operations from the head office as not to be a cause for delayed submission of reports to the BSP and/or recording of transactions in the head office;

b. Correspondent banking and audit arrangements between the branch and the head office to ensure effective and efficient cash/money transactions;

c. Certified true copy of the board resolution authorizing the establishment of a branch;

d. Services to be offered, as well as any extension offices, etc. to be opened;

e. Days and hours to be observed;

f. Areas to be served;

g. Bio-data of the proposed branch manager and organizational chart;

h. Business and/or economic justifications (including data) for the establishment of the branch; and

i. Number of FIs in the area (banks, IHs, finance companies and pawnshops).

§ 4151Q.6 ***Filing of applications*** Applications for a certificate of authority to operate a branch, an extension office or an agency shall be filed with the SEC, which office shall refer the same to the appropriate department of the SES for comments and recommendations. A copy of the application filed with the SEC, with the pertinent documents, shall simultaneously be furnished the appropriate department of the SES for advance verification of the QB's compliance with the requirements under the provisions of Sec. 4151Q.

§ 4151Q.7 ***Period within which to submit complete requirements.*** The applicant QB shall have one (1) month from notice of the receipt of the SEC referral by the appropriate department of the SES within which to submit/complete the requirements under this Section, after which the non-submission of complete documents shall cause the return of the application for the QB's lack of interest to pursue the same.

§ 4151Q.8 ***Prohibition against operating without Securities and Exchange Commission license.*** No branch, extension office or agency shall start operations unless the appropriate SEC license, which likewise serves as authorization for the branch/ extension office/agency to perform quasi-banking functions, has been issued.

Secs. 4152Q - 4155Q (Reserved)

J. (RESERVED)

Secs. 4156Q - 4159Q (Reserved)

K. BANKING PREMISES

Sec. 4160Q ***(2008 - 4651Q)*** **Quasi-Bank Premises and Other Fixed Assets.** The following rules shall govern the premises and other fixed assets of QBs.

§ 4160Q.1 ***(2008 - 4651Q.1) Appreciation or increase in book value.*** QB premises, furniture, fixtures and equipment shall be accounted for using the cost model under Philippine Accounting Standards (PAS) 16 "Property, Plant and Equipment." Outstanding appraisal increment as of 13 October 2005 arising from mergers and consolidation and other cases approved by the Monetary Board, shall be deemed part of the cost of the assets. However, appraisal increment previously allowed to be booked shall be reversed.

Accordingly, the booking of appreciation or increase in the book value of QB premises and other fixed assets in cases where the market value of the property has greatly increased since the original purchase is no longer allowed.

(As amended by Circular No. 520 dated 20 March 2006)

§ 4160Q.2 ***(Reserved)***

§ 4160Q.3 ***(2008 - 4651Q.3) Reclassification of real and other properties acquired to QB premises, furniture, fixture and equipment; Sanctions.*** QBs may reclassify ROPA to QB premises, furniture, fixture and equipment, subject to the following conditions:

(a) Prior written approval of the majority of the members of the board of directors has been obtained for such reclassification. The approval shall be manifested in a resolution passed by the board of directors during a meeting and shall contain the following information:

(1) Date ROPA was acquired;

(2) Description of ROPA property;

(3) Outstanding balance of ROPA at the time of reclassification;

(4) Specific purpose for reclassifying said property to QB premises, furniture, fixture and equipment; and

(5) Justification and plan for expansion, in the case of real and other property earmarked for future use.

Said resolution shall also be made available for inspection by BSP examiners, together with the supporting records and documents involving the ROPA account; and

(b) Only such acquired asset, or a portion thereof, that will be (i) immediately used, or (ii) ready and available for use within a two (2)-year period from date of reclassification (in case of ROPA earmarked for future use) may be reclassified to QB premises, furniture, fixture and equipment;

(c) ROPA reclassified to QB Premises, Furniture, Fixture and Equipment shall be recorded at its net carrying amount where the amounts booked as cost, accumulated depreciation and allowances for losses for QB Premises, Furniture, Fixture and Equipment shall correspond to the balance of these accounts under ROPA at the time of reclassification. As such, the reclassification shall not give rise to any gains/(losses) being recognized in the QB books; and

(d) Said reclassification shall not cause the QB to exceed the prescribed ceiling on investment in real estate and improvements thereon, including QB equipment, provided under Subsec. X160.2.

Within five (5) business days from date of reclassification, the QB shall submit the Certification on Compliance with Regulations on the Reclassification of ROPA to QB Premises, Furniture, Fixture and Equipment (*Appendix Q-54*) signed by the president of the QB or officer of equivalent rank, to the appropriate department of the SES. Said certification shall be accompanied by the certified true copy of the resolution of the QB's board of directors authorizing the reclassification.

Sanctions. The following sanctions shall be imposed for violations noted:

1. On the QB

a. Monetary fines

A QB which fails to comply with the provisions of this Subsec. shall be subject to monetary penalties under *Appendix Q-39*.

1) *For non-submission of the required certification*

A QB which fails to submit the required Certification on Compliance with Regulations on the ROPA to QB Premises, Furniture, Fixture and Equipment or the certified true copy of the resolution of the board of directors authorizing said reclassification within the prescribed deadline shall be subject to monetary penalties applicable to minor offenses under *Appendix Q-39* which shall be reckoned on a daily basis from the day following the due date of submission until the required certification on compliance or the certified true copy of the resolution of the board of directors is filed with the BSP.

2) *For false/misleading statements*

A QB which has been found to have willfully made a false or misleading statement in the required Certification on Compliance with Rules and Regulations on the ROPA to QB Premises, Furniture, Fixture and Equipment or in the certified true copy of the resolution of the QB board of directors shall be subject to the monetary penalties applicable to minor offenses under *Appendix Q-39* for the willful making of a false or misleading statement which shall be reckoned on a daily basis from the day following the due date of the said certification until such time that an amended or corrected certification on compliance or certified true copy of the resolution of the board of directors has been submitted to the BSP.

2. On the concerned directors/ officers of the bank

a. For willful non-compliance

Directors/officers of the QB who willfully fail/refuse to comply with the provisions of this Subsection shall be subject to the monetary penalties applicable to minor offenses under *Appendix Q-39*.

b. For false/misleading statements

Directors/officers of the QB which have been found to have willfully falsely certified or willfully submitted misleading statements in the required Certification on Compliance with the Regulation on the Reclassification of ROPA to QB Premises, Furniture, Fixture and Equipment or in the certified true copy of the resolution of the QB's board of directors shall be subject to the monetary penalties applicable to minor offenses under *Appendix Q-39*, which shall be reckoned on a daily basis from the day following the due date of the said certification until such time that an amended or corrected certification on compliance or certified true copy of the resolution of the board of directors has been submitted to the BSP.

The imposition of the above sanctions is without prejudice to the filing of appropriate criminal charges against culpable persons as provided under Section 35 of R.A. No. 7653 for the willful making of a false/ misleading statement.

(As amended by Circular no. 701 dated 13 December 2010)

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§§ 4160Q.4 - 4160Q.9 *(Reserved)*

§ 4160Q.10 *(2008 - 4651Q.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.

§ 4160Q.11. *Republic Act No. 9994 – An act Granting Additional Benefits and Privileges to Senior Citizens, Further Amending Republic Act No. 7432 of 1992 as Amended by Republic Act No. 9257 of 2003.* To be able to give full support to the improvement of the total well-being of the elderly and their full participation in society, and to motivate and encourage them to contribute to nation building, senior citizens shall be provided with express lanes in all quasi-banking establishments, including all their branches and other offices. If the provision of express lanes is logistically impossible in any particular branch or office of any QB, said branch or office shall ensure that senior citizens are accorded priority service. The provision of express lanes and/or priority service shall be made known to the general public through clearly written notice prominently displayed in the transaction counters of all QBs and/or offices.

(Circular No. 805 dated 08 August 2013)

L. MANAGEMENT CONTRACT AND OUTSOURCING OF BANKING FUNCTIONS

Sec. 4161Q *(2008 - 4182Q)* Management Contracts. Subject to existing laws, all agreements whereby the affairs or operations of a QB will be carried out by another corporation, person or group of persons, shall be subject to prior approval by the Bangko Sentral.

The agreements referred to in the preceding paragraph shall not be entered into for a period longer than five (5) years. Existing agreements shall be allowed up to the termination date thereof: *Provided, however,* That any renewal or extension upon termination date shall be subject to approval by the Bangko Sentral.

Sec. 4162Q *(2008 - 4190Q)* Guidelines on Outsourcing. The guidelines on outsourcing of banking functions as shown under Sec. X162 of the MORB and *Appendix Q-37* shall likewise apply to QBs.

(As amended by Circular Nos. 899 dated 18 January 2016, 764 dated 03 August 2012, 642 dated 30 January 2009, 610 dated 26 May 2008, 596 dated 11January 2008, 548 dated 25 September 2006 and 543 dated 08 September 2006)

Secs. 4163Q - 4167Q (Reserved)

M. (RESERVED)

Secs. 4168Q - 4172Q (Reserved)

N. RISK MANAGEMENT

Sec. 4173Q *(2008 - 4193Q)* Supervision by Risk. The guidelines on supervision by risk to provide guidance on how QBs should identify, measure, monitor and control risks are shown in *Appendix Q-42*.

The guidelines set forth the expectations of the Bangko Sentral 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 Bangko Sentral will review the risks to ensure that a QB's internal risk management processes are integrated and comprehensive. All QBs should follow the guidance in their risk management efforts.
(Circular No. 510 dated 19 January 2006)

Sec. 4174Q Risk Management Function The risk management function is generally responsible for:

a. identifying the key risk exposures and assessing and measuring the extent of risk exposures of the QB and its trust operations;

b. monitoring the risk exposures and determining the corresponding capital requirement in accordance with the Basel capital adequacy framework and based on the QB's internal capital adequacy assessment on an on-going basis;

c. monitoring and assessing decisions to accept particular risks whether these are consistent with board approved policies on risk tolerance and the effectiveness of the corresponding risk mitigation measures; and

d. reporting on a regular basis to senior management and to the board of directors of the results of assessment and monitoring.

Risk management personnel shall possess sufficient experience and qualifications, including knowledge on the banking business, the developments in the market, industry and product lines, as well as mastery of risk disciplines. They shall have the ability and willingness to challenge business lines regarding all aspects of risk arising from the QB's activities.

a. Chief Risk Officer (CRO)

QBs may appoint a CRO, or any equivalent position, who shall be independent from executive functions and business line responsibilities, operations and revenue-generating functions. This independence shall be displayed in practice at all times as such, the CRO shall report directly to the board of directors or to the risk oversight committee without any impediment.

The CRO shall have sufficient stature, authority and seniority within the QB. This will be assessed based on the ability of the CRO to influence decisions that affect the QB's exposure to risk. The CRO shall have the ability, without compromising his independence, to engage in discussion with the board of directors, chief executive officer and other senior management on key risk issues and to access such information as he deems necessary to form his or her judgment. The CRO shall meet with the board of directors/risk oversight committee on a regular basis and such meetings shall be duly minuted and adequately documented.

CROs shall be appointed and replaced with prior approval of the board of directors. In cases when the CRO will be replaced, the QB shall report the same to the appropriate department of the SES within five (5) days from the time it has been approved by the board of directors.
(Circular Nos. 757 dated 08 May 2012 and 749 dated 27 February 2012)

Sec. 4175Q *(2008 - 4194Q; 2011 - 4174Q)* Market Risk Management. The guidelines on market risk management in *Appendix Q-43* set forth the expectations of the Bangko

Sentral with respect to the management of market risk and are intended to provide more consistency in how the risk-focused supervision function is applied to this risk. QBs 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 Bangko Sentral 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 QBs.

The guidelines on market risk management are shown in *Appendix Q-15*.
(Circular No. 544 dated 15 September 2006, as amended by Circular Nos.757 dated 08 May 2012 and 749 dated 27 February 2012)

Sec. 4176Q *(2008 - 4195Q; 2011 - 4175Q)* Liquidity Risk Management. The guidelines on liquidity risk management in *Appendix*

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Q-44 set forth the expectations of the Bangko Sentral 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. QBs 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.

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

The guidelines on liquidity market risk management are shown in *Appendix Q-15.*
(Circular No. 545 dated 15 September 2006, as amended by Circular Nos.757 dated 08 May 2012 and 749 dated 27 February 2012)

Sec. 4177Q Information Technology Risk Management (ITRM). The enhanced guidelines on ITRM keep abreast with the aggressive and widespread adoption of technology in the financial service industry and consequently strengthen existing Bangko Sentral framework for IT risk supervision. ITRM should be considered a component and integrated with the institutions' risk management program. The guidelines likewise provide practical plans to address risks associated with emerging trends in technology and growing concerns on cyber security.
(Circular No. 808 dated 22 August 2013)

§ 4177Q.1 *Declaration of policy.* A growing number of Bangko Sentral supervised institutions (BSIs) employ the advances in technology as leverage to offer innovative products, deliver fast and efficient service at affordable prices, and venture to new markets. Moreover, technology drives the efficiency of operations and financial accounting of these institutions, and improves their decision-making process. As technology becomes an integral part of the business and operations of BSIs, such technology usage and dependence, if not properly managed, may heighten technology risks. The Bangko Sentral expects BSIs to have the knowledge and skills necessary to understand and effectively manage technology risks. These institutions are required to have an integrated approach to risk management to identify, measure, monitor and control risks.
(Circular No. 808 dated 22 August 2013)

§ 4177Q.2 *Purpose and scope.* The enhanced guidelines aim to provide guidance in managing risks associated with use of technology. The guidelines outlined are based on international standards and recognized principles of international practice for ITRM and shall serve as Bangko Sentral's baseline requirement for all BSIs.

The guidelines shall apply to BSIs which include banks, non-banks with quasi-banking function (NBQB), non-bank electronic money issuers and other non-bank institutions which under existing Bangko Sentral rules and regulations and special laws are subject to Bangko Sentral supervision and/or regulation. Moreover, subject guidelines shall also apply to BSIs with offshore data processing as may be appropriate to their situation. The framework covers different facets of ITRM, some of which are supplemented with detailed guidelines in *Appendices Q-59a, Q-59b, Q-59c, Q-59d, Q-59e and Q-59f.* The Bangko Sentral shall keep the Appendices updated and, in the future, issue additional regulations on new and emerging products, services, delivery channels, and other significant applications of technology.

Subject guidelines, including the *Appendices Q-59a, Q-59b, Q-59c, Q-59d, Q-59e and Q-59f*, are not "one-size-fits-all" and implementation of these need to be risk-based and commensurate with size,

nature and types of products and services and complexity of IT operations of the individual BSIs. BSIs shall exercise sound judgment in determining applicable provisions relevant to their risk profile.
(Circular No. 808 dated 22 August 2013)

§ 4177Q.3 *Complexity of IT risk profile* The Bangko Sentral shall risk profile all BSIs and classify them as either "Complex" or "Simple". The assessment of complexity of IT risk profile is based largely on the degree of adoption of technology and considers size, nature and types of products and services and complexity of IT operations among the risk factors. In assessing IT operations, the nature of IT organization, degree of automation of core processes and applications and extent and reach of online branch network are likewise considered.

A BSI with "Complex" IT risk profile is highly dependent on technology. IT components are integral to the core business activities that major weaknesses on IT systems, maintenance and support, if not properly addressed, may cause operational inefficiencies, business disruptions and/or financial losses. On the other hand, a BSI with "Simple" IT risk profile relies or depends less on technology in the operations of its business, thus, is not affected or lowly impacted by IT-related risks.

Non-bank institutions which under existing Bangko Sentral rules and regulations and special laws are subject to Bangko Sentral supervision/regulation shall likewise be notified in writing of their classification immediately after 14 September 2013.
(Circular No. 808 dated 22 August 2013)

§ 4177Q.4 *IT rating system.* The Bangko Sentral, in the course of its on-site examination activities, shall evaluate BSIs' ITRM system and measure the results based on Bangko Sentral's IT rating system. A composite rating is assigned based on a "1" to "4" numerical scale, as follows:

4	BSIs with this rating exhibit strong performance in every respect. Noted weaknesses in IT are minor in nature and can be easily corrected during the normal course of business.
3	BSIs with this rating exhibit satisfactory performance but may demonstrate modest weaknesses in operating performance, monitoring, management processes or system development.
2	BSIs with this rating exhibit less than satisfactory performance and require considerable degree of supervision due to a combination of weaknesses that may range from moderate to severe.
1	BSIs with this rating exhibit deficient IT environment that may impair the future viability of the entity, thereby requiring immediate remedial action.

(Circular No. 808 dated 22 August 2013)

§ 4177Q.5 *Definition of terms.* In these guidelines, terms are used with the following meanings:

Terminology	Definitions
Board of Directors (Board)	The governing body elected by the stockholders that exercises the corporate powers of a locally incorporated BSI. In case of a BSI incorporated or

Terminology	Definitions
	established outside the Philippines, this may refer to the functional oversight equivalent such as the Country Head (for foreign banks) or management committee or body empowered with oversight and supervision responsibilities.
Cyberfraud	A deliberate act of omission or commission by any person carried out using the Internet and/ or other electronic channels, in order to communicate false or fraudulent representations to prospective victims, to conduct fraudulent transactions, or to transmit the proceeds of fraud to FIs connected with the perpetrator. Examples of cyberfraud in the financial industry may include, but are not limited to, theft of credit card data, computer hacking, electronic identity theft, phishing scams, ATM skimming and non-delivery of merchandise purhased online, among others.

Terminology	Definitions
Electronic Products and Services	The delivery of banking and financial products and services through electronic, interactive communication channels which include automated teller machines (ATMs), point of sales (POS) terminals, internet, mobile phones, touch tone telephones and other similar electronic devices. These encompass electronic banking, electronic payments, electronic money and other electronic products and services offered by BSIs.
EMV (stands for Europay, Mastercard and Visa)	It is a global standard for credit, debit and prepaid payment cards based on chip card technology. EMV chip-based payment cards, also known as smart cards, contain an embedded microprocessor, a type of small computer. The microprocessor chip contains the information needed to use the card for payment, and is protected by various security features. Chip cards are a more secure alternative to traditional magnetic stripe payment cards.

Terminology	Definitions
Encryption	A data security technique used to protect information from unauthorized inspection or alteration. Information is encoded so that data appears as meaningless string of letters and symbols during delivery or transmission. Upon receipt, the information is decoded using an encryption key.
Enterprise-wide Level	Extending throughout or involving an entire institution rather than a single business department or function. In this document, the words "enterprise-wide" and "organization-wide" are interchangeably used.
Information Asset/ Resources	Encompass people and organization, IT processes, physical infrastructure (i.e. facilities, equipment), IT infrastructure (including computing hardware, network infrastructure, middleware) and other enterprise architecture components (including information, applications).
Information Security	The protection of information assets from unauthorized access, use, disclosure, disruption, modification or destruction in order to provide confidentiality, integrity and availability.

Terminology	Definitions
Information Security Incident	A single or a series of unwanted or unexpected information security events that have a significant probability of compromising business operations and threatening the confidentiality, integrity or availability of BSI's information or information systems.
Information Technology (IT)	Automated means of originating, processing, storing and communicating information and covers recording devices, communications network, computer systems (including hardware and software components and data) and other electronic devices.
IT Group/ Department	The unit of an organization within a BSI responsible for the activities of IT operations control, monitoring of IT services, infrastructure support and a combination of technology, people and processes.
IT Operations	Encompasses all processes and services that are provisioned by an IT Unit to internal and external clients.
IT Outsourcing	An arrangement under which another party (either an affiliated entity within a corporate group or an

Terminology	Definitions
	entity external to the corporate group) undertakes to provide to a BSI all or part of an IT function or service. A BSI would use IT outsourcing for functions ranging from infrastructure to software development, maintenance and support. The related IT service is integral to the provision by BSI of a financial service and the BSI is dependent on the service on an ongoing basis.
IT Risk	Any potential adverse outcome, damage, loss, violation, failure or disruption associated with the use of or reliance on computer hardware, software, devices, systems, applications and networks.
IT Strategic Plan	A long-term plan (i.e., three (3)- to five (5)- year horizon) in which business and IT management cooperatively describe how IT resources will contribute to the institution's strategic objectives.
IT Risk Management System (ITRMS)	Risk management system that enables a BSI to identify, measure, monitor and control IT-related risks.
Management Information System (MIS)	A general term for the computer systems in an institution that provide information about its business operations.

Terminology	Definitions
Network	Two (2) or more computer systems that are grouped together to share information, software and hardware.
Offshore BSIs	Have their critical system processing and data located outside of the Philippines. These are usually maintained and operated by organizations within the same business group that the BSIs belong to, such as their head office, subsidiary and/or affiliate. Locally-maintained systems, if any, are limited to non-core supporting applications such as collaboration systems and report processing tools.
Project Management	Planning, monitoring and controlling an activity.
Senior Management/ Management	Officers of the institution given the authority by the Board to implement the policies it has laid down in the conduct of the business of the institution.
Service Level Agreement	Establishes mutual expectations and provide a baseline to measure IT performance. An SLA should contain, among others, the specified level of service, support options, enforcement or penalty provisions for services not provided,

Terminology	Definitions
	a guaranteed level of system performance as it relates to downtime or uptime, a specified level of customer support and what software or hardware will be provided and for what fee.
Triple Data Encryption Standard (3DES)	A mode of the DES encryption algorithm that encrypts data three times. Three 64-bit keys are used, instead of one, for an overall key length of 192 bits (the first encryption is encrypted with second key, and the resulting cipher text is again encrypted with a third key.

(Circular No. 808 dated 22 August 2013)

§ 4177Q.6 *Description of IT-related risks.* As BSIs increase their reliance on IT to deliver products and services, inappropriate usage of IT resources may have significant risk exposures. While IT does not trigger new types of risks, it brings in new dimensions to traditional banking risks (i.e. strategic risk, credit risk, market risk, liquidity risk and operational risk) that require new or enhanced control activities (e.g. a failure of a credit risk measurement application is an IT failure and, therefore, a systems failure in the sense of operational risk). Moreover, IT is an implied part of any system of internal controls, regardless of the type of risk and, consequently, forms an important element in organization-wide risk management. Among the risks associated with the use of IT are the following:

1. *Operational risk* is the risk to earnings and capital arising from problems with service or product delivery. This risk is a function of internal controls, IT systems, employee integrity and operating processes. Operational risk exists in all products and services;

2. *Strategic risk* is the risk to earnings and capital arising from adverse business decisions on IT-related investments or improper implementation of those decisions. The risk is a function of the compatibility of an organization's strategic goals, the business strategies developed to achieve those goals, the resources deployed against these goals and the quality of implementation. The resources needed to carry out business strategies are both tangible and intangible which include communication channels, operating systems, delivery networks and managerial capacities and capabilities;

3. *Reputation risk* is the risk to earnings and capital arising from negative public opinion. This affects the institution's ability to establish new relationships or services or continue servicing existing relationships. The risk can expose the institution to litigation, financial loss or damage to its reputation; and

4. *Compliance risk* is the risk to earnings and capital arising from the violations of, or non-conformance with laws, rules and regulations, prescribed practices or ethical standards. Compliance risk also arises in situations where the laws and rules governing certain products activities of the BSI's clients may be ambiguous or untested. Compliance risk exposes the institution to monetary penalties, non-monetary sanctions and possibility of contracts being annulled or declared unenforceable.

(Circular No. 808 dated 22 August 2013)

§ 4177Q.7 *IT Risk Management System (ITRMS).* As BSIs become more dependent on IT systems and processes, technology risks and information security issues have become progressively more complex and pressing in recent years. Information security is just as important as the new technologies being installed by BSIs. As progress in technology shifts to higher gear, the trend in cyber-attacks, intrusions, and other form of incidents on computer systems shows that it will not only persist but will continue to increase in frequency and spread in magnitude.

Management of IT risks and information security issues becomes a necessity and an important part of BSIs' risk management system. BSIs are therefore required to establish a robust ITRM system covering four (4) key components: 1) IT governance, 2) risk identification and assessment, 3) IT controls implementation, and 4) risk measurement and monitoring.

1. *IT Governance*. This is an integral part of BSIs' governance framework and consists of the leadership and organizational structures and processes that ensure the alignment of IT strategic plan with BSIs' business strategy, optimization of resources management, IT value delivery, performance measurement and the effective and efficient use of IT to achieve business objectives and effective IT risk management implementation. BSIs must establish an effective IT governance framework covering the following:

a. *Oversight and organization of IT functions*. Accountability is a key concern of IT governance and this can be obtained with an organizational structure that has well-defined roles for the responsibility of information, business processes, applications, IT infrastructure, etc.

The Board of Directors is ultimately responsible for understanding the IT risks confronted by a BSI and ensuring that they are properly managed, whereas the Senior Management is accountable for designing and implementing the ITRMS approved by the Board. For Complex BSIs, the Board may delegate to an IT Steering Committee (ITSC) or its equivalent IT oversight function to cohesively monitor IT performance and institute appropriate actions to ensure achievement of desired results. The ITSC, at a minimum, should have as members a non-executive Board director who oversees the institution's IT function, the head of IT group/department, and the highest rank officer who oversees the business user groups. The head of control groups should participate in ITSC meetings in advisory capacity only.

A charter should be ratified by the Board to clearly define the roles and responsibilities of the ITSC. Formal minutes of meeting should be maintained to document its discussions and decisions. The ITSC should regularly provide adequate information to the Board regarding IT performance, status of major IT projects or other significant issues to enable the Board to make well-informed decisions about the BSIs' IT operations.

BSIs should develop an IT strategic plan that is aligned with the institution's business strategy. This should be undertaken to manage and direct all IT resources in line with the business strategy and priorities. IT strategic plan should focus on long term goals covering three (3)- to five (5)- year horizon and should be sufficiently supplemented by tactical IT plans which specify concise objectives, action plans and tasks that are understood and accepted by both business and IT. The IT strategic plan should be formally documented, endorsed by the Board and communicated to all stakeholders. It should be reviewed and updated regularly for new risks or opportunities to maximize the value of IT to the institution.

BSIs should also create an organization of IT functions that will effectively deliver IT services to business units. For "Complex" BSIs, a full-time IT Head or equivalent rank should be designated to take the lead in key

IT initiatives and oversee the effectiveness of the IT organization. In addition to managing the delivery of day-to-day IT services, the IT Head should also oversee the IT budget and maintain responsibility for performance management, IT acquisition oversight, professional development and training. The IT Head should be a member of executive management with direct involvement in key decisions for the BSI and usually reports directly to the President or Chief Executive Officer.

A clear description of roles and responsibilities for individual IT functions should be documented and approved by the Board. Proper segregation of duties within and among the various IT functions should be implemented to reduce the possibility for an individual to compromise a critical process. A mechanism should be in place to ensure that personnel are performing only the functions relevant to their respective jobs and positions. In the event that an institution finds it difficult to segregate certain IT control responsibilities, it should put in place adequate compensating controls (e.g. peer reviews) to mitigate the associated risks.

b. *IT policies, procedures and standards.* IT controls, policies, and procedures are the foundation of IT governance structure. It helps articulate the rules and procedures for making IT decisions, and helps to set, attain, and monitor IT objectives.

BSIs should adopt and enforce IT-related policies and procedures that are well-defined and frequently communicated to establish and delineate duties and responsibilities of personnel for better coordination, effective and consistent performance of tasks, and quicker training of new employees. Management should ensure that policies, procedures, and systems are current and well-documented. The ITSC should review IT policies, procedures, and standards at least on an annual basis. Any updates and changes should be clearly documented and properly approved. IT policies and procedures should include at least the following areas:

- IT Governance/ Management;
- Development and Acquisition;
- IT Operations;
- Communication networks;
- Information security;
- Electronic Banking/Electronic Products and Services; and
- IT Outsourcing/Vendor Management

For simple BSIs, some of the above areas (i.e. development, electronic banking, etc.) may not be applicable, thus sound judgment should be employed to ensure that the BSI's IT policies and procedures have adequately covered all applicable areas.

c. *IT audit.* Audit plays a key role in assisting the Board in the discharge of its corporate governance responsibilities by performing an independent assessment of technology risk management process and IT controls.

Auditors provide an assurance that important control mechanisms are in place for detecting deficiencies and managing risks in the implementation of IT. They should be qualified to assess the specific risks that arise from specific uses of IT. BSIs should establish effective audit programs that cover IT risk exposures throughout the organization, risk-focused, promote sound IT controls, ensure the timely resolution of audit deficiencies and periodic reporting to the Board on the effectiveness of institution's IT risk management, internal controls, and IT governance. Regardless of size and complexity, the IT audit program should cover the following:

- Independence of the IT audit function and its reporting relationship to the Board or its Audit Committee;
- Expertise and size of the audit staff relative to the IT environment;

- Identification of the IT audit universe, risk assessment, scope, and frequency of IT audits;
- Processes in place to ensure timely tracking and resolution of reported weaknesses; and
- Documentation of IT audits, including work papers, audit reports, and follow-up.

In case in-house IT audit expertise is not available, such as for a simple BSI, the IT audit support may be performed by external specialists and auditors of other institutions consistent with existing Bangko Sentral rules and regulations on outsourcing. (Detailed guidelines/standards on IT Audit are shown in *Appendix Q-59a*)

d. *Staff competence and training.* The rapid development in technology demands appropriate, skilled personnel to remain competent and meet the required level of expertise on an ongoing basis.

BSIs should have an effective IT human resources management plan that meets the requirements for IT and the business lines it supports. Management should allocate sufficient resources to hire and train employees to ensure that they have the expertise necessary to perform their job and achieve organizational goals and objectives.

Management needs to ensure that staffing levels are sufficient to handle present and expected work demands, and to cater reasonably for staff turnover. Appropriate succession and transition strategies for key officers and personnel should be in place to provide for a smooth transition in the event of turnover in vital IT management or operations functions.

e. *Management Information Systems (MIS).* The BSIs' IT organization often provides an important support role for their MIS. Accurate and timely MIS reports are an essential component of prudent and reasonable business decisions. At the most senior levels, MIS provides the data and information to help the Board and management make strategic decisions. At other levels, MIS allows management to monitor the institution's activities and distribute information to other employees, customers, and members of management.

Advances in technology have increased the volume of information available to management and directors for planning and decision-making. However, if technology is not properly managed, the potential for inaccurate reporting and flawed decision making increases. Because report generation systems can rely on manual data entry or extract data from many different financial and transaction systems, management should establish appropriate control procedures to ensure information is correct, relevant, and adequately protected. Since MIS can originate from multiple equipment platforms and systems, the controls should ensure all information systems have sufficient and appropriate controls to maintain the integrity of the information and the processing environment. Sound fundamental principles for MIS review include proper internal controls, operating procedures, safeguards, and audit coverage.

f. *IT risk management function.* Management of risk is a cornerstone of IT Governance. BSIs should have a policy requiring the conduct of identification, measurement, monitoring and controlling of IT risks for each business function/service on a periodic basis. BSIs should define and assign these critical roles to a risk management unit or to a group of persons from different units collectively performing the tasks defined for this function.

The function should have a formal technology risk acknowledgement and acceptance process by the owner of risk to help facilitate the process of reviewing, evaluating and approving any major incidents of non-compliance with IT control policies. The process can be supported by the following:

- a description of risk being considered for acknowledgement by owner of risk and an assessment of the risk that is being accepted;
- identification of mitigating controls;
- formulation of a remedial plan to reduce risk; and
- approval of risk acknowledgement from the owner of the risk and senior management.

ITRM processes should be integrated into the enterprise-wide risk management processes to allow BSIs to make well-informed decisions involving business plans and strategies, risk responses, risk tolerance levels and capital management, among others.

2. *Risk identification and assessment.* BSIs should maintain a risk assessment process that drives response selection and controls implementation. An effective IT assessment process begins with the identification of the current and prospective IT risk exposures arising from the institution's IT environment and related processes. The assessments should identify all information assets, any foreseeable internal and external threats to these assets, the likelihood of the threats, and the adequacy of existing controls to mitigate the identified risks. Management should continually compare its risk exposure to the value of its business activities to determine acceptable risk levels.

Once management understands the institution's IT environment and analyzes the risk, it should rank the risks and prioritize its response. The probability of occurrence and the magnitude of impact provide the foundation for reducing risk exposures or establishing mitigating controls for safe, sound, and efficient IT operations appropriate to the complexity of the organization. Periodic risk assessment process should be done at the enterprise-wide level and an effective monitoring program for the risk mitigation activities should be manifested through mitigation or corrective action plans, assignment of responsibilities and accountability and management reporting.

3. *IT controls implementation*. Controls comprise of policies, procedures, practices and organizational structures designed to provide reasonable assurance that business objectives will be achieved and undesired events will be mitigated. Management should establish an adequate and effective system of internal controls based on the degree of exposure and the potential risk of loss arising from the use of IT. Controls for IT environment generally should address the overall integrity of the environment and should include clear and measurable performance goals, the allocation of specific responsibilities for key project implementation, and independent mechanisms that will both measure risks and minimize excessive risk-taking. BSI Management should implement satisfactory control practices that address the following as part of its overall IT risk mitigation strategy: 1) Information security; 2) Project management/development and acquisition and change management; 3) IT operations; 4) IT outsourcing/Vendor management; and 5) Electronic banking, Electronic payments, Electronic money and other Electronic products and services.

a. *Information security*. Information is a vital asset that must be managed to support BSI management in making decisions. BSIs should have a comprehensive information security program, approved by the Board, to maintain the confidentiality, integrity, and availability of computer systems for reliable and timely information. Unauthorized access, destruction, or disclosure of confidential information can adversely affect earnings and capital. The program should monitor information security function throughout the organization's business processes and establish clear accountability for carrying out security responsibilities.

The Board or Senior Management should appoint an independent information security officer (ISO) who will be responsible and accountable for the organization-wide IS program. The duly appointed ISO should have sufficient knowledge, background, and training, as well as organizational position, to enable him to perform assigned tasks. To ensure appropriate segregation of duties, the ISO should report directly to the Board or senior management and have sufficient independence to perform his mandate. The ISO should perform the tasks of a risk manager and not a production resource assigned to the IT department. In the case of simple BSIs, hiring a personnel to specifically perform the function of an ISO may not be necessary. The ISO function may be assigned to an existing independent officer who meets the requirements mentioned in this Subsection. (Detailed guidelines/standards on Information Security are shown in *Appendix Q-59b*)

b. *Project management/ development and acquisition and change management.* BSIs should establish a framework for management of IT-related projects. The framework should clearly specify the appropriate project management methodology that will govern the process of developing, implementing and maintaining major IT systems. The methodology, on the other hand, should cover allocation of responsibilities, activity breakdown, budgeting of time and resources, milestones, checkpoints, key dependencies, quality assurance, risk assessment and approvals, among others. In the acquisition and/or development of IT solutions, BSIs should ensure that business and regulatory requirements are satisfied. (Detailed guidelines/standards on Project Management/Development and Acquisition and Change Management are shown in *Appendix Q-59c*)

c. *IT operations.* IT has become an integral part of the day-to-day business operation, automating and providing support to nearly all of the business processes and functions within the institution. Therefore, the IT systems should be reliable, secure and available when needed which translates to high levels of service and dependency on IT to operate.

One of the primary responsibilities of IT operations management is to ensure the institution's current and planned infrastructure is sufficient to accomplish its strategic plans. BSI management should ensure that IT operates in a safe, sound, and efficient manner throughout the institution. Given that most IT systems are interconnected and interdependent, failure to adequately supervise any part of the IT environment can heighten potential risks for all elements of IT operations and the performance of the critical business lines of the BSIs. Such scenario necessitates the coordination of IT controls throughout the institution's operating environment. (Detailed guidelines/standards on IT Operations are shown in *Appendix Q-59d*)

d. *IT outsourcing/vendor management program.* IT outsourcing refers to any contractual agreement between a BSI and a service provider or vendor for the latter to create, maintain, or reengineer the institution's IT architecture, systems and related processes on a continuing basis. A BSI may outsource IT systems and processes except those functions expressly prohibited by existing regulations. The decision to outsource should fit into the institution's overall strategic plan and corporate objectives and said arrangement should comply with the provisions of existing Bangko Sentral rules and regulations on outsourcing. Although the technology needed to support business objectives is often a critical factor in deciding to outsource, managing such relationships should be viewed as an enterprise-wide corporate management issue, rather than a mere IT issue.

While IT outsourcing transfers operational responsibility to the service provider, the BSIs retain ultimate responsibility for the outsourced activity. Moreover, the risks associated with the outsourced activity may be realized in a different manner than if the functions were inside the institution resulting in the need for controls designed to monitor such risks. BSI management should implement an effective outsourcing oversight program that provides the framework for management to understand, monitor, measure, and control the risks associated with outsourcing. BSIs outsourcing IT services should have a comprehensive outsourcing risk management process which provides guidance on the following areas: 1) risk assessment; 2) selection of service providers; 3) contract review; and 4) monitoring of service providers. Detailed guidelines/standards on IT Outsourcing/ Vendor Management and on the adoption of outsourced cloud computing model are shown in *Appendix Q-59e*.

e. *Electronic products and services*. The evolution in technology revolutionized the way banking and financial products and services are delivered. Physical barriers were brought down enabling clients to access their accounts, make transactions or gather information on financial products and services anywhere they are, at any time of the day and at their own convenience. As development in technology continues to accelerate, innovative electronic products and services are foreseen to bring more accessibility and efficiency. However, BSIs may be confronted with challenges relating to capacity, availability and reliability of the electronic services. Likewise, fraudulent activities via electronic channels are also rising in number.

BSIs should protect customers from fraudulent schemes done electronically. Otherwise, consumer confidence to use electronic channels as safe and reliable method of making transactions will be eroded. To mitigate the impact of cyber fraud, BSIs should adopt aggressive security posture such as the following:

i. The entire ATM system shall be upgraded/converted to allow adoption of end-to-end Triple DES (3DES) encryption standards by 01 January 2015. The 3DES encryption standards shall cover the whole ATM network which consists of the host processors, switches, host security module (HSM), automated teller machines (ATMs), point-of-sale (POS) terminals and all communication links connected to the network;

ii. ATMs to be installed after 14 September 2013 should be 3DES compliant; and

iii. ATMs, POS terminals and payment cards are also vulnerable to skimming attacks due to the lack of deployment of globally recognized EMV enabled technology by BSIs. Magnetic stripe only ATMs, POS Terminals and cards are largely defenseless against modern fraud techniques. Therefore, all concerned BSIs should shift from magnetic stripe technology to EMV chip-enabled cards, POS Terminals and ATMs. The entire payment card network should be migrated to EMV by 01 January 2017. This requirement shall cover both issuing and acquiring programs of concerned BSIs. A written and Board-approved EMV migration plan should be submitted to Bangko Sentral within six (6) months from 22 August 2013. Likewise, the detailed guidelines covering subject EMV requirement shall be issued separately.

Detailed guidelines/standards on Electronic Products and Services are shown in *Appendix Q-59f*.

4. *Risk measurement and monitoring*. BSI Management should monitor IT risks

and the effectiveness of established controls through periodic measurement of IT activities based on internally established standards and industry benchmarks to assess the effectiveness and efficiency of existing operations. Timely, accurate, and complete risk monitoring and assessment reports should be submitted to management to provide assurance that established controls are functioning effectively, resources are operating properly and used efficiently and IT operations are performing within established parameters. Any deviation noted in the process should be evaluated and management should initiate remedial action to address underlying causes. The scope and frequency of these performance measurement activities will depend on the complexity of the BSI's IT risk profile and should cover, among others, the following:

a. *Performance vis-à-vis approved IT strategic plan.* As part of both planning and monitoring mechanisms, BSI management should periodically assess its uses of IT as part of overall business planning. Such an enterprise-wide and ongoing approach helps to ensure that all major IT projects are consistent with the BSI's overall strategic goals. Periodic monitoring of IT performance against established plans shall confirm whether IT strategic plans remain in alignment with the business strategy and the IT performance supports the planned strategy.

b. *Performance benchmarks/service levels***.** BSIs should establish performance benchmarks or standards for IT functions and monitor them on a regular basis. Such monitoring can identify potential problem areas and provide assurance that IT functions are meeting the objectives. Areas to consider include system and network availability, data center availability, system reruns, out of balance conditions, response time, error rates, data entry volumes, special requests, and problem reports.

Management should properly define services and service level agreements (SLA) that must be monitored and measured in terms understandable to the business units. SLA with business units and IT department should be established to provide a baseline to measure IT performance.

c. *Quality assurance/quality control*. BSI should establish quality assurance (QA) and quality control (QC) procedures for all significant activities, both internal and external, to ensure that IT is delivering value to business in a cost effective manner and promotes continuous improvement through ongoing monitoring. QA activities ensure that product conforms to specification and is fit for use while QC procedures identify weaknesses in work products and to avoid the resource drain and expense of redoing a task. The personnel performing QA and QC reviews should be independent of the product/process being reviewed and use quantifiable indicators to ensure objective assessment of the effectiveness of IT activities in delivering IT capabilities and services.

d. *Policy compliance*. BSIs should develop, implement, and monitor processes to measure IT compliance with their established policies and standards as well as regulatory requirements. In addition to the traditional reliance on internal and third party audit functions, BSIs should perform self-assessments on a periodic basis to gauge performance which often lead to early identification of emerging or changing risks requiring policy changes and updates.

e. *External assessment program***.** Complex BSIs may also seek regular assurance that IT assets are appropriately secured and that their IT security risk management framework is effective. This may be executed through a formal external assessment program that facilitates a systematic assessment of the IT security risk and control environment over time.

(Circular No. 808 dated 22 August 2013)

§ 4177Q.8 *Reports*. To enable the Bangko Sentral to regularly monitor IT risk profile and electronic products, services, delivery channels, processes and other relevant information regarding the use of technology, BSIs are required to submit the following:

1. Annual IT Profile, electronically to the Bangko Sentral Supervisory Data Center (SDC) within twenty five (25) days from the end of reference year (Guidelines to be observed in the preparation and submission of this report was issued under Bangko Sentral Memorandum to All Banks No. M-2012-011 dated 17 February 2012);

2. Report on breach in information security, especially incidents involving the use of electronic channels, pursuant to the provisions of Items *"a"* or *"b"* of *Appendix Q-60* following the guidelines provided in Item *"d"* thereof. Depending on the nature and seriousness of the incident, Bangko Sentral may require the BSI to provide further information or updates on the reported incident until the matter is finally resolved; and

3. Notification letter to the Core Information Technology Specialist Group (CITSG) of the Bangko Sentral of disruption of IT services/operations that resulted to the activation of disaster recovery and business continuity plan immediately upon activation of the plan.

(Circular No. 808 dated 22 August 2013)

§ 4177Q.9 *Sanctions and penalties.* BSIs should make available IT policies and procedures on the foregoing and other related documents during the on-site examination as well as provide a copy thereof when written request was made to determine their compliance with this Section.

Any violation of the provisions of this Section, its appendices and annexes, shall be subject to the monetary and non-monetary sanctions provided under Section 37 of R.A. No. 7653. Enforcement actions shall be imposed on the basis of the overall assessment of BSIs' ITRMS. Whenever a BSI's ITRMS is rated "1" pursuant to Subsection 4177Q.4, the following additional sanctions may be imposed:

1. Suspension/revocation of authority to provide electronic products and services; and

2. Prohibition against offering/provision of new electronic products and services.

(Circular No. 808 dated 22 August 2013)

Sec. 4178Q Credit Risk Management; Statement of Policy[1]. It is the policy of the Bangko Sentral to ensure that FIs under its supervision have adequate and effective credit risk management systems commensurate to their credit risk-taking activities. Towards this end, the following guidelines on credit risk management set forth the expectations of the Bangko Sentral with respect to the comprehensive management of credit risk. The guidelines further articulate sound principles and practices that shall be embedded in the credit risk management framework of FIs and shall cover the following areas: a) establishing an appropriate credit risk environment; b) operating under a sound credit granting process; and c) maintaining appropriate credit administration, measurement, monitoring and control processes over credit risk. While FIs may employ different approaches in the

[1] FIs shall be given six (6) months from 19 November 2014 to: (1) perform a gap analysis of their current practices vis-à-vis this Section and (2) propose an action plan duly approved by the board of directors to achieve full compliance within a reasonable period of time but in no case longer than two (2) years from 19 November 2014.

All action plans shall be subject to acceptance by the Bangko Sentral through the Deputy Governor, Supervision and Examination Sector. All requests for regulatory relief shall be subject to prior Monetary Board approval.

Any FI that fails to comply with the obligations prescribed during this transition period shall be subject to the imposition of appropriate monetary and/or non-monetary sanctions.

management of their credit risk, the Bangko Sentral expects that all these areas are effectively addressed.

For purposes of these guidelines, FIs refer to UBs, KBs, TBs, RB and Coop Banks and their respective credit-granting financial subsidiaries (if any) as well as stand-alone QBs.
(Circular No. 855 dated 29 October 2014)

§ 4178Q.1 ***Evaluation of credit risk management system***. The Bangko Sentral shall evaluate the FI's credit risk management system not only at the level of individual legal entities but also across the subsidiaries within the consolidated banking organization. It will not restrict the scope of the credit risk-taking activities of an FI, so long as the FI is authorized to engage in such activities and:

a. Understands, measures, monitors and controls the risk assumed;

b. Adopts risk management practices whose sophistication and effectiveness are commensurate to the risk being taken; and

c. Maintains capital commensurate with the risk exposure assumed.

If the Bangko Sentral determines that an FI's risk exposures are excessive relative to the FI's capital, or that the risk assumed is not well-managed, the Bangko Sentral will direct the FI to reduce its exposure to an appropriate level and/or to strengthen its risk management systems. In evaluating the above parameters, the Bangko Sentral expects FIs to have sufficient knowledge, skills and appropriate system and technology necessary to understand and effectively manage their credit risk exposures.

The principles set forth in the credit risk management guidelines shall be used in determining the adequacy and effectiveness of an FI's credit risk management process and adequacy of capital relative to exposure. The Bangko Sentral shall consider the following factors:

(1) The FI's business strategies, operating environment, and the competencies of its officers and personnel; and

(2) The major sources of credit risk exposure and the complexity and level of risk posed by the assets, liabilities, and off-balance sheet activities.
(Circular No. 855 dated 29 October 2014)

A. ESTABLISHING AN APPROPRIATE CREDIT RISK ENVIRONMENT

§ 4178Q.2 ***Role of the Board and Senior Management***

a. *Board of directors***.** The board of directors shall be responsible for the approval and regular review of credit risk strategy and credit policy, as well as the oversight of the implementation of a comprehensive and effective credit risk management system appropriate for the size, complexity and scope of operations of an FI. The board shall ensure that the system provides for adequate policies, procedures and processes to identify, measure, monitor and control all credit risks inherent in an FI's products and activities, both at the individual and portfolio levels on a consistent and continuing basis; and that an independent assessment of the system is periodically performed, the results of which shall be reported to it or to a board-level committee for appropriate action.

b. *Senior management***.** Senior management shall be responsible for ensuring that the credit risk-taking activities of an FI are aligned with the credit risk strategy approved by the board of directors. It shall also be responsible for developing and implementing an FI's credit policies and procedures that lay down the conditions and guidelines for an effective credit risk

management process, as well as proper channels of communication to ensure that these policies are clearly communicated and adhered to by all levels of the organization.
(Circular No. 855 dated 29 October 2014)

§ 4178Q.3 *Credit risk management structure*

a. Senior management or an appropriate level of management shall implement a board-approved credit risk management structure that clearly delineates lines of authority, establish accountabilities and responsibilities of individuals involved in the different phases of the credit risk management process.

b. Depending on the size, complexity and scope of credit activities, and in addition to the roles and responsibilities of the board and senior management, an FI's credit risk management organization may be broadly classified into three (3) functional lines of activities: the front, back and middle offices, to properly segregate accountabilities, ensure that no individual is assigned conflicting responsibilities, and effectively monitor and control the risks being taken.

c. The front office function performs credit originating; recommends internal credit ratings, classifications and allowances for losses including changes thereon, when necessary; and the on-going monitoring of credit exposures of borrowers on a day-to-day basis.

d. The back office provides support in the overall credit administration, including, among others: ensuring complete documentation, credit disbursement and recording of payments received; maintenance of credit and collateral files; and compilation of management information reports.

e. The middle office performs risk management and control functions that are independent from the credit originating and administration functions. The risk management function provides meaningful inputs in policy formulation and limits setting; designs and implements the FI's internal credit risk rating system; and performs periodic exposure and exception monitoring. The risk management function shall report directly to the Risk Management Committee (RMC) or appropriate board-level committee or the board.

f. An independent credit review is a function within the middle office that performs an unbiased assessment of the quality of individual credits and the aggregate credit portfolio, including appropriateness of credit risk rating, classification and adequacy of allowance for loan losses. In the case of simple FIs, such independent credit review function may be concurrently performed by qualified personnel fulfilling other independent control oversight functions (e.g. compliance, internal audit).

g. The workout or problem loan management is another function within the middle office that is independent from the credit originating function to ensure that problem loans are managed effectively to minimize potential losses. For simple FIs, however, the function may still be performed by the credit originating function and/or unit responsible for monitoring the quality of such credit.

h. The structure shall likewise provide for independent audits, i.e., internal audit and compliance, to conduct independent credit and compliance audits of the credit risk management system of the FI. The scope of internal audit shall include the evaluation of the independence and overall effectiveness of the credit review function.

i. Regardless of the organizational structure that an FI adopts, the board shall ensure that the aforementioned key functions are considered and independence and control oversight functions are effective to avoid or address any potential conflict of interest.

j. Personnel or staff involved in all phases of the credit risk management process shall be qualified, competent and have the necessary training and experience to exercise prudent judgment in assessing, managing and/or controlling credit risk, and a solid understanding of an FI's strategic direction, policies, procedures, risk tolerance and limits. Their qualification standards, roles and responsibilities shall be clearly defined in the credit operating policies and procedures manual of the FI. The board and senior management shall ensure that adequate resources and appropriate level of staffing are allocated to execute all kinds of credit activities.
(Circular No. 855 dated 29 October 2014)

§ 4178Q.4 *Credit risk strategy.* The credit risk strategy must reflect the FI's profitability and portfolio growth targets, and must be consistent with the credit risk tolerance and overall corporate strategy and business goals of the FI.

a. In formulating the credit risk strategy, the FI shall articulate the desired market segments and types of credit exposures (e.g., commercial credits, retail credits, real estate, investments, trading products, credit commitments and/or guarantees); specific characteristics of clients, economic sector, geographical location; the portfolio mix that reflects the acceptable level of diversification and concentration; and consider the risk/reward trade-off by factoring in, to the greatest extent possible, price and non-price (e.g. collateral, restrictive covenants, etc.) terms as well as likely downside scenarios and their possible impact on the obligors.

The FI shall likewise define acceptable and unacceptable types of credits, clients, activities, transactions and behaviors that could result or potentially result in conflict of interest, personal gain at the expense of the FI, or unethical conduct.

b. The credit risk strategy shall consider the cyclical aspects of the economy and the varying effects of the economic cycle on the credit portfolio of the FI.
(Circular No. 855 dated 29 October 2014)

§ 4178Q.5 *Credit policies, processes and procedures.* FIs shall have in place a sound, comprehensive and clearly defined credit policies, processes and procedures consistent with prudent standards, practices, and relevant regulatory requirements adequate for the size, complexity and scope of an FI's operations. The board-approved policies, processes and procedures shall cover all phases of the credit risk management system.

a. FIs shall establish appropriate processes and procedures to implement the credit policy and strategy. These processes and procedures, as well as the credit policy, shall be documented in sufficient detail, effectively communicated throughout the organization to provide guidance to staff, and periodically reviewed and updated to take into account new activities and products, as well as new lending approaches. Subsequent major changes must be approved by the board.

b. The credit policy shall likewise provide for the maintenance of an audit trail documenting that the credit risk management process was properly observed and identifying the unit, individual(s) and/or committee(s) providing input into the process.

c. The credit culture, which reflects the FI's credit values, beliefs and behaviors, shall likewise be articulated in the credit policy and communicated to credit officers and staff at all levels through the strategic plan. The credit practices shall be assessed periodically to ensure that the officers and staff conform to the desired standard and value.
(Circular No. 855 dated 29 October 2014)

B. OPERATING UNDER A SOUND CREDIT GRANTING PROCESS

§ 4178Q.6 ***Credit approval process*** The approval process for new credits as well as the amendment, renewal and refinancing of existing credit exposures shall be aligned with the credit risk management structure and clearly articulated in an FI's written credit policy. The process shall include the different levels of appropriate approving authority and the corresponding approving authority limits, which shall be commensurate with the risks of the credit exposures, as well as expertise of the approving individuals involved. It shall also include an escalation process where approval for restructuring of credits, policy exceptions or excesses in internal limits is escalated to units/officer with higher authorities. Further, there shall be proper coordination of relevant units and individuals and sufficient controls to ensure acceptable credit quality at origination.
(Circular No. 855 dated 29 October 2014)

§ 4178Q.7 ***Credit granting and loan evaluation/analysis process and underwriting standards.*** Consistent with safe and sound banking practice, an FI shall grant credits only in amounts and for the periods of time essential for the effective completion of the activity to be financed and after ascertaining that the obligor[1] is capable of fulfilling his commitments to the FI. Towards this end, an FI shall establish well-defined credit-granting criteria and underwriting standards, which shall include a clear indication of the FI's target market and a thorough understanding of the obligor or counterparty, as well as the purpose and structure of the credit and its source of repayment.

a. FIs shall conduct comprehensive assessments of the creditworthiness of their obligors, and shall not put undue reliance on external credit assessments. Credit shall be granted on the basis of the primary source of loan repayment or cash flow, integrity and reputation of the obligor or counterparty as well as their legal capacity to assume the liability.

b. Depending on the type of credit exposure and the nature of the credit relationship, the factors to be considered and documented in approving credits shall include, but are not limited to, the following:

(1) The purpose of the credit which shall be clearly stated in the credit application and in the contract between the FI and the obligor;

(2) The current risk profile (including the nature and aggregate amounts of risks, risk rating or credit score, pricing information) of the borrower, collateral, other credit enhancements and its sensitivity to economic and market developments;

(3) The sources of repayment, repayment history and current capacity to repay based on financial analysis from historical financial trends and indicators such as equity, profitability, turnover, leverage, and debt servicing ability via cash flow projections, under various scenarios;

(4) For commercial credits, the borrower's business expertise, its credit relationships including its shareholders and company directors, as applicable, and the status of the borrower's economic sector and its track record vis-à-vis industry peers;

(5) The proposed terms and conditions of the credit (i.e., type of financing, tenor, repayment structure, acceptable collateral) including covenants designed to limit changes in the future risk profile of the obligor;

(6) Use of credit reports; and

(7) Where applicable, the adequacy, valuation and enforceability of collateral or guarantees.

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[1] Obligor refers to an individual or entity that owes another person or entity a certain debt or duty. For purposes of these guidelines, obligor can also be used interchangeably with borrower or debtor.

c. In performing the financial analysis, FIs shall use, to the extent available, credible audited financial statements and other relevant documents and sources. FIs may opt to use financial information/data from other sources provided that the process for arriving at such disposition and an evaluation of how much reliance or value was attached into the financial information used is clearly articulated and documented.

d. When participating in loan syndications, an FI shall not place undue reliance on the credit analysis done by the lead underwriter and shall perform its own analysis and review of syndicate terms. It shall analyze the risk and return on syndicated loans in the same manner as directly sourced loans and ensure that the loan is consistent with its credit risk strategy.

e. When an FI purchases securities issued by an obligor that is different from the counterparty (e.g. asset swaps), it shall also analyze issuer risk. For treasury and capital market activities, the structure of products and transactions shall be analyzed to determine the source and volatility of credit exposure.

f. When granting consumer credits, an FI shall conduct its credit assessment in a holistic and prudent manner, taking into account all relevant factors that could influence the prospect for the loan to be repaid according to its terms and conditions. This shall include an appropriate consideration of the potential obligor's other debt obligations and repayment history and an assessment of whether the loan can be expected to be repaid from the potential obligor's own resources without causing undue hardship and over-indebtedness. Adequate checkings, including with relevant credit bureaus, shall be made to verify the obligor's credit applications and repayment records.

g. FIs shall factor into their credit-granting decisions the likelihood of providing allowance for identified and expected losses and holding adequate capital to absorb unexpected losses for credits with apparent weaknesses.

h. FIs may utilize physical collateral (like real estate), financial guarantees and other instruments to help mitigate risk in credit exposures. However, these shall not substitute for a comprehensive assessment of the obligor or fully compensate for insufficient information.

i. FIs shall establish adequate policies in determining the acceptability of various forms of credit mitigants and appropriate collateral value limits; procedures for regularly assessing the value of physical collaterals and availability of financial guarantees; and a process to ensure that these are, and continue to be, enforceable, realizable and marketable. Finally, FIs need to consider that the realizable value of the physical collateral or the quality of financial guarantees and other credit mitigants may be impaired by the same factors that have led to the diminished recoverability of the credit.

In the case of guarantees, the level of coverage being provided in relation to the credit quality, financial and legal capacity of the guarantor shall be evaluated.

For credit exposures secured by deposits, FIs shall likewise require obligors to provide a written waiver of his rights under existing laws to the confidentiality of his deposits, and make this available for inspection and/or examination by the appropriate department of the SES.

j. Netting arrangements also mitigate risks, especially in interbank and off-balance sheet transactions. In order to actually reduce risk, such agreements need to be sound and legally enforceable in all relevant jurisdictions.

k. For more complex credit risk exposures, (e.g., asset securitization, credit derivatives, credit-linked notes, credit granted internationally, etc.), a more sophisticated tool shall be used for identifying, measuring, monitoring and controlling credit, country and transfer risks. Each complex credit risk product or activity, especially those that are new to banking, shall be subject to a thorough analysis in addition to the regular assessment that is done with traditional credit-granting activities.

l. For new products and activities, the credit risk shall be appropriately identified and managed through a formal risk assessment program. FIs shall ensure that they fully understand the risk involved in new products and activities and put in place adequate policies, procedures and controls before being introduced or undertaken.

(Circular No. 855 dated 29 October 2014)

§ 4178Q.8 *Renewal or extension of maturity date of credits.* FIs shall adopt and adhere to the following explicit standards that control the use of renewals and extensions of maturity date of credits:

a. Credits and other accommodations shall only be renewed or its maturity date extended:

(1) Upon re-establishment of the creditworthiness of the obligor using the same credit-granting criteria for the evaluation and approval of new loans; and

(2) When the corresponding accrued interest receivable has been paid.

b. A policy on clean-up of principal, either partial or full, shall be established and appropriate controls put in place to prevent continuous renewal or extension over a long period of time without reduction in principal; otherwise, such credits and other accommodations shall be subject to classification and allowance for credit losses.

c. Specific and reasonable standards shall be provided for renewals or extensions of certain types of credit exposures that take into consideration the following factors:

(1) Borrower's normal operating, trade or production cycle, in the case of credit exposures for working capital, trade financing, production, and/or other similar purposes to ensure a realistic repayment schedule;

(2) Transaction history such as frequency of renewal or extension, rate of utilization of facilities granted, and business requirements;

(3) Status of collateral and other guarantees in the case of secured credit exposures, including requiring the FI to re-appraise the property especially when there is a material change in market conditions or in the physical aspects of the property that threatens the collateral protection; and

(4) Age of the account, utilization rate, average balance carried, delinquency status, payment history, and account profitability (if available) in the case of retail credits.

(Circular No. 855 dated 29 October 2014)

§ 4178Q.9 *Credit limits, large exposures, and credit risk concentrations* An FI is exposed to various forms of credit risk concentration which if not properly managed, monitored and controlled may cause significant losses that could threaten its financial strength and undermine public confidence in the FI. Concentration risk can arise from excessive exposures to individual obligors, groups of connected counterparties and groups of counterparties with similar characteristics (e.g., counterparties in specific geographical locations, economic or industry sectors) or entities in a foreign country or a group of countries with strongly interrelated economies.

While concentration of credit risks is inherent in banking and cannot be totally eliminated, this can be mitigated by adopting policies and processes that would limit and control credit exposures and employing portfolio diversification strategies. Policies and procedures may include, but are not limited to the following:

a. Policies and procedures for identifying, reviewing, managing and reporting large exposures and concentration risks of the FI.

b. Segmenting its portfolio into the following diverse categories or such other segmentations consistent with the FI's credit strategy.

(1) Various types of borrowers/ counterparties or loan category (e.g., government, banks and other FIs, corporate and individual borrowers, including exchanges, electronic communication networks or ECNs and clearing houses);

(2) A group of connected borrowers/ counterparties (includes aggregating exposures to groups of accounts exhibiting financial or economic interdependence, including corporate or non-corporate, where they are under common ownership or control or with strong connecting links, e.g. common management, familial ties);

(3) Individual industry sectors;

(4) Geographic regions or countries;

(5) Loan structure, collateral, and tenor; and

(6) Various types of investments, including other credit instruments in the trading books and off-balance sheet transactions.

c. Defining limit structure on each of the foregoing categories. Limits shall meaningfully aggregate credit exposures, both in the banking, trading book and on and off the balance sheet and shall be reasonable in relation to the FI's level of risk tolerance, historical loss experience, capital and resources. Such limits can be based in part on the internal risk rating assigned to the obligor or counterparty.

d. Procedures shall ensure that limits are not exceeded and are clearly communicated, periodically reviewed and modified, as appropriate. Should exceptions to policy be allowed, the circumstances under which limits may be exceeded and the party authorized to approve such excesses shall be clearly articulated in the credit policy.

(Circular No. 855 dated 29 October 2014)

§ 4178Q.10 *Country and transfer risks* Country risk refers to uncertainties arising from economic, social and political conditions of a country which may cause obligors in that country to be unable or unwilling to fulfill their obligations. Transfer risk exists when an obligor is unable to secure foreign exchange to service external obligations due to restrictions imposed by the country on foreign exchange remittance or repayment on foreign-currency denominated assets to a foreign lender. FIs that have cross-border credit risk exposures shall have adequate internal capacity for identifying, measuring, monitoring and controlling country and transfer risks in its international lending and investment activities, and shall not place undue reliance on external ratings. An FI shall consider the following:

a. Establishing credit-granting criteria taking into consideration country risk factors that shall include the potential for default of foreign private sector obligors arising from country-specific economic, social and political factors, the enforceability of loan agreements, and the timing and ability to realize collateral under the national legal framework. The results of the country risk analysis shall be integrated into the internal credit risk rating of the obligor. These country risk factors shall be regularly monitored. An FI shall also assess an obligor's ability to obtain foreign exchange to service cross-currency debt and honor contracts across jurisdictions.

b. Country risk limits shall be put in place and regularly reviewed to determine that approved limits still reflect the FI's business strategy in line with the changing market conditions. FIs shall ensure that country exposures are reported and monitored against these limits. Significant country risks shall be assessed and highlighted in credit proposals submitted to management for approval.

c. Credit policy shall clearly articulate appropriate countermeasures that an FI shall take in the event of an adverse development in a particular country where it has exposures. These measures shall include closer analysis of the obligor's capacity to repay, provisioning and preparation of contingency plans if country risk continues to deteriorate. It shall consider in its monitoring and evaluation of country and transfer risks, the internal and external country risk rating transitions and economic social and political developments of the relevant countries. Any significant changes to the conditions of a country shall also be elevated to the BOD promptly particularly if the FI has substantial exposure to that country.
(Circular No. 855 dated 29 October 2014)

§ 4178Q.11 *Credits granted to related parties*. Consistent with sound corporate governance practices, the board and senior management shall articulate and implement clear policies in handling transactions with directors, officers, stockholders, their related interests (DOSRI), the FI's subsidiaries and affiliates, and other related parties, ensuring that there is effective compliance with existing laws, rules, and regulations at all times and that no stakeholder is unduly disadvantaged.

a. All extensions of credit must be made on an arm's-length basis, in accordance with the FI's credit-granting criteria and in the regular course of business, and upon terms not less favorable to the FI than those offered to non-related borrowers.

b. FI policies shall cover standards that require directors and/or officers to avoid placing themselves in a position that creates conflict of interest or the appearance of conflict of interest. The board and management shall likewise establish and implement policies that require full disclosure of personal interests that they may have in credit transactions. Directors and officers with personal interest in a transaction shall not participate in any deliberation, approval, or voting on the matter.
(Circular No. 855 dated 29 October 2014)

C. MAINTAINING AN APPROPRIATE CREDIT ADMINISTRATION, MEASUREMENT, AND MONITORING PROCESS

§ 4178Q.12 *Credit administration.* FIs shall have in place a system for the ongoing administration of their various credit portfolios. *Credit administration* refers to the back office activities that support and control extension and maintenance of credit. FIs shall ensure the efficiency and effectiveness of the following credit administration functions:

a. *Credit documentation.* Procedures shall be put in place to ensure completeness of documentation in accordance with policy including a file documentation tickler system;

b. *Disbursement.* Proper approval shall be obtained and complete documentation ensured prior to disbursement. Exceptions, if any, shall be duly approved;

c. *Billing and repayment*. Payments received shall be properly recorded. Measures shall be in place to ensure that late payments are tracked and collected; and

d. *Maintenance of credit files*. Credit files shall include sufficient and updated information necessary to ascertain the financial condition of the obligor or counterparty and include documents covering the history of an FI's relationship with the obligor. All loan and collateral documents shall be kept in a secured area under joint custody.

(Circular No. 855 dated 29 October 2014)

§ 4178Q.13 *Credit risk measurement, validation and stress testing.* FIs shall adopt sound and appropriate risk measurement methodologies which shall provide a framework to control and monitor the quality of credit as well as total loan portfolio.

a. *Internal credit risk rating system*. FIs shall develop and utilize an internal risk rating system appropriate to the nature, size and complexity of the FI's activities in order to help the board and senior management differentiate risks across the individual credits and groups and to facilitate informed decision making.

FIs shall have sophisticated rating systems involving sufficiently granular rating grades. Simple FIs may adopt simpler systems. In all cases, however, FIs shall demonstrate the influence of the internal risk rating system in the following important functions: i) credit approval and underwriting; ii) loan pricing; iii) relationship management and credit administration; iv) allowance for credit losses and capital adequacy; and v) portfolio management and board reporting.

Internal risk rating systems shall generally observe the following standards:

(1) It must be operationally integrated into the FI's internal credit risk management process. Its output shall accordingly be an integral part of the process of evaluation and review of prospective and existing exposures. Credit underwriting criteria shall become progressively more stringent as credit rating declines;

(2) It must be fully documented and shall address topics such as coverage, rating criteria, responsibilities of parties involved in the ratings process, definition of what constitutes a rating exception, parties that have authority to approve exceptions, frequency of rating reviews, and management oversight of the rating process. In addition, FIs must document the rationale for its choice of rating criteria and must be able to provide analyses demonstrating that the rating criteria and procedures are likely to result in ratings that meaningfully differentiate risk;

(3) All credit exposures shall be rated for risk. Where individual credit risk ratings are not assigned, e.g., small-denomination performing loans, FIs shall assign the portfolio of such exposures a composite credit risk rating that adequately defines its risk, i.e., repayment capacity and/or loss potential;

(4) The board shall receive sufficient information to oversee management's implementation of the process. Migration analysis/transition matrix of ratings shall be regularly reported to show the actual performance of the rating system over time;

(5) The risk rating system shall encompass an adequate number of ratings. FIs shall ensure that "pass" credits are sufficiently differentiated and more precisely defined. There shall be a proper process to map the internal rating system to regulatory classification. The FI shall readjust the mapping after every review of its internal risk rating methodology. For FIs whose internal rating systems have several pass

grades, special mention loans may pertain to several risk ratings while substandard, doubtful and loss generally correspond to the lowest three risk ratings;

(6) Risk ratings must be reasonable, timely and dynamic. Ratings shall be reviewed at least annually and shall be modified whenever the borrower's creditworthiness changes;

(7) The rating criteria shall reflect an established blend of qualitative (e.g., the quality of management, willingness to repay, etc.) and quantitative (e.g., cash flow, profitability, and leverage) factors. The criteria for assigning each rating shall be clearly defined;

(8) The rating policy shall indicate a time horizon for the risk rating. Generally, the time horizon used for probability of default estimation is one year. However, FIs may use a different time horizon to cover one business cycle;

(9) Ratings shall reflect the risks posed by both the borrower's expected performance and the transaction's structure. The ratings output of internal credit risk rating systems must contain both a borrower and a facility dimension. The borrower dimension shall focus on factors that affect the inherent credit quality of each borrower. The facility dimension, on the other hand, shall focus on security/collateral arrangements and other similar risk influencing factors of each transaction;

(10) The rating assigned to a credit shall be well supported and documented in the credit file; and

(11) Rating histories on individual accounts shall be maintained, which shall include the ratings of the account, the dates the ratings were assigned, the methodology and key data used to derive the ratings and the analyst who gave the ratings. The identity of borrowers and facilities that default, and the timing and circumstances of such defaults, must be retained. FIs must also retain data on the realized default rates associated with rating grades and ratings migration in order to eventually track the predictive power of the risk rating system.

As used in these standards, a default is considered to have occurred in the following cases:

(a) If a credit obligation is considered non-performing under existing rules and regulations;

(b) If a borrower/obligor has sought or has been placed in bankruptcy, has been found insolvent, or has ceased operations in the case of businesses;

(c) If the bank sells a credit obligation at a material credit-related loss, i.e., excluding gains and losses due to interest rate movements. Banks' board-approved internal policies that govern the use of their internal rating systems must specifically define when a material credit-related loss[1] occurs; and

(d) If a credit obligation of a borrower/obligor is considered to be in default, all credit obligations of the borrower/obligor with the same bank shall also be considered to be in default.

b. *Credit scoring model*. FIs may use a credit scoring model in measuring credit risk for pools of loans that are similar in purpose, risk characteristics and/or general exposure to groups, industries or geographical locations granted in small denomination; *Provided*, that the FI ensures that the credit scoring model sufficiently captures the credit behavior and other characteristics of the targeted borrowers. These loans include retail loans, loans to micro and small enterprises, microfinance loans and unsecured small business loans, and consumer loans (i.e., housing loans, car or auto loans, loans for the purchase of

[1]This refers to economic loss, thus shall include discount effects, as well as direct and indirect costs associated with collecting on the credit obligation. The FIs' board-approved internal policies that govern the use of their internal rating systems must include specific policies and procedures that shall be followed in the determination of economic loss.

appliance and furniture and fixtures, loans for payment of educational and hospital bills, salary loans and loans for personal consumption, including credit card loans). Risks for these types of portfolio are generally measured at portfolio level.

c. *Other credit risk measurement/ methodologies*. FIs may likewise adopt other appropriate credit risk measurement methodologies/models to estimate expected losses from credit portfolio.

d. *Validation of internal rating systems*. Validation is a process to assess the performance of risk component measurement systems consistently and meaningfully, to ensure that the realized risk measures are within an expected range. It not only increases the reliability of a model, but also promotes improvements and a clearer understanding of a model's strengths and weaknesses among management and user groups.

FIs shall establish comprehensive policies and procedures on effective validation of the rating system (e.g. review of model design/developmental evidence, backtesting, benchmarking and assessment of the discriminatory power of the ratings) and rating process (e.g. review of data quality, internal reporting, problem handling and how the rating system is used by the credit officers). This shall be adequately documented and results reported to appropriate levels of the FI. The process shall likewise be subject to periodic review by qualified, independent individuals.

Moreover, FIs shall periodically conduct back-testing in evaluating the quality of their credit risk assessment models and establish internal tolerance limits for differences between expected and actual outcomes and processes for updating limits as conditions warrant. The policy shall also include remedial actions to be taken when risk tolerances are exceeded.

e. *Stress testing*. When appropriate, an FI shall conduct stress testing and scenario analysis of its credit portfolio including off-balance sheet exposures, both at an individual and group levels to assess the impact of market dislocations and changes in economic conditions or key risk factors on its profile and earnings.

(1) Whether stress tests are performed manually, or through automated modeling techniques, FIs shall ensure that:

(a) Policies and processes –

(i) Are adequate and clearly documented, rational, easily understood and approved by the board and senior management; and

(ii) Include methodology for constructing appropriate and plausible single and multi-factor stress tests, and possible events, scenarios, or future changes in economic conditions that could have adverse impact on credit exposures, and assess the FI's ability to withstand such changes;

(b) The inputs are reliable and relate directly to the subject portfolios;

(c) The process includes frequency of test and procedures for convening periodic meetings to identify the principal risk factors affecting the portfolio, setting loss limits and the authority for setting these limits, and monitoring stress loss limits;

(d) Assumptions are well documented and conservative;

(e) Models (if any) are subject to a comprehensive validation process;

(f) Exceptions to limits and stress testing results are reported to the senior management and board of directors for appropriate remedial actions; and

(g) Results are discussed and actions and resolutions are made arising from the discussion.

(2) The linkages between different categories of risk that are likely to emerge

in times of crisis shall be fully identified. In case of adverse circumstances, there may be a substantial correlation of various risks, especially credit, liquidity, and market risk.

f. FIs shall develop a contingency plan for scenarios and outcomes that involve credit risk in excess of the FI's established risk tolerances. This plan may include increasing monitoring, limiting portfolio growth, and hedging or exit strategies for both significant individual transactions and key portfolio segments.

(Circular No. 855 dated 29 October 2014)

§ 4178Q.14 ***Credit risk management information and reporting systems*** FIs shall render accurate, reliable and timely information and reports. Thus, adequate management information and reporting systems shall be in place to identify and measure credit risk inherent in all on- and off-balance sheet activities and ensure the overall effectiveness of the risk management process. The information generated from such systems shall enable the board and all levels of management to fulfill their respective oversight roles, including determining the level of capital commensurate to the credit risk exposure of the FI.

a. At a minimum, an effective management information system (MIS) shall enable FIs to:

(1) Provide adequate information on the quality and composition of the credit portfolio (including off-balance sheet accounts);

(2) Determine accurately the level of credit risk exposures of an FI through its various activities (e.g. renewal and extension of loans, collection process, status of delinquent accounts, write-offs, provisioning, among others);

(3) Timely identify and monitor credit risk concentrations, exposures approaching risk limits, exceptions to credit risk limits and overrides to ensure that policy and underwriting deviations as well as breaches and other potential problems are promptly reported to the board and management for appropriate corrective action;

(4) Aggregate credit exposures to individual borrowers and counterparties as well as to a group of accounts under common ownership or control;

(5) Permit additional analysis of the credit portfolio, including stress testing; and

(6) Maintain a database for research and use of analytical techniques, report exposures, track quality and account performances, and maintain limits.

b. The credit policy shall clearly define the types of information and reports to be generated, frequency of reporting, deadline of submission, and the users/recipients of and personnel responsible for the preparation of such information and reports.

c. FIs shall provide sufficient controls to ensure integrity of the MIS. Reports shall be periodically reviewed to ensure adequacy of scope and reliability and accuracy of the information generated. Internal audit shall also periodically assess the controls over MIS.

(Circular No. 855 dated 29 October 2014)

§ 4178Q.15 ***Credit monitoring.*** FIs shall develop and implement comprehensive processes, procedures and information systems to effectively monitor the condition and quality of individual credits and group of credits across the FIs' various portfolios. These shall include criteria that identify and report problem credits to reasonably assure that they are appropriately monitored as well as administered and provided for.

a. The system shall be able to, among others, provide measures to ensure that the board and management are kept informed of the current financial condition of the borrower and the various credit portfolios; loan covenants are consistently adhered to;

cash flow projections meet repayment requirements; prudential and internal limits are not exceeded; portfolios are stress-tested; and potential problem credits and other transactions are identified. Exceptions, breaches and potential problems noted shall be promptly reported to management for corrective action, possible classification and/or provisioning and more frequent monitoring.

b. Personnel or unit assigned to monitor, on an ongoing basis, credit quality and underlying physical collateral and financial guarantees shall ensure that relevant information is communicated to those personnel or unit assigned to provide internal credit risk ratings.

c. FIs shall perform post-validation of the actual use of funds to determine that credits were drawn down for their intended purposes. Should funds be diverted for purposes other than what has been applied for and approved, the FI shall immediately re-evaluate its approval or if necessary terminate the credit accommodation and demand immediate repayment of the obligation.

d. FIs shall monitor individual and aggregate exposures against prudential and internal limits on a regular basis. Large exposures shall be subject to more intensive monitoring.

e. FIs shall develop a system that allows monitoring of asset quality indicators (e.g. non-performing loans, collateral values, etc.) and trends in loan growth to identify potential weaknesses in the portfolio.
(Circular No. 855 dated 29 October 2014)

D. MAINTAINING AN APPROPRIATE CREDIT CONTROL PROCESS

§ 4178Q.16 *Credit review process*

a. FIs shall implement an independent and objective credit review process to determine that credits are granted in accordance with the FI's policies; assess the overall asset quality, including appropriateness of classification and adequacy of loan-loss provisioning; determine trends; and identify problems (e.g., risk concentration, risk migration, deficiencies in credit administration and monitoring processes).

b. FIs may employ an appropriate sampling methodology to determine the scope of credit review. At a minimum, credit review shall be conducted on all individual obligors with substantial exposures, and on a consolidated group basis to factor in the business connections among related entities in a borrowing group. Credit review for credits that are similar in purpose or risk characteristics may be performed on a portfolio basis. The portfolio sample selected for review shall provide reasonable assurance that all major credit risk issues have been assessed and valid conclusions can be drawn. Moreover, sampling methodology shall be documented and periodically reviewed to ensure its quality and minimize bias.

c. Credit review shall also evaluate credit administration function and ensure that credit files are complete and updated, and all loan approvals and other necessary documents have been obtained.

d. Credit reviews shall be performed at least annually, and more frequently for substantial exposures, new accounts and classified accounts. Assessments shall be promptly discussed with the officers responsible for the credit activities and escalated to senior management.

e. Results of the credit review shall be promptly reported to the board of directors or the appropriate board-level committee for their appropriate action. The board shall mandate and track the implementation of corrective action in instances of unresolved deficiencies and breaches in policies and

procedures. Deficiencies shall be addressed in a timely manner and monitored until resolved/corrected.
(Circular No. 855 dated 29 October 2014)

§ 4178Q.17 *Credit classification and provisioning*

a. Classification of loans and other credit accommodations[1]. FIs shall have in place a reliable credit classification system to promptly identify deteriorating credit exposures and determine appropriate allowance for credit losses. Classification can be done on the basis of internal credit risk rating system, including payment delinquency status. All credit classifications, not only those reflecting severe credit deterioration, shall be considered in determining the appropriate allowance for credit losses.

(1) All FIs shall map their classification of loans and other credit accommodations against the regulatory classification criteria provided below. However, FIs are encouraged and not precluded from using additional criteria appropriate to their internal credit risk rating system provided they are consistent with the regulatory classification as follows:

(a) *Pass*. These are loans and other credit accommodations that do not have a greater-than-normal credit risk. The borrower has the apparent ability and willingness to satisfy his obligations in full and therefore no loss in ultimate collection is anticipated.

(b) *Especially Mentioned (EM)*. These are loans and other credit accommodations that have potential weaknesses that deserve management's close attention. If left uncorrected, these weaknesses may affect the repayment of the loan. Some degree of structural weakness may be found in virtually any aspect of the loan arrangement or type of loan, and the presence of one (or more) need not be indicative of an overall credit weakness deserving criticism. Instead, the FI must evaluate the relative importance of such factors in the context of the borrower's overall financial strength, the condition of the borrower's industry or market, and the borrower's total relationship with the FI. Basic characteristics include, but are not limited to, any of the following:

(i) Deficiencies in underwriting, documentation, structure and/or credit administration that can compromise an FI's ability to control credit relationship if economic or other events adversely affect the borrower;

(ii) Continuous renewal/extension without reduction in principal, except when the capacity to pay of the borrower has been clearly re-established;

(iii) Adverse economic or market conditions, that in the future may affect the borrower's ability to meet scheduled repayments. Loans and other credit accommodations affected by these characteristics may retain the EM classification in the next examination should the same adverse conditions persist, provided that the loans remain current; or

(iv) Intermittent delays or inadequate repayment of principal, interest or periodic amortizations of loans and other credit accommodations granted by the FI or by other FIs, where such information is available.

(c) *Substandard***.** These are loans and other credit accommodations that have well-defined weakness/(es), that may jeopardize repayment/ liquidation in full, either in respect of the business, cash flow or financial position, which may include adverse trends or developments that affect willingness or repayment ability of the borrower. Basic characteristics include any of the following:

(i) Weak financial condition and results of operation that leads to the borrower's

[1] Other credit accommodations include other credits such as accounts receivables, sales contract receivables, accrued interest receivables and advances.

inability to generate sufficient cash flow for debt servicing, except for start-up firms which shall be evaluated on a case-to-case basis;

(ii) Past due secured loans and other credit accommodations where properties offered as collateral have been found with defects as to ownership or with other adverse information;

(iii) Breach of any key financial covenants/agreements that will adversely affect the capacity to pay of the borrower; or

(iv) Classified *"Especially Mentioned"* as of the last credit review without adequate corrective action.

(d) *Doubtful*. These are loans and other credit accommodations that exhibit more severe weaknesses than those classified as *"Substandard"*, whose characteristics on the basis of currently known facts, conditions and values make collection or liquidation highly improbable, however the exact amount remains undeterminable as yet. Classification as *"Loss"* is deferred because of specific pending factors which may strengthen the assets. Some basic characteristics include any of the following:

(i) Secured loans and other credit accommodations where properties offered as collateral are either subject to an adverse claim rendering settlement of the loan through foreclosure doubtful or whose values have materially declined without the borrower offering additional collateral for the loan/s to cover the deficiency; or

(ii) Loans and other credit accommodations wherein the possibility of loss is extremely high but because of certain important and reasonable pending factors (i.e., merger, acquisition, or liquidation procedures, capital infusion, perfecting liens on additional collateral, and refinancing plans) that may work to the advantage and strengthening of the asset, its classification as an estimated loss is deferred until the next credit review.

(e) *Loss***.** These are loans and other credit accommodations which are considered uncollectible or worthless and of such little value that their continuance as bankable assets is not warranted although the loans may have some recovery or salvage value. This shall be viewed as a transitional category for loans and other credit accommodations which have been identified as requiring write-off during the current reporting period even though partial recovery may be obtained in the future. Their basic characteristics include any of the following:

(i) When the borrower's and co-makers'/ guarantors' whereabouts are unknown, or they are insolvent, or their earning power is permanently impaired; or

(ii) Where the collaterals securing the loans are without recoverable values.

(2) Split classification may apply for non-performing secured loans and other credit accommodations, depending on the recoverability and liquidity of the collateral. The secured portion may be classified as *"Substandard"* or *"Doubtful"*, as appropriate, while the unsecured portion shall be classified *"Loss"* if there is no other source of payment other than the collateral.

(3) In the case of syndicated loans, each participating FI shall maintain credit information on the borrower, and grade and make provision for its portion of the syndicated loan in accordance with the requirements of these guidelines. The lead FI shall provide participating FIs with the credit information on the borrower upon request by the participating FI and inform the latter if the loan will be classified so as to achieve uniform classification of the syndicated loan.

(4) FIs may upgrade a classified loan or restore it to a pass rating provided that it does so on the basis of a written policy on

the upgrading of classification or rating and the credit review function is reliable and effective. Such policy shall include a comprehensive analysis of the repayment capability/financial strength of the borrower and the corrective actions made on the weaknesses noted to support the upgrade in classification. Upgrading may be supported by the following developments:

(a) When all arrears or missed payments on principal and interests including penalties have been cleared rendering the account to be fully compliant with the original terms of the loan;

(b) Upon establishing that the weaknesses were substantially addressed and that the borrower has exhibited a sustained trend of improvement and willingness and capability to fully pay its loans and advances in a timely manner to justify the upgrade;

(c) Offering of new or additional collateral security; or

(d) In the case of restructured loans, the classification shall only be upgraded after establishing a satisfactory track record of at least six (6) consecutive payments of the required amortization of principal and interest, or until the borrower has sufficiently exhibited that the loan will be fully repaid (continued collection in accordance with the terms of the loans is expected) and the loan meets the criteria of lower loan classification.

b. *Loan loss estimation methodology, provisioning and allowance for credit losses*

(1) All FIs shall develop and document a sound loan loss methodology that can reasonably estimate provisions for loans and other credit accommodations and risk assets in a timely manner, using their experience and research and this guidance to ensure that the specific and collective allowance for credit losses[1] (ACL) are adequate and approximates the expected losses in their credit portfolio.

An FI's loan loss methodology shall consider the following:

(a) Written policies and procedures for the credit risk systems and controls inherent in the methodology, including roles and responsibilities of the FI's board of directors and senior management;

(b) A detailed analysis of the entire loan portfolio, including off-balance sheet facilities, performed on a regular basis;

(c) A realistic view of its lending activities and adequately consider uncertainty and risks inherent in those activities in preparing accounting information. Loan accounting policies and practices shall be selected and applied in a consistent way that reasonably assures that loan and loan loss provision information is reliable and verifiable;

(d) Identification of loans to be evaluated individually and segmentation of the remaining portfolio into groups of loans with similar credit risk characteristics for collective assessment.

(i) *Individually assessed loans*. FIs shall establish a materiality threshold for significant credit exposures that will warrant an individual assessment, which threshold shall be regularly reviewed.

The loan loss estimates shall reflect consideration of the facts and circumstances that affect the repayment of each individual loan as of the evaluation date. The following factors are relevant in estimating loan losses for individually assessed loans:

(aa) Significant financial difficulty of the borrower;

(bb) Probable bankruptcy or other financial reorganization of the borrower;

(cc) Breach of contract, such as a default or delinquency in interest or principal payments; or

[1] ACL represents the aggregate amount of individual and collectively assessed probable credit losses.

(dd) Concession granted by the FI, for economic or legal reasons relating to the borrower's financial difficulty, which would not otherwise be considered.

The methodology shall include procedures describing the determination and measurement of the amount of any impairment, the impairment measurement techniques available and steps performed to determine which technique is most appropriate in a given situation.

(ii) *Collectively assessed loans*. FIs may use different methods to group loans for the purpose of assessing credit risk and valuation. More sophisticated credit risk assessment models or methodologies for estimating expected future cash flows, including credit risk grading processes, may combine several of the following characteristics: loan type, product type, market segment, estimated default probabilities or credit risk grading and classification, collateral type, geographical location and past-due status.

Estimated credit losses shall reflect consideration of the FI's historical net charge-off rate[1] of the groups, adjusted for changes in trends, conditions and other relevant factors that affect repayment of the loans in these groups as of the evaluation date, and applied consistently over time;

(e) Methods used to determine whether and how loans individually evaluated, but not considered to be individually impaired, shall be grouped with other loan (excluding individually assessed loans that are impaired) that share similar credit risk characteristics for collective impairment evaluation;

(f) The quality and net realizable values of physical collateral and other financial guarantees and credit risk mitigants incorporated in the loan agreement, where applicable;

(g) Address the methods used to validate models for credit risk assessment;

(h) The analyses, estimates, reviews and other provisioning methodology functions shall be performed by competent and well-trained personnel and be well documented, with clear explanations of the supporting analyses and rationale; and

(i) *Use experienced credit judgment*. Assessment of expected losses shall not be based solely on prescriptive rules or formula but must be enhanced with experienced credit judgment by the appropriate levels of management[2] inasmuch as historical loss experience or observable data may be limited or not fully relevant to current circumstances. However, the scope for actual discretion shall be prudently within the following constraints:

(1) Experienced credit judgments shall be subject to established policies and procedures;

(2) With approved and documented analytical framework for assessing loan quality applied consistently over time;

(3) Estimates shall be based on reasonable and verifiable assumptions and supported by adequate documentation; and

(4) Assumptions concerning the impact on borrowers of changes in general economic activity, both favorable and unfavorable, shall be made with sufficient prudence.

The method of determining loan loss provisions shall reasonably assure the timely recognition of loan losses. While historical loss experience and recent economic conditions are a reasonable starting point for the institution's analysis, these factors are not, by themselves, sufficient basis to

[1] The historical net charge-off rate is generally based on the annualized historical gross loan charge-offs, less recoveries, recorded by the FI.

[2] There may be instances when no adjustments are needed to the data in the recognition and measurement of loan losses because the data are consistent with current conditions.

determine the appropriate level of aggregate loan loss provisions. Management shall also consider any current factors that are likely to cause loan losses to differ from historical loss experience, including changes in the following:

- Lending policies and procedures, including underwriting standards and collection, charge-off, and recovery practices;
- International, national and local economic and business conditions and developments, including the condition of various market segments;
- Trend, volume and severity of past due loans and loans graded as low quality, as well as trends in the volume of impaired loans, troubled debt restructurings and other loan modifications;
- The experience, ability, and depth of lending management and staff;
- Changes related to new market segments and products;
- Quality of the FI's loan review system and the degree of oversight by senior management and board of directors;
- The existence and effect of any concentrations of credit, and changes in the level of such concentrations; and
- Credit risk profile of the loan portfolio as a whole as well as the effect of external factors such as competition and legal and regulatory requirements on the level of estimated credit losses in the FI's current portfolio.

Experienced credit judgment shall also be used to determine an acceptable period that will yield reliable historical loss rates as loss rate periods shall not be restricted to a fixed time period to determine the average historical loss experience for any group of loans with similar credit risk characteristics. An FI shall maintain sufficient historical loss data over a full credit cycle to provide robust and meaningful statistical loan loss estimates for establishing the level of collective impairment losses for each group of loans with similar credit risk characteristics. When applying experienced credit judgment, an FI shall provide a sound rationale for excluding any historical loss data that is deemed not representative of the performance of the portfolio.

(2) FIs with credit operations that may not economically justify a more sophisticated loan loss estimation methodology or whose practices fell short of expected standards shall, at a minimum, be subject to the regulatory guidelines in setting up allowance for credit losses prescribed in *Appendix Q-10,* provided that the FIs notify the appropriate department of SES, of this preference. Nevertheless, such FIs shall still use experienced credit judgment, subject to the criteria prescribed in this Subsection, in determining the ACL.

(3) FIs shall set up general loan loss provision equivalent to one percent (1%) of the outstanding balance of individually and collectively assessed loans for which no specific provisions are made and/or for which the estimated loan losses are less than one percent (<1%), less loans which are considered non-risk under existing laws, rules and regulations.

(4) FIs shall ensure the adequacy of the individual and collective ACL for the entire loan portfolio. They shall have a policy for the regular review of the ACL, which shall be conducted at least semi-annually after considering results of the credit review, level of classified loans, delinquency reports, historical losses and market conditions. Failure to make adequate provisions for estimated future losses results in material misrepresentation of an FI's financial condition.
(Circular No. 855 dated 29 October 2014)

§ 4178Q.18 ***Credit workout and remedial management of problem credits*** FIs shall develop and maintain a disciplined and vigorous process for the early identification and intervention for potential or existing problem credits. The process shall ensure that timely and adequate management action is taken to maintain the quality of the credit portfolio, prevent further deterioration, and minimize the likelihood of future losses.

a. *Problem credits* refer to credits that display signs of potential problems and/or well-defined weaknesses such as those not performing according to the terms of the contract, or with credit quality impairment, or deficiencies relating to their approval and/or conduct that are not in keeping with sound and prudent credit policies. These shall include past due loans, non-performing loans and restructured loans.

b. FIs shall adopt appropriate and cost effective workout, restructuring or remedial management policies, processes and strategies to revive and recover problem credits. The strategies shall take into account the specific condition of the obligor and the FI's interest, and shall be approved by the board of directors or management, in accordance with internal policy.

c. At a minimum, the policies and strategies shall cover the following areas:

(1) authority and responsibilities of officers and staff in managing problem credits;

(2) collection strategy to be adopted for different types of loans;

(3) restructuring and handling of restructured accounts and/or loans for workout;

(4) supervision and monitoring of loan recovery performance;

(5) management and disposal of ROPA, including appraisal process;

(6) management information system to support the reporting, monitoring and decision making processes;

(7) defined timelines and provision for regular monitoring; and

(8) other strategies, such as the use of collection agencies, and criteria for hiring a consultant on problem credits.

d. Restructuring strategies

(1) Restructuring may be resorted to for the purpose of lessening the financial difficulty of the obligor towards full settlement of his obligation, and restructuring agreements shall always take into account the borrower's capacity to pay his obligation and available credit enhancements such as financial guarantees and physical collateral. Thus, except in special cases which also require approval by the Monetary Board, such as loans funded by foreign currency obligations, FIs shall have full discretion on whether to restructure loans in order to provide flexibility in arranging the repayment of such loans without impairing or endangering the FI's interest.

(2) Accounts shall not be restructured unless the financial capacity of the obligor to repay has been re-established, the events or crises that triggered the financial stress had been identified, and the nature and extent of protection of the FI's exposure had been determined, to justify the need for restructuring.

(3) At a minimum, the classification and provisioning of a loan, prior to the execution of the restructuring agreement shall be retained until the borrower has sufficiently exhibited that the loan will be fully repaid.

(4) A second restructuring of a loan shall be allowed only if there are reasonable justifications: *Provided,* That it shall be considered a non-performing loan and classified, at least, *"Substandard"*. The restoration to a performing loan status and/

or upgrading of loan classification, e.g., from *"Substandard"* to *"Especially Mentioned"*, may be allowed if circumstances warrant an upgrading in accordance with this Subsection.

(5) When restructuring of exposures to DOSRI and other related parties is pursued, this shall be upon terms not less favorable to the FI than those offered to others and shall be approved by the board, excluding the concerned director.

(6) Physical collaterals offered, such as real estate, shall be appraised by an independent appraisal company (not a subsidiary or an affiliate of the FI) acceptable to the Bangko Sentral at the time of restructuring and every year thereafter to ensure that current market values are being used. A credit exposure benchmark of P1.0 million for simple FIs and P5.0 million for all other FIs shall be observed, such that physical collaterals for credit exposures beyond this amount will require an independent appraisal.

e. Problem credits, including restructured accounts, shall be subjected to more frequent review and monitoring. Regular reports on the status of loan accounts and progress of any remedial plan shall be submitted to senior management to facilitate an informed decision whether escalated remedial actions are called for.
(Circular No. 855 dated 29 October 2014)

§ 4178Q.19 *Writing off problem credits*. Policies for writing off problem credits must be approved by the board of directors in accordance with defined policies, and shall incorporate, at a minimum, well-defined criteria (i.e., circumstances, conditions and historical write-off experience) under which credit exposures may be written off. Procedures shall explicitly narrate and document the necessary operational steps and processes to execute the policies.

Policies and procedures shall be periodically reviewed and if necessary, revised in a timely manner to address material internal changes (e.g., change in business focus) or external circumstances (e.g., changes in economic conditions).

FIs shall write off problem credits, regardless of amount, against ACL or current operations within a reasonable period as soon as such problem credits are determined to be worthless as defined in the FIs' written policies. However, problem credits to DOSRI shall be written off only upon prior approval of the Monetary Board.

Policies shall define and establish the reasonable period of time within which to write off loans already classified as *"Loss"*. There shall be no undue delay in implementing write-offs. Notice of write-off of problem credits shall be submitted in the prescribed form to the Bangko Sentral through the appropriate department of SES within thirty (30) business days after every write-off with a sworn statement signed by the President of the FI or officer of equivalent rank that write-off did not include transactions with DOSRI and was undertaken in accordance with board-approved internal credit policy.

An effective monitoring and reporting system shall be in place to monitor debts written off and future recoveries. Progress on recovery shall be periodically reported to the board and senior management. A database of loan accounts written off shall be maintained and must be periodically reviewed for updates on individual loan obligor's information.
(Circular No. 855 dated 29 October 2014)

§ 4178Q.20 *Enforcement actions.* The Bangko Sentral reserves the right to deploy its range of supervisory tools to promote adherence to standards and principles set forth in these guidelines, bring about timely corrective actions and compliance with Bangko Sentral directives and ensure that FIs continuously observe the said standards. Persistent non-observance of the provisions of Section 4178Q and its subsections, which may lead to material misstatement of the financial condition or illiquidity of the FI, may be a ground for declaration of unsafe or unsound practices under Section 56 of R.A. No. 8791 and subject the FI to appropriate sanctions.

Enforcement actions shall be based on a holistic assessment to determine if FIs adopt appropriate risk management practices and maintain capital commensurate with the risk assumed based on existing rules and regulations. These may include, but are not limited to, the following:

a. *Corrective actions.* These are measures intended to primarily require FIs to rectify any deviations from the standards and principles expected in the conduct of its credit risk-taking activities to address the negative impact of such deviation. Corrective actions generally include issuance of specific directives to address supervisory concerns within a reasonable timeframe.

b. *Sanctions.* The Monetary Board may impose sanctions on an FI and/or its Board, directors and officers, as provided under existing laws, Bangko Sentral rules and regulations proportionate to the gravity/ seriousness of offense.

c. *Other enforcement actions.* Subject to prior Monetary Board approval, the Bangko Sentral, when warranted, may deploy other enforcement actions such as:

(1) Initiation into the prompt corrective action (PCA) framework whenever grounds for PCA exist;

(2) Issuance of cease and desist order (CDO) in case of persistence of unsafe/ unsound banking practices and/or violation of any banking law or any order, instruction or regulation issued by the Monetary Board or any order, instruction or ruling issued by the Governor;

(3) Additional capital infusion in case hazardous lending practices resulted in excessive provisions for credit losses leading to capital deficiency;

(4) Requiring the FI to gross up the amount of required allowance for credit losses based on the examination of a representative sample of loans, if in the course of the Bangko Sentral examination, a high incidence of non-reporting/ concealment of past due and/or problem loans is noted; or

(5) Other appropriate non-monetary enforcement actions that the Monetary Board may impose.

(Circular No. 855 dated 29 October 2014)

Sec. 4179Q Operational Risk Management; Policy Statement[1]. It is the thrust of the Bangko Sentral to promote the adoption of effective risk management systems to sustain the safe and sound operations of its QBs. Cognizant that operational risk is inherent in all activities, products and services, and is closely tied in with other types of risks (e.g., credit, liquidity and market risks), the Bangko Sentral is issuing these guidelines to clearly set out its expectations and define the minimum prudential requirements on operational risk management. These guidelines align existing regulations to the extent possible, with international standards[2] and best practices. Bangko Sentral expects its QBs to adopt an operational risk management framework, as part of the enterprise-wide risk management system, that is suited to their size, complexity of operations, and risk profile.

(Circular No. 900 dated 18 January 2016)

[1] QBs shall comply with the foregoing standards on operational risk management within a period of two (2) years from 05 February 2016. In this regard, a QB should be able to show its plan of actions with specific timelines, as well as the status of initiatives being undertaken to fully comply with the provisions of Sec. 4179Q as well as Subsec. 4179Q.1 to 4179Q.11.

[2] Embodied in the relevant documents issued by the Basel Committee on Banking Supervision.

§ 4179Q.1 ***Definition of operational risk.*** *Operational risk* refers to the risk of loss resulting from inadequate or failed internal processes, people and systems; or from external events. This definition includes legal risk, but excludes strategic and reputational risks. Operational risk is inherent in all activities, products and services, and cuts across multiple activities and business lines within the financial institution and across the different entities in a banking group or conglomerate where the financial institution belongs.
(Circular No. 900 dated 18 January 2016)

§ 4179Q.2 ***Duties and responsibilities.***

a. *Board of directors.* Consistent with the principles embodied under Subsec. 4141Q.3, the duties and responsibilities of the board of directors in relation to the effective management of risk include the establishment of a comprehensive and effective operational risk management framework as part of the enterprise-wide risk management system. In this regard, the board of directors shall:

(1) Ensure that it is aware of and understands the nature and complexity of the major operational risks in the QB's business and operating environment, including risks arising from transactions or relationships with third parties, vendors, suppliers including outsourced service providers, and clients of services provided. This should include understanding of both the financial and non-financial impact of operational risk to which the QB is exposed to;

(2) Approve the operational risk management framework which shall form part of the QB's enterprise-wide risk management system and shall cover all business lines and functions of the QB, including outsourced services and services provided to external parties. The operational risk management framework should include an enterprise-wide definition of operational risk, which should be consistent with the definition under Subsec. 4179Q.1, governance, and reporting structures including the roles and responsibilities of all personnel, feedback mechanism, as well as standards and tools for operational risk management. In this respect, the board shall:

(a) Define the operational risk management strategy and ensure that it is aligned with the QB's overall business objectives. Relative to this, the board should set and provide clear guidance on the QB's operational risk appetite (i.e., the level of operational risk the QB is willing to take and able to manage in pursuit of its business objectives as well as the type of risks that are not acceptable to the board and management), which should consider all material risk exposures as well as the QB's financial condition and strategic direction;

(b) Approve appropriate thresholds or limits to ensure that the level of operational risk is maintained within tolerance and at prudent levels and supported by adequate capital. Relative to this, the board shall approve policy on resolving limit breaches which should cover escalation procedures for approving or investigating breaches, approving authorities, and requirements in reporting to the appropriate level of management or the board;

(c) Ensure that operational risk is appropriately considered in the capital adequacy assessment process;

(d) Ensure that it receives adequate information on material developments in the operational risk profile of the QB, including pertinent information on the current and emerging operational risk exposures and vulnerabilities as well as information on the effectiveness of the operational risk management framework. The board must challenge the quality and comprehensiveness of the operational risk information it receives. It should also be satisfied with the reliability of the said information and the monitoring system for operational risk;

(e) Ensure that business objectives, risk appetite, the operational risk management framework, and the respective roles and responsibilities of personnel and officers at all levels in terms of implementing the operational risk management framework, are properly disseminated, clearly communicated/discussed, and understood by personnel concerned;

(f) Provide senior management with clear guidance and direction regarding the principles underlying the operational risk management framework. The board shall ensure that senior management appropriately implements policies, processes and procedures, and provides feedback on the operational risk management process. In this regard, the board shall establish a feedback and reporting system that will allow employees to raise their concerns without fear of negative consequences; and

(g) Ensure that the operational risk management framework is subject to effective and comprehensive independent review, on a periodic basis, by operationally independent, appropriately trained, and competent staff to ensure that it remains commensurate with the QB's risk profile and continues to be adequate and effective in managing operational risk. The review should take into account the changes in business and operating environment, material changes in systems, business activity or volume of transactions, quality of control environment, effectiveness of risk management or mitigation strategies, loss experience, and the frequency, volume or nature of breaches in limits or any policy.

(3) Provide adequate oversight on all outsourcing activities and ensure effective management of risks arising from these activities. In this regard, the board of directors shall approve a framework governing outsourcing activities, which includes a system to evaluate the risk and materiality of all existing and prospective outsourcing engagements and the policies that apply to such arrangements;

(4) Ensure observance of expectations and requirements prescribed under relevant laws, rules and regulations, industry set standards, and policies on internal control, internal audit, and disclosure;

(5) Promote a culture of high standards of ethical behavior. The board shall adopt a code of conduct of ethical behaviors with corresponding disciplinary actions for non-compliance, which should cover, among others, guidance and protocols on conflicts of interest situations, safeguarding of confidential information, and use of sensitive information. The board should likewise institute tools, methodologies, and practices in order to ensure compliance and adherence to the standards by all employees including the senior officers and the board itself. In this regard, employees should be required to acknowledge in writing that they have read, understood, and will observe the code of conduct;

(6) Ensure that business and risk management activities, including the operational risk management function, are carried out by adequate and qualified staff with the necessary experience, technical capabilities, and competence. Moreover, the board shall ensure that employees and officers in all areas of operations have a high degree of integrity.

For this purpose, the board shall approve appropriate hiring and selection policies and processes, adopt a continuing professional development program, and institutionalize a framework for continuing assessment of fitness and propriety of employees. These policies, processes and programs should reinforce the conduct and values being promoted in the organization.

Further, the board shall oversee the design and implementation of remuneration policies. It shall ensure that the remuneration policies do not encourage excessive risk-taking or provide incentives to people to perform contrary to the desired risk management values. It shall also ensure that remuneration policies are appropriate and aligned with the QB's long-term strategic direction and risk appetite, as well as with relevant legal or regulatory requirements;

(7) Ensure that all units in the organization have adequate resources, including personnel complement, and are supported by appropriate technological systems. The use of technological systems must be commensurate to the activities being undertaken; and

(8) Oversee implementation of a sound business continuity management framework. The board should create and promote an organizational culture that places high priority on business continuity.This shall include providing sufficient financial and human resources associated with the QB's business continuity initiatives.

b. *Senior management*. Senior management shall be responsible for the implementation and consistent adherence by all personnel to the operational risk management framework approved by the board of directors. In this respect, senior management shall:

(1) Translate the approved operational risk management framework into specific policies and processes covering all businesses and functions of the QB, including outsourced services and services provided to external parties. Said policies should be clearly documented, approved by the board of directors and communicated to personnel at all levels. Policies should include, among others:

(a) Definition of operational risk and operational risk loss. This should be supported by common operational risk taxonomy that includes the operational risk event type and causes of losses to facilitate the consistent identification of operational risks across the QB as well as the management of operational risk in an integrated manner;

(b) Appropriate governance and oversight structures, reporting lines, and accountabilities for managing operational risks;

(c) Clear description of risk limits and thresholds that correspond to the QB's approved operational risk appetite and tolerance;

(d) Risk mitigation strategies and tools for maintaining risks within the thresholds and limits set;

(e) Approach to operational risk identification, assessment, monitoring and reporting that utilizes appropriate operational risk management tools. This should include an outline of the reporting framework and types of data/information to be included in the risk management reports; and

(f) Requirement for the conduct of independent review of the framework as well as its implementation, on a periodic basis, and whenever there are material changes in the QB's operational risk profile.

(2) Communicate individual roles and responsibilities of personnel. It is important that personnel at all levels understand their respective roles in the operational risk management process. In this regard, senior management should clearly assign authority, responsibility, and reporting relationships to encourage and maintain accountability, and ensure that the necessary resources are available to manage operational risk effectively;

(3) Establish systems to report, track, escalate, and resolve issues; and set the frequency of operational risk management reporting considering the level and type of risks involved as well as the pace and nature of the operating environment of the QB;

(4) Assess the appropriateness of the operational risk management process in light of the changing business environment and nature of risks arising from business activities or functions;

(5) Ensure that sufficient number of personnel, technical support, and other resources are devoted for operational risk management such that the QB's activities are conducted by qualified personnel with the necessary experience and technical capabilities. It shall also ensure that personnel responsible for monitoring and enforcing compliance with the QB's operational risk policy as well as the Compliance and Internal Audit units have authority independent from the units they review and are knowledgeable about the different areas of operations; and

(6) Establish policies, standards and processes for an effective business continuity management.

c. *Business units.* Business line management and personnel, as the first line of defense, are responsible on a day-to-day basis for identifying, managing and reporting operational risks inherent in the products, activities, processes and systems for which they are accountable. In this regard, business line management shall ensure that:

(1) Internal controls and practices within their business lines are consistent with the enterprise-wide policies and procedures to support the management of operational risk;

(2) Business line specific policies, processes, and procedures are adequate and effectively implemented, and personnel are adequate and competent to manage operational risk for all material products, activities, and processes;

(3) Operational risk management framework within each business line reflects the scope of that business line and its inherent operational complexity and operational risk profile;

(4) Risk mitigation strategies and processes as approved by the board and senior management are established and executed;

(5) Internal controls, and operational risk mitigation strategies and processes are periodically reviewed within the business units to effectively manage operational risks within approved risk tolerance, and consistent with enterprise-wide policies and procedures established. There must be clear expectations and processes established to ensure prompt escalation and actions to address any gap or issue identified; and

(6) Operational risk-related information (e.g., loss events, incidents, et al.) are adequately and timely communicated/ coordinated to Operational Risk Management Function (ORMF) for risk monitoring and reporting, in addition to the usual reporting to senior management and/ or board.

(Circular No. 900 dated 18 January 2016)

§ 4179Q.3 *Roles and functions.*

a. *Operational Risk Management Function.* QBs are not required to create an ORMF. However, the board of directors is expected to discuss operational risk issues during its board meetings with discussions adequately documented in the minutes of meetings. The board of directors of QBs may, at its own discretion, or as directed by the appropriate supervising department of the Bangko Sentral, create a Risk Management Unit (RMU) or assign specific personnel under said unit to handle operational risk concerns. The specific personnel or RMU shall directly report to the head of the RMU or to the board-level Risk Oversight Committee (ROC), as appropriate. The ROC or the board shall be responsible for assessing the annual performance of the unit taking into account how said unit carried out its duties and responsibilities. The ORMF shall be supported by a board-approved charter that defines its stature, authority, and independence.

The ORMF shall primarily assist management in meeting its responsibility to understand and manage operational risk exposures and ensure the development and consistent implementation of operational risk policies, processes, and procedures throughout the institution. In this regard, the ORMF shall:

(1) Recommend to the board of directors and senior management appropriate policies and procedures relating to operational risk management and controls;

(2) Design and implement the operational risk assessment methodology tools and risk reporting system of the institution;

(3) Coordinate risk management activities across the institution;

(4) Consolidate all relevant operational risk information/reports to be elevated/ presented to the board and senior management;

(5) Provide operational risk management training and advice to business units on operational risk management issues; and

(6) Coordinate with compliance function, internal audit, and external audit on operational risk matters.

ORMF personnel should have technical proficiency, appropriate educational background, and exposure to enable them to effectively perform the unit's mandate. QBs shall have in place a training program to keep its personnel up-to-date on different operational risk issues and challenges.

b. *Compliance function*. The compliance function shall conduct an independent assessment of the compliance with relevant laws, rules and regulations, as well as internal policies of the institution, and determine areas that may potentially result in risk of loss due to inadequate or failed internal processes, systems, and people. The latter includes inappropriate conduct/behavior of personnel, officers, and the board, that may lead to fraud or any form of business disruption. The compliance function shall assess whether the identified operational risk exposure by the business units or by the function itself shall affect the franchise value of the institution. In this regard, it shall advise and assist management in establishing guidance on the appropriate implementation of relevant laws, rules and regulations, and internal policies.

c. *Internal audit*. Internal audit shall conduct an independent assessment of the operational risk management framework, including the implementation of operational risk management policies and procedures. The board of directors, either directly or indirectly through the board-level Audit Committee shall ensure that the scope and frequency of audit is appropriate to the risk exposures. Any operational risk issue identified and reported in the audit process should be addressed by senior management in a timely and effective manner, or raised to the attention of the board as appropriate.
(Circular No. 900 dated 18 January 2016)

§ 4179Q.4 *Operational risk management framework.* QBs shall have in place an appropriate operational risk management framework, as part of the enterprise-wide risk management system, that is effective and efficient in identifying, assessing, monitoring and controlling/ mitigating operational risk. They shall ensure that their operational risk management framework is commensurate with the complexity of their operations, range of products and services, organizational structure, and risk profile.

a. *Risk identification and assessment.* Risk identification and assessment are fundamental elements of an effective operational risk management system. Effective risk identification shall consider both internal factors (such as QB structure, nature of activities, the quality of human resources, organizational changes and employee turnover, among others) and external factors (such as changes in the broader environment and the industry, advances in technology, and developments in political, legal, and economic factors, among others). Risk identification and assessment allow the QB to better understand its risk profile and allocate risk management resources and strategies more effectively. Since the business lines are expected to have the best knowledge of their risk exposures and processes, these units should play a major role in the identification and assessment of operational risk.

(1) QBs shall consider the following loss event-type categories as part of their risk identification and assessment processes:

(a) Internal fraud, e.g., intentional misreporting of positions, employee theft, and insider trading on an employee's own account;

(b) External fraud, e.g., robbery, forgery, check kiting, and damage from computer hacking;

(c) Employment practices and workplace safety, e.g., workers compensation claims, violation of health and safety rules, organized labor activities, discrimination claims, and general liability;

(d) Clients, products and business practices, e.g., fiduciary breaches, misuse of confidential customer information, improper trading activities on the QB's account, money laundering, and sale of unauthorized products;

(e) Damage to physical assets, e.g., terrorism, vandalism, earthquakes, fires and floods;

(f) Business disruption and system failures, e.g., hardware and software failures, telecommunication problems, and utility outages; and

(g) Execution, delivery, and process management, e.g., data entry errors, collateral management failures, incomplete legal documentation, unapproved access given to client accounts, non-client counterparty misperformance, and vendor disputes.

(2) QBs shall adopt tools and mechanisms that are appropriate to their size, complexity of operations and risk profile to properly identify and assess operational risk. The tools that may be used for identifying and assessing operational risk may include, but not limited to:

(a) *Results of internal/external audit and supervisory issues raised in the Bangko Sentral Report of Examination (ROE)* – Internal audit surfaces issues on effectiveness of internal control, risk management, and governance systems and processes of an organization, while external audit focuses on control weaknesses and susceptibility of the QB to material misstatements in the financial statements. On the other hand, the Bangko Sentral ROE highlights deficiencies in the risk management systems and governance processes as well as issues on compliance with relevant laws, rules and regulations, which could have adverse effects on the safety and soundness of the QB;

(b) *Internal loss data collection and analysis* – Internal operational loss data provides meaningful information for assessing QB's exposure to operational risk and the effectiveness of internal controls. Analysis of loss events can provide insights into the causes of large losses and information on whether control failures are isolated or pervasive. QBs may consider mapping internal loss data to the following business lines:

(i) Corporate finance;
(ii) Trading and sales;
(iii) Retail banking;
(iv) Commercial banking;
(v) Payment and settlement;
(vi) Agency services;
(vii) Asset management; and
(viii) Retail brokerage.

Loss events linked to credit and market risks may also relate to operational issues and should be segmented in order to obtain a more comprehensive view of the QB's operational risk exposure;

(c) *Risk Self Assessments (RSA)/Risk Control Self Assessments (RCSA)* – RSA is a tool to assess processes underlying QBs operations against a library of potential threats and vulnerabilities including their potential impact. A similar approach, RCSA, typically evaluates inherent risk (the risk before controls are considered), the effectiveness of the control environment, and residual risk (the risk exposure after controls are considered). Scorecards on RCSAs may be developed by allocating weights to residual risks to provide a means of translating the RCSA output into metrics that will give a relative ranking of the control environment;

(d) *Business process mappings* – These help identify key steps in business processes, activities, and organizational functions as well as the key risk points in the QB's overall business process. Process maps can reveal individual risks, risk interdependencies, and areas of control or risk management weakness. They can also help prioritize subsequent management action;

(e) *Risk and performance indicators* – Risk and performance indicators, such as Key Risk Indicators (KRIs) and Key Performance Indicators (KPIs), provide an insight into a QB's emerging risk exposure. KRIs are used to monitor the main drivers of exposure associated with key risks that contribute to early detection of heightened risk, ongoing monitoring of their movements, and preemptive reactions as necessary. KPIs, on the other hand, provide insight into the status of operational processes, which may in turn provide insights into operational weaknesses, failures, and potential loss. Risk and performance indicators are often used with escalation triggers to warn when risk levels approach or exceed acceptable ranges and prompt mitigation plans;

(f) *Scenario analysis* – This refers to the process of obtaining expert opinion of business line and risk managers to identify potential operational risk events and assess the potential outcome. Scenario analysis is an effective tool when considering potential sources of significant operational risk and the need for additional risk management controls or mitigation solutions. Given the subjectivity of the scenario process, a robust governance framework is essential to ensure the integrity and consistency of the process;

(g) *Model measurement* – Larger QBs may deem it useful to quantify their operational risk exposures by using the output of the risk assessment tools as inputs into a model that estimates operational risk exposure. The results of the model can be used in an economic capital process and can be allocated to business lines to link risk and return; and

(h) *Comparative analysis* – Comparative analysis consists of comparing the results of the various assessment tools to provide a more comprehensive view of the QB's operational risk profile.

Comparison of external loss data, if available, such as industry experiences, vis-à-vis QB's internal loss data can also be made to explore possible weaknesses in the QB's control environment and enable it to consider previously unidentified risk exposures.

In choosing among these tools, each QB must carefully consider what is proportionate to its size, risk profile, and complexity of operations. Data/information gathered from these tools should enable QBs to make a thorough causal analysis, identify control gaps, and consequently adopt appropriate corrective actions.

QBs are expected to adopt at the minimum, the (i) results of internal/external audit and supervisory issues raised in the Bangko Sentral ROE and (ii) internal loss data collection and analysis.

(3) QBs shall develop databases to accumulate at least a five (5)-year history of operational risk losses which can be fed back into the operational risk management process. Apart from capturing events that resulted to actual loss, QBs shall also gather potential loss or near-misses[1]. Said database of loss events provides basis for analysis which can help direct corrective action to improve the control environment, as well as determine risk mitigating actions. QBs should assess the depth of its data collection which is vital in understanding the risk environment. The loss event database shall at a minimum disclose the following:

(a) Short description of the event;

(b) Loss event type category;

(c) Department/Unit/Branch sustaining the loss;

(d) Business line classification;

(e) Date of occurrence;

(f) Date of discovery;

g) Date of booking of actual losses;

(h) Actual loss amount or potential loss amount, if a near-miss event;

(i) Amount recovered and date of recovery;

(j) Causes of the event (e.g., control weaknesses identified)

(k) Consequence of the loss event (e.g., market loss, fees paid to a counterparty, a lawsuit or damage to the QB's reputation); and

(l) Action(s) taken.

QBs shall define appropriate thresholds for internal loss data collection and must be able to justify the same. Thresholds should be reasonable and should not omit any operational loss event data that is material for operational risk exposure and for effective risk management. QBs shall ensure that the choice of threshold should not adversely impact the credibility and accuracy of operational risk measurement.

(4) QBs shall determine based on the results of the risk assessment process whether the risks are within the scope of its operational risk management strategy and policies. It shall identify the risk exposures that are unacceptable or are outside its risk appetite and/or risk management capacity, and design and prioritize appropriate risk mitigation and corrective actions with clear accountabilities, roles and responsibilities for implementation within reasonable timelines.

(5) QBs shall continually assess its operational risk exposures in order to gain broader recognition and understanding of their effects. It shall consider the following factors in the assessment:

(a) Expected and unexpected changes to the QB's operating environment;

(b) Actual operational loss events that could have resulted in substantial losses/damage but were avoided (e.g., near misses) or recovered;

(c) Reported external operational losses and incidents which have damaged investor confidence and caused serious reputational harm;

(d) Areas of concern or unusual volumes or high number of exceptions; and

[1] Potential loss is an initial estimate of the loss that the QB may have sustained at the time of discovery of the event. Near miss is an adverse operational risk event which was not prevented by internal controls but did not result in an actual adverse impact (financial or reputational) due to chance, recovery or other external factors.

(e) Results of internal assessment of risks and controls.

(6) QBs shall ensure that their risk management and control infrastructure keep pace with the growth of or changes in their business activities, i.e., when they engage in any new activity; introduce a new product; enter new or unfamiliar markets; implement new business processes or technology systems; establish subsidiaries/ branches that are geographically remote from the head office; and/or embark on an aggressive growth strategy by acquiring problem QBs to rapidly increase branch network during a short period of time. QBs should have relevant policies and procedures that address the process for review and approval of new products, activities, processes and systems. The review and approval process shall consider the following:

(a) Inherent risks in the new product, service, or activity;

(b) Changes to the QB's operational risk profile, appetite and tolerance, including the impact on existing products or activities;

(c) Necessary controls, risk management processes, and risk mitigation strategies;

(d) Any residual risk; and

(e) Procedures and metrics to measure, monitor, and manage the risk of the new product or activity.

b. *Risk monitoring and reporting.* QBs shall implement a process to regularly monitor their operational risk profiles and material exposures to losses on a continuing basis. The process shall take into account both qualitative and quantitative assessment of exposure to all types of operational risk, assess the quality and appropriateness of corrective or mitigating actions, and ensure that adequate controls and systems are in place to identify and address problems before they become major concerns.

(1) Risk monitoring should be an integral part of a QB's activities, the frequency of which should reflect the risks involved in these activities as well as the frequency and nature of changes in the operating environment. The results of the monitoring activities, findings of compliance, internal audit and risk management functions, management letters issued by external auditors, and reports generated by supervisory authorities, as appropriate, should be included in regular reports to the board and the senior management to ensure that timely and appropriate measures are undertaken to address the issues/findings.

(2) Management shall ensure that regular reports on operational risk are received on a timely basis and in a form and format that will aid in the monitoring and control of their business areas. The board should receive sufficient high-level information to enable it to understand the QB's overall operational risk profile and focus on the material and strategic implications for the business.

(3) Management reports should contain relevant internal financial, operational, and compliance data, as well as external market information about events and conditions that are relevant to decision making. They should aim to provide information such as:

(a) The critical operational risks facing, or potentially facing, the QB (e.g., as shown in KRIs and their trend data, changes in risk and control self-assessments, comments in audit/compliance review reports, etc.);

(b) Major risk events/loss experience, issues identified and intended remedial actions;

(c) The status and/or effectiveness of actions taken; and

(d) Exception reporting (covering among others authorized and unauthorized deviations from the QB's operational risk policy and likely or actual breaches in predefined thresholds for operational exposures and losses).

(4) Reports should be analyzed with a view to improving existing management performance as well as developing new risk management policies, procedures and practices. Moreover, to ensure the usefulness and reliability of the reports received, management should regularly verify the timeliness, accuracy, and relevance of reporting systems and internal controls in general.

(5) Management should keep track of the information provided in the reports, particularly the loss data, to establish a framework for systematically tracking and recording the frequency, severity and other relevant information on loss events.

c. *Risk control and mitigation.* Strong control environment is key to effective risk control and mitigation. In this respect, QBs are expected to adhere to the standards set forth under pertinent provisions of Secs. 4185Q and 4186Q, Subsec. 4426Q.1 and Appendix Q-66 on Internal Control and Internal Audit.

QBs shall decide whether to use appropriate procedures to control and/or mitigate the risks, or bear the significant risks that have been identified. In those instances where internal controls do not adequately address risk and accepting the risk is not a reasonable option, QBs may seek to transfer the risk to another party such as through insurance. Relative thereto, the board shall determine the maximum loss exposure the QB is willing to take and has the capacity to assume, and should perform an annual review of the QB's risk and insurance management program.

QBs, however, should not consider risk transfer tools as substitute but as complementary tools to sound controls and risk management system. Management shall also assess the extent to which risk mitigation tools such as insurance reduces risk, transfer the risk to another business sector or area, or create a new risk (e.g., counterparty risk).

(Circular No. 900 dated 18 January 2016)

§ 4179Q.5 ***Management of human resource-related risk.*** One of the major sources of operational risk is "people risk". In this regard, QBs shall embed in their enterprise-wide risk management framework measures to identify, measure, monitor, and control human resource related risks. QBs shall ensure that there are adequate policies and risk management and control measures in the following areas:

a. Recruitment and selection. The board shall establish efficient process that will facilitate timely recruitment and selection of personnel from a broad pool of candidates with appropriate educational background, skills, experience and competencies to fulfill the duties and responsibilities of the function. Management shall also ensure that the QB's culture, values and expectations on behavior are compatible with those of its employees so that there is unity of direction and purpose.

b. Performance management. The board shall establish effective performance management framework that will ensure that personnel's performance is at par with the standards set by the board/senior management. Results of performance evaluation should be linked to other human resource activities such as training and development, remuneration, and succession planning. These should likewise form part of the assessment of the continuing fitness and propriety of personnel in carrying out their respective duties and responsibilities.

The assessment of continuing fitness and propriety of personnel should take into account factors that may affect the performance of an individual. For instance, the financial circumstances of an employee who will be responsible for the custody of, or handling cash related transactions, shall be taken into consideration in the evaluation of his continuing qualification.

c. Training and development. The board shall establish training and development programs that will ensure continuing development of employees' knowledge, competence, and skill. Results of gaps assessment in the performance evaluation/appraisal process can be used in the creation of training and development programs for employees.

d. Remuneration and compensation. The board shall establish sound remuneration and compensation policies that can be used by the institution to attract/ recruit and retain highly qualified workforce. Said policies should appropriately motivate personnel and discourage excessive risk taking. This can be achieved through timely assessment of performance and competencies based on set standards. Results of performance assessment/ appraisal can be used in the organization's remuneration decisions.

e. Succession planning. The board shall establish an effective succession planning program. The program should include a system for identifying and developing potential successors for key and or critical positions in an organization, through systematic evaluation process and training. This will require identifying critical skills and competencies; assessing gaps; and designing, developing, and delivering training and development programs to build or improve critical skills and competencies. The program should be adequately documented to facilitate monitoring and assessment of its implementation.

f. Adequacy of complement. The board shall establish effective strategic manpower planning to ensure that there is adequate and right manpower complement to meet the strategic goals and operational plans of the organization.

g. Disciplinary actions. The board, officers and all employees are expected to conform to prescribed ethical culture and guidelines, meet performance standards, and to behave ethically/appropriately in the workplace. Disciplinary or corrective actions may be taken to improve/arrest unacceptable behavior or performance. Disciplinary action must be in accordance with the laws and the applicable rules.

h. Separation from service. The board shall establish policies and procedures governing the separation of employees from service (e.g., termination, dismissal, retrenchment, retirement, or resignation), which should include transfer of accountabilities and/or salient information (e.g., client data, business strategies and formula, other trade secrets, etc.) to the successor, and clearance requirements. Policies may also include "non-compete" clauses, in accordance with existing laws.

The Human Resource Department shall assist the board in fulfilling its oversight responsibilities in the areas of recruitment, manpower planning, personnel development, performance appraisal, remuneration, termination, retrenchment and other key human resource issues.
(Circular No. 900 dated 18 January 2016)

§ 4179Q.6 *Management of information technology-related risk.* QBs shall refer to Sec. 4177Q for the management of information technology-related risk.
(Circular No. 900 dated 18 January 2016)

§ 4179Q.7 *Management of integrity of prudential reports or reports submitted to Bangko Sentral.* QBs shall adopt a prudential reporting framework that ensures the integrity of information submitted to the

Bangko Sentral. They shall establish a system for ensuring effective compliance with the standards prescribed by the Bangko Sentral on acceptable reporting quality. QBs shall likewise maintain adequate documentation of the processes and procedures covering the prudential reporting framework and conduct a periodic review of their continuing relevance.

Management should be cognizant of relevant guidelines that may be issued by the Bangko Sentral relative to issues on the integrity and accuracy of prudential reports. Persistent concerns on the integrity and accuracy of prudential reports including failure to comply with the directives of the Bangko Sentral, in this respect, may be considered by the Bangko Sentral as conducting business in an unsafe or unsound manner, subject to applicable provision of laws and regulations.
(Circular No. 900 dated 18 January 2016)

§ 4179Q.8 ***Management of legal risk exposures.*** QBs shall adopt a system for identifying and assessing legal risks related to business line functions as well as products and services offered. This shall include a process for assessing the QB's rights and obligations in contractual relationships and in ensuring that all agreements/contracts entered into by the QB conform with legal and regulatory requirements and that no party is unduly disadvantaged. This shall also include the assessment of trends of customer complaints to determine potential legal risk exposures.

There should be a system in place to manage outstanding legal cases involving the QB or any of its directors and officers, with respect to suits filed in line with the performance of their duties. Said system should cover a periodic review of the status of cases, an assessment of potential outcome including probable liability or receivable, and regular reporting of the same to the appropriate level of management and the board.
(Circular No. 900 dated 18 January 2016)

§ 4179Q.9 ***Management of operational risk arising from financial inclusion initiatives.*** QBs that provide financial services to the unserved and underserved sector generally handle small and voluminous transactions, which have inherently high operational risk. Incremental operational risk also comes from the higher number of personnel or from the use of technology-based platform to effectively and efficiently deliver financial services. QBs are expected to identify and understand the distinct operational risk arising from the products and services they offer or innovative delivery channels they use. They should also be cognizant of potential transformation or transfer or risk exposures. In this regard, QBs shall adopt an operational risk management framework appropriate to the nature and scale of their operations. Said framework shall consider the principles embodied in this Section designed to suit the QB's business model and ensure sustained delivery of financial services to the unserved and underserved sector.
(Circular No. 900 dated 18 January 2016)

§ 4179Q.10 ***Notification/Reporting to Bangko Sentral.*** QBs shall notify the appropriate department of the Supervision and Examination Sector, Bangko Sentral, within ten (10) calendar days from the date of discovery, of any operational risk event[1] that may result in any of the following:

a. Significant operational losses or exposures;

b. Activation of business continuity plan; or

c. Any material change in business and operating environment.

Upon receipt of notification, the Bangko Sentral may require, if warranted, the reporting QB to submit a report detailing

[1] As enumerated under Sec. 4179Q.4.a.(1).

the causes and impact of such events and an acceptable action plan to address the issue and any other weakness identified.
(Circular No. 900 dated 18 January 2016)

§ 4179Q.11 ***Supervisory Enforcement Actions.*** Consistent with Sec. 4009Q, the Bangko Sentral may deploy enforcement actions to promote adherence with the requirements set forth in this Section and bring about timely corrective actions. The Bangko Sentral may issue directives to improve the operational risk management system, or impose sanctions to limit the level of or suspend any business activity that has adverse effects on the safety or soundness of the QB, among others. Sanctions may likewise be imposed on a QB and/or its directors, officers and/or employees.
(Circular No. 900 dated 18 January 2016)

Sec. 4180Q ***(2008 - 4191Q)*** **Compliance System; Compliance Officer.** The Bangko Sentral actively promotes the safety and soundness of the Philippine banking system through an enabling policy and oversight environment. Such an environment is governed by the high standards and accepted practices of good corporate governance as collectively defined by the Bangko Sentral and its supervised institutions. Towards this end, a robust, dynamically-responsive and distinctly-appropriate compliance system shall be put in place as an integral component of an institution's internal controls.

Subject to the provisions of Subsec. 4180Q.4, a Chief Compliance Officer (CCO) shall be appointed to oversee the design of its compliance system and promote its effective implementation.
(As amended by Circular No. 893 dated 16 November 2015)

§ 4180Q.1 ***(2014 - Compliance system) Definition of business risk.*** A compliance system shall be designed to specifically identify and mitigate business risks which may erode the franchise value of the QB. *Business risk* refers to conditions which may be detrimental to a QB's business model and its ability to generate returns from operations, which in turn erodes its franchise value. Combining business risk with the financial risks arising from the use of borrowed funds generates total corporate risk of the QB. Business risks shall include, but shall not be limited to, the following:

a. Risks to reputation that arise from internal decisions that may damage a QB's market standing;

b. Risks to reputation that arise from internal decisions and practices that ultimately impinge on the public's trust of the QB;

c. Risks from the actions of a QB that are contrary to existing regulations and identified best practices and reflect weaknesses in the implementation of codes of conduct and standards of good practice;

d. Legal risks to the extent that changes in the interpretation or provisions of regulations directly affect a QB's business model.
(Circular No. 893 dated 16 November 2015)

§ 4180Q.2 ***(2014 - Compliance officer) Status of the compliance function.*** The compliance function shall have a formal status within the organization. It shall be established by a charter or other formal document approved by the board of directors that defines the compliance function's standing, authority and independence, and addresses the following issues:

a. measures to ensure the independence of the compliance function from the business activities of the QB;

b. the organizational structure and responsibilities of the compliance unit or department administering the compliance

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program;

c. the relationship of the compliance unit/department with other functions or units of the organization, including the delineation of responsibilities and lines of cooperation;

d. its right to obtain access to information necessary to carry out its responsibilities;

e. its right to conduct investigations of possible breaches of the compliance policy;

f. its formal reporting relationships to senior management, the board of directors, and the appropriate board-level committee; and

g. its right of direct access to the board of directors and to the appropriate board-level committee.

The compliance charter or other formal document defining the status of the compliance function shall be communicated throughout the organization.

(As amended by Circular No. 893 dated 16 November 2015)

§ 4180Q.3 *(2014 - Compliance risk) Compliance system.* The compliance system shall have the following basic elements:

a. A formal written document (i.e., Compliance Manual) that reflects the compliance program approved by the board of directors.

(1) The compliance program shall be distinguished from the risk program and the internal audit program. While compliance mitigates business risks as defined in Subsection 4180Q.1, the risk program covers financial risks that arise from the balance sheet exposures of the institution. The internal audit program, on the other hand, shall review on an ex-post basis whether prescribed guidelines of the QB were followed in administering transactions, handling procedures, making decisions, and undertaking related activities.

(2) The compliance program shall take into account the size and complexity of operations of the QB. It must clearly identify the avenues through which business risks may occur for the QB. Correspondingly, compliance measures effectively suited to the operations of the QB in order to mitigate said business risks shall be institutionalized in the QB through the compliance program.

(3) An appropriate organizational structure must be in place to manage the compliance function and execute the approved compliance program. The compliance function shall be manned by full-time officers/staff either embedded in operating departments, or in a department operating on its own. Coordination with the respective department heads shall be the responsibility of the CCO.

(4) In addition to the organizational structure, the duties and responsibilities of the CCO and other personnel involved in the compliance function must be defined explicitly.

(5) A compliance system which does not consistently ensure the integrity and the accuracy of documentary submissions shall be deemed as a basis to assess a QB as involved in unsafe and unsound practices.

The President and the CCO shall execute an affidavit, under oath, that the compliance system has been approved by the board of directors and that the Compliance Manual reflects said approved system.

The program shall be updated at least annually to incorporate changing responses to evolving internal and external conditions.

b. A constructive working relationship between the QB and Bangko Sentral.

The QB, through its CCO, and/or other authorized compliance officers, may consult the Bangko Sentral for clarifications on specific provisions of related laws and regulations. Similarly, the Bangko Sentral may initiate a dialogue with a QB to discuss the compliance program of the QB and its record of implementation of the same.

The QB is enjoined to discuss clarifications of pertinent laws and regulations with other appropriate agencies that issue market regulations and/or tax guidelines.

c. Clear and open communication lines within the QB to educate and address compliance matters.

Officers and staff shall be trained in the normal course of QB operation with respect to the compliance program of the QB and the identified business risks. The processes for imparting to QB personnel and its affiliated parties the necessary appreciation of the QB's compliance culture shall form part of the Compliance Manual.
(As amended by Circular No. 893 dated 16 November 2015)

§ 4180Q.4 ***(2014 - Responsibilities of the board of directors and senior management on compliance) Chief Compliance Officer.***

a. The CCO is the lead senior officer for purposes of administering the compliance program and interacting with the Bangko Sentral on compliance-related issues. The principal function of the CCO is to oversee the design of an appropriate compliance system, promote its effective implementation and address breaches that may arise. The CCO shall also be responsible for ensuring the integrity and accuracy of all documentary submissions to the Bangko Sentral.

b. QBs are deemed operating on a simple business model. As such, QBs shall designate either a full-time CCO or a non-executive director to serve as the CCO in a concurrent capacity, subject to Subsec. X180.4(d) of the Manual of Regulations for Banks(MORB). A non-executive director is a member of the board of directors who is not part of the executive committee or day-to-day management of QB. Such appointment/designation shall require prior approval of the Monetary Board. The CCO's qualifications shall be subject to the provisions of Sec. 4142Q enumerating the qualifications of the QB officers, particularly considering fit and proper criteria such as integrity/probity, competence, education, diligence and experience/training.

c. The CCO shall have commensurate skills and expertise to provide appropriate guidance and direction to the QB on the development, implementation and maintenance of the compliance program.

d. QBs with subsidiaries under Bangko Sentral supervision, may appoint a CCO for the group: *Provided,* That the parent QB can show to the Bangko Sentral that the compliance function is conducted on a group-wide basis.
(Circular Nos. 758 dated 11 May 2012 and 598 dated 11 January 2008 and CL-2011-045 dated 01 July 2011, as amended by Circular No. 893 dated 16 November 2015)

§ 4180Q.5 ***(2008 - Status of compliance function) Responsibilities of the board of directors and senior management on compliance.*** Aside from the duties and responsibilities of the board of directors mentioned under Subsec. 4141Q.3, the board shall ensure that a compliance program is defined for the QB and that compliance issues are resolved expeditiously. For this purpose, a board-level committee, chaired by a non-executive director, shall oversee the compliance program.

Ensuring that QB personnel and affiliated parties adhere to the pre-defined compliance standards of the QB rests collectively with senior management, of which the CCO is the lead operating officer on compliance. Senior management, through the CCO, should periodically report to the board of directors or its designated committee matters that affect the design and implementation of the compliance program. Any changes, updates and amendments to the compliance program must be approved by the board of directors. However, any

material breaches of the compliance program shall be reported to and promptly addressed by the CCO within the mechanisms defined by the compliance manual.
(As amended by Circular No. 893 dated 16 November 2015)

§ 4180Q.6 ***(2014 - Independence of compliance function) Cross-border issues.*** The compliance function for institutions that conduct business in other jurisdictions should be structured to ensure that local compliance concerns are satisfactorily addressed within the framework of the compliance policy for the organization as a whole. As there are significant differences in legislative and regulatory frameworks across countries or from jurisdiction to jurisdiction, compliance issues specific to each jurisdiction should be coordinated within the structure of the institution's group-wide compliance policy. The organization and structure of the compliance function and its responsibilities should be in accordance with local legal and regulatory requirements.
(As amended by Circular No. 893 dated 16 November 2015)

§ 4180Q.7 ***(2014 - Role and responsibilities of the compliance function) Outsourcing of compliance risk assessment and testing.*** The review, assessment and testing of the compliance program may be outsourced to qualified third parties. The handling and management of this outsourcing arrangement shall be governed by Sec. 4162Q.
(As amended by Circular No. 893 dated 16 November 2015)

§ 4180Q.8 ***(2008 - 4191Q.8) Cross-border issues.***
(Renumbered by Circular No. 893 dated 16 November 2015)

§ 4180Q.9 ***(2008 - 4191Q.9) Outsourcing of compliance function.***
(Renumbered by Circular No. 893 dated 16 November 2015)

Secs. 4181Q - 4184Q (Reserved)

Sec. 4185Q ***(2014 - Internal Control Systems)*** **Internal Control Framework.** Internal control is a process designed and effected by the board of directors, senior management, and all levels of personnel to provide reasonable assurance on the achievement of objectives through efficient and effective operations; reliable, complete and timely financial and management information; and compliance with applicable laws, regulations, supervisory requirements, and the organization's policies and procedures.

QBs shall have in place adequate and effective internal control framework for the conduct of their business taking into account their size, risk profile and complexity of operations. The internal control framework shall embody management oversight and control culture; risk recognition and assessment; control activities; information and communication; and monitoring activities and correcting deficiencies.
(As amended by Circular No. 871 dated 05 March 2015)

§ 4185Q.1 ***Management oversight and control culture.*** Consistent with the principles provided under Subsecs. 4141Q.3 and 4142Q.3, the board of directors and senior management shall be responsible for promoting high ethical and integrity standards; establishing the appropriate culture that emphasizes, demonstrates and promotes the importance of internal control; and designing and implementing processes for the prevention and detection of fraud.

a. The board of directors shall be ultimately responsible for ensuring that senior management establishes and maintain an adequate, effective and efficient internal control framework commensurate with the size, risk profile and complexity of operations of the QB. The board of directors shall also ensure that the internal audit function has an appropriate stature and authority within the QB and is provided with adequate resources to enable it to effectively carry-out its assignments with objectivity.

Further, the board of directors shall, on a periodic basis:

(1) conduct discussions with management on the effectiveness of the internal control system;

(2) review evaluations made by the audit committee on the assessment of effectiveness of internal control made by management, internal auditors and external auditors;

(3) ensure that management has promptly followed up on recommendations and concerns expressed by auditors and supervisory authorities on internal control weaknesses; and

(4) review and approve the remuneration of the head and personnel of the internal audit function. Said remuneration shall be in accordance with the QB's remuneration policies and practices and shall be structured in such a way that these do not create conflicts of interest or compromise independence and objectivity.

b. The audit committee shall be responsible for overseeing senior management in establishing and maintaining an adequate, effective and efficient internal control framework. It shall ensure that systems and processes are designed to provide assurance in areas including reporting, monitoring compliance with laws, regulations and internal policies, efficiency and effectiveness of operations and safeguarding of assets.

The audit committee shall oversee the internal audit function and shall be responsible for:

(1) monitoring and reviewing the effectiveness of the internal audit function;

(2) approving the internal audit plan, scope and budget;

(3) reviewing the internal audit reports and the corresponding recommendations to address the weaknesses noted, discussing the same with the head of the internal audit function and reporting significant matters to the board of directors;

(4) ensuring that the internal audit function maintains an open communication with senior management, the audit committee, external auditors, and the supervisory authority;

(5) reviewing discoveries of fraud and violations of laws and regulations as raised by the internal audit function;

(6) reporting to the board of directors the annual performance appraisal of the head of the internal audit function;

(7) recommending for approval of the board of directors the annual remuneration of the head of the internal audit function and key internal auditors;

(8) appointing, reappointing or removing the head of the internal audit function and key internal auditors; and

(9) Selecting and overseeing the performance of the internal audit service providers.

In particular, the audit committee shall be responsible for:

(1) ensuring the independence of the internal audit service provider;

(2) reporting to the board of directors on the status of accomplishments of the outsourced internal audit activities, including significant findings noted during the conduct of the internal audit;

(3) ensuring that the internal audit service provider comply with sound internal auditing standards such as the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* and other supplemental standards issued by regulatory authorities/government agencies, as well as with relevant code of ethics;

(4) ensuring that the audit plan is aligned with the overall plan strategy and budget of the bank and is based on robust risk assessment; and

(5) ensuring that the internal audit service provider has adequate human resources with sufficient qualifications and skills necessary to accomplish the internal audit activities.

c. Senior management shall be responsible for maintaining, monitoring and evaluating the adequacy and effectiveness of the internal control system on an ongoing basis, and for reporting on the effectiveness of internal controls on a periodic basis. Management shall develop a process that identifies, measures, monitors and controls risks that are inherent to the operations of the QB; maintain an organizational structure that clearly assigns responsibility, authority and reporting relationships; ensure that delegated responsibilities are effectively carried out; implement internal control policies and ensure that activities are conducted by qualified personnel with the necessary experience and competence. Management shall ensure that QB personnel undertake continuing professional development and that there is an appropriate balance in the skills and resources of the front office, back office, and control functions. Moreover, Management shall promptly inform the internal audit function of the significant changes in the QB's risk management systems, policies and processes.

d. All personnel need to understand their roles and responsibilities in the internal control process. They should be fully accountable in carrying out their responsibilities effectively and they should communicate to the appropriate level of management any problem in operations, action or behavior that is inconsistent with documented internal control processes and code of ethics.

(Circular No. 871 dated 05 March 2015)

§ 4185Q.2 ***Risk recognition and assessment.*** An effective internal control system shall identify, evaluate and continually assess all material risks that could affect the achievement of the QB's performance, information and compliance objectives. The potential for fraud shall be considered in assessing the risks to the achievement of said objectives. Further, the risk assessment shall cover all risks facing the QB, which include, among others, credit; country and transfer; market; interest rate; liquidity; operational; compliance; legal; and reputational risks.

Effective risk assessment identifies and considers both internal (e.g., complexity of the organization's structure, nature of the QB's activities and personnel profile) and external (e.g., economic conditions, technological developments and changes in the industry) factors that could affect the internal control framework. The risk assessment shall be conducted at the level of individual business units and across all QB activities/groups/units and subsidiaries, in the case of a parent bank. Internal controls shall be revised to address any new or previously uncontrolled or unidentified risks.

(Circular No. 871 dated 05 March 2015)

§ 4185Q.3 ***Control activities.*** Control activities shall form part of the daily activities of the bank and all levels of personnel in the QB. Control activities are designed and implemented to address the risks identified in the risk assessment process. These involve the establishment of control policies and procedures, and verification that these are being complied with.

QBs shall have in place control activities defined at every business level, which shall include a system that provides for top and functional level reviews; checking compliance with exposure limits and follow-up on non-compliance; a system of approvals and authorizations, which shall include the approval process for new products and services; and a system of verification and reconciliation.

Control activities complement existing policies, procedures and other control systems in place such as, among others, having clearly defined organizational structure and reporting lines, and arrangements for delegating authority; adequate accounting policies, records and processes; robust physical and environmental controls for tangible assets and access controls to information assets; and appropriate segregation of conflicting functions.

a. *Clear arrangements for delegating authority*. The functions and scope of authority and responsibility of each personnel should be adequately defined, documented and clearly communicated. The extent to which authorities may be delegated and the corresponding accountabilities of the personnel involved shall be approved by the appropriate level of management or the board of directors.

b. *Adequate accounting policies, records and processes.* QBs shall maintain adequate financial policies, records and processes. These records shall be kept up-to-date and contain sufficient detail to establish an audit trail. Further, QBs shall conduct independent balancing and reconciliation of records and reports to ensure the integrity of the reported data and balances. QBs shall also put in place a reliable information system that covers all of its significant activities which shall allow the board of directors and management access to data and information relevant to decision making such as, among others, financial, operations, risk management, compliance and market information. Moreover, these systems shall be secured, monitored independently and supported by adequate contingency arrangements.

c. *Robust physical and environmental controls to tangible assets and access controls to information assets.* QBs shall adopt policies and practices to safeguard their tangible and information assets. These shall include, but shall not be limited to:

(1) identifying officers with authorities to sign for and on behalf of the QB. Signing authorities shall be approved by the board of directors and the extent of authority at each level shall be clearly defined;

(2) implementing joint custody on certain assets. Joint custody shall mean the processing of transactions in the presence, and under the direct observation of a second person. Both persons shall be equally accountable for the physical protection of the items and records involved: *Provided*, That persons who are related to each other within the third degree of consanguinity or affinity shall not be made joint custodians;

(3) adopting dual control wherein the work of one (1) person is to be verified by a second person to ensure that the transaction is properly authorized, recorded and settled;

(4) incorporating sequence number control in the accounting system which shall also be used in promissory notes, checks and other similar instruments. Management shall also put in place appropriate controls to monitor the usage, safekeeping and recording of accountable forms;

(5) restricting access to information assets by classifying information as to degree of sensitivity and criticality and identifying information owners or personnel with authorities to access particular classifications based on job responsibilities and the necessity to fulfill one's duties; and

(6) implementing authentication and access controls prior to granting access to information such as, among others, implementing password rules. This shall

be supplemented by appropriate monitoring mechanisms that will allow audit of use of information assets.

d. *Segregation of conflicting functions*. QBs shall ensure that areas of potential conflicts of interest shall be identified, minimized and subjected to independent monitoring. Further, appropriate segregation of functions shall be observed in identified areas that may pose potential conflict of interest. Moreover, periodic reviews of responsibilities and functions shall be conducted to ensure that personnel are not in a position to conceal inappropriate actions.

Examples of internal control measures are in *Appendix Q-66*.

(Circular No. 871 dated 05 March 2015)

§ 4185Q.4 *Information and communication.* An effective internal control system requires that there are adequate and comprehensive internal financial, operational and compliance data, as well as external information about events and conditions that are relevant to decision making. Information shall be reliable, timely, accessible, and provided in a consistent format. QBs shall have in place a reliable management information system that covers significant activities of the QB and has the capability to generate relevant and quality information to support the functioning of internal control.

QBs shall also establish effective channels of communication to ensure that all personnel fully understand and adhere to policies and procedures and control measures relevant to their duties and responsibilities and that relevant information is reaching the appropriate personnel. Management shall also ensure that all personnel are cognizant of their duty to promptly report any deficiency to appropriate levels of management or to the board of directors, where required. These shall enable them to quickly respond to changing conditions and avoid unnecessary costs.

(Circular No. 871 dated 05 March 2015)

§ 4185Q.5 *Monitoring activities and correcting deficiencies.* The overall effectiveness of the internal controls shall be monitored on an ongoing basis. Monitoring functions and activities shall be adequately defined by management, integrated in the operating environment and should produce regular reports for review. In this regard, all levels of review shall be adequately documented and results thereof reported on a timely basis to the appropriate level of management.

Evaluations of the effectiveness of the internal control system and the corresponding monitoring activities may be done by personnel from the same operational area in the form of self-assessment or from other areas such as internal audit: *Provided*, That, self-assessment done by business units shall be subject to independent validation.

Evaluations done shall be adequately documented and internal control deficiencies and weaknesses identified shall be reported on a timely basis to the appropriate level of management or the board of directors, where necessary, and addressed promptly.

(Circular No. 871 dated 05 March 2015)

§ 4185Q.6 - 4185Q.8 *(Reserved)*

§ 4185Q.9 *(2014 - Independence of Internal Audit Function) Independence of the internal auditor.*

(Deleted by Circular No. 871 dated 05 March 2015)

Sec. 4186Q *(2008 – 4164Q)* Internal Audit Function. Internal audit is an independent, objective assurance and consulting function established to examine, evaluate and improve the effectiveness of internal control, risk management and governance systems and processes of an organization, which helps management and the board of directors in protecting the QB and its reputation. The internal audit function shall both assess and complement operational management, risk management, compliance and other control functions. In this respect, internal audit shall be conducted in frequencies commensurate with the assessed levels of risk in specific areas.

a. *Permanency of the internal audit function*. Each QB shall have a permanent internal audit function. In the case of group structures involving a parent bank and subsidiary or affiliate Bangko Sentral-supervised financial institutions (BSFIs), the internal audit function shall either be established in each of the BSFI or centrally by the parent bank.

b. *Internal audit function in group structures*. In case each BSFI belonging to group structures has its own internal audit function, said internal audit function shall be accountable to the financial institution's own board of directors and shall likewise report to the head of the internal audit function of the parent bank within a reasonable period and frequency prescribed by the board of directors of the parent bank.

On the other hand, in case the parent bank's internal audit function shall cover the internal audit activities in the subsidiary or affiliate BSFI, the board of directors of the parent bank shall ensure that the scope of internal audit activities is adequate considering the size, risk profile and complexity of operations of the subsidiary or affiliate concerned.

The establishment of internal audit function centrally by the parent bank in group structures shall not fall under the outsourcing framework as provided under Sec. 4162Q**.** In this respect, the head of the internal audit function of the parent bank shall define the internal audit strategies, methodology, scope and quality assurance measures for the entire group: *Provided,* That this shall be done in consultation and coordination with the respective board of directors and of the subsidiary or affiliate BSFI: *Provided, further,* That the board of directors of the subsidiary or affiliate BSFI, shall remain ultimately responsible for the performance of the internal audit activities.

c. *Outsourcing of internal audit activities*. QBs that are not part of group structures may outsource, in accordance with existing Bangko Sentral regulations on outsourcing, internal audit activities covering all areas of its operations: *Provided,* That the board of directors of the QB shall remain ultimately responsible for the conduct of effective internal audit *Provided, further,* That the internal audit activities shall not be outsourced to the QB's own external auditor/audit firm nor to internal audit service provider that was previously engaged by the QB in the same area intended to be covered by the internal audit activity that will be outsourced, without a one (1)-year "cooling off" period.
(As amended by Circular No. 871 dated 05 March 2015)

§ 4186Q.1 *Qualifications of the head of the internal audit function.* The head of the internal audit function must have an unassailable integrity, relevant education/experience/training, and has an understanding of the risk exposures of the QB, as well as competence to audit all areas of its operations. He must also possess the following qualifications:

a. The head of the internal audit function of a UB or a KB must be a Certified Public Accountant (CPA) or a Certified Internal

Auditor (CIA) 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.

b. The head of the internal audit function of a complex TB, RB and Coop Bank; QB and; trust entity must be a graduate of any accounting, business, finance or economics course with technical proficiency on the conduct of internal audit and must have at least five (5) years experience in the regular audit (internal or external) of a TB, national Coop Bank, QB or trust entity or, at least three (3) years experience in the regular audit (internal or external) of a UB or KB.

c. The head of the internal audit function of a simple or non-complex TB, RB and Coop Bank; and NSSLA must be a graduate of any accounting, business, finance or economics course with technical proficiency on the conduct of internal audit and must have at least two (2) years experience in the regular audit (internal or external) of a UB, KB, TB, RB, Coop Bank, QB or NSSLA.

A qualified head of the internal audit function of a UB or a KB shall be qualified to audit TBs, RB, Coop Banks, QBs, trust entities, NSSLAs, subsidiaries and affiliates engaged in allied activities, and other financial institutions under Bangko Sentral supervision. A qualified internal auditor of a complex TB, RB, and Coop Bank; QB and; trust entity shall likewise be qualified to audit non-complex TB, RB and Coop Bank and NSSLA.

The head of the internal audit function shall be appointed/reappointed or replaced with prior approval of the audit committee. In cases when the head of the internal audit function will be replaced, the QB shall report the same and the corresponding reason for replacement, to the appropriate supervising department of the Bangko Sentral within five (5) days from the time it has been approved by the board of directors.

(As amended by Circular No. 871 dated 05 March 2015)

§ 4186Q.2 ***(2014 – Scope) Duties and responsibilities of the head of the internal audit function or the chief audit executive.***

a. To demonstrate appropriate leadership and have the necessary skills to fulfill his responsibilities for maintaining the unit's independence and objectivity;

b. To be accountable to the board of directors or audit committee on all matters related to the performance of its mandate as provided in the internal audit charter. The head of the internal audit function shall submit a report to the audit committee or board of directors on the status of accomplishments of the internal audit unit, including findings noted during the conduct of the internal audit as well as status of compliance of departments/units concerned.

c. To ensure that the internal audit function complies with sound internal auditing standards such as the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* and other supplemental standards issued by regulatory authorities/government agencies, as well as with relevant code of ethics;

d. To develop an audit plan based on robust risk assessment, including inputs from the board of directors, audit committee and senior management and ensure that such plan is comprehensive and adequately covers regulatory matters. The head of the internal audit function shall also ensure that the audit plan, including any revisions thereto, shall be approved by the audit committee;

e. To ensure that the internal audit function has adequate human resources with sufficient qualifications and skills necessary to accomplish its mandate. In this regard, the head of the internal audit function shall periodically assess and monitor the skill-set of the internal audit function and ensure that there is an adequate development program for the internal audit staff that shall enable them to meet the growing technical complexity of banking operations.

(Circular No. 871 dated 05 March 2015)

§ 4186Q.3 ***(2014 - Qualification standards of the internal auditor) Professional competence and ethics of the internal audit function.*** The internal audit function shall be comprised of professional and competent individuals who collectively have the knowledge and experience necessary in the conduct of an effective internal audit on all areas of QB's operations. The skill set of the internal audit staff shall be complemented with appropriate audit methodologies and tools as well as sufficient knowledge of auditing techniques in the conduct of audit activities.

All internal audit personnel shall act with integrity in carrying-out their duties and responsibilities. They should respect the confidentiality of information acquired in the course of the performance of their duties and should not use it for personal gain or malicious actions. Moreover, internal audit personnel shall avoid conflicts of interest. Internally-recruited internal auditors shall not engage in auditing activities for which they have had previous responsibility before a one (1)-year "cooling off" period has elapsed. The internal audit personnel shall adhere at all times to the QB's Code of Ethics as well as to an established code of ethics for internal auditors such as that of the Institute of Internal Auditors.

(Circular No. 871 dated 05 March 2015)

§ 4186Q.4 ***(2014 - Code of ethics and internal auditing standards) Independence and objectivity of the internal audit function.*** 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 through clear reporting line to the board of directors or audit committee. It shall have authority to directly access and communicate with any officer or employee, to examine any QB, as well as to access any records, files or data whenever relevant to the exercise of its assignment.

If independence or objectivity of internal audit function is impaired, in fact or appearance, the details of the impairment must be disclosed to the audit committee. Impairment to organizational independence and individual objectivity may include, but is not limited to, personal conflict of interest, scope limitations, restrictions on access to records, personnel, and properties, and resource limitations, such as funding.

The internal audit function shall inform senior management of the results of its audits and assessment. Senior management may consult the internal auditor on matters related to risks and internal controls without tainting the latter's independence: *Provided*, That the internal auditor shall not be involved in the development or implementation of policies and procedures, preparation of reports or execution of activities that fall within the scope of his review.

Staff of the internal audit function shall be periodically rotated, whenever practicable, and without jeopardizing competence and expertise to avoid unwarranted effects of

continuously performing similar tasks or routine jobs that may affect the internal auditor's judgment and objectivity.
(Circular No. 871 dated 05 March 2015)

§ 4186Q.5 *Internal audit charter.* QBs shall have an internal audit charter approved by the board of directors. The internal audit charter shall be periodically reviewed by the head of the internal audit function and any changes thereto shall be approved by the board of directors.

The internal audit charter shall establish, among others, the following:

a. Purpose, stature and authority, and responsibilities of the internal audit function as well as its relations with other control functions in the QB. The charter shall recognize the authority of the internal audit function, to initiate direct communication with any QB personnel; to examine any activity or entity; and to access any records, files, data and physical properties of the QB, in performing its duties and responsibilities;

b. Standards of independence, objectivity, professional competence and due professional care, and professional ethics;

c. Guidelines or criteria for outsourcing internal audit activities to external experts;

d. Guidelines for consulting or advisory services that may be provided by the internal audit function;

e. Responsibilities and accountabilities of the head of the internal audit function;

f. Requirement to comply with sound internal auditing standards such as the Institute of Internal Auditor's *International Standards for the Professional Practice of Internal Auditing* and other supplemental standards issued by regulatory authorities/ government agencies, as well as with relevant code of ethics; and

g. Guidelines for coordination with the external auditor and supervisory authority.
(Circular No. 871 dated 05 March 2015)

§ 4186Q.6 *Scope.* All processes, systems, units, and activities, including outsourced services, shall fall within the overall scope of the internal audit function. The scope of internal audit shall cover, among others, the following:

a. Evaluation of the adequacy, efficiency and effectiveness of internal control, risk management and governance systems in the context of current and potential future risks;

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b. Review of the reliability, effectiveness and integrity of management and financial information systems, including the electronic information system and electronic banking services;

c. Review of the systems and procedures of safeguarding the QB's physical and information assets;

d. Review of compliance of trading activities with relevant laws, rules and regulations;

e. Review of the compliance system and the implementation of established policies and procedures; and

f. Review of areas of interest to regulators such as, among others monitoring of compliance with relevant laws, rules and regulations, including but not limited to the assessment of the adequacy of capital and provisions; liquidity level; regulatory and internal reporting.

(Circular No. 871 dated 05 March 2015)

Secs. 4187Q - 4188Q (Reserved)

Sec. 4189Q *(2008 - 4180Q)* 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 Memorandum of Agreement (MOA) dated 12 August 2009, binding the Bangko Sentral, SEC, Professional Regulation Commission (PRC) – Board of Accountancy (BoA) and the Insurance Commission (IC) for a simplified and synchronized accreditation requirements for external auditor and/or auditing firm, the following are the revised rules and regulations that shall govern the selection and delisting by the Bangko Sentral of covered institutions which under special laws are subject to Bangko Sentral supervision.

Statement of policy. It is the policy of the Bangko Sentral 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 Bangko Sentral supervision, and to ensure reliance by Bangko Sentral 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 regulations.* The revised rules and regulations that shall govern the selection and delisting by the Bangko Sentral of covered institutions which under special laws are subject to Bangko Sentral supervision are shown in *Appendix Q-30.*

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 Bangko Sentral list of selected auditors for covered institution 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 Q-30.* Erring external auditors/ auditing firm may also be reported by the Bangko Sentral to the PRC for appropriate disciplinary action.

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

Sec. 4190Q *(2008 - 4172Q)* Audited Financial Statements of Quasi-Banks; Financial Audit. The following rules shall govern the utilization and submission of audited financial statements (AFS) of QBs.

For purposes of this Section, AFS shall

include the balance sheets, income statements (IS), 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 (FAR) shall refer to the AFS and the opinion of the auditor. The AFS of QBs with subsidiaries shall be presented side by side on a solo basis (parent) and on a consolidated basis (parent and subsidiaries).

QBs shall cause an annual financial audit by an external auditor acceptable to the Bangko Sentral not later than thirty (30) calendar days after the close of the calendar year or the fiscal year adopted by the QB. 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 QB. The report to the Bangko Sentral 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 FAR 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 QB 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 IS for the QB and trust department submitted to the Bangko Sentral including copies of adjusting entries on the reconciling items; and (3) other information that may be required by the Bangko Sentral.

In addition, the external auditor shall be required by the QB to submit to the board of directors, a Letter of Comment (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 FAR. 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 QB shall be submitted in its stead, together with the FAR.

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 institution'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 institution'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 FAR 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.

Government-owned or -controlled QBs, including their subsidiaries and affiliates under Bangko Sentral supervision, which are under the concurrent jurisdiction of the Commission on Audit (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 Bangko Sentral, at the expense of the QB*: 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 QB concerned by an acceptable external auditor may also be allowed.

QBs under the concurrent jurisdiction of the Bangko Sentral and COA shall, however, submit a copy of the annual audit report (AAR) of the COA to the appropriate department of the SES of the Bangko Sentral within forty (40) calendar days after receipt of the AAR 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 IS of the QB and trust department submitted to the Bangko Sentral, including copies of adjusting entries on the reconciling items; and (3) other information that may be required by the Bangko Sentral.

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.

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

QBs as well as external auditors shall strictly observe the requirements in the submission of the FAR and reports required to be submitted under *Appendix Q-33*.

The reports and certifications of QBs, schedules and attachments required under this Subsec. shall be considered Category *B* reports, delayed submission of which shall be subject to the penalties under Subsec. 4192.Q.3.b.II.

(As amended by Circular Nos. 911 dated 02 May 2016, 554 dated 22 December 2006 and 540 dated 09 August 2006)

§ 4190Q.1 ***(Reserved)***

§ 4190Q.2 ***(2008 - 4172Q.1) Posting of audited financial statements.*** QBs shall post in conspicuous places in their head offices, all their branches and other offices, as well as in their respective web-sites, their latest FAR.

(As amended by Circular No. 540 dated 9 August 2006)

§ 4190Q.3 *(2008 - 4172Q.2) Disclosure of external auditor's adverse findings to the Bangko Sentral; sanction*

a. *Findings to be disclosed*. QBs shall require their external auditors to report to the Bangko Sentral any matter adversely affecting the condition or soundness of the bank, such as, but not limited to:

(1) Any serious irregularity, including those involving fraud or dishonesty, that may jeopardize the interest of creditors;

(2) Losses incurred which substantially reduce the capital funds of the QB; and

(3) Inability of the auditor to confirm that the claims of creditors are still covered by the QB's assets.

The disclosure of information by the external auditor to the Bangko Sentral shall not be a ground for civil, criminal or disciplinary proceedings against the former.

QB 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.

b. *Sanction*. The auditing firm(s) shall be blacklisted by the Monetary Board for a period as the Board may deem appropriate for their failure to perform their duty of reporting to the Bangko Sentral any matter adversely affecting the condition or soundness of the QB. QBs shall not be allowed to engage the services of the blacklisted auditing firm.

§ 4190Q.4 *(2008 - 4172Q.3) Disclosure requirement in the notes to the audited financial statements*. QBs shall require their external auditors to include the following additional information in the notes to financial statements:

a. Basic quantitative indicators of financial performance such as return on average equity, return on average assets and net interest margin;

b. Capital-to-risk assets ratio under Sec. 4115Q;

c. Concentration of credit as to industry/economic sector where concentration is said to exist when total loan exposures to a particular industry/ economic sector exceeds thirty percent (30%) of total loan portfolio (TLP);

d. Breakdown of total loans as to secured and unsecured and breakdown of secured loans as to type of security;

e. Total outstanding loans to QB's DOSRI, percent of DOSRI loans to total loan portfolio, percent of unsecured DOSRI loans to total DOSRI loans, percent of past due DOSRI loans to total DOSRI loans and percent of non-performing DOSRI loans to total DOSRI loans;

f. Nature and amount of contingencies and commitments arising from off-balance sheet items [include direct credit substitutes (e.g., export Letter of Credit (LCs) confirmed, underwritten accounts unsold), transaction-related contingencies (e.g., performance bonds, bid bonds, standby LCs), short-term self-liquidating trade related contingencies arising from the movement of goods (e.g., sight/usance domestic LCs, sight/usance import LCs), sale and repo agreements not recognized in the balance sheet; interest and FX rate related items; and other commitments];

g. Provisions and allowances for losses and how these are determined;

h. Aggregate amount of secured liabilities and assets pledged as security; and

i. Accounting policies which shall include, but shall not be limited to, general accounting principles, changes in accounting policies/practices, principles of consolidation, policies and methods for determining when assets are impaired, recognizing income on impaired assets and losses on non-performing credits, income recognition, valuation policies and accounting policies on securitizations, foreign currency translations, loan fees, premiums and discounts, repo agreements, premises/fixed assets, income taxes, derivatives, etc.

For purposes of computing the indicators in Item *"a"* above, the following formulas shall be used:

a. Return on Average Equity (%) = $\dfrac{\textbf{Net Income (or Loss) after Income Tax x 100}}{\textbf{Average Total Capital Accounts}}$

Where:

Average Total Capital Accounts = $\dfrac{\text{Sum of Total Capital Accounts as of the 12 month-ends in the calendar/fiscal year adopted by the QB}}{12}$

b. Return on Average Assets (%) = $\dfrac{\textbf{Net Income (or Loss) after Income Tax x 100}}{\textbf{Average Total Assets}}$

Where:

Average Total Assets = $\dfrac{\text{Sum of Total Assets as of the 12 month- ends in the calendar/fiscal year adopted by the QB}}{12}$

c. Net Interest Margin (%) = $\dfrac{\textbf{Net Interest Income x 100}}{\textbf{Average Interest Earning Assets}}$

Where:

Net Interest Income Expense = Total Interest Income – Total Interest

Average Interest Earning Assets = $\dfrac{\text{Sum of Total Interest Earning Assets as of the 12 month-ends in the calendar/fiscal year adopted by the QB}}{12}$

§ 4190Q.5 ***(2008 - 4172Q.4) Disclosure requirements in the annual report.*** QBs shall prepare an annual report which shall include, in addition to the AFS and other usual information contained therein, a discussion and/or analysis of the following information:

a. Financial performance;

b. Financial position and changes therein;

c. Overall risk management philosophy (a general statement of the risk management policy adopted by the QB's board of directors which serves as the basis for the establishment of its risk management system), risk management system and structure;

d. Qualitative and quantitative information on risk exposures (credit, market, liquidity, operational, legal and other risks); and

e. Basic business management and corporate governance information such as the QB's organizational structure, incentive structure including its remuneration policies, nature and extent of transactions with affiliates and related parties.

§ 4190Q.6 ***(2008 - 4172Q.5) Posting and submission of annual report.*** A copy of the latest annual report shall be posted by the QB in a conspicuous place in its head office, all its branches and other offices.

The deadline for the submission of the annual report to the appropriate department of the SES is 180 calendar days after the close of the calendar or fiscal year adopted by the QB.

QBs under the concurrent jurisdiction of the Bangko Sentral and COA, however, shall submit the annual report to the appropriate department of the SES within 100 calendar days after receipt of the AAR by the board of directors.

(As amended by Circular No. 911 dated 02 May 2016)

Sec. 4191Q ***(2008 - 4161Q)*** **Records.** QBs 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 imposition of administrative sanctions under Section 37 of R.A. No. 7653, without prejudice to the criminal liability of the director or officer responsible therefor 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.

§ 4191Q.1 ***(2008 - 4161Q.1) Uniform system of accounts.*** QBs shall strictly adopt/ implement the Uniform System of Accounts prescribed for QBs in the recording of daily transactions including reportorial and publication requirements.

§ 4191Q.2 ***(Reserved)***

§ 4191Q.3 ***(2008 - 4161Q.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 Bangko Sentral aims to adopt all PFRS and PAS issued by the Accounting Standards Council (ASC) to the greatest extent possible.

QBs/FIs 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 Bangko Sentral. However, in cases where there are differences between Bangko Sentral 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 Bangko Sentral regulations shall be adopted by 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 Bangko Sentral 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. FIs 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 financial statements required to be submitted to the Bangko Sentral in accordance with the provisions of Sec. 4190Q shall in all respect be PFRS/PAS compliant: *Provided,* That FIs shall submit to the Bangko Sentral adjusting entries reconciling the balances in the financial statements for prudential reporting with that in the audited financial statements.

Guidelines on the adoption of PFRS 9 Financial Instruments. QBs, including their trust entities, shall adopt the full provisions of PFRS 9 Financial Instruments only upon its mandatory effectivity date of 01 January 2018. Prior to said mandatory effectivity date, financial instruments of QBs, including their trust entities, shall continue to be accounted for in accordance with the provisions of PAS 39 under *Appendix Q-20*.

As an exception, QBs, including their trust entities, which have early-adopted PFRS 9 (2009 and 2010) as of 31 December 2015, shall continue to account for their financial instruments in accordance with the provisions of *Appendix Q-56* until 31 December 2017.

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 QBs 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.

(As amended by Circular Nos. 912 dated 27 May 2016, 761 dated 20 July 2012, 708 dated 10 January 2011 and 572 dated 22 June 2007)

Sec. 4192Q *(2008 - 4162Q/4162Q.2)* Reports/Manner of Filing. QBs shall submit to the appropriate department of the SES the reports listed in *Appendix Q-3* in the forms as may be prescribed by the Deputy Governor, SES.

Any change in, or amendment to, the articles of incorporation, by-laws or material documents required to be submitted to the Bangko Sentral 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.

In the case of the independent directors, the bio-data shall be accompanied by a *certification under oath* from the director concerned that he/she is an independent director as defined under Subsec. 4141Q.1 that all the information thereby supplied are true and correct, and that he/she:

1. Is not or has not been an officer or employee of the QB/trust entity, its subsidiaries or affiliates or related interests during the past three (3) years counted from the date of his/her election;

2. Is not a director or officer of the related companies of the institution's majority stockholder;

3. Is not a majority stockholder of the institution, any of its related companies, or of its majority shareholders;

4. Is not a relative, legitimate or common-law of any director, officer or stockholder holding shares of stock

sufficient to elect one (1) seat in the board of the QB/trust entity or any of its related companies. For this purpose, *relatives* refer to the spouse, parent, child, brother, sister, parent-in-law, son-/daughter-in-law, and brother-/sister-in-law;

5. Is not acting as a nominee or representative of any director or substantial shareholder of the QB/trust entity, any of its related companies or any of its substantial shareholders;

6. Is not retained as professional adviser, consultant, agent or counsel of the institution, any of its related companies or any of its substantial shareholders, either in his/her personal capacity or through his/her firm; is independent of management and free from any business or other relationship, has not engaged and does not engage in any transaction with the institution or with any of its related companies or with any of its substantial shareholders, whether by himself/herself or with other persons or through a firm of which he/she is a partner or a company of which he/she is a director or substantial shareholder, other than transactions which are conducted at arms length and could not materially interfere with or influence the exercise of his/her judgment; and

7. Complies with all the qualifications required of an independent director and does not possess any of the disqualifications therefor and has not withheld nor suppressed any information material to his/her qualification or disqualification as an independent director.

The submission of the reports shall be effected by filing them personally with the appropriate department of the SES or with the Bangko Sentral 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 Bangko Sentral.

Where the reports are prescribed by the Bangko Sentral to be submitted through electronic mail, the original notarized affidavit/last page of each report, hard copy of the covering control prooflist, or any other related documents required to be submitted shall be filed in the manner prescribed in the preceding paragraph.

In line with the policy direction of R.A. No. 8792 (E-Commerce Act), the Bangko Sentral is strongly encouraging QBs to submit their regular reports to the Bangko Sentral in electronic form.

However, the Bangko Sentral cannot presently guarantee the security/confidentiality of data in the course of transmitting electronic reports to Bangko Sentral. Bangko Sentral recommends that sensitive or confidential information be provided by ordinary post or courier. The Bangko Sentral will accept no responsibility for electronic messages/reports/information that may be hacked or cracked, intercepted, copied or disclosed outside Bangko Sentral's information system.

(As amended by Circular Nos. 880 dated 22 May 2015, 793 dated 05 July 2013, 591 dated 27 December 2007, CL-2007-059 dated 28 November 2007, CL-2007-050 dated 04 October 2007, 576 dated 08 August 2007, 574 dated 10 July 2007, 560 dated 31 January 2007, and 557 dated 12 January 2007)

§ 4192Q.1 *(2008 - 4162Q.1) Categories and signatories of reports.* Reports required to be submitted to the Bangko Sentral 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 Bangko Sentral in *Appendix Q-3*.

Appendix Q-4 prescribes the signatories for each report category and the requirements on signatory authorization.

Reports submitted by QBs in computer media shall be subject to the same requirements.

A report submitted to the Bangko Sentral 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.

§ 4192Q.2 ***(2008 - 4162Q.3) Sanctions in case of willful delay in the submission of reports/refusal to permit examination.***

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 a QB to be submitted to the Bangko Sentral periodically or within a specified period.

(2) *Willful delay in the submission of reports* shall refer to the failure of a QB 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 QB as defined in the Labor Code or national emergency affecting operations of QBs, shall not be considered as willful delay[1].

(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 QB including the reproduction of its records, as well as the taking possession of the books and records and keeping them under the Bangko Sentral's custody after giving proper receipt therefore. It shall also include the interview of the directors and personnel of the QB including its EDP servicer. Books and records shall include, but shall not be limited to, data and information stored in magnetic tapes, disks, printouts, logbooks and manuals kept and maintained by the QB or the EDP servicer, necessary and incidental to the use of EDP systems by the QB.

(4) *Refusal to permit examination* shall mean any act or omission which impedes, delays, or obstructs the duly authorized Bangko Sentral 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 Bangko Sentral.

b. *Fines for willful delay in submission of reports.* QBs 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 day of default until the report is filed	₱600
II.	*For Category B reports*	
	Per day of default until the report is filed	₱120

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 Bangko Sentral as prescribed under Sec. 4192Q governing the frequency and deadlines indicated in *Appendix Q-3* shall be automatically moved to the next business day whenever a halfday 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 Bangko Sentral Regional Offices/Units appearing on the copies of such reports filed or submitted, the date of mailing postmarked on the envelope/the date of registry/special delivery receipt, as the case may be, or the date of the acknowledgment receipt issued by the appropriate office of the Bangko Sentral if the reports were

[1] See Appendix Q-67

submitted through electronic mail, shall be considered as the date of filing by the QB.

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

c. *Fines for refusal to permit examination*

(1) *Amount of fine* - Any QB 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.

(2) *Procedures in imposing the fine* -

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

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

d. *Manner of payment or collection of fines* - The regulations embodied in Sec. 4902Q shall be observed in the collection of the fines from QBs.

e. *Other penalties* - The imposition of the foregoing penalties shall be without prejudice to the imposition of the other administrative sanctions and to the filing of a criminal case as provided for in other provisions of law.

f. *Appeal to the Monetary Board* - Any aggrieved QB may appeal to the Monetary Board a ruling of the appropriate department of the SES imposing a fine.

(M-2014-039 dated 01 October 2014, as amended by M-2015-035 dated 07 October 2015, M-2015-009 dated 28 January 2015, M- 2015-005 dated 20 January 2015)

§ 4192Q.3 ***(2008 - 4181Q) Publication requirements.*** The quarterly CSOC of a QB/ trust entity and its subsidiaries and associates shall be published side-by-side with the SOC of its head office and its branches/ other offices as of such dates as the Bangko Sentral 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.

a. The following information shall be disclosed in the Statements of Condition:

(1) Non-performing loans (NPLs) and ratio to total loan portfolio;

(2) Classified loans and other risk assets;

(3) General loan loss reserve;

(4) Specific loan loss reserve;

(5) Return on equity (ROE);

(6) DOSRI loans/advances and ratio to total loan portfolio; and

(7) Past due DOSRI loans/advances and ratio to total loan portfolio.

For uniform calculation of the additional information required, the guidelines in Annex Q-3-f of *Appendix Q-3* shall be observed.

b. The names and positions/ designations of:

(1) members of the board of directors; and

(2) president and executive vice-presidents (senior vice-presidents, if there are no executive vice-president) or equivalent positions shall be presented in the right side column of the published SOC as of June of every year.

O. PROMPT CORRECTIVE ACTION FRAMEWORK

Sec. 4193Q *(2008 - 4192Q)* 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 QBs to the extent applicable, or by analogy.

(Circular No. 523 dated 23 March 2006, as amended by Circular No. 664 dated 15 September 2009)

Sec. 4194Q (Reserved)

P. (RESERVED)

Secs. 4195Q - 4198Q (Reserved)

Q. GENERAL PROVISION ON SANCTIONS

Sec. 4199Q General Provision on Sanctions. Any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R. A. No. 7653 on QBs, their directors and or officers are shown in *Appendix Q-39*.

PART TWO

DEPOSIT SUBSTITUTES AND BORROWING OPERATIONS

A. - D. (RESERVED)

Secs. 4201Q - 4234Q (Reserved)

E. DEPOSIT SUBSTITUTE OPERATIONS

Section 4235Q ***(2008 - 4211Q)*** **Deposit Substitute Instruments.** Only the following types of instruments may be issued by QBs as evidence of deposit substitute liabilities:

a. Promissory notes;
b. Repurchase agreements (Repos); and
c. Certificates of assignment/ participation with recourse.

§ 4235Q.1 ***(2008 - 4211Q.1) Prohibition against use of certain instruments as deposit substitutes.*** Acceptances, bills of exchange and trust certificates shall not be used as evidence of deposit substitute liabilities. This prohibition shall not apply to the acceptance or negotiation of bills of exchange in connection with trade transactions, or to the issuance of trust certificates creating trust relationship.

§ 4235Q.2 ***(2008 - 4211Q.2) Negotiations of promissory notes.*** Negotiable promissory notes acquired by QBs shall not be negotiated by mere indorsement and/or delivery, if they do not conform with the minimum features prescribed under Subsec. 4235Q.3. If these notes do not contain the features in said Subsection, their negotiation shall be covered by any of the appropriate deposit substitute instruments mentioned in Sec. 4235Q.

§ 4235Q.3 ***(2008 - 4211Q.3) Minimum features.*** Deposit substitute instruments issued by QBs shall have the following minimum features.

a. The present value and maturity value and/or the principal amount and interest rate and such other information as may be necessary to enable the parties to determine the cost or yield of the borrowing or placement shall be specified.

b. The date of issuance shall be indicated at the upper right corner of the instrument, and directly below which shall be the maturity period or the word "demand", if it is a demand instrument.

c. The payee may be identified by his trust account/deposit account number in both negotiable and non-negotiable instruments.

d. Securities which are the subject of a repo or a certificate of assignment/ participation with recourse, shall be particularly described on the face of said instruments or on a separate instrument attached and specifically referred to therein and made an integral part thereof as to the maker, value, maturity, serial number, and such other particulars as shall clearly identify the securities.

e. The instrument shall provide for the payment of liquidated damages, in addition to stipulated interest, in case of default by the maker/issuer, as well as attorney's fees and cost of collection in case of suit.

f. A conspicuous notice at the lower center margin of the face of the instrument that the transaction is not insured by the PDIC.

g. The corporate name of the issuer shall be printed at the upper center margin of the instrument and directly below which shall be a designation of the instrument, such as, "Promissory Note" or "Repo".

h. The words "duly authorized officer" shall be placed directly below the signature of the person signing for the maker/issuer.

i. Each instrument shall be serially pre-numbered.

j. The copy delivered to the payee shall bear the word "Original" and the copies retained by the issuer shall be identified as "Duplicate," "File Copy" or words of similar import.

k. Only security paper with adequate safeguards against alteration or falsification shall be used.

Deposit substitute instruments shall conform to the language prescribed by the BSP.

Any substantial deviation therefrom or any additional stipulation therein shall be referred to the BSP for prior approval. The size and appearance of these instruments shall not be similar to the size and appearance of checks. Formats of standardized instruments in *Appendices Q-6 to Q-6-k* shall be followed.

Rubber stamping, typewriting and handwriting some provision shall not be considered compliance with said regulations.

Borrowings of QBs from the loans and discounts window of banks or QBs shall be exempted from the documentation requirements of this Section: *Provided,* That the exemption from the documentation requirements shall not be construed or interpreted as exemption of said borrowings from the other rules on borrowings by QBs and from other BSP regulations on deposit substitutes.

§ 4235Q.4 ***(2008 - 4211Q.7) Interbank borrowings.*** Except for interbank borrowings which are settled through the QB's respective DDAs with the BSP via PhilPaSS, all interbank borrowings shall be evidenced by deposit substitute instrument containing the minimum features prescribed in Subsec. 4235Q.3 **.**

(As amended by Circular No, 703 dated 23 December 2010)

§ 4235Q.5 ***(2008 - 4211Q.4) Delivery of securities.***

a. Securities, warehouse receipts, quedans and other documents of title which are the subject of quasi-banking functions, such as repurchase agreements, shall be delivered to a Bangko Sentral accredited securities custodian or an SEC authorized central securities depository in accordance with the guidelines set forth in *Appendix Q-38*. The securities custodian shall hold the securities in the name of the borrower/seller, but shall keep said securities segregated from the proprietary securities account of the borrower/seller if the borrower/seller has an existing securities account with the custodian: *Provided,* That a QB/non-bank financial institution (NBFI) authorized by the Bangko Sentral to perform custodianship function may not be allowed to be custodian of securities issued or owned by said QB/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 authorized officers of the custodian and delivered to both the lender/purchaser and seller/borrower.

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;

(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 securities custodian or central securities depository are shown in *Appendix Q-38*.

The guidelines on the delivery of government securities to the investor's principal securities account with the Registry of Scripless Securities (RoSS) are in *Appendix Q-38a*.

Sanctions. Without prejudice to the penal and administrative sanctions provided for under Sections 36 and 37, respectively of the R.A. No. 7653 (The New Central Bank Act), violation of any provision of the guidelines in *Appendix Q-38* shall be subject to the following sanctions/penalties depending on the gravity of the offense:

(a) *First offense* –

(1) Fine of up to P10,000 a day or 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.

(As amended by Circular Nos. 873 dated 25 March 2015, 714 dated 10 March 2011, 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)

§ 4235Q.6 *(2008 - 4211Q.5) Other rules and regulations governing the issuance and treatment of deposit substitute instruments.*

a. If there is any stipulation that payment of the deposit substitute shall be chargeable against a particular deposit account of the maker or issuer that is maintained with another bank, it shall further provide that the liability of the maker or issuer of the instrument shall not be limited to the outstanding balance of said deposit account.

b. Any agreement allowing the issuer or maker to substitute the underlying securities shall further provide that the actual substitution shall be with the prior written consent of the payee.

c. Automatic renewal upon maturity of the instrument may be effected only under terms and conditions previously stipulated by the parties.

d. Stipulations between the maker or issuer and the payee which are embodied in separate instruments shall be specifically referred to in the deposit substitute instruments and made an integral part thereof.

e. In the case of repurchase agreements and certificates of assignment/participation with recourse, the stipulation shall clearly state either (a) that the underlying securities are being delivered to the buyer or assignee as collaterals or (b) that the ownership thereof is being transferred to the buyer or assignee.

f. The regulations on interbank loan transactions prescribed in Sec. 4343Q shall also apply to interbank borrowings.
(As amended by Circular No, 703 dated 23 December 2010)

§ 4235Q.7 *(2008 - 4211Q.6) Substitution of underlying securities.*
(Deleted by Circular No. 703 dated 23 December 2010)

§ 4235Q.8 *(2008 - 4211Q.7) Call slips/ tickets for 24-hour loans.*
(Renumbered by Circular No. 703 dated 23 December 2010)

§ 4235Q.9 *(2008 - 4211Q.8) Requirement to state nature of underlying securities.*
(Deleted by Circular No. 703 dated 23 December 2010)

§ 4235Q.10 *(2008 - 4211Q.9) Compliance with SEC rules.* QBs shall comply with the new rules on the registration of short-term and long-term commercial papers appended hereto as *Appendices Q-7 and Q-8*.

§ 4235Q.11 *(Reserved)*

§ 4235Q.12 *(2008 - 4211Q.12) Repurchase agreements covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments.* The following regulations shall govern REPOs covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments of QBs as well as sale on a without recourse basis of said securities by QBs.

a. *Proper recording and documentation of repos.*

QBs shall have a true and accurate account, record or statement of their daily transactions. As such, repos covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments must be properly recorded and documented in accordance with existing Bangko Sentral regulations.

The absence of proper documentation for repos is tantamount to willful omission of entries relevant to any transaction, which shall be a ground for the imposition of administrative sanctions and the disqualification from office of any director or officer responsible therefor under existing laws and regulations.

b. *Responsibilities of the chief executive officer (CEO) or officer of equivalent rank.*

It shall be the responsibility of the CEO or the officer of equivalent rank in a QB to:

(1) Institute policies and procedures to prevent undocumented or improperly documented repos covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments;

(2) Submit a notarized certification at the end of every semester that the QB did not enter into any repo 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 the QB has strictly complied with the pertinent rules of the SEC and the Bangko Sentral on the proper sale of securities to the public and performed the necessary representations and disclosures on the securities particularly the following:

(a) Informed the clients that such securities are not deposits and as such, do not benefit from any insurance otherwise applicable to deposits such as, but not limited to, R.A. No. 3591, as amended, otherwise known as the PDIC law;

(b) 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:

(i) issuer and its financial condition;

(ii) term and maturity date;

(iii) applicable interest rate and its computation;

(iv) tax features (whether taxable, tax paid or tax-exempt);

(v) risk factors and investment considerations;

(vi) liquidity feature of the instrument:

(aa) procedures for selling the security in the secondary market (e.g., OTC or exchange);

(bb) authorized selling agents; and

(cc) minimum selling lots.

(vii) disposition of the security:

(aa) registry (address and contact numbers);

(bb) functions of the registry; and

(cc) pertinent registry rules and procedures.

(viii) collecting and paying agent of the interest and principal; and

(ix) other pertinent terms and conditions of the security and if possible, a copy of the prospectus or information sheet of the security.

(c) Informed the client that pursuant to Subsecs. 4235Q.5 and 4101Q.4:

(i) Securities sold under repurchase agreements shall be delivered in accordance with the guidelines set forth in *Appendix Q-38*.

(ii) Securities sold on a without recourse basis are required to be delivered in accordance with the guidelines set forth in *Appendix Q-38*.

(d) Clearly stated to the client that:

(i) The QB 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

(ii) The QB is not performing any advisory or fiduciary function.

(3) Report to the appropriate department of the SES any undocumented repo within seventy-two (72) hours from knowledge of such transactions.

c. *Treatment as deposit substitutes*
All sales of government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing Bangko Sentral regulations shall be deemed to be deposit substitutes subject to regular reserves.

d. *Certification*. The submission deadline for the required certification from the CEO/officer of equivalent rank of the QB shall initially be 1 February 2005 using the format in *Appendix Q-36-a*. Thereafter, the required succeeding certification shall be submitted within five (5) banking days from end of reference semester using the format in *Appendix Q-36*.

e. *Sanctions*. The Monetary Board may, at its evaluation and discretion, impose any or all of the following sanctions to a QB or the director/s or officer/s found to be responsible for repos covering government securities, commercial papers and other negotiable and non-negotiable securities or instruments that are not documented in accordance with existing Bangko Sentral regulations:

(1) Fine of up to P30,000 a day to the concerned entity for each violation from the date the violation was committed up to the date it was corrected;

(2) Suspension of interbank clearing privileges/immediate exclusion from clearing;

(3) Suspension of access to Bangko Sentral rediscounting facilities;

(4) Suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;

(5) Revocation of quasi-banking license;

(6) Revocation of authority to perform trust operations; and

(7) Suspension for 120 days without pay of the directors/officers responsible for the violation.

(As amended by Circular No. 873 dated 25 March 2015)

§ 4235Q.13 ***(2008 - 4212Q) Recording; payment; maturity; renewal.***

(Deleted by Circular No. 703 dated 12 December 2010)

§ 4235Q.14 ***(2008 - 4214Q) Interbank borrowings.***

(Deleted by Circular No. 703 dated 23 December 2010)

§ 4235Q.15 ***(2008 - 4215Q) Borrowings from trust departments or managed funds of banks or investment houses.*** Funds borrowed by QBs from trust departments or managed funds of banks or IHs are not considered as interbank borrowings and, therefore, are subject to the:

a. reserve requirement on deposit substitutes; and

b. minimum trading lot rule.

(As amended by Circular No. 703 dated 23 December 2010)

Sec. 4236Q ***(2008 - 4213Q)*** **Minimum Trading Lot.** The minimum size of any single deposit substitute transaction shall be P50,000.

In connection with the minimum trading lot rule above stated, no QB shall issue deposit substitute instruments in the name of two (2) or more persons or accounts except those falling under the following relationships in which cases, commingling may be allowed: (a) husband and wife; (b) persons related to each other within the second degree of consanguinity; and (c) in trust for (ITF) arrangements.

Sec. 4237Q ***(2008 - 4216Q)*** **Money Market Placements of Rural Banks.** QBs shall not accept money market placements from any RB unless the latter presents a certification under oath stating: (a) that it has no overdue special time deposits; (b) that it has no past due obligations with the Bangko Sentral or other government FIs; (c) the amount of its current obligations, if any, with said government FIs; and (d) the amount of its total outstanding money market placements. However, in no case shall such QBs sell receivables to RBs without recourse.

§ 4237Q.1 ***(2008 - 4216Q.1) Definition of terms.*** As used in this Section, the following terms shall have the following meanings:

*Money market placements s*hall include investments in debt instruments, including purchases of receivables with recourse to the lending institution, except purchases of government securities on an outright basis.

Government securities shall include evidences of indebtedness of the Republic of the Philippines and the Bangko Sentral and other evidences of indebtedness or obligations of government entities, the servicing and repayment of which are fully guaranteed by the Republic of the Philippines.

§ 4237Q.2 ***(2008 - 4216Q.2) Conditions required on accepted placements.*** Placements accepted must comply with the following conditions:

a. That the total money market placements of an RB, as stated in the certification, including the placement being accepted by the entity concerned, shall not exceed the RB's combined capital accounts or net worth less current obligations with the Bangko Sentral or other government FIs;

b. The maturity of the money market placement shall not exceed sixty (60) days; and

c. That placements shall be evidenced in all cases by promissory notes of accepting entities/REPOs and/or certificates of participation/assignment with recourse and that underlying instruments shall be government securities the servicing and repayment of which are guaranteed by the Republic of the Philippines.

§ 4237Q.3 *(2008 - 4216Q.3) Sanctions* Violations of the provisions of this Section shall be subject to the following sanctions/penalties:

a. *Fines*

First offense - Fines of P3,000 a day, reckoned from the date placement started up to the date when said placement was withdrawn, for each violation shall be assessed on the bank.

(Next Page is Part II - Page 7)

Subsequent offenses - Fines of P5,000 a day, reckoned from the date placement started up to the date placement was withdrawn, for each violation shall be assessed on the bank.

b. *Other sanctions*

First offense - Reprimand for the directors/officers who approved the acceptance/placement with a warning that subsequent violations will be subject to more severe sanctions.

Subsequent offenses -

(1) Suspension for ninety (90) days without pay for directors/officers who approved the placement.

(2) Suspension or revocation of the authority to engage in quasi-banking functions.

Sec. 4238Q *(2008 - 4391Q.2)* Without Recourse Transactions. No QB shall sell, discount, assign, negotiate, in whole or in part such as thru syndications, participations and other similar arrangements, any note, receivable, loan, debt instrument and any type of financial asset or claim, except government securities, on a without recourse basis, or be a party in any capacity in any such transactions on a without recourse basis, unless such receivable, note, loan, debt instrument and financial asset or claim is registered with the SEC. This prohibition includes transactions between an investment house and its trust department.

Sec. 4239Q *(2008 - 4217Q)* Bond Issues of Quasi-banks. The following guidelines shall govern the bond issues of QBs.

§ 4239Q.1 *(2008 - 4217Q.1) Definition of terms.* For purposes of this Section, the following terms shall mean:

a. *Government securities* shall refer to the evidences of indebtedness of the Republic of the Philippines or its instrumentalities, or of the BSP, and must be freely negotiable and regularly serviced.

b. *Net book value* shall refer to the acquisition cost of property or accounts, plus additions and improvements thereon, less valuation reserves, if any.

c. *Current market value* shall refer to the value of the property as established by a duly licensed and independent appraiser.

d. *Affiliate* shall refer to an entity linked directly or indirectly to a QB by means of:

(1) Ownership, control or power to vote, of ten percent (10%) or more of the outstanding voting stocks of the entity, or vice-versa;

(2) Interlocking directorships or officerships;

(3) Common stockholders owning ten percent (10%) or more of the outstanding voting securities;

(4) Management contract or any arrangement granting power to direct or cause the direction of management and policies;

(5) Voting trustee holding ten percent (10%) or more of the outstanding voting securities;

(6) Permanent proxy or voting trust constituting ten percent (10%) or more of the outstanding voting securities.

e. *Subsidiary* shall refer 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 power to vote by another.

§ 4239Q.2 *(2008 - 4217Q.3) Compliance with SEC rules.* QBs issuing or intending to issue bonds shall comply with the new rules on the registration of long-term commercial papers *(Appendix Q-8)*.

§ 4239Q.3 *(2008 - 4217Q.4) Notice to Bangko Sentral* . Within three (3) days from approval by the SEC of its bond issue, a QB shall notify the appropriate department of the BSP of the approval, attaching documents required by the SEC for the issuance and registration of the bond issue.

§ 4239Q.4 *(2008 - 4217Q.5) Minimum features.* Bond issues by QBs shall have the following minimum features:

a. *Form; issue price; denomination.* The trust indenture and the name of the indenture trustee shall be indicated on the face of the bond certificate.

The SEC-assigned bond registration number and expiry date, if any, shall likewise be indicated, stamped on the face of each bond certificate issued.

Bonds may be issued at face value, at a discount, or at a premium. Minimum denomination shall be ₱20,000.

b. *Term.* The minimum maturity of the bonds shall be four (4) years. No optional redemption before the fourth year shall be allowed.

c. *Interest; manner; form of payment* The bonds shall not be subject to interest rate ceilings prescribed by the Monetary Board or Act No. 2655, as amended.

Interest paid in advance shall not exceed the interest for one (1) year: *Provided,* That interest shall not be paid in kind.

d. *Trust indenture; collaterals; sinking fund.* A trust indenture shall be executed between the issuer and a qualified trust corporation as trustee, which shall neither be an affiliate nor a subsidiary of the issuer.

The following shall be deemed as eligible collateral and shall be maintained at respective values indicated in relation to the face value of the bond issue:

(1) Government securities	- Aggregate current market value of 100%
(2) High-grade private securities listed in the big board of stock exchanges	- Aggregate current market value of 150%
(3) Real estate	- Net book value of 100%
(4) Unmatured receivables acquired with recourse; lease contracts receivable	- Net book value of 150%
(5) Unmatured receivables acquired without recourse	- Net book value of 200%

Government and private securities, certificates of title and documents evidencing receivables offered as security shall be physically delivered to the indenture trustee.

Substitution of collaterals shall be allowed: *Provided,* That in no case shall the collateral fall below the herein-required ratios.

The issuer may, at his option, provide for the retirement at maturity of the bond issue through a sinking fund to be deposited with and managed by the indenture trustee.

e. *Bond registry.* The bonds shall be fully registered as to principal and interest. The issuer, its trustee, agent or underwriter must maintain a bond registry duly approved by the SEC for recording, in initial and subsequent transfers, the names of transferees, date of transfer, purchase price and serial numbers of bonds transferred.

§ 4239Q.5 *(2008 - 4217Q.2) Underwriting of bonds.* Bond issues may be underwritten by entities including those which are affiliates or subsidiaries of the issuer. The investment of affiliates or subsidiaries in said bond issue shall be subject to:(a) individual and aggregate ceilings of ten percent (10%) and thirty percent (30%), respectively, of the bond issue; and (b) the condition that the investing affiliate or subsidiary does not have any outstanding loan from the issuer or that it shall not incur any indebtedness from the issuer during the period that the investment remains outstanding.

§ 4239Q.6 *(2008 - 4217Q.6) Reserve requirement.* A five percent (5%) reserve shall be maintained against all bond issues of QBs.

The form/composition of reserves for bond issues shall be in accordance with the applicable rules on reserve against deposit substitute liabilities and borrowings.

§ 4239Q.7 *(2008 - 4217Q.7)* *Inapplicability of certain regulations.* Secs. 4235Q and 4236Q shall not apply to bonds issued under these guidelines.

F. (RESERVED)

Sec. 4240Q (Reserved)

G. INTEREST

Sec. 4241Q *(2008 - 4236Q)* Yield/Interest Rates.

a. Deposit substitutes of QBs shall not be subject to yield or interest rate ceilings.

b. A matured and an unclaimed deposit substitute shall be payable on demand and shall earn interest or yield from maturity to actual withdrawal or renewal at a rate applicable to a deposit substitute with a maturity of fifteen (15) days.

Secs. 4242Q - 4252Q (Reserved)

H. RESERVES

Sec. 4253Q *(2008 - 4246Q)* Reserves Against Deposit Substitutes. NBQBs shall maintain required reserves equivalent to twenty percent (20%)[1] of deposit substitute liabilities as defined in Section 95 of R.A. No. 7653, regardless of maturities except:

(a) borrowings from the Bangko Sentral through the sale of government securities under repo agreements made in connection with the provisions of Sec. 4601Q;

(b) deposit substitutes arising from special financing programs of the Government and/or international FIs;

(c) interbank call loan transactions under Sec. 4343Q; and

(d) bonds under Sec. 4239Q for which the reserve requirement shall be six percent (6%)[2].

Provided, That deposit substitutes evidenced by repo agreements covering government securities up to the amount equivalent to the adjusted Tier 1 capital of the NBQB shall be subject to the reserve requirement of four percent (4%)[3]: *Provided, further,* That such rate shall apply only to repo agreements, the documentation of which conforms with, and were delivered to a Bangko Sentral accredited third party custodian as required under existing Bangko Sentral regulations.

(As amended by Circular Nos. 890 dated 02 November 2015, 832 dated 27 May 2014, 830 dated 03 April 2014, 753 dated 29 March 2012, 732 dated 03 August 2011, 726 dated 27 June 2011 and 632 dated 19 November 2008)

Sec. 4254Q Composition of Reserves.

a. *Composition of required reserves.* The required reserves shall be kept in the form of deposits placed in QBs' demand deposit accounts (DDAs) with the Bangko Sentral.

b. *Transitory provisions.* QBs may continue to utilize the following as eligible forms of compliance with the reserve requirement in accordance with the following guidelines:

i. Government securities. Government securities which are used as compliance with the regular and/or liquidity reserve requirement as of 06 April 2012, shall continue to be eligible as compliance with the reserve requirement until they mature.

For purposes of this Section, government securities *which may form part of the reserves against deposit substitute liabilities of QBs* shall refer to bonds or other evidences of indebtedness representing direct obligations of the Government of the Republic of the Philippines having the following minimum features/ conditions:

(1) The securities must bear an interest rate of not more than four percent (4%) per annum, must be non-negotiable and shall carry Bangko Sentral support;

[1] For reserve week starting 11 April 2014, the required reserve for Deposit substitutes is 18%.
[2] For reserve week starting 11 April 2014, the required reserve for Bonds is 4%.
[3] For reserve week starting 11 April 2014, the required reserve for DS evidenced by repo agreements is 2%.

(2) The instrument must expressly state on its face the amount, maturity date and interest rate of the obligation; and

(3) The government securities may not be hypothecated or encumbered in any way or earmarked for any other purpose.

The government securities held as reserves under Item *"b.i"* above shall be valued at cost of acquisition and the QB may freely alter its composition: *Provided*, That any substitution or acquisition satisfies the eligibility requirements prescribed above: *Provided, further*, That the QB notifies the Bangko Sentral of any such change in the prescribed forms not later than the reporting day following the change.

Only the buying/lending QB in a resale agreement covering eligible government securities may use such securities as reserves against deposit substitutes liabilities. Conversely, the selling/ borrowing QB in a repo agreement covering eligible government securities may not use such securities as reserves against deposits substitutes.

The reserve eligibility of government securities used as collateral in the reverse repo operations of the Bangko Sentral shall be suspended during the term of the reverse repo agreement.

The phrase *non-reserve eligible* shall be stamped on the face of the custodian receipt being issued by the Bangko Sentral to buyer FIs.

ii. Reserve deposit account (RDA). Deposit placements that are maintained by QBs in the RDA with the Bangko Sentral, which are used as compliance with the liquidity reserve requirement as of 06 April 2012, shall continue to be eligible as compliance with the reserve requirement until they mature.

All new deposits in the RDA facility shall be given a maturity date of 04 April 2012.

The RDA facility shall be discontinued and the Bangko Sentral shall no longer accept new RDA placements from QBs effective 06 April 2012.

Outstanding placements in the RDA facility on 06 April 2012 shall be paid interest at maturity based on existing regulations.

iii. Demand deposits maintained with banks. Demand deposits maintained with banks which are not restricted as to withdrawal or use for current operations but not with banks which have been closed and are under receivership or liquidation shall be eligible as compliance with the reserve requirement until 06 April 2012. Henceforth, such mode of compliance shall no longer be allowed.

(As amended by Circular Nos. 825 dated 07 February 2014, 753 and 752 dated 29 March 2012, 551 dated 17 November 2006 and 539 dated 09 August 2006)

§ 4254Q.1 ***(2008 - 4246Q.5) Matured and unclaimed deposit substitutes.*** Matured and unclaimed deposit substitutes shall continue to be subject to reserves.

§ 4254Q.2 (*Reserved*)

§ 4254Q.3 ***(2008 - 4246Q.7) Interest on reserve deposit with Bangko Sentral.*** Deposits maintained by QBs with the Bangko Sentral in compliance with the reserve requirement shall no longer be paid interest effective 06 April 2012.

(As amended by Circular No. 753 dated 29 March 2012)

§ 4254Q.4 (2008 - 4246Q.6) ***Book entry method for reserve securities.*** Transactions concerning reserve-eligible securities shall be entered in the respective securities account of each QB with the Bangko Sentral and shall be evidenced by securities account debit or credit advices to be promptly furnished the institution/s concerned. No certificates shall be issued for any purpose. Transactions with third parties other than the Bangko Sentral shall not be recognized.

Sec. 4255Q (2008 - 4246Q.4) Exemptions. Certificates of assignment issued with recourse by QBs under the IGLF Program are not covered by the reserve requirements.

Sec. 4256Q (2008 - 4246Q.2) Computation of Reserve Position. The reserve position of any QB and the penalty on reserve deficiency shall be computed based on a seven (7)-day week, starting Friday and ending Thursday, including Saturdays, Sundays, public special/legal holidays, non-business days, unexpected declared non-business days or declared half-day holidays and days when there is no clearing: *Provided*, That with reference to public special/legal holidays, non-business unexpected declared non-business days, declared half day holidays and days when there is no clearing, the reserve position as calculated at the close of the business day immediately preceding such public special/ legal holidays, non-business days and unexpected declared non-business day/s and declared half day holidays and days when there is no clearing, shall apply thereon. For this purpose, the principal office in the Philippines and all other offices located therein shall be treated as a single unit.

The guidelines on the computation of a bank's reserve position during public sector holidays are shown in *Appendix Q-49*.

The required reserves in the current period (reference reserve week) shall be computed based on the corresponding levels of deposit substitute liabilities of the prior week.

(As amended by M-2008-025 dated 13 August 2008)

§§4256Q.1 - 4256Q.4 *(Reserved)*

§ 4256Q.5 (2008 - 4246Q.8) *Guidelines in calculating and reporting to the Bangko Sentral the required reserves on deposit substitutes evidenced by repurchase agreements covering government securities.*

a. The Supervisory Data Center (SDC) shall determine the maximum allowable amount of repo agreements covering government securities that will qualify for the reduced statutory reserve requirements of two percent (2%). It shall be based on the amount reported by QBs in their weekly Consolidated Daily Report of Condition. The adjusted Tier 1 capital reported daily should approximate the quarterly adjusted Tier 1 capital as submitted by banks in compliance with the provisions of Sec. 4115Q.

b. Any material differences that may be noted by the SDC between the daily and the quarterly report shall be considered as erroneous reporting and shall be subject to the penalties under existing regulations. The SDC shall also make a re-run of its computation of the QB's reserve position and in the event that the reserve position resulted to a reserve deficiency/ies, the corresponding penalties on reserve deficiencies shall also apply.

c. The lagged system in the measurement of a QB's reserve requirement, as provided in Sec.4256Q, shall also be adopted in the calculation of the two percent (2%) statutory reserve requirements for repo agreements covering government securities.

d. Deposit substitutes evidenced by repo agreements covering government securities in excess of the adjusted Tier 1 capital shall be treated as regular deposit substitutes and shall be subject to the regular statutory and liquidity reserve requirements under existing regulations.

Sec. 4257Q (2008 - 4246Q.3) Reserve Deficiencies; Sanctions.

a. Whenever the reserve position of any QB computed in the manner specified in Sec.4256Q is below the required minimum, the QB concerned shall pay the Bangko Sentral one-tenth of one percent (1/10 of 1%) per day on the amount of the deficiency or the prevailing ninety-one (91)- day T-Bill rate plus three (3) percentage points, whichever is higher: *Provided, however,* That the QB shall be permitted to offset any reserve deficiency occurring one (1) or more days of the week covered by the report against excess reserves which it may hold on other days of the same week, and shall be required to pay the penalty only on the average daily net deficiency during the week[1].

In case of abuse, the QB shall automatically lose the privilege of offsetting reserve deficiency in the aforesaid manner until such time that it maintains its daily reserve position at the required minimum for at least two (2) consecutive weeks.

As used in this Section, abuse in the privilege of offsetting reserve deficiencies against excess reserves shall mean having reserve deficiencies occurring four (4) or more times during any given week for two (2) consecutive weeks, whether or not resulting in net weekly deficiencies.

b. In cases where the QB has chronic reserve deficiency on deposit substitute liabilities, the Monetary Board may (1) limit or prohibit the making of new loans or investments by the QB concerned; (2) prohibit the declaration of cash dividends; and/or (3) impose such other sanctions, as it may deem necessary. The board of directors of such QB shall be notified of such chronic reserve deficiency and the penalties therefor, and shall be required to immediately correct the reserve position of the QB.

As used in this Section, the following terms shall have the following meanings:

Chronic reserve deficiency shall mean having net reserve deficiency for two (2) consecutive weeks.

New loan and new investment shall refer to any loan and any investment involving disbursement of funds.

c. Fines on legal reserve deficiencies on deposit substitute liabilities shall be paid by the QB in accordance with Sec.4902Q: *Provided,* That where the credit balance of the QB's demand deposit account (DDA) with the Bangko Sentral is insufficient and it fails to settle the assessment within fifteen (15) days from receipt, the Monetary Board may limit or prohibit the making of new loans or investments by the QB.

(M-2014-039 dated 01 October 2014, as amended by M-2015-035 dated 07 October 2015, M-2015-009 dated 28 January 2015, M- 2015-005 dated 20 January 2015)

I. (RESERVED)

Secs. 4258Q - 4269Q (Reserved)

J. BORROWINGS FROM THE BANGKO SENTRAL

Sec. 4270Q (2008 - 4276Q) Repurchase Agreements with the Bangko Sentral. Repo agreements with the Bangko Sentral under its open market operations (OMOs) shall be governed by the provisions of Subsec. 4601Q.1.

Secs. 4271Q - 4277Q (Reserved)

[1] See Appendix Q-67

Sec. 4278Q Enhanced Intraday Liquidity Facility. The ILF is a smoothening mechanism which is available to eligible participant QBs in the Philippine Payments and Settlements System (PhilPaSS) to support their liquidity requirements and avoid payment gridlocks in PhilPaSS. The revised features of the enhanced intraday liquidity facility are shown in *Appendix Q-13-B*.

(As superseded by the MOA between the BSP, BTr, BAP and Money Market Association of the Philippines dated 25 March 2008)

Secs. 4279Q - 4280Q (Reserved)

K. OTHER BORROWINGS

Sec. 4281Q Borrowings from the Government. QBs shall not borrow any fund or money from the Government and government entities, through the issuance or sale of its acceptances, notes or other evidence of debt, except as may be authorized by existing statutes.

§ 4281Q.1 *Definition of terms.* For purposes of this Section, the following terms shall have the meaning indicated unless the context clearly indicates otherwise:

a. *Fund or money from the Government and government entities* includes public moneys of every sort, whether pertaining to the National Government, province, city, municipality, or other branch or agency of the Government, including government-owned or controlled corporations (GOCCs) as defined herein, and shall comprise *"revenue funds"*, *"trust funds"*, and *"depository funds"* as these terms are defined in the Revised Administrative Code of 1987, and deposits of, borrowings from, and all other liabilities to, the Government and government entities.

b. *GOCCs* shall refer to GOCCs which are created by special laws. It shall exclude government FIs such as the Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP) and Al-Amanah Islamic Investment Bank of the Philippines, corporations which are organized as subsidiaries of GOCCs under the provisions of the Corporation Law (Act No. 1459, as amended) or the Corporation Code (BP Blg. 68) and private corporations which are taken over by GOCCs.

Secs. 4282Q - 4298Q (Reserved)

L. GENERAL PROVISION ON SANCTIONS

Sec. 4299Q General Provision on Sanctions. Any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R.A. No. 7653 on QBs, their directors and/or officers are shown in *Appendix Q-39*.

PART THREE

LOANS, INVESTMENTS AND SPECIAL CREDITS

Section 4301Q Management of Risk Assets/ Minimum Guidelines on Lending Operations.
(Deleted by Circular No. 855 dated 29 October 2014)

§§ 4301Q.1 - 4301Q.5 *(Reserved)*

§ 4301Q.6 *Large exposures and credit risk concentrations.*

a. *Definition. "Large exposures"* shall refer to exposures to counterparty or a group of connected counterparties equal or greater than five percent (5%) of the FI's qualifying capital as defined under 4115Q.

"Connected counterparties" refer to a group of counterparties that are connected through (a) direct or indirect control of one of the counterparties over the other(s) or (b) economic interdependencies, and must be treated as a single counterparty. Control shall be determined in accordance with Subsection 4141Q.2(e).

"Economic interdependence" refers to a situation where counterparties are reliant on each other, such that if one of the counterparties experiences financial problems in repaying its obligations, the creditworthiness of the other(s) would also likely deteriorate. FIs shall define in their credit policy criteria in determining connectedness based on economic interdependence, which shall consider, among others, significant dealings or transactions of one or more counterpart(y/ies) that impact the financial capacity or ability to repay the obligations of the other counterpart(y/ies).

In cases where the criteria do not automatically imply an economic dependence that results in two or more counterparties being connected, the FI shall provide evidence to Bangko Sentral that a counterparty which is economically connected to another, still can pay its liabilities even if the latter's financial condition weakens.

b. *Scope of Application.* Large exposures of FIs and their subsidiaries and affiliates to third parties across the relevant regulatory consolidation group shall be aggregated and compared with the group's qualifying capital.

c. *Exclusions.* Loans, other credit accommodations and guarantees that are excluded from the single borrower's limit (SBL) under Sections 4303Q and Subsections 4303Q.1 as well as intraday and end-of-day interbank exposures arising from interbank payment and settlement processes shall be excluded from large exposures.

d. *Notification requirements.* An FI must immediately inform the Bangko Sentral when it has concerns that its large exposures or credit risk concentrations have the potential to impact materially upon its capital adequacy, along with proposed measures to address these concerns.

e. *Reporting.* FI's records on monitoring of large exposures shall be made available to the Bangko Sentral examiners for verification at any given time. When warranted, the Bangko Sentral may impose additional reporting requirements on the FI in relation to its large exposures and credit risk concentrations.

f. *Sanction.* Any failure or delay in complying with the requirements under Items *"d"* and *"e"* of this Subsection shall be subject to penalty applicable to those involving major reports.

(As amended by Circular Nos. 640 dated 16 January 2009 and 855 dated 29 October 2014)

Sec. 4302Q Loan Portfolio and Other Risk Assets Review System.

(Deleted by Circular No. 855 dated 29 October 2014)

§ 4302Q.1 *Provisions for losses; booking*

(Deleted by Circular No. 855 dated 29 October 2014)

§ 4302Q.2 *Sanctions.*

(Deleted by Circular No. 855 dated 29 October 2014)

A. LOANS IN GENERAL

Sec. 4303Q *(2008 - 4306Q)* Loan Limit to a Single Borrower. The total liabilities of any person, company, corporation or firm, to a QB for money borrowed, excluding (a) loans secured by obligations of the Bangko Sentral or of the Philippine Government; (b) loans fully guaranteed by the government as to the payment of principal and interest; (c) loans fully secured by US Treasury Notes and other securities issued by central governments and central banks of foreign countries with the highest credit quality given by any two (2) internationally- accepted rating agencies; (d) loans to the extent covered by the holdout on, or assignment of, deposits maintained in the lending QB and held in the Philippines; (e) loans and acceptances under letters of credit to the extent covered by margin deposits; and (f) other loans or credits which the Monetary Board may, from time to time, specify as non-risk assets, shall at no time exceed twenty-five percent (25%) of the combined capital accounts as defined in Sec. 4111Q.

The total liabilities of any borrower may amount to a further fifteen percent (15%) of the combined capital accounts of such QB: *Provided,* That the additional liabilities are adequately secured by real estate mortgage, assignment or pledge of readily marketable bonds and other high grade debt securities, except those issued by the lending entity.

The total amount of loans, credit accommodations and guarantees prescribed in the first paragraph may be increased by an additional twenty-five percent (25%) of the net worth of such QB: *Provided,* That the additional loans, credit accommodations and guarantees are for the purpose of undertaking infrastructure and/or development projects under the Public-Private Partnership (PPP) Program of the government duly certified by the Secretary of Socio-Economic Planning: *Provided, further*, That the total exposures of the QB to any borrower pertaining to such infrastructure and/or development projects under the PPP Program shall not exceed twenty-five percent (25%) of the net worth of such QB: *Provided, furthermore,* That the additional twenty-five percent (25%) shall only be allowed for a period of six (6) years from 28 December 2010: *Provided, finally,* That the credit risk concentration arising from total exposures to all borrowers pertaining to such infrastructure and/or development projects under the PPP Program shall be considered by the QB in its internal assessment of capital adequacy relative to its overall risk profile and operating environment. Said loans, credit accommodations and guarantees based on the contracted amount as of the end of the six (6)-year period shall not be increased but may be reduced and once reduced, said exposures shall not be increased thereafter.

The total amount of loans, credit accommodations and guarantees prescribed in the first paragraph may be further increased by an additional fifteen percent (15%) of the net worth of such QB: *Provided*, That the additional loans, credit accommodations and guarantees are granted to finance oil importation of oil companies which are not affiliates of the lending QB engaged in energy and power generation: *Provided, further*, That the oil companies qualify under the credit underwriting standards of the lending QB and the lending QB shall comply with Subsection 4301Q.6 on the guidelines in managing large exposures and credit risk concentrations: *Provided, furthermore*, That the credit risk concentration arising from total exposures to all oil companies shall be considered by the QB in its internal assessment of capital adequacy relative to its overall risk profile and operating environment and shall be incorporated in the ICAAP document required to be submitted under Section 4119Q: *Provided, finally*, That the additional fifteen percent (15%) shall only be allowed for a period of three (3) years from 03 March 2011, or until 03 March 2014. Said additional loans, credit accommodations and guarantees outstanding as of the end of the three (3)- year period and in excess of twenty five percent (25%) of the lending QB's net worth shall not be increased but shall be reduced and once reduced, said exposures shall not be increased thereafter.

For purposes of this Section, the term *liabilities* shall mean the direct liability of the maker or acceptor of paper discounted with or sold to such QB and the liability of the endorser, drawer or guarantor who obtains a loan from or discounts paper with or sells papers under his guaranty to such QB and shall include in the case of liabilities of a co-partnership or association, the liabilities of the several members thereof and shall include, in the case of liabilities of a corporation, all liabilities of its subsidiaries: *Provided,* That even in cases where the parent corporation, co-partnership or association has no liability to the QB, the liabilities of subsidiary corporations or members of the co-partnership or association shall be combined for purposes of the single borrower's limit (SBL).

Loans, credit accommodations and guarantees to any person, partnership, association, corporation or other entity or group of companies in excess of the applicable SBL arising from acquisition, merger or consolidation of borrower-corporations, which loans, credit accommodations and guarantees were granted prior to and are outstanding as of date of acquisition, merger or consolidation of borrower-corporations shall not be increased, but shall be reduced and once reduced, shall not be increased beyond the applicable SBL.

It is expected that FIs would generally observe a lower internal single borrower's limit than the prescribed limit of twenty-five percent (25%) as a matter of sound practice.
(As amended by Circular Nos. 855 dated 29 October 2014, 803 dated 05 July 2013, 779 dated 9 January 2013, 712 dated 09 February 2011 and 700 dated 06 December 2010)

§ 4303Q.1 ***(2008 - 4306Q.1) Exclusions from loan limit.*** In addition to those enumerated in Sec. 4303Q:

a. The total liabilities of a commercial paper issuer for commercial papers held by a QB acting as a firm underwriter of said commercial paper shall not be counted in determining compliance with the SBL within a period of ninety (90) calendar days from the issuance of the commercial paper:[1] *Provided*, That in no case shall such liabilities exceed five percent (5%) of the net worth of the QB beyond the normal applicable SBL; and

b. Loans and other credit accommodations as a result of an underwriting or sub-underwriting agreement of debt securities outstanding for a period not exceeding thirty (30) calendar days. Said other credit accommodations shall include, among others, inventories of debt securities such as, but not limited to bonds and notes purchased by the QB out of its underwriting commitments[1].

[1]This shall cover all new underwritten debt and equity securities issued from 15 February 2013.

c. In case a stand-alone trust corporation is a subsidiary or affiliate of a QB, the asset under management of the trust corporation shall not form part of the relevant exposures of the parent QB for purposes of calculating the SBL and the ceilings for accommodation to DOSRI of the said parent QB.

The purchase by the trust corporation, in behalf of its clients, of securities or instruments issued by its parent QB shall not form part of the relevant exposure of the trust corporation for purposes of calculating the SBL and DOSRI ceilings of the said trust corporation.

(As amended by Circular Nos. 849 dated 08 September 2014, 784 dated 25 January 2013 and 710 dated 19 January 2011)

§ 4303Q.2 ***(2008 - 4306Q.2) Contingent liabilities included in loan limit*** Outstanding foreign and domestic standby and deferred letters of credit less margin deposits, and outstanding guarantees, the nature of which requires the guarantor to assume the liabilities/obligations of third parties in case of their inability to pay, shall be included in determining the SBL except those fully secured by cash, hold-out on deposit substitutes, or government securities.

§§ 4303Q.3 - 4303Q.4 ***(Reserved)***

§ 4303Q.5 ***(2008 - 4306Q.3) Sanctions*** Violations of the provisions of the foregoing rules shall be subject to the following sanctions/penalties:

a. *Fines*. Fines of one-tenth of one percent (1/10 of 1%) of the excess but not to exceed P30,000 a day for each violation, reckoned from the date the excess started up to the date when such excess was eliminated, shall be assessed on the QB.

b. *Other sanctions*

First Offense

Reprimand for the directors/officers who approved the credit line or availment which resulted in the excess with a warning that subsequent violations will be subject to more severe sanctions.

Subsequent offenses

(1) For the duration of each violation, imposition of a fine of P500 a day for each of the directors/officers who approved the credit line or availment which resulted in an excess.

(2) Suspension of the QB from branching privileges until the excess is eliminated.

Sec. 4304Q Grant of Loans and Other Credit Accommodations. In addition to the principles and standards provided under Section 4178Q, the following regulations shall be observed in the grant of loans and other credit accommodations.

(As amended by Circular No. 855 dated 29 October 2014)

§ 4304Q.1 ***Additional requirements.*** FIs shall require submission and maintain on file updated ITRs of the borrower, and his co-maker, if applicable, duly stamped as received by the BIR together with supporting financial statements, as applicable. FIs shall likewise require borrowers to execute a waiver of confidentiality of client information and/or an authority of the FI to conduct random verification with the BIR in order to establish authenticity of these documents.

Should the document(s) submitted prove to be incorrect in any material detail, the FI 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.

The required submission of such documents shall not cover the following credit exposures:

(1) Microfinance loans as defined under Subsec. X361.1(a) of the MORB;

(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 National Internal Revenue Code (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;

(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;

(7) Loans and other credit accommodations not exceeding P3.0 million; or

(8) Loans to start up enterprise borrowers during the first three (3) years of their operations or banking relationship.

(As amended by Circular Nos. 855 dated 29 October 2014, 746 dated 03 February 2012, 694 dated 14 October 2010, 622 dated 16 September 2008, 607 dated 30 April 2008 and 549 dated 09 October 2006)

§ 4304Q.2 *(2008 - 4312Q.2) Purpose of loans and other credit accommodations*
(Deleted by Circular No. 855 dated 29 October 2014)

§ 4304Q.3 *(2008 - 4312Q.3) Prohibited use of loan proceeds.* QBs are prohibited from requiring their borrowers to acquire shares of stock of the lending QB out of the loan or other credit accommodation proceeds from the same QB.
(Circular No. 622 dated 16 September 2008)

§ 4304Q.4 *(2008 - 4312Q.4) Signatories.* QBs 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)

§§ 4304Q.5 - 4304Q.9 *(Reserved)*

§ 4304Q.10 *Minimum required disclosure.* QBs shall provide a table of the applicable fees, penalties and interest rates on loan transactions, including the period covered by and the manner of and reason for the imposition of such penalties, fees and interests; fees and applicable conversion reference rates for third currency transactions, in plain sight and language, on materials for marketing loans, such as brochures, flyers, primers and advertising materials, on loan application forms, and on billing statements: *Provided,* That these disclosures are in addition to the full disclosure of the fees, charges and interest rates in the terms and conditions of the loan agreement found elsewhere on the application form and billing statement: *Provided further,* That such table of fees, penalties and interest rates shall be printed in plain language and in bold black letters against a light or white background, and using the minimum Arial 12 theme font and size, or its equivalent in readability, and on the first page, if the applicable document has more than one (1) page.

Transitory provision: QBs shall be given a period of 120 days from 06 January 2011 to fully implement the required disclosure requirements.

(Circular No. 702 dated 15 December 2010)

§ 4304Q.11 *Unfair collection practices* QBs, collection agencies, counsels and other agents may resort to all reasonable and legally permissible means to collect amounts due them under the loan 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 borrowers who allegedly refuse to pay debts, except as allowed under Subsec. 4304Q.12;

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 borrower; 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 borrower has given express permission or said times are the only reasonable or convenient opportunities for contact.

QBs shall inform their borrowers in writing of the endorsement of the collection of their account to a collection agency/agent, or the endorsement of their account from one collection agency/agent to another, at least seven (7) days prior to the actual endorsement. The notification shall include the full name of the collection agency and its contact details: *Provided*, That the required notification in writing shall be included in the terms and conditions of the loan agreement. QBs shall adopt policies and procedures to ensure that personnel handling the collection of accounts, whether these are in-house collectors, or third party collection agents, shall disclose his/her full name/true identity to the borrower.

(As amended by Circular No. 702 dated 15 December 2010)

§4304Q.12 *Confidentiality of information.* QBs shall keep strictly confidential the data on the borrower or consumer, except under the following circumstances:

a. disclosure of information is with the consent of the borrower or consumer;

b. release, submission or exchange of customer information with other financial institutions, credit information bureaus, lenders, 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 QB to enforce its rights against the borrower;

e. disclosure to third party service providers solely for the purpose of assisting or rendering services to the QB in the administration of its lending business; and

f. disclosure to third parties such as insurance companies, solely for the purpose of insuring the QB from borrower default or other credit loss, and the borrower from fraud or unauthorized charges.
(Circular No. 702 dated 15 December 2010)

§§ 4304Q.13 - 4304Q.14 ***(Reserved)***

§ 4304Q.15 ***Sanctions.*** Violations of the provisions of Subsecs. 4304Q.10 to 4304Q.12 shall be subject to any or all of the following sanctions depending upon their severity:

a. *First offense.* Reprimand for the directors/officers responsible for the violation;

b. *Second offense.* Disqualification of the QBs concerned from the credit facilities of the Bangko Sentral except as may be allowed under Section 84 of R. A. No. 7653;

c. *Subsequent offense/s:*

(1) Prohibition on the QB concerned from the extension of additional credit accommodation against personal security; and

(2) Penalties and sanctions provided under Sections 36 and 37 of R. A. No. 7653.
(Circular No. 702 dated 15 December 2010)

Sec. 4305Q ***(2008 - 4307Q)*** **Interest and Other Charges.** The following rules shall govern the rates of interest on loans by QBs.

§ 4305Q.1 ***(2008 - 4307Q.6) Rate of interest in the absence of stipulation.*** The rate of interest for the loan or forbearance of any money, goods or credit and the rate allowed in judgments, in the absence of express contract as to such rate of interest, shall be six percent (6%) per annum.
(As amended by Circular No. 799 dated 21 June 2013)

§ 4305Q.2 ***(2008 - 4307Q.5) 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 law or by the Monetary Board: *Provided,* That such stipulation shall be 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.

§ 4305Q.3 ***(2008 - 4307Q.2) Floating rates of interest.*** The rate of interest on a floating rate loan during each interest period shall be stated based on the Manila Reference Rate (MRR), Treasury Bill Rate (TBR) or other market-based reference rates, plus a margin as may be agreed upon by the parties.

The MRRs for various interest periods shall be determined and announced by the Bangko Sentral every week and shall be based on the weighted average of the interest rates paid during the immediately preceding week by the ten (10) commercial banks with the highest combined levels of outstanding deposit substitutes and time deposits, in promissory notes issued and time deposits received by such banks, of P100,000 and over per transaction account, with maturities corresponding to the interest periods for which such MRRs are being determined. Such rates and the composition of the sample commercial banks shall be reviewed and determined at the beginning of every calendar semester on the basis of the banks' combined levels of outstanding deposit substitutes and time deposits as of May 31 or November 30, as the case may be.

The rate of interest on floating rate loans existing and outstanding as of 23 December 1995 shall continue to be determined on the basis of the MRRs obtained in accordance with the provisions of the rules existing as of 01 January 1989*: Provided, however*, That the parties to such existing floating rate loan agreement are not precluded from amending or modifying their loan agreements by adopting a floating rate of interest determined on the basis of TBR or other market-based reference rates.

Where the loan agreement provides for a floating interest rate, the interest period which shall be such period of time for which the rate of interest is fixed, shall be such period as may be agreed upon by the parties.

§ 4305Q.4 ***Accrual of interest earned on loans.*** Accrual of interest earned on loans shall only be allowed if the loans and other credit accommodations are current and performing (i.e., no condition of financial difficulties or inability to meet financial obligations as they mature). However, interest income on past due loans arising from discount amortization (not from the contractual interest of the accounts) shall be accrued in accordance with PAS 39.

Accrued interest receivable shall be classified in accordance with their respective loan accounts and provided with *Allowance for Uncollected Interest on Loans*.

(As amended by Circular No. 855 dated 29 October 2014)

§ 4305Q.5 ***(2008 - 4307Q.1) Rate ceilings.*** The rate of interest, including commissions, premiums, fees and other charges on loan transactions, regardless of maturity and whether secured or unsecured, shall not be subject to any ceiling.

§ 4305Q.6 ***(2008 - 4307Q.3) Effect of prepayment.*** If there is no agreement on the rebate of interest in the event of prepayment of the loan, the QB is not under any legal obligation to return the interest corresponding to the period from date of prepayment to the stipulated maturity date of the loan. Any prepayment made by the debtor should not, therefore, affect computation of the effective rate stipulated in the loan contract.

§ 4305Q.7 ***(2008 - 4307Q.4) Loan prepayment.*** The borrower of a QB shall not be prohibited from prepaying a loan. A stipulation requiring the consent of the lending QB to such prepayment shall be contrary to this provision. In case of prepayment in the loan contract, such prepayment shall not be subject to penalty in the absence of any stipulation as to penalty. However, the parties may stipulate that prepayment shall be subject to penalty: *Provided*, That the penalty is not excessive or unconscionable.

§ 4305Q.8 ***Method of computing interest.*** QBs shall only charge interest based on the outstanding balance of a loan at the beginning of an interest period.

For a loan where the principal is payable in installments, interest per installment period shall be calculated based on the outstanding balance of the loan at the beginning of each installment period.

Toward this end, all loan-related documents shall show repayment schedules in a manner consistent with

this provision. Marketing materials and presentations shall likewise be consistent with this provision.
(As amended by Circular No. 754 dated 17 April 2012)

Sec. 4306Q *(2008 - 4308Q)* Past Due Accounts[1]. Past due accounts of a QB shall, as a general rule, refer to all accounts in its loan portfolio, all receivable components of trading account securities and other receivables, as defined in the manual of accounts for NBFIs, which are not paid at maturity.
(M-2014-039 dated 01 October 2014, as amended by M-2015-035 dated 07 October 2015, M-2015-009 dated 28 January 2015, M- 2015-005 dated 20 January 2015)

§ 4306Q.1 *(2008 - 4308Q.1) Accounts considered past due.* The following shall be considered as past due:

a. *Loans or receivables payable on demand* - if not paid on the date indicated on the demand letter, or within three (3) months from date of grant, whichever comes earlier;

b. *Bills discounted and time loans, whether or not representing availments against a credit line* - if not paid on the respective maturity dates of the promissory notes;

c. *Customers' liability on drafts under letters of credit/trust receipts:*

(1) Sight Bills - if dishonored upon presentment for payment or not paid within thirty (30) days from date of original entry, whichever comes earlier;

(2) Usance Bills - if dishonored upon presentment for acceptance or not paid on due date, whichever comes earlier; and

(3) Trust Receipts - if not paid on due date.

d. *Bills and other negotiable instruments purchased* - if dishonored upon presentment for acceptance/payment or not paid on maturity date, whichever comes earlier: *Provided, however,* That an out-of-town check and a foreign check shall be considered as past due if outstanding for thirty (30) days and forty-five (45) days, respectively, unless earlier dishonored;

e. *Loans/receivables payable in installments* - the total outstanding balance thereof shall be considered past due in accordance with the following schedule:

Mode of Payment	Minimum Number of Installments in Arrears
Monthly	3
Quarterly	1
Semestral	1
Annual	1

Provided, however, That when the total amount of arrearages reaches twenty percent (20%) of the total outstanding balance of the loan/receivable, the total outstanding balance of the loan/receivable shall be considered as past due, regardless of the number of installments in arrears: *Provided, further,* That for 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;

For this purpose, the term *installments* shall refer to principal and/or interest amortizations that are due on several dates as indicated/specified in the loan documents.

f. *Credit card receivables* - if the minimum amount due or minimum payment required is not paid within two (2) cycle dates, the total amount due stated in the billing statement: *Provided, however,* That the total outstanding balance which includes amortization/s of any fixed monthly installment plan or deferred payment scheme shall be considered and reported past due when the number of

[1] See Appendix Q-67

monthly installments in arrears is three (3) or more: *Provided, further,* That the quasi-bank shall have the right to demand the obligation in full in case of default in any installment thereon if the contract between the quasi-bank and the cardholder contains an *"acceleration clause";*

g. *(Deleted by Circular No. 202 dated 27 May 1999)*

h. Restructured loans shall be considered past due in case of delay of any of its principal or interest payments.

Restructured loans are loans the principal terms and conditions of which have been modified in accordance with a restructuring agreement setting forth a new plan of payment or a schedule of payment on a periodic basis. The modification may include, but is not limited to, change in maturity, interest rate, collateral or increase in the face amount of the debt resulting from the capitalization of accrued interest/ accumulated charges. Items in litigation and loans subject of judicially approved compromise, as well as those covered by petitions for suspension or for new plans of payment approved by the court or the SEC, shall not be classified as restructured loans.

(Circular No. 409 dated 14 October 2009, as amended by Circular Nos. 890 dated 02 November 2015, 882 dated 30 June 2015, 855 dated 29 October 2014 and 607 dated 30 April 2008)

§ 4306Q.2 ***(2008 - 4308Q.4) Demand loans.*** QBs shall, in case of non-payment of a demand loan, make a written demand within three (3) months following the grant of such loan. The demand shall indicate a period of payment which shall not be later than three (3) months from the date of said demand.

§ 4306Q.3 ***(2008 - 4308Q.2) Renewal/ extension.***

(Deleted by Circular No. 855 dated 29 October 2014)

§ 4306Q.4 ***(2008 - 4308Q.3) Restructured loans.***

(Deleted by Circular No. 855 dated 29 October 2014)

§ 4306Q.5 ***(2008 - 4308Q.5) Write-off of loans, other credit accommodations, advances and other assets as bad debts.***

(Deleted by Circular No. 855 dated 29 October 2014)

§ 4306Q.6 ***(Reserved)***

§ 4306Q.7 ***(2008 - 4308Q.6) Updating of information provided to credit information bureaus.*** QBs 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 QBs 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)

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Sec. 4307Q *(2008 - 4309Q)* "Truth in Lending Act" Disclosure Requirement. QBs 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.

The following regulations shall apply to all QBs engaged in the following types of credit transactions:

a. Any loan, mortgage, deed of trust, advance and discount;

b. 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;

c. Any rental-purchase contract;

d. Any contract or arrangement for the hire, bailment, or leasing of property;

e. Any option, demand, lien, pledge, or other claim against, or for delivery of property or money;

f. 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

g. Any transaction or series of transactions having a similar purpose or effect.

The following categories of credit transactions are outside the scope of these 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.

§ 4307Q.*1 (2008 - 4309Q.1) Definition of terms*

a. *Person* means any individual, partnership, corporation, association, 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.

b. *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 QB'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.

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

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

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

f. *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.

g. *Finance charge* includes interest, fees, service charges, discounts, and such other charges incident to the extension of credit.

h. *Simple annual rate* is the uniform percentage which represents the ratio between the finance charge and the amount to be financed under the assumption that the loan is payable in one (1) year with single payment upon maturity and there are no up-front deductions to principal.

For loans with terms different from the above assumptions, the annual effective interest rate shall be calculated and disclosed to the borrower as the relevant true cost of the loan comparable to the concept of simple annual rate.

For loans with contractual interest rates stated on monthly basis, the effective interest rate may be expressed as a monthly rate.

In accordance with the Philippine Accounting Standards (PAS) definition, *effective interest rate* is the rate that exactly discounts estimated future cash flows through the life of the loan to the net amount of loan proceeds. For consistency, methodology and standards for discounted cash flow models shall be prescribed to be used for the purpose.

It is understood that an EIR calculation model founded on established principles of discounted cash flow analysis should be based on the actual loans features. An NBFI shall be solely responsible for the proprietary and accuracy of its EIR calculation model, however, BSP's determination of the reasonableness and accuracy of an EIR caculation model prevails. (Sample computation shown in *Appendix Q-11*).

(As amended by Circular No. 754 dated 17 April 2012 and M-2012-018 dated 19 April 2012)

§ 4307Q.2 ***(2008 - 4309Q.2) Information to be disclosed.*** The following are the minimum information required to be disclosed to QB borrowers (sample form in *Appendix Q-11*):

a. The total amount to be financed;

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

c. The net proceeds of the loan; and

d. The percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate or an annual effective interest rate as described in Item *"h"* of Subsec. 4307Q.1. may also be quoted as a monthly rate in parallel with the quotation of the contractual rate.

QBs are required to furnish each borrower a copy of the disclosure statement, prior to the consummation of the transaction.

(As amended by Circular No. 754 dated 17 April 2012 and M-2012-018 dated 19 April 2012)

§ 4307Q.3 ***(2008 - 4309Q.3) Inspection of contracts covering credit transactions*** QBs shall keep in their office or place of business copies of contracts which involve the extension of credit and the payment of finance charges therefore. Such copies shall be available for inspection or examination by the appropriate department of the SES.

§ 4307Q.4 ***(2008 - 4309Q.4) Posters*** QBs shall post in conspicuous places in their principal place of business and branches, the information as contained in the revised format of disclosure statement (*Appendix Q-11*). The posters shall include an explicit notification that the disclosure statement is a required attachment to the loan contract and the customer has a right to demand a copy of such disclosure.

(As amended by Circular No. 754 dated 17 April 2012)

§ 4307Q.5 ***Sanctions and penal provisions.*** Non-compliance with any of the provisions of this Section shall be regarded at least as a less serious offense, depending on the severity of non-disclosure, number of loans and amount involved in the violation. In addition to sanctions under R.A. No. 3765, the following sanctions may be imposed:

a. *First offense*. Reprimand on the erring officer/s;

b. *Second offense*. Reprimand on the entire board of directors; and

c. *Subsequent offense/s*:

i. Suspension of the erring officer/s and/or entire board of directors; and

ii. Restriction on lending activities.

This is without prejudice to other penalties and sanctions provided under Sections 36 and 37 of R.A. No. 7653.

(Circular No. 754 dated 17 April 2012)

Sec. 4308Q (Reserved)

Sec. 4309Q *(2008 - 4311Q)* Non-Performing Loans.

§ 4309Q.1 *(2008 - 4311Q.1) Accounts considered non performing; definitions.*

a. *Non-performing loans (NPLs)* shall, as a general rule, refer to loan accounts whose principal and/or interest is unpaid for thirty (30) days or more after due date or after they have become past due in accordance with existing rules and regulations. This shall apply to loans payable in lump sum and loans payable in quarterly, semi-annual or annual installments, in which case, the total outstanding balance thereof shall be considered non-performing.

b. In the case of loans payable in monthly installments, the total outstanding balance thereof shall be considered non-performing when three (3) or more installments are in arrears.

c. In the case of loans payable in daily, weekly or semi-monthly installments, the total outstanding balance thereof shall be considered non-performing at the same time that they become past due in accordance with Sec. 4306Q, i.e., 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.

d. Restructured loans shall be considered non-performing except when as of restructuring date: (i) the principal and interest payments have been updated and (ii) the loan is yielding a rate of interest that fully compensates the FI for its cost of funds and credit risk.

The restoration to a performing loan shall only be effective after a *satisfactory record* of at least three (3) consecutive payments of the required amortizations of principal and/or interest.

A restructured loan which has been restored to a performing loan status shall be immediately considered non-performing in case of default of any principal or interest payment.

e. All items in litigation as defined in the Manual of Accounts shall be considered NPLs.

(As amended by Circular No. 855 dated 29 October 2014)

§ 4309Q.2 *(2008 - 4311Q.2) Interest accrual on past due loans.* No accrual of interest income is allowed if a loan has become non-performing as defined under Subsec. 4309Q.1. Interest on NPLs shall be taken up as income only when actual payment thereon is received.

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.

§ 4309Q.3 *(2008 - 4311Q.3) Allowance for uncollected interest on loans.* A contra account to be designated Allowance for Uncollected Interest on Loans shall be set up in accordance with *Appendix Q-10* if accrued interest receivable on loans and loan installments is still uncollected after three (3) months from the date such loans have become non-performing.

§ 4309Q.4 ***(2008 - 4311Q.4) Reporting requirement.*** QBs shall report the following data at the end of each month as additional information in the monthly Consolidated Statement of Condition starting with their report as of 31 May 1999.

Total non-performing loans	xxx
Non -performing regular loans	xxx
Non -performing restructured loan	xxx

Sec. 4310Q *(*Reserved)

Sec. 4311Q Secured Loans and Other Credit Accommodations. A loan may be considered secured by collateral to the extent the estimated value of net proceeds at disposition of such collateral can be used without legal impediment to settle the principal and accrued interest of such loan, provided that such collateral must have an established market and the valuation methodology used is sound, and provided further that in the case of real estate collateral, the maximum collateral value shall be sixty percent (60%) of its value as appraised by an appraiser acceptable to the Bangko Sentral.

A loan may also be considered as secured to the extent covered by a third party financial guarantee or surety arrangement where the credit enhancement provider is itself considered to be of high credit quality (credit rating of at least AA or equivalent) or is recognized by the Bangko Sentral as eligible guarantor under existing regulations.

Finally, a loan may be secured by a combination of acceptable collateral and guarantee arrangements as defined above, provided such arrangements are independent of one another for credit enhancement purposes.

(As amended by Circular Nos. 914 dated 23 June 2016 and 855 dated 29 October 2014)

Secs. 4312Q - 4313Q *(*Reserved)

B. (RESERVED)

Secs. 4314Q - 4318Q (Reserved)

C. UNSECURED LOANS

Sec. 4319Q ***(2008 - 4336Q)*** **Loans Against Personal Security.**

(Deleted by Circular No. 855 dated 29 October 2014)

§ 4319Q.1 ***(2008 - 4336Q.1) General guidelines.***

(Deleted by Circular No. 622 dated 16 September 2008)

§ 4319Q.2 ***(2008 - 4336Q.2) Proof of financial capacity of borrower.***

(Deleted by Circular No. 622 dated 16 September 2008)

§ 4319Q.3 ***(2008 - 4336Q.3) Signatories.***

(Deleted by Circular No. 622 dated 16 September 2008)

§ 4319Q.4 ***(2008 - 4336Q.4) (Reserved)***

Sec. 4320Q ***(2008 - 4337Q)*** **Credit Card Operations; General Policy.** The Bangko Sentral shall foster the development of consumer credit through innovative products, such as credit cards, under conditions of fair and sound consumer credit practices. The Bangko Sentral 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 QBs and subsidiary/affiliate credit card companies, aligned with global best practices.

§ 4320Q.1 ***(2008 - 4337Q.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 QB and the cardholder that gives the QB 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 QB or other FI.

g. *Affiliate* refers to an entity linked directly or indirectly to a QB or other FI through any one 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 QB or other financial institution 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 QB or other FI to direct or cause the direction of management and policies of the entity, or vice-versa.

h. *Simple annual rate* is the uniform percentage which represents the ratio between the finance charge and the amount to be financed under the assumption that the loan is payable in one (1) year with single payment upon maturity and there are no up-front deductions to principal.

For loans with terms different from the above assumptions, the annual effective interest rate shall be calculated and disclosed to the borrower as the relevant true cost of the loan comparable to the concept of simple annual rate.

For loans with contractual interest rates stated on monthly basis, the effective interest rate may be expressed as a monthly rate.

In accordance with the Philippine Accounting Standards (PAS) definition, *effective interest rate* is the rate that exactly discounts estimated future cash flows through the life of the loan to the net amount of loan proceeds. For consistency, methodology and standards for discounted cash flow models shall be prescribed to be used for the purpose.

It is understood that an EIR calculation model founded on established principles of discounted cash flow analysis should be based on the actual loans features. An NBFI shall be solely responsible for the propriety and accuracy of its EIR calculation model, however, Bangko Sentral's determination of the reasonableness and accuracy of an EIR caculation model prevails. (Sample computation shown in *Appendix Q-11*)

i. *Credit card acquirer* refers to the institution that accepts and facilitates the processing of the credit card transaction which is initially accepted by the merchant.

j. *Credit cardholder* refers to a person who owns and benefits from the use of a credit card.

k. *Credit card business activity report* refers to report which contains the quantitative data on credit card industry.

l. *Credit card issuer* refers to a bank or a corporation that offers the use of its credit card.

m. *Pre-approved credit cards* are unsolicited credit cards issued by credit card issuers to consumers who have not applied for such credit cards. Acts described under *Appendix Q-61* and other similar acts are deemed tantamount to the act of issuing pre-approved credit cards, notwithstanding any contrary stipulations in the contract.

n. *Application* is a documented request of the credit card applicant to a credit card issuer for the availment of a credit card. The intention and consent for the availment of the credit card must be clear and explicit.

(As amended by Circular Nos. 845 dated 15 August 2014, 812 dated 23 September 2013 and 754 dated 17 April 2012 and M-2012-018 dated 19 April 2012)

§ 4320Q.2 *(2008 - 4337Q.2) Risk management system.* To safeguard their interests, QBs and subsidiary/affiliate credit card companies 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. Issuance, distribution and activation of cards;

e. Supplementary or extension cards;

f. Cash advances;

g. Billing and payments;

h. Deferred payment program or special installment plans;

i. Collection of past due accounts;

j. Handling of accounts for write-off;

k. Suspension, cancellation and withdrawal or termination of card;

l. Renewal of cards, upgrade or downgrade of credit limit;

m. Lost or stolen cards and their replacement;

n. Accounts of DOSRI and employees;

o. Disposition of errors and/or questions about the billing statement/statement of account and other customers' complaints; and

p. Dealings with marketing agents/ collection agents.

(As amended by Circular No. 702 dated 15 December 2010)

§ 4320Q.3 *(2008 - 4337Q.3) Minimum requirements.* QBs and their subsidiaries or affiliate credit cards companies shall not issue pre-approved credit cards as provided under *Appendix Q-61*, notwithstanding any contrary stipulations in the contract.

(As amended by Circular Nos. 845 dated 15 August 2014 and 702 dated 15 December 2010)

§ 4320Q.4 ***(2008 - 4337Q.4)*** ***Information to be disclosed.*** QBs or their subsidiaries/affiliate credit card companies 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 to the cardholder from time to time, prior to the imposition of the charges and to the extent applicable, the following information:

a. the finance charges, individually itemized, which are paid or to be paid by the cardholder;

b. 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;

c. the percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate or an annual effective interest rate, as described in Item *"h"* of Subsec. 4320Q.1. Annual effective interest rate may also be quoted as a monthly rate in parallel with the quotation of the contractual rate;

d. for installment loans, the number of installments, amount and due dates or

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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. 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 markup, 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.

QBs and their subsidiary or affiliate credit card companies shall also provide the following information to their cardholders:

1. A table of the applicable fees, penalties and interest rates on credit card transactions, including the period covered by and the manner of and reason for the imposition of such penalties, fees and interests; fees and applicable conversion reference rates for third currency transactions, in plain sight and language, on materials for marketing credit cards, such as brochures, flyers, primers and advertising materials, on credit card application forms, and on credit card billing statements: *Provided,* That these disclosures are in addition to the full disclosure of the fees, charges and interest rates in the terms and conditions of the credit card agreement found elsewhere on the application form and billing statement; and

2. A reminder to the cardholder in the monthly billing statement, or its equivalent document, that payment of only the minimum amount due or any amount less than the total amount due for the billing cycle/period, would mean the imposition of interest and/or other charges: *Provided*, That such table of fees, penalties and interest rates and reminder shall be printed in plain language and in bold black letters against a light or white background, and using the minimum Arial 12 theme font and size, or its equivalent in readability, and on the first page, if applicable document has more than one page.

Transitory provisions. QBs and their subsidiary or affiliate credit card companies shall be given a period of 120 days from 06 January 2011 to fully implement the required disclosure requirements.

(As amended by Circular Nos. 754 dated 17 April 2012 and 702 dated 15 December 2010)

§ 4320Q.5 *(2008 - 4337Q.5) Accrual of interest earned.* Interest accrued and/or booked shall be reversed and no accrual of interest shall be allowed ninety (90) days after the credit card receivable has become past due as defined in Subsec. 4306Q.1.

§ 4320Q.6 ***Method of computing interest.*** QBs and/or subsidiaries/affiliates credit card companies shall only charge interest based on the outstanding balance of a loan at the beginning of an interest period.

For a loan where the principal is payable in installments, interest per installment period shall be calculated based on the outstanding balance of the loan at the beginning of each installment period.

Towards this end, all loan-related documents shall show repayment schedules in a manner consistent with this provision. Marketing materials and presentations shall likewise be consistent with this provision.
(As amended by Circular No. 754 dated 17 April 2012)

§ 4320Q.7 ***(2008 - 4337Q.6; 2011 - 4320Q.6) Finance charges.*** The amount of finance charges in connection with any credit card transaction charged to the cardholder includes interest, fees, service charges, discounts, and such other charges incident to the extension of credit.
(As amended by Circular No. 754 dated 17 April 2012)

§ 4320Q.8 ***(2008 - 4337Q.7; 2011 - 4320Q.7) Deferral charges.*** The QB and the cardholder may, prior to the consummation of the transaction, agree in writing to a deferral of all or part of one (1) or more unpaid installments and the QB may collect a deferral charge which shall not exceed the rate previously disclosed pursuant to the provisions on disclosure.
(As amended by Circular No. 754 dated 17 April 2012)

§ 4320Q.9 ***(2008 - 4337Q.8; 2011 - 4320Q.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.
(As amended by Circular No. 754 dated 17 April 2012)

§ 4320Q.10 ***(2008 - 4337Q.9; 2011 - 4320Q.9) Confidentiality of information*** QBs and subsidiary/affiliate credit card companies 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 QB 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 QB 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 QB from cardholder default or other credit loss, and the cardholder from fraud or unauthorized charges.
(As amended by Circular No. 754 dated 17 April 2012)

§ 4320Q.11 ***(2008 - 4337Q.10; 2011 - 4320Q.10) Suspension, termination of effectivity and reactivation.*** QBs or their subsidiary/affiliate credit card companies 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.
(As amended by Circular No. 754 dated 17 April 2012)

§ 4320Q.12 ***(2008 - 4337Q.11; 2011 - 4320Q.11) Inspection of records covering credit card transactions.*** QBs or their subsidiary/affiliate credit card companies 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.
(As amended by Circular No. 754 dated 17 April 2012)

§ 4320Q.13 ***(2008 - 4337Q.12; 2011 - 4320Q.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 QB 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.
(As amended by Circular No. 754 dated 17 April 2012)

§ 4320Q.14 ***(2008 - 4337Q.13; 2011 - 4320Q.13) Handling of complaints.*** QBs or subsidiary/ affiliate credit card companies 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 QB/subsidiary credit card companies in writing of any billing error or discrepancy. Within ten (10) calendar days from receipt of such written notice, the QB/subsidiary 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, QBs/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 QB/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.
(As amended by Circular No. 754 dated 17 April 2012)

§ 4320Q.15 ***(2008 - 4337Q.14; 2011 - 4320Q.14) Unfair collection practices*** QBs, subsidiary/ affiliate credit card companies, 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. 4320Q.10;

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.

QBs and their subsidiary/affiliate credit card companies shall inform their cardholders in writing of the endorsement of the collection of their account to a collection agency/agent, or the endorsement of their account from one collection agency/ agent to another, at least seven (7) days prior to the actual endorsement. The notification shall include the full name of the collection agency and its contact details: *Provided*, That the required notification in writing shall be included in the terms and conditions of the credit card agreement. QBs and their subsidiary/affiliate credit card companies shall adopt policies and procedures to ensure that personnel handling the collection of accounts, whether these are in-house collectors, or third-party collection agents, shall disclose his/her full name/true identity to the cardholder.

(As amended by Circular Nos. 754 dated 17 April 2012 and 702 dated 15 December 2010)

§ 4320Q.16 *(2008-4337Q.15; 2011 - 4320Q.15) Sanctions and penal provisions* Violations of the provisions of Subsecs. 4320Q.1, 4320Q.5, and 4320Q.7 to 4320Q.14 shall be subject to any or all of the following sanctions depending upon their severity:

a. Disqualification of the QB concerned from the credit facilities of the Bangko Sentral except as may be allowed under Section 84 of R.A. No. 7653;

b. Prohibition of the QB 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.

Non-compliance with the provisions of Subsecs. 4320Q.2 to 4320Q.4, and 4320Q.6 and 4320Q.15 shall be regarded at least as a less serious offense, depending on the severity of non-disclosure, number of loans and amount involved in the violation. In addition to sanctions under R.A. No. 3765, the following sanctions may be imposed:

a. *First offense*. Reprimand on the

erring officer/s;

b. *Second offense*. Reprimand on the entire board of directors; and

c. *Subsequent offense/s*:

i. Suspension of the erring officer/s and/ or entire board of directors; and

ii. Restriction on lending activities.

This is without prejudice to other penalties and sanctions provided under Sections 36 and 37 of R.A. No. 7653.

(As amended by Circular Nos. 754 dated 17 April 2012 and 702 dated 15 December 2010)

§ 4320Q.17 *Submission of credit card business activity report.* For purposes of transparency and availability of data on credit card operations and in the light of ensuring consumer protection, as well as managing risks involved in credit transactions, QBs including their subsidiaries and affiliates, shall submit a monthly quantitative report to Bangko Sentral covering the following data on credit card issuers/ acquirers, cardholders, credit card complaints, and usage location:

Credit Card Issuance	Unit of Expression
I. Cards-in-force per network/brand	Number
II.Cards-in-force per card type	Number
III. Approved credit card applications	Number
IV. Cards issued by status	Number
V. Cards issued per credit limit	Peso amount
VI. Billings per mode of transactions	Peso amount
VII. Billings per network/ brand	Peso amount
VIII. Billed fees/charges	Peso amount
IX. Gross payment	Peso amount
X. Receivables	Peso amount
XI. Rates/charges per cardholder	Peso amount/ percentage

Cardholder Profile	Unit of Expression
I.Cardholder information (age, occupation, gender, civil status, educational attainment, geographic location)	Number
II. Cardholder by type of payment	Number

Complaints	Unit of Expression
I. Cardholder issues	Number
II. Complaint/request resolution	Number
III. External service provider	Number

Usage Location	Unit of Expression
I. Incoming	Peso amount
II. Outgoing	Peso amount

(As amended by Circular No. 812 dated 23 September 2013, M-2013-060 dated 20 December 2013, Circular Nos. 754 dated 17 April 2012 and 702 dated 15 December 2010)

Sec. 4321Q (Reserved)

D. RESTRUCTURED LOANS

Sec. 4322Q *(2008 - 4351Q)* Restructured Loans; General Policy.
(Deleted by Circular No. 855 dated 29 October 2014)

§ 4322Q.1 *(2008 - 4351Q.1) Definition; when to consider performing/non-performing.*
(Deleted by Circular No. 855 dated 29 October 2014)

§ 4322Q.2 *(2008 - 4351Q.2) Procedural requirements.*
(Deleted by Circular No. 855 dated 29 October 2014)

§ 4322Q.3 *(Reserved)*

§ 4322Q.4 *(2008 - 4351Q.3) Classification.*
(Deleted by Circular No. 855 dated 29 October 2014)

Secs. 4323Q - 4325Q (Reserved)

E. LOANS AND CREDIT ACCOMMODATIONS TO DIRECTORS, OFFICERS, STOCKHOLDERS AND THEIR RELATED INTERESTS/ SUBSIDIARIES/AFFILIATES

Sec. 4326Q (2015 – General Policy) Policy Statement. The Bangko Sentral recognizes that transactions of its supervised financial institutions (BSFIs) with related parties, which include dealings with directors, officers, stockholders, and their related interests (DOSRI), subsidiaries, and affiliates, may be both productive and prudent. The Bangko Sentral also recognizes the need to provide BSFIs with flexibility with respect to lending to DOSRI, subsidiaries, and affiliates premised on the overarching principle that the transactions shall at all times be kept above board and conducted on an arm's length basis, and that BSFIs have adopted robust internal policies and procedures in handling related party transactions that are compliant with the minimum requirements of law and regulations.
(Circular No. 914 dated 23 June 2016)

§ 4326Q.1 ***(2008 - 4356Q.1) Definitions.*** For purposes of these regulations, the following definitions shall apply.

a. *Directors* shall refer to QB directors as defined in Sec. 4141Q.

b. *Officers* shall refer to QB officers as defined in Sec. 4142Q.

c. *Stockholder* shall refer to any stockholder of record in the books of the QB/trust entity, acting personally, or through an attorney-in-fact; or any other person duly authorized by him or through a trustee designated pursuant to a proxy or voting trust or other similar contracts, whose stockholdings in the lending QB/trust entity,individual and/or collectively with the stockholdings of: (i) his spouse and/or relative within the first degree by consanguinity or affinity or legal adoption; (ii) a partnership in which the stockholder and/or the spouse and/or any of the aforementioned relatives is a general partner; and (iii) corporation, association or firm of which the stockholder and/or his spouse and/or the aforementioned relatives own more than fifty percent (50%) of the total subscribed capital stock of such corporation, association or firm, amount to one percent (1%) or more of the total subscribed capital stock of the QB/trust entity.

d. *Outstanding loans to and placements with the QB* shall refer to loans to and deposit substitutes of the QB which are not subject of an assignment or hold-out agreement.

e. *Book value of the paid-in capital contribution* shall mean the proportional amount of the QB's total capital accounts (net of such unbooked valuation reserves and other capital adjustments as may be required by the Bangko Sentral) as the corresponding paid-in capital contribution of each director, officer or stockholder concerned bears to the total paid-in capital of the QB: *Provided,* That as a basis for determining the individual ceiling referred to in Sec. 4330Q, corresponding book value of the shares of stock of such director, officer or stockholder which are the subject of pledge, assignment or any other encumbrance shall be deducted therefrom.

f. *Secured loan, borrowing, or credit accommodation* shall refer to any loan, discount, credit or advance, or portion thereof referred to in Sec. 4327Q which is secured by physical collateral, financial guarantee, or other instruments, that are enforceable, realizable, and marketable and meets the standards prescribed under Subsec. 4178Q.7 and Sec. 4311Q.

g. *Unsecured loan, borrowing or credit accommodation* shall refer to any loan, discount, credit or advance, or portion thereof referred to in Sec. 4327Q which is not secured in accordance with Item *"f"* above.

(M-2012-016 dated 27 March 2012, as amended by Circular No. 914 dated 23 June 2016)

Sec. 4327Q ***(2008 - 4357)*** **Transactions Covered.** The terms *loan, borrow, money borrowed* and *credit accommodations* as used herein shall refer to transactions which involve the grant, renewal, extension or increase of any loan, discount, credit or advance in any form whatsoever, and shall include:

a. Outstanding availments under an established credit line;

b. Drawings against an existing letter of credit;

c. The acquisition by discount, purchase, exchange or otherwise of any note, draft, bill of exchange or other evidence of indebtedness upon which a director, officer or stockholder may be liable as a maker, drawer, acceptor, endorser, guarantor, or surety;

d. Any advance of unearned salary or unearned compensation for periods in excess of thirty (30) days;

e. Loans or other credit accommodations granted by another FI to such director, officer or stockholder from funds of the QB invested in the other institution's trust or other department when there is a clear relationship between the transactions;

f. The increase of an existing indebtedness, as well as additional availments under a credit line or additional drawings against a letter of credit;

g. The sale of assets, such as shares of stock, on credit;

h. Leasing transactions under R.A. No. 5980, as amended; and

i. Any other transaction as a result of which a director, officer or stockholder becomes obligated or may become obligated to the lending QB, directly or indirectly, by any means whatsoever to pay money or its equivalent.

No QB shall grant, renew or extend any credit accommodation to its DOSRI whenever its combined capital accounts is deficient relative to risk assets held under Secs. 4115Q and 4116Q, or whenever its paid-in capital is deficient relative to the required minimum capitalization. Neither shall it grant, renew or extend any credit accommodation to any of its DOSRI who has past due credit accommodations with the QB.

(As amended by Circular No. 914 dated 23 June 2016)

Sec. 4328Q ***(2008 - 4358Q)*** **Transactions Not Covered.** The terms *loan, borrow, money borrowed or credit accommodation* as used herein shall not refer to the following transactions:

a. Advances against accrued compensation, or for the purpose of providing payment of authorized travel, legitimate expenses or other transactions for the account of the QB or for utilization of maternity and other leave credits;

b. The increase in the amount of outstanding credit accommodation as a result of additional charges or advances made by the QB to protect its interests such as taxes, insurance, etc.;

c. The discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same, including, but not limited to, the acquisition of export bills from any of its DOSRI which are drawn in accordance with the terms and conditions of the covering letters of credit: *Provided,* That the transaction shall automatically be subject to the ceiling as herein provided once the DOSRI who is a party to the transaction becomes directly liable to the QB;

d. Transactions with a foreign bank or other FI which has stockholding in the QB

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where the foreign bank or other FI acts as guarantor through the issuance of letters of credit, guarantee letters or assignment of a deposit in a currency eligible as part of the international reserves and held in a bank in the Philippines to secure credit accommodations granted to another person or entity: *Provided,* That the foreign bank stockholder shall automatically be subject to the ceilings as herein provided in the event that its contingent liability as guarantor becomes a real liability; and

e. Deposits of a QB with a bank, whether domestic or foreign, which has stockholdings in the QB.

§ 4328Q.1 *(2008 - 4358Q.1) Applicability to credit card operations.* The credit card operations of QBs shall not be subject to these regulations where the credit cardholder is a director, officer or stockholder of the QB or their related interests (DOSRI): *Provided*, That (a) the privilege of becoming a credit cardholder is open to all qualified persons on the basis of selective criteria which are applied by the QB to all applicants thereof; and (b) the director, officer or stockholder/related interest concerned reimburses/pays the QB for the billed amount in full on or before the payment due date in the billing or statement of account, as set by the QB for all other qualified credit cardholders on availments made for the same period on their credit cards. However, the transaction shall be subject to applicable DOSRI regulations if the director, officer, or stockholder/ related interest concerned:

a. fails to reimburse/pay the QB within the period mentioned herein; or

b. on the outset, opts for deferred payment scheme, and the availment is booked by the QB.

Secs. 4328Q.2 - 4328Q.4 *(Reserved)*

§ 4328Q.5 *(2008 - 4328Q) Loans, other credit accommodations and guarantees granted to subsidiaries and/or affiliates.*

a. *Ceilings*. The total outstanding loans, other credit accommodations and guarantees to each of the QB's subsidiaries and affiliates shall not exceed ten percent (10%) of the net worth of the lending QB: *Provided*, That the unsecured loans, other credit accommodations and guarantees to each of said subsidiaries and affiliates shall not exceed five percent (5%) of such net worth: *Provided, further*, That the total outstanding loans, other credit accommodations and guarantees to all subsidiaries and affiliates shall not exceed twenty percent (20%) of the net worth of the lending QB: *Provided, finally,* That these subsidiaries and affiliates are not related interest of any of the director, officer, and/ or stockholder of the lending institution.

Loans, other credit accommodations and guarantees granted by a QB to its subsidiaries and affiliates engaged in, or for the purpose of undertaking infrastructure, energy and power generation, and other priority programs and projects, including those under the Public-Private Partnership (PPP) Program of the government, consistent with the Philippine Development Plan/ Public Investment Program of the National Government, duly certified as such by the Secretary of the Socio-Economic Planning, shall be subject to a separate individual limit of twenty-five percent (25%) of the net worth of the lending QB: *Provided*, That the unsecured portion thereof shall not exceed twelve and one-half percent (12.5%) of such net worth: *Provided, further*, That these subsidiaries and affiliates are not related interest of any of the director, officer, and/ or stockholder of the lending QB.

b. *Exclusions from the ceilings*. Loans, other credit accommodations and guarantees secured by assets considered as non-risk under existing Bangko Sentral regulations as well as interbank call loans shall be excluded in determining compliance with the ceilings prescribed under Item *"a"* above.

c. *Procedural requirements*. The following provisions shall apply if a QB grants a loan, other credit accommodation or guarantee to any of its subsidiaries and affiliates.

(1) *Approval of the board, when to obtain.* Except with prior written approval of the majority of all the members of the board of directors, no loan, other credit accommodation and guarantee shall be granted to a subsidiary or affiliate.

(2) *Approval by the board, how manifested.* The approval shall be manifested in a resolution passed by the board of directors during a meeting and made of record.

(3) *Determination of majority of all the members of the board of directors.* The determination of the majority of all the members of the board of directors shall be based on the total number of directors of the QB as provided in its articles of incorporation and by-laws.

(4) *Contents of the resolution.* The resolution of the board of directors shall contain the following information:

(a) Name of the subsidiary or affiliate;

(b) Nature of the loan or other credit accommodation or guarantee, purpose, amount, credit basis for such loan or other credit accommodation or guarantee, security and appraisal thereof, maturity, interest rate, schedule of repayment and other terms;

(c) Date of resolution;

(d) Names of the directors who participated in the deliberation of the meeting; and

(e) Names in print and signatures of the directors approving the resolution: *Provided*, That in instances where a director who participated in the board meeting and who approved such resolution failed to sign, the corporate secretary may issue a certification to this effect indicating the reason for the failure of the said director to sign the resolution.

(5) *Transmittal of copy of board approval; contents thereof.* A copy of the written approval of the board of directors, as herein required, shall be submitted to the appropriate department of the SES within twenty (20) business days from the date of approval. The copy may be a duplicate of the original, or a reproduction copy showing clearly the signatures of the approving directors: *Provided*, That if a reproduction copy is to be submitted, it shall be duly certified by the corporate secretary that it is a reproduction of the original written approval.

(Circular No. 560 dated 31 January 2007, as amended by Circular Nos. 914 dated 23 June 2016 and 654 dated 12 May 2009)

Sec. 4329Q *(2008 - 4359Q)* Direct or Indirect Borrowings. For purposes of this Section, a credit accommodation shall be considered a direct or indirect borrowing in accordance with the following criteria.

a. *Direct borrowing* - If the director, officer or stockholder of the lending QB is a party to any of the transactions enumerated in Sec. 4327Q for himself or as a representative or agent of others, or if he acts as a guarantor, endorser or surety for loans from the QB, or if the loan or credit accommodation to another party is secured by a property interest or right of the director, officer or stockholder.

b. *Indirect borrowing* - If in any of the transactions in Sec. 4327Q the borrower, guarantor, indorser, or surety is a:

(1) Spouse or relative within the first degree of consanguinity or affinity, or relative by legal adoption of a director, officer or stockholder of the QB;

(2) Partnership of which a director, officer, or stockholder or his spouse or relative within the first degree of consanguinity or affinity, or relative by legal adoption, is a general partner;

(3) Co-owner with the director, officer, stockholder or his spouse or relative within the first degree of consanguinity or affinity, or relative by legal adoption, of the property or interest or right mortgaged, pledged or assigned to secure the loans or credit accommodations, except when the mortgage, pledge or assignment covers only said co-owner's undivided interest;

(4) Corporation, association, or firm of which a director or officer of the QB, or his spouse is also a director or officer of such corporation, association or firm, except (i) where the securities of such corporation, association or firm are listed and traded in the domestic stock exchange and less than fifty percent (50%) of the voting stock thereof is owned by any one (1) person or by persons related to each other within the third degree of consanguinity or affinity; or (ii) where the director, officer or stockholder of the lending QB sits as a representative of the QB in the board of directors of such corporation: *Provided,* That the QB representative shall not have any equity interest in the borrower corporation except for the minimum shares required by law, rules and regulations, or by the by-laws of the corporation, to qualify a person as director of the corporation: *Provided, further,* That the borrowing corporation under *(i)* or *(ii)* is not among those mentioned in Items *"b(5)"* and *"b(6)"* of this Section;

(5) Corporation, association or firm of which any or a group of directors, officers, stockholders of the lending QB and/or their spouses or relatives within the first degree of consanguinity or affinity or relative by legal adoption, hold/own more than twenty percent (20%) of the subscribed capital of such corporation, or of the equity of such association or firm; or

(6) Corporation, association or firm wholly or majority-owned or controlled by any or a group of related entities mentioned in Items *"b(2)"*, *"b(4)"* and *"b(5)"* of this Section.

Other cases of direct/indirect borrowing shall be resolved on a case-to-case basis.

It shall be the responsibility of the QB concerned to ascertain whether the borrower, guarantor, representative, endorser or surety is related to persons mentioned in Item *"b(1)"* of this Section or connected with any of the directors, officers or stockholders of the QB in any of the capacities mentioned in Items *"b(2)"*, *"b(3)"*, *"b(4)"*, *"b(5)"* and *"b(6)"* of this Section.

In determining indirect borrowings as enumerated above, only those cases involving living relatives shall be considered.

Sec. 4330Q *(2008 - 4360Q)* Individual Ceiling; Single- Borrower Limit. The total outstanding direct credit accommodations to each of the QB's directors, officers or stockholders, excluding those granted under officers' fringe benefit plans, shall not exceed, at any time, an amount equivalent to the unencumbered portion of his loans to, and placements with, the QB and the book value of his paid-in capital contribution in the lending QB: *Provided,* That unsecured credit accommodations to each of the QB's directors, officers or stockholders shall not exceed thirty percent (30%) of his total credit accommodations.

Notwithstanding the provisions of this Section, credit accommodations of a QB to any one of its directors, officers, stockholders or their related interests shall not exceed the SBL prescribed for QBs.

§ 4330Q.1 *Exclusions from the thirty percent (30%) unsecured individual ceiling for project finance.*

Loans, other credit accommodations, and guarantees granted by a QB to its DOSRI for the purpose of project finance, shall be exempted from the thirty percent (30%) unsecured individual ceiling during the project gestation phase[1]: *Provided,* That the QB shall ensure that standard prudential controls in project finance loans designed to safeguard creditors' interests are in place, which may include pledge of the borrower's shares, assignment of the borrower's assets, assignment of all revenues and cash waterfall accounts, and assignment of project documents.

For this purpose, *"project finance"* is defined as a method of funding in which the lender looks primarily to the revenues generated by a single project, both as a source of repayment and as security for the exposure. It possesses all the following characteristics either in legal form or economic substance:

a. The exposure is typically to an entity (often a special purpose entity or SPE) which was created specifically to finance and/or operate physical assets;

b. The borrowing entity has little or no other material assets or activities, and therefore little or no independent capacity to repay the obligation, apart from the income that it receives from the asset(s) being financed;

c. The terms of the obligation give the lender a substantial degree of control over the asset(s) and the income that it generates; and

d. As a result of the preceding factors, the primary source of repayment of the obligation is the income generated by the asset(s) being financed, rather than the independent capacity of a broader commercial enterprise.

(Circular No. 914 dated 23 June 2016)

Sec. 4331Q *(2008 - 4361Q)* Aggregate Ceiling; Ceiling On Unsecured Loans. Except with prior approval of the Monetary Board, the total outstanding borrowings of directors, officers, or stockholders, whether direct or indirect,shall not exceed 100% of combined capital accounts, net of deferred income tax as defined in Item *"i"* of Subsec. 4116Q.2 and such unbooked valuation reserves and other capital adjustments as may be required by the Bangko Sentral: *Provided,* That in no case shall the total unsecured direct and indirect borrowings of directors, officers, and stockholders exceed thirty percent (30%) of the aggregate ceiling or the outstanding direct/ indirect loans thereto, whichever is lower. For the purpose of determining compliance with the ceiling on unsecured

[1]This refers to the pre-operational phase of the project that does not yet generate cash flows.

loans, QBs shall be allowed to average their ceiling on unsecured loans and their outstanding unsecured loans every week.

In evaluating requests for extension of loans in excess of the aggregate ceiling, the Bangko Sentral shall consider the credit standing of the borrower, viability of the projects financed by such loans in relation to national objectives, collateral or security and other pertinent considerations.

Sec. 4332Q ***(2008 - 4362Q)*** **Exclusions from Aggregate Ceiling.** The following credit accommodations shall be excluded in determining compliance with the aggregate ceiling:

a. Credit accommodations to the extent covered by a hold-out on, or assignment of, deposit substitutes in the lending QB, or covered by cash margin deposits or secured by evidences of indebtedness of the Republic of the Philippines or of the Bangko Sentral, or by other evidences of indebtedness or obligations, the servicing and repayment of which are fully guaranteed by the Republic of the Philippines;

b. Credit accommodations to a corporate stockholder which meets all the following conditions:

(1) The corporation is a non-financial institution;

(2) Its shares are listed and traded in the domestic stock exchanges;

(3) Its stockholdings in the lending QB do not exceed thirty percent (30%) of the voting stock of the QB; and

(4) No person or group of persons related within the first degree of consanguinity or affinity holds/owns more than twenty percent (20%) of the subscribed capital of the corporation; and

c. Credit accommodations granted under officers' fringe benefit plans.

Sec. 4333Q ***(2008 - 4363Q)*** **Credit Accommodations Under Officers' Fringe Benefit Plans.** The aggregate outstanding liabilities to a QB of its officers, extended under officers' fringe benefit plans for the purpose of house, car, and appliance financing, and meeting educational, medical, hospital, and other similar expenses, shall not exceed thirty percent (30%) of the combined capital accounts of the lending entity: *Provided,* That QBs shall submit, for record purposes, copies of their officers' fringe benefit plans to the appropriate department of the Bangko Sentral.

Sec. 4334Q ***(2008 - 4364Q)*** **Procedural Requirements.** The following provisions shall apply if a director or officer is a party, directly or indirectly, to, or acts as the representative or agent of, others in any of the transactions under Sec. 4327Q.

a. *Approval of the board of directors; when to obtain.* Except with the prior written approval of the majority of the directors, excluding the director concerned, no loan or other credit accommodation shall be granted nor any of the transactions under Sec. 4327Q be entered into.

b. *Approval by the board; how manifested.* The approval shall be manifested in a resolution passed by the board of directors duly assembled during a regular or special meeting for the purpose and made of record.

c. *Majority of the directors; computation of.* The computation of the majority of the directors, excluding the director concerned, shall be based on the total number of directors of the QB, as provided in its articles of incorporation and by-laws.

d. *Contents of the resolution.* The resolution of the board of directors shall contain the following information:

(1) Name of the director or officer concerned and his relationship as regards the credit accommodation, such as principal, endorser, spouse of borrower, etc.;

(2) Nature of the loan or other credit accommodation, purpose, amount, credit basis for such loan or credit accommodation, security and appraisal thereof, maturity, interest rate, schedule of repayment, and other terms of the loan or credit accommodation;

(3) Date of the resolution;

(4) Names of the directors who were present and who participated in the deliberations of the meeting;

(5) Names in print and signatures of the directors approving the resolution: *Provided,* That the corporate secretary may sign, under a power-of-attorney, in behalf of a director who was present in the board meeting and who approved such resolution, in instances where such signature is necessary, to indicate that such resolution was approved by a majority of the directors; and

(6) Such other information as may be required by the appropriate department of the SES.

e. *Transmittal of copy of board of directors' approval; contents thereof.* A copy of the written approval of the board of directors, as herein required, shall be submitted to the appropriate department of the SES within twenty (20) business days from the date of approval. The copy may be a duplicate of the original, or a reproduction copy showing clearly the signatures of the approving directors: *Provided,* That if a reproduction copy is to be submitted, it shall contain, on its face or reverse side, a signed certification by the secretary that it is a reproduction of the original written approval.

Sec. 4335Q (Reserved)

Sec. 4336Q *(2015 – Sanctions)* Supervisory Enforcement Actions. The Bangko Sentral reserves the right to deploy its range of supervisory tools to promote adherence to the requirements set forth in the foregoing rules and bring about timely corrective actions and compliance with Bangko Sentral directives. The Bangko Sentral considers abuses in credit to related parties (including credit to DOSRI, subsidiaries, and affiliates) as serious offenses and shall be dealt with severely. In this regard, abuse shall be interpreted to include extending credit to related parties without adopting appropriate internal policies.

For this purpose, the Bangko Sentral may among others, issue directives or sanctions on the Bank and responsible persons, which may include restrictions or prohibitions of lending to related parties or from certain authorities/activities, restrictions or prohibitions on dividend declarations; and warning reprimand, suspension, removal and disqualification of concerned bank directors, officers, and/or employees. In addition, the Bangko Sentral may apply the borrowing director/officer/stockholder's share in the QB's profit sharing program against the excess of credit extended over any of the prescribed DOSRI ceilings.

In case of imposition of monetary sanction for violations of the foregoing provisions, the penalty shall be computed as follows:

(a) Loans to DOSRI

For the duration of each violation, imposition of a fine of one-tenth of one percent (1/10 of 1%) of the excess over the ceilings per day but not to exceed P30,000 a day on (1) the lending QB and the director, officer, or stockholder whose borrowing exceeds his individual ceiling and (2) each of the directors voting for the approval of the loan or credit accommodation in excess of any of the ceilings prescribed in Secs. 4330Q and 4331Q.

The penalty for exceeding the individual ceiling, aggregate ceiling and ceiling on unsecured loans shall be computed on the average amount of loans in excess of said ceilings during the same week.

(b) Loans to subsidiaries and affiliates

For the duration of each violation, imposition of a fine of one tenth (1/10) of one percent (1%) of the excess over the ceilings per day but not to exceed P30,000 a day on the following:

(1) The lending QB; and

(2) Each of the directors voting for the approval of the loan, other credit accommodation or guarantee in excess of any of the ceilings prescribed in Subsec. 4328Q.5.

(Circular No. 914 dated 23 June 2016)

Secs. 4337Q - 4339Q (Reserved)

Sec. 4340Q *(2008 - 4366Q)* Bank DOSRI Rules and Regulations Applicable to Government Borrowings in Government-Owned or - Controlled Quasi-Banks. 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 infrastructure and other priority programs and projects consistent with the Philippine Development Plan/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 micro, small and medium enterprises (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 Bangko Sentral 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 Bangko Sentral 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. 914 dated 23 June 2016, 635 dated 10 November 2008, 616 dated 30 July 2008, 580 dated 09 September 2007)

F. (RESERVED)

Secs. 4341Q - 4342Q (Reserved)

G. SPECIAL TYPES OF LOANS

Sec. 4343Q *(2008 - 4376Q)* Interbank Loans. Interbank loan transactions shall include, among other things, (a) interbank call loan (IBCL) transactions; (b) borrowings evidenced by deposit substitute instruments; and (c) purchases of receivables with recourse: *Provided, however,* That only IBCL transactions which are settled through the QBs' respective DDAs with the Bangko Sentral via PhilPaSS shall be eligible to zero percent (0%) reserve requirement: *Provided, further*, That funds borrowed by QBs from trust departments of banks/investment houses shall be excluded from the herein definition of interbank loan transactions.

(As amended by Circular No. 703 dated 23 December 2010 and 689 dated 16 June 2010)

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§ 4343Q.1 *(2008 - 4376Q.1) Systems and procedures for interbank call loan transactions.* IBCL transactions of QBs shall be governed by the Agreement for the PhilPaSS executed between the Bangko Sentral and the Investment Houses Association of the Philippines (IHAP) on 12 December 2002 and any subsequent amendments thereto.

(As superseded by the agreement between the BSP and IHAP dated 12 December 2002)

§ 4343Q.2 *(2008 - 4376Q.2) Accounting procedures.*

a. Both lending and borrowing QBs shall immediately pass the corresponding entries in their books.

b. IBCL transactions shall be recorded by the lending QB as *Interbank Call Loans Receivable* and by the borrowing QB as *Bills Payable -Interbank Call Loans Payable*.

c. QBs shall reconcile their DDAs with the Bangko Sentral against monthly statements of account to be furnished by the Bangko Sentral Financial Accounting Department Comptrollership Sub-Sector.

(As amended by Circular No. 689 dated 16 June 2010)

§ 4343Q.3 *(2008 - 4376Q.4) Settlement procedures.* Interbank loan transactions (call and term) among QBs shall be settled in accordance with the provisions of the Agreement for the PhilPaSS executed between the Bangko Sentral and the IHAP on 12 December 2002 and any subsequent amendments thereto.

(As superseded by the agreement between the BSP and IHAP dated 12 December 2002)

§ 4343Q.4 *(2008 - 4376Q.3) Transfer of excess funds.* The prescribed "Authority to Debit Slip" shall be used by QBs in the transfer of their excess funds which are not otherwise lent out in the interbank loan market from their Bangko Sentral reserve accounts to their operating accounts with their depository banks.

The "Authority to Debit Slip" shall have a standard size of 4 3/4" x 8 1/2" and shall be orange in color. It shall contain the minimum data or information as required and shall be accomplished and submitted to the Bangko Sentral Comptrollership Department in duplicate after having been duly signed and/or authenticated by authorized officers of the QB.

Secs. 4344Q - 4349Q (Reserved)

Sec. 4350Q Agricultural Value Chain Financing Framework; Statement of Policy. The Bangko Sentral supports the promotion of agricultural value chain financing as an effective and organized approach to channel financing to the agriculture and fisheries sectors and promote financial inclusion. By encouraging the linking of various actors/ players in an agricultural value chain, credit risk of participating smallholder farmers/ fisherfolks can be reduced. As a result, this type of financing would facilitate and allow small farmers/fisherfolks to have, if not more, access to credit. This is expected to further improve productivity in the agriculture and fisheries sectors and at the same time uplift the lives of these marginalized farmers/ fisherfolks.

The provisions covering the agricultural value chain financing framework shall be implemented in consonance with Sec. 4178Q.

(Circular No. 908 dated 14 March 2016)

§ 4350Q.1 *Definition of terms.* For purposes of this Section, the following definitions shall apply:

a. *Value chain* - refers to a set of actors/ players, e.g., producers (farmers/fisherfolks), traders, suppliers, processors, aggregators, who conduct linked sequence of value-adding activities involved in bringing a product from its raw material stage to the final consumers;

b. *Value chain finance* - refers to the financial flows to those actors/players from both within the value chain and financial flows to those actors/players from the outside as a result of their being linked within a value chain;

c. *Agricultural value chain analysis* - refers to the assessment of actors/players, e.g., from input suppliers to producers to processors and to traders, their interests and the factors influencing the performance of a particular value chain, e.g., palay, corn, livestock, marine products, as a whole, as opposed to only examining targeted sections of the chain; it also includes understanding the nature of the chain, identifying the weakest and strongest links along the chain and the business models as shown in *Appendix Q-70*; and

c. *Value chain aggregator* - refers to any value chain actor/player or any entity outside the value chain which initiates the formalization and/or organization of a value chain and/or which offers services that aim to strengthen existing value chains.

(Circular No. 908 dated 14 March 2016)

§ 4350Q.2 *Features of agricultural value chain financing program.* Consistent with existing provisions on sound credit risk management practices, the Bangko Sentral hereby recognizes agricultural value chain financing programs that have the following features:

a. *Agricultural value chain policy and procedures*. The BSFI shall put in place adequate policies and procedures which cover the identification of value chains, comprehensive value chain analysis, and the design of appropriate financial products and services, among others;

b. *Types of credit products*. BSFIs can design and/or offer appropriate financial products either to a specific actor/player or to various actors/players of the value chain model simultaneously. In addition to the traditional loans and discounts that BSFIs are currently offering, the following products and financial services may also be made available to agricultural value chain actors/ players:

(1) *Trade-receivables finance* - a BSFI advances working capital to agribusiness (supplier, processor, marketing and export) companies against accounts receivable or confirmed orders to producers. Receivables financing takes into account the strength of the buyer's purchases and repayment history;

(2) *Factoring* - a financial transaction whereby a business sell its accounts receivable or contracts of sales of goods at a discount to an appropriate BSFI, called a factor, who pays the business minus a factor discount and collects the receivables when due; and

(3) *Warehouse receipts* - farmers and other value chain enterprises receive a receipt from a certified warehouse that can be used as collateral to access a loan from an appropriate BSFI against the security of goods in an independently controlled warehouse.

c. *Loan disbursement*. Loan releases may take the following forms depending on the role that the borrower takes in the value chain and the risks to be addressed by the BSFI:

(1) *Cash disbursements* - the most common practice which may be completed in one transaction or in installments;

(2) *Loan proceeds transfer to suppliers* - under this scheme the BSFI prefers to deal with the supplier directly to control loan utilization and, therefore, prefer to transfer the loan proceeds straight to the supplier upon full acceptance of the buyer (borrower). In case the supplier is a related party, the BSFI shall ensure that the term and conditions of the loan are not less favorable

to the borrower than those offered by other lenders; and

(3) *Anchor firm (institutional buyer) triggered loan release* - loan release to the borrower will be endorsed by the anchor firm to ensure the adoption of the technology protocol required by the buyer (anchor firm). This would optimize productivity by the farmer-borrower and the technology adopted conforms with the requirements of the buyer; thus, reduce rejects on the deliveries of the produce.

d. *Disaster contingency mechanism.* In light of the vulnerability of the agriculture and fisheries sectors which could result to a significant credit losses to financial institutions, if not managed well, the BSFI may put in place a disaster contingency mechanism that anticipates such events and provides response mechanisms to mitigate the impact of such inherent risks. The disaster contingency mechanism can provide timely relief to a borrower to facilitate recovery. This mechanism shall be adequately documented with clear policies and guidelines.

Provided such built-in contingency mechanism is prudently designed, its activation shall not automatically trigger adverse loan classification and past due loan recognition so as to manage credit losses to the BSFI and minimize burden on the client. Any new financing granted under such schemes will also not be adversely classified. However, such credit should be closely monitored and appropriate corrective measure should be taken once it becomes clear that recoverability is impaired.

e. *Other features.* The following activities may also be allowed:

(1) Director/s, officer/s and/or stockholder/s of BSFIs engaged in agricultural value chain financing may own and/or control: (i) private entities that would act as aggregators to facilitate the formation of value chains, and (ii) economically-linked entities that are also actors/players in the value chain: *Provided*, That all transactions with such entities shall be in the ordinary course of business and not undertaken on more favorable economic terms to such related parties than similar transactions with non-related parties under similar circumstances. These transactions shall comply and adhere to existing regulations pertaining to DOSRI loans and/or related-party transactions; and

(2) The BSFI, if necessary, may initiate the formulation of formal agreement(s) with qualified value chain actors/players to protect the interests of all parties involved.
(Circular No. 908 dated 14 March 2016)

§ 4350Q.3 *Regulatory incentives.* To encourage BSFIs to engage in agricultural value chain financing, the following incentives shall apply; provided, Subsec. 4350Q.2 are complied with:

a. Loans granted to agricultural value chain actor(s)/player(s), who are qualified borrowers under Subsec. X341.2, MORB, shall be considered as either direct or allowable alternative compliance to the mandatory agriculture and agrarian reform credit allocation; and

b. Increase in SBL for an additional twenty-five percent (25%) for loans, other credit accommodations and guarantees granted to entities, which act as value chain aggregators of the lending banks' clients, and/or economically-linked entities that are also actors/players in the value chain: *Provided,* That the additional twenty-five percent (25%) will apply only to non-director/s, officer/s, stockholder/s, and related interest/s (DOSRI)/ related party transaction (RPT) loans: *Provided*, *further,* That such increase in the SBL for an additional twenty-five percent (25%) shall only be for a period of three (3) years starting 02 April 2016[1], subject to review after said period.

(Circular No. 908 dated 14 March 2016)

Secs. 4351Q - 4380Q (Reserved)

H. EQUITY INVESTMENTS

Sec. 4381Q Investment in Non-Allied Undertakings. In order to avoid undue concentration of economic power, the total equity investments in any single non-allied enterprise or industry of QBs, UBs and their subsidiaries, whether or not the parent financial intermediaries have equity investments in the enterprise, shall, in any case, remain a minority in that enterprise, except as may be otherwise approved by the President of the Philippines. Non-allied enterprises are those allowed for UBs in the MORB.

Equity investments as of 01 April 1980, which exceed the limitation under this Section, may be retained but shall not be increased percentage-wise, and whenever reduced, shall not thereafter be increased beyond the prescribed limitation.

Sec. 4382Q Investments Abroad. Except as may be authorized by the Monetary Board, the total equity investments in and/or loans to any single enterprise abroad by any QB shall not at any time exceed fifteen percent (15%) of the net worth of the investing QB.

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[1] Effectivity date of Circular No. 908 dated 14 March 2016.

Sec. 4383Q Underwriting Exempted. The limitations on equity investments under Sec. 4381Q shall not apply to inventories of equity securities arising out of firm underwriting commitments of investment houses: *Provided,* That such equity holding shall be disposed of within ninety (90) calendar days from issuance[1].

(As amended by Circular No. 784 dated 25 January 2013 and 784 dated 25 January 2013)

I. (RESERVED)

Secs. 4384Q - 4387Q (Reserved)

J. OTHER OPERATIONS

Sec. 4388Q ***(2008 - 4391Q)*** **Purchase of Receivables and Other Obligations.** The following rules shall govern the purchase of receivables and other obligations.

§ 4388Q.1 ***(2008 - 4391Q.1) Yield on purchase of receivables.*** The rate of yield, including commissions, premiums, fees and other charges from the purchase of receivables and other obligations, regardless of maturity, that may be charged or received by QBs shall not be subject to any regulatory ceiling.

Receivables and other obligations shall include claims collectible in money of any amount and maturity from domestic and foreign sources. The Monetary Board shall determine in doubtful cases whether a particular claim is included within said phrase.

§ 4388Q.2 ***(Reserved)***

§ 4388Q.3 ***(2008 - 4391Q.2) Purchase of commercial paper.*** Before purchasing registered commercial paper, QBs shall:

a. Require the issuing entity to submit a duly certified true copy of its Certificate of Registration and Authority to Issue Commercial Paper; and

b. Ascertain that the registration number and expiry date indicated in the commercial paper are the same as those in the Certificate of Registration submitted.

No QB shall sell, discount, assign, negotiate, in whole or in part such as thru syndications, participations and other similar arrangements, any note, receivable, loan, debt instrument and any type of financial asset or claim, except government securities, on a without recourse basis, or be a party in any capacity in any such transactions on a without recourse basis, unless such receivable, note, loan, debt instrument and financial asset or claim is registered with the SEC. This prohibition includes transactions between an investment house and its trust department.

Unregistered commercial papers may be sold, discounted, assigned or negotiated by QBs to other financial intermediaries with quasi-banking functions.

Any violation of the above rules and regulations shall be subject to any or all of the following sanctions:

a. Suspension of quasi-banking authority for a period of six (6) months; and

b. Monetary penalty of P500 per day per transaction for each and every officer of the QB involved in any capacity in any transaction violative of these regulations.

§ 4388Q.4 ***(2008 - 4392Q) Reverse Repurchase Agreements with the Bangko Sentral.*** Reverse repo agreements may be effected with the Bangko Sentral under its open market operations, subject to the terms and conditions in Subsec. 4601Q.2.

§ 4388Q.5 ***(2008 - 4391Q.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*.

[1] This shall cover all new underwritten debt and equity securities issued from 15 February 2013.

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.

(As amended by Circular Nos. 813 dated 27 September 2013, 761 dated 20 July 2012, 738 dated 11 October 2011, 670 dated 18 November 2009, 628 dated 31 October 2008, 626 dated 23 October 2008 and 585 dated 15 October 2007, M-2007-006 dated 28 February 2007, Circular Nos. 558 dated 22 January 2007, 546 dated 17 November 2006 and 509 dated 01 February 2006)

Secs. 4389Q - 4393Q (Reserved)

Sec. 4394Q Acquired Assets in Settlement of Loans. The following rules shall govern assets acquired in settlement of loans.

§ 4394Q.1 ***(Reserved)***

§ 4394Q.2 ***(2008 - 4394Q.1) Booking***

a. ROPA in settlement of loans through foreclosure or dation in payment shall be booked under the ROPA account as follows:

(1) Upon entry of judgment in case of judicial foreclosure;

(2) Upon execution of the Sheriff's Certificate of Sale in case of extrajudicial foreclosure; and

(3) Upon notarization of the Deed of Dacion in case of dation in payment (*dacion en pago*). ROPA shall be booked initially at the carrying amount of the loan (i.e., outstanding loan balance adjusted for any unamortized premium or discount less allowance for credit losses computed based on PAS 39 provisioning requirements, which take into account the fair value of the collateral) plus booked accrued interest less allowance for credit losses (computed based on PAS 39 provisioning requirements) plus transaction costs incurred upon acquisition (such as non-refundable capital gains tax and documentary stamp tax paid in connection with the foreclosure/purchase of the acquired real estate property): *Provided,* That if the carrying amount of ROPA exceeds P5.0 million, the appraisal of the foreclosed/ purchased asset shall be conducted by an independent appraiser acceptable to the Bangko Sentral.

b. The carrying amount of ROPA shall be allocated to land, building, other non-financial assets and financial assets (e.g., receivables from third party or equity interest in an entity) based on their fair values, which allocated carrying amounts shall become their initial costs.

c. The non-financial assets portion of ROPA shall remain in ROPA and shall be accounted for as follows:

(1) Land and buildings shall be accounted for using the cost model under PAS 40 "Investment Property";

(2) Other non-financial assets shall be accounted for using the cost model under PAS 16 "Property Plant and Equipment";

(3) Buildings and other non-financial assets shall be depreciated over the remaining useful life of the assets, which shall not exceed ten (10) years and three (3) years from the date of acquisition, respectively; and

(4) Land, buildings and other non-financial assets shall be subject to the impairment provisions of PAS 36 "Impairment".

d. Financial assets, shall be reclassified and booked according to intention under HFT, DFVPL, AFS, HTM, INMES, Unquoted Debt Securities Classified as Loans or Loans and Receivable and accounted for in accordance with the provisions of PAS 39, except interests in subsidiaries, associates and joint ventures,which shall be booked under Equity

Investments in Subsidiaries, Associates and Joint Ventures and accounted for in accordance with the provisions of PAS 27, 28 and 31, respectively.

e. ROPAs that comply with the provisions of PFRS 5 "Non-Current Assets Held for Sale" shall be reclassified and accounted for as such.

f. Claims arising from deficiency judgments rendered in connection with the foreclosure of mortgaged properties shall be lodged under the real account "Deficiency Judgment Receivable"; while probable claims against the borrower arising from the foreclosure of mortgaged properties shall be lodged under the contingent account "Deficiency Claims Receivable".

g. *Appraisal of properties.* Before foreclosing or acquiring any property in settlement of loans, it must be properly appraised to determine its true economic value. If the amount of ROPA to be booked exceeds P5.0 million, the appraisal must be conducted by an independent appraiser acceptable to the BSP. An in-house appraisal of all ROPAs shall be made at least every other year: *Provided,* That immediate re-appraisal shall be conducted on ROPAs which materially decline in value.

h. *Non-cash payment for interest* FIs that accept non-cash payments for interest on their borrowers' loans shall book the acquired assets as ROPA. The amount to be booked as ROPA shall be the booked accrued interest less allowance for credit losses (computed based on PAS 39 provisioning requirements): *Provided,* That if the carrying amount of ROPA exceeds P5.0 million, the appraisal of the foreclosed/ purchased asset shall be conducted by an independent appraiser acceptable to the BSP. The carrying amount of ROPA shall be allocated in accordance with Item *"b"* and shall be subsequently accounted for in accordance with Item *"c"* of this Subsection.

The provisions of this Subsection shall be applied retroactively to all outstanding ROPAs and sales contract receivables: *Provided:* That for properties acquired before 01 January 2005, the carrying amount of the acquired properties when initially booked under ROPA shall be the cost subject to depreciation and impairment testing, which shall be reckoned from the time of acquisition.

(As amended by Circular Nos. 555 dated 12 January 2007 and 520 dated 20 March 2006)

§ 4394Q.3 *(2008 - 4394Q.2) Sales contract receivable*

a. Sales Contract Receivable (SCR) shall be recorded based on the present value of the installment receivables discounted at the imputed rate of interest. Discount shall be accreted over the life of the SCR by crediting interest income using the effective interest method. Any difference between the present value of the SCR and the derecognized assets shall be recognized in profit or loss at the date of sale in accordance with the provisions of PAS 18 "Revenue" *Provided, furthermore,* That SCR shall be subject to impairment provision of PAS 39.

The provisions of this Section shall be applied retroactively to all outstanding ROPAs and SCRs: *Provided:* That for properties acquired before 01 January 2005, the carrying amount of the acquired properties when initially booked under ROPA shall be the cost subject to depreciation and impairment testing, which shall be reckoned from the time of acquisition.

b. SCRs which meet all the requirements/conditions enumerated below are hereby considered performing assets and therefore, not subject to classification:

(1) That there has been a down-payment of at least twenty percent (20%)

of the agreed selling price or in the absence thereof, the installment payments on the principal had already amounted to at least twenty percent (20%) of the agreed selling price;

(2) That payment of the principal must be in equal installments or in diminishing amounts and with maximum intervals of one (1) year;

(3) That any grace period in the payment of principal shall not be more than two (2) years; and

(4) That there is no installment payment in arrear either on principal or interest. *Provided,* That a *"Sales Contract Receivable"* account shall be automatically classified *"Substandard"* and considered non-performing in case of non-payment of any amortization due: *Provided, further*, That a *"Sales Contract Receivable"* which has been classified *"Substandard"* and considered non-performing due to non-payment of any amortization due may only be upgraded/restored to unclassified and/or performing status after a satisfactory track record of at least three (3) consecutive payments of the required amortization of principal and/or interest has been established.
(As amended by Circular No. 520 dated 20 March 2006)

§§ 4394Q.4 - 4394Q.9 ***(Reserved)***

§ 4394Q.10 ***(2008 - 4396Q) Transfer/ Sale of non-performing assets to a special purpose vehicle or to an individual.*** The procedures governing the transfer/sale of non-performing assets (NPAs) to a Special Purpose Vehicle (SPV) or to an individual that involves a single family residential unit, or transactions involving *dacion en pago* by the borrower or third party of a non-performing loan (NPL), for the purpose of obtaining the Certificate of Eligibility (COE) which is required to avail of the incentives provided under R.A. No. 9182 are presented in *Appendix Q-28*.

The accounting guidelines on the sale of NPAs to SPVs and to qualified individuals for housing under the SPV Act of 2002 are presented in *Appendix Q-28-a*.

The significant timelines relative to the implementation of R.A. No. 9182, also known as the "Special Purpose Vehicle Act", as amended by R.A. No. 9343 are presented in *Appendix Q-28b*.
(As amended by M-2008-014 dated 17 March 2008, M-2008-005 dated 04 February 2008, M-2007-013 dated 11 May 2007 and M-2006-001 dated 11 May 2006)

§§ 4394Q.11 - 4394Q.14 ***(Reserved)***

§ 4394Q.15 ***Joint venture of quasi-banks with real estate development companies***

a. *Statement of policy*. It is the policy of the BSP to encourage QBs to dispose of their ROPA in settlement of loans and other advances either through foreclosure or *dacion en pago* as well as other properties acquired as a consequence of a merger/ consolidation which are no longer necessary for their quasi-banking operations. Towards this end, QBs are hereby authorized to enter into Joint Venture Agreements (JVA) with real estate development companies for the development of said properties, subject to the requirements prescribed under this Subsection.

b. For purposes of this Subsection, *joint venture* shall refer to a contractual arrangement/undertaking between a QB and a duly registered real estate development company (developer) for the purpose of developing the above-mentioned properties of the QB. The QB contributes said properties to the undertaking while the developer contributes all the development funds, resources, technical expertise, equipment, personnel and all other requirements desired or needed for the implementation and completion of the undertaking including marketing, where applicable. The QB and the developer shall be bound by the contract that establishes joint control of the undertaking. Although the developer may be designated as operator or manager of the undertaking, it does not, however, absolutely control the undertaking but only acts in accordance with the authorities granted to him under the JVA.

c. *Forms of a joint venture.* A QB and a developer may undertake a joint venture under the following forms:

(1) A jointly-controlled operation/ undertaking, which does not involve the establishment of a corporation, partnership or other entity, or a financial structure that is separate from the QB and the developer themselves. Under this form of joint venture, the rights and obligations of the QB and the developer shall be governed primarily by their contract that must clearly specify the following:

(a) authority of the developer to develop/subdivide the property and subsequently, to sell the individual lots under a special power of attorney;

(b) sharing in the sales proceeds of the developed ROPAs or in the developed lots;

(c) sharing in taxes;

(d) sharing in the assets of the joint venture particularly in the developed/ subdivided lots should there still be unsold lots at the time of termination of the joint venture; and

(e) name under which the subdivided lots shall be registered pending their sale.

(2) A jointly-controlled entity, which involves the establishment of a new juridical entity, preferably a corporation that is separate and distinct from the QB and the developer. A jointly controlled corporation may be established either for the purpose of developing properties of QBs for immediate sale or converting them into earning assets such as hotels and shopping malls.

d. *Requirements and limitations in a joint venture.* A QB desiring to enter into a JVA with a developer for the purpose of developing its ROPAs and/or other properties acquired as a consequence of merger/consolidation shall comply with the following:

(1) The JVA shall be approved by the board of directors of the QB.

(2) The QB's contribution to the joint venture, in whatever form undertaken, shall be limited to ROPAs and properties acquired as a consequence of the QB's merger/consolidation with another QB/FI.

(3) The QB shall not recognize income out of its contribution to the joint venture, regardless of the agreed valuation of said properties.

(4) The QB shall not provide funds to the joint venture either as a loan or capital contribution.

(5) The JVA or contractual arrangement shall clearly stipulate the rights and obligations of the QB and the developer.

(6) The QB shall secure prior Monetary Board approval of the JVA.

e. *Application for authority to enter into JVA.* A QB desiring to enter into a JVA with a developer for the purpose of developing its ROPAs and other properties acquired as a consequence of its merger/ consolidation with another QB/FI shall secure prior Monetary Board approval of said agreement. For that purpose, the concerned QB shall submit an application for Monetary Board approval to the appropriate department of the SES. The application shall be signed by the QB's president or officer of equivalent rank and shall be accompanied by the following documents/information:

(1) The name of the developer;

(2) Name of the principal stockholders and officers as well as members of the board of directors of said company;

(3) Relationship of the QB with the developer, if any;

(4) List and brief description of the properties to be contributed by the QB including their market values, book values and the valuation agreed upon under the proposed JVA;

(5) Certification by the QB's president or officer of equivalent rank that the JVA is strictly in compliance or will strictly comply with the requirements of this Subsection; and

(6) Such other documents/information that the concerned department of the SES may require.

f. *Non-financial allied undertaking* All types of QBs are hereby authorized to invest in the equities of companies engaged in real estate development as a non-financial allied undertaking, subject to the following conditions:

(1) Investments shall be limited to ROPAs and other properties acquired as a consequence of a QB's merger/ consolidation with another QB/FI;

(2) Investments shall be subject to existing BSP requirements applicable to investments in non-financial allied undertakings; and

(3) If there is already an existing subsidiary or affiliate relationship between the QB and the investee corporation prior to the investment, the QB shall not recognize income out of its invested properties. The excess of the value of the capital stock received by the QB over the book value of its invested properties shall be booked as "Deferred Credits".

g. *Accounting treatment.* Accounting treatment of the properties contributed by a QB to a joint venture or invested in the equities of developers.

(1) In a joint venture in the form of a jointly controlled operations/undertaking, which does not involve the establishment of a corporation or other entity, the QB shall continue to recognize in its books the properties contributed to the undertaking. However, the regular provisioning against probable losses required under existing regulations may be discontinued upon execution and implementation of the JVA.

(2) In a joint venture in which a corporation is created, the QB shall book the properties contributed to the undertaking as investment pursuant to the provisions of PAS 31. It shall also recognize its interest in the corporation using the proportionate consolidation method or the equity method as long as it continues to have joint control over the corporation: *Provided,* That the QB shall not recognize income out of its contribution to the joint venture. The excess of the value of the capital stock received by the QB over the book value of the contributed properties shall be credited to the account "Deferred Credits".

(3) Properties invested in equities of developers shall be booked in accordance with the PAS: *Provided,* That the QB shall not recognize income out of the properties invested if there is already an existing subsidiary or affiliate relationship between the QB and the investee corporation prior to the investment, regardless of the agreed valuation of said properties. The excess of the agreed valuation of said properties over their book value shall be booked as "Deferred Credits".

h. *Coverage.* The provisions of this Subsection shall apply to ROPAs existing, as well as those which may be acquired by QBs in settlement of non-performing or past due loans and advances outstanding, as of 09 March 2006 and to properties acquired as a consequence of merger or consolidation which are outstanding in the books of QBs as of said date.

i. *Sanctions.* Any violation of the provisions of this Subsection and/or any

misrepresentation in the certification and information required to be submitted to the BSP under this Subsection shall subject the QB and the officer or officers responsible therefore, to the penalties provided under Sections 35, 36 and 37 of R. A. No. 7653.
(Circular No. 518 dated 09 March 2006)

K. MISCELLANEOUS PROVISIONS

Secs. 4395Q - 4398Q (Reserved)

L. GENERAL PROVISION ON SANCTIONS

Sec. 4399Q General Provision on Sanctions Unless otherwise provided for, any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R. A. No. 7653 on QBs, their directors and/or officers are shown in *Appendix Q-39*.

PART FOUR

TRUST, OTHER FIDUCIARY BUSINESS AND INVESTMENT MANAGEMENT ACTIVITIES

Section 4401Q Statement of Principles. The cardinal principle common to all trust and other fiduciary relationships is fidelity. Policies predicated upon this principle shall be directed towards observance of the following:

a. *Prudent Administration*. The trust, investment management and other fiduciary accounts shall be administered in conformity with the intention and purpose of the client as manifested in the terms of the agreement, and with the skill, care, prudence and diligence necessary under the circumstance then prevailing that a prudent man acting in like capacity and familiar with such matters would exercise in the conduct of an enterprise of like character and with similar aims.

b. *Undivided loyalty and utmost care*. In the discharge of fiduciary responsibility, the interests of clients shall be placed above those of the trust entity other than stand-alone trust corporation. Clear policies and procedures shall be developed in dealing with conflict of interest situations. The fiduciary assets shall be objectively and fairly administered, invested and distributed giving due regard to the beneficiaries' respective interests.

c. *Non-delegation of responsibilities*. The administration of the trust, investment management, or fiduciary responsibilities or the performance of acts that should be personally performed shall not be delegated as the client's confidence is reposed on the trust entity (TE).

d. Preserving and protecting property. Reasonable care and diligence shall be observed to preserve and protect the property entrusted. Fiduciary assets shall be kept legally separate and distinct from proprietary assets and from one (1) fiduciary/trust/investment management account to another.

e. *Keeping and rendering accounts*. A true and accurate account or record of transactions entered into shall be kept. Reports on the trust, investment management and other fiduciary accounts shall be rendered to the trustor, principal, beneficiary, or other party in interest, or the court concerned, or any party duly designated by a court order, as the case may be, in accordance with Secs. 4421Q and 4425Q. Likewise, all material facts within the knowledge or reasonably discoverable by the TE, particularly information that would enable clients to make well-informed decisions, shall be promptly transmitted/relayed to clients for them to protect their interests.

Furthermore, practices shall be carried out in accordance with the basic standards (*Appendix Q-48*) and Risk Management Guidelines (*Appendix Q-48a)* for trust, other fiduciary and investment management accounts.

An institution incorporated or authorized to engage in trust and fiduciary business is under no obligation, either legal or moral, to accept any such business being offered nor has it the right to accept if the same is contrary to law, rules, regulations, public order and public policy. It shall advertise its services in a dignified manner and enter such business only when demand for such service is evident, when specially equipped to render such service and upon full appreciation of the responsibilities involved. It shall be ready and willing to give full disclosure of the services being offered and shall conduct its dealing with transparency. Harmonious relationship shall likewise be pursued with other professions to achieve the common goal of mutual service to the public and protection of its interest.

(As amended by Circular Nos. 766 dated 17 August 2012, 721 dated 13 May 2011 and 618 dated 20 August 2008)

Sec. 4402Q Scope of Regulations. These regulations shall govern the grant of authority to and the management, administration and conduct of *trust, other fiduciary business and investment management activities* (as these terms are defined in Sec. 4403Q) (e.g., investment houses (IHs) and trust corporations) allowed by law to perform such operations.

The regulations are divided into three (3) Sub-Parts where:

A. *Trust and Other Fiduciary Business* shall apply to institutions authorized to engage in trust and other fiduciary business including investment management activities;

B. *Investment Management Activities* shall apply to institutions without trust authority but engaged in investment management activities; and

C. *General Provisions* shall apply to both.

Sec. 4403Q Definitions. For purposes of regulating the operations of trust and other fiduciary business and investment management activities, unless the context clearly connotes otherwise, the following shall have the meaning indicated.

a. *Trust entity (TE)* shall refer to a:

(1) QB/NBFI through its specifically designated business unit to perform trust functions; or

(2) trust corporation,

authorized by the Bangko Sentral to engage in trust and other fiduciary business under Section 79 of R.A. No. 8791 (The General Banking Law of 2000) or to perform investment management services under Section 53 of R.A. No. 8791.

b. *Trust business* shall refer to any activity resulting from a trustor-trustee relationship (trusteeship) involving the appointment of a trustee by a trustor for the administration, holding, management of funds and/or properties of the trustor by the trustee for the use, benefit or advantage of the trustor or of others called beneficiaries.

c. *Other fiduciary business* shall refer to any activity of trust-licensed institutions resulting from a contract or agreement whereby the institution binds itself to render services or to act in a representative capacity such as in an agency, guardianship, administratorship of wills, properties and estates, executorship, receivership and other similar services which do not create or result in a trusteeship. It shall exclude collecting or paying agency arrangements and similar fiduciary services which are inherent in the use of the facilities of the other operating departments of such institution. Investment management activities, which are considered as among other fiduciary business, shall be separately defined in the succeeding item to highlight its being a major source of fiduciary business.

d. *Investment management activity* shall refer to any activity resulting from a contract or agreement primarily for financial return whereby the institution (the investment manager) binds itself to handle or manage investible funds or any investment portfolio in a representative capacity as financial or managing agent, adviser, consultant or administrator of financial or investment management, advisory, consultancy or any similar arrangement which does not create or result in a trusteeship.

e. *Trust* is a relationship or an arrangement whereby a person called a trustee is appointed by a person called a trustor to administer, hold and manage funds and/or property of the trustor for the benefit of a beneficiary.

f. *Trust agreement* is an instrument in writing covering the terms and conditions of the trust.

g. *Trustee* is any person who holds legal title to the funds and/or property of a trust.

h. *Trustor* is any person who creates a trust.

i. *Beneficiary* is any person for whose benefit a trust is created.

j. *Fiduciary* shall refer to any person or entity engaged in any of the other fiduciary business as herein defined where no trustor-trustee relation exists.

k. *Agency* shall refer to a contract whereby a person binds himself to render some service or to do something in representation or on behalf of another, with the consent or authority of the latter.

l. *Principal* shall refer to the person who grants authority to another person called an agent, under a contract to enter into transactions in his behalf.

m. *Agent* shall refer to a person who acts in representation or on behalf of another person with the latter's authority.

n. *Trust Department* shall refer to the department, office, unit, group, division or any aggrupation which carries out the trust and other fiduciary business of an institution.

o. *Trust Officer* shall refer to the designated head or officer-in-charge of the trust department.

p. *Trust account* shall refer to an account where transactions arising from a trusteeship are kept and recorded.

q. *Common Trust Fund (CTF)* shall refer to a fund maintained by an institution authorized to perform trust functions under a written and formally established plan, exclusively for the collective investment and reinvestment of certain money representing participations in the plan received by it in its capacity as the trustee.

r. *Fiduciary account* shall refer to an account where transactions arising from any of the other fiduciary businesses are kept and recorded.

s. *Investment Manager* shall refer to any person or entity engaged in investment management activities as herein defined.

t. *Investment Management Department* shall refer to the department, unit, group, division or any aggrupation which carries out the investment management activities of an institution that does not have an authority to engage in trust and other fiduciary business.

u. *Investment Management Officer* shall refer to the designated head or officer-in-charge of the investment management department of an institution which does not have the authority to engage in trust and other fiduciary business.

v. *Investment management account* shall refer to an account where transactions arising from investment management activities are kept and recorded.

(As amended by Circular No.766 dated 17 August 2012)

A. TRUST AND OTHER FIDUCIARY BUSINESS

Sec. 4404Q Authority to Perform Trust and Other Fiduciary Business. With prior approval of the Monetary Board, trust corporations and IHs may engage in trust and other fiduciary business under Chapter IX of R.A. No. 8791, as amended and Section 7 of P.D. No. 129, as amended.

Entities whose articles of incorporation[1] or any amendments thereto, include the purpose or power to engage in trust and other fiduciary business, shall secure the prior favorable recommendation of the Monetary Board pursuant to Section 17 of the Corporation Code.

If an entity is found to be engaged in unauthorized trust and other fiduciary business and/or investment management activities, whether as its primary, secondary or incidental business, the Monetary Board

[1] SEC Memorandum Circular Nos. 5 dated 17 July 2008, 3 dated 16 February 2006 and 14 dated 24 October 2000.

may impose administrative sanctions against such entity or its principal officers and/or majority stockholders or proceed against them in accordance with law.

The Monetary Board may take such action as it may deem proper such as, but may not be limited to, requiring the transfer or turnover of any trust and other fiduciary and/or IMA to duly incorporated and licensed entities of the choice of the trustor, beneficiary or client, as the case may be.

No entity shall advertise or represent itself as being engaged in trust and other fiduciary business or in investment management activities or represent itself as trustee or investment manager or use words of similar import and/or use in connection with its business title, the words *trust*, *trust corporation*, *trust company*, *trust plan* or words of similar import, without having obtained the required authority to do so.

Starting year 2001, IHs authorized to engage in trust and other fiduciary business shall renew their existing licenses yearly, subject to the implementing guidelines to be issued thereon.

(As amended by CL-2008-078 dated 15 December 2008, CL-2008-053 dated 21 August 2008 and CL-2008-007 dated 21 January 2008)

§§ 4404Q.1 - 4404Q.2 ***(Reserved)***

§ 4404Q.3 ***Prerequisites for engaging in trust and other fiduciary business.*** An institution, before it may engage in trust and other fiduciary business, shall comply with the following requirements:

a. The applicant has combined capital accounts of not less than P300 million or such amount as may be required by the Monetary Board or other regulatory agency. For this purpose, *combined capital accounts* shall have the same meaning as in Sec. 4111Q;

b. The applicant has been duly licensed or incorporated as an FI by the appropriate government agency or created by special law or charter;

c. The articles of incorporation or 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;

d. The by-laws of the institution shall include, among other things, 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;

(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.

e. Where the applicant is authorized to engage in quasi-banking functions, it shall also meet the following additional requirements:

(1) Its operations during the year immediately preceding the filing of the application have been profitable, i.e., its rate of return on equity is at least ten percent (10%);

(2) It has continuously complied with the capital-to-risk assets ratio and ceilings on DOSRI loans for the last six (6) months immediately preceding the date of application;

(3) It has not incurred net weekly reserve deficiency against deposit substitutes during the last six (6) months immediately preceding the date of application;

(4) The ratio of its total NPLs to its gross loan portfolio as of the date of filing of application does not exceed the industry average as of the end of the quarter immediately preceding the date of application;

(5) It does not have any past due obligation with the Bangko Sentral or with any government or non-government FI;

(6) It has not engaged in unsafe and unsound practice/s during the year immediately preceding the date of application;

(7) It has corrected as of the date of application the violations noted in its latest examination related to the single borrower's loan limit and all other ceilings prescribed by the Bangko Sentral;

(8) It does not have float items outstanding for more than sixty (60) calendar days in the "Due From/To Head Office/ Branches" accounts and the "Due from Bangko Sentral" account exceeding one percent (1%) of its total resources as of the end of the month immediately preceding the date of application; and

(9) It has shown substantial compliance with other pertinent laws, rules and regulations, policies and instructions of the Bangko Sentral and it has not been cited for serious violations or exceptions affecting its solvency, liquidity and profitability.

On the other hand, where the applicant is not authorized to engage in quasi-banking functions:

(i) The adoption of a formula or criteria for QBs in the determination of compliance with the capital-to-risk assets ratio and ceilings on loans to DOSRI; and

(ii) The substitution of the reserve requirements with the cash ratio, as follows:

(a) Primary reserves to Bills Payable; and

(b) Primary and secondary reserves to Bills Payable; where primary reserves consist of cash on hand, cash in vault, COCIs, due from the Bangko Sentral and due from banks; and where secondary reserves consist of Bangko Sentral supported government securities, T-Bills and other government securities.

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. An applicant that fails in this respect shall be required to show compliance for another test period of the same duration.

(As amended by Circular No. 756 dated 24 April 2012)

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§ 4404Q.4 *(2008 - 4404Q.2) Pre-operating requirements.* An institution authorized to engage in trust and other fiduciary business shall, before engaging in actual operations, submit to the BSP the following:

a. Government securities acceptable to the BSP amounting to P500,000 as minimum basic security deposit for the faithful performance of trust and other fiduciary duties required under Subsec. 4405Q.1;

b. Organization chart of the trust department which shall carry out the trust and other fiduciary business of the institution; and

c. Names and positions of individuals designated as chairman and members of the trust committee, trust officer and other subordinate officers of the trust department with their respective bio-data and statement of duties and responsibilities.

Sec. 4405Q Security for the Faithful Performance of Trust and Other Fiduciary Business.

§ 4405Q.1 *Basic security deposit.* An institution authorized to engage in trust and other fiduciary business shall deposit with the Bangko Sentral eligible government securities as security for the faithful performance of its trust and other fiduciary duties equivalent to at least one percent (1%) of the book value of the total volume of trust, other fiduciary and investment management assets: *Provided,* That at no time shall such deposit be less than ₱500,000.

Scripless securities under the Registry of Scripless Securities (RoSS) System of the Bureau of Treasury (BTr) may be used as basic security deposit for trust and other fiduciary duties using the Guidelines enumerated in *Appendix Q-21* of this Manual.

The security for the faithful performance of PERA Administrator shall be separately accounted for and calculated as prescribed under Section 4960Q and *Appendix Q-21a* of this Manual.

(*As amended by Circular Nos. 878 dated 22 May 2015 and 509 dated 01 February 2006)*

§ 4405Q.2 *Eligible securities.* Government securities which shall be deposited in compliance with the above basic security deposit shall consist of:

a. Evidences of indebtedness of the Republic of the Philippines and of the Bangko Sentral and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines; and such other kinds of securities which may be declared eligible by the Monetary Board: *Provided,* That such securities shall be free, unencumbered, and not utilized for any other purpose: *Provided, further,* That such securities shall have remaining maturities of not more than three (3) years from the date of deposit with the Bangko Sentral;

b. NDC Agri-Agra ERAP Bonds, regardless of remaining maturities;

c. Five (5) - and Ten (10) - year Special Purpose Treasury Bonds (SPTBs) provided such bonds shall not be hypothecated in any way or earmarked for any other purpose and they meet the three (3)-year remaining maturity requirement to ensure that such bonds are liquid;

d. Securities backed by the unreleased Internal Revenue Allotments (IRA) of LGUs (issued by a Special Purpose Trust administered by the DBP under the IRA Monetization Program of the Union of Local Authorities of the Philippines) the release of which IRA on scheduled date of payment has been certified by the DBM as not being subject to any conditionalities: *Provided*, That such securities shall be eligible only to the extent of the present value of the bond computed using the original yield to maturity (as of auction/ issue date): *Provided, further,* That for reserve for trust and other fiduciary duties, the remaining maturities of the securities shall not exceed three (3) years; and

e. Zero Coupon Bond Issue by the HGC of up to ₱7.0 billion five (5)-year regular series and up to ₱3.0 billion seven (7)-year special series to finance its guaranty servicing of socialized and low-cost housing projects: *Provided*, That they meet the three (3)-year remaining maturity requirement to ensure that such bonds are liquid: *Provided, further,* That such bonds shall qualify as eligible reserve for trust and other fiduciary duties only to the extent of the present value of the bond computed using the original yield to maturity (as of auction/issue date).

f. Tobacco Excise Tax Receivable Monetization Program Investment Certificates (TEXTR Certificates) backed by receivables representing the unreleased portion of the obligation of the National Government to its LGUs for their share of the Tobacco Excise Taxes under R.A. No. 7171 amounting to ₱1.85 billion and covering the years 2001 and 2002: *Provided*, That such securities shall be eligible only to the extent of the present value of the securities computed using the original yield to maturity as of auction/issue date.

g. Securities received, pursuant to the Domestic Debt Exchange Offer of the Republic of the Philippines, in exchange for securities that are eligible reserves for trust duties.

(As amended by Circular No. 509 dated 01 February 2006)

§ 4405Q.3 ***Valuation of securities and basis of computation of the basic security deposit requirement.*** For purposes of determining compliance with the basic security deposit under this Section, the amount of securities so deposited shall be based on their book value, that is, cost as increased or decreased by the corresponding discount or premium amortization.

The base amount for the basic security deposit shall be the average of the month-end balances of total trust, investment management and other fiduciary assets of the immediately preceding calendar quarter.

§ 4405Q.4 ***Compliance period; sanctions.*** The trustee or fiduciary shall have thirty (30) calendar days after the end of every calendar quarter within which to deposit with the Bangko Sentral the securities required under this Section.

The following sanctions shall be imposed for any deficiency in the basic security deposit for the faithful performance of trust and other fiduciary duties:

a. On the QB:

i. Monetary penalty/ies:

Penalty per Calendar Day

QBs with Full Trust Authority and with Trust Assets of

Trust Asset Size \ Offense	First	Second	Third and subsequent offense(s)
Up to P500 million	P600.00	P700.00	P800.00
Above P500 million but not exceeding P1 billion	P1,000.00	P1,250.00	P1,500.00
Above P1 billion but not exceeding P10 billion	P2,000.00	P3,000.00	P4,000.00
Above P10 billion but not exceeding P50 billion	P5,000.00	P6,000.00	P7,000.00
Above P50 billion	P8,000.00	P9,000.00	P10,000.00

ii. Non-monetary penalty beginning with the third offense (all QBs) - Prohibition against the acceptance of new trust and other fiduciary accounts, and from renewing expiring trust and other fiduciary contracts up to the time the violation is corrected.

b. On the trust officer and/or other officer(s) responsible for the deficiency/ non-compliance:

(1) *First offense* - warning that subsequent violations shall be dealt with more severely;

(2) *Second offense* - written reprimand with a stern warning that subsequent violations shall be subject to suspension;

(3) *Third offense* - thirty (30) calendar day-suspension without pay; and

(4) *Subsequent offense(s)* - sixty (60) calendar day-suspension without pay.

For purposes of determining the frequency of the violation, the QB's compliance profile for the immediately preceding three (3) years or twelve (12) quarters will be reviewed: *Provided*, That for purposes of determining appropriate penalty on the trust officer and/or other responsible officer(s), any offense committed outside the preceding three (3) year or twelve (12) quarter-period shall be considered as the first offense: *Provided, further*, That in the case of trust officer, all offenses committed by him in the past as trust officer of other institution(s) shall also be considered: *Provided, finally,* That if the offense cannot be attributed to any other officer of the QB, the trust officer shall be automatically held responsible since the ultimate responsibility for ensuring compliance with the regulation rests upon him, as evidence may warrant.

(As amended by Circular Nos. 617 dated 30 July 2008 and 585 dated 15 October 2007)

§ 4405Q.5 *Reserves against peso-denominated Common Trust Funds and Trust and Other Fiduciary Accounts-Others.*

a. *Reserves against peso-denominated CTFs*. In addition to the basic security deposit, an institution authorized to engage in trust and other fiduciary business shall maintain reserves on -

(1) peso-denominated CTF; and

(2) such other managed peso funds which partake the nature of collective investment of a peso-denominated CTF as may be indicated by the presence of the following features:

(a) The funds are composed of contributions from two (2) or more investors;

(b) The funds are managed/administered as a vehicle for collective investment and reinvestment;

(c) The trustee/administrator/agent has the exclusive management and control over the funds and the sole right at any time to sell, convert, invest, exchange, transfer or otherwise change or dispose of the assets comprising the funds; and

(d) Investments/contributions to, or withdrawals from, the funds are being allowed at anytime or as of a fixed date in the future, and/or the income, net of all expenses incurred in the management of the fund plus the fee of the trustee/administrator/agent, are being distributed among the participants of the funds, without the need to liquidate all assets of the funds.

The reserves as amended to be maintained shall be twenty percent (20%)[1].

b. *Reserves against TOFA - Others.* In addition to the basic security deposit, institutions authorized to engage in trust and other fiduciary business shall maintain reserves on TOFA - Others, except accounts held under *(1) Administratorship; (2)Trust Under Indenture; (3) Custodianship and Safekeeping; (4) Depository and Reorganization; (5) Employee Benefit Plans Under Trust; (6) Escrow; (7) Personal Trust (testamentary and living trust); (8) Executorship; (9) Guardianship; (10) Life Insurance Trust; (11) Pre-need Plans (institutional/individual); (12) Personal Equity and Retirement Account (PERA); and (13) Legislated and Quasi-Judicial Trust.*

The reserves to be maintained shall be seventeen percent (17%)[1].

(As amended by Circular Nos. 906 dated 10 March 2016, 890 dated 02 November 2015, 878 dated 22 May 2015, 832 dated 27 May 2014, 830 dated 03 April 2014, 753 dated 29 March 2012, 551 dated 17 November 2006 and 539 dated 09 August 2006)

[1] Reserve week starting 11 April 2014, the required reserves shall be as follows:
For reserves against peso –denominated CTFs – 19%; and
For reserves against TOFA-Others – 16%
Increase in reserve requirements shall take effect on the reserve week starting 30 May 2014.

§ 4405Q.6 *Composition of reserves.* The provisions of Section 4254Q shall govern the composition of reserves against peso-denominated CTFs and such other managed peso funds, as well as reserves against TOFA-Others of institutions authorized to engage in trust and other fiduciary business.

For purposes of this Subsection, a separate deposit account shall be maintained by the institutions with the Bangko Sentral exclusively for trust reserves which deposits in compliance with the reserve requirement shall no longer be paid interest effective 06 April 2012.
(As amended by Circular No. 753 dated 29 March 2012)

§ 4405Q.7 *Computation of reserve position.* An institution authorized to engage in trust and other fiduciary business shall calculate daily the required and available reserves on the value per books of its peso-denominated CTFs and such other managed peso funds, as well as on TOFA-Others, based on the seven-day week, starting Friday and ending Thursday including Saturdays, Sundays, holidays, non-business days and days when there is no clearing: *Provided,* That with reference to holidays, non-business days and days where there is no clearing, the reserve position at the close of business day immediately preceding such holidays, non-business days and days where there is no clearing, shall apply thereon. For the purpose of computing reserve position, the principal office in the Philippines and all branches and agencies located therein shall be treated as a single unit.

The required reserves in the current period (reference reserve week) shall be computed based on the corresponding levels of peso-denominated CTFs and such other managed peso funds, as well as TOFA-Others of the prior week.

For purposes of computing the required and available statutory and liquidity reserves for peso-denominated CTFs and such other managed peso funds, as well as TOFA-Others, the term *value per books* shall refer to the total volume of CTFs, other managed peso funds, as well as TOFA-Others less booked "Allowance for Probable Losses".
(As amended by Circular No. 535 dated 04 July 2006)

§ 4405Q.8 *Reserve deficiencies; sanctions.* The provisions of Section 4257Q shall govern the computation of reserve deficiencies for peso-denominated CTFs and such other managed peso funds, as well as for TOFA-Others, of institutions authorized to engage in trust and other fiduciary business, including the sanctions provided in said Subsection.

§ 4405Q.9 *Report of compliance.* Every institution shall make a weekly report to the Bangko Sentral of its daily required and available reserves on peso-denominated CTFs and such other managed peso funds, as well as on TOFA-Others, to be submitted not later than the close of the third business day following the reference week.

Sec. 4406Q Organization and Management.

§ 4406Q.1 *Organization.* An institution authorized to engage in trust and other fiduciary business shall, pursuant to Subsec. 4404Q.1, include in its by-laws, provisions on the organization plan or structure of the department, office or unit which shall conduct such business. The by-laws shall also include provisions on the creation of a trust committee, the appointment of a trust officer and other subordinate officers and a clear definition of their duties and responsibilities as well as their line and staff functional relationships within the organization which shall be in accordance with the following guidelines:

a. Trust and other fiduciary business of an institution shall be carried out through a trust department which shall be organizationally, operationally, administratively and functionally separate and distinct from the other departments and/or businesses of the institution.

An institution which is also engaged in investment management activities shall conduct the same only through its trust department and the responsibilities of the board of directors, trust committee and trust officer shall be construed to include the proper administration and management of investment management activities.

No institution shall undertake any of the trust and other fiduciary business and, whenever applicable, investment management activities outside the direct control, authority and management of the trust department or through any department or office which is involved in the other businesses of the institution, such as the Treasury, Funds Management or any similar department; otherwise, any such business shall be considered part of the institution's real liabilities.

The institution proper and the trust department may share the following activities: (1) electronic data processing; (2) credit investigation; (3) collateral appraisal; and (4) messengerial, janitorial and security services.

b. The trust department, trust officer and other subordinate officers of the trust department shall only be directly responsible to the institution's trust committee which shall, in turn, be only directly responsible to the institution's board of directors.

No director, officer or employee taking part in the management of trust and other fiduciary accounts shall perform duties in other departments or the audit committee of the institution and vice versa. However, branch managers duly authorized by the board of directors may, for or on behalf of the officer, sign predrawn trust instruments such as CTFs.

c. The organization structure and definition of duties and responsibilities of the trust committee, officers and employees of the trust department shall reflect adherence to the minimum internal control standards prescribed by the Bangko Sentral.

d. Provisions shall be made by the institution to have legal assistance readily available in the review of proposed and/or existing trust and fiduciary agreements and documents and in the handling of legal and tax matters related thereto.

§ 4406Q.2 *Composition of trust committee.* The Trust Committee (TC) shall be composed of at least five (5) members including the (1) president or any senior officer of the NBFI and (2) the trust officer. The remaining committee members, including the chairperson, may be any of the following: (1) non-executive directors[1] or independent directors[2] who are both not part of the audit committee; or (2) those considered as qualified *"independent professionals"*: *Provided*, That, the Philippine branch of a foreign bank may appoint its resident manager or chief executive officer in lieu of the president while the positions allotted for members of the board may be filled up by the area manager and/or officers/representatives from the Head Office, or affiliates or subsidiaries of the head office who are not involved in audit-related activities: *Provided, further*, That in case of more than five (5) trust committee membership, majority shall

[1] As defined under Subsec. 4141Q.1
[2] As defined under Subsec. 4141Q.2

be composed of qualified non-executive members.

A qualified *"independent professional"* shall refer to a person who –

1. is not a director/officer/employee of the NBFI during the last twelve (12) months counted from the date of committee membership;
2. is not a relative within the fourth degree of consanguinity or affinity, legitimate or common-law of any executive director or those involved in the day to day management of institution's operations or officer of the NBFI; and
3. is not engaged or does not engage in any transactions with the NBFI whether by himself or with other persons or through a firm of which he is a partner, other than transactions which are conducted at arms length and could not materially interfere with or influence the exercise of his judgment.

An independent professional may be appointed as a TC member of other NBFIs that belong to the same financial conglomerate.

For purposes of this Subsection, the definition of *officer* under Subsections X142.1/X4142Q shall apply.

(As amended by Circular No. 766 dated 17 August 2012)

§ 4406Q.3 ***Qualifications of committee members, officers and staff.*** The trust entity shall be staffed by persons of competence, integrity and honesty. Directors, committee members and officers charged with the administration of trust and other fiduciary activities shall, in addition to meeting the qualification standards prescribed for directors and officers of NBFIs or for qualified *"independent professionals"*, possess the necessary technical expertise and relevant experience in such business which may be indicated by any of the following:

a. at least one (1) year of actual experience in trust, other fiduciary business, or investment management activities;

b. at least three (3) years of professional experience in relevant field such as banking, finance, economics, law, and risk management;

c. completion of at least ninety (90) training hours on trust, other fiduciary business, or investment management activities acceptable to the Bangko Sentral; or

d. completion of a relevant global or local professional certification program.

A TC member should be familiar with Philippine laws, rules and regulations on trust business, as well as uphold at all times ethical and good governance standards.

The trust officer who shall be appointed shall possess any of the following:

a. at least five (5) years of actual experience in trust operations;

b. at least three (3) years of actual experience in trust operations and must have:

(1) completed at least ninety (90) training hours in trust, other fiduciary business, or investment management activities acceptable to the Bangko Sentral; or

(2) completed a relevant global or local professional certification program; or

c. at least five (5) years of actual experience as an officer of a NBFI and must have:

(1) completed at least ninety (90) training hours in trust, other fiduciary business, or investment management activities acceptable to the Bangko Sentral; or

(2) completed a relevant global or local professional certification program.

For the purpose of this Subsection, *actual experience* refers to exposures in trust operations either as officer of a trust entity or member of trust committee.

(As amended by Circular Nos. 766 dated 17 August 2012 and 665 dated 04 September 2009)

§ 4406Q.4 *Responsibilities of administration*

a. Board of Directors (BOD)

The responsibilities of the BOD in relation to trust activities of NBFI shall be those set forth under Subsec 4141Q.3. The BOD shall ensure an appropriate degree of independence between the activities of the NBFI proper and its trust department.

b. Trust Committee (TC)

The TC is a special committee which reports directly to the board of directors and is primarily responsible for overseeing the fiduciary activities of the NBFI. In discharging its function, it shall:

(1) ensure that fiduciary activities are conducted in accordance with applicable laws, rules and regulations, and prudent practices;

(2) ensure that policies and procedures that translate the board's objectives and risk tolerance into prudent operating standards are in place and continue to be relevant, comprehensive and effective;

(3) oversee the implementation of the risk management framework and ensure that internal controls are in place relative to the fiduciary activities;

(4) adopt an appropriate organizational structure/staffing pattern and operating budgets that shall enable the trust department to effectively carry out its functions;

(5) oversee and evaluate performance of the trust officer;

(6) conduct regular meetings at least once every quarter, or more frequently as necessary, depending on the size and complexity of the fiduciary business; and

(7) report regularly to the BOD on matters arising from fiduciary activities.

c. Trust Officer

The management of day-to-day fiduciary activities shall be vested in the trust officer. In this regard, the trust officer shall:

(1) ensure adherence to the basic standards in the administration of trust, other fiduciary and investment management accounts pursuant to *Appendix Q-48*;

(2) develop and implement relevant policies and procedures on fiduciary activities;

(3) observe sound risk management practices and maintain necessary controls to protect assets under custody and held in trust or other fiduciary capacity;

(4) carry out investment and other fiduciary activities in accordance with agreements with clients and parameters set by the Trust Committee as approved by the board of directors;

(5) report regularly to the Trust Committee on business performance and other matters requiring its attention;

(6) maintain adequate books, records and files for each trust or other fiduciary account and provide timely and regular disclosure to clients on the status of their accounts; and

(7) submit periodic reports to regulatory agencies on the conduct of the trust operations.

(As amended by Circular No. 766 dated 17 August 2012)

§ 4406Q.5 - 4406Q.8 *(Reserved)*

§ 4406Q.9 *Outsourcing services in trust departments.* The rules on outsourcing of banking functions as shown in *Appendix Q-37* shall be adopted insofar as they are applicable to trust departments of QBs performing trust and other fiduciary business and investment management activities.

(M-2007-009 dated 22 March 2007, as amended by Circular no. 764 date 03 August 2012)

§ 4406Q.10 ***Confirmation of the appointment/designation of trust officer and independent professional.*** An independent professional and trust officer must be fit and proper to discharge their respective functions. In determining whether a person is fit and proper for the position, regard shall be given to the following: Integrity/probity, physical/mental fitness, competence, relevant education/ financial literacy/training, diligence and knowledge/experience.

The appointment or designation of independent professional and trust officer shall be subject to confirmation by the Monetary Board. The bio-data of the proposed independent professional and trust officer shall be submitted to the Bangko Sentral, in a prescribed form indicated in *Appendix Q-3*, within seven (7) banking days from approval of the board of directors. Moreover, the independent professional shall certify that he/she possesses the qualifications as herein prescribed and that all the information thereby supplied are true and correct.

If after evaluation, the Monetary Board shall find grounds for disqualification, the concerned NBFI shall be informed thereof and the independent professional and trust officer so appointed or delegated shall be removed from office even if he/she has assumed the position to which he/she was appointed or delegated.

(Circular No. 665 dated 04 September 2009 and CL-2011-045 dated 01 July 2011, as amended by Circular Nos. 766 dated 17 August 2012 and 758 dated 11 May 2012)

Sec. 4407Q Non-Trust, Non-Fiduciary and/ or Non-Investment Management Activities The basic characteristic of trust, other fiduciary and investment management relationship is the absolute non-existence of a debtor-creditor relationship, thus, there is no obligation on the part of the trustee, fiduciary or investment manager to guarantee returns on the funds or properties regardless of the results of the investment. The trustee, fiduciary or investment manager is entitled to fees/commissions which shall be stipulated and fixed in the contract or indenture and the trustor or principal is entitled to all the funds or properties and earnings less fees/commissions, losses and other charges. Any agreement/arrangement that does not conform to these shall not be considered as trust, other fiduciary or investment management relationship.

The following shall not constitute a trust, other fiduciary and/or investment management relationship:

a. When there is a preponderance of purpose or of intent that the arrangement creates or establishes a relationship other than a trust, fiduciary and/or investment management;

b. When the agreement or contract is itself used as a certificate of indebtedness in exchange for money placement from clients and/or as the medium for confirming placements and investment thereof;

c. When the agreement or contract of an account is accepted under the signature(s) of those other than the trust officer or subordinate officer of the trust department or those authorized by the board of directors to represent the trust officer;

d. Where there is a fixed rate or guaranty of interest, income or return in favor of its client or beneficiary: *Provided, however,* That where funds are placed in fixed income-generating investments, a quotation of *income expectation* or like terms, shall neither be considered as arrangements with a fixed rate nor a guaranty of interest, income or return when the agreement or indenture categorically states in bold letters that the quoted income expectation or like terms is neither assured nor guaranteed by the trustee or fiduciary and it does not, therefore, entitle the client to a fixed interest or return on his investments: *Provided, further,* That any of the following practices or practices similar and/or tantamount thereto shall be construed as fixing or guaranteeing the rate of interest, income or return:

(1) Issuance of certificates, side agreements, letters of undertaking, or other similar documents providing for fixed rates or guaranteeing interest, income or return;

(2) Paying trust earnings based on indicated or expected yield regardless of the actual investment results;

(3) Increasing or reducing fees in order to meet a quoted or expected yield; and

(4) Entering into any arrangement, scheme or practice which results in the payment of fixed rates or yield on trust investments or in the payment of the indicated or expected yield regardless of the actual investment results; and

e. Where the risk or responsibility is exclusively with the trustee, fiduciary or investment manager in case of loss in the investment of trust, fiduciary or investment management funds, when such loss is not due to the failure of the trustee or fiduciary to exercise the skill, care, prudence and diligence required by law.

Trust, other fiduciary and investment management activities involving any of the foregoing which are accepted, renewed or extended after 16 October 1990 shall be reported as deposit substitutes and shall be subject to the reserve requirement for deposit substitutes from the time of inception, without prejudice to the imposition of the applicable sanctions provided for in Sections 36 and 37 of R.A. No. 7653, and Sections 12 and 16 of P.D. No. 129, as amended.

Sec. 4408Q Unsafe and Unsound Practices. Whether a particular activity may be considered as conducting business in an unsafe or unsound manner, all relevant facts must be considered. An analysis of the impact thereof on the QB's/trust entity's operations and financial conditions must be undertaken, including evaluation of capital position, asset condition, management, earnings posture and liquidity position. In determining whether a particular act or omission, which is not otherwise prohibited by any law, rule or regulation affecting QBs/trust entities may be deemed as conducting business in an unsafe or unsound manner, the Monetary Board, upon report of the head of the SES based on findings in an examination or a complaint, shall consider any of the following circumstances:

a. The act or omission has resulted or may result in material loss or damage, or abnormal risk or danger to the safety, stability, liquidity or solvency of the institution;

b. The act or omission has resulted or may result in material loss or damage or abnormal risk to the institution's depositors, creditors, investors, stockholders, or to the Bangko Sentral, or to the public in general;

c. The act or omission has caused any undue injury, or has given unwarranted benefits, advantage or preference to the QB/trust entity or any party in the discharge by the director or officer of his duties and responsibilities through manifest partiality, evident bad faith or gross inexcusable negligence; or

d. The act or omission involves entering into any contract or transaction manifestly and grossly disadvantageous to the QB/trust entity whether or not the director or officer profited or will profit thereby.

The list of activities which may be considered unsafe and unsound is shown in *Appendix Q-24*.

In line with the statement of principles governing trust and other fiduciary business under Sec. 4401Q, the trustee, fiduciary or investment manager shall desist from the following unsound practices:

a. Entering in an arrangement whereby the client is at the same time the borrower of his own fund placement, or whereby the trustor or principal is a borrower of other trust, fiduciary or investment management funds belonging to the same family or business group of such trustor or principal;

b. Granting loans or accommodations to any trust committee member, officer and employee of the trust department except where such loans are obtained by said persons as members of an employee benefit fund of the trustee's own institution;

c. Borrowing from, or selling trust, other fiduciary and/or investment management assets to, the trust corporation or IH proper to cover portfolio losses and/or to guarantee the return of principal or income;

d. Granting new loans to any borrower who has a past due and/or classified loan account with the institution itself or its trust department; and

e. Requiring clients to sign documents in blank.

(As amended by Circular No. 640 dated 16 January 2009)

§§ 4408Q.1 - 4408Q.8 *(Reserved)*

§ 4408Q.9 *Sanctions.* The Monetary Board may, at its discretion and based on the seriousness and materiality of the acts or omissions, impose any or all of the following sanctions provided under Section 37 of R.A. No. 7653 and Section 56 of R.A. No. 8791, whenever a QB/trust entity conducts business in an unsafe and unsound manner:

a. Issue an order requiring the QB/trust entity to cease and desist from conducting business in an unsafe and unsound manner and may further order that immediate action be taken to correct the conditions resulting from such unsafe or unsound practice;

b. Fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed P30,000 a day on a per transaction basis taking into consideration the attendant circumstances, such as the gravity of the act or omission and the size of the QB/trust entity to be imposed on the QB/trust entity, their directors and/or responsible officers;

c. Suspension of lending or foreign exchange operations or authority to accept new deposit substitutes and/or new trust accounts or to make new investments;

d. Suspension of responsible directors and/or officers;

e. Revocation of quasi-banking license and/or trust authority; and/or

f. Receivership and liquidation under Section 30 of R.A. No. 7653.

All other provisions of Sections 30 and 37 of R.A. No. 7653, whenever appropriate, shall also be applicable on the conduct of business in an unsafe or unsound manner.

The imposition of the above sanctions is without prejudice to the filing of appropriate criminal charges against culpable persons as provided in Sections 34, 35 and 36 of R.A. No. 7653.

Sec. 4409Q Trust and Other Fiduciary Business. The conduct of trust and other fiduciary business shall be subject to the following regulations.

§ 4409Q.1 *Minimum documentary requirements.* Each trust or fiduciary account shall be covered by a written document establishing such account, as follows:

a. In the case of accounts created by an order of the court or other competent authority, the written order of said court or authority.

b. In the case of accounts created by corporations, business firms, organizations or institutions, the voluntary written agreement or indenture entered into by the parties, accompanied by a copy of the board resolution or other evidence authorizing the establishment of, and designating the signatories to, the trust or other fiduciary account.

c. In the case of accounts created by individuals, the voluntary written agreement or indenture entered into by the parties.

The voluntary written agreement or indenture shall include the following minimum provisions:

(1) Title or nature of contractual agreement in noticeable print;

(2) Legal capacities, in noticeable print, of parties sought to be covered;

(3) Purposes and objectives;

(4) Funds and/or properties subject of the arrangement;

(5) Distribution of the funds and/or properties;

(6) Duties and powers of trustee or fiduciary;

(7) Liabilities of the trustee or fiduciary;

(8) Reports to the client;

(9) Termination of contractual arrangement and, in appropriate cases, provision for successor-trustee or fiduciary;

(10) The amount or rate of the compensation of trustee or fiduciary;

(11) A statement in noticeable print to the effect that trust and other fiduciary business are not covered by the PDIC and that losses, if any, shall be for the account of the client; and

(12) Disclosure requirements for transactions requiring prior authority and/ or specific written investment directive from the client, court of competent jurisdiction or other competent authority.

§ 4409Q.2 *Lending and investment disposition.* Assets received in trust or in other fiduciary capacity shall be administered in accordance with the terms of the instrument creating the trust or other fiduciary relationship.

When a trustee or fiduciary is granted discretionary powers in the investment disposition of trust or other fiduciary funds and unless otherwise specifically enumerated in the agreement or indenture and directed in writing by the client, court of competent jurisdiction or other competent authority, loans and investments of the fund shall be limited to:

a. Evidences of indebtedness of the Republic of the Philippines and of the Bangko Sentral, and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines or loans against such government securities;

b. Loans fully guaranteed by the Republic of the Philippines as to the payment of principal and interest;

c. Loans fully secured by a hold-out on, assignment or pledge of deposit substitutes of the institution or deposits with other banks, or mortgage and chattel mortgage bonds issued by the trustee or fiduciary;

d. Loans fully secured by real estate or chattels in accordance with Section 78 of R.A. No. 337, as amended, and subject to the requirements of Sections 75, 76 and 77 of R.A. No. 337, as amended; and

e. Placements in the Bangko Sentral Term Deposit Facility (TDF) and the Overnight Deposit Facility (ODF) subject to the applicable provisions of Sec. 4601Q and *Appendix Q-47a*.

The specific directives required under this Subsection shall consist of the following information:

(1) The transaction to be entered into;

(2) The borrower's name;

(3) Amount involved; and

(4) Collateral security(ies), if any.

(As amended by Circular No. 913 dated 02 June 2016, M-2013-021 dated 17 May 2013, M-2012-034 dated 13 July 2012, M-2007-038 dated 29 November 2007 and M-2007-011 dated 08 May 2007)

§ 4409Q.3 *Transactions requiring prior authority.* A trustee or fiduciary shall not undertake any of the following transactions for the account of a client, unless prior to its execution, such transaction has been fully disclosed and specifically authorized in writing by the client, beneficiary, other party-in-interest, court of competent jurisdiction or other competent authority:

a. Lend, sell, transfer or assign money or property to any of the departments, directors, officers, stockholders or employees of the trustee or fiduciary, or relatives within the first degree of consanguinity or affinity, or the related interests of such directors, officers and stockholders; or to any corporation where the trustee or fiduciary owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity;

b. Purchase or acquire property or debt instruments from any of the departments, directors, officers, stockholders, or employees of the trustee or fiduciary, or relatives within the first degree of consanguinity or affinity, or the related interest of such directors, officers and stockholders; or from any corporation where the trustee or fiduciary owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity;

c. Invest in equities of, or in securities underwritten by, the trustee or fiduciary or a corporation in which the trustee or fiduciary owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity; and

d. Sell, transfer, assign, or lend money or property from one trust or fiduciary account to another trust or fiduciary account except where the investment is in any of those enumerated in Items *"a"* to *"d"* of Subsec. 4409Q.2.

Directors, officers, stockholders, and their related interest covered by this Subsection shall be those considered as such under existing regulations on loans to DOSRI in Part III-E of this Manual. The procedural and reportorial requirements in said regulations shall also apply.

The disclosure required under this Subsection shall consist of the following minimum information:

(1) The transactions to be entered into;

(2) Identities of the parties involved in the transactions and their relationships (shall not apply to Item *"d"* of this Subsection);

(3) Amount involved; and

(4) Collateral security(ies), if any.

The above information shall be made known to clients in a separate instrument or in the very instrument creating the trust or fiduciary relationship.

§ 4409Q.4 *Ceilings on loans.* Loans funded by trust accounts shall be subject to the single borrower's loan limit and DOSRI ceilings imposed on QBs under Part III - A and - E of this Manual. For purposes of determining compliance with said ceilings, the total amount of said loans granted by the institution and its trust department to the same person, firm or corporation shall be combined.

§ 4409Q.5 *Funds awaiting investment or distribution.* Funds held by the trustee or fiduciary awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account.

§ 4409Q.6 *Other applicable regulations on loans and investments - trust and other fiduciary accounts.* The loans and investments of trust and other fiduciary accounts shall be subject to pertinent laws, rules and regulations for QBs that shall include, but need not be limited to, the following:

a. Requirements of Sections 39 and 40 of R.A. No. 8791 (The General Banking Law of 2000);

b. Provisions of Section 4(e) of the New Rules on Registration of Short-Term Commercial Papers and Section 7(f) of the New Rules on the Registration of Long-Term Commercial Papers issued by the SEC (*Appendices Q-7* and *Q-8*).

c. Criteria for past due accounts; and

d. Qualitative appraisal of loans, investments and other assets that may require provisions for probable losses which shall be booked in accordance with the Financial Reporting Package for Trust Institutions (FRPTI);

e. Requirements of Sections 3 and 8 of the Securities and Regulation Code (SRC); and

f. Provisions of Section 44 – Investments by Philippine residents – of the BSP Manual of Regulations on Foreign Exchange Transactions (FX Manual), such that the cross-currency investments of peso trust and other fiduciary accounts, including peso unit investment trust (UIT) funds, shall be subject to the following conditions:

(1) All cash flows of the trustee or fiduciary shall only be in pesos. In case the foreign exchange acquired or received by the trustee or fiduciary as dividends/ earnings or divestment proceeds on such investment are intended for reinvestment abroad, the same proceeds are not required to be inwardly remitted and sold for pesos through authorized agent banks: *Provided,* That such proceeds are reinvested abroad within two (2) banking days from receipt of the funds abroad;

(2) The trustee or fiduciary shall purchase, invest, reinvest, sell, transfer or dispose foreign currency-denominated financial instruments, including securities as defined in Section 3 of the SRC, through a distributor or underwriter duly authorized or licensed by the government of the issuer of such instruments, or a counterparty FI (seller or buyer) accredited by the trustee or fiduciary: *Provided,* That, the conduct, documentation, and settlement of any of these transactions shall be outside Philippine jurisdiction;

(3) The trustee of fiduciary shall record cross-currency investment transactions in the peso regular books at their foreign currency amounts and their local currency equivalent using the Philippine Dealing System peso/US dollar closing rate and the New York US dollar/third currencies closing rate; and

(4) The trustee or fiduciary shall comply with the reportorial requirements that may be prescribed by the BSP, which shall include as a minimum, the foreign currency amount and the local currency equivalent of the total cross currency investments with details on: (a) type of investments; and (b) amount of cash flow converted.

For purposes of this Subsection, "*resident*", as defined under Section 1 of the FX Manual, shall refer to the (a) trustee or fiduciary that administers the assets received in trust or in other fiduciary capacity; or (b) principal that engages the services of the investment manager under an investment management agreement.

(As amended by Circular No. 676 dated 29 December 2009)

§ 4409Q.7 *Operating and accounting methodology.* Trust and other fiduciary accounts shall be operated and accounted for in accordance with the following:

a. The trustee or fiduciary shall administer, hold or manage the fund or property in accordance with the instrument creating the trust or other fiduciary relationship; and

b. Funds or property of each client shall be accounted separately and distinctly from those of other clients herein referred to as *individual account accounting*.

§ 4409Q.8 *Tax-exempt individual trust accounts.* The following shall be the features/ requirements of individual trust accounts which may be exempted from the twenty percent (20%) final tax under Section 24(B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997):

a. The tax exemption shall apply to trust indentures/agreements contracted on or after 03 January 2000;

b. The trust indenture/agreement shall only be between individuals who are Filipino citizens or resident aliens and QBs acting as trustee. The trust indenture/agreement shall be non-negotiable and non-transferable;

c. The trust indenture/agreement shall indicate that pursuant to Section 24(B)(1) of R.A. No. 8424, interest income of the trust fund derived from investments in interest-bearing instruments (e.g., time deposits, government securities, loans and other debt instruments) which are otherwise subject to the twenty percent (20%) final tax shall be exempt from said final tax provided the fund was held by the trustee-QB for at least five (5) years. If said fund was held for a period less than five (5) years interest income shall be subject to a final tax based on the following schedule –

Holding Period	Rate of Tax
Four (4) years to less than five (5) years	5%
Three (3) years to less than four (4) years	12%
Less than three (3) years	20%

Necessarily, the trust indenture/ agreement shall clearly indicate the date when the trustee-bank actually received the trust funds which shall serve as basis for determining the holding period of the funds.

d. A trustee may accept additional funds for inclusion in trust accounts which have been established as tax-exempt under R.A. No. 8424. However, the receipt of additional funds shall be properly documented by indicating that they are part of existing tax-exempt trust accounts and that the interest income of the additional funds derived from investments in interest-bearing instruments shall be exempt from the twenty percent (20%) final tax under the same conditions mentioned in the preceding item. The document shall also indicate the date when the funds were received by the trustee-bank to serve as basis for determining the minimum five (5) - year holding period for tax exemption purposes of the additional funds; and

e. Tax-exempt individual trust accounts established under this Subsec. shall be subject to the provisions of Subsecs. 4409Q.1(c) and 4409Q.2 up to 4409Q.7.

§ 4409Q.9 *Living trust accounts* The guidelines on living trust accounts are as follows:

a. *Definition. Living Trust* is defined under the Manual of Accounts for Trust, as a personal trust created by agreement. It becomes operational during the lifetime of the trustor as soon as the agreement is accomplished.

Under a living trust, the trustor (also known as settlor) conveys property or a sum of money to be managed by the trustee, as the agreement dictates, for the benefit of the trustor and third person(s) or third person(s) only. However, the trustor/s cannot create a trust with himself/ themselves as the sole beneficiary/(ies). The functions and authorities of the trustee as defined in the agreement shall include:

(1) the purpose or intention of the trust;

(2) the nature and value of the property or sum of money that comprise the trust;

(3) the trustee's investment powers;

(4) the name(s) of the beneficiaries; and

(5) the terms and conditions under which the income and/or principal of the trust is to be paid or to be disposed of during the lifetime and ultimately, upon the death of the trustor or upon the occurrence of a specified event(s).

A living trust may either be revocable or irrevocable.

b. *Minimum criteria*. In line with such definition, transactions considered as living trust accounts should meet the following minimum criteria:

(1) Minimum entry amount and maintaining balance shall at least be P100,000: *Provided*, That living trust accounts with balances of up to P500,000 shall only be invested in deposits and government securities;

(2) Living trust accounts shall be maintained for a minimum period of six (6) months. The termination of the living trust agreement, for any cause, within the minimum holding period shall render the trustor ineligible from opening a new living trust account within a period of one (1) year from termination date;

(3) Reversion of any part of the principal to the trustor, except in cases provided under the dispositive portion, shall be allowed only upon termination of the living trust agreement: *Provided,* That in no case can there be a complete or substantial reversion of the principal pursuant to the dispositive portion within the minimum holding period nor can the principal fall below P100,000;

(4) Any living trust account that does not meet the requirement on the minimum entry and minimum maintaining balance or is not invested in qualified outlets shall be considered as other fiduciary accounts subject to applicable reserve and other requirements;

(5) Pre-printed living trust agreements may be allowed for expediency: *Provided* That the sections for the trust purpose and the dispositive provision are left blank and shall only be filled-up upon the client's signing thereof. The purpose shall categorically state the real intention of the trustor, which may include, but need not be limited to:

(a) providing his/her and beneficiary/(ies) present and/or future financial support;

(b) protecting his/her beneficiary/(ies) against his/her inexperience in business matters;

(c) preventing him/her from making imprudent expenditures;

(d) prevent the beneficiary/(ies) from living beyond their means in case of outright disposition of assets in their favor;

(e) protecting the beneficiary/(ies) against unforeseen contingencies such as incompetency, incapacity, physical disability or similar misfortune; and

(f) setting aside and segregating particular assets, proceeds or payments for administration and distribution pursuant to a court decree or by agreement.

The dispositive provision should clearly and specifically define the terms and conditions under which the principal and/or income shall be distributed in order to accomplish such purpose/(s), by taking into consideration the frequency of redemption; the respective interests of each beneficiary; and to whom the proceeds shall be payable. Redemption of funds shall strictly be in accordance with the said terms and conditions; and

(6) A living trust account may be opened jointly under one (1) living trust agreement by related individuals up to the second degree of consanguinity or affinity: *Provided,* That the requirements under Item *"5"* above are fully complied with. Unrelated individuals or those beyond the second degree of consanguinity or affinity may likewise open a joint living trust account

under one (1) living trust agreement: *Provided*, That the minimum contribution of each individual is at least P100,000: *Provided further*, That the trust is for a common purpose and: *Provided, finally*, That the requirements under Item *"5"* are fully complied with.

c. *Marketing***.** Officers and personnel of the institution proper, including branch managers, shall not be allowed to market living trust products and sign pre-printed living trust agreements. However, branch managers/officers may be allowed to refer clients to the Trust Department and give short introduction on the living trust products to prospective clients.

d. *Transitory Provision***.** Outstanding living trust accounts that do not meet the foregoing additional requirements shall be given twelve (12)[1] months from 11 April 2006 to comply with the aforestated requirements; otherwise, such accounts shall be considered as Other Fiduciary Accounts subject to applicable reserve requirements.

(Next page is Part IV - Page 19)

[1] Original 6 months transitory period under Circular No. 521 extended by another 6 months under Circular No. 553.

e. *Sanctions*. Any violation of the provisions of this Subsection shall be subject to the sanctions provided under Section 37 of R.A. No. 7653 (The New Central Bank Act).

(Circular Nos. 553 dated 22 December 2006 and 521 dated 21 March 2006)

§§ 4409Q.10 - 4409Q.15 *(Reserved)*

§ 4409Q.16 *Qualification and accreditation of quasi-banks acting as trustee on any mortgage or bond issuance by any municipality, government-owned or controlled corporation, or any body politic.*

a. *Applicability*. QBs 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*. A QB 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 QB 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;

(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*. A QB 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 Q-31*.

d. *Independence of the trustee*. A QB 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 QB that will allow him or his related interests to elect at least one (1) member of the board of directors of such QB 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 QB 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, corporation, 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 a 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 QB, 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*. A QB 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 Bangko Sentral.

g. *Reportorial requirements*. A QB 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 Bangko Sentral.

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 the 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 trustees on any mortgage or bond issuance by any municipality, GOCCs, 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.

§ 4409Q.17 *Trust fund of pre-need companies*. The following rules and regulations shall govern the acceptance, management and administration of the trust funds of pre-need companies by entities authorized to perform trust and other fiduciary functions[1].

a. *Administration of trust fund.* In line with the policy of providing greater protection to pre-need planholders, prudential measures are hereby laid out in the administration of trust funds of pre-need companies. The trust fund, inclusive of earnings, shall be administered and managed by the trustee with the skill, care, prudence and diligence necessary under the circumstances then prevailing that a prudent man, acting in the same capacity and familiar with such matters, would exercise in the conduct of an enterprise of a like character and similar aims.

The trustee shall have exclusive management and control over the trust fund and the right at any time to sell, convert, invest, change, transfer or otherwise dispose of the assets comprising the funds.

b. *Trustee*. No trust entity shall act as a trustee or administer or hold a trust fund established by a pre-need company, which is a subsidiary or affiliate, as defined under existing Bangko Sentral regulations, of such trust entity.

[1] Existing trust institutions which administered and managed trust funds as of 25 April 2006 were given up to 25 April 2007 to comply with the requirements.

Trust entities currently holding or administering trust funds of an affiliate pre-need company may continue to act as trustee of such funds after the transition period provided under Item "g" only upon prior approval of the Monetary Board on the basis of a clear showing that no potential conflict of interest will arise. An absence of any exception or finding on conflicts of interest during an examination of the trust entity shall be deemed as *prima facie* evidence that no potential conflict of interest will arise.

c. *Investment of the trust fund.* Unless otherwise allowed under existing laws or regulations issued by the agency having jurisdiction and supervision over pre-need companies, or with prior written approval by said agency, loans and investments of the trust funds shall be limited to:

(1) Evidences of indebtedness of the Republic of the Philippines and of the Bangko Sentral, and any other evidences of indebtedness or obligations wherein the servicing and repayment of which are fully guaranteed by the Republic of the Philippines or loans against such government securities;

(2) Commercial papers duly registered with the SEC with a credit rating of one (1) for short term and "AAA" for long-term or their equivalent;

(3) Loans fully guaranteed by the Republic of the Philippines, as to the payment of principal and interest;

(4) Loans fully secured by a hold-out on, assignment or pledge of deposits maintained with banks, and/or of deposit substitutes or of mortgage and chattel mortgage bonds issued by the trustee/fiduciary or by banks;

(5) Loans fully secured by real estate in accordance with Section 37 and subject to the requirements of Sections 39 and 40 of R.A. No. 8791 and their implementing regulations; and

(6) Loans fully secured by unconditional payment guarantees (such as standby letters of credit and letter of indemnity) issued by banks/multilateral FIs.

d. *Transactions with DOSRI.* The trustee shall not, for the account of the trustor or the beneficiary of the trust, purchase or acquire property from, or sell, transfer, assign or lend money or property to, or purchase debt instruments of, any of the departments, directors, officers, stockholders, employees, subsidiaries and affiliates of the trustee and/or the trustor, and relatives within the first degree of consanguinity or affinity, or the related interests, of such directors, officers and stockholders, without prejudice to any rule that may be issued by the agency having jurisdiction and supervision over such pre-need company allowing such transaction with the prior written approval of such agency. Such written approval shall clearly specify the amount of the loan and/or investment including the name of the concerned director, officer, stockholder and their related interests.

e. *Applicability of the Rules and Regulations on Trust, Other Fiduciary Business and Investment Management Activities (Trust Rules).* The provisions of the Trust Rules consistent with the provisions of this Subsection shall supplementarily apply to trust funds of pre-need companies.

f. *Penalties and sanctions.* Any violation of the provisions of this Subsection shall be a ground for prohibiting the concerned entity from accepting, managing and administering trust funds of pre-need companies without prejudice to the imposition of the applicable sanctions prescribed or allowed under the Trust Rules.

(As amended by Circular No. 890 dated 02 November 2015)

Sec. 4410Q Unit Investment Trust Funds/ Common Trust Funds[1]. The following rules and regulations shall govern the creation, administration and investment/s of Unit Investment Trust (UIT) Funds.

The rules and regulations on Common Trust Funds (CTFs) are in *Appendix Q-32*.

§ 4410Q.1 *Definition.*

a. *Unit Investment Trust (UIT) Funds*. UIT Funds are open-ended pooled trust funds denominated in pesos or any acceptable currency, which are operated and administered by a trust entity and made available by participation. The term UIT Fund is synonymous to CTFs. As an open-ended fund, participation or redemption is allowed as often as stated in its plan rules.

UIT Funds shall not include long term funds designed for the primary purpose of availing the tax incentives/exemption under Section 24(B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997).

b. *Trust entity*. *Trust entity* as defined under Sec. 4403Q.

c. *Board of directors*. For this purpose, the term shall include a trust entity's duly constituted board of directors or its functional oversight equivalent which shall include the country head in the case of foreign institutions.

d. *Collective investment scheme*. An investment vehicle where funds are solicited from investors for collective investment and which are managed for the account of such investors.

e. *Feeder fund*. A UIT Fund structure that mandates the fund to invest at least ninety percent (90%) of its assets in a single collective investment scheme.

f. *Fund-of-funds*. A UIT Fund structure that mandates the fund to invest at least ninety percent (90%) of its assets in more than one (1) collective investment scheme.

g. *Target fund*. A local or foreign collective investment scheme in which the UIT Fund invests all or a portion of its assets.

h. *Investor fund*. A UIT Fund created to take the form of a feeder fund or a fund-of-funds and is approved by the Bangko Sentral under existing Bangko Sentral regulations.

i. *Multi-class fund*. A UIT fund structure which has more than one (1) class of units in the fund and is invested in the same pool of securities and the same portfolio, investment objectives and policies.

j. *Related party/company*. For the purpose of this Section, the term refer to another entity which is the trust entity's (a) parent or holding company or (b) subsidiary or affiliate, and wholly or majority-owned or controlled-entities of such subsidiaries.

(*As amended by Circular Nos. 853 dated 21 October 2014 and 767 dated 21 September 2012)*

§ 4410Q.2 *Establishment of a Unit Investment Trust Fund.* Any trust entity authorized to perform trust functions may establish, administer and maintain one (1) or more UIT Funds subject to applicable provisions under this Section. A UIT Fund may be allowed to operate as a 1) feeder fund, 2) fund-of-funds and/or 3) multi-class fund: *Provided*, That the plan rules and related documents shall state that the UIT Fund is a feeder fund or a fund-of-funds, and/ or multi-class fund, and provide an explanation or illustration of such structures. A UIT Fund may also be allowed to have a unit-paying feature where the income of the

[1] The regulations on common trust funds (CTFs) were relocated to *Appendix Q-32*. UIT Funds regulations took effect on 01 October 2004 (effectivity of Circular 447 dated 03 September 2004).

fund is distributed in the form of units called unit income.

(As amended by Circular Nos. 876 dated 20 April 2015, 853 dated 21 October 2014 and 767 dated 21 September 2012)

§ 4410Q.3 ***Administration of a Unit Investment Trust Fund.*** The trustee shall have exclusive management and control of each UIT Fund under its administration, and the sole right at any time to sell, convert, reinvest, exchange, transfer or otherwise change or dispose of the assets comprising the fund: *Provided,* That no participant in a UIT Fund shall have or be deemed to have any ownership or interest in any particular account or investment in the UIT Fund but shall have only its proportionate beneficial interest in the fund as a whole.

§ 4410Q.4 ***Relationship of trustee with Unit Investment Trust Fund.*** A trustee administering a UIT Fund shall not have any other relationship with such fund other than its capacity as trustee of the UIT Fund: *Provided, however,* That a trustee which simultaneously administers other trust, fiduciary or investment management funds may invest such funds in the trustee's UIT Fund, if allowed under a policy approved by the board of directors.

§ 4410Q.5 ***Operating and accounting methodology.*** A UIT Fund shall be operated and accounted for in accordance with the following:

a. The total assets and accountabilities of each fund shall be accounted for as a single account referred to as *pooled-fund accounting method*. The investments of a multi-class fund shall remain as one (1) pool and are not separately allocated to classes.

b. Contributions to each fund by clients shall always be through participation in units of the fund and each unit shall have uniform rights and privileges, as any other unit; in the case of multi-class fund, units shall be issued as units in a class of a fund.

c. All such participations shall be pooled and invested as one (1) account (referred to as collective investments).

d. The beneficial interest of each participation unit shall be determined under a unitized net asset value per unit (NAVPu) valuation methodology defined in the written plan of the UIT Fund, and no participation shall be admitted to, or redeemed from, the fund or class of a fund, except on the basis of such valuation. To arrive at a fund's NAVPu, the fund's total Net Assets is divided by the total outstanding units. *Total Net Assets* is a summation of the market value of each investment less fees, taxes, and other qualified expenses, as defined under the plan rules.

When there is a different fee structure for each class, the NAVPu of each class shall be computed by dividing total net assets of a class by the total outstanding units of such class; where, the *net assets of each class* shall represent its proportionate share on the net assets of the multi-class fund less the trustee fee and expenses attributable to that class. *The net assets of the multi-class fund* is the summation of the market value of each investment less fees, taxes, and other qualified expenses, but gross of trustee fees and expenses attributable to a particular class, as defined under the plan rules.

e. For a UIT Fund with unit-paying feature, the trustee may distribute the income of the Fund subject to the minimum conditions enumerated hereunder:

(1) Distribution of income shall be made only from cash received from interest income earned and cash dividends;

(2) Distribution of income shall be made after the trust entity has taken into consideration the following:

(a) income for the period; and

(b) the investment objective and distribution policy of the fund;

(3) Distribution of income to participants shall be after deduction of taxes and expenses (net distribution);

(4) Distribution of income shall be effected through conversion of the income for distribution into its equivalent units based on the NAVPu as at the first business day when units in the fund are quoted ex-distribution[1]. Participants shall be entitled to his/her pro-rata share if said units which, on distribution date, shall be automatically considered redeemed;

(5) The Plan rules shall state the distribution policy, including the sources of income to be distributed and the intended frequency of distribution;

(6) For monitoring purposes, the trustee shall separately account for the fund's income due for distribution; and

(7) Where a distribution is made, a notice to each participant on his/her unit income shall be made available containing information on the total amount of income for distribution by the trustee, NAVPu ex-distribution and its basis, total number of units for distribution, and unit income. *Unit income* refers to the number of units for every unit held by the participant entitled for distribution.

(*As amended by Circular Nos. 876 dated 20 April 2015, 853 dated 21 October 2014)*

§ 4410Q.6 *Plan rules*. Each UIT Fund shall be established, administered and maintained in accordance with a written trust agreement drawn by the trustee, referred to as the "*Plan*" which shall be approved by the board of directors of the trustee and a copy of which shall be submitted to the Bangko Sentral for processing and approval prior to its implementation. Each new UIT Fund Plan filed for approval shall be charged a processing fee of P10,000.00.

The Plan shall contain the following minimum elements:

a. *Title of the Plan*. This shall correspond to the product/brand name by which the UIT Fund is proposed to be known and made available to its clients. The Plan rules shall state the classification of the UIT Fund (e.g., money market fund, bond fund, balanced fund and equity fund).

b. *Manner by which the fund is to be operated*. A statement of the fund's investment objectives, policies and limitations, and if applicable, income distribution policies, the distinctive features of the different classes of units such as the level of trustee fees and expenses for each class and other peculiarities which the Bangko Sentral may allow.

c. *Risk disclosure*. The Plan rules shall state both the general risks and risks specific to the type of fund.

d. *Investment powers of the trustee with respect to the fund, including the character and kind of investments, which may be purchased, by the fund.* There must be an unequivocal statement of the full discretionary powers of the trustee as far as the fund's investments are concerned. These powers shall be limited only by the duly stated investment objective and policies of the fund.

e. The unitized NAVPu valuation methodology as prescribed under Item "*d*" of Subsec. 4410Q.5 shall be employed. The plan rules shall also provide the method of determining the proportionate share of the classes of units to the value of the assets of the fund.

f. *Terms and conditions governing the admission or redemption of units of participation in the fund.* The Plan rules shall state that the trustee, prior to admission of a client's initial participation in the UIT Fund, shall conduct a client suitability assessment to profile the risk-return orientation and suitability of the client to the specific type of fund. If the frequency of admission or redemption is other than daily; that is, any business day, the same should be explicitly stated in the Plan rules: *Provided,* That the admission and

[1] Cum-distribution and ex-distribution refer to the date before and after distribution, respectively.

redemption prices shall be based on the end of day NAVPu of the fund or of the class of a fund, if applicable, computed after the cut-off time for fund participation and redemption for that reference day, in accordance with existing Bangko Sentral regulations on mark to market valuation of investment securities.

g. Aside from the regular audit requirement applicable to all trust accounts, an external audit of each UIT Fund shall be conducted annually by an independent auditor acceptable to the Bangko Sentral and the results thereof made available to participants. The external audit shall be conducted by the same external auditor engaged for the audit of the trust entity.

h. *Basis upon which the fund may be terminated.* The Plan rules shall state the rights of participants in case of termination of the fund. Termination of the fund shall be duly approved by the trustee's board of directors and a copy of the resolution submitted to the appropriate department of the Bangko Sentral.

i. *Liability clause of the trustee.* There must be a clear and prominent statement adjacent to where a client is required to sign the participating trust agreement that (1) the UIT Fund is a trust product and not a deposit account or an obligation of, or guaranteed, or insured by the trust entity or its affiliates or subsidiaries; (2) the UIT Fund is not insured or governed by the PDIC; (3) due to the nature of the investment, yields and potential yields cannot be guaranteed; (4) any loss/income arising from market fluctuations and price volatility of the securities held by the UIT Fund, even if invested in government securities, is for the account of the client/participant; (5) as such, the units of participation of the investor in the UIT Fund, when redeemed, may be worth more or be worth less than his/her initial investment contributions; (6) historical performance, when presented, is purely for reference purposes and is not a guarantee of similar future result; and (7) the trustee is not liable for losses unless upon willful default, bad faith or gross negligence.

j. *Amount of fees/commission and other charges to be deducted from the fund.* The amount of fees that shall be charged to a fund shall cover the fund's fair and equitable share of the routine administrative expenses of the trustee such as salaries and wages, stationery and supplies, credit investigation, collateral appraisal, security, messengerial and janitorial services, EDP expenses, Bangko Sentral supervision fees and internal audit fees. However, the trustee may charge a UIT Fund for special expenses in case such expenses are (1) necessary to preserve or enhance the value of the fund, (2) payable to a third party covered by a separate contract, and (3) disclosed to participants. The trustee shall secure prior Bangko Sentral approval for outsourcing services provided under existing regulations. No other fees shall be charged to the fund.

Sales, distribution, marketing, and/or other promotional related expenses shall be for the account of the trustee and shall be presumed covered by the trust fee.

In the case of a multi-class fund that have different level of trustee fees and expenses, there shall be a policy on the equitable allocation of any costs, charges, and expenses payable out of the multi-class fund, which are not attributable to any particular class.

k. Such other matters as may be necessary or proper to define clearly the rights of participants in the UIT Fund. The provisions of the Plan shall govern participation in the fund including the rights and benefits of persons having interest in such participation, as beneficiaries or otherwise. The Plan may be amended by a resolution of the board of directors of the trustee: *Provided, however,* That participants in the fund shall be immediately notified of such amendments and shall be allowed to withdraw their participations within a reasonable time but in no case less than thirty (30) calendar days after the amendments are approved, if they are not in conformity with the amendments made thereto: *Provided further,* That amendments to the Plan shall be submitted to the Bangko Sentral within ten (10) business days from approval of the amendments by the board of directors. For purposes of imposing monetary penalties provided under Subsec. 4192Q.2 for delayed submission of reports, the amendments to the Plan shall be considered as *"Category A-3"* report. The amendments shall be deemed approved after thirty (30) business days from date of completion of requirements.

A copy of the Plan shall be available at the principal office of the trustee during regular office hours, for inspection by any person having an interest in the fund or by his authorized representative. Upon request, a copy of the Plan shall be furnished such interested person.

(As amended by Circular Nos. 876 dated 20 April 2015, 853 dated 21 October 2014 and 593 dated 08 January 2008)

§ 4410Q.7 *Minimum disclosure requirements.*

a. *Key Information and Investment Disclosure Statement (KIIDS).* This *document* shall contain the key features and the prospective and outstanding investments of a UIT Fund. It shall use plain language presented in a concise manner, and shall comply substantially with the format prescribed in *Appendix Q-34*. This document shall be updated and made available to participants at least every calendar quarter thereof.

For investments of feeder funds/fund-of-funds, the trustee shall likewise make available to all UIT Fund clients all relevant information on the target fund/s.

For a UIT Fund with unit-paying feature, the KIIDS shall include the intended frequency of income distribution and the last five (5) distribution dates, with information on the unit income and the distribution yield: *Provided,* That the KIIDS shall disclose that distributions are not guaranteed and are determined by the trustee in accordance with the plan rules; and that income distribution may result in an immediate decrease in NAVPu by the amount of the distribution.

b. *Distribution of investment units.* The trustee may issue such conditions or rules, as may affect the distribution of investment units subject to the minimum conditions enumerated hereunder.

(1) *Marketing materials.* All marketing materials related to the sale of a UIT Fund shall clearly state:

(a) The designated name and classification of the fund, the fund's trustee, and the classes of a UIT Fund, if any.

(b) Minimum information regarding:

(i) The general investment policy and applicable risk profile. There shall be a clear description/explanation of the general risks attendant with investing in a UIT Fund, including risk specific to a type of fund. Technical terms should likewise be defined in laymen's terms[1].

(ii) Particulars including administrative and marketing details, such as but not limited to, pricing, cut-off time for participation and redemption, early redemption penalty/ies, and any special features of the UIT Fund, as applicable. For a UIT Fund with unit-paying feature, the marketing materials shall provide relevant information on this feature including, but not limited to, disclosures that distributions are not guaranteed and shall be determined by the trustee in accordance with the plan

1 Example: "Fixed income securities" does not really mean a guarantee of fixed earnings on the investor's participation; "Risk-free" government securities which may be sovereign risk-free but not interest rate risk-free.

rules; and that income distribution may result in an immediate decrease in NAVPu by the amount of distribution.

(iii) All charges made/to be made against the Fund or class of a UIT Fund, including trust fees and other related charges.

(iv) The availability of the Plan Rules governing the Fund, upon the client's request and the contact details of the trustee.

(v) Client and Product Suitability Standards. Prior to admission, the trustee shall perform a client profiling process for all UIT Fund participants under the general principles on client suitability assessment to guide the client in choosing investment outlets that are best suited to his objectives, risk tolerance, preferences and experience. The profiling process shall, at the minimum, require the trustee to obtain client information through the Client Suitability Assessment (CSA) form, classify the client according to his financial sophistication and communicate the CSA results to the subject client. The general principles on CSA shall also require the trustee to adopt a notice mechanism whereby clients are advised and/or reminded of the explicit requirement to notify the trustee or its UIT Fund marketing personnel of any change in their characteristics, preferences or circumstances to enable the trustee to update client's profile at least every three (3) years.

(c) The participation is not a "deposit account" but a trust product; and that any loss/income is for the account of the participant; that the trustee is not liable for losses unless upon willful default, bad faith or gross negligence.

(d) A balanced assessment of the possible gains and losses of the UIT Fund and that the participation does not carry any guaranteed rate of return, and is not insured by the PDIC.

(e) An advisory that the investor must read the complete details of the fund in the Plan Rules, make his/her own risk assessment, and when necessary, he/she must seek independent/professional opinion, before making an investment.

(2) *Evidence of participation*. Every UIT Fund participant shall be given –

(a) A participating trust agreement. Such agreement shall clearly indicate that (1) the UIT Fund is a trust product and not a deposit account or an obligation of, or guaranteed, or insured by the trust entity or its affiliates or subsidiaries; (2) the UIT Fund is not insured or governed by the PDIC; (3) due to the nature of the investment, yields and potential yields cannot be guaranteed; (4) any loss/income arising from market fluctuations and price volatility of the securities held by the UIT Fund, even if invested in government securities, is for the account of the client/participant; (5) as such, the units of participation of the investor in the UIT Fund, when redeemed, may be worth more or be worth less than his/her initial investment/contributions; (6) historical performance, when presented, is purely for reference purposes and is not a guarantee of similar future result; and (7) the trustee is not liable for losses unless upon willful default, bad faith or gross negligence.

In addition to the agreement, every UIT Fund participant shall be provided with –

(1) CSA form to be accomplished during the profiling process required under the general principles on CSA. This is designed to ensure that based on relevant information about the client, his investment profile is matched against the investment parameters of the UIT Fund. At the minimum, client information shall include personal or institutional data, investment objective, investment horizon, investment experience, and risk tolerance; and

(2) Risk disclosure statement, which in reference to Item "c" of Subsec. 4410Q.6, shall describe the attendant general and specific risks that may arise from investing

in the UIT Fund. This statement shall be accomplished by the client every time he participates in a different fund and shall be substantially in the form as shown in *Annex A* of *Appendix Q-34a*.

Both documents shall be signed by the client/participant and the UIT marketing personnel who assessed and explained to the concerned client his/her ability to bear the risks and potential losses.

(b) A confirmation of participation and redemption made to/from the fund that shall contain the following information:

(i) NAVPu of the fund on day of purchase /redemption;

(ii) Number of units purchased/ redeemed; and

(iii) Absolute peso or foreign currency value.

No indicative rates of return shall be provided in the trust participating agreement. Marketing materials may present relevant historical performance purely for reference and with clear indication that past results do not guarantee similar future results.

(3) A participating trust agreement or confirmation of contribution/redemption need not be manually signed by the trustee or his authorized representative if the same is in the form of an electronic document that conforms with the implementing rules and regulations of R.A. No. 8792, otherwise known as the E-Commerce Act.

c. *Regular computation and availability of NAVPu and other information.* The trustee managing a UIT Fund shall:

(1) Compute the NAVPu daily;

(2) Publish at least weekly the NAVPu in one (1) or more newspapers of national circulation: *Provided*, That a pooled weekly publication of such NAVPu shall be considered as substantial compliance with this requirement. The said publication, at a minimum, shall clearly state the name of the fund, its general classification, the fund's NAVPu and the moving return on investment (ROI) of the fund on a year-to-date (YTD) and year-on-year (YOY) basis; and

(3) Make available the historical net asset value per unit, declaration of trust or its equivalent document, disclosure documents, and other pertinent information about a UIT Fund via its website or the Trust Officers Association of the Philippines (TOAP)-administered website. For a UIT Fund with unit-paying feature, it shall also disclose when there is an income declaration, the total amount of income for distribution, NAVPu ex-distribution and its basis, total number of units for distribution, unit income and historical distributions, if any.

d. *Marketing personnel.* The trustee shall ensure that there are board-approved policies and procedures covering the following:

(1) Duties and responsibilities of all UIT Marketing personnel;

(2) Conduct of due diligence check on the fitness and propriety of all UIT marketing personnel which includes monitoring and reviewing on an ongoing basis their performance; and

(3) Conduct of continuing training and education especially on updates relative to the fund products.

For purposes of this Subsection, a UIT Fund may be sold by a bank employee belonging to the same financial conglomerate as the trustee, subject to the provision of the cross-selling framework.

To ensure the competence and integrity of all duly designated UIT marketing personnel, all personnel involved in the sales of these funds shall be required to undergo standardized training program in accordance with the guidelines of this Subsection. This training program may be conducted by their respective trust entities

in accordance with the minimum training program guidelines provided by the TOAP. Such training program shall however be regularly validated by TOAP.
(As amended by Circular Nos. 876 dated 20 April 2015, 852 dated 21 October 2014, 767 dated 21 September 2012 and 593 dated 08 January 2008)

§ 4410Q.8 ***Exposure limits.*** The combined exposure of the UIT Fund to any entity and its related parties shall not exceed fifteen percent (15%) of the market value of the UIT Fund: *Provided,* That, a UIT Fund invested, partially or substantially, in exchange traded equity securities shall be subject to the fifteen percent (15%) exposure limit to a single entity/issuer: *Provided, further,*That, in the case of an exchange traded equity security which is included in an index and tracked by the UIT Fund, the exposure of the UIT Fund to a single entity shall be the actual benchmark weighting of the issuer or fifteen percent (15%), whichever is higher.

This limitation shall not apply to non-risk assets as defined by the Bangko Sentral.

In the case of feeder fund/fund-of-funds, the exposure limit shall be applied on the target fund's underlying investments. Notwithstanding said limit, if the target fund is allowed by its respective regulatory authority to invest in units/shares of other open-ended CIS, the exposure limit prescribed by said regulatory authority shall instead apply. Furthermore, the investments in any one target fund shall not exceed ten percent (10%) of the total net asset value of the target fund.

In case the limits prescribed above are breached due to the marking-to-market of certain investment/s or any extraordinary circumstances, e.g., abnormal redemptions which are beyond the control of the trustee, the trustee shall be given thirty (30) days from the time the limit is breached, or in case of investor funds thirty (30) days from date of receipt of report indicating the net asset value of the fund, to correct the same.
(As amended by Circular Nos. 907 dated 10 March 2016, 767 dated 21 September 2012 and 577 dated 17 August 2007)

§ 4410Q.9 ***Allowable investments and valuation.*** UIT Fund investments shall be limited to bank deposits and the following financial instruments:

(a) Securities issued by or guaranteed by the Philippine government, or the Bangko Sentral;

(b) Tradable securities issued by the government of a foreign country, any political subdivision of a foreign country or any supranational entity;

(c) Exchange-listed securities;

(d) Marketable instruments that are traded in an organized exchange;

(e) Loans traded in an organized market;

(f) Loans arising from repo agreements which are transacted through an exchange recognized by the SEC, subject to the condition that the repo contracts may be pre-terminated lawfully by the trust entity administering the UITF and acting as lender, with due notice to its counterparty and the market operator;

(g) Units/shares in collective investment schemes (CIS), i.e., target fund, shall include exchange traded fund (ETF) and other CIS, subject to the following:

(1)The investment objectives of the target fund are aligned with that of the investor fund;

(2) The underlying investments of target funds are limited to the allowable investment outlets set forth in this subsection;

(3) The target fund is neither structured nor similarly structured as a feeder fund or fund-of-funds; and

(4) The target fund is supervised by a regulatory authority, as follows:

(i) a local target fund shall either be approved by the Bangko Sentral or registered with the SEC.

(ii) A target fund constituted in another jurisdiction shall be registered/authorized/approved, as the case may be, and is recognized as a collective investment scheme in its home jurisdiction by a regulatory authority that is a member of the International Organization of Securities Commissions (IOSCO); or any regulatory authority acceptable to the Bangko Sentral to supervise the CIS.

(h) Such other tradable investments outlets/categories as the Bangko Sentral may allow:

Provided, That the investment of the peso UIT Fund in tradable foreign currency denominated financial instruments shall be subject to Items *"e"* and *"f"* of Subsec. 4409Q.6.

Provided, further, That a financial instrument is regarded as tradable if quoted two-way prices are readily and regularly available from an exchange, dealer, broker, industry group, pricing service or regulatory agency, and those prices represent actual and regularly occurring market transactions on an arm's length basis: *Provided, finally,* That the financial instrument is easy to realize upon sale at any time.

The UIT Fund may avail itself of financial derivatives instruments solely for the purpose of hedging risk exposures of the existing investments of the Fund, provided these are accounted for in accordance with existing Bangko Sentral hedging guidelines as well as the trust entity's risk management and hedging policies duly approved by the Trust Committee and disclosed to participants.

The use of hedging instruments shall also be disclosed in the *"Plan"* as provided in Item *"c"* of Subsec. 4410Q.6 and specified in the KIIDS as provided in Item *"a"* of Subsec. 4410Q.7.

(As amended by Circular Nos. *907 dated 10 March 2016, 876 dated 20 April 2015, 852 dated 21 October 2014 and 767 dated 21 September 2012, M-2010-033 dated 04 October 2010, Circular Nos. 676 dated 29 December 2009 and 675 dated 22 December 2009)*

§ 4410Q.10 *Other related guidelines on valuation of allowable investments.*

a. In pricing debt securities, the provision of *Appendix Q-20a* under the *"Other Guidelines"* section shall apply for non-benchmark securities.

b. In case outstanding UIT Fund investments may deteriorate in quality, i.e., no longer tradable as defined under Subsec. 4410Q.9, the trustee shall immediately provision to reflect fair value in accordance with generally accepted accounting principles or as may be prescribed by the Bangko Sentral. If no fair value is available, the instrument shall be assumed to be of no market value.

(As amended by Circular No. 813 dated 27 September 2013)

§ 4410Q.11 *Unit investment trust fund administration support.*

a. *Backroom operations*. Administrative rules on backroom under Sec. 4421Q shall be applicable to UIT Fund. Adequate systems to support the daily marking-to-market of the fund's financial instruments shall be in place at all times. In this respect, a daily reconcilement of the fund's resultant marked-to-market value with the unrealized market losses and gains (respective contra asset balance) versus the book value of the fund for investments in financial instruments shall be done and all differences resolved within the day.

b. *Custody of securities*. Investments in securities of a UIT Fund shall be held for safekeeping by Bangko Sentral accredited third party custodians which shall perform independent marking-to-market of such securities.

Investments in target funds of a UIT Fund structured as an investor fund shall be held for safekeeping by an institution registered/authorized/approved by a relevant regulatory authority in its home jurisdiction to act as third party custodian.

(As amended by Circular No. 767 dated 21 September 2012)

§ 4410Q.12 *Counterparties.*

a. *Dealings with related interests/trust entity other than stand-alone trust corporation proper/holding company/ subsidiaries/ affiliates and related companies.* A trustee of a UIT Fund shall be transparent at all times and maintain an audit trail for all transactions with related parties or entities. The trustee shall observe the principle of best execution and no purchase/sale shall be made with related counterparties without considering at least two (2) competitive quotes from other sources.

Consistent with the provisions of Subsec. 4410Q.4, a trustee may invest the funds of a UIT Fund structured as an investor fund in a target fund that is administered by the trustee or its related party/company: *Provided,* That:

(i) there shall be no cross-holding between the investor fund and the target fund, where cross-holding refers to the holding of shares/units of participation in one another by two (2) or more funds;

(ii) all initial charges on the target fund are waived; and

(iii) the trust/management fee shall be charged only once, either at the level of the investor fund or at level of the target fund.

b. *Accreditation of counterparties.* The Fund shall only invest with approved counterparties qualified in accordance with the policy duly approved by the TC. Counterparties shall be subject to appropriate limits in accordance with sound risk management principles.

(As amended by Circular No. 767 dated 21 September 2012)

§ 4410Q.13 *Foreign currency denominated unit investment trust funds.* UIT Fund denominated in any acceptable foreign currency provided under existing Bangko Sentral rules and regulations may be established. Such fund may only be invested in allowable investments denominated in pesos or any acceptable foreign currency as expressly allowed under the fund's Plan rules and properly disclosed to fund participants.

§ 4410Q.14 *Exemptions from statutory and liquidity reserves, single borrowers limit, directors, officers, stockholders and their related interest.* The provisions on reserves, single borrower's limit and DOSRI ceilings under Secs. 4330Q and 4331Q, respectively, applicable to trust funds in general shall not be made applicable to UIT Funds.

Sec. 4411Q Investment Management Activities. The conduct of investment management activities shall be subject to the following regulations.

§ 4411Q.1 *Minimum documentary requirements.* An investment management account (IMA) shall be covered by a written document establishing such account, as follows:

a. In the case of accounts created by corporations, business firms, organizations or institutions, the voluntary written agreement or indenture entered into by the parties, accompanied by a copy of the board resolution or other evidence authorizing the establishment of, and designating the signatories, to the investment management account.

b. In the case of accounts created by individuals, the voluntary written agreement or indenture entered into by the parties.

The voluntary written agreement or contract shall include the following minimum provisions:

(1) Pre-numbered contractual agreement form;

(2) Title or nature of contractual agreement in noticeable print;

(3) Legal capacities, in noticeable print, of parties sought to be covered;

(Next Page is Part IV - Page 29)

(4) Purposes and objectives;

(5) The initial amount of funds and/or value of securities subject of the arrangement delivered to the investment manager;

(6) Statement in underlined noticeable print that:

(a) The agreement is an agency and not a trust agreement. As such, the client shall at all times retain legal title to funds and properties subject of the arrangement;

(b) The arrangement does not guaranty a yield, return or income by the investment manager. As such, past performance of the account is not a guaranty of future performance and the income of investments can fall as well as rise depending on prevailing market conditions; and

(c) The investment management agreement is not covered by the PDIC and that losses, if any, shall be for the account of the client;

(7) Duties and powers of the investment manager;

(8) Liabilities of the investment manager;

(9) Reports to the client;

(10) The amount or rate of the compensation of the investment manager;

(11) Terms and conditions governing withdrawals from the account;

(12) Termination of contractual arrangement; and

(13) Disclosure requirements for transactions requiring prior authority and/or specific written investment directives from the client.

A sample investment management agreement which conforms to the foregoing requirements is shown as *Appendix Q-14*.

§ 4411Q.2 *Minimum size of each investment management account.* No IMA shall be accepted or maintained for an amount less than P1.0 million. An IMA reduced to less than P1.0 million due to investment losses shall be exempt from this requirement.

§ 4411Q.3 *Commingling of funds* Two (2) or more individual IMAs shall not be commingled except for the purpose of investing in government securities or in duly registered commercial papers: *Provided,* That the participation of each of the aforementioned accounts in the commingled account shall not be less than P1 million: *Provided, further,* That such commingling has been fully disclosed and specifically agreed in writing by the clients.

§ 4411Q.4 *Lending and investment disposition.* Assets received in investment management capacity shall be administered in accordance with the terms of the instrument creating the investment management relationship.

When an investment manager is granted discretionary powers in the investment disposition of investment management funds and unless otherwise specifically enumerated in the agreement or indenture and directed in writing by the client, loans and investments of the fund shall be limited to:

a. Evidences of indebtedness of the Republic of the Philippines and of the BSP, and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines or loans against such government securities;

b. Loans fully guaranteed by the Republic of the Philippines as to the payment of principal and interest;

c. Loans fully secured by a hold-out on, assignment or pledge of deposit substitutes maintained with the institution or deposits with banks, or mortgage and chattel mortgage bonds issued by the investment manager; and

d. Loans fully secured by real estate or chattels in accordance with Section 78 of

R.A. No. 337, as amended, and subject to the requirements of Sections 75, 76 and 77 of R.A. No. 337, as amended.

The specific directives required under this Subsection shall consist of the following information:

(1) The transaction to be entered into;
(2) Borrower's name;
(3) Amount involved; and
(4) Collateral security(ies), if any.

§ 4411Q.5 *Transactions requiring prior authority.* An investment manager shall not undertake any of the following transactions for the account of a client, unless prior to its execution, such transaction has been fully disclosed and specifically authorized in writing by the client:

a. Lend, sell, transfer or assign money or property to any of the departments, directors, officers, stockholders, or employees of the investment manager, or relatives within the first degree of consanguinity or affinity, or the related interests of such directors, officers and stockholders; or to any corporation where the investment manager owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity;

b. Purchase or acquire property or debt instruments from any of the departments, directors, officers, stockholders, or employees of the investment manager, or relatives within the first degree of consanguinity or affinity, or the related interests of such directors, officers and stockholders; or from any corporation where the investment manager owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee nor in a representative capacity;

c. Invest in equities of or in securities underwritten by the investment manager or a corporation in which the investment manager owns at least fifty percent (50%) of the subscribed capital or voting stock in its own right and not as trustee, nor in a representative capacity; and

d. Sell, transfer, assign or lend money or property from one trust fiduciary or IMA to another trust, fiduciary or IMA except where the investment is in any of those enumerated in Items "*a*" to "*d*" of Subsec. 4411Q.4.

Directors, officers, stockholders and their related interest covered by this Subsection shall be those considered as such under existing regulations on loans to DOSRI under Part III - E of this Manual. The procedural and reportorial requirements in said regulations shall also apply.

The disclosure required under this Subsec. shall consist of the following minimum information:

(1) The transactions to be entered into;
(2) Identities of the parties involved in the transaction and their relationships (shall not apply to Item "*d*" of this Subsec.);
(3) Amount involved; and
(4) Collateral security(ies), if any.

The above information shall be made known to clients in a separate instrument or in the very instrument creating the investment management relationship.

§ 4411Q.6 *Title to securities and other properties.* Securities such as promissory notes, shares of stocks, bonds and other properties of the portfolio shall be issued or registered in the name of the principal or of the investment manager: *Provided,* That in case of the latter, the instrument shall indicate that the investment manager is acting in a representative capacity and that the principal's name is disclosed thereat.

§ 4411Q.7 *Ceilings on loans.* Loans funded by IMAs shall be subject to the DOSRI ceilings imposed on QBs in Part III - E of this Manual. For purposes of determining compliance with said ceilings, the total amount of said loans granted by the institution and its trust department to the same person, firm or corporation shall be combined.

§ 4411Q.8 *Other applicable regulations on loans and investments - investment management account.* The loans and investments of IMAs shall be subject to pertinent laws, rules and regulations for QBs that shall include, but need not be limited to, the following:

a. Requirements of Sections 39 and 40 of R.A. No. 8791 (The General Banking Law of 2000);

b. Provisions of Section 4(e) of the New Rules on Registration of Short-Term Commercial Papers and Section 7(f) of the New Rules on Registration of Long-Term Commercial Papers issued by the SEC *(Appendices Q-7* and *Q-8)*;

c. Criteria for past due accounts;

d. Qualitative appraisal of loans, investments and other assets that may require provision for probable losses which shall be booked in accordance with the FRPTIs;

e. Requirements of Sections 3 and 8 of the SRC; and

f. Provisions of Section 44 – Investments by Philippine Residents – of the FX Manual, such that the cross-currency investments of peso IMAs, shall be subject to the following conditions:

(1) All cash flows of the investment manager shall only be in pesos. In case the foreign exchange acquired or received by the principal as dividends/earnings or divestment proceeds on such investment are intended for reinvestment abroad, the same proceeds are not required to be inwardly remitted and sold for pesos through authorized agent banks: *Provided*, That such proceeds are reinvested abroad within two (2) banking days from receipt of the funds abroad;

(2) The investment manager shall purchase, invest, reinvest, sell, transfer or dispose foreign currency-denominated financial instruments, including securities as defined in Section 3 of the SRC, through a distributor or underwriter duly authorized or licensed by the government of the issuer of such instruments, or a counterparty FI (seller or buyer) authorized in writing by the principal and/or accredited by the investment manager: *Provided*, That, the conduct, documentation, and settlement of any of these transactions shall be outside Philippine jurisdiction;

(3) The investment manager shall record cross-currency investment transactions in the peso regular books at their foreign currency amounts and their local currency equivalent using the Philippine Dealing System peso/US dollar closing rate and the New York US dollar/third currencies closing rate; and

(4) The investment manager shall comply with the reportorial requirements that may be prescribed by the BSP, which shall include as a minimum, the foreign currency amount and the local currency equivalent of the total cross currency investments with details on: (a) type of investments; and (b) amount of cash flow converted.

For purposes of this Subsection, *"resident"*, as defined under Section 1 of the FX Manual, shall refer to the principal that engages the services of the investment manager under an investment management agreement.

(Circular No. 676 dated 29 December 2009)

§ 4411Q.9 *Operating and accounting methodology.* IMAs shall be operated and accounted for in accordance with the following:

a. The investment manager shall administer, hold or manage the fund or property in accordance with the instrument creating the investment management relationship; and

b. Funds or property of each client shall be accounted separately and distinctly from those of other clients herein referred to as *individual account accounting*.

(As amended by Circular No. 676 dated 29 December 2009)

§ 4411Q.10 *Tax-exempt individual investment management accounts*. The following shall be the features/requirements of IMAs of individuals which may be exempted from the twenty percent (20%) final tax under Section 24(B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997):

a. The tax exemption shall apply to investment management agreements contracted on or after 03 January 2000;

b. The investment management agreement shall only be between individuals who are Filipino citizens or resident aliens and investment manager banks. The agreement shall be non-negotiable and non-transferable;

c. The minimum amount of investment for an IMA shall be P1.0 million;

d. The investment management agreement shall indicate that pursuant to Section 24(B)(1) of R.A. No. 8424, interest income of the investment management funds derived from investments in interest-bearing instruments (e.g., time deposits, government securities, loans and other debt instruments) which are otherwise subject to the twenty percent (20%) final tax, shall be exempt from said final tax provided the funds are held under investment management by the investment manager for at least five (5) years. If said funds are held by the investment manager for a period less than five (5) years, interest income shall be subject to a final tax which shall be deducted and withheld from the proceeds of the IMA based on the following schedule–

Holding Period	Rate of Tax
Four (4) years to less than five (5) years	5%
Three (3) years to less than four (4) years	12%
Less than three (3) years	20%

Necessarily, the investment management agreement shall clearly indicate the date when the investment manager actually received the funds which shall serve as basis for determining the holding period of the funds;

e. The investment manager may accept additional funds for inclusion in IMAs which have been established as tax-exempt under R.A. No. 8424. However, the receipt of additional funds shall be properly documented by indicating that they are part of existing tax-exempt IMAs and that the interest income of the additional funds derived from investments in interest bearing instruments shall be exempt from the twenty percent (20%) final tax under the same conditions mentioned in the preceding item. The document shall also indicate the date when the additional funds were received by the investment manager bank to serve as basis for determining the minimum five (5)-year holding period for tax exemption purposes of the additional funds; and

f. Tax-exempt individual IMAs established under this Subsection shall be subject to the provisions of Subsecs. 4411Q.1(b) and 4411Q.2 up to 4411Q.8.

Sec. 4412Q (Reserved)

Sec. 4413Q Required Retained Earnings Appropriation. An institution authorized to engage in trust and other fiduciary business shall, before the declaration of dividends, carry to retained earnings appropriated for trust business at least ten percent (10%) of its net profits realized out of its trust, investment management and other fiduciary business since the last preceding dividend declaration until the retained earnings shall amount to twenty percent (20%) of its authorized capital stock and no part of such retained earnings shall at any time be paid out in dividends but losses accruing in the course of its business may be charged against surplus.

B. INVESTMENT MANAGEMENT ACTIVITIES

Sec. 4414Q Authority to Perform Investment Management. An IH may act as financial consultant, investment adviser or portfolio manager under Section 7 of P.D. No. 129, as amended. However, this shall not be construed as authority to engage in trust and other fiduciary business. Entities whose articles of incorporation[1] or any amendments thereto, include the purpose or power to act as financial consultant, investment adviser or portfolio manager shall secure the prior favorable recommendation of the Monetary Board before the filing of said articles of incorporation or amendments thereto with the SEC.

If an entity is found to be engaged in unauthorized investment management activities, whether as its primary, secondary or incidental business, the Monetary Board may impose administrative sanctions against such entity or its principal officers and/or majority stockholders or proceed against them in accordance with law.

The Monetary Board may take such action as it may deem proper such as, but may not be limited to, requiring the transfer or turnover of any IMA to duly incorporated and licensed entities of the choice of the client.

An entity not authorized to engage in investment management activities shall not advertise or represent itself as being engaged in investment management activities or represent itself as investment manager or use words of similar import.

Starting year 2001, IHs authorized to engage in investment management activities shall renew their existing licenses yearly, subject to the implementing guidelines to be issued thereon.

(As amended by CL-2008-078 dated 15 December 2008, CL-2008-053 dated 21 August 2008 and CL-2008-007 dated 21 January 2008)

§ 4414Q.1 *Prerequisites for engaging in investment management activities.* An entity before it may engage in investment management activities shall comply with the same pre-requisites for engaging in trust and other fiduciary business set forth in Subsec. 4404Q.3 however, the following terminologies shall then be used:

a. *Authority to engage in investment management activities* in lieu of acting as trustee or administering any trust or holding property in trust or on deposit for the use, or in behalf of others;

b. *Investment management activities* in lieu of trust and other fiduciary business;

c. *Investment Management Committee* in lieu of Trust Committee;

d. *Investment Management Officer* in lieu of Trust Officer; and

e. *Investment Management Department* in lieu of Trust Department.

Compliance with the foregoing, as well as with other requirements under existing regulations, shall be maintained up to the time the investment management authority is granted. An applicant that fails in this respect shall be required to show compliance for another test period of the same duration.

(As amended by Circular No. 756 dated 24 April 2012)

§ 4414Q.2 *Pre-operating requirements* An institution authorized to engage in investment management activities shall, before engaging in actual operations, submit to the Bangko Sentral the following:

a. Government securities acceptable to the Bangko Sentral amounting to P500,000 as minimum basic security deposit for the faithful performance of investment management duties required under Subsec. 4415Q.1;

b. Organization chart of the investment management department which shall carry out the investment management activities of the institution; and

[1] SEC Memorandum Circular Nos. 5 dated 17 July 2008, 3 dated 16 February 2006 and 14 dated 24 October 2000.

c. Names and positions of individuals designated as chairman and members of the investment management committee, investment management officer and other subordinate officers of the investment management department.

Sec. 4415Q Security for the Faithful Performance of Investment Management Activities

§ 4415Q.1 ***Basic security deposit.*** An institution authorized to engage in investment management activities shall deposit with the Bangko Sentral eligible government securities as security for the faithful performance of its investment management activities equivalent to at least one percent (1%) of the book value of the total volume of investment management assets: *Provided,* That at no time shall such deposit be less than P500,000.

Scripless securities under the RoSS system of the BTr may be used as basic security deposit for the faithful performance of investment management activities using the guidelines in *Appendix Q-21*.

§ 4415Q.2 ***Eligible securities.*** Securities enumerated in Subsec. 4405Q.2 shall be eligible as security deposit for faithful performance of investment management activities.

§ 4415Q.3 ***Valuation of securities and basis of computation of the basic security deposit requirement.*** For purposes of determining compliance with the basic security deposit under this Section, the amount of securities so deposited shall be based on their book value, that is, cost as increased or decreased by the corresponding discount or premium amortization.

The base amount for the basic security deposit shall be the average of the month-end balances of the total assets of investment management funds of the immediately preceding calendar quarter.

§ 4415Q.4 *Compliance period; sanctions.* The investment manager shall have thirty (30) calendar days after the end of every calendar quarter within which to deposit with the BSP securities required under this Section.

The following sanctions shall be imposed for any deficiency in the basic security deposit for the faithful performance of investment management activity:

a. On the QB:

i. Monetary penalty/ies:

		Offense / Trust Asset Size	First	Second	Third and subsequent offense(s)
Penalty per Calendar Day	QBs with Full Trust Authority and with Trust Assets of	Up to P500 million	P600.00	P700.00	P800.00
		Above P500 million but not exceeding P1 billion	P1,000.00	P1,250.00	P1,500.00
		Above P1 billion but not exceeding P10 billion	P2,000.00	P3,000.00	P4,000.00
		Above P10 billion but not exceeding P50 billion	P5,000.00	P6,000.00	P7,000.00
		Above P50 billion	P8,000.00	P9,000.00	P10,000.00

ii. Non-monetary penalty beginning with the third offense (all QBs) - Prohibition against the acceptance of new IMAs, and from renewing expiring investment management contracts up to the time the violation is corrected.

b. On the Head of the Investment Management Department and/or other officer(s) responsible for the deficiency/ non-compliance:

(1) *First offense* - warning that subsequent violations shall be dealt with more severely;

(2) *Second offense* - written reprimand with a stern warning that subsequent violations shall be subject to suspension;

(3) *Third offense* - thirty (30) calendar day-suspension without pay; and

(4) *Subsequent offense(s)* - sixty (60) calendar day-suspension without pay.

For purpose of determining the frequency of the violation the QB's compliance profile for the immediately preceding three (3) years or twelve (12) quarters will be reviewed: *Provided*, That for purposes of determining appropriate penalty on the head of the Investment Management Department and/or other responsible officer(s), any offense committed outside the preceding three (3) year or twelve (12) quarter-period shall be considered as the first offense: *Provided, further,* That in the case of the head of the Investment Management Department, all offenses committed by him in the past as the head of the Investment Management Department of other institution(s) shall also be considered: *Provided, finally,* That if the offense cannot be attributed to any other officer of the QB, the head of the Investment Management Department shall be automatically held responsible since the ultimate responsibility for ensuring compliance with the regulation rests upon him, as evidence may warrant.

(As amended by Circular Nos. 617 dated 30 July 2008 and 585 dated 15 October 2007)

Sec. 4416Q Organization and Management The provisions under Sec. 4406Q up to Subsec. 4406Q.9 shall govern the organization and management of institutions without trust license which are engaged in investment management activities only. The following terms shall, however, be used:

a. Investment management activities in lieu of trust and other fiduciary business;

b. IMAs in lieu of trust and other fiduciary accounts;

c. Investment management committee in lieu of trust committee;

d. Investment management officer in lieu of trust officer; and

e. Investment management department in lieu of trust department.

(As amended by M-2007-009 dated 22 March 2007)

Sec. 4417Q Non-Investment Management Activities. The provisions of Sec. 4407Q shall apply in determining non-investment management activities except that the terms *trust, other fiduciary, trustee* and *fiduciary* shall be disregarded.

Sec. 4418Q Unsound Practices. The provisions of Sec. 4408Q shall govern the unsound practices for IMAs.

Sec. 4419Q Conduct of Investment Management Activities. The provisions of Sec. 4411Q shall govern the conduct of investment management activities of an institution without trust license that is engaged in investment management activities.

Sec. 4420Q Required Retained Earnings Appropriation. An institution authorized to engage in investment management activities shall, before the declaration of dividends, carry to retained earnings appropriated for trust business at least ten percent (10%) of its net profits realized out of its investment management activities since the last preceding dividend declaration until the retained earnings shall amount to twenty percent (20%) of its authorized capital stock and no part of such retained earnings shall at any time be paid out in dividends, but losses accruing in the course of its business may be charged against retained earnings.

C. GENERAL PROVISIONS

Sec. 4421Q Books and Records. The institution's trust department or investment management department shall keep books and records on trust, other fiduciary and IMAs separate and distinct from the books and records of its other businesses and shall follow the FRPTI prescribed by the BSP.

Each trust, other fiduciary or IMA shall have a record separate from all other accounts except only in the case of CTFs where the trustee can maintain common records utilizing *pooled fund accounting* method for each fund: *Provided,* That the trustee shall clearly indicate in the records the trustors owning participation in the CTF and the extent of the interest of such trustors.

Books and records shall contain full information relative to each trust, other fiduciary or IMA and shall be supported by duplicate signed copies of related documents. Said records and duplicate signed copies or related documents shall be compiled and kept as to allow inspection by BSP examiners and submission of information or reports as may be required by competent authorities.

The QB's trust department or investment management department shall maintain separate general ledger accounts and other relevant sub-accounts for tax-exempt individual trust accounts, CTFs and individual management accounts established under Section 24(B)(1) of R.A. No. 8424 and Subsecs. 4409.8, 4411.9, and Item *"8"* of *Appendix Q-32*. The bank's trust department or investment management department shall also adopt appropriate systems, internal control procedures and audit trail mechanisms to ensure that the correct amount of final tax is withheld or exempted from such accounts.

(As amended by Circular No. 653 dated 05 May 2009)

Sec. 4422Q Custody of Assets. All monies, properties or securities received by an institution in its capacity as trustee, fiduciary, or investment manager shall be kept physically separate and distinct from the assets of its other businesses and shall be under the joint custody of at least two (2) persons, one of whom shall be an officer of the trust or investment management department, designated for that purpose by the board of directors.

The investment of each trust, other fiduciary or IMA shall be kept physically separated from those of other trust, other fiduciary or IMAs, and adequately identified as the assets or property of the relevant account.

Sec. 4423Q Fees and Commissions. An institution acting as trustee, fiduciary or investment manager shall be entitled to reasonable fees and commissions which shall be determined on the basis of the cost of services rendered and the responsibilities assumed: *Provided,* That where the trustee, fiduciary or investment manager is acting as such under appointment by a court, the compensation shall be that allowed or approved by the court: *Provided, further,* That in the case of CTFs, the fee which a trustee may charge each participant shall be fully disclosed by the trustee in the CTF plan, prospectus, flyers, posters and all forms of advertising materials to market the fund and in the documents given to clients as proof of participation in the fund. In no case shall such fees and commissions be based on the excess of the income of the trust, other fiduciary or investment management funds over a certain amount or percentage.

No trustee, fiduciary or investment manager shall solicit or receive rebates on commissions, fees and other payments for the services rendered to the trust, other fiduciary or IMA or beneficiaries of the trust, other fiduciary or IMA by stockbrokers, real estate brokers, insurance agents and similar persons or entities unless the rebates, fees and other payments shall accrue to the benefit of the trust, other fiduciary or IMA or the beneficiaries thereof.

Officers and employees of the trust department or investment management department of institutions, while serving as such, shall be prohibited from retaining any compensation for acting as co-trustee or fiduciary in the administration of a trust, other fiduciary or IMA.

No institution shall collect, for its own account, referral and/or arrangement fees, or any other fees that take the nature of payment to the institution from whatever source, in connection with loans sourced from trust funds managed by its trust department: *Provided,* That if such fees are collected, the same shall be properly disclosed to the trustor, and shall accrue to the benefit of the trust, in accordance with the provisions of Secs. 4401Q and 4407Q.
(As amended by Circular No. 541 dated 30 August 2006)

Sec. 4424Q Taxes. The terms and conditions of trust, other fiduciary or investment management agreements, including CTF plans, shall contain provisions regarding the applicability of regulations governing taxation on the income of trust, other fiduciary or investment management accounts. For this purpose, the trustee, fiduciary or investment manager shall maintain adequate records and shall include information such as the amount of final income tax withheld at source and the amount withheld by the trustee, fiduciary or investment manager in the periodic reports submitted to trustors, beneficiaries, principals and other parties in interest.

With respect to tax-exempt CTFs, individual trust and investment management accounts established under Section 24(B)(1) of R.A. No. 8424, the bank's trust department or investment management department shall be responsible for obtaining the tax-exemption certifications which may be required by the BIR for the interest-bearing instruments where the CTFs, individual trust funds and investment management funds will be invested. Likewise, the banks shall ensure that the correct amount of final tax on the interest income on the interest-bearing instruments is withheld/deducted from the proceeds from the CTF participation, trust or investment management account and remitted to the BIR in the event said tax becomes due such as when funds are withdrawn before the required five (5)-year holding period or when corporations happen to invest in the tax-exempt trust instruments created within the purview of R.A. No. 8424.

Sec. 4425Q Reports Required.

§ 4425Q.1 ***To trustor, beneficiary, principal.*** Every institution acting as trustee, fiduciary or investment manager shall render reports on the trust, other fiduciary or IMAs to the trustor, beneficiary, principal or other party in interest or the court concerned or any party duly designated by the court order, as the case may be, under the following guidelines:

a. The reports shall be in such forms as to apprise the party concerned of the significant developments in the administration of the account and shall consist of:

(1) A balance sheet;

(2) An income statement;

(3) A schedule of earning assets of the account; and

(4) An investment activity report;

b. Items *(3)* and *(4)* above shall include at least the following:

(1) Name of issuer or borrower;

(2) Type of instrument;

(3) Collateral, if any;

(4) Amount invested;

(5) Earning rate or yield;

(6) Amount of earnings;

(7) Transaction date; and

(8) Maturity date;

c. The reports shall be prepared in such frequency as required under the agreement but shall not in any case be longer than once every quarter; and

d. The reports shall be made available to clients not later than twenty (20) calendar days from the end of the reference date/ period in Item "c" above.

§ 4425Q.2 ***To the Bangko Sentral.*** An institution acting as trustee, fiduciary or investment manager shall submit periodic reports prescribed by the appropriate department of the SES on the institution's trust and other fiduciary business and investment management activities within the deadline indicated in *Appendix Q-3*.
(As amended by Circular No. 880 dated 22 May 2015)

§ 4425Q.3 ***Audited financial statements.*** The trust/investment management department of an institution shall adopt the provisions of the Philippine Financial Reporting Standards (PFRS)/Philippine Accounting Standards (PAS) in all respect, for purposes of preparing the AFS of its trust and other fiduciary and investment management activities. The following guidelines shall likewise be observed in the preparation of the AFS:

(a) The provisions of PFRS/PAS shall be adopted effective the annual financial statements beginning 01 January 2008;

(b) A complete set of financial statements shall comprise of the following:

(1) Balance sheet as of the end of the period;

(2) Income statement for the period;

(3) Statement of changes in accountabilities, which shall show a reconciliation of the net carrying amount at the beginning and end of the period of the following accounts:

(i) principal;

(ii) accumulated income; and

(iii) net unrealized gains/(losses) on available for sale financial assets, separately disclosing the changes in each of the foregoing accounts;

(4) Notes, which shall comprise of a summary of significant accounting policies and other disclosure requirements provided under PFRS/PAS: *Provided,* That for purposes of complying with the disclosure of the nature and extent of risks arising from financial instruments as required under PFRS 7, disclosure statements may be made based on the general categories of contractual relationships (i.e., UITF-trust, institutional-trust, and individual-trust; other fiduciary; institutional-agency, and individual-agency; and special purpose trust) of the trust/investment management department of a bank with its clients; and

(5) Balance sheet as at the beginning of the earliest comparative period when a trust/ investment management department applies an accounting policy retrospectively or when it makes a retrospective restatement of items in the financial statements, or when it reclassifies items in the financial statements.

(c) The balance sheet, income statement and statement of changes in accountabilities shall be presented for each of the general categories of contractual relationships (i.e., UITF-trust, institutionaltrust, and individual-trust; other fiduciary; institutional-agency, and individual-agency; and special purpose trust) of the trust/investment management department of an institution with its clients;

(d) Comparative information for periods before 01 January 2008 need not be presented in the AFS for the financial reporting period beginning 01 January 2008: *Provided,* That disclosure statements on the end-2007 balances of total assets of the general categories of contractual relationships of the trust/investment management department of an institution with its clients prepared based on the Generally Accepted Accounting Principles (GAAP) previously applied, shall be presented in the notes to financial statements: *Provided, further*, That comparative periods shall be presented in the AFS for the financial reporting period beginning 01 January 2009 and thereafter.

(e) The following transitory rules and regulations shall govern the accounting treatment of specific items for purposes of preparing the AFS for the financial reporting period beginning 01 January 2008:

(1) The provisions of PFRS/PAS shall only be applied to accounts outstanding as of end-December 2008;

(2) Reclassification of previously recognized financial instruments shall no longer be allowed except as allowed under existing regulations; and

(3) The fair value of ROPA and Investment Properties as of the date of transition to PFRS/PAS may be used as the deemed cost of said properties as of that date: *Provided,* That said ROPA and Investment Properties shall be subsequently accounted for in accordance with the provisions of the FRPTI.

(Circular No. 653 dated 05 May 2009)

Sec. 4426Q Audits.

§ 4426Q.1 ***Internal audit.*** The QB's internal auditor shall include among his functions, the conduct of annual audit of the trust department or investment management department. However, should the board of directors, in a resolution entered in its minutes, require the internal auditor to adopt a suitable continuous audit system to supplement and/or to replace the performance of the annual audit, the audit may be conducted in intervals commensurate with the assessed levels of risk in trust and investment management operations: *Provided*, That such intervals

shall be supported and reassessed regularly to ensure appropriateness given the current risk and volume of the trust and investment management operations. In any case, the audit shall ascertain whether the institution's trust and other fiduciary business and investment management activities have been administered in accordance with laws, Bangko Sentral rules and regulations, and sound trust or fiduciary principles.
(As amended by Circular No. 871 dated 05 March 2015)

§ 4426Q.2 *External audit.* The trust and other fiduciary business and investment management activities of an institution shall be included in the annual financial audit by independent external auditors required under Sec. 4190Q.

The audit of the assets and accountabilities of the trust department/ investment management department of an NBFI authorized to engage in trust and other fiduciary business/investment management activities, which shall cover at the minimum a review of the trust/investment management operations, practices and policies, including audit and internal control system, shall be subject to auditing standards to the extent necessary to express an opinion on the financial statements.

The audit of the trust/investment management department of an institution authorized to engage in trust and other fiduciary business/investment management activities shall be covered by a separate supplemental audit report to be submitted to the institution's board of directors and to the Bangko Sentral within the prescribed period containing, among other things, the complete set of financial statements of the trust/investment management department of an institution prepared in accordance with the provisions of Subsec. 4426Q together with the other information required by the Bangko Sentral to be submitted under Sec. 4190Q: *Provided,* That a reconciliation statement of the balance sheet in the AFS and the FRPTI shall be prepared for each of the general categories of contractual relationships (i.e., UITF-trust, institutional-trust, and individual trust; other fiduciary; institutional-agency, and individual-agency; and special purpose trust) of the trust/ investment management department of an institution with its clients following the format in *Appendix Q-50*.
(As amended by Circular No. 653 dated 05 May 2009)

§ 4426Q.3 *Board action.* A report of the foregoing audits, together with the actions thereon, shall be noted in the minutes of the board of directors of the institution.

Sec. 4427Q Authority Resulting from Merger or Consolidation. In merger of FIs, the authority to engage in trust and other fiduciary business and in investment management activities shall continue to be in effect if the surviving institution has such authority and the same has not been withdrawn by the Bangko Sentral. In case the surviving institution does not have previous authority but desires to engage in trust and other fiduciary business and in investment management activities, it shall secure the prior approval of the Monetary Board to engage in such business as part of its application for merger to enable it to incorporate such among its powers or purpose clause in its articles of incorporation, articles of merger, by-laws and such other pertinent documents. In the consolidation of FIs where the resulting entity is an entirely new one, it shall secure from the Monetary Board an authority to engage in trust and other fiduciary business or in investment management activities before it may engage in such business.

Sec. 4428Q Receivership. Whenever a receiver is appointed by the Monetary Board for an institution that is authorized to engage in trust and other fiduciary business or in investment management activities, the receiver shall, pursuant to the instructions of the Monetary Board, proceed to close the trust, other fiduciary and IMAs promptly and/ or transfer all other accounts to substitute trustees, fiduciaries or investment managers acceptable to the trustors, beneficiaries, principals or other parties in interest: *Provided,* That where the trustee, fiduciary or investment manager is acting as such under appointment by a court, the receiver shall proceed pursuant to the instructions of said court.

The guidelines on Receivership and liquidation proceedings of NBQBs are provided in *Appendix Q - 58* .
(Circular No. 719 dated 06 May 2011)

Sec. 4429Q Surrender of Trust or Investment Management License. Any NBFI which has been authorized to engage in trust and other fiduciary business or in investment management activities and which intends to surrender said authority shall file with the Bangko Sentral a certified copy of the resolution of its board of directors manifesting such intention. The appropriate department of the SES shall then conduct an examination of the institution's trust, other fiduciary business and investment management activities. If the institution is found to have satisfactorily discharged its duties and responsibilities as trustee, fiduciary or investment manager, and has provided for the orderly closure or transfer of its trust, fiduciary or IMAs, the Monetary Board, on the basis of the recommendation of the examining department, shall order the withdrawal of the institution's authority to engage in trust and other fiduciary management activities.

Secs. 4430Q - 4440Q (Reserved)

Sec. 4441Q Securities Custodianship and Securities Registry Operations[1]. The following rules and regulations shall govern securities custodianship and securities registry operations QBs/NBFIs under Bangko Sentral regulations.

The guidelines to implement the delivery of securities are provided in *Appendix Q-38*.

Violation of any provision of the guidelines in *Appendix Q-38* shall be subject to the sanctions/penalties under Subsec. 4441Q.29.
(As amended by Circular Nos. 873 dated 25 March 2015, 714 dated 10 March 2011, 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)

§ 4441Q.1 *Statement of policy.* It is the policy of the Bangko Sentral 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.

§ 4441Q.2 *Applicability of this regulation.* This regulation shall govern securities custodianship and securities registry operations of banks and NBFIs under Bangko Sentral 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 Bangko Sentral 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 maintain the stock and transfer book for shares of stock.

§ 4441Q.3 *Prior Bangko Sentral approval.* QBs/trust entities may act as securities custodian and/or registry only upon prior Monetary Board approval.

[1] Within ten (10) calendar days from 14 April 2015, all concerned banks shall submit to the Bangko Sentral a declaration on the status of compliance with the requirements on the delivery of securities sold to clients/ investors. QBs which intend to convert to another mode of delivery shall submit to the appropriate SES department wihtin ten (10) calendar days days from 14 April 2015, a Letter of Undertaking (LOU), and plan of actions for an orderly transfer of securities on or before 31 March2015 including measures undertaken/to be undertaken to ensure that the interests of the investors are adequately protected. The LOU and plan of actions shall be signed by the President or equivalent officer.

§ 4441Q.4 *Application for authority.* A QB/trust 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 institution and shall be accompanied by a certified true copy of the resolution of its board of directors authorizing the institution to engage in securities custodianship and/ or registry.

§ 4441Q.5 *Pre-qualification requirements for a securities custodian/registry.*

a. The securities custodian must be a QB under Bangko Sentral supervision that is authorized to engage in investment management (for IHs with QB authority only) or trust business. The securities registry must be a QB under Bangko Sentral supervision whether or not authorized to engage in investment management (for IHs with QB authority) or trust business;

b. It must have complied with the minimum capital accounts required under existing regulations not lower than an adjusted capital of P300 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 Bangko Sentral 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;

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; and

n. A securities custodian which provides the value-added service of securities lending involving securities that are sold, offered for sale or distributed within the Philippines must be a dulylicensed lending agent registered with the SEC.

(As amended by Circular No. 714 dated 10 March 2011)

§ 4441Q.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

i. Acts as a collecting and paying agent in respect of dividends, interest earnings or proceeds from the sale/redemption/maturity of securities held under custodianship: *Provided*, That the custodian shall immediately make known to the securities owner all collections received and payments made with respect to the securities under custody.

j. In addition to the above basic functions, it may perform the value-added service of securities lending as agent: *Provided,* That it complies with the prequalification requirements under Item *"n"* of Subsec. 4441Q.5: *Provided, further*, That the securities lending service shall be covered by a Securities Lending Authorization Agreement (SLAA) which shall be attached to the custody contract.

A securities custodian which renders the value-added service of securities lending involving securities that are sold, offered and distributed within the Philippines shall comply with the pertinent rules and regulations of the SEC on securities lending and borrowing operations.

(As amended by Circular No. 714 dated 10 March 2011)

§ 4441Q.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.

§ 4441Q.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. *Administration of securities custodianship accounts*. Securities custodianship accounts must be administered in the entity's Trust Unit.

b. *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. Securities held under custodianship shall be recorded in the books of the custodian at the face value of said securities in the other fiduciary sub-account "*Custodianship*".

c. *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.

d. *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.

e. *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.

(As amended by Circular No. 714 dated 10 March 2011)

§ 4441Q.9 ***Independence of the registry and securities custodian.*** A Bangko Sentral-accredited securities registry must be a third party that does not belong to the same financial conglomerate or banking group as that of the issuer of securities. A Bangko Sentral-accredited custodian must be a third party that does not belong to the same financial conglomerate or banking group as that of the issuer or seller of securities held under custody. A QB trust entity accredited by Bangko Sentral 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 institution is designated as custodian or sub-custodian;and

c. upon approval by the Bangko Sentral, where the purchaser is an insurance company whose custody arrangement is either governed by a global custody agreement where the QB/trust entity 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 Section shall, however, be subject to all other provisions of this Subsection.

(As amended by Circular No. 873 dated 25 March 2015)

§ 4441Q.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. 4441Q.9. Securities registered under the RoSS shall be delivered in accordance with the guidelines set forth in *Appendices Q-38* and *Q-38a*.

(As amended by Circular No. 873 dated 25 March 2015)

§ 4441Q.11 *Confidentiality.* A Bangko Sentral-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.

§ 4441Q.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 Bangko Sentral-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 Bangko Sentral-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 QB up to the original maturity of the loan or full payment thereof, whichever comes earlier.

§ 4441Q.13 *Basic security deposit.* Securities held under custodianship whether booked in the Trust Department or carried in the regular books of the QB/trust entity 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 500,000 whichever is higher.

However, securities held under custodianship where the custodian also performs securities lending as agent shall be subject to a higher basic security deposit of one percent (1%) of the total face value.

Compliance shall be in the form of government securities deposited with the Bangko Sentral eligible pursuant to existing regulations governing security for the faithful performance of trust and other fiduciary business.

(As amended by Circular No. 714 dated 10 March 2011)

§ 4441Q.14 *Reportorial requirements.* An accredited securities custodian shall comply with reportorial requirements that may be prescribed by the Bangko Sentral, which shall include as a minimum, the face and market value of securities held under custodianship.

§§ 4441Q.15 - 4441Q.28 *(Reserved)*

§ 4441Q.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. 4442Q - 4498Q (Reserved)

Sec. 4499Q Sanctions. Any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653, without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted under the circumstances 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.

In the case of non- compliance with the requirements of Sec. 4401Q and Subsecs. 4406Q.2 to 4406Q.4 and 4406Q.10 additional sanction may be imposed, which may include but not limited to curtailment of fiduciary activities and/or introduction of new business[1].

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R. A. No. 7653 on QBs, their directors and/ or officers are shown in Appendix Q-39.

(As amended by Circular No. 766 dated 17 August 2012)

PART FIVE

FOREIGN EXCHANGE OPERATIONS

Section 4501Q Authority; Coverage. With prior approval of the Monetary Board, and subject to the provisions of Article III, Chapter IV of R.A. No. 7653 and Section 7(13) of P.D. No. 129, as amended, an IH may engage in foreign exchange operations which shall be limited to the servicing of project or program requirements of the following enterprises:

a. BSP-certified export-oriented firms;

b. Board of Investments-registered export-oriented firms; and

c. Construction or service firms with overseas contracts approved by the Department of Labor and Employment.

Sec. 4502Q Specific Foreign Exchange Activities. The specific foreign exchange operations which IHs may undertake in connection with the preceding Section are:

a. Arranging or contracting of foreign loans for the account of the client firm, or contracting of foreign loans for the account of the IH for relending to the client firm, subject to pertinent Bangko Sentral rules and regulations;

b. Providing import- and export-related services to said firms such as letters of credit and other acceptable modes of payment, and the discounting of export drafts: *Provided,* That the total amount of foreign exchange transactions IHs may deal in shall not exceed the amount of the financing arranged or provided by the IH which involves the importation and exportation of related goods and services: *Provided, further,* That the amount of letters of credit outstanding of an IH shall not exceed, at any given time, twice its net worth, except as may otherwise be specifically authorized by the Monetary Board;

c. Holding foreign currency balances with foreign correspondents in connection with export-related services but in no case for speculative purposes;

d. Entering into forward foreign exchange contracts with the Bangko Sentral in connection with the foregoing activities; and/or

e. Such other related foreign exchange activities as may be approved by the Monetary Board.

Sec. 4503Q Separate Department. Any IH that may be authorized to engage in foreign exchange operations shall set up a separate department/unit to handle such operations.

Sec. 4504Q Applicability of Pertinent Bangko Sentral Rules. The foreign exchange operations of an IH are subject to all applicable Bangko Sentral rules and regulations on foreign exchange operations, including modifications thereof, considering the special nature of IH operations, and the sanctions in connection therewith.

Sec. 4505Q Aggregate Ceiling on Issuance of Guarantees.
(Deleted by Circular No. 773 dated 13 November 2012)

Secs. 4506Q - 4598Q (Reserved)

Sec. 4599Q General Provision on Sanctions. Any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R.A. No. 7653 on QBs, their directors and/or officers are shown in *Appendix Q-39*.

PART SIX

TREASURY AND MONEY MARKET OPERATIONS

A. MONETARY OPERATIONS OF THE BANGKO SENTRAL

Section 4601Q ***(2015 - Open Market Operations)*** **Monetary Operations.** Monetary operations refer to the buying/ selling of government securities, lending/ borrowing against underlying assets as collateral, acceptance of fixed-term deposits, foreign exchange swaps, and other monetary instruments of the Bangko Sentral aimed at influencing the underlying demand and supply conditions for money.

The following rules and regulations shall govern the buying and selling of government securities in the open market pursuant to Section 91 of R.A. No. 7653:

a. The Bangko Sentral may buy and sell in the open market for its own account:

(1) Evidences of indebtedness issued directly by the Government of the Philippines or by its political subdivisions; and

(2) Evidences of indebtedness issued by government instrumentalities and fully guaranteed by the Government.

The above evidences of indebtedness must be freely negotiable and regularly serviced and must be available to the general public through banks, QBs and accredited government securities dealers.

b. Outright purchases and sales of government securities shall be effected on the basis of the lowest price offered or the highest price bid.

c. Repo agreements shall be open to banks (except RBs), QBs and accredited government securities dealers and shall be made under the terms provided for in Subsec. 4601Q.1 and the following:

(1) The repo agreement may be paid at any time before maturity at the option of the issuer of the repo agreement;

(2) In the event the securities covered by the repo agreement are not repurchased by the issuer of such agreement, they may be sold in the open market or transferred to the Bangko Sentral Portfolio; and

(3) Should an issuer of a repo agreement become no longer qualified as such, its outstanding repo agreement shall immediately become due and payable. If settlement of the amount due is not made within three (3) days from the date of its disqualification, the Bangko Sentral shall proceed to collect said amount in accordance with the preceding paragraph.

d. Reverse repo agreements covering the sale of portion of the security holdings of the Bangko Sentral portfolio may be made under the terms provided for in Subsec. 4601Q.2.

(As amended by Circular No. 913 dated 02 June 2016)

§ 4601Q.1 ***(2008 - 4602Q) Repurchase Agreements with the Bangko Sentral.***

a. Repurchase agreements may be entered into with the Bangko Sentral subject to the following terms and conditions:

(1) *Rate*. The rates on repurchase transactions shall be determined by auction, based on guidelines as prescribed by the Bangko Sentral.

(2) *Term*. The tenor of the repurchase agreement shall be set by the Bangko Sentral.

(3) *Security*. Only obligations of the National Government and its instrumentalities and political subdivisions, which are fully guaranteed by the Government, with a remaining maturity of at least six (6) days and which are freely negotiable and regularly serviced, shall be eligible as underlying instruments for

repurchase agreements, subject to the collateral requirement prescribed by the Bangko Sentral.

(4) *Delivery*. Delivery of the underlying instruments shall be made to the Bangko Sentral at the prescribed time based on guidelines as prescribed by the Bangko Sentral.

(5) At the maturity of the repurchase agreement, the Bangko Sentral Treasury Department shall return the underlying instruments to the issuer of such agreement.

b. US dollar (USD) denominated repurchase agreement facility may likewise be entered into with the Bangko Sentral, subject to the following terms and conditions, and as may be provided under the repo agreement facility:

(1) *Eligible borrowers*. The USD denominated repurchase facility shall only be available to banks with legitimate foreign currency denominated funding needs as may be provided under the repurchase facility: *Provided*, That the borrowing shall be for the account of the applicant bank and shall not be used to fund liquidity requirements of foreign branches, affiliates, or subsidiaries.

(2) *Security*. Only USD denominated obligations of the National Government of the Republic of the Philippines shall be eligible as collateral.

(3) The guidelines on the availment of USD repurchase agreement with the Bangko Sentral are shown in *Appendix 86* of the MORB.

(As amended by Circular No. 913 dated 02 June 2016)

§ 4601Q.2 ***(2008 - 4602Q.1) Reverse repurchase agreements with the Bangko Sentral.*** Reverse Repurchase Agreement (RRP) refers to the Bangko Sentral's monetary instrument where the Bangko Sentral sells government securities with a commitment to buy them back at a later date. RRPs shall be open to banks (UBs/KBs and TBs) and NBQBs. These counterparties may enter into RRP transactions with the Bangko Sentral by participating in the RRP auction operation and said transactions with the Bangko Sentral shall be subject to the following terms and conditions:

a. *Rate*. The interest rate on the RRP facility shall be set by the Bangko Sentral in accordance with its monetary policy decision making.

b. *Term*. Tenors shall be set at a minimum of one (1) day (overnight) and a maximum of 364 days, or as determined by the Bangko Sentral.

c. *Auction Schedule*. RRP auctions will be held regularly based on a schedule prescribed by the Bangko Sentral.

d. *Volume*. The auction size will be determined by the Bangko Sentral based on its assessment of liquidity conditions.

e. *Eligible Security*. The underlying securities shall consist of securities representing obligations of the National Government. Such securities shall be valued at 100%. The Bangko Sentral shall prescribe the rules for the constructive delivery of securities.

f. Access to the RRP facility shall be governed by guidelines issued by the Bangko Sentral.

RRPs entered into by the Bangko Sentral with any authorized agent bank (AAB) are included in the definition of the term "*deposit substitutes*" under Sec. 22 (y) Chapter 1 of the National Internal Revenue Code of 1997.

The Bangko Sentral shall withhold twenty percent (20%) Final Withholding Tax (FWT) and five percent (5%) Gross Receipts Tax (GRT) on its RRPs, under the following guidelines:

(1) All overnight RRPs with the Bangko Sentral shall be subject to the twenty percent (20%) FWT and five percent (5%) GRT in the same manner as term RRPs, which tax is deducted on each maturity date and remitted to the BIR. These taxes shall be automatically withheld; and

(2) With respect to repurchase agreements from 01 January 2008 to 22 August 2008, the concerned QBs shall reimburse the Bangko Sentral the amount equivalent to forty percent (40%) of the twenty percent (20%) FWT due thereon. However, QBs which choose to pay the whole twenty percent (20%) FWT shall remit the amount equivalent to the sixty percent (60%) balance thereof to the BIR, through the Bangko Sentral as withholding agent. In both cases, payment of the FWT to the Bangko Sentral shall be made on or before 03 April 2009, either in full or in three (3) installments: *Provided*, That a QB which intends to pay in installments shall remit the first payment on or before 06 March 2009, the second on or before 20 March 2009 and the last on or before 03 April 2009: *Provided, further,* That payments due shall be deducted from the Regular Demand Deposit Account (RDDA) of concerned QBs. The Bangko Sentral shall issue the certificate of final withholding tax reflecting the amount of the FWT paid; and

(3) Concerned QBs shall issue the corresponding debit authority to the Bangko Sentral to cover the twenty percent (20%) FWT on their RRPs with the Bangko Sentral as mentioned in Item "2" above.

(As amended by Circular Nos. 913 dated 02 June 2016, 647 dated 03 March 2009, 636 dated 17 December 2008 and 619 dated 22 August 2008)

§ 4601Q.3 ***(2008 - 4601Q.1) Settlement procedures on the purchase and sale of government securities under the repurchase agreements with the Bangko Sentral.*** Purchase and sale of government securities under repo agreements (GS/repo agreements) between and among banks and QBs and Bangko Sentral in connection with the latter's open market operations shall be settled in accordance with the provisions of the agreement for the PhilPaSS executed on 12 December 2002 between the Bangko Sentral and IHAP and any subsequent amendments thereto.

(As superseded by the agreement between the Bangko Sentral and IHAP dated 12 December 2002, as amended by Circular No. 913 dated 02 June 2016)

§ 4601Q.4 ***(Reserved)***

§ 4601Q.5 ***Overnight deposits with the Bangko Sentral.*** The Overnight Deposit Facility (ODF) is a Bangko Sentral standing facility which allows banks (UBs/KBs and TBs), NBQBs, and trust entities to place overnight deposits with the Bangko Sentral, subject to the following terms and conditions:

a. *Rate*. The interest rate on the ODF shall be set by the Bangko Sentral in relation to the policy interest rate.

b. *Term*. Tenor shall be one (1) day only.

c. *Volume*. No limit.

d. *Operating hours*. The ODF is available on demand to eligible counterparties during trading hours as prescribed by the Bangko Sentral.

e. Access to the ODF shall be governed by guidelines issued by the Bangko Sentral.

The Bangko Sentral shall withhold the twenty percent (20%) FWT and the five percent (5%) GRT on its overnight deposit transactions, under the following guidelines:

(1) All overnight deposit transactions with the Bangko Sentral shall be subject to the twenty percent (20%) FWT and the five percent (5%) GRT which tax is deducted on each maturity date and remitted to the BIR;

(2) The Bangko Sentral Treasury Department shall automatically withhold the twenty percent (20%) FWT and the five percent (5%) GRT on the overnight deposit

of eligible counterparties with the Bangko Sentral.
(Circular No. 913 dated 02 June 2016)

§ 4601Q.6 T*he Bangko Sentral Term Deposit Facility (TDF).* The TDF is a key liquidity absorption facility of the Bangko Sentral used to withdraw liquidity from the system in bulk[1]. Term deposit transactions shall be open to banks (UBs/KBs and TBs), NBQBs, and trust entities and may be effected with the Bangko Sentral subject to the following terms and conditions:

a. *Rate*. The interest rates shall be determined by auction, based on guidelines as prescribed by the Bangko Sentral.

b. *Term*. The tenor of term deposits shall be set by the Bangko Sentral.

c. *Auction Schedule*. TDF auctions will be held on a weekly basis or as determined by the Bangko Sentral.

d. *Volume*. The auction size will be determined by the Bangko Sentral and announced with an appropriate lead time ahead of the auction date.

e. Placements in the TDF shall be governed by guidelines issued by the Treasury Department of the Bangko Sentral.

The Bangko Sentral shall withhold the twenty percent (20%) FWT and the five percent (5%) GRT on its term deposit transactions, under the following guidelines:

(1) All term deposit transactions with the Bangko Sentral shall be subject to the twenty percent (20%) FWT and the five percent (5%) GRT which tax is deducted on each maturity date and remitted to the BIR;

(2) The Bangko Sentral Treasury Department shall automatically withhold the twenty percent (20%) FWT and the five percent (5%) GRT on the term deposit of eligible counterparties with the Bangko Sentral.
(As amended by Circular No. 913 dated 02 June 2016)

§ 4601Q.7 *Bangko Sentral trading windows and services during public sector holidays.* The guidelines on Bangko Sentral's trading windows and services during public sector holidays are shown in *Appendix Q-49*.
(M-2008-025 dated 13 August 2008, as amended by Circular No. 913 dated 02 June 2016)

§ 4601Q.8 *Prohibition against funds from non-residents being accepted in the TDF and ODF.* TheTDF and ODF are monetary instruments deployed by the Bangko Sentral for the purpose of managing domestic liquidity in the financial system. These facilities should not be made available for opportunistic investment activities funded from non-resident sources. Further, placements in the TDF and the ODF are contractual in nature and thus shall be governed by the intent of the contracting parties. In keeping with the nature of these facilities, counterparties of the Bangko Sentral, shall comply with the Guidelines on the Prohibition Against the Use of Funds from Non-Resident Sources for Placements in the Bangko Sentral's TDF and the ODF shown in *Appendix Q-47*.
(Circular No. 913 dated 02 June 2016)

Sec. 4602Q Treasury Activities of BSFIs. *Statement of policy***.** The Bangko Sentral is cognizant that treasury activities may expose BSFIs to significant risks along with profitable opportunities. These regulations are being issued to set out minimum expectations on BSFIs' treasury activities pursuant to Section 4 of R.A. No. 8791 or the General Banking Law of 2000, which recognizes the authority of the Bangko Sentral to issue rules of conduct and establish standards of operation for its

[1] The TDF also refers to the Term Deposit Facility in Participation Agreements and Rules and Regulation pertaining to the Bangko Sentral facilities under the Monetary Operations System.

supervised financial institutions. These regulations, which cover the governance and operation of the trading function, among others, are aligned with the thrust of the Bangko Sentral to ensure that the activities of BSFIs are undertaken with prudence and integrity, and that these are supported by commensurate risk management systems and internal controls.

(Circular No. 889 dated 02 November 2015)

§ 4602Q.1 *Treasury operations*[1]. A BSFI's treasury activities may be a significant source of operational risk,[2] apart from giving rise to market, liquidity and credit risks[3]. Losses to the institution may arise from the failure to meet professional obligations to clients, faulty product design, unethical business practices, and the failure to execute transactional processes. The institution must likewise be cognizant of the increased exposure to reputational risk in the presence of such factors.

In this regard, the operational risk management framework for treasury activities shall include the following elements: a strong governance structure that safeguards the integrity of the Treasury unit, especially the trading function; comprehensive policies and procedures; effective internal controls; a reliable management information system that facilitates the comprehensive monitoring and timely reporting of exposures; and a robust process for dealing with clients.

The BSFI shall:

a. Conduct its treasury activities with a high degree of integrity. Consistent with the principles embodied in Subsec. 4141Q.3, the board of directors shall be primarily responsible for establishing the tone of good governance from the top and setting standards of appropriate and ethical behavior for itself, senior management, and other employees. The board shall ensure compliance with market conduct rules, and the relevant requirements and standards of any regulatory body, professional body, clearing house or exchange, or government and any of its instrumentalities/agencies.

In accordance with the board's duty to articulate acceptable and unacceptable activities, transactions and behaviors, it must adopt a code of conduct and standards of practice that are binding on the Treasury unit, especially personnel involved in risk-taking. The code and standards should highlight and provide specific guidance on upholding market integrity and professionalism. Practices which undermine market integrity include engaging in trading transactions which have the effect, or are likely to have the effect, of creating a false or misleading appearance of active trading in any security, currency or commodity, or with respect to the market for, or the price of, any security, currency or commodity. The code and standards should likewise include safeguards to prevent conflict of interest or self-dealing in any form when allowing personnel to deal for their own account.

The code and standards shall be complementary to any codes adopted by the entire institution, as well as those promulgated by the industry. It is likewise the responsibility of the board to institute mechanisms to ensure compliance with the

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[1] This subsection should be read in conjunction with existing regulations on Operational Risk Management.

[2] *Operational risk* refers to the risk of loss resulting from inadequate or failed internal processes, people and systems; or from external events. This definition includes legal and compliance risks.

[3] BSFIs should refer to Sec. 4175Q for the Guidelines on Market Risk Management, Sec. 4176Q for the Guidelines on Liquidity Risk Management and Sec. 4178Q for the Guidelines on Sound Credit Risk Management Practices.

provisions of the code of conduct and the standards of practice, as well as to mete out appropriate sanctions for violations thereof.

b. Conduct Treasury activities within a board-approved structure that is designed to meet the BSFI's objectives while enabling the strict enforcement of controls. The structure shall clearly distinguish between different functions (e.g., between asset liability management trading/dealership, underwriting, and brokering) and recognize the need for effective separation between operational units. The scope of authority and responsibility of each personnel shall be adequately defined, documented, and clearly communicated.

c. Appoint personnel who possess a high degree of integrity and sufficient expertise to understand the financial instruments dealt and transactions entered into by the Treasury unit. These qualifications shall not only apply to personnel who originate and process the transactions but also to those who are responsible for reviewing the transactions' conformity to the BSFI's accepted trading practices. There shall likewise be manpower adept at operating and maintaining the management information system (MIS).

d. Segregate the duties of the front, risk control and back office functions. The dealers in the front office are primarily responsible for transacting and managing positions. In this regard, the settlement and confirmation of transactions, the recording of contracts in the accounting system, the revaluation of positions, the reconciliations and procedures required to avoid errors, and other related processes in the back office shall be performed outside the dealing room to ensure objectivity and to prevent manipulation or fraud. There should be comprehensive and well-documented policies and procedures that describe the activities performed by each function.

e. Provide for the prompt evaluation and escalation of suspicious trading trends and patterns, and unusual gains or losses. While the primary responsibility for ensuring that transactions are undertaken with integrity lies with front office personnel, there should be units tasked to perform reviews of treasury activities. The unit responsible for executing such reviews shall be independent from the risk-taking function and accorded sufficient resources and stature in the institution. In this way, it shall be empowered to quickly escalate any activity that seems unusual or inconsistent with compliance, financial and operational controls to the appropriate authorities. *"Appropriate authorities"* shall refer to persons, units, or committees that are independent of the Treasury function and its management but possess equivalent or higher stature, such as the chief executive officer, chief operating officer, the chief risk officer, the chief compliance officer, or a Board-level committee. Personnel tasked to perform reviews shall have, among others, sufficient understanding of the strategies engaged in by trading desks to allow them to evaluate whether trading activities are aligned with the risk appetite of the financial institution.

f. Regularly and actively engage the control functions namely, risk management, internal audit and compliance, in the oversight of treasury activities. Owing to their inherent responsibilities and stature within the BSFI, the control functions are well placed to perform reviews and render assessments of the Treasury unit and its activities. The operational risk management framework shall include tools and mechanisms to identify, measure, monitor and control risks in all aspects of treasury operations. As an example, risk and performance indicators may consist of those that identify errors in deal entry, track the cancellation of deals, analyze unusual trading activity, and flag limit exceptions, among others. Meanwhile, the compliance function/system referred to in Subsec. 4180Q.1 is responsible for the regular conduct of reviews to ensure that the BSFI's activities conform to applicable laws, rules, and regulations, including securities laws, as well as its obligations as a market participant. Lastly, internal audit shall be tasked with evaluating the Treasury unit's compliance with the BSFI's own policies and procedures, especially in the conduct of trading activities, in accordance with Subsec. 4186Q.2. The scope of internal audit shall likewise include the review of the performance of risk management and compliance duties in respect of treasury activities.

g. Employ treasury systems that are able to support the volume and complexity of the treasury transactions in the areas of deal entry, confirmation, settlement and accounting. Institutions that engage in heavy trading should endeavor to move to the use of straight-through processing to minimize input errors. On the other hand, institutions whose processes involve manual intervention should ensure that the integrity of data is preserved through proper controls.

h. Ensure that the MIS is able to serve the needs of its users. The MIS should enable the accumulation and production of accurate and timely financial, regulatory, and management reports. At a minimum, management reports should highlight trading positions, profits/losses, and limit utilization. If the institution uses more than one (1) system for its information needs, it should establish controls and perform reconciliations to minimize the likelihood of producing corrupted consolidated data.

i. Subject new products to a rigorous approval process. The handling of new products shall be embodied in an internal policy that, among others, defines the circumstances under which a product shall be considered "new". The policy shall likewise contain guidelines for the review of the product, including the conduct of an analysis of its risks, costs and benefits to the institution; the identification of product features, uses, and target markets, as applicable; potential risks and mitigants to such risks; and the procedures involved in operationalizing the product. The policy shall identify the stages within the product development process at which approvals shall be obtained and from whom. All relevant units should sign off on the product program as part of the new product approval process.

j. Act with honesty, fairness, and professionalism, and pursue the best interests of its clients. Due to the increasingly sophisticated products being introduced in the market, a BSFI acting as a dealer or broker shall have a clearly articulated strategy for the sale and marketing of financial products. The BSFI is expected to manage the risks arising from such activities and protect the interest of its clients. In this regard, a BSFI shall have appropriate policies, procedures and controls in place to ensure the suitability of products being offered to its clients. It shall ensure that (1) the client understands the nature of the transaction and the risks involved and (2) the transaction meets the client's financial objectives and is aligned with his/its risk tolerance. It shall also provide sufficient, accurate and comprehensible information about the products, including inherent risks, in a clear and balanced manner to enable its clients to make informed financial decisions. The BSFI shall likewise use reasonable diligence to ascertain the best market for the products offered to customers and buy and sell in such market so that the result to the customer is as favorable as possible under prevailing market conditions.

Management should refer to the existing Consumer Protection Framework and Sales and Marketing Guidelines under *Appendix Q-16*.

The failure of an institution covered by these guidelines to consistently observe the same may be considered by the Bangko Sentral as conducting business in an unsafe or unsound manner, subject to applicable provisions of laws and regulations.

Supervisory enforcement actions. The Bangko Sentral reserves the right to deploy its range of supervisory tools to promote adherence to the requirements set forth in these guidelines and bring about timely corrective actions and compliance with Bangko Sentral directives. In this regard, the Bangko Sentral may, among others, issue directives to refrain from engaging in treasury activities with serious supervisory issues. Sanctions may likewise be imposed on the BSFI and responsible persons, which may include restrictions or prohibitions from certain authorities/activities; and warning, reprimand, suspension, removal and disqualification of concerned directors, officers and employees.

(Circular No. 889 dated 02 November 2015)

Secs. 4603Q - 4610Q *(Reserved)*

B. FINANCIAL INSTRUMENTS

Sec. 4611Q *(2008 - 4603Q)* Derivatives. A QB may engage in authorized derivatives activities: *Provided,* That a QB:

a. Understands, measures, monitors and controls the risks assumed from its derivatives activities;

b. Adopts effective risks management practices whose sophistication are commensurate to the risks being monitored and controlled; and

c. Maintains capital commensurate with the risk exposures assumed.

Further, a QB may engage in financial derivatives activities in accordance with these guidelines. The transacting QB shall have the responsibility to comply with the guidelines set out in this Section, including the relevant appendices, and other applicable laws, rules and regulations governing derivatives transactions. In case of derivatives instruments involving foreign currencies and/or other foreign currency-denominated assets, the transacting QB shall observe the pertinent foreign exchange ("FX") rules and regulations. For purposes of these guidelines, a QB that transacts (i.e., transacting bank), whether as end-user, broker or dealer, in derivatives instruments is considered to be engaging in a derivatives activity.

Derivative is broadly defined as a financial instrument that primarily derives its value from the performance of an underlying variable. For purposes of these guidelines, a *financial derivative* is any financial instrument or contract with all of the following characteristics:

a. Its value changes in response to a change in a specified interest rate, financial instrument price, commodity price, FX rate, index of prices or rates, credit spread, credit rating or credit index or other variables not prohibited under existing laws, rules and regulations ("the underlying");

b. It requires either no initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have a similar response to changes in market factors; and

c. It is settled at a future date.

Financial derivatives activities shall also include transactions in cash instruments with embedded derivatives that reshape the risk-return profile of the host instrument, such as credit-linked notes ("CLNs") and their structured products ("SPs").

A market participant may take any of the following roles in a derivatives transaction:

a. An *end-user* is defined as a financial market participant that enters, for its own account, in a derivatives transaction for legitimate economic purposes. These purposes may include, but are not limited to, the following: hedging proprietary trading, managing capital or funding costs, obtaining indirect exposures to desired market factors, investment, yield-enhancement, and/or altering the risk-reward profile of a particular item or an entire balance sheet.

An end-user may be classified according to its financial sophistication:

(1) *Market counterparty* - refers to FI, only with respect to the instruments for which it is authorized to engage in as a dealer;

(2) *Institutional counterparty* - refers to an institution which is not a market counterparty and has the level of net worth, knowledge, expertise, and experience to deal with financial derivatives;

(3) *Sophisticated individual end-user* - refers to an individual who has demonstrated to the FI as having the level of net worth, knowledge and experience in dealing with financial products, including financial derivatives. An individual may register as a sophisticated individual end-user with the appropriate department of the SES.

(4) *Other end-user* - this refers to all other institutional or individual clients not categorized as market counterparty, institutional counterparty or sophisticated individual end-user.

b. A *broker* is a financial market participant that facilitates a derivatives transaction between a dealer and its client, for a fee or commission. The counterparties to the derivatives contract are the client and an authorized dealer.

c. A *dealer* is defined as a financial market participant that engages in a derivatives activity as an originator of derivatives products or as market-maker in derivatives products. A dealer can distribute its own derivatives products, including those of others. A dealer can also act as broker and/or end-user of derivatives instruments.

(As amended by Circular No. 668 dated 02 October 2009)

§ 4611Q.1 ***(2008 - 4603.Q.1) Generally authorized derivatives activities.*** A QB may enter in any financial derivatives transaction with Bangko Semtral-authorized dealers and brokers without need of prior Bangko Sentral approval solely for hedging purposes: *Provided,* That it observes all the requirements for hedging transactions under Philippines Accounting Standards ("PAS"): *Provided further*, That it observes the provisions of *Appendix Q-15*.

A trust department of a QB may enter, as an institutional counterparty, into any financial derivatives with the Bangko Sentral-approved authorized dealers and brokers, on behalf of its trustor/principal/s as may be authorized by such trustor/ principals/s without need of prior Bangko Sental approval, solely for hedging purposes: *Provided*, That the trust department observes all the requirements for hedging transactions under PAS: *Provided further*, That it observes the provisions of *Appendix Q-15*.

(As amended by Circular No. 668 dated 02 October 2009)

§ 4611Q.2 ***(2008 - 4603Q.2) Activities requiring additional derivatives authority.*** QB may apply for prior Bangko Sentral approval of additional derivatives authority to engage in all other financial derivatives activities not expressly allowed in Subsec. 4611Q.1. A QB may apply for two (2) or more additional authorities. A QB applying for additional derivatives authority/ies must have and maintain a risk management system commensurate to the additional authority/ies being applied for, in accordance with the provisions of *Appendix Q-15* and meet other conditions specified under this Subsection.

a. *Classification of additional derivatives authority*

(1) Type 2 - Limited Dealer Authority

A QB that is also an investment house may apply for a Type 2 Authority. A QB with Type 2 Authority may operate as a dealer in specific types of derivatives products with specific underlying reference,

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as applied for by the QB: *Provided*, That a QB with Type 2 Authority shall comply with the sales and marketing guidelines prescribed in *Appendix Q-16*. The Type 2 Authority also carries authority to transact as broker and end-user of the said specific derivatives instruments.

(2) Type 3 - Limited User Authority

A QB or a trust department of a QB, may apply for a Type 3 Authority. A QB or a trust department of a QB with Type 3 Authority may transact, as an end-user, in specific types of derivatives product, with specific underlying reference, as applied for by the QB, outside of those instruments that meet the conditions under Subsec. 4611Q.1. A Type 3 Authority will enable said QB or trust department to transact as end-user of derivatives instruments as may be applied for by the QB or trust department.

(3) Type 4 - Special Broker Authority

A QB that is also an investment house may likewise apply for a Type 4 Authority. A QB with Type 4 Authority may facilitate a derivatives transaction between a BSP-authorized dealer and end-user clients: *Provided,* That the QB, acting as broker, ensures that its client fully understands its limited responsibility as a broker and observes the provisions of *Appendix Q-16*.

A QB with additional Type 2 or 4 Authorities shall be responsible for complying with pertinent securities laws, rules and regulations.

For purposes of this Subsection, the types of derivatives are classified as follows: forwards, swaps and options. *Underlying reference* pertains to the following: interest, foreign currencies/ foreign exchange, equity, credit and commodity.

b. *Qualification requirements*. A QB applying for additional authority to engage in additional derivatives activities shall:

(1) Demonstrate adequate competence in its general operations as evidenced by:

(a) CAMELS composite rating of at least *"3"* with a similar rating for Management, as applicable;

(b) No unresolved major safety and soundness issues that threaten liquidity or solvency; and

(c) Substantial compliance with regulations on anti-money laundering, corporate governance and risk management.

(2) Hold capital commensurate to the risks assumed or to be assumed from the derivatives activities. A QB applying for or holding a Type 2 Limited Dealer Authority or Type 3 Limited User Authority automatically agrees to be covered by all regulations prescribing capital for market risk, notwithstanding any provision to the contrary. In addition, the BSP expects a QB applying for or holding additional derivatives authority to have adequate capital to accommodate existing and future risks from additional and generally authorized derivatives activities as well as risks arising from the QB's other business activities. For this purpose, the BSP may require capital higher than the minimum required under prudential regulations.

(3) Have and maintain a risk management system that conforms to the principles and complies with the minimum standards prescribed in *Appendix Q-15*.

(4) Demonstrate the relevance of proposed derivatives activities to the QB's main purpose as an institution. The BSP reserves the right to deny applications whose proposed derivatives activities do not reasonably fit the nature of their business operations.

c. *Applicability to trust department of QBs*. Trust departments of QBs may apply for Type 3 Authority, provided they comply with the requirements prescribed and observe the provisions of *Appendix Q-15 and Q-16*.

d. *Application procedures*. The applicant shall submit to the Capital Markets Specialist Group, SES of the BSP a written application for additional derivatives authority/ies accompanied by;

(1) A copy of the board resolution approving the application for a specific type of derivatives authority;

(2) A notarized certification signed jointly by the president, treasurer, or equivalent trust officer and compliance officer of the applicant QB stating that the QB complies with all the requirements for the authority being applied for specified in Subsec. 4611Q.2; and

(3) A list of the types of derivatives and underlying reference the QB intends to engage in, including the following information for each derivatives class or type:

(a) Target customers for such derivatives;

(b) The capacity in which the QB intends to engage in such derivatives;

(c) Description of each type of derivatives and underlying reference with which it will deal;

(d) Analysis of the risks involved in transacting in each type of derivatives;

(e) Procedures/methodologies that the QB will implement to measure, monitor (including risk management reports) and control the risks inherent in the type of derivatives;

(f) Relevant accounting guidelines, including pro-forma accounting entries;

(g) Analysis of any actual or potential legal/regulatory restrictions; and

(h) Process flow chart, from deal initiation to risk reporting, indicating the departments and personnel involved in identified processes.

(4) The BSP will not accept applications lacking any of the above-stated requirements. The BSP, however, may require additional documents to aid its evaluation of the application. By virtue of the application, the applicant automatically authorizes the BSP to conduct an on-site evaluation of the applicant's risk management capabilities, if this is deemed necessary.

(5) Payment of the following non-refundable processing fee shall be made upon approval or denial of the QB's application:

	Amount
Type 2 Authority	P 50,000.00
Type 3 Authority	25,000.00
Type 4 Authority	25,000.00

(6) A QB whose application for additional derivatives authority/ies or an upgrade thereof (e.g., from Type 3 to Type 2 Authority) has been denied cannot submit a new application for additional derivatives authorities until after six (6) months from receipt of denial. The same rule applies for a QB whose authorities have been limited or downgraded.

(7) A QB that holds an additional derivatives authority may apply for additional derivatives authorities (e.g., currently holding Type 3 Authority who wish to apply for Type 4 Authority) or an upgrade thereof only after the lapse of six (6) months from the grant of the previous additional derivatives authority.

(As amended by Circular No. 668 dated 02 October 2009)

§ 4611Q.3 *(2008 - 4603Q.3) Intra-group transactions.* All derivatives transactions between a QB and any of its subsidiaries and affiliates shall comply with minimum risk management standards for related-party transactions outlined in *Appendix Q-15* as part of the QB's internal control procedures. The BSP expects QBs to establish internal reporting and monitoring system for derivatives activities for related-party transactions. Failure to comply with minimum standards shall be a ground for citing non-compliance with provisions under Subsecs. 4611Q.1 and 4611Q.2 without prejudice to other BSP rules and regulations such as those related to corporate governance and unsafe and unsound banking practices.

(As amended by Circular No. 668 dated 02 October 2009)

§ 4611Q.4 *(2008 - 4603Q.5) Accounting guidelines.* A QB that engages in derivatives activities must strictly account for such transactions in accordance with relevant PAS.

(As amended by Circular No. 668 dated 02 October 2009)

§ 4611Q.5 *(2008 - 4603Q.6) Reporting requirements.* A QB engaged in any derivatives transactions shall submit a monthly report on derivatives transactions/ outstanding derivatives in accordance with the format shown in Annex *"A"* of *Appendix Q-16* within fifteen (15) banking days from end of the reference month. The reports shall be certified by the treasurer.

(As amended by Circular No. 668 dated 02 October 2009)

§ 4611Q.6 *(2008 - 4603Q.7) Sanctions*

a. *Unauthorized transactions*

Sanctions prescribed under Sections 36 and 37 of R.A. No. 7653 shall be imposed on any QB (including its directors and officers) found to have engaged in an unauthorized derivatives activity.

A QB undertaking unauthorized derivatives activities may be considered as conducting its business in an unsafe and unsound manner under Section 56 of R.A. No. 8791.

b. *Delayed/Erroneous/Inaccurate reporting*

QBs failing to submit the reports required under Subsec. 4611Q.5 within the prescribed deadline shall be subject to monetary penalties applicable for delayed reporting under existing regulations. Moreover, submission of incomplete, uncertified or improperly certified or otherwise erroneous reports shall be considered non-reporting, subject to applicable penalties for amended/delayed reports. For purposes of imposing monetary penalties, the reports shall be classified as a *Category A-1* report. Habitual delayed or erroneous reporting may be a ground for further sanction, including limitation of generally authorized activities and/or additional authorities and/or suspension of authority to engage in such derivatives activities.

c. *Non-compliance with the provisions of this Section, its Subsecsections and Appendices Q-15 and Q-16.*

Any QB found violating any of the provision of Sec. 4111Q and its Subsections and/or *Appendices Q-15* and *Q-16* shall be sanctioned with the penalties prescribed under Sections 36 and 37 of R.A. No. 7653 in accordance with the gravity/seriousness of the offense taking into consideration the number of times the offense was committed, possible consequent losses on the clients, effect on the financial markets and other relevant factors.

d. *Curtailment of derivatives authority*

The BSP reserves the right to suspend, modify, downgrade, limit or revoke any QB's derivatives authority (including any or all of those generally authorized activities) for prudential reasons as may be evidenced by any or all of the following:

i. The QB is assigned a CAMELS composite rating or component Management rating of lower than that prescribed under Subsec. 4611Q.2 in the most recent regular examination.

ii. The QB has not maintained adequate risk management systems given the level and type of derivatives activities it has engaged in as may be determined by the BSP in any on-site evaluation and confirmed by the Monetary Board.

iii. The Monetary Board has confirmed an SES finding that the QB has conducted business in an unsafe and unsound manner.

An erring QB may apply for reinstatement of its derivatives authority only after six (6) months from lapse of the implementation of the sanction, provided the QB has satisfactorily addressed all the BSP concerns.

(As amended by Circular No. 668 dated 02 October 2009)

Secs. 4612Q - 4624Q (Reserved)

Sec. 4625Q *(2008 - 4603Q.14)* Forward and Swap Transactions

Statement of policy. It is the policy of the BSP to support the deepening of the Philippine financial markets. In line with this policy, customers may, thru FX forwards, hedge their market risks arising from FX obligations and/or exposures: *Provided,* That forward sale of FX (deliverable and non-deliverable) may only be used when the underlying transaction is eligible for servicing by the banking system under FX Manual, as amended. Customers may, likewise, cover their funding requirements thru FX swaps.

QBs may only engage in FX forwards and swap transactions with customers if the latter is hedging market risk or covering funding requirements. There shall be no double/multiple hedging such that at any given point in time, the total notional amount of the FX derivatives transaction/s shall not exceed the amount of the underlying FX obligation/exposure.

The customer shall no longer be allowed to buy FX from the banking system for FX obligations/exposures that are fully covered by deliverable FX forwards and FX swaps.

The following guidelines, as well as minimum documentary requirements, shall cover FX forward and swap transactions involving the Philippine peso between authorized dealer QBs and their customers.

(As amended by Circular No. 591 dated 27 December 2007)

§ 4625Q.1 *(Reserved)*

§ 4625Q.2 *(2008 - 4603Q.15) Definition of terms*

a. *Customers* shall refer to:

(1) resident banks (other than KBs and UBs) and non-bank BSP-supervised entities (NBBSEs) not authorized to engage in FX forwards and swaps as dealers;

(2) resident non-bank entities; and

(3) non-residents, both banks and non-banks.

b. *Foreign exchange obligation* shall refer to an actual commitment to repatriate or pay to a non-resident or any AAB a specific amount of foreign currency on a pre-agreed date.

c. *Foreign exchange exposure* shall refer to an FX risk arising from an existing commitment which will lead to an actual payment of FX to, or receipt of FX assets from, non-residents or any AAB based on verifiable documents on deal date. FX risks arising from BSP-registered foreign investments without specific repatriation dates are considered FX exposures.

d. *Resident* shall refer to -

(1) An individual citizen of the Philippines residing therein; or

(2) An individual who is not a citizen of the Philippines but is permanently residing therein; or

(3) A corporation or other juridical person organized under the laws of the Philippines; or

(4) A branch, subsidiary, affiliate, extension office or any other unit of corporations or juridical persons which are organized under the laws of any country and operating in the Philippines, except offshore banking units (OBUs).

e. *Non-resident* shall refer to an individual, a corporation or other juridical person not included in the definition of resident.

f. *Foreign exchange swap* shall refer to a transaction involving the actual exchange of two (2) currencies (principal amount only) on a specific date at a rate agreed on deal date (the first leg), and a reverse exchange of the same two (2) currencies at a date further in the future (the second leg) at a rate (different from the rate applied to the first leg) agreed on deal date.

g. *Foreign exchange forward* shall refer to a contract to purchase/sell a specified amount of currency against another at a specified exchange rate for delivery at a specified future date three (3) or more business days after deal date.

h. *Non-deliverable forward (NDF)* shall refer to an FX forward contract where only the net difference between the contracted forward rate and the market rate at maturity (i.e., the fixing rate) shall be settled on the forward date.

(As amended by Circular No. 591 dated 27 December 2007)

§ 4625Q.3 ***(2008 - 4603Q.16) Documentation.*** Minimum documentary requirements for FX forward and swap transactions in *Appendix Q-29* shall be presented on or before deal date to the QBs unless otherwise indicated.

FX selling QBs shall stamp the supporting documents upon presentation by customers as follows:

a. For hedging transactions: *"FX HEDGED/DELIVERABLE"* or *"FX HEDGED/ NON-DELIVERABLE"*;

b. For funding transactions: *"FX SOLD"*, indicating the contract date and amount involved, and signed by the QB's authorized officer. Copies of all duly marked supporting documents shall be retained by the QBs and made available to the BSP for verification. The retained copies shall also be marked *"DOCUMENTS PRESENTED AS REQUIRED"* and signed by the QB's authorized officer.

(As amended by Circular No. 591 dated 27 December 2007)

§ 4625Q.4 ***(2008 - 4603Q.17) Tenor/ maturity and settlement***

a. *Forward sale of FX (whether deliverable or non-deliverable)*. The tenor/ maturity of such contracts shall not be longer than: (i) the maturity of the underlying FX obligation; or (ii) the approximate due date or settlement of the FX exposure. For deliverable FX forward contracts, the tenor/maturity shall be co-terminus with the maturity of the underlying obligation or the approximate due date or settlement of the FX exposure. This shall not preclude pre-termination of the contract due to prepayment of the underlying obligation or exposure: *Provided,* That for foreign currency loans, prior BSP approval has been obtained for the prepayment and a copy of such approval is presented to the QB counterparty.

b. *FX Swaps* - No restriction on tenor.

c. *Settlement of NDFs* - All NDF contracts with residents shall be settled in pesos.

d. *Remittance of FX proceeds of deliverable forward and swap contracts.*

FX proceeds of deliverable forward and swap contracts shall be delivered by the QB counterparty directly to the beneficiaries concerned except for foreign investments where said FX proceeds are reconverted to Philippine pesos and re-invested in eligible peso instruments such as those listed in Item "A.2.2" of *Appendix Q-29*. For this purpose, beneficiaries shall refer to the FCDU of a QB or a non-resident entity (e.g., creditor, supplier, investor) to whom the customer is committed to pay/remit FX.

(As amended by Circular No. 591 dated 27 December 2007)

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§ 4625Q.5 ***(Reserved)***

§ 4625Q.6 ***(2008 - 4603Q.18) Cancellations, roll overs or non-delivery of FX forward and swap contracts.*** All cancellations, roll-overs or non-delivery of all FX deliverable forward contracts and the forward leg of swap contracts shall be subject to the following guidelines to determine the validity thereof:

a. *Eligibility test* - Contracts must be supported by documents listed in *Appendix Q-29* hereof.

b. *Frequency test* - the reasonableness of the cancellation, roll-over or non-delivery shall be based on the results of the evaluation of the justification/explanation submitted by QBs as evidenced by appropriate documents.

c. *Counterparty test* – the cancellation or roll-over of contracts must be duly acknowledged by the counterparty to the contract as shown in documents submitted by QBs, e.g., there should be *conforme* of counterparty as evidenced by the counterparty signature on pertinent documents.

d. *Mark-to-Market test*– the booking or recording in the books of accounts of the profit or loss on contracts and cash flows/settlement to counterparties must be fully supported by appropriate documents such as authenticated copy of debit/credit tickets, schedules showing among others, mark-to-market valuation computation, etc.

(As amended by Circular No. 591 dated 27 December 2007)

§ 4625Q.7 ***(2008 - 4603Q.19) Non-deliverable forward contracts with non-residents.*** Only banks with expanded derivatives license may enter into NDF contracts to sell FX to non-residents.

§ 4625Q.8 ***(2008 - 4603Q.20) Compliance with Anti-Money Laundering rules.*** All transactions under Section 4625Q and Subsecs. 4625Q.2 to 4626Q.4 and 4625Q.6 to 4625Q.9 shall comply with existing regulations on anti-money laundering under Sec. 4801Q.

(As amended by Circular No. 591 dated 27 December 2007)

§ 4625Q.9 ***(2008 - 4603Q.21) Reporting requirements.*** QBs duly authorized to engage in derivatives transactions shall continue to be covered by the BSP's existing reporting requirements on financial derivatives. Cancellations, roll-overs or non-delivery of deliverable FX forward contracts and under the forward leg of swap contracts shall be reported electronically in excel format to the BSP not later than five (5) business days after reference month as indicated in *Appendix Q-3*.

Swap contracts with counterparties involving purchase of FX by QBs at the initial leg shall likewise be reported electronically in excel format to the BSP not later than five (5) business days after reference month as indicated in *Appendix Q-3*.

The reports shall be transmitted to the International Department at iod@bsp.gov.ph, copy furnished the SDC.

(As amended by Circular No. 591 dated 27 December 2007)

§§ 4625Q.10 - 4625Q.13 ***(Reserved)***

§ 4625Q.14 ***(2008 - 4603.26) Sanctions*** Violations of 4625Q and Subsecs. 4625Q.2 to 4626Q.4 and 4625Q.6 to 4625Q.9 shall be subject to the penalty provisions under R.A. No. 7653 (The New Central Bank Act) and other existing banking laws and regulations.

a. Monetary Penalties

Per Calendar Month	Daily Penalty
1st business day	₱ 10,000
2nd business day	20,000
3rd business day of violation, and onwards, or if the excess FX position is 30% or more of the allowable limits in any business day, regardless of whether a QB is in the first, second, third or more days of violation	30,000

b. In addition, the following non-monetary sanctions shall be imposed on the QB committing violations considered as:

(1) *chronic,* i.e., when the violation continues beyond three (3) business days within a calendar month, but the excess position is less than thirty percent (30%) of the allowable limit; and

(2) *abusive*, i.e., when the violation continues beyond three (3) business days within a calendar month and excess position is thirty percent (30%) or more of the allowable limit.

"Chronic" violation	Suspension of the QB's cash dividend declaration and branching privileges until the violation is corrected but in no case shall such suspension be less than thirty (30) calendar days.
" Abusive" violation	Suspension of the QB's cash dividend declaration and branching privileges until the violation is corrected but in no case shall such suspension be less than sixty (60) calendar days.

c. The Monetary Board may impose other non-monetary sanctions on a QB for violations determined by BSP as "chronic" or "abusive" on a case-to-case basis, pursuant to Section 37 of R.A. No. 7653.

d. QBs shall be duly advised by the BSP of their violations and the corresponding sanctions imposed for such violations.

e. A monetary penalty imposed on a QB shall be paid to the BSP Cash Department, within three (3) business days from the receipt of advice of said penalty imposition.

For purposes of imposing sanctions for delayed, erroneous or unsubmitted reports, reports required under Subsec. 4625Q.9 are classified as *Category B* reports and subject to corresponding penalties.

Counterparties that habitually cancel deliverable forwards without proper justification may be subject of a BSP watchlist.

(As amended by Circular No. 591 dated 27 December 2007)

Secs. 4626Q - 4650Q *(Reserved)*

Sec. 4651Q *(2008 - 4626Q)* Asset-Backed Securities. The following regulations shall govern the origination, issuance, sale, servicing and administration of asset-backed securities (ABS) by any QB including its subsidiaries and affiliates engaged in allied activities, which are domiciled in the Philippines.

§ 4651Q.1 *(2008 - 4626Q.1) Definition of terms*

a. *Assets* shall mean loans or receivables existing in the books of the originator prior to securitization. Such assets are generated in the ordinary course of business of the originator and may include mortgage loans, consumption loans, trade receivables, lease receivables, credit card receivables and other similar financial assets.

b. *Asset-backed securities* shall refer to the certificates issued by a special purpose trust (SPT) representing undivided ownership interest in the asset pool.

c. *Asset pool* shall mean a group of identified, self-amortizing assets that is conveyed to the SPT issuing the ABS and such other assets acquired as a consequence of the securitization.

d. *Clean-up call* shall refer to an option granted to the seller to purchase the remaining assets in the asset pool.

e. *Credit enhancement* shall refer to any legally enforceable scheme that is intended to enhance the marketability of the ABS and increase the probability that investors receive payment of amounts due them.

f. *Guarantor* shall refer to an entity that guarantees the repayment of principal and interests on loans or receivables included in the asset pool in the event of default by the borrower.

g. *Investible funds* shall refer to the proceeds of collection of loans or receivables included in the asset pool which are not yet due for distribution to investors.

h. *Issuer* shall refer to the SPT that issues the ABS.

i. *Originator* shall refer to a QB and/or its subsidiary or affiliate engaged in allied activities that grants or purchases loans or receivables and assembles them into a pool for securitization.

j. *Residual certificates* shall refer to certificates issued representing claims on the remaining value of the asset pool after all ABS holders are paid.

k. *Seller* shall refer to the entity which conveys to the SPT the assets that constitute the asset pool.

l. *Servicer* shall refer to the entity designated by the issuer primarily to collect and record payments received on the assets, to remit such collections to the issuer and perform such other services as may be specifically required by the issuer excluding asset management or administration.

m. *Special purpose trust* shall refer to a trust administered by a trustee and created solely for the purpose of issuing and administering an ABS.

n. *Trustee* shall refer to the entity designated to administer the SPT.

o. *Underwriter* shall refer to the entity engaged in the act or process of distributing and selling of the ABS either on guaranteed or best-efforts basis.

§ 4651Q.2 ***(2008 - 4626Q.2) Authority*** Any QB including its subsidiaries and affiliates engaged in allied activities, may securitize its assets upon prior approval of the BSP.

§ 4651Q.3 ***(2008 - 4626Q.3) Management oversight.*** The originator/seller shall have the securitization program approved by its board of directors. The originator/seller shall integrate such securitization program into its corporate strategic plan. The board of directors shall ensure that the securitization of assets is consistent with such program.

§ 4651Q.4 ***(2008 - 4626Q.4) Minimum documents required.*** The application to securitize must be accompanied by the following documents as a minimum requirement:

a. *Trust indenture* evidencing the conveyance of the assets from the seller to the issuer or SPT, the features of which shall include the following:

(1) Title or nature of the contract in noticeable print;

(2) The parties involved, indicating in noticeable print, their respective legal capacities, responsibilities and functions;

(3) Features and amount of ABS;

(4) Purposes and objectives;

(5) Description and amount of assets comprising the asset pool;

(6) Representation and warranties;

(7) Credit enhancements;

(8) Distribution of funds;

(9) Authorized investment of investible funds;

(10) Rights of the investor;

(11) Reports to investors; and

(12) Termination and final settlement.

The trust indenture shall include as annexes the servicing agreement between the trustee and the servicer and the underwriting agreement between the seller and the underwriter.

b. *Prospectus*. As a minimum requirement, it shall contain the following:

(1) Summary of the contents of the prospectus;

(2) Description of each class of certificates, including such matters as probable yields, payment dates and priority of payments;

(3) Description of the assets comprising the asset pool as well as the representations and warranties set forth by the originator and/or seller;

(4) Assumptions underlying the cash flow projections for each class of certificate;

(5) Description of any credit enhancement;

(6) Identity of the servicer; and

(7) Disclosure statements as required under Subsec. 4651Q.6.

c. *Specimen of application to purchase ABS*. It shall include the terms and conditions of the purchase and the disclosures required under Subsec. 4651Q.6.

d. *Specimen of certificate*. It shall indicate the features of the ABS and the disclosures required under Subsec. 4651Q.6.

§ 4651Q.5 *(2008 - 4626Q.5) Minimum features of asset-backed securities.* The ABS shall be pre-numbered and printed on security paper. The ABS shall be signed and authenticated by the trustee. They are transferable by endorsement of the certificate. The transfer shall be recorded in the books of the trustee, indicating the names of the parties to the transaction, the date of the transfer and the number of the certificate transferred.

The minimum denomination of any ABS shall be P10,000.

§ 4651Q.6 *(2008 - 4626Q.6) Disclosures.* The following disclosures must be provided in a conspicuous manner in any document inviting investment, application to purchase ABS and in the certificate itself:

a. The ABS do not represent deposit substitutes or liabilities of the originator, servicer or trustee and that they are not insured with PDIC;

b. The investor has investment risks;

c. The trustee does not guarantee the capital value of the ABS or the collectibility of the asset pool; and

d. The rights of an investor.

The investors shall be required to sign an acknowledgment indicating that they have read and understood the disclosures.

§ 4651Q.7 *(2008 - 4626Q.7) Conveyance of assets*

a. The conveyance of the assets comprising the asset pool shall be done within the context of a true sale and, for this purpose, the seller may not retain in its books the ABS, except the residual certificate, if any.

b. The seller shall have no obligation to repurchase or substitute an asset or any part of the asset pool at any time, except in cases of a breach of representation or warranty, or under a revolving structure, to replace performing assets which have been paid out in part or in full.

c. The seller shall be under no obligation to provide additional assets to the SPT to maintain a coverage ratio of collateral to outstanding ABS. A breach of this requirement will be considered a credit enhancement and should be charged against capital. However, this will not apply to an asset pool conveyed under a revolving structure such as the securitization of credit card receivables.

d. Securitized assets shall be considered the subject of a true sale between the seller and the SPT. Sold assets shall be taken off the books of the seller and shall be transferred to the books of the SPT.

For accounting purposes, the transfer shall only be considered a true sale if the following three (3) conditions have been satisfied:

(1) the transferred assets have been isolated and put beyond the reach of the seller and its creditor;

(2) the SPT has the right to pledge or exchange its interest in the assets; and

(3) the seller does not effectively maintain control over the transferred assets by any concurrent agreement.

e. All expenses incidental to underwriting, conveyance of the asset pool including expenses for credit enhancement may be paid by the originator/seller:

Provided, That no further expenses shall be borne by the originator/seller after the asset pool has been conveyed to the SPT.

§ 4651Q.8 ***(2008 - 4626Q.8) Representations and warranties***

a. Standard representations and warranties refer to an existing state of facts that the originator, seller or servicer can either control or verify with reasonable due diligence at the time the assets are sold. Any breach of representation or warranty may give rise to legal recourse.

b. The representations or warranties shall be clear and explicit and, in particular, shall not relate to the future creditworthiness of the assets in the asset pool or the performance of the SPT or the securities issued.

c. Any agreement to pay damages as a result of breach of warranties and representations shall hold only where:

(1) there is a well-documented negotiation of the agreement in good faith;

(2) the burden of proof for a breach of representation or warranty rests with the other party;

(3) damages are limited to the loss incurred as a result of the breach; and

(4) there is a written notice of claim specifying the basis for the claim.

The BSP shall be notified of any instance where a QB or its subsidiaries/affiliates has agreed to pay damages arising out of any breach of representation or warranty.

§ 4651Q.9 ***(2008 - 4626Q.9) Third party review.*** A due diligence review by an independent entity mutually agreed upon by the seller and the issuer shall be done before the assets are sold.

§ 4651Q.10 ***(2008 - 4626Q.10) Originator and seller***

a. The seller may itself be the originator, and may likewise be designated as the servicer.

b. The seller or originator shall deliver to the trustee all original documents or instruments with respect to each asset sold.

§ 4651Q.11 ***(2008 - 4626Q.11) Trustee and issuer***

a. The trustee shall be the trust department of a bank licensed to do business in the Philippines.

b. The trustee shall have the right to manage or administer the asset pool. The trustee shall see to it that necessary measures are taken to protect the asset pool.

c. The trustee shall undertake a performance review of the asset pool at least quarterly and shall prepare a report to investors indicating, among others, collections, fees and other expenses as well as defaults, which report shall be made available to the investors at anytime after thirty (30) days from end of the reference quarter.

d. The trustee shall initiate all civil actions including foreclosure of mortgaged properties to effect collection of receivables in the asset pool. The servicer or any other party may be designated by the trustee to perform such function on a case-by-case basis.

e. The trustee may invest the investible funds only in obligations issued and/or fully guaranteed by the government of the Republic of the Philippines or by the BSP and such other high-grade readily marketable debt securities as the BSP may approve.

f. The trustee shall designate a replacement of the servicer if the latter fails to satisfactorily perform its duties and responsibilities according to the terms and conditions of the servicing agreement.

§ 4651Q.12 ***(2008 - 4626Q.12) Servicer***

a. The servicer shall perform its duties according to the terms and conditions of the servicing agreement and such other written instructions as the trustee may issue on a case-by-case basis. Collections made by the servicer shall be remitted promptly to the trustee or as may be agreed upon by the parties in the servicing agreement, but in no case shall the remittance period be longer than one (1) month.

b. The servicer shall prepare periodic reports as may be required by the trustee.

c. The servicer shall report to the trustee within thirty (30) days any borrower which fails to pay its debt at maturity date or any adverse development that may affect the collectibility of any loan account or receivable comprising the asset pool.

d. The servicer shall have no authority to waive penalties and charges except with a written authority from the trustee.

§ 4651Q.13 ***(2008 - 4626Q.13) Underwriter***

a. A UB or IH shall have written policies and procedures on underwriting of ABS.

b. The underwriter shall perform its functions according to the terms and conditions of the underwriting agreement.

c. An underwriter may deal in ABS, except those administered by its trust department, the trust departments of its subsidiaries/affiliates, the trust department of its parent bank or the trust department of its parent bank's subsidiaries/affiliates.

d. A UB/IH may act as underwriter, on a firm basis, of ABS except those administered by its trust department, the trust departments of its subsidiaries/affiliates, the trust department of its parent bank or the trust department of its parent bank's subsidiaries/affiliates.

e. The underwriter may not extend credit for the purpose of purchasing the ABS which such UB/IH underwrites or that which is underwritten by its subsidiaries/ affiliates, its parent bank or its parent bank's subsidiaries/affiliates.

§ 4651Q.14 ***(2008 - 4626Q.14) Guarantor***

a. Only an entity the regular business of which includes the issuance of guarantees or similar undertaking may act as guarantor.

b. The guarantor must have the financial capacity to perform its responsibilities in accordance with the terms and conditions of the guarantee agreement. It shall submit to the trustee at least once in every six (6) months such financial reports as the trustee may require.

c. The originator or seller may not issue a counter-guarantee in favor of the guarantor.

§ 4651Q.15 (*2008 - 4626Q.15*) *Credit enhancement.* Credit enhancement may be provided in any of the following manner:

a. Standby letter of credit issued by an UB/KB other than the originator's/seller's subsidiary/affiliate, parent bank or the parent bank's subsidiary/affiliate, and trustee or its subsidiary/affiliate.

b. Surety bond issued by any insurance company other than the originator's/seller's subsidiary or affiliate, the subsidiary or affiliate of the originator's seller's parent bank and the trustee or its subsidiary/ affiliate.

c. Guarantee issued by any entity other than the originator/seller or its subsidiary/affiliate, its parent bank or the parent bank's subsidiary/affiliate, and trustee or its subsidiary/affiliate.

d. Overcollateralization provided by the originator/seller wherein the assets conveyed to the SPT exceed the amount of securities to be issued.

Losses arising from overcollateralization shall be recognized by the originator/seller upfront. Such losses shall be treated as capital charges.

e. Spread account wherein the income from the underlying pool of receivables is made available to cover any shortfall in the repayment of ABS. The spread account shall be handled by the trustee which shall account for it separately. If not needed, this "spread" generally reverts to the holder of the residual certificate.

f. Subordinated securities that are lower ranking, or junior to other obligations and are paid after claims to holders of senior securities are satisfied.

g. Other credit enhancements as may be approved by the Monetary Board.

To be consistent with the concept of a true sale, subordinated securities shall be sold to third party investors other than the originator's/seller's parent company or its subsidiary/affiliate and the trustee or its subsidiary/affiliate or, if held by the seller, capital charges should be booked upfront. Otherwise, the subordinated securities shall be treated as deposit substitute subject to legal reserves.

§ 4651Q.16 (*2008 - 4626Q.16*) *Clean-up call.* A *clean-up call* may be exercised by the seller once the outstanding principal balance of the receivable component of the asset pool falls to ten percent (10%) or less of the original principal balance of the asset pool. Where the asset pool includes foreclosed and other assets, such assets shall be included in the clean-up call and the consideration thereof shall be at current market value. Such a *clean-up call* shall not be considered recourse or in violation of Subsec. 4651Q.7 on conveyance of assets.

§ 4651Q.17 *(2008 - 4626Q.17) Prohibited activities.*

a. The seller may not, under any circumstance, designate its trust department, the trust department of its subsidiaries/affiliates, the trust department of its parent bank or the trust department of its parent bank's subsidiaries/affiliates as trustee.

b. Any director, officer or employee of the originator, seller or servicer may not serve as a member of the board of directors or trust committee of the trustee or vice versa for the duration of the securitization.

c. The trust indenture shall not contain any stipulation whereby the seller, its subsidiaries/affiliates, its parent bank or the parent bank's subsidiaries/affiliates shall commit to extend any credit facility to the issuer and/or trustee.

d. The ABS shall not be eligible as collateral for a loan extended by a QB which originated/sold the underlying assets of such ABS.

e. The trust department of a bank that has discretion in the management of any trust or investment management account may not purchase for said trust/investment management account ABS administered by the trust department of the same bank, the trust department of such trustee's subsidiaries/affiliates, the trust department of such trustee's parent bank and the trust department of the parent bank's subsidiaries/affiliates.

The trustee may not designate its subsidiary/affiliate, its parent or the parent's subsidiaries/affiliates as servicer or vice versa.

§ 4651Q.18 (*2008 - 4626Q.18*) *Amendment.* Any amendment to the trust indenture shall require the prior approval of the Bangko Sentral.

§ 4651Q.19 (*2008 - 4626Q.19*) *Miscellaneous provision.* Without prior approval of the Bangko Sentral, any entity supervised by the Bangko Sentral authorized to engage in trust and fiduciary business may act as trustee or servicer in a securitization scheme originated by an entity not supervised by the Bangko Sentral: *Provided,* That the assets which are the subject of such securitization are existing in the books of the entity prior to securitization: *Provided, further*, That such entity acting as trustee or servicer is not a subsidiary/affiliate of the originator/seller, its parent bank or the parent bank's subsidiaries/affiliates or vice versa: *Provided, finally*, That such entity acting as trustee may not designate its subsidiaries/affiliates, its parent or the parent's subsidiaries/affiliates as servicer or vice versa.

§ 4651Q.20 (*2008 - 4626Q.20*) *Report to Bangko Sentral.* The trustee shall submit a report of every securitization scheme in formats to be prescribed by the Bangko Sentral. The report shall be submitted to the appropriate department of the SES, within fifteen (15) business days after the end of every reference quarter. Such report shall be considered a *Category A* report for purposes of implementing fines in the submission of required reports pursuant to existing regulations.

Secs. 4652Q - 4660Q (Reserved)

Sec. 4661Q Sales and Marketing Guidelines for Financial Products[1].

General Principles. A BSFI shall always act with honesty, fairness, and professionalism, and pursue the best interests of its clients. Due to the increasingly sophisticated products being introduced in the market, a BSFI acting as a dealer or broker shall have a clearly articulated strategy for the sale and marketing of financial products. The BSFI is expected to manage the risks arising from such activities and protect the interest of its clients. In this regard, a BSFI shall have appropriate policies, procedures and controls in place to ensure the suitability of the products being offered to its clients. It shall ensure that (1) the client understands the nature of the transaction and the risks involved and (2) the transaction meets the client's financial objectives and is aligned with the client's risk tolerance. It shall also provide sufficient, accurate and comprehensible information about the products, including inherent risks, in a clear and balanced manner to enable its clients to make informed financial decisions.

The BSFI shall be guided by the principle of proportionality in setting policies and procedures for its sales and marketing activities. It shall differentiate between less and more sophisticated clients, and tailor the manner by which they are engaged in accordance with such sophistication. Controls shall be in place to ensure that the BSFI complies with its internal policies and procedures, as well as relevant rules and regulations. At the minimum, BSFIs must satisfy the expectations set out in these guidelines.

The BSFI's sales and marketing policies, procedures and controls shall form part of its consumer protection risk management system, consistent with the regulations on financial consumer protection set forth under Part Ten.
(As amended by Circular No. 891 dated 09 November 2015)

§ 4661Q.1 *Scope of application.* These guidelines prescribe the minimum standards for sales and marketing activities of BSFIs acting as dealers or brokers of financial products.

These shall apply to all banks and non-bank financial institutions performing quasi-banking functions. Trust departments shall not be covered by these regulations; they shall continue to be governed by the provisions of Part IV as applicable. Likewise, cross-selling activities shall not be covered by these guidelines; they shall be governed by the provisions of Section X172.
(Circular No. 891 dated 09 November 2015)

§ 4661Q.2 *Definition of terms.* For purposes of this section, the following terms shall have the meanings set forth below:

a. *Financial products* – refer to debt and equity securities, hybrid securities, derivatives as defined under Section 4611Q, securitization structures, and similar products with substantial investment characteristics.

b. *Broker* - a person engaged in the business of buying and selling securities for the account of others.

[1] BSFIs shall be given three (3) months from 28 November 2015 to make appropriate changes in their sales and marketing policies, processes and materials in order to comply with the requirements of Sec. 4661Q as well as Subsec. 4661Q.1 to 4661Q.8.

c. *Dealer* - a person who buys and sells securities for own account in the ordinary course of business.

d. *Complex products* – refer to financial products whose terms, features and risks are not reasonably likely to be understood by a non-sophisticated client because of their complex structure, and which are also difficult to value, particularly when there is a very limited or no secondary market.
(Circular No. 891 dated 09 November 2015)

§ 4661Q.3 *Client suitability guidelines*. A BSFI shall ensure that the financial products it recommends to a client are appropriate for that client through a client suitability process, which involves obtaining client information, classifying a client according to financial sophistication and risk tolerance, and conducting a suitability review.

a. *Client Information*

The BSFI shall obtain necessary and sufficient information about the client that will serve as bases for its suitability assessment. At a minimum, the following information shall be obtained in addition to the basic account information:

(1) Investment amount/ investible funds or amount of exposure to be hedged;

(2) Financial situation - the client's financial standing, which includes information on assets, net worth, financial commitments, regular income, and capacity to withstand losses arising from financial transactions;

(3) Knowledge of financial products - the client's knowledge and understanding of the financial markets and products and the risks involved therein;

(4) Investment/hedging experience - the nature of investments and/or derivatives transactions undertaken by the client, including the length of time, frequency of dealings, and the extent to which he/it has relied on the advice of a bank or a financial advisor, if any;

(5) Financial objectives - the client's goal or purpose for entering into a transaction, whether it be for regular income, capital appreciation, capital preservation, maintenance of purchasing power, hedging as against investment, and/ or long-term buy and hold as opposed to short-term active trading;

(6) Risk appetite – the level of risk a client is willing to take;

(7) Holding period or investment horizon – the length of time over which the position or exposure to be hedged will be held by the client;

(8) Regulatory and legal constraints – prohibitions or limitations imposed on the activity of the client by existing laws, rules, and regulations, and;

(9) Liquidity needs – the client's need to convert positions into cash and the timing of such requirement.

To foster cooperation from the client, the BSFI shall explain the reason for assessing suitability. If the BSFI is unable to obtain sufficient information, it shall refrain from offering or recommending any financial product.

A BSFI may design and use its own system for obtaining client information, which may include questionnaires and interviews. However, pre-formatted questions and responses shall be fit for the purpose and presented in a clear and understandable manner. Likewise, technical or unfamiliar terms shall be explained as needed, in order to prevent different interpretations and/or erroneous responses.

While the client is responsible for providing accurate and updated information, BSFI personnel shall exercise diligence in reviewing the consistency of the responses and reliability of the information provided based on available documents, such as publicly disclosed information and those obtained from the client's existing contractual relationships with the BSFI. It is highly recommended that the BSFI requests for documents to support the client's representations, particularly where the client wishes to transact in complex products. Subsequent changes to client information, if any, shall be adequately documented and concurred with by the client along with the discussions and/or clarifications made.

For a legal entity or a group of two or more natural persons, the BSFI shall obtain evidence that: (1) the client is specifically authorized to enter into all or specific kinds of financial transactions, and (2) the client's representative/s is/are authorized to carry out transactions on behalf of the entity/other parties, in accordance with the applicable legal framework.

When gathering information from a representative, the BSFI should be able to demonstrate that it has taken steps to ascertain that the information obtained is reflective of the entity or group's situation. In addition, it shall determine if the client has competent/ qualified personnel to handle the proposed activities.

If a corporate client seeks to participate in complex products, the BSFI shall require the client to incorporate in the document authorizing the latter's activities that it likewise has appropriate risk management systems sufficient to manage and monitor the risks it will take.

At a minimum, client information, including client classification, shall be reviewed and updated prior to transacting in a product that is new to the client, or earlier in case of material changes in the client's financial situation or goals. Adequate controls shall be implemented to ensure the confidentiality and security of client information.

b. *Client Classification*

Based on the information obtained from a client, a BSFI should be able to classify a client into one of the following categories according to financial sophistication:

(1) *Market counterparty* - refers to any financial institution, only with respect to the instruments in which it is authorized to engage as a broker dealer;

(2) *Sophisticated institutional client* - refers to an institution that is not a market counterparty but has the level of net worth, knowledge, expertise, and experience to deal with financial products;

(3) *Sophisticated individual client* - refers to an individual who has demonstrated to the BSFI that he has the level of net worth, knowledge and experience to deal with financial products; or

(4) *Other clients* – refer to all other institutional or individual clients not categorized as market counterparty, sophisticated institutional client or sophisticated individual client.

BSFIs are encouraged to adopt a more granular categorization according to financial sophistication, provided that the categories can be mapped into the broad classifications above and the differences between categories are clearly set out.

In addition, a BSFI shall classify a client according to risk tolerance. This entails assessing the client's preferences, willingness to take on the risks associated with a product, and ability or capacity to absorb the losses that may arise from such product, as well as whether such losses will have a detrimental impact on the client's financial condition. At a minimum, a BSFI's classification of a client according to risk tolerance shall include, but need not be limited to, the following categories:

(1) *Conservative* - Client prefers an investment and/or hedging strategy where the primary goal is to prevent the loss of principal;

(2) *Moderate* - Client is willing and able to expose funds to a moderate level of risk in consideration for higher returns or to meet certain objectives; and

(3) *Aggressive* - Client is willing and able to accept higher risks involving volatility of returns and even possible loss of investment in return for potentially higher long-term results.

Whenever a scoring system is used for client profiling, the BSFI shall ensure that the system is robust, fit for the purpose, and adequately tested. Any limitation in the system shall be mitigated through client discussions and the suitability review process. The system shall be calibrated as necessary to reflect appropriate results.

The BSFI shall make a record of the classification under which each client is categorized, including sufficient information to support the categorization. The classifications of the client according to sophistication and risk tolerance shall serve as bases for the BSFI's product offerings and the level of disclosures required.

a. Suitability Review

Before proposing or recommending a particular product to a client, a BSFI shall determine that the product is:

(1) Suitable to the client's needs, financial situation, and objectives;

(2) Consistent with the client's mandate, risk tolerance, and constraints; and

(3) Aligned with the client's knowledge and experience, such that he/it understands the nature of and risks associated with the product.

Likewise, the BSFI shall inform its client of alternative products that are suitable to his/its circumstances.

A BSFI shall maintain a record of the assessment as well as all information used as bases of its suitability review. This includes written documentation to the extent that such was created to evidence interviews and analyses made in the performance of its due diligence process. The BSFI is expected to conduct a more in-depth assessment before offering complex products. It is highly recommended that a BSFI requires a client to sign his/its conformity to the suitability assessment (including the information on which it is based) in order to avoid disputes with the client.

A client who is classified as conservative may only transact in plain vanilla financial products as follows: (i) peso-denominated Government Securities representing direct obligations of the Government of the Republic of the Philippines; (ii) foreign currency-denominated Government Securities representing direct obligations of the Government of the Republic of the Philippines; (iii) highly liquid sovereign bonds, corporate bonds, and commercial papers issued off-shore rated at least "AA-" or its equivalent by a reputable international credit rating agency; (iv) highly liquid domestic corporate bonds and commercial papers rated at least "AAA" or its equivalent by a reputable credit rating agency; and/or (v) foreign exchange derivatives solely for hedging, subject to the results of the suitability review.[1]

In cases where the client is classified as a market counterparty, the BSFI does not need to comply with the required suitability review, considering the client's recognized sophistication. However, a BSFI should be able to provide sufficient support for its classification.

Appropriate controls shall be in place to deter unauthorized overriding of the results of the suitability assessment. A BSFI shall only offer the range of products that is viewed as suitable for the client. Nevertheless, it is recognized that, in certain instances, a client may insist on transacting in a particular product that has previously been assessed as unsuitable for his/its profile. In such cases, the BSFI shall obtain the client's confirmation in writing that:

(1) The BSFI has informed the client of the protections he/it may lose and conversely, of the risks that he/it is exposed to,

[1] The BSFI is expected to have an internal policy for the identification of reputable credit rating agencies and prudent use of external credit assessment.

(2) The client still wishes to proceed with the transaction despite the BSFI's assessment, and

(3) The client fully understands and is willing to take the risks attendant to the product to be availed of.

However, in no case shall the BSFI offer to its clients the option to automatically and comprehensively waive the outcome of the client classification process and the resulting protections offered by the rules on client suitability.

(As amended by Circular No. 891 dated 09 November 2015)

§ 4661Q.4 Disclosures. A BSFI shall always be mindful of its statements regarding its products/services, whether the statements pertain to promotion, marketing or sale thereof or in the course of making the required disclosures. It shall institute measures to ensure that its clients understand the nature of and risks in a financial transaction. Although a BSFI can tailor-fit information, marketing and sales presentations/materials depending upon the sophistication of its client, it shall institute measures to ensure that its clients understand the nature of the financial transaction. The BSFI shall also take further steps to adequately disclose the attendant risks of the financial transactions when dealing with an unsophisticated client, either generally or with respect to a particular product being offered. A BSFI shall adopt standards for its publications/ materials/disclosure statements and regularly review the aforementioned documents to ensure that they meet the standards.

A BSFI shall not misrepresent or give a false impression of the financial products it offers in any of its advertisements, electronic communications, written materials (whether publicly disseminated or not) or oral representations. A misrepresentation is any statement that deviates from the truth or omits a material fact or even tends to mislead the recipients.

a. *Financial promotion* (marketing and sales)

A BSFI embarking on a financial promotion, whether through a direct offer or information/sales publications, shall ensure that it gives sufficient information on the entire transaction, including the underlying financial instruments, if any, to enable a client to make an informed decision. A BSFI shall prominently indicate its name in all its promotional materials and specify its role or capacity in the transaction (e.g., issuer, dealer, broker).

A financial promotion is considered clear, fair and not misleading if all of the following requisites are present:

(1) The information provided does not only emphasize the potential benefits of the product but also presents a fair and prominent description of the relevant risks and assumptions;

(2) It draws the customer's attention to the warnings, exclusions and disclaimers in all documents relating to the financial product;

(3) The design, content or format of the presentation does not disguise, obscure or diminish the significance of any statement, warning or other matters that the customer should be aware of;

(4) A client, by himself, can discern from the presentation whether a statement is a fact, promise or forecast;

(5) The accuracy of all material statements of fact can be substantiated;

(6) Any comparison or contrast of a product offered is made with another product that is intended to meet the same needs or to serve the same purpose. The comparison or contrast shall include all

relevant factors. The facts presented shall be verifiable; alternatively, the relevant assumptions shall be disclosed;

(7) No reference to an approval by a regulatory body or its officials is made, unless a written approval was actually obtained;

(8) A recommendation to consult/refer to a financial advisor is made; and

(9) It does not omit any information, the omission of which causes a material fact to be misleading, unclear, or unfair.

A BSFI shall consider the client's knowledge of the transaction to which the given information relates. However, it shall not assume that clients/recipients necessarily have an understanding of the product being promoted. It shall also assess its usage of terms, especially those which are technical in nature. If promotional or marketing materials are specially designed for a targeted client base that is reasonably believed to have particular knowledge of the investment, this fact shall be made clear in the materials.

b. *Product disclosures*

A BSFI shall endeavor to explain the financial products it offers to its clients to enable the latter to make an informed decision. Product disclosures shall present an adequate description of (a) the nature and features of the financial product, including any underlying instrument(s), (b) the amount of outlay required, (c) the costs involved, and (d) the risks related to the product. In general, disclosures shall always be presented in a balanced manner whereby the potential benefits of a product are tempered by a fair indication of the risks involved.

Disclosure statements shall be presented in a clear, concise and effective manner to promote the client's understanding of the product. The use of industry and legal jargon shall be minimized to the extent possible. If such cannot be avoided, these terms shall be clearly defined and explained to the client. A greater level of disclosure shall be provided if a product is not generally understood by clients, for instance, in the case of new or complex products.

Should the BSFI make use of materials provided by the issuer of a particular instrument, the client shall be made aware that the issuer is responsible for the representations contained therein. However, the BSFI is responsible for communicating the relevance of said materials to the client.

A product disclosure that includes an illustration of past or future performance shall comply with the following:

(1) When the product's past performance is used to illustrate possible future returns, the disclosure shall state that past performance is not necessarily indicative of future performance. This shall be presented in the main text of the presentation material. Past performance shall be culled from a reasonable time frame to provide a fair and balanced indication of a product's performance;

(2) When using any forecast on the economy or financial markets, the disclosure shall state that such forecast is not necessarily indicative of the future performance of the product; and

(3) Illustrations of returns shall include worst-case scenarios (i.e., not just the likely or best scenarios). Benefits shown in headline rates (pro-forma returns highlighted) should be realistic and achievable, and not based on unreasonably optimistic views of events.

Disclosures for products with some form of guarantee or protection should highlight which benefits are guaranteed/ protected and those which are not. In instances where the guarantee or protection involves a cost to the client, the BSFI shall disclose the fees or charges for the same. A BSFI shall also disclose to the client the counterparty (e.g., issuer/guarantor) risk involved so that he/it is not misled about the product's capital security/principal protection. When applicable, a BSFI shall state if the guaranteed or protected amount is payable only at the end of the term.

Product disclosures for leveraged transactions[1] should emphasize that while these types of products/strategies amplify the potential gain from an investment, they also increase the potential loss thereof. A client who intends to engage in margin buying, a means of applying leverage in investing, shall be cautioned on possible loss exceeding the margin or initial cash outlay.

c. *Minimum required disclosures*

The minimum required disclosures shall always be in writing. A BSFI shall require its client to sign or initial the disclosure statement as affirmation of the client's receipt and understanding of the disclosure statement, unless the client is a market counterparty. A BSFI may opt to draft an individual or separate disclosure statement for its client or incorporate the same in the main transaction agreement/contract.

Product-specific minimum disclosures shall include:

(1) The nature of the financial product, including the underlying financial instruments, and how these products work;

(2) Investment horizon or tenor of the financial product;

(3) Fees and charges, if any;

(4) Details on the issuing entity in case the dealing BSFI is not the issuing institution (i.e., the BSFI acts as a broker/dealer or market maker);

(5) Returns or benefits likely to be derived from the instrument, the amount and timing thereof and whether the benefits are guaranteed or not;

(6) All risk factors that may result in the client receiving returns less than the illustrated returns and factors affecting the recoverable amount by the client;

(7) Details of conflicts of interest, if any;

(8) Information on the handling of complaints related to the product;

(9) All termination clauses, when appropriate, including charges and restrictions;

(10) Any warning, exclusion or disclaimer in relation to the risk and rewards of the product, including, but not limited, to the following:

(a) The product carries higher risks than those associated with ordinary bank savings or time deposits;

(b) The product is risky and may not be appropriate if the client is not willing and able to accept the risk of adverse movements in the underlying securities or reference rates;

(c) Past performance of the product is not a guarantee of its future performance;

(11) Other disclosures that may be required by existing laws, rules and regulations.

Where applicable, a BSFI shall draw the attention of the client to the following:

(i) The effect of early redemption of a product on the return (e.g., penalties and/or a poor returns);

(ii) The availability of maximum benefit advertised after a specified period; and

(iii) The required conditions for the advertised growth rate of income to materialize.

Complex products should carry a standard warning that they are not suitable for all clients, and are intended for experienced and sophisticated clients. They should likewise carry appropriate warnings on the high economic risks of the transaction, such as:

(1) Loss of all or a substantial portion of the investment due to leveraging or other sophisticated practices;

[1] Leverage or gearing can be employed in a structured product in order to offer higher yields.

(2) Mismatch between the change in the price of a hedge versus the change in the price of the exposure it hedges;

(3) Volatility of returns;

(4) Lack of liquidity considering that there may be no secondary market for the instrument;

(5) Restrictions on transferring interests; and

(6) Absence of information regarding valuation and pricing.

(As amended by Circular No. 891 dated 09 November 2015)

§ 4661Q.5 *Sales and marketing personnel.* Any informational or promotional presentation regarding financial products shall be undertaken only by personnel who are knowledgeable on the products involved. In assessing the knowledge of its personnel, a BSFI may consider their educational background; relevant training; certification; and professional experience in rendering investment advice, making presentations regarding financial products and/or assessing the propriety of financial products for a client. The personnel involved in the transactions shall likewise be familiar with all relevant laws and applicable rules and regulations and shall ensure compliance therewith.

At a minimum, a BSFI shall establish qualification standards for personnel involved in sales and marketing activities and require compliance with the registration requirements prescribed by existing securities laws, rules and regulations. In addition, a BSFI shall implement, and maintain a reasonably comprehensive system of training geared at enhancing the technical knowledge of its personnel to enable them to understand; and explain the nature and risks of a BSFI's financial products, and ensure client suitability.

Management shall regularly review the BSFI's compensation and incentive programs and ensure that such remuneration schemes do not place the interests of the sales and marketing personnel in conflict with those of their clients.

The BSFI's board of directors and senior management shall be liable for the acts performed and representations made by sales and marketing personnel in their official capacity. Notwithstanding the foregoing, a BSFI's board of directors and senior management are not precluded from filing the necessary action against the erring sales and marketing personnel.

(As amended by Circular No 891 dated 09 November 2015)

§ 4661Q.6 *Role of control functions.* The control functions shall periodically monitor and evaluate the continuing effectiveness and adequacy of the sales and marketing policies and procedures. They shall regularly provide senior management or the Board, as appropriate, with written reports on the results of their review.

A BSFI's operational risk management framework shall take into account sales and marketing activities in the identification and assessment, monitoring and reporting, and control and mitigation of risks[1]. The compliance function referred to in Subsec. 4180Q.5 shall be responsible for monitoring and assessing the BSFI's compliance with applicable laws, rules and regulations in the conduct of sales and marketing activities. The internal audit function shall include in its scope the review and evaluation of the BSFI's compliance with internal policies and procedures for the sales and marketing

[1] BSFIs should refer to existing Guidelines on Operational Risk Management.

of financial products, issuance of recommendations based on the results of the audits conducted, and the verification of compliance with those recommendations, in accordance with Subsec. 4186Q.2.

(Circular No. 891 dated 09 November 2015)

§ 4661Q.7 *Record retention.* Documents evidencing compliance with this Section shall be retained for a period of not less than five (5) years unless an investigation is being conducted, or a criminal, civil, or administrative case has been filed in a competent judicial or administrative body where a client is involved or impleaded as a party to the case or investigation. In such cases, the above documents shall be preserved beyond the five-year period until such time that a final judgment has been reached by the judicial or administrative body.

(As amended by Circular No. 891 dated 09 November 2015)

§ 4661Q.8 *Enforcement actions.* The Bangko Sentral may deploy its range of supervisory tools to promote adherence to the requirements set forth in these guidelines and bring about timely corrective actions and compliance with Bangko Sentral directives. Sanctions may likewise be imposed on the BSFI and responsible persons, which may include restrictions or prohibitions from certain authorities/ activities; and warning, reprimand, suspension, removal and disqualification of concerned directors, officers and employees.

(Circular No. 891 dated 09 November 2015)

Secs. 4662Q - 4698Q (Reserved)

C. GENERAL PROVISION ON SANCTIONS

Sec. 4699Q General Provision on Sanctions. Unless otherwise provided, any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R.A. No. 7653 on QBs, their directors and/ or officers are shown in *Appendix Q-39*.

PART SEVEN

ELECTRONIC OPERATIONS AND OTHER SERVICES

Section 4701Q Electronic Services. The following are the guidelines concerning electronic activities.
(Circular No. 649 dated 09 March 2009)

§ 4701Q.1 ***Application.*** QBs wishing to provide and/or enhance existing electronic services shall submit to the BSP an application describing the services to be offered/enhanced and how it fits the QB's overall strategy. This shall be accompanied by a certification signed by its president or any officer of equivalent rank and function to the effect that the QB has complied with the following minimum pre-conditions:

a. An adequate risk management process is in place to assess, control, monitor and respond to potential risks arising from the proposed electronic services;

b. A manual on corporate security policy and procedures exists that shall address all security issues affecting its electronic services, particularly the following:

(1) Authentication – establishes the identity of both the sender and the receiver; uses trusted third parties that verify identities in cyberspace;

(2) Non-repudiation – ensures that transactions cannot be repudiated or presents undeniable proof of participation by both the sender and the receiver in a transaction;

(3) Authorization – establishes and enforces the access rights of entities (both persons and/or devices) to specified computing resources and application functions; also locks out unauthorized entities from physical and logical access to the secured systems;

(4) Integrity – assures that data have not been altered; and

(5) Confidentiality – assures that no one except the sender and the receiver of the data can actually understand the data.

c. The system had been tested prior to its implementation and that the test results are satisfactory. As a minimum standard, appropriate systems testing and user acceptance testing should have been conducted; and

d. A business continuity planning process and manuals have been adopted which should include a section on electronic services channels and systems.
(Circular No. 649 dated 09 March 2009)

§ 4701Q.2 ***Pre-screening of applicants***

a. The BSP, thru the Technical Working Group on Electronic Banking, shall pre-screen the overall financial condition as well as the applicant-QB's compliance with BSP rules and regulations based on the latest available Bank Performance Rating equivalent for QBs and Report of Examination (ROE) including CAMELS Rating.

b. The Working Group shall ensure that the applicant QB's overall financial condition can adequately support its electronic services that it shall have complied with certain comprehensive prudential requirements such as, but not limited to, the following:

(1) Minimum capital requirement and net worth to risk assets ratio;

(2) Satisfactory solvency, liquidity and profitability positions;

(3) CAMELS composite rating of at least "3", (this rating, however can be flexible depending on other circumstances prevailing), and with at least a moderate risk

assessment system (RAS) based on the latest regular examination.

(4) There are no uncorrected major findings/exceptions noted in the latest BSP examination.

(Circular No. 649 dated 09 March 2009)

§ 4701Q.3 *Approval in principle*

a. Based on the recommendation of the Technical Working Group on Electronic Banking, the Deputy Governor, SES, shall approve in principle the application so that QBs may immediately launch and/or enhance their existing electronic services.

b. QBs shall be informed of the conditional approval of the DG, SES and they shall in turn notify the BSP on the actual date of its launching/enhancement.

(Circular No. 649 dated 09 March 2009)

§ 4701Q.4 *Documentary requirements*

a. Within thirty (30) calendar days from such launching/enhancement, QBs shall submit to the BSP thru the SDC for evaluation, the following documentary requirements:

(1) A discussion on the services to be offered/enhanced, the business objectives for such services and the corresponding procedures, both automated and manual, offered through the electronic services channels;

(2) A description or diagram of the configuration of the QB's electronic services system and its capabilities showing:

(i) how the electronic services system is linked to other host systems or the network infrastructure in the QB;

(ii) how transaction and data flow through the network;

(iii) what types of telecommunications channels and remote access capabilities (e.g., direct modem dial-in, internet access, or both) exist; and

(iv) what security controls/measures are installed;

(3) A list of software and hardware components indicating the purpose of the software and hardware in the electronic services infrastructure;

(4) A description of the security policies and procedures manual containing:

(i) description of the QB's security organization;

(ii) definition of responsibilities for designing, implementing, and monitoring information security measures; and

(iii) established procedures for evaluating policy compliance, enforcing disciplinary measures and reporting security violations;

(5) A brief description of the contingency and disaster recovery plans for electronic facilities and event scenario/ problem management plan/program to resolve or address problems, such as complaints errors and intrusions and the availability of back-up facilities;

(6) Copy of contract with the communications carrier, arrangements for any liability arising from breaches in the security of the system or from unauthorized/ fraudulent transactions;

(7) Copy of the maintenance agreements with the software/hardware provider/s; and

(8) Latest report on the periodic review of the system, if applicable.

b. If after the evaluation of the submitted documents, the Working Group has still some unresolved issues and gray areas, the QB may be required to make a presentation of its electronic transactions to BSP.

(Circular No. 649 dated 09 March 2009)

§ 4701Q.5 *Conditions for Monetary Board approval.* Upon completion of evaluation, the appropriate recommendation shall be made to the Monetary Board. The following shall be the standard conditions for approval:

a. Existence at all times of appropriate top-level risk management oversight;

b. Operation of electronic system outsourced to a third party service provider taking into consideration the existence of adequate security controls and the observance of confidentiality [as required in R.A. No. 1405 (Bank Secrecy Law)] of customer information;

c. Adoption of measures to properly educate customers on safeguarding of user ID, PIN and/or password, use of QB's products/services, actual fees/QB charges thereon and problem/error resolution procedures;

d. Clear communication with its customers in connection with the terms and condition which would highlight how any losses from security breaches, systems failure or human error will be settled between the QB and its customers;

e. Customer's acknowledgement in writing that they have understood the terms and conditions and the corresponding risks that entail in availing electronic service;

f. The QB's oversight process shall ensure that business expansion shall not put undue strains on its systems and risk management capability;

g. The establishment of procedures for the regular review of the QB's security arrangements to ensure that such arrangements remain appropriate having regard to the continuing developments in security technology;

h. Strict adherence to Bangko Sentral regulations on fund transfers in cases where clients use the electronic services to transfer funds;

i. The electronic service shall not be used for money laundering or other illegal activities that will undermine the confidence of the public; and

j. The Bangko Sentral shall be notified in writing thirty (30) days in advance of any enhancements that may be made to the online electronic service.

(Circular No. 649 dated 09 March 2009)

§ 4701Q.6 *Requirements for quasi-banks with pending applications*. The same procedure and requirements stated in the foregoing shall apply to all QBs with pending applications with the Bangko Sentral, except on the submission of the documents enumerated in Subsec. 4701Q.4. QBs which have already submitted all the required information/documents need not comply with this requirement.

(Circular No. 649 dated 09 March 2009)

§ 4701Q.7 *Exemption.* Electronic services that are purely informational in nature are exempted from these regulations: *Provided, however,* That should such services be upgraded to transactional service, then prior Bangko Sentral approval shall be required.

(Circular No. 649 dated 09 March 2009)

§ 4701Q.8 *Transitory provision* QBs with existing electronic services but do not qualify as a result of the pre-screening process mentioned in Subsec. 4701Q.2, shall be given three (3) months from 21 December 2000, within which to show proof of improved overall financial condition and/or substantial compliance with Bangko Sentral's prudential requirements, otherwise, their electronic activities will be temporarily suspended until such time that the same have been complied with.

(Circular No. 649 dated 09 March 2009)

§§ 4701Q.9 - 4701Q.11 *(Reserved)*

§ 4701Q.12 *Sanctions.* For failure to seek Bangko Sentral approval before launching/enhancing/implementing electronic services, and/or submit within the prescribed deadline the required information/documents, the following monetary penalties and/or suspension of electronic activities or both, shall be imposed on erring QBs and/or its officers:

Monetary Penalties	Amount
a. For responsible officer/s and/or director/s - for failure to seek prior Bangko Sentral approval and/or for non-submission/delayed submission of required information/documents	P200,000 (one-time penalty)
b. On the QB - for failure to seek prior Bangko Sentral aproval and/or for non-submission/delayed submission of required information documents	P30,000 per day starting from the day the offense was committed up to the time the same was corrected

(Circular No. 649 dated 09 March 2009)

§ 4701Q.13 *Outsourcing of internet and mobile electronic services.* The rules on outsourcing of banking functions as shown in *Appendix Q-37* shall be adopted insofar as they are applicable to QBs' outsourcing of internet and mobile electronic services.
(Circular No. 649 dated 09 March 2009, as amended by Circular No. 764 dated 03 August 2012)

Secs. 4702Q - 4779Q (Reserved)

Sec. 4780Q 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)

§ 4780Q.1 *Declaration of policy* It is the policy of the Bangko Sentral 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)

§ 4780Q.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 (EMI) shall be classified as follows:

a. Banks (hereinafter called EMI-Bank);
b. NBFI supervised by the Bangko Sentral (hereinafter called EMI-NBFI); and
c. Non-bank institutions registered with the Bangko Sentral 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 QBs shall not be considered as deposits.

(Circular No. 649 dated 09 March 2009)

§ 4780Q.3 *Prior Bangko Sentral approval*. QBs planning to be an EMI-NBFI shall comply with the requirements of Sec. 4701Q and Sec. 4162Q, when applicable.

(Circular No. 649 dated 09 March 2009)

§ 4780Q.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 Bangko Sentral. 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

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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 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)

§ 4780Q.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)

§ 4780Q.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)

§ 4780Q.7 *Transitory provisions* EMI-NBFIs 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 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)

§§ 4780Q.8 - 4780Q.10 *(Reserved)*

§ 4780Q.11 *Outsourcing of services by Electronic Money Issuers (EMIs) to Electronic Money Network Service Providers (EMNSP).* The guidelines on outsourcing of services by Electronic Money Issuers (EMIs) to Electronic Money Network Service Providers (EMNSP) are shown in *Appendix Q-54*.

Sanctions. Violations committed by EMIs pertaining to outsourcing activities to EMNSP shall be subject to monetary penalties as graduated under *Appendix Q-39* and/or other non-monetary sanctions under Section 37 of RA No. 7653.

Transitory provisions. EMIs that were granted an authority to outsource their E-money activities to an EMNSP may continue to exercise such authority provided that they have to conform to the provisions of *Appendix Q-54* within a six-month period from 20 January 2011.
(Circular 704 dated 22 December 2010)

Secs. 4781Q - 4798Q (Reserved)

Sec. 4799Q General Provision on Sanctions. Any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R.A. No. 7653 on QBs, their directors and/ or officers are shown in *Appendix Q-39*.

PART EIGHT

ANTI-MONEY LAUNDERING REGULATIONS

Sec. 4801Q Declaration of Policy The BSP adopts the policy of the State to protect the integrity and confidentiality of bank accounts and to ensure that the Philippines in general and the covered institutions herein described in particular shall not be used respectively as a money laundering site and conduit for the proceeds of an unlawful activity as hereto defined.
(Circular No. 706 dated 05 January 2011)

Sec. 4802Q Scope of Regulations. These regulations shall apply to all covered institutions supervised and regulated by the BSP. The term *"covered institution"* shall refer to banks, OBUs, QBs, trust entities, NSSLAs, pawnshops, FX dealers, money changers, remittance agents, electronic money issuers and other FIs which under special laws are subject to BSP supervision and/or regulation, including their subsidiaries and affiliates as herein defined wherever they may be located:

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 and/or regulated by the BSP.

b. An *affiliate* means an entity the voting stock of which, to the extent of fifty percent (50%) or less, is owned by a bank, QB, trust entity, or any other institution supervised and/or regulated by the BSP.

Pursuant to Section 20 of the General Banking Law of 2000, a bank authorized by BSP to establish branches or other offices within or outside the Philippines shall be responsible for all business conducted in such branches and offices to the same extent and in the same manner as though such business had all been conducted in the head office. A bank and its branches and offices shall be treated as one (1) unit.

Whenever local applicable laws and regulations of a branch, office, subsidiary or affiliate based outside the Philippines prohibit the implementation of these Rules or any of the provisions of the AMLA, as amended, its RIRR, and the supervising authority in that foreign country issues a directive forbidding said branch, office, subsidiary or affiliate, the covered institution shall notify the BSP of this situation and furnish a copy of the supervising authority's directive.
(*Circular No. 706 dated 05 January 2011)*

Sec. 4803Q Definitions of Terms. Except as otherwise defined herein, all terms used shall have the same meaning as those terms that are defined in the AMLA, as amended, and its RIRR.

(A) *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:

(1) 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;

(2) 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 "*(1)*" above; and

(3) Any person knowing that any monetary instrument or property is required under the act to be disclosed and filed with the Anti-Money Laundering Council, fails to do so.

(B) *covered transaction* (CT) is a transaction in cash or other equivalent monetary instrument involving a total amount in excess of P500,000 within one (1) banking day.

(C) *suspicious transactions* (ST) are transactions with covered institutions, regardless of the amount involved, 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 AMLA, as amended;

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

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

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

(D) *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.

(E) *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.

(F) *unlawful activity* refers to any act or omission or series or combination thereof involving or having direct relation to the following:

(1) Kidnapping for ransom under Article 267 of Act No. 3815, otherwise known as the Revised Penal Code (RPC), as amended;

(2) Sections 4, 5, 6, 8, 9, 10, 12, 13, 14, 15 and 16 of R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drug Act of 2002;

(3) 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;

(4) Plunder under R.A. No. 7080, as amended;

(5) Robbery and extortion under Articles 294, 295, 296, 299, 300, 301 and 302 of the RPC, as amended;

(6) Jueteng and Masiao punished as illegal gambling under P.D. No. 1602;

(7) Piracy on the high seas under the RPC, as amended, and P.D. No. 532;

(8) Qualified theft under Article 310 of the RPC, as amended;

9) Swindling under Article 315 of the RPC, as amended;

(10) Smuggling under R.A. Nos. 455 and 1937;

(11) Violations under R.A. No. 8792 , otherwise known as the Electronic Commerce Act of 2000;

(12) Hijacking and other violations under R.A. No. 6235; destructive arson and murder, as defined under the RPC, as amended, including those perpetrated by terrorists against non-combatant persons and similar targets;

(13) Fraudulent practices and other violations under R.A. No. 8799, otherwise known as the Securities Regulation Code of 2000; and

(14) Felonies or offenses of a similar nature that are punishable under the penal laws of other countries.

(g) *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.

(h) *shell company* refers to a legal entity which has no business substance in its own right but through which financial transactions may be conducted.

(i) *shell bank* refers to a shell company incorporated as a bank or made to appear to be incorporated as a bank but has no physical presence and no affiliation with a regulated financial group. It can also be a bank that:

(1) Does not conduct business at a fixed address in a jurisdiction in which the shell bank is authorized to engage;

(2) Does not employ one or more individuals on a full time basis at this fixed address;

(3) Does not maintain operating records at this address; and

(4) Is not subject to inspection by the authority that licensed it to conduct banking activities.

(j) *beneficial owner* refers to natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.

(k) *politically exposed person* or *PEP* refers to an individual who is or has been entrusted with prominent public positions in the Philippines or in a foreign state, including heads of state or of government, senior politicians, senior national or local government, judicial or military officials, senior executives of government or state -owned or -controlled corporations and important political party officials.

(l) *correspondent banking* refers to activities of one bank (the correspondent bank) having direct connection or friendly service relations with another bank (the respondent bank).

(m) *fund/wire transfer* refers to any transaction carried out on behalf of an originator (both natural and juridical) through an FI (Originating Institution) by electronic means with a view to making an amount of money available to a beneficiary at another FI (Beneficiary Institution). The originator person and the beneficiary person may be the same person.

(n) *cross border transfers* refers to any wire transfer where the originating and beneficiary institutions are located in different countries. It shall also refer to any chain of wire transfer that has at least one cross border element.

(o) *domestic transfer* refers to any wire transfer where the originating and beneficiary institutions are located in the same country. It shall refer to any chain of wire transfer that takes place entirely within the borders of a single country, even though the system used to effect the fund/wire transfer may be located in another country.

(p) *originating institution* refers to the entity utilized by the originator to transfer funds to the beneficiary and can either be:

(1) A covered institution as specially defined by this Part and as generally defined by the AMLA, as amended, and its RIRR; or

(2) An FI operating outside the Philippines that is other than covered institutions referred to in Item *"(1)"* but conducts business operations and activities similar to them.

(q) *beneficiary institution* refers to the entity that will pay out the money to the beneficiary and can either be:

(1) A covered institution as specifically defined by this Part and as generally defined by the AMLA, as amended, and its RIRR; or

(2) An FI operating outside the Philippines that is other than covered institutions referred to in Item *"(1)"* but conducts business operations and activities similar to them.

(r) *intermediary institution* refers to the entity utilized by the originating and beneficiary institutions where both have no correspondent banking relationship with each other but have established relationship with the intermediary institution. It can either be:

(1) A covered institution as specifically defined by this Part and as generally defined by the AMLA, as amended, and its RIRR; or

(2) An FI operating outside the Philippines that is other than covered institutions referred to in Item *"(1)"* but conducts business operations and activities similar to them.

(Circular No. 706 dated 05 January 2011)

Sec. 4804Q Basic Principles and Policies to Combat Money Laundering. In line with the declaration of policy, covered institutions shall apply the following principles:

a. Conduct business in conformity with high ethical standards in order to protect its safety and soundness as well as the integrity of the national banking and financial system;

b. Know sufficiently your customer at all times and ensure that the financially or socially disadvantaged are not denied access to financial services while at the same time prevent suspicious individuals or entities from opening or maintaining an account or transacting with the covered institution by himself or otherwise;

c. Adopt and effectively implement a sound AML and terrorist financing risk management system that identifies, assesses, monitors and controls risks associated with money laundering and terrorist financing;

d. Comply fully with this Part and existing laws aimed at combating money laundering and terrorist financing by making sure that officers and employees are aware of their respective responsibilities and carry them out in accordance with superior and principled culture of compliance; and

e. Fully cooperate with Anti-Money Laundering Council (AMLC) for the effective implementation and enforcement of the AMLA, as amended, and its RIRR.

(Circular No. 706 dated 05 January 2011)

A. RISK MANAGEMENT

Sec. 4805Q Risk Management. All covered institutions shall develop sound risk management policies and practices to ensure that risks associated with money-laundering such as counterparty, reputational, operational, and compliance risks are identified, assessed, monitored, mitigated and controlled, as well as to ensure effective implementation of this part, to the end that covered institutions shall not be used as a vehicle to legitimize proceeds of unlawful activity or to facilitate or finance terrorism.

The four (4) areas of sound risk management practices are adequate and active board and senior management oversight, acceptable policies and procedures embodied in a money laundering and terrorist financing prevention compliance program, appropriate monitoring and Management Information System and comprehensive internal controls and audit.
(Circular No. 706 dated 05 January 2011)

§ 4805Q.1 ***Board and senior management oversight.*** Notwithstanding the provisions specifying the duties and responsibilities of the compliance office and internal audit, it shall be the ultimate responsibility of the board of directors to fully comply with the provisions of this Part, the AMLA, as amended, and its RIRR. For this reason, it shall ensure that oversight on the institution's compliance management is adequate.
(Circular No. 706 dated 05 January 2011)

§ 4805Q.1.a ***Compliance office*** Management of the implementation of the covered institution's Money Laundering and Terrorist Financing Prevention Program (MLPP) shall be a primary task of the compliance office. To ensure the independence of the office, it shall have a direct reporting line to the board of directors or any board-level or approved committee on all matters related to AML and terrorist financing compliance and their risk management. It shall be principally responsible for the following functions among other functions that may be delegated by senior management and the board, to wit:

(1) Ensure compliance by all responsible officers and employees with this Part, the AMLA, as amended, the RIRR and its own MLPP. It shall conduct periodic compliance checking which covers, among others, evaluation of existing processes, policies and procedures including on-going monitoring of performance by staff and officers involved in money laundering and terrorist financing prevention, reporting channels, effectivity of the electronic money laundering transaction monitoring system and record retention system through sample testing and review of audit or examination reports. It shall also report compliance findings to the board or any board-level committee;

(2) Ensure that infractions, discovered either by internally initiated audits or by special or regular examination conducted by the BSP, are immediately corrected;

(3) Inform all responsible officers and employees of all resolutions, circulars and other issuances by the BSP and the AMLC in relation to matters aimed at preventing money laundering and terrorist financing;

(4) Alert senior management, the board of directors, or the board-level or approved committee if it believes that the institution is failing to sensibly address anti-money laundering and terrorist financing issues; and

(5) Organize the timing and content of AML training of officers and employees including regular refresher trainings as stated in Sec. 4809Q.
(Circular No. 706 dated 05 January 2011)

§ 4805Q.2 ***Money laundering and terrorist financing prevention program.*** All covered institutions shall adopt a comprehensive and risk-based MLPP geared toward the promotion of high ethical and professional standards and the prevention of the bank being used, intentionally or unintentionally, for money laundering and terrorism financing. The MLPP shall be consistent with the AMLA, as amended, and the provisions set out in this Part and designed according to the covered institution's corporate structure and risk profile. It shall be in writing, approved by the board of directors or by the country/ regional head or its equivalent for local branches of foreign banks, and well disseminated to all officers and staff who are obligated by law and by their program to implement the same. Where a covered institution has branches, subsidiaries, affiliates or offices located within and/or outside the Philippines, it shall adopt an institution-wide MLPP that shall be implemented on a consolidated basis.

The MLPP shall also be readily available in user-friendly form, whether in hard or soft copy. The covered institution must put up a procedure to ensure an audit trail evidencing dissemination process for new and amended policies and procedures. The program shall embody the following at a minimum:

a. Detailed procedures of the covered institution's compliance and implementation of the following major requirements of the AMLA, as amended, its RIRR, and this Part, to wit:

(1) Customer identification process including acceptance policies and on-going monitoring processes;

(2) Record keeping and retention;

(3) Covered transaction reporting; and

(4) Suspicious transaction reporting including the adoption of a system, electronic or manual, of flagging, monitoring and reporting of transactions that qualify as suspicious transactions, regardless of amount or that will raise a *"red flag"* for purposes of conducting further verification or investigation, or 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. The ST reporting shall include a reporting chain under which a suspicious transaction will be processed and the designation of a board-level or approved committee who will ultimately decide whether or not the covered institution should file a report to the AMLC. If the resources of the covered institution do not permit the designation of a committee, it may designate the compliance officer to perform this function instead: *Provided,* That the board of directors is informed of his decision.

b. An effective and continuous anti-money laundering and countering of terrorist financing training program for all directors, and responsible officers and employees, to enable them to fully comply with their obligations and responsibilities under this Part, the AMLA, as amended, its RIRR and their internal policies and procedures as embodied in the MLPP. The training program shall also include refresher trainings to remind these individuals of their obligations and responsibilities as well as update them of any changes in AML laws, rules and internal policies and procedures.

c. An adequate screening and recruitment process to ensure that only qualified personnel who have no criminal record/s are employed to assume sensitive banking functions;

d. An internal audit system in accordance with Subsec. 4805Q.4;

e. An independent audit program with written scope of audit that will ensure the completeness and accuracy of the information and identification documents obtained from clients, the covered and suspicious transactions reports submitted to the AMLC, and the records retained in compliance with this Part as well as adequacy and effectiveness of the training program on the prevention of money laundering and terrorism financing;

f. A mechanism that ensures all deficiencies noted during the audit and/or BSP regular or special examination are immediately corrected and acted upon;

g. Cooperation with the AMLC; and

h. Designation of an AML compliance officer, who shall at least be at senior officer level, as the lead implementor of the program within an adequately staffed compliance office. The AML compliance officer may also be the liaison between the covered institution, the BSP and the AMLC in matters relating to the covered institution's AML compliance. Where resources of the covered institution do not permit the hiring of an AML compliance officer, the compliance officer shall also assume the responsibility of the former.

(Circular No. 706 dated 05 January 2011)

§ 4805Q.2.a *Submission of the revised and updated MLPP[1]; Approval by the board of directors or country head.* Within 180 days from 27 January 2011, all covered institutions shall prepare and have available for inspection an updated MLPP embodying the principles and provisions stated in this Part. The compliance officer shall submit to the Anti-Money Laundering Specialist Group, SES I, a sworn certification that the revised MLPP had been prepared, duly noted and approved by the board of directors or the country head or its equivalent for local branches of foreign banks.

Henceforth, each MLPP shall be regularly updated at least once every two (2) years to incorporate changes in AML policies and procedures, latest trends in money laundering and terrorist financing typologies, and latest pertinent BSP issuances. Any revision or update in the MLPP shall likewise be approved by board of directors or the country/regional head or its equivalent for local branches of foreign banks.

(Circular No. 706 dated 05 January 2011 and M-2011-045 dated 16 August 2011)

§ 4805Q.3 *Monitoring and reporting tools.* All covered institutions shall adopt an AML and terrorist financing monitoring system that is appropriate for their risk-profile and business complexity and in accordance with this Part. The system should be capable of generating timely, accurate and complete reports to lessen the likelihood of any reputational and compliance risks, and to regularly apprise the board of directors and senior management on anti-money laundering and terrorist financing compliance.

(Circular No. 706 dated 05 January 2011)

§ 4805Q.3.a *Electronic monitoring and reporting systems for money laundering* UBs and KBs shall adopt an electronic AML system capable of monitoring risks associated with money-laundering and terrorist financing as well as generating timely reports for the guidance and information of its board of directors and senior management in addition to the functionalities mentioned in Subsec. 4807Q.2.

(Circular No. 706 dated 05 January 2011)

§ 4805Q.3.b *Manual monitoring.* For covered institutions other than UBs and KBs, it need not have an electronic system but must ensure that it has the means of complying with Subsec. 4805Q.3.

(Circular No. 706 dated 05 January 2011)

§ 4805Q.4 *Internal audit.* The internal audit function associated with money laundering and terrorist financing should be conducted by qualified personnel who are independent of the office being audited. It must have the support of the board of directors and senior management and have a direct reporting line to the board or a board-level audit committee.

The internal audit shall, in addition to those specified by this Part, be responsible for the periodic and independent evaluation

[1]RBs are given a three (3) months extension or up to 26 October 2011, within which to submit to the AMLSG the Sworn Certification.

of the risk management, degree of adherence to internal control mechanisms related to the customer identification process, such as the determination of the existence of customers and the completeness of the minimum information and/or documents establishing the true and full identity of, and the extent and standard of due diligence applied to, customers, CT and ST reporting and record keeping and retention, as well as the adequacy and effectiveness of other existing internal controls associated with money laundering and terrorist financing.

For UBs and KBs with electronic money laundering transaction monitoring system, in addition to the above, the internal audit shall include determination of the efficiency of the system's functionalities as required by Subsecs. 4805Q.3 and 4807Q.2.

The results of the internal audit shall be timely communicated to the board of directors and shall be open for scrutiny by BSP examiners in the course of the regular or special examination without prejudice to the conduct of its own evaluation whenever necessary. Results of the audit shall likewise be promptly communicated to the compliance office for its appropriate corrective action. The compliance office shall regularly submit reports to the board to inform them of management's action to address deficiencies noted in the audit.
(Circular No. 706 dated 05 January 2011)

B.Customer Identification Process

Sec. 4806Q Customer Identification A covered institution shall maintain a system of verifying the true identity of their customers and, in case of corporate and juridical entities, 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. Along this line, it shall formulate a risk-based and tiered customer acceptance policy, customer retention policy and customer identification process that involves reduced customer due diligence (CDD) for potentially low risk clients and enhanced CDD for higher risk accounts.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.1 ***Customer acceptance policy.*** Every covered institution shall develop clear, written and graduated acceptance policies and procedures that will ensure that the financially or socially disadvantaged are not denied access to financial services while at the same time prevent suspicious individuals or entities from opening an account.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.1.a ***Criteria for type of customers: low, normal and high risk; standards for applying reduced, average and enhanced due diligence.*** Covered institutions shall specify the criteria and description of the types of customers that are likely to pose low, normal or high risk to their operations as well as the standards in applying reduced, average and enhanced due diligence including a set of conditions for the denial of account opening.

Enhanced due diligence shall be applied to customers that are assessed by the covered institution or by this Part as high risk for money laundering and terrorist financing.

For customers assessed to be of low risk such as an individual customer with regular employment or economically productive activity, small account balance and transactions, and a resident in the area of the covered institution's office or branch, the covered institutions may apply reduced due diligence. Some entities may likewise be considered as low risk clients, i.e., banking institutions, trust entities and QBs authorized by the

BSP to operate as such, publicly-listed companies subject to regulatory disclosure requirements, government agencies including GOCCs.

In designing a customer acceptance policy, the following factors shall be taken into account:

(1) Background and source of funds;

(2) Country of origin and residence or operations;

(3) Public or high profile position of the customer or its directors/trustees, stockholders, officers and/or authorized signatory;

(4) Linked accounts;

(5) Watchlist of individuals and entities engaged in illegal activities or terrorist-related activities as circularized by BSP, AMLC, and other international entities or organizations, such as the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury and United Nations Sanctions List;

(6) Business activities; and

(7) Type of services/products/ transactions to be entered with the covered institution.

In all instances, the covered institutions shall document how a specific customer was profiled (low, normal or high) and what standard of CDD (reduced, average or enhanced) was applied.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.1.b *Enhanced due diligence* Whenever enhanced due diligence is applied as required by this Part or by the covered institution's customer acceptance policy, the covered institution shall, in addition to profiling of customers and monitoring of their transactions, do the following:

(1) Obtain additional information other than the minimum information and/or documents required for the conduct of average due diligence as enumerated under Subsec. 4806Q.2.a and 4806Q.2.b.

(a) In cases of individual customers, obtain a list of banks where the individual has maintained or is maintaining an account, list of companies where he is a director, officer or stockholder, and banking services to be availed of.

(b) For entities assessed as high risk customers, such as shell companies, covered institutions shall, in addition to minimum information and/or documents enumerated above, obtain additional information including, but not limited to, prior or existing bank references, the name, present address, date and place of birth, nature of work, nationality and source of funds of each of the primary officers (President, Treasurer and authorized signatory/ies), stockholders owning at least 2% of the voting stock, and directors/trustees/ partners as well as their respective identification documents.

(2) Conduct validation procedures on any or all of the information provided in accordance with Subsec. 4806Q.1.c.

(3) Obtain senior management approval for establishing business relationship.

Where additional information cannot be obtained, or any information or document provided is false or falsified, or result of the validation process is unsatisfactory, the covered institution shall deny banking relationship with the individual or entity without prejudice to the reporting of a suspicious transaction to the AMLC when circumstances warrant.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.1.c *Minimum validation procedures*. Validation procedures for individual customers shall include, but is not limited to, the following:

(1) Confirming the date of birth from a duly authenticated official document;

(2) Verifying the permanent address through evaluation of utility bills, bank or credit card statement or other documents showing permanent address or through on-site visitation;

(3) Contacting the customer by phone, email or letter (such as sending of "*thank you letters*"); and

(4) Determining the authenticity of the identification documents through validation of its issuance by requesting a certification from the issuing authority or by any other means.

For corporate or juridical entities, validation procedures shall include, but not limited to, the following:

(1) Requiring the submission of audited financial statements conducted by a reputable accounting/auditing firm;

(2) Inquiring from the supervising authority the status of the entity;

(3) Obtaining bank references;

(4) On-site visitation of the company; and

(5) Contacting the entity by phone, email or letter (such as "*thank you letters*").
(Circular No. 706 dated 05 January 2011)

§ 4806Q.1.d *Reduced due diligence* Whenever reduced due diligence is applied in accordance with the covered institution's customer acceptance policy, the following rules shall apply:

(1) For individual customers, a covered institution may open an account under the true and full name of the account owner or owners and defer acceptance of the minimum information. Deferred acceptance of minimum information shall mean obtaining information numbers 1 to 7 of Subsec. 4806Q.2.a at the time of account opening while the rest, numbers 8 to 11, may be obtained within a reasonable time but not exceeding ninety (90) days from account opening.

(2) For corporate, partnership, and sole proprietorship entities, and other entities such as banking institutions, trust entities and QBs authorized by the BSP to operate as such, publicly listed companies subject to regulatory disclosure requirements, government agencies including GOCCs, a covered institution may open an account under the official name of these entities with only no. 4 of those required under Subsec. 4806Q.2.b (board resolution duly certified by the Corporate Secretary authorizing the signatory to sign on behalf of the entity) obtained at the time of account opening.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.1.e *Face-to-face contact.* No new accounts shall be opened and created without face-to-face contact and personal interview between the covered institution's duly authorized personnel and the potential customer except under Subsecs. 4806Q.1.e.1 to e.3.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.1.e.1 *Account opened through a trustee, agent, nominee, or intermediary.* Where the account is opened through a trustee, agent, nominee or intermediary, the covered institution shall establish and record the true and full identity and existence of both the (a) trustee, nominee, agent or intermediary and (b) trustor, principal, beneficial owner, or person on whose behalf the account is being opened. The covered institution shall determine the true nature of the parties' capacities and duties by obtaining a copy of the written document evidencing their relationship and apply the same criteria for assessing the risk profile and determining the standard of due diligence to be applied to both.

In cases of several trustors, principals, beneficial owners, or persons on whose behalf the account is being opened where the trustee, nominee, agent or intermediary opens a single account but keeps therein sub-accounts that may be attributable to each trustor, principal, beneficial owner, or person on whose behalf the account is being opened, the covered institution shall, at the minimum, obtain the true and full name, place and date of birth or date of registration, as the case may be, present address, nature of work or business, and source of funds as if the account was opened by them separately. Where the covered institution is required to report a CT or the circumstances warrant the filing of an ST, it shall obtain such other information on every trustor, principal, beneficial owner, or person on whose behalf the account is being opened in order that a complete and accurate report may be filed with the AMLC.

In case a covered institution entertains doubts that the trustee, nominee, agent or intermediary is being used as a dummy in circumvention of existing laws, it shall apply enhanced due diligence in accordance with Subsec. 4806Q.1.b.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.1.e.2 *Outsourcing arrangement.* Subject to existing rules on outsourcing of specified banking activities, a covered institution, without prior Monetary Board approval, may outsource to a counterparty the conduct of the requisite face-to-face contact: *Provided,* That such arrangement is formally documented and*: Provided, further,* That the conditions under Subsec. 4806Q.2.d are met.

If the counterparty is an entity other than a covered institution as herein defined, covered institutions shall ensure that the employees or representatives of the counterparty conducting the face-to-face contact undergo equivalent training program as that of its frontliners undertaking a similar activity. Covered institutions shall likewise monitor and review annually the performance of the counterparty to assist it in determining whether or not to continue with the arrangement.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.1.e.3 *Third party reliance* Where a third party as defined under Subsec. 4806Q.2.e.1 has already conducted the requisite face-to-face contact on its own customer who was referred to a covered institution, the latter may rely on the representation of the third party that it has already conducted face-to-face contact: *Provided,* That the pertinent requirements in Subsec. 4806Q.2.e.1 are also met.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.2 *Customer identification* Covered institutions shall establish and record the true identity of its customers based on valid identification[1] document/s specified in Subsec. 4806Q.2.c.

(Circular No. 706 dated 05 January 2011, as amended by M-2013-052 dated 22 November 2013)

§ 4806Q.2.a *New individual customers* Covered institutions shall develop a systematic procedure for establishing the true and full identity of new individual customers and shall open and maintain the account only in the true and full name of the account owner or owners.

Unless otherwise stated in this Part, average due diligence requires that the covered institution obtain, at the time of account opening, all the following minimum information and confirming these information with the valid identification documents stated in Subsec. 4806Q.2.c from individual customers and authorized signatory/ies of corporate and juridical entities:

(1) Name;

(2) Present address;

(3) Date and place of birth;

(4) Nature of work, name of employer or nature of self-employment/business;

(5) Contact details;

(6) Specimen signature;

(7) Source of funds;

(8) Permanent address;

(9) Nationality;

(10) TIN, SSS number or GSIS number, if any; and

(11) Name, present address, date and place of birth, nature of work and source of funds of beneficial owner or beneficiary, whenever applicable.

(Circular No. 706 dated 05 January 2011)

[1]Temporarily relaxed until 31 December 2013 for the victims of Super Typhoon Yolanda for transactions P50,000 and below and subject to conditions prescribed under Memorandum No. 2013-052 dated 22 November 2013.

§ 4806Q.2.b *New corporate and juridical entities.* Covered institutions shall develop a systematic procedure for identifying corporate, partnership and sole proprietorship entities as well as the stockholders/partners/owners, directors, officers and authorized signatory of these entities. It shall open and maintain accounts only in the true and full name of the entity and shall have primary responsibility to ensure that the entity has not been, or is not in the process of being dissolved, struck-off, wound-up, terminated, or otherwise placed under receivership or liquidation.

Unless otherwise stated in this Part, average due diligence requires that the covered institution obtain the following minimum information and/or documents before establishing business relationships:

(1) Certificates of Registration issued by the Department of Trade and Industry for single proprietors, or by the SEC for corporations and partnerships, and by the Bangko Sentral for money changers/foreign exchange dealers and remittance agents;

(2) Articles of Incorporation or Association and By-Laws;

(3) Principal business address;

(4) Board or Partners' Resolution duly certified by the Corporate/Partners' Secretary authorizing the signatory to sign on behalf of the entity;

(5) Latest General Information Sheet which lists the names of directors/trustees/partners, principal, stockholders owning at least twenty percent (20%) of the outstanding capital stock and primary officers such as the President and Treasurer;

(6) Contact numbers of the entity and authorized signatory/ies;

(7) Source of funds and nature of business;

(8) Name, present address, date and place of birth, nature of work and source of funds of beneficial owner or beneficiary, if applicable; and

(9) For entities registered outside the Philippines, similar documents and/or information shall be obtained, duly authenticated by the Philippine Consulate where said entities are registered.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.c *Valid identification documents.* The following guidelines govern the acceptance of valid ID cards for all types of financial transaction by a customer and the authorized signatory/ies of a corporate or juridical entity, including financial transactions involving Overseas Filipino Workers (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:

(1) Customers and the authorized signatory/ies of a corporate or juridical entity 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:

(a) Government of the Republic of the Philippines;

(b) Its political subdivisions and instrumentalities;

(c) GOCCs; and

(d) Private entities or institutions registered with or supervised or regulated either by the Bangko Sentral, SEC or IC.

Valid IDs include the following:

1. Passport including those issued by foreign governments;
2. Driver's license;
3. PRC ID;
4. NBI clearance;
5. Police clearance;
6. Postal ID;
7. Voter's ID;
8. TIN;

9. Barangay certification;
10. GSIS e-Card;
11. SSS card;
12. Senior Citizen card;
13. Overseas Workers Welfare Administration ID;
14. OFW ID;
15. Seaman's book;
16. Alien Certificate of Registration/ Immigrant Certificate of Registration;
17. Government office and GOCC ID (e.g., AFP, HDMF IDs);
18. ID issued by the National Council on Disability Affairs (NCDA);
19. DSWD certification;
20. IBP ID;
21. Company IDs issued by private entities or institutions registered with or supervised or regulated either by the Bangko Sentral, SEC or IC; and
22. PhilHealth Health Insurance Card ng Bayan.

(2) Students who are beneficiaries of remittances/fund transfers and 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.

(3) Where the customer or authorized signatory is a non-Philippine resident, similar IDs duly issued by the foreign government where the customer is a resident or a citizen may be presented.

(4) A covered institution shall require their customers or authorized signatory to submit a clear copy of one (1) valid ID on a one (1)-time basis only at the commencement of business relationship.

They shall require their clients to submit an updated photo and other relevant information on the basis of risk and materiality.

(5) A covered institution may classify identification documents based on its reliability and ability to validate the information indicated in the identification document with that provided by the customer.

(6) Whenever it deems necessary, a covered institution may accept other IDs not enumerated above: *Provided,* That it shall not be the sole means of identification.

(7) In case the identification documents mentioned above or other identification documents acceptable to the covered institution do not bear any photo of the customer or authorized signatory, or the photo bearing ID or a copy thereof does not clearly show the face of the customer or authorized signatory, a covered institution may utilize its own technology to take the photo of the customer or authorized signatory.

(Circular No. 706 dated 05 January 2011, as amended by Circular No. 792 dated 03 May 2013 and *M-2012-21 dated 27 April 2012)*

§ 4806Q.2.d *Outsourcing of the gathering of minimum information and/or documents.* Except for deposit taking, which is an inherent banking function that cannot be outsourced and subject to existing rules on outsourcing of specified banking activities, a covered institution may, without prior Monetary Board approval, outsource to a counterparty, which may or may not be a covered institution as herein defined, the gathering of the minimum information and/or documents required to be obtained by this Part: *Provided,* That the ultimate responsibility for knowing the customer and for keeping the identification documents shall lie with the covered institution and compliance with the following conditions:

For covered institution counterparty:

(1) There is a written service level agreement approved by the board of directors of both covered institutions;

(2) The counterparty has a reliable and acceptable customer identification system and training program in place; and

(3) In line with requirement no.1, all identification information and/or documents shall be turned over within a period not exceeding ninety (90) calendar days to the covered institution, which shall carefully review the documents and conduct the necessary risk assessment of the customer.

For non-covered institution counterparty:

(1) All conditions required for covered institutions counterparty;

(2) The covered institution outsourcing the activity shall likewise ensure that the employees or representatives of the counterparty establishing the true and full identity of the customer undergo equivalent training program as that of the covered institution's own employees undertaking a similar activity; and

(3) Annual monitoring and review by the covered institution of the performance of the counterparty to assist it in determining whether or not to continue with the arrangement.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.e *Trustee, nominee, agent or intermediary account.* Where any transaction is conducted by a trustee, nominee, agent or intermediary, either as an individual or through a fiduciary relationship, a corporate vehicle or partnership, on behalf of a trustor, principal, beneficial owner or person on whose behalf a transaction is being conducted, covered institutions shall establish and record the true and full identity and existence of both the (1) trustee, nominee, agent or intermediary and the (2) trustor, principal, beneficial owner or person on whose behalf the transaction is being conducted. The covered institution shall determine the true nature of the parties' capacities and duties by obtaining a copy of the written document evidencing their relationship and apply the same standards for assessing the risk profile and determining the standard of due diligence to be applied to both.

In case it entertains doubts as to whether the trustee, nominee, agent or intermediary is being used as a dummy in circumvention of existing laws, it shall apply enhanced due diligence in accordance with Subsec. 4806Q.1.b.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.e.1 Where the customer transacts through a trustee, nominee, agent or intermediary which is a third party as herein defined (Third Party Reliance). A covered institution may rely on the customer identification process undertaken by a third party. For purposes of this Subsection, the *"third party"* shall refer to a:

(a) covered institution as herein specifically defined and as generally defined by AMLA, as amended, and its RIRR; or

(b) an FI operating outside the Philippines that is covered by equivalent customer identification requirements.

A Bangko Sentral-accredited custodian may likewise rely in accordance with this Part on the face-to-face contact and gathering of minimum information to establish the existence and full identity of the customer conducted by the seller or issuer of securities or by the global custodian provided the latter has an equivalent customer identification requirements.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.e.1.a *Third party is a covered institution specifically defined by this Part and as generally defined by AMLA, as amended and its RIRR.* A covered institution may rely on the identification process conducted by a third party: *Provided*, That the covered institution shall obtain from the third party a written sworn certification containing the following:

(1) The third party has conducted the requisite customer identification requirements in accordance with this Part and its own MLPP including the face-to-face

contact requirement to establish the existence of the ultimate customer and has in its custody all the minimum information and/or documents required to be obtained from the customer; and

(2) The relying covered institution shall have the ability to obtain identification documents from the third party upon request without delay.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.e.1.b *Third party is an FI operating outside the Philippines that is other than covered institutions referred to in Subsec. 4806Q.2.e.1.a but conducts business operations and activities similar to them.* All the contents required in the sworn certification mentioned in Subsec. 4806Q.2.e.1.a shall apply with the additional requirement that the laws of the country where the third party is operating has equal or more stringent customer identification process requirement and that it has not been cited in violation thereof. It shall, in addition to performing normal due diligence measures, do the following:

(1) Gather sufficient information about the third party and the group to which it belongs to understand fully the nature of its business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to money laundering or terrorist financing investigation or regulatory action;

(2) Document the respective responsibilities of each institution; and

(3) Obtain approval from senior management at inception of relationship before relying on the third party.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.f *Private banking/wealth management operations.* These services, which by their nature involve high measure of client confidentiality, are more open to the elements of reputational risk especially if the customer identification process is not diligently followed. Covered institutions therefore shall endeavor to establish and record the true and full identity of these customers and establish a policy on what standard of due diligence will apply to them. They shall also require approval by a senior officer other than the private banking/wealth management/similar activity relationship officer or the like for acceptance of customers of private banking, wealth management and similar activities.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.g *Politically-exposed person.* A covered institution shall endeavor to establish and record the true and full identity of PEPs as well as their immediate family members and the entities related to them and establish a policy on what standard of due diligence will apply to them taking into consideration their position and the risks attendant thereto.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.h *Correspondent banking.* Because of the risk associated with dealing with correspondent accounts where it may unknowingly facilitate the transmission, or holding and management of proceeds of unlawful activities or funds intended to finance terrorist activities, covered institutions shall adopt policies and procedures for correspondent banking activities and designate an officer responsible in ensuring compliance with these policies and procedures. A covered institution may rely on the customer identification process undertaken by the respondent bank. In such case, it shall apply the rules on third party reliance under Subsec. 4806Q.2.e.1, treating the respondent bank as the Third Party as defined therein. In addition, the correspondent bank shall:

(1) Gather sufficient information about the respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to money laundering or terrorist financing investigation or regulatory action.

(2) Assess the respondent institution's anti-money laundering and terrorist financing controls.

(3) Obtain approval from senior management before establishing correspondent relationships.

(4) Document the respective responsibilities of each institution.

(5) With respect to "*payable-through accounts*", be satisfied that the respondent bank has verified the identity of, and performed on-going due diligence on, the customers having direct access accounts of the correspondent and that it is able to provide relevant customer identification data upon request by the correspondent bank.

Correspondent banking customers presenting greater risk, including shell companies, shall be subject to enhanced due diligence.

(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.i *Fund/Wire transfer*. Because of the risk associated with dealing with fund/wire transfers, where a covered institution may unknowingly transmit proceeds of unlawful activities or funds intended to finance terrorist activities, it shall establish policies and procedures designed to prevent it from being utilized for that purpose which shall include, but not limited to, the following:

(1) The beneficiary institution shall not accept instructions to pay-out fund transfers to non-customer beneficiary, unless it has conducted the necessary customer due diligence to establish the true and full identity and existence of said beneficiary. Should the originator and beneficiary be the same person, the beneficiary institution may rely on the customer due diligence conducted by the originating institution provided the rules on third party reliance under Subsec. 4806Q.2.e.1 are met, treating the originating institution as third party as therein defined.

(2) The originating institution shall not accept instructions to fund/wire transfer from a non-customer originator, unless it has conducted the necessary customer due diligence to establish the true and full identity and existence of said originator.

(3) In cross border transfers, if the originator is a high risk customer as herein described, the beneficiary institution shall conduct enhanced due diligence on the beneficiary and the originator. Where additional information cannot be obtained, or any information or document provided is false or falsified, or result of the validation process is unsatisfactory, the beneficiary institution shall refuse to effect the fund/wire transfer or the pay-out of funds without prejudice to the reporting of a suspicious transaction to the AMLC when circumstances warrant.

(4) Whenever possible, manually initiated fund transfer (MIFT) instructions should not be the primary delivery method. Every effort shall be made to provide client with an electronic banking solution. However, where MIFT is utilized, the following validation procedures shall apply:

(i) Prior to the bank accepting from a customer a manually-initiated funds transfer request, the customer must execute and sign an agreement which preferably is part of the account opening documentation, wherein are outlined the manual instruction procedures with related security procedures including customer agreement to accept responsibility for fraudulent or erroneous instructions provided the bank has complied with the stated security procedures.

(ii) It is mandatory that written MIFT instructions are signature verified. In addition, one (1) of the following primary security procedures must be applied: a recorded callback to the customer to confirm the transaction instructions, or testword arrangement/ verification. The callback or test word requirement may be substituted by any of the following validity checks: use of a controlled PIN or other pre-established code; sequential numbering control of messages; pre-established verifiable forms; same as prior transmissions; standing/pre-defined instructions; or value for value transactions.

(iii) It is mandatory that faxed MIFT instructions are signature verified and the fax machine be located in a secured environment with limited and controlled staff access which permits visual monitoring. If monitoring is not possible, the equipment must be secured or programmed to receive messages into a password protected memory.

Faxed MIFT transactions below a certain threshold (approved by the President/ Country Manager (for branches of foreign banks) or Business Risk Manager) may be processed with the mandatory procedure described above and an enhanced security procedure such as (a) a recorded callback to the customer to confirm the transaction instructions and/or (b) test word arrangement/verification, and/or (c) utilization of secured forms that incorporate verifiable security procedures such as watermarks or codes, and/or (d) transmission encryption.

(iv) Telephone callback numbers and contacts must be securely controlled. The confirmation callback is to be recorded and made to the signatory/(ies) of the customer's individual account(s). For commercial and company accounts the callback will be made to the signatory/(ies) of the account or, if so authorized, another person designated by the customer in the MIFT agreement. The party called is to be documented on the instructions. The callback must be made by someone other than (a) the person receiving the original instructions and (b) effecting the signature verification.

(5) Cross border and domestic fund/ wire transfers[1] and related message amounting to P50,000 or more or its equivalent shall include accurate and meaningful originator information. The following are the originator information that shall remain with the transfer or related message through the payment chain:

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[1] The implementation of the originator information requirement is deferred for one (1) year, or until 26 July 2012 *(M-2011-049 dated 07 September 2011)*

(a) Name of the originator;

(b) Address or in its absence the national identity number or date and place of birth of the originator; and

(c) Account number of the originator or in its absence, a unique reference number must be included.

(6) Should any wire transfer amounting to P50,000 or more or its equivalent be unaccompanied by the required originator information, the beneficiary institution shall exert all efforts to establish the true and full identity and existence of the originator by requiring additional information from the originating institution or intermediary institution. It shall likewise apply enhanced due diligence to establish the true and full identity and existence of the beneficiary. Where additional information cannot be obtained, or any information or document provided is false or falsified, or result of the validation process is unsatisfactory, the beneficiary institution shall refuse to effect the fund/wire transfer or the pay-out of funds without prejudice to the reporting of a suspicious transaction to the AMLC when circumstances warrant.
(Circular No. 706 dated 05 January 2011, as amended by Circular No. 890 dated 02 November 2015)

§ 4806Q.2.j *Buyers of cashier's, manager's or certified checks.* A covered institution may sell cashier's, manager's or certified checks only to its existing customers and shall maintain a register of said checks indicating the following information:

(1) True and full name of the buyer or the applicant if buying on behalf of an entity;

(2) Account number;

(3) Date of issuance and the number of the check;

(4) Name of the payee;

(5) Amount; and

(6) Purpose of such transaction.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.j.1 *Buyers of cashier's, manager's or certified checks other than an existing customer.* Where an individual or an entity other than an existing customer applies for the issuance of cashier's, manager's or certified checks, the covered institution shall, in addition to the information required in Subsec. 4806Q.2.j, obtain all the identification documents and minimum information required by this Part to establish the true and full identity and existence of the applicant. In no case shall reduced due diligence be applied to the applicant and, where circumstances warrant, enhanced due diligence should be applied.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.j.2 *Buyers of cashier's, manager's or certified checks in blank or payable to cash, bearer or numbered account.* A covered institution may issue cashier's, manager's or certified checks or other similar instruments in blank or payable to cash, bearer or numbered account subject to the following conditions:

(1) The amount of each check shall not exceed P10,000;

(2) The buyer of the check is properly identified in accordance with its customer acceptance and identification policies and as required under Subsec. 4806Q.2.j and Subsec. 4806Q.2.j.1 of this Part;

(3) A register of said checks indicating all the information required under Subsec. X806.2.j shall be maintained;

(4) A covered institution which issues as well as those which accepts as deposits, said cashier's, manager's or certified checks or other similar instruments issued in blank or payable to cash, bearer or numbered account shall take such measure(s) as may be necessary to ensure that said instruments are not being used/resorted to by the buyer or depositor in furtherance of a money laundering activity;

(5) The deposit of said instruments shall be subject to the same requirements of scrutiny applicable to cash deposits; and

(6) Transactions involving said instruments should be accordingly reported to the AMLC if there is reasonable ground to suspect that said transactions are being used to launder funds of illegitimate origin.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.k ***Second-endorsed checks*** A covered institution shall enforce stricter guidelines in the acceptance of second -endorsed checks including the application of enhanced due diligence to ensure that they are not being used as instruments for money laundering or other illegal activities.

For this purpose, a covered institution shall limit the acceptance of second-endorsed checks from properly identified customers and only after establishing that the nature of the business of said customer justifies, or at least makes practical, the deposit of second-endorsed checks. In case of isolated transactions involving deposits of second-endorsed checks by customers who are not engaged in trade or business, the true and full identity of the first endorser shall be established and the record of the identification shall also be kept for five (5) years.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.l ***Foreign exchange dealers/ money changers/remittance agents*** A covered institution shall require their customers, who are foreign exchange dealers, money changers and remittance agents, to submit a copy of the certificate of registration issued to them by the BSP as part of their customer identification document. The certificate of registration shall be for each head office, branch agent, sub-agent, extension office or business outlet of foreign exchange dealers, money changers and remittance agents.

Foreign exchange dealers, money changers and remittance agents customers presenting greater risk, such as shell companies shall be subject to enhanced due diligence.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.m ***High risk customer*** A customer from a country that is recognized as having inadequate internationally accepted anti-money laundering standards, or does not sufficiently apply regulatory supervision or the Financial Action Task Force (FATF) recommendations, or presents greater risk for crime, corruption or terrorist financing is considered a high risk customer. Information relative to these are publicly available such as in the websites of FATF, FATF Style Regional Bodies (FSRB) like the Asia Pacific Group on Money Laundering and the Egmont Group, national authorities like the OFAC of the U.S. Department of the Treasury, or other reliable third parties such as regulators or exchanges, which shall be a component of a covered institution's customer identification process.

When dealing with high risk customers, a covered institution should take extreme caution and vigilance. In no case shall reduced diligence be applied to high risk customers. On the other hand, in case the covered institution determines, based on its standards, that dealing with the high risk customer calls for, or this Part requires, the application of enhanced due diligence, it shall apply the minimum requirements for enhanced due diligence in accordance with Subsec. 4806Q.1.b. In all instances of acceptance of a high risk customer, approval of the covered institution's senior officer shall be necessary.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.n *Shell company/shell bank* A covered institution shall undertake banking relationship with a shell company with extreme caution and always apply enhanced due diligence on both the entity and its beneficial owner/s.

Because of the dubious nature of shell banks, no shell bank shall be allowed to operate or be established in the Philippines. A covered institution shall refuse to enter into, or continue, correspondent banking relationship with them. It shall likewise guard against establishing relations with foreign FIs that permit their accounts to be used by shell banks.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.o *Numbered accounts.* No peso and foreign currency non-checking numbered accounts shall be allowed without establishing the true and full identity and existence of customers and applying enhanced due diligence in accordance with Subsec. 4806Q.1.b.

Peso and foreign currency non-checking numbered accounts existing prior to 17 October 2001 shall continue to exist but the covered institution shall establish the true and full identity and existence of the beneficial owners of such accounts and applying enhanced due diligence in accordance with Subsec. 4806Q.1.b.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.2.p *Prohibited accounts* A covered institution shall maintain accounts only in the true and full name of the account owner. The provisions of existing law to the contrary notwithstanding, anonymous accounts, accounts under fictitious names, numbered checking accounts, and all other similar accounts shall be absolutely prohibited.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.3 *On-going monitoring of customers, accounts and transactions* Covered institutions shall ensure that they have established the true and full identity of their customers and shall update all identification information and documents required to be obtained by the AMLA, as amended, its RIRR and this Part of existing customers on the basis of materiality and risk.

With respect to monitoring of transactions, in order that a covered institution may be able to control and reduce risk associated with money laundering and terrorist financing, it is necessary that it has a system that will enable it to understand the normal and reasonable account activity of customers and detect unusual or suspicious patterns of account activity. Thus, a risk and materiality based on-going monitoring of customer's accounts and transactions should be part of a covered institution's customer due diligence.
(Circular No. 706 dated 05 January 2011)

§ 4806Q.3.a *Enhanced due diligence* Covered institutions shall apply enhanced due diligence on its customer in accordance with Subsec. 4806Q.1.b if it acquires information in the course of its customer account or transaction monitoring that:

1. Raises doubt as to the accuracy of any information or document provided or the ownership of the entity;

2. Justifies re-classification of the customer from low or normal risk to high-risk pursuant to this Part or by its own criteria; or

3. Any of the circumstances for the filing of a suspicious transaction exists such as but not limited to the following:

a. Transacting without any underlying legal or trade obligation, purpose or economic justification;

b. Transacting an amount that is not commensurate with the business or financial capacity of the customer or deviates from his profile;

c. Structuring of transactions in order to avoid being the subject of covered transaction reporting; or

d. Knowing that a customer was or is engaged or engaging in any unlawful activity as herein defined.

Where additional information cannot be obtained, or any information or document provided is false or falsified, or result of the validation process is unsatisfactory, the covered institution shall immediately close the account and refrain from further conducting business relationship with the customer without prejudice to the reporting of a suspicious transaction to the AMLC when circumstances warrant.
(Circular No. 706 dated 05 January 2011)

C. Covered and Suspicious Transaction Reporting

Sec. 4807Q Covered and Suspicious Transaction Reporting[1]. Covered institutions shall report to the AMLC all covered transactions and suspicious transactions within ten (10) working days from occurrence thereof.

Should a transaction be determined to be both covered and suspicious transaction, the covered institution shall be required to report the same as a suspicious transaction.
(Circular No. 706 dated 05 January 2011)

§ 4807Q.1 *Deferred reporting of certain covered transactions.* Pursuant to AMLC Resolution No. 58 dated 25 June 2005 as amended by AMLC Resolution No. 24 dated 18 March 2009, the following are considered as *"non-cash, no/low risk covered transactions"* the reporting of which to the AMLC are deferred:

a. Transactions between banks and the BSP;

b. Transactions between banks operating in the Philippines;

c. Internal operating expenses of banks;

d. Transactions involving transfer of funds from one deposit account to another deposit account of the same person within the same bank;

e. Roll-overs of placements of time deposit; and

f. Loan/Interest principal payment debited against borrower's deposit account maintained with the lending bank.

In addition, pursuant to AMLC Resolution No. 292 dated 24 October 2003, 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[2].

The Philippine Stock Exchange, Philippine Central Depository (PCD), Securities Clearing Corporation of the Philippines (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 suspicious.

The BSP may consider other transactions as *"no/low risk covered transactions"* and propose to the AMLC that they be likewise subject to deferred reporting by covered institutions.
(Circular No. 706 dated 05 January 2011)

[1] Submission of the hard copies of the STRs to the AMLC is deferred until further advice.
[2] The filing of a CTR by a broker is deferred when the mode of payment is by checks or if the settlement between brokers/dealers and their customers is made through fund transfers or "debiting and crediting" of their respective accounts.

§ 4807Q.2 *Electronic monitoring system for money laundering.* UBs and KBs are required to adopt an electronic money laundering transaction monitoring system which at the minimum shall detect and raise to the bank's attention, transactions and/or accounts that qualify either as CTs or STs as herein defined.

The system must have at least the following automated functionalities:

a. Covered and suspicious transaction monitoring – performs statistical analysis, profiling and able to detect unusual patterns of account activity;

b. Watch list monitoring – checks transfer parties (originator, beneficiary, and narrative fields) and the existing customer database for any listed undesirable individual or corporation;

c. Investigation – checks for given names throughout the history of payment stored in the system;

d. Can generate all the CTRs of the covered institution accurately and completely with all the mandatory field properly filled up;

e. Must provide a complete audit trail;

f. Capable of aggregating activities of a customer with multiple accounts on a consolidated basis for monitoring and reporting purposes; and

g. Has the capability to record all STs and support the investigation of alerts generated by the system and brought to the attention of senior management whether or not a report was filed with the AMLC.

UBs and KBs with existing electronic system of flagging and monitoring transactions already in place shall ensure that their existing system is updated to be fully compliant with functionalities as those required herein. For this purpose, they shall be given ninety (90) days from 27 January 2011 within which to make their system fully operational and automated with all the functionalities stated above.

(Circular No. 706 dated 05 January 2011)

§ 4807Q.3 *Manual monitoring* Covered institutions other than UBs and KBs, need not have an electronic system of flagging and monitoring transactions but shall ensure that the system has the means of flagging and monitoring the transactions mentioned in Subsec. 4807Q.2**.** They shall maintain a register of all STs that have been brought to the attention of senior management whether or not the same was reported to the AMLC.

(Circular No. 706 dated 05 January 2011)

§ 4807Q.4 *Electronic submission of reports.* The CTR and STR shall be submitted to the AMLC in a secured manner, in electronic form and in accordance with the reporting procedures prescribed by the AMLC. The covered institutions shall provide complete and accurate information of all the mandatory fields required in the report. In order to provide accurate information, the covered institution shall regularly update customer identification information at least once every three (3) years.

For the purpose of reporting in a secured manner, all covered institutions shall register with the AMLC within ninety (90) days from 27 January 2011 by directly coordinating with that office for the proper assignment of their institution code and facilitation of the reporting process. All covered institutions that have previously registered need not re-register.

Only their respective compliance officers or duly authorized officers shall electronically sign their covered transaction reports and suspicious transaction reports.

Electronic copies of CTRs and STRs shall be preserved and safely stored for at least for at least five (5) years from the dates the same were reported to the AMLC.

(Circular No. 706 dated 05 January 2011, as amended by CL-2011-078 dated 11 October 2011)

§ 4807Q.5 ***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 in accordance with the provision of the AMLA, as amended.
(Circular No. 706 dated 05 January 2011)

§ 4807Q.6 ***Confidentiality provision*** When reporting CTs and STs to the AMLC, covered institutions, their directors, officers and employees are prohibited from communicating directly or indirectly, in any manner or by any means, to any person or entity, the media, the fact that a covered or suspicious 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 and employee of the covered institution and media shall be held criminally liable.
(Circular No. 706 dated 05 January 2011)

§ 4807Q.7 ***Safe harbor provision*** No administrative, criminal or civil proceedings shall lie against any person for having made a CTR or an STR in the regular performance of his duties in good faith, whether or not such reporting results in any criminal prosecution under the AMLA, as amended, its RIRR or any other law.
(Circular No. 706 dated 05 January 2011)

D. Record Keeping and Retention

Sec. **4808Q Record Keeping.** All customer identification records of covered institutions shall be maintained and safely stored as long as the account exists. All transaction records, including all unusual or suspicious patterns of account activity, whether or not an STR was filed with the AMLC, of covered institutions shall be maintained and safely stored for five (5) years from the date of transaction.

Said records and files shall contain the full and true identity of the owners or holders of the accounts involved in the transactions such as the ID card and photo of individual customers and the documents mentioned in Subsec. 4806Q.2.b for entities, customer information file, signature card of authorized signatory/ies, and all other pertinent customer identification documents as well as all factual circumstances and records involved in the transaction. 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 reconstructed as to enable the AMLC, and/or the courts to establish an audit trail for money laundering.

Whenever a bank engaged in microfinance operations has tagged a microfinance client, as defined under BSP regulations, as low risk in accordance with Subsec. 4806Q.1.a, the customer's identification and transaction records shall be retained for five (5) years except that said retention period may be reduced to three (3) years provided that sufficient documents duly support the low risk profile of said

customer and the covered institutions keep a record of the names of these low risk customers after the lapse of three (3) years. This provision is subject to Subsec. 4808Q.2 when a money laundering case is filed in court.
(Circular No. 706 dated 05 January 2011)

§ 4808Q.1 ***Closed accounts.*** With respect to closed accounts, the records on customer identification, account files and business correspondences shall be preserved and safely stored for at least five (5) years from the date of closure.
(Circular No. 706 dated 05 January 2011)

§ 4808Q.2 ***Retention of records in case a money laundering case has been filed in court.*** If a money laundering case, based on any report kept by the covered institution concerned, has been filed in court, said file must be retained beyond the five (5) year retention period and until it is confirmed that the case has been finally resolved or terminated by the court.
(Circular No. 706 dated 05 January 2011)

§ 4808Q.3 ***Safekeeping of records and documents.*** The covered institution shall designate at least two (2) officers who will be jointly responsible and accountable in the safekeeping of all records and documents required to be retained by the AMLA, as amended, its RIRR and this Part. They shall have the obligation to make these documents and records readily available without delay during Bangko Sentral regular or special examinations.
(Circular No. 706 dated 05 January 2011)

§ 4808Q.4 ***Form of records.*** Records shall be retained as originals or copies in such form as are admissible in court pursuant to existing laws, such as the E-Commerce Act and its implementing rules and regulations, and the applicable rules promulgated by the Supreme Court.
(Circular No. 706 dated 05 January 2011)

E. Training Program

Sec. **4809Q AML Training Program** Covered institutions shall formulate an annual AML training program aimed at providing all their responsible officers and personnel with efficient, adequate and continuous education program to enable them to fully and consistently comply with all their obligations under this Part, the AMLA, as amended, and its RIRR.

Trainings of officers and employees shall include awareness of their respective duties and responsibilities under the MLPP particularly in relation to the customer identification process, record keeping requirements and CT and ST reporting and ample understanding of the internal processes including the chain of command for the reporting and investigation of suspicious and money laundering activities.

The program shall be designed in a manner that will comprise of various focuses for new staff, front-line staff, compliance office staff, internal audit staff, officers, senior management, directors and stockholders. Regular refresher trainings shall likewise be provided in order to guarantee that officers and staff are informed of new developments and issuances related to the prevention of money laundering and terrorism financing as well as reminded of their respective responsibilities vis-à-vis the covered institution's processes, policies and procedures.

Covered institution's annual AML training program and records of all AML seminars and trainings conducted by the covered institution and/or attended by its personnel (internal or external), including copies of AML seminar/training materials, shall be appropriately kept by the compliance office/unit/department, and should be made available during periodic or special Bangko Sentral examination.
(Circular No. 706 dated 05 January 2011)

F. Bangko Sentral Authority and Enforcement Actions

Sec. 4810Q Bangko Sentral Authority to Examine Deposits and Investments; Additional Exception to the Bank Secrecy Act; Annual Testing of Numbered Accounts. To ensure compliance with the AMLA, as amended, its RIRR, and this Part, the Bangko Sentral may inquire into or examine any deposit or investment with any banking institution or NBFI 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 Bangko Sentral.

The Bangko Sentral may likewise conduct annual testing solely limited to the determination of the existence and true identity of the owners of numbered and similar accounts.

In the course of the periodic and special examination for purposes of complying with the provisions of the AMLA, as amended, its RIRR, and this Part, the covered institutions, their officers and employees, and the Bangko Sentral, shall not be deemed to have violated the provisions of R.A. No. 1405, as amended, R.A. No. 6426, as amended, R.A. No. 8791 and other similar laws, and Subsec. 4807Q.6 when disclosing information to Bangko Sentral relative to covered and suspicious transaction reports filed with the AMLC.

(Circular No. 706 dated 05 January 2011)

Sec. 4811Q Enforcement Action. In line with the objective of ensuring that covered institutions maintain high anti-money laundering standards in order to protect its safety and soundness as well as protecting the integrity of the national banking and financial system, violation of these Rules shall constitute a major violation subject to the following enforcement actions against the board of directors, senior management and line officers, not necessarily according to priority:

a. Written reprimand;

b. Suspension or removal from the office they are currently holding; and/or

c. Disqualification from holding any position in any covered institution.

In addition to the non-monetary sanctions stated above, the Bangko Sentral may also impose monetary penalties computed in accordance with existing regulations and in coordination with the AMLC.

Enforcement actions shall be imposed on the basis of the overall assessment of the covered institution's AML risk management system. Whenever a covered institution's AML compliance system is found to be grossly inadequate, this may be considered as unsafe and unsound banking practice that may warrant initiation of prompt corrective action.

To implement the enforcement action provision of this Part along with the AML Risk Rating System (ARRS), the following rules shall apply:

1. An AML Composite rating of 4 and 3 will require no enforcement action.

2. An AML composite rating of 2 to 1 will require submission by the covered institution to the AMLSG, SES, of a written action plan duly approved by the BOD aimed at correcting the noted inefficiency in BOD and SM oversight, inadequacy in AML and TF policies and procedures, weakness in internal controls and audit, and/or ineffective implementation within a reasonable period of time.

The AMLSG shall assess the viability of the plan and shall monitor the covered institution's performance.

In the event of non-submission of an acceptable plan within the deadline or failure to implement its action plan, AMLSG shall recommend appropriate enforcement actions on the covered institution and its responsible officers including monetary penalties to be computed on a daily basis until improvements are satisfactorily implemented.

3. An AML rating of 1 shall also be considered as an unsafe and unsound banking practice. For this reason, prompt corrective action shall also be automatically initiated on the covered institution.

Monetary penalty guidelines. These guidelines are divided into three (3) parts.

Part I – *Monetary penalty matrices*. The monetary penalty matrices, where monetary penalties are categorized based on the (1) Composite rating and (2) Asset size of the Bangko Sentral covered institution.

Part II – *Guiding principles*.

1. The first step is to determine the over-all risk rating of the Bangko Sentral covered institution for purposes of identifying which penalty matrix will be used. If the Composite rating is "1" or "2", penalty matrix A or B, respectively shall be used. If the over-all rating is "3" and "4", no monetary penalty shall be imposed.

2. Second step is to establish the asset size of the Bangko Sentral covered institution as of the cut-off period of examination;

3. Third step is to identify the aggravating and mitigating factors. If the aggravating factors are more than the mitigating factors, then the maximum range shall be used. On the other hand, if the mitigating factors are more than the aggravating factors, then the minimum range shall be applied. In case there are no aggravating and mitigating factors or there is a tie, the medium range shall be used.

4. For Composite ratings of 1 and 2 where the covered institution concerned was required to submit within a reasonable period of time an acceptance plan, non- submission of the plan within the deadline or failure to implement the action plan shall be a basis for imposition of monetary penalties computed on a daily and continuing basis from the time the covered institutions is notified until corrective measures are satisfactorily effected. The penalty may be imposed on the covered institution itself or directly on the Board of Directors as a body, or the individual directors who have direct oversight, or the line officers involved in the management of money laundering and terrorist financing prevention.

Part III – *Aggravating and mitigating factors*.

a. *Aggravating factors*

(1) *Frequency of the commissions or omissions of specific violation*- Majority of the following violations were noted:

(a) Deficient Know Your Customer process

(b) Unsatisfactory Covered Transaction reporting system

(c) Non-reporting of and Improper Suspicious Transaction reporting

(d) Non-compliance with the Record keeping requirement

(e) Inadequate AML Training Program

(f) Deficient AML Electronic system

(2) *Duration of violations prior to notification*- This pertains to the length of time prior to the latest notification on the violation. Violations that have been existing for a long time before it was revealed/discovered in the examination or are under the evaluation for a long time due to pending requests or correspondences from covered institutions on whether a violation has actually occurred shall be dealt with through this criterion. Violations outstanding for more than one (1) year prior to notification, at the minimum, will qualify as violations outstanding for a long time.

(3) *Continuation of offense or omission after notification*- This pertains to the persistence of an act or omission after the latest notification on the existence of the violation, either from the appropriate SES

Group, Department or from the Monetary Board and/or Deputy Governor, in cases where the violation has been elevated accordingly. This covers the period after the final notification of the existence of the violation until such time that the violation has been corrected and/or remedied. The corrective action shall be reckoned with from the date of notification.

(4) *Concealment*- This factor pertains to the cover up of a violation. In evaluating this factor, one shall consider the intention of the party/ies involved and whether pecuniary benefit may accrue accordingly. The act of concealing an act or omission constituting the violation carries with it the intention to defraud regulators. Moreover, the amount of pecuniary benefit, which may or may not accrue from the offense or omission, shall also be considered under this factor.

Concealment may be apparent when a covered institution's personnel purposely complicate the transaction to make it difficult to uncover or refuse to provide information and/or document that would support the violation/offense committed.

(5) *Loss or risk of loss to bank*- In asserting this factor, "potential loss" refers to any time at which the covered institution was in danger of sustaining a loss.

b. *Mitigating Factors*

(1) *Good Faith* - is the absence of intention to violate on the part of the erring individual/entity.

(2) *Full cooperation*- covered institution's personnel or the covered institution immediately took action to correct the violation after it is brought to its attention either verbally or in writing.

(3) *With positive measures*- covered institution's personnel or the covered institution commits to undertake concrete action to correct the violation but is being restrained by valid reasons to take immediate action.

(4) *Voluntary disclosure of offense*- covered institution's personnel or the covered institution disclosed the violation before it is discovered in the course of a regular or special examination or off-site monitoring.

(*Circular No. 706 dated 05 January 2011 as amended by M-2012-017 dated 04 April 2012)*

Sec. 4812Q (Reserved)

Sec. 4813Q Separability Clause. If any provisions, sections of this Part, or its application to any person or circumstance is held invalid, the other provisions or sections of this Part, and the application of such provision or section to other persons or circumstance shall not be affected thereby.

(Circular No. 706 dated 05 January 2011)

Secs. 4814Q - 4899Q (Reserved)

PART NINE

OTHER NON-BANK OPERATIONS

A. BANKING FEES/CHARGES

Section 4901Q (Reserved)

§ 4901Q.1 *(2008 - 4652Q) Annual fees on quasi-banks.* QBs shall contribute to the Bangko Sentral an annual fee to help defray the cost of maintaining the appropriate department of the SES.

For purposes of computing the annual fees chargeable against QBs, 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 Bangko Sentral and banks abroad) plus Trust Department accounts and personal equity and retirement accounts (PERA) administered by the quasi-bank.

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

Beginning assessable year 2013, the annual fees for QBs for the current year shall be one twenty-eighth (1/28) of one percent (1%) multiplied by the Average Assessable Assets of the preceding year.

Securities held under custodianship shall be exempt from annual fees.

Annual fees to be collected from QBs shall be debited from their respective deposit accounts with the Bangko Sentral by the Comptrollership Department upon receipt of the notice of the assessment from the appropriate department of the SES.

Where the deposit account is insufficient to cover the assessment fee, the Bangko Sentral shall bill the QB for the full amount of the annual fee or for the balance thereof not covered by its deposit account, as the case may be.

Within thirty (30) calendar days from receipt of the bill, the QB shall make the corresponding remittance to the Bangko Sentral. Failure to pay the bill within the prescribed period shall subject the QB to administrative sanctions.

The guidelines in the collection of the annual supervisory fees for the year 2013 are provided in *Appendix Q-51*.

(As amended by Circular No. 903 dated 29 February 2016, M-2016-001 dated 24 February 2016, Circular Nos. 890 dated 02 November 2015, 878 dated 22 May 2015, M-2015-022 dated 06 May 2015, M-2014-014 dated 20 March 2014, Circular No. 791 dated 03 April 2013, M-2012-015 dated 18 April 2013, M-2012-010 dated 17 February 2012, M-2011-029 dated 26 May 2011, Circular No. 714 dated 10 March 2011, M-2010-013 dated 31 May 2010, Circular No. 687 dated 21 May 2010, M-2009-046 dated 17 November 2009, M-2009-004 dated 12 February 2009 and Circular No. 643 dated 10 February 2009)

Sec. 4902Q *(2008 - 4653Q)* Payment of Fines and Other Charges. The following regulations shall govern the payment of fines and other charges by QBs.

§ 4902Q.1 *(2008 - 4653Q.1) Guidelines on the imposition of monetary penalties.* The following are the guidelines on the imposition of monetary penalties on QBs, their directors and/or officers:

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, Bangko Sentral 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, Bangko Sentral 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.

(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 the Manual, and other Bangko Sentral 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 shall become due and payable fifteen (15) calendar days from receipt of the Statement of Account from the Bangko Sentral. For QBs which maintain DDA with the Bangko Sentral, 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 QB'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 QB, 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 QB/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 QB/individual concerned.

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

§ 4902Q.2 *(2008 - 4653Q.2) Payment of fines.* QBs shall, within fifteen (15) calendar days from receipt of the statement of account from the Bangko Sentral, pay the fines for reserve deficiency, reportorial delay/ deficiency, refusal to permit examination, or failure to comply with, or violation of, any law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor.

For QBs which maintain DDAs with the Bangko Sentral, fines which are unpaid after the lapse of the fifteen (15)-day period shall be automatically debited against the corresponding DDA of the QB concerned: *Provided,* That if the balance of the entity's account is insufficient to cover the fines due, such fines shall be paid not later than the following business day. For the purpose of this Section, *business day* means a day on which the BSP head office and the head office of the QB are open for business. For uniform implementation of the above regulations, the procedural guidelines embodied in *Appendix Q-22* shall be observed.

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

§ 4902Q.3 ***(Reserved)***

§ 4902Q.4 ***(2008 - 4653Q.3) Check/ demand draft payments to the Bangko Sentral.*** QBs shall make all check and demand draft payments for transactions other than those required to be paid through the QBs' DDA either to the BSP Cash Department or to the BSP Regional Offices and Branches. Such payments shall be accompanied by the appropriate form as shown in *Appendix Q-22a*. Payments not accompanied by the required payment forms shall be presumed to be additions to reserves and shall be credited to the DDA of the paying QB.

Check payments shall be value-dated when the check is cleared.

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

Sec. 4903Q (2008 - 4604Q) Underwriting by Investment Houses. Underwriting commitments and fees of IHs shall be subject to the rules issued by the SEC to implement the provisions of P.D. No. 129, as amended *(Appendix Q-18)*.

Secs. 4904Q - 4920Q (Reserved)

B. BANK AS COLLECTION/ REMITTANCE AGENTS

Sec. 4921Q ***(2008 - 4660Q)*** **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. 4922Q - 4930Q (Reserved)

C. CREDIT RATING AGENCIES

Sec. 4931Q *(2008 - 4657Q)* Recognition and Derecognition of Domestic Credit Rating Agencies for Quasi-Bank Supervisory Purposes. The following regulations shall govern the recognition and derecognition of domestic credit rating agencies (CRAs) for QB supervisory purposes.

§ 4931Q.1 *(2008 - 4657Q.1) Statement of policy.* The introduction in the financial market of new and innovative products create increasing demand for and reliance on CRAs by the industry players and regulators as well. As a matter of policy, the BSP wants to ensure that the reliance on credit ratings is not misplaced. The following rules and regulations that shall govern the recognition/derecognition of domestic CRAs for QB supervisory purposes.

§ 4931Q.2 *(2008 - 4657Q.2) Minimum eligibility criteria.* Only ratings issued by CRAs recognized by the BSP shall be considered for BSP QB supervisory purposes. The BSP, through the Monetary Board, may officially recognize a credit rating agency upon satisfaction of the following requirements:

a. *Organizational structure*

(1) A domestic CRA must be a duly registered company under the SEC; and

(2) A domestic CRA must have at least five (5) years track record in the issuance of reliable and credible ratings. In the case of new entrants, a probationary status may be granted: *Provided,* That the CRA employs professional analytical staff with experience in the credit rating business.

b. *Resources*

(1) Human Resources

(a) The size and quality of the CRA's professional analytical staff must have the capability to thoroughly and competently evaluate the assessed/rated entity's creditworthiness;

(b) The size of the CRA's professional analytical staff must be sufficient to allow substantial on-going contact with senior management and operational levels of assessed/rated entities as a routine component of the surveillance process;

(c) The CRA shall establish a Rating Committee composed of adequately qualified and knowledgeable individuals in the rating business, majority of whom must have at least five (5) years experience in credit rating business;

(d) The directors of the CRA must possess a high degree of competency equipped with the appropriate education and relevant experience in the rating business;

(e) The directors, officers, members of the rating committee and professional analytical staff of the CRA have not at any time been convicted of any offense involving moral turpitude or violation of the SRC; and

(f) The directors, officers, members of the rating committee and professional analytical staff of the CRA are not currently involved as a defendant in any litigation connected with violations of the SRC nor included in the BSP watchlist.

(2) Financial resources

(a) The CRA must have the financial capability to invest in the necessary technological infrastructure to ensure speedy acquisition and processing of data/information and timely release of reliable and credible ratings; and

(b) The CRA must have financial independence that will allow it to operate free from economic and political pressures.

c. *Objectivity*

(1) The CRA must use a rigorous and systematic assessment methodology that has been established for at least one (1) year; however, a three (3)-year period is preferable;

(Next page is Part IX - Page 5)

(2) The assessment methodology of the CRA must be based both on qualitative and quantitative approaches; and

(3) The CRA must use an assessment methodology that is subject to on-going review and is responsive to changes in the operations of assessed/rated entities.

d. *Independence*

(1) The CRA must be free from control of and undue influence by the entities it assesses/rates;

(2) The assessment process must be free from ownership pressures to allow management to exercise independent professional judgement;

(3) Persons directly involved in the assessment process of the CRA are free from conflicts of interest with assessed/ rated entities, and

(4) The CRA does not assess/rate an associate entity.

e. *Transparency*

(1) A general statement of the assessment methodology used by the CRA should be publicly available;

(2) The CRA shall disseminate to the public thru a well-circularized publication, all assigned ratings disclosing whether the rating issued is solicited or unsolicited;

(3) The rationale of ratings issued and risk factors considered in the assessment should be made available to the public;

(4) The ratings issued by the CRA should be available both to domestic and foreign institutions with legitimate interest; and

(5) Publication of changes in ratings together with the basis for the change should be done on a timely basis.

f. *Disclosure requirements*

(1) Qualitative disclosures

(a) Definition of ratings along with corresponding symbols;

(b) Definition of what constitutes a default, time horizon within which a default is considered and measure of loss given a default;

(c) Material changes within the CRA (i.e., changes in management or organizational structure, rating personnel, modifications of rating practices, financial deterioration) that may affect its ability to provide reliable and credible ratings.

(2) Quantitative disclosures

(a) Actual default rates experienced in each rating category; and

(b) Rating transitions of assessed/rated entities over time (i.e., likelihood of an AAA credit rating transiting to AA etc. over time).

g. *Credibility*

(1) The CRA must have a general reputation of high standards of integrity and fairness in dealing with its clients and conducts its business in an ethical manner;

(2) The CRA is generally accepted by predominant users in the market (i.e., issuers, investors, bankers, FIs, securities traders); and

(3) The CRA must carry out its rating activities with due diligence to ensure ratings are fair and appropriate.

For purposes of this Section, a subsidiary refers to a corporation, more than fifty percent (50%) of the voting stock of which is owned or controlled directly or indirectly by the CRA while an affiliate refers to a corporation, not more than fifty percent (50%) but not less than ten percent (10%) of the voting stock of which is owned or controlled directly or indirectly by the CRA.

Control exists when the parent owns directly or indirectly through subsidiaries more than one-half (½) 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 (½) or less of the voting power of an enterprise when there is:

(a) power over more than one-half (½) 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;

(d) power to cast the majority votes at meetings of the board of directors or equivalent governing body; or

(e) any other arrangement similar to any of the above.

h. *Internal compliance procedures*

(1) The CRA must have the necessary internal procedures to prevent misuse or unauthorized disclosure of confidential/non-public information; and

(2) The CRA must have rules and regulations that prevent insider trading and other conflict of interest situations.

§ 4931Q.3 ***(2008 - 4657Q.3) Pre-qualification requirements.*** The application of a domestic CRA for BSP recognition shall be submitted to the appropriate department of the SES together with the following information/documents:

a. *An undertaking*

(1) That the CRA shall comply with regulations, directives and instructions which the BSP or other regulatory agency/body may issue from time to time; and

(2) That the CRA shall notify the BSP in writing of any material changes within the organization (i.e., changes in management or organizational structure, rating personnel, modifications of its rating practices, financial deterioration) that may affect its ability to provide reliable and credible ratings.

b. *Other documents/information:*

(1) Brief history of the CRA, major rating activities handled including information on the name of the client, type of instruments rated, size and year of issue;

(2) Audited financial statements for the past three (3) years and such other information as the Monetary Board may consider necessary for selection purposes;

(3) For new entrants, employment of professional analytical staff with experience in the credit rating business;

(4) List of major stockholders/partners [owning at least ten percent (10%) of the voting stocks of the CRA directly or along with relatives within the 1st degree of consanguinity or affinity];

(5) List of directors, officers, members of the rating committee and professional analytical staff of the CRA; including their qualifications, experience related to rating activities, directorship and shareholdings in the CRA and in other companies, if any;

(6) List of subsidiaries and affiliates including their line of business and the nature of interest of the CRA in these companies;

(7) Details of the denial of a previous request for recognition, if any (i.e., application date, date of denial, reason for denial, etc.); and

(8) Details of all settled and pending litigations connected with the securities market against the CRA, its directors, officers, stockholders, members of the rating committee and professional analytical staff, if any.

§ 4931Q.4 ***(2008 - 4657Q.4) Inclusion in BSP list.*** The BSP will regularly circularize to all banks and NBFIs an updated list of recognized CRAs. The BSP, however, shall not be liable for any damage or loss that may arise from its recognition of CRAs to be engaged by users.

§ 4931Q.5 ***(2008 - 4657Q.5) Derecognition of credit rating agencies***

a. *Grounds for derecognition.* CRAs may be derecognized from the list of BSP recognized CRAs under the following circumstances:

(1) Failure to maintain compliance with the requirements under Subsec. 4657Q.2 or any willful misrepresentation in the information/documents required under Subsec. 4657Q.3;

(2) Involvement in illegal activities such as ratings blackmail; creation of a false market or insider trading; divulging any confidential information about a client without prior consent to a third party without legitimate interest; indulging in unfair competition (i.e., luring clients of another rating agency by assuring higher ratings, etc.); and

(3) Any violation of applicable laws, rules and regulations.

b. *Procedure for derecognition.* A CRA shall only be derecognized upon prior notice and after being given the opportunity to defend itself.

§ 4931Q.6 *(2008 - 4657Q.6)* *Recognition of PhilRatings as domestic credit rating agency for bank supervisory purposes.* Credit ratings assigned by Philippine Rating Services Corporation (PhilRatings) may be used, among others, for determining appropriate risk weights in ascertaining compliance with existing rules and regulations on risk-based capital requirements.

Sec. 4932Q *(2008 - 4659Q)* Internationally Accepted Credit Rating Agencies. Internationally accepted CRAs are recognized for bank supervisory purposes to undertake local and national ratings: *Provided*, That said CRAs shall have at least a representative office in the Philippines. Accordingly, credit ratings assigned by said CRAs may be used, among others, as basis for determining appropriate risk weights in ascertaining compliance with existing rules and regulations on risk-based capital requirements.

Sec. 4933Q *(2008 - 4659Q.6)* Recognition of Fitch Singapore Pte Ltd. as International Credit Rating Agency for Bank Supervisory Purposes. The national or domestic credit ratings of Fitch Singapore Pte Ltd., a BSP-recognized international CRA with representative office in the Philippines, is hereby recognized by the BSP for bank supervisory purposes. Accordingly, national or domestic credit ratings assigned by Fitch Singapore Pte Ltd. may be used, among others, as basis for determining appropriate risk weights in ascertaining compliance with existing rules and regulations on risk-based capital requirements.

Secs. 4934Q - 4949Q (Reserved)

Sec. 4950Q Philippine and Foreign Currency Notes and Coins. The following rules and regulations shall govern the treatment and disposition of counterfeit Philippine and foreign currency notes and coins, the reproduction and/or use of facsimiles of legal tender Philippine currency notes and coins, the replacement and redemption of legal tender Philippine currency notes and coins considered mutilated or unfit for circulation, and the treatment and disposition of Philippine currency notes and coins called in for replacement.

(Circular No. 829 dated 13 March 2014 and M-2009-021 dated 16 June 2009, as amended by Circular No. 890 dated 02 November 2015)

§ 4950Q.1 *Definition of terms.* For purposes of this Section, the following terms are defined:

a. *Legal tender Philippine currency* - Notes and coins issued and circulating in accordance with R.A No. 265, as amended, and/or R.A. No. 7653, which when offered for the payment of public or private debt must be accepted.

b. *Counterfeit note* - An imitation of a legal and genuine note intended to deceive or to be taken for that which is original, legal and genuine.

c. *Counterfeit coin* - An imitation or forged design of a genuine and legal coin regardless of its intrinsic value or metallic composition, intended to deceive or pass for the genuine coin.

d. *Unauthorized reproduction of legal tender Philippine note* – A reproduction of a facsimile or any illustration or object bearing the likeness or similitude of legal tender Philippine currency note or any part thereof, without prior authority from the Governor of Bangko Sentral or his duly authorized representative.

e. *Unauthorized reproduction of legal tender Philippine coin* – A reproduction of a facsimile or any object in metal form bearing the likeness or similitude of legal tender Philippine currency coin or any part thereof, without prior authority from the Governor of Bangko Sentral or his duly authorized representative.

(Circular No. 829 dated 13 March 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4950Q.2 ***Treatment and disposition of counterfeit Philippine and foreign currency notes and coins.*** Any person or entity, public or private, who receives or takes hold of a note or coin which is counterfeit or whose genuineness is questionable, whether Philippine or foreign currency, shall issue a temporary receipt to its owner/holder and must indicate therein his name, address and community tax certificate number or a reference number sourced from any Philippine government-issued ID or passport number, or in case of a foreigner, the date of receipt, the denomination, serial number of the note or the coin series as the case may be. The owner/holder shall be required to countersign the receipt and in case of refusal, the reason shall be stated in the receipt.

Any person or entity, public or private, who receives, takes hold or has in his possession a note or a coin which is counterfeit or whose genuineness is questionable, whether Philippine or foreign currency, shall forward the same within five (5) working days from date of receipt/ possession thereof, together with a copy of the temporary receipt required herein for examination to:

THE CURRENCY ISSUE AND INTEGRITY OFFICE
Security Plant Complex
Bangko Sentral ng Pilipinas
East Avenue, Diliman
1101 Quezon City

In cases where personal delivery to the Currency Issue and Integrity Office (CIIO), Bangko Sentral ng Pilipinas, Quezon City, is not feasible, delivery of the aforestated notes or coins may be made through any of the following agencies:

(1) The BSP Regional Offices/ Branches; or

(2) Any banking institution under the supervision of the Bangko Sentral.

Any law enforcement agency which conducted any seizure of notes and coins, whether Philippine or foreign, which are counterfeits or suspected to be counterfeit currency shall, within five (5) working days from date of seizure, advise in writing the CIIO, Bangko Sentral ng Pilipinas, Quezon City, of said seizure enclosing therewith a copy of the receipt and inventory taken on the seized items. All seized notes or coins which are not or no longer needed as evidence in any investigation/legal proceedings shall be immediately turned over to the CIIO, Bangko Sentral, for proper disposition.

The CIIO, Bangko Sentral, after examining all notes and coins, whether Philippine or foreign, submitted to it for examination and/ or determination as to its genuineness, shall:

(a) Issue a corresponding certification for the currency examined, if needed;

(b) Stamp the word "COUNTERFEIT" on both the front and the back of each note found to be counterfeit; and

(c) Return to the owner/holder and/or sender the Philippine or foreign currency notes or coins found to be genuine in accordance with existing accounting and auditing regulations.

All notes and coins, whether Philippine or foreign, determined by the CIIO, Bangko Sentral, to be counterfeit currency, shall not be returned to the owner/holder, but shall be retained and later disposed of in accordance with such guidelines as may be adopted by the Bangko Sentral, except those which will be used as evidence in an investigation or legal proceedings, in which case, the same shall be retained and preserved by the Bangko Sentral for evidentiary purposes.

The Bangko Sentral shall extend assistance as may be requested of it in the investigation, apprehension and/ or prosecution of person/s responsible for counterfeiting of notes and coins, both Philippine or foreign.

(Circular No. 829 dated 13 March 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4950Q.3 ***Reproduction and/or use of facsimiles of legal tender Philippine currency notes.*** No person or entity, public or private, shall design, engrave, print, make or execute in any other manner, or utter, issue, distribute, circulate or use any handbill, advertisement, placard, circular, card, or any other object whatsoever bearing the facsimile, likeness or similitude of any legal tender Philippine currency note, or any part thereof, whether in black and white or any color or combination of colors, without prior authority therefor having been secured from the Governor, Bangko Sentral, or his duly authorized representative.

The reproduction and/or use of facsimiles or any illustration bearing the likeness or similitude of legal tender Philippine currency notes referred to above may be authorized by the Governor, Bangko Sentral, or his duly authorized representative, for printed illustrations in articles, books, journals, newspapers, or other similar materials and strictly for numismatic, educational, historical, newsworthy or other purposes which will maintain, promote or enhance the integrity and dignity of said note: *Provided, however*, That any such facsimile or illustration shall be of a size less than three-fifths (3/5) or more than one and one-half (1-1/2) times in size of the currency note being illustrated and that there will be no deviation from the purpose for which the notes will be used.

(Circular No. 829 dated 13 March 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4950Q.4 ***Reproduction and/or use of facsimiles of legal tender Philippine currency coins.*** No person or entity, public or private, shall design, engrave, make or execute in any other manner, or use, issue, distribute any object whatsoever bearing the likeness or similitude as to design, color or the inscription thereon of any legal tender Philippine currency coin or any part thereof, in metal form, irrespective of size and metallic composition, without prior authority from the Governor, Bangko Sentral, or his duly authorized representative.

The reproduction and/or use of facsimiles or of any object bearing the likeness or similitude of legal tender Philippine currency coins referred to in the foregoing paragraph may be authorized by the Governor, Bangko Sentral, or his duly authorized representative, strictly for numismatic, educational, historical and other purposes which will maintain, promote or enhance the integrity and dignity of said coins.

(Circular No. 829 dated 13 March 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4950Q.5 ***(Reserved)***

§ 4950Q.6 ***Replacement and redemption of legal tender Philippine currency notes and coins considered mutilated or unfit for circulation.***

a. *Unfit currency note*. A currency note shall be considered unfit for circulation when:

(1) It contains heavy creases which break the fiber of the paper and indicate that disintegration has begun; or

(2) It is badly soiled/ contaminated and/ or with writings even if it has proper life or sizing; or

(3) It presents a limp or raglike appearance and/or it can not sustain its upright position when held at the mid portion of one of the shorter borders.

b. *Mutilated currency note*. A currency note shall be considered mutilated when:

(1) Torn parts of the banknote are joined together with adhesive tape aimed at preserving as nearly as possible the original design and size of the note; or

(2) The original size of the note has been reduced/lost through wear and tear or has been otherwise torn, damaged, defaced or perforated through action of insects, chemicals or other causes; or

(3) It is scorched or burned to such an extent that although recognizable as such, it has become frail and brittle as to render further handling thereof impossible without disintegration or breaking; or

(4) It is split edgewise; or

(5) it has lost all the signatures inscribed thereon; or

(6) The Embedded Security Thread or Windowed Security Thread placed on the banknote is lost.

c. *Unfit currency coin***.** A currency coin shall be considered unfit for circulation when:

(1) It is bent or twisted out of shape or defaced or show signs of corrosion, but its genuineness and/or denomination can still be readily and clearly determined/ identified; or

(2) It has been considerably reduced in weight by natural abrasion/wear and tear.

d. *Mutilated currency coin*. A currency coin shall be considered mutilated when:

(1) It shows signs of filing, clipping or perforation; or

(2) It shows signs of having been burned, or has been so defaced, that its genuineness and/or denomination cannot be readily and clearly identified.

e**.** Currency notes and coins considered unfit for circulation shall not be re-circulated, but may be presented for exchange to or deposited with any bank.

f. Banks shall accept from the public mutilated notes and coins for referral/ transmittal to CIIO, Bangko Sentral – Quezon City or any of the Bangko Sentral Regional Offices/Branches for determination of redemption value. Banks may charge reasonable handling fees from clients and/ or the general public relative to the handling/transporting to Bangko Sentral of mutilated notes and coins.

g. The Bangko Sentral shall replace or redeem notes and coins considered unfit for circulation or mutilated except under the following conditions:

(1) Identification of notes and coins is impossible; or

(2) Coins that show signs of filing, clipping or perforations; or

(3) Notes which have lost more than two-fifths (2/5) of their surface or all of the signatures inscribed thereon; or

(4) Notes which are split edgewise resulting in loss of the whole of or part of, either the face or back portion of the banknote paper; or

(5) Notes where the Embedded Security Thread or Windowed Security Thread placed thereon is completely lost except when the damage appears to be caused by wear and tear, accidental burning, action of water or chemical or bites of rodents/ insects and the likes.

Notes and coins falling under any of the classifications mentioned under Item *"g"* above shall be withdrawn from circulation and demonetized without compensation to the owner/bearer.

(Circular No. 829 dated 13 March 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4950Q.7 ***Treatment and disposition of Philippine currency notes and coins called in for replacement.*** Any person or entity, public or private, who receives, takes, holds or has in his possession Philippine currency notes and coins called in for replacement shall forward the same during the redemption period to:

a. Any authorized agent banks of the Bangko Sentral when the notes are still considered legal tender, within one (1) year from the date of call; or

b. The CD or Regional Offices/Branches of the Bangko Sentral, within the redemption period as may be determined by the Monetary Board.

The CD or Regional Offices/Branches of the Bangko Sentral shall exchange the notes/coins called in for replacement if presented to the Bangko Sentral within the redemption period as determined by the Monetary Board and subsequently dispose the same in accordance with Bangko Sentral procedures for disposal.

(Circular No. 829 dated 13 March 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4950Q.8 ***Penalties.*** Any violation of the provisions of Subsecs. 4950Q.3 and 4950Q.4, shall subject the offender to imprisonment of not less than five (5) years, but not more than ten (10) years. In case the Revised Penal Code provides for a greater penalty, then that penalty shall be imposed.

(Circular No. 829 dated 13 March 2014, as amended by Circular No. 890 dated 02 November 2015)

Secs. 4951Q - 4959Q (Reserved)

Sec. 4960Q Personal Equity and Retirement Account (PERA) Market Participants and PERA Investment Products. The following are the guidelines on the qualification/accreditation of PERA Market Participants and PERA Investment Products which are issued pursuant to R.A. No. 9505 also known as the PERA Act of 2008 (PERA Act), and its implementing Rules and Regulations (the PERA Rules).

The operational guidelines on the administration of the PERA are found in *Appendix Q-63.*

(Circular No. 860 dated 28 November 2014, as amended by Circular No. 890 dated 02 November 2015 and M-2014-045 dated 02 December 2014)

§ 4960Q.1 ***Applicability.*** These guidelines apply to banks, trust entities[1] and other entities determined by the Bangko Sentral as eligible that seek to be qualified/ accredited and are qualified/accredited as PERA Market Participants, and to PERA Investment Products that are considered eligible by the Bangko Sentral for PERA purposes.

(Circular No. 860 dated 28 November 2014, as amended by Circular No. 890 dated 02 November 2015)

[1]Trust entity shall refer to a (a) bank or non-bank financial institution, through its specifically designated business unit to perform trust functions, or (b) trust corporation, authorized by the Bangko Sentral to engage in trust and other fiduciary business under Section 79 of R.A. No. 8791 (General Banking Law of 2000) or to perform investment management services under Section 53 of R.A. No. 8791.

§ 4960Q.2 ***Eligibility criteria.***

a. *PERA investment products*. The following PERA investment products are considered to be Bangko Sentral-eligible PERA investment products: *Provided*, That, with respect to Items "*1*" and "*2*" below, they are issued by Bangko Sentral-supervised entities with CAMELS rating of not lower than "3" or its equivalent, to wit:

(1) Unit Investment Trust Fund (UITF);

(2) Debt-instruments such as, but not limited to, long term negotiable certificate of deposits and unsecured subordinated debt;

(3) Deposits; and

(4) Government-issued securities.

In the case of UITF, the existing approval process shall be observed. The Bangko Sentral may allow other category of investment products or outlets for PERA purposes: *Provided,* that the product is non-speculative, readily marketable, and with a track record of regular income payments to investors.

b. *PERA market participants*

PERA Participants	Market Eligible Entities
Administrator	Banks, trust entities and other entities as may determined by the Bangko Sentral as eligible to act as PERA Administrator
Investment Manager	Trust entities and other entities as may be determined by the Bangko Sentral as having the qualifications to be accredited as PERA Investment Manager
Cash Custodian	Banks
Securities Custodian	Banks and trust entities
Investment Product Provider	Any Bangko Sentral - supervised entity that wishes to offer PERA Investment Product to Contributors

(Circular No. 860 dated 28 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4960Q.3 ***Qualification/Accreditation requirements.***

a. *As an Administrator*. The Bangko Sentral shall issue a qualification certificate as Administrator to an entity upon compliance with the following requirements:

(1) The applicant maintains a net worth of at least Php100 million at all times.

Net worth shall refer to the combined capital accounts of the Administrator which shall mean the total of the unimpaired paid-in capital, surplus and undivided profits, less:

(a) The one percent (1%) of the book value of the total volume of PERA assets administered and other capital adjustments as may be required by the Bangko Sentral;

(b) Total outstanding unsecured credit accommodations, both direct and indirect, extended by the Administrator to DOSRI; and

(c) Appraisal surplus or appreciation credit as a result of appreciation or an increase in the book value of the assets of the Administrator.

DOSRI cited in Item "*1(b)*" above shall refer to that provided in Subsec. 4326Q.1: *Provided,* That for purposes of this provision, references to a QB as an entity shall be understood to include references to any other type of entity acting as Administrator.

(2) It has adopted a Manual of Corporate Governance approved by the Bangko Sentral, and is in full compliance therewith.

(3) It has a clear and sufficient organization plan or structure of its personnel who will perform the PERA administration functions, stating the definition of the duties and responsibilities as well as the line and staff functional relationships.

(4) It possesses adequate systems and technological capabilities, and the necessary technical expertise and personnel to administer all types of PERA Investment Products, ensure the proper recording and

tracking of a Contributor's PERA, and perform the other required functions of an Administrator.

(5) It has sufficient personnel who have undergone the requisite training prescribed by the Bangko Sentral to educate the Contributor on:

(a) The nature of a PERA;

(b) Privileges, conditions and requirements of a PERA;

(c) The risks and benefits of each type of PERA investment products; and

(d) Respective roles of the Administrator, Investment Manager and Custodian.

(6) It has adopted the following forms that the Administrator shall use in dealing with the contributor and his PERA:

(a) Pre-Acceptance Disclosure Policy described in PERA Rule 6.A.2.a;

(b) Client Suitability Assessment Questionnaire referred to in PERA Rule 6.A.2.b(i);

(c) Risk Disclosure Statement, which shall include the standard minimum information referred to in PERA Rule 6.A.2.d below; and

(d) Contract between the contributor and the Administrator referred to in PERA Rule 6.A.2.c.

(7) It has a board-approved policy on fees and charges to be imposed for its services as Administrator which shall be subject to Bangko Sentral approval.

Failure to satisfy any of the above requirements shall be a ground for the denial of the application, without prejudice to the re-filing of an application.

An Administrator who has been issued with a "Qualification Certificate" shall then file an application for accreditation with the PERA Processing Office of the BIR to complete its application process to become a PERA Administrator.

b. *As an Investment Manager*. The Bangko Sentral shall accredit an entity as an Investment Manager upon submission of a written application certified by the Chief Executive Officer (CEO) together with the following documentary requirements:

(1) Written supervision and control procedures for the conduct of the investment management functions;

(2) Proof of at least five (5) years of experience in professional investment management;

(3) Certified true copy of educational, professional/technical or other academic qualifications of its principal officers;

(4) Copy of its form contract to be utilized. The agreement between the contributor and the Investment Manager shall contain the following minimum contents:

(a) Overall investment philosophy, standards and practices of the Investment Manager; and

(b) Validation of contributor's Client Suitability Assessment and Investment Policy Statement made by contributor's Administrator referred to in PERA Rule 6.A.2.b (i) and (ii); and

(5) A schedule of commission charges and/or other fees it will charge for its services.

c. *As a Custodian*

Cash custodian. In addition to the standard pre-qualification requirements for the grant of banking authorities enumerated in *Appendix 5*, banks applying for authority to act as cash custodian for PERA shall also comply with the following conditions:

(1) The applicant bank must have complied with the minimum capital required under Subsec. X111.1; and

(2) The Bank's CAMELS composite rating in its latest examination is not lower than "3" with Management component score of not lower than "3".

Securities custodian. Only banks and other entities with trust license which have complied with the requirements under Subsec. 4441Q.5 may be accredited as securities custodian.

For purposes of this Subsection, the Bangko Sentral may provide for such other requirements or qualifications as it may deem necessary for the qualification/accreditation of a supervised entity as a PERA Market Participant.
(Circular No. 860 dated 28 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4960Q.4 *Application for qualification/accreditation.* An eligible supervised entity seeking qualification/accreditation as PERA Market Participant (Administrator, Investment Manager, Cash Custodian or Securities Custodian) shall file an application for qualification/accreditation with the appropriate department of the SES. The application shall be signed by the CEO and shall be accompanied by the following documents:

a. Certified true copy of the resolution of the entity's board of directors authorizing the application;

b. Certification signed by the CEO that the entity has complied with all the relevant qualification/accreditation requirements enumerated under Subsec. 4960Q.3 and an undertaking to comply with the aforementioned requirements while it acts as an Administrator, Investment Manager, Cash Custodian and/or Securities Custodian; and

c. Relevant PERA forms, Board-approved policy on fees and charges, and proof of compliance with Subsec. 4960Q.3.a(5) insofar as the application of the Administrator is concerned.

The qualification/accreditation of PERA Market Participants and accreditation of PERA Investment Products granted by the Bangko Sentral shall be valid until revoked.
(Circular No. 860 dated 28 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4960Q.5 *Security for the faithful performance of administrators.* As a security for the faithful performance of its duties under the PERA Act, an Administrator shall hold eligible government securities, equivalent to at least one percent (1%) of the book value of the total volume of PERA assets administered, earmarked in favor of the Bangko Sentral: *Provided*, That the Administrator shall issue an authorization in favor of the Bangko Sentral to withdraw, dispose and disburse the proceeds thereof to settle any claims arising from the breach of its duties as evidenced by a final and executory court order: *Provided further,* That the Administrator shall not withdraw, transfer or replace such earmarked securities without prior written instruction from the Bangko Sentral. The security for the faithful performance of the Administrator's functions shall be in addition to and shall be treated separately from the capital, surplus, and undivided profits of the Administrator.

For this purpose, eligible government securities shall consist of evidences of indebtedness of the Republic of the Philippines and of the Bangko Sentral and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines and such other kinds of securities which may be declared eligible by the Monetary Board: *Provided,* That such securities shall be free, unencumbered, and not utilized for any other purpose: *Provided further,* That such securities shall have remaining maturities of not more than three (3) years from the date the securities have been earmarked in favor of the Bangko Sentral.

a. *Valuation of securities and basis of computation of the basic security deposit requirement.* For purposes of determining compliance with the security for the faithful performance of Administrators under the PERA Act, the amount of securities so earmarked shall be based on their book value, that is, cost as increased or decreased by the corresponding discount or premium amortization. The base amount for the security shall be the average of the month-end balances of administered assets for the quarter.

b. Compliance period; Sanctions. The Administrator shall have one (1) week from the end of every calendar quarter within which to replenish any deficiency in the security requirements as abovementioned.

Any non-compliance with the security requirements shall be subject to Sections 36 and 37 of R.A. No. 7653 (New Central Bank Act) without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted under the circumstances that may include the suspension or revocation of the entity's authority to engage in PERA administration, and such other sanctions as may be provided by law.

(Circular No. 860 dated 28 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4960Q.6 *Grounds for suspension or revocation of qualification/accreditation of administrator, investment manager or custodian.* The qualification of an Administrator, and the accreditation of an Investment Manager and Custodian may be refused, restricted, suspended or revoked by the Bangko Sentral if, after due notice and hearing, the Bangko Sentral determines that the applicant or licensee has:

a. Willfully violated any provision of the PERA Act, the PERA Rules or any regulations and issuances by the Bangko Sentral made pursuant thereto, or any other law administered by the Bangko Sentral relevant to its function as a PERA Market Participant, or providing prudential standards for asset management or has aided, abetted, counseled, commanded, induced or procured such violation;

b. Failed to supervise, with a view to preventing such violation, a person associated to the applicant or licensee by virtue of an agreement or other types of arrangement and who commits such violation;

c. Willfully made or caused to be made a materially false or misleading statement in the application for qualification/ accreditation or report filed with the Bangko Sentral, or has willfully omitted to state any material fact that is required to be stated therein or necessary to make the statement therein not misleading;

d. Failed to maintain the qualifications or requirements for accreditation prescribed under the PERA Rules, these guidelines or has failed to maintain compliance with any of them;

e. Failed to carry on and manage its PERA-related business and activities in a proper, diligent and efficient manner to the prejudice of the Contributor;

f. Been subject to regulatory sanctions for (1) violations, which the Bangko Sentral determines to affect its operating conditions and ability as a PERA Market Participant, such as but not limited to violations affecting required capitalization and/or solvency, or (2) any act or behavior prejudicial to the PERA Contributors;

g. Been enjoined or restrained by a competent body from engaging in securities, banking or insurance activities;

h. Failed to enforce or monitor PERA contribution limits entitled to tax incentives; or

i. Failed to manage or adequately address conflicts of interest in the performance of its functions, which may be identified by the Bangko Sentral as prejudicial to the interests of the PERA Contributor.

For purposes of this Subsection, the term "*competent body*" shall include a foreign court of competent jurisdiction and a foreign financial regulator.

(Circular No. 860 dated 28 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4960Q.7 ***Penalty***. A fine of not less than Php50 Thousand nor more than Php200 Thousand or imprisonment of not less than six (6) years and one (1) day to not more than twelve (12) years or both such fine and imprisonment, at the discretion of the court, shall be imposed upon any person, association, partnership or corporation, its officer, employee or agent, who, acting alone or in connivance with others, shall:

a. Act as Administrator, Custodian or Investment Manager without being properly qualified or without being granted prior accreditation by the Bangko Sentral;

b. Invest the contribution without written or electronically authenticated authority from the Contributor, or invest the contribution in contravention of the instructions of the Contributor;

c. Knowingly and willfully make any statement in any application, report, or document required to be filed under the PERA Act, which statement is false or misleading with respect to any material fact;

d. Misappropriate or convert, to the prejudice of the Contributor, contributions to and investments or income from the PERA;

e. By gross negligence, cause any loss, conversion, or misappropriation of the contributions to, or investments from the PERA; or

f. Violate any provision of the PERA Act or rules and regulations issued pursuant to the PERA Act.

Notwithstanding the foregoing, any willful violation by the accredited Administrator, Custodian or Investment Manager of any of the provisions of the PERA Act, the PERA Rules, relevant rules and regulations issued by the Bango Sentral or other terms and conditions of the authority to act as Administrator, Custodian or Investment Manager may be subject to the administrative sanctions provided for in applicable laws such as those set forth in Section 37 of R.A. No. 7653.

The above penalties shall be without prejudice to whatever civil and criminal liability provided for under applicable laws for the same act or omission such as those set forth in Sections 35 and 36 of R.A. No. 7653.

(Circular No. 860 dated 28 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§ 4960Q.8 ***Reportorial requirements.*** An entity qualified/accredited by the Bangko Sentral to be a PERA Market Participant shall comply with the reportorial requirements that may be prescribed by the Bangko Sentral.

(Circular No. 860 dated 28 November 2014, as amended by Circular No. 890 dated 02 November 2015)

Secs. 4961Q - 4998Q (Reserved)

D. GENERAL PROVISION ON SANCTIONS

Sec. 4999Q (2008 - 4199Q) General Provision on Sanctions. Unless otherwise provided, any violation of the provisions of this Part shall be subject to Sections 36 and 37 of R.A. No. 7653.

The guidelines for the imposition of monetary penalty for violations/offenses with sanctions falling under Section 37 of R.A. No. 7653 on QBs, their directors and/ or officers are shown in *Appendix Q-39*.

PART TEN

BSP REGULATIONS ON FINANCIAL CONSUMER PROTECTION

A. CONSUMER PROTECTION OVERSIGHT FUNCTION

Section 41001Q Consumer Protection Oversight Function. The Board of Directors (Board) of BSFIs is ultimately responsible in ensuring that consumer protection practices are embedded in the BSFI's business operations. BSFIs must adhere to the highest service standards and embrace a culture of fair and responsible dealings in the conduct of their business through the adoption of a BSFI's Financial Consumer Protection Framework that is appropriate to the BSFI's corporate structure, operations, and risk profile. The BSFI's Financial Consumer Protection Framework shall be embodied in its Board-approved Financial Consumer Protection Manual.
(Circular No. 857 dated 21 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§41001Q.1 ***Role and responsibility of the board and senior management.*** The board and senior management are responsible for developing the BSFI's consumer protection strategy and establishing an effective oversight over the BSFI's consumer protection programs. The Board shall be primarily responsible for approving and overseeing the implementation of the BSFI's consumer protection policies as well as the mechanism to ensure compliance with said policies. While senior management is responsible for the implementation of the consumer protection policies approved by the Board, the latter shall be responsible for monitoring and overseeing the performance of senior management in managing the day to day consumer protection activities of the BSFI. The Board may also delegate other duties and responsibilities to senior management and/or Committees created for the purpose but not the function of overseeing compliance with the BSP-prescribed Consumer Protection Framework and the BSFI's own Consumer Protection Framework.
(Circular No. 857 dated 21 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§41001Q.2 ***Consumer Protection Risk Management System (CPRMS).*** All BSFIs, regardless of size, should have a CPRMS that is part of the corporate-wide Risk Management System. The CPRMS is a means by which a BSFI identifies, measures, monitors, and controls consumer protection risks inherent in its operations. These include both risks to the financial consumer and the BSFI. The CPRMS should be directly proportionate to the BSFI's asset size, structure, and complexity of operation. A carefully devised, implemented, and monitored CPRMS provides the foundation for ensuring an BSFI's adherence to consumer protection standards of conduct and compliance with consumer protection laws, rules and regulations, thus ensuring that the BSFI's consumer protection practices address and prevent identified risks to the BSFI and associated risk of financial harm or loss to consumers.

a. *Board and senior management oversight*. The Board is responsible for developing and maintaining a sound CPRMS that is integrated into the overall framework for the entire product and service life-cycle. The Board and senior management should periodically review the effectiveness of the CPRMS, including how findings are reported and whether the audit mechanisms in place enable adequate oversight. The quality and timeliness of the information provided to the Board and Senior Management regarding the BSFI's CPRMS are especially important for assessing the program's effectiveness. The Board and senior management must also ensure that sufficient resources have been devoted to the program. The ability to achieve the consumer protection objectives depends, in large part, on the authority and independence of the individuals directly responsible for implementing the CPRMS and for performing audit/review activities, and the support provided by the Board and senior management. The Board and senior management must also make certain that CPRMS weaknesses are addressed and corrective actions are taken in a timely manner.

b. *Compliance program*. A Consumer Protection Compliance Program is an essential component of the CPRMS. The BSFIs should establish a formal, written Consumer Protection Compliance Program that is part of the over-all Compliance System and should be in accordance with the Revised Compliance Framework for Banks under Sec. 4180Q. A well planned, implemented, and maintained Consumer Protection Compliance Program should prevent or reduce regulatory violations and protect consumers from non-compliance and associated harms or loss.

c. *Policies and procedures*. An effective CPRMS should have consumer protection policies and procedures in place, approved by the Board. A comprehensive and fully implemented policies help to communicate the board's and senior management's commitment to compliance as well as expectations. Overall, policies and procedures should a) be consistent with consumer protection policies approved by the Board; b) ensure that consumer protection practices are embedded in the BSFI's business operations; 3) address compliance with consumer protection laws, rules, and regulations; and 4) reviewed periodically and kept-to-date as it serve as reference for employees in their day-to-day activities.

d. *Internal audit function* Independent of the compliance function, the BSFI's Audit Function should review its consumer protection practices, adherence to internal policies and procedures, and compliance with existing laws, rules and regulations. The BSFI's internal audit of the different business units/functions should include the consumer protection audit program. A well-designed and implemented consumer protection audit program ensures that the Board or its designated Committee shall be able to make an assessment on the effectiveness of implementation as well as adequacy of approved policies and standards in meeting the established consumer protection objectives.

e. *Training*. Continuing education of personnel about consumer protection laws, rules and regulations as well as related bank policies and procedures is essential to maintaining a sound consumer protection compliance program. BSFIs should ensure that all relevant personnel, specifically those whose roles and responsibilities have customer interface, receive specific and comprehensive training that reinforces and helps implement written policies and procedures on consumer protection. The BSFI should institute a consumer protection training program that is appropriate to its organization structure and the activities it engages. The training program should be able to address changes in consumer protection laws, rules and regulations and to policies and procedures and should be provided in a timely manner.

(Circular No. 857 dated 21 November 2014, as amended by Circular No. 890 dated 02 November 2015)

B. CONSUMER PROTECTION STANDARDS OF CONDUCT FOR BSFIS

Sec. 41002Q Consumer Protection Standards. The following consumer protection standards reflect the core principles, which BSFIs are expected to observe at all times in their dealings with financial consumers. These should be embedded into the corporate culture of the BSFI, enhancing further its defined governance framework while addressing conflicts that are inimical to the interests of the financial consumer.

(Circular No. 857 dated 21 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§41002Q.1 ***Disclosure and transparency.*** BSFIs must take affirmative action to ensure that their consumers have a reasonable holistic understanding of the products and services, which they may be acquiring or availing. In this context, full disclosure and utmost transparency are the critical elements that empower the consumer to make informed financial decisions. This is made possible by providing the consumer with ready access to information that accurately represents the nature and structure of the product or service, its terms and conditions, as well as its fundamental benefits and risks.

The BSFI demonstrates the competencies required of this principle if it complies with the following:

a. *Key information*

(1) Ensures that offering documents of products and services contain the information necessary for customers to be able to make an informed judgment of the product or service and, in particular, meet the full disclosure requirements specified under existing laws or regulations. All key features and risks of the products should be highlighted prominently in a succinct manner. Where a product is being offered on a continuous basis, its offering documents should be updated in accordance with the requirements set out in the regulations.

(2) Readily and consistently makes available to the customer a written copy of the terms and conditions (T&C) that apply to a product or service. The contents of the T&C must be fully disclosed and explained to financial customers before initiating a transaction. Where and when warranted, reference to the T&C should be made while transacting with the consumer and before consummating the transaction, if such reference is material to the understanding of the consumer of the nature of the product or service, as well as its benefits and risks.

As a written document, the T&C must be complete but concise, easily understandable, accurate, and presented in a manner that facilitates the consumer's comprehension. The latter is taken to mean that the text of the document should be according to Subsec. 4320Q.4 (Amended Regulations to Enhance Consumer Protection in the Credit Card Operations of Banks and Their Subsidiary or Affiliate Credit Card Companies).

The T&C should include at least the following:

(a) The full price or cost to the customer including all interest, fees, charges, and penalties. The T&C must clearly state whether interest, fees, charges, and penalties can change over time. The method for computing said interest, fees, charges, and penalties shall be presented in accordance with Subsec. 4305Q.8;

(b) General information about the operation of the products or services including the customer's obligations and liabilities;

(c) Cooling-off period, if applicable;

(d) Cancellation, return and exchange policies, and any related cost;

(e) The actions and remedies which the BSFI may take in the event of a default by the customer;

(f) Procedures to report unauthorized transactions and other contingencies, as well as the liabilities of parties in such case; and

(g) A summary of the BSFI's complaints handling procedure.

(3) Advises customers to read and understand the applicable T&C, when considering a product or service.

(4) Ensures that its staff communicates in such a manner that clients can understand the terms of the contract, their rights and obligations. Staff should communicate with techniques that address literacy limitations (e.g., materials are available in local language).

(5) Provides customers adequate time to review the T&C of the product or service, asks questions and receives additional information prior to signing contracts or executing the transaction. The staff of the BSFI should be available to answer the questions and clarifications from the financial customer.

(6) Ensures that staff assigned to deal directly with customers, or who prepare advertisement materials (or other material of the BSFI for external distribution) or who markets any product or service should be fully knowledgeable about these products and services, including statutory and regulatory requirements, and are able to explain the nuances to the consumer.

(7) Uses a variety of communication channels to disclose clear and accurate information. Such communication channels should be available to the public without need for special access requirements, which may entail additional expense. Communication channels should be sufficiently responsive to address the literacy limitations of the financial consumer. Said channels may be written and/or verbal as may be warranted.

(8) Discloses pricing information in public domains (e.g., websites).

(9) Updates customers with relevant information, free of charge in a clear, understandable, comprehensive, and transparent manner, for the duration of the contract. Such information covers the characteristics and the risks of the products sold by the BSFI and their authorized agents.

(10) Imparts targeted information to the specific groups of clients to whom specific products are being marketed, with a particular consideration for vulnerable customers. Communication channels employed for such targeted marketing initiatives may be accordingly calibrated.

(11) Offers enhanced disclosure for more complex products, highlighting the costs and risks involved for the customer. For structured investment products, a Product Highlight Sheet (PHS) is required. The PHS should be clear, concise, and easily understandable by individual customers. It should contain information that empowers the customer to appreciate the key features of the product and its risks. It is prepared in a format that facilitates comparison with other products. The PHS should be available at no cost to the public and made available to consumers upon request. Before signing any contract, the BSFI should ensure that the customer has freely signed a statement to the effect that the customer has duly received, read, and understood the PHS.

(12) Notifies the customer in writing of any change in:

(a) Interest rate to be paid or charged on any account of the customer as soon as possible; and

(b) A non-interest charge on any account of the customer within a number of days as provided under existing regulations prior to the effective date of the change.

If the revised terms are not acceptable to the customer, he or she should have the right to exit the contract without penalty, provided such right is exercised within a reasonable period. The customer should be informed of this right whenever a notice of change is made.

(13) Provides customers with a proof of the transaction immediately after the transaction has been completed. The customer should be given a hard copy of each of the documents signed by the clients (including, but not limited to, the contract) with all terms and conditions. The BSFI ensures that documents signed by the customer are completely filled and that there are no blank terms.

(14) Regularly provides customers with clear and accurate information regarding their accounts (e.g., Statement of accounts that includes, among others, covering period, opening balance/value of transactions, all kinds of interest, fees and charges, closing balance, inquiries for outstanding balances, proof of payments for loans).

(15) Informs customers of their rights and responsibilities including their right to complain and the manner of its submission.

b. Advertising and promotional materials

(1) Ensures that advertising and marketing materials do not make false, misleading, or deceptive statements that may materially and/or adversely affect the decision of the customer to avail of a service or acquire a product.

(2) Ensures that advertising and promotional materials are easily readable and understandable by the general public. It should disclose clear, accurate, updated, and relevant information about the product or service. It should be balanced/ proportional (reflecting both advantages and risks of the product or service); visible/ audible; key information is prominent and not obscured; print is of sufficient size and clearly legible.

(3) Ensures that promotional materials are targeted according to the specific groups of consumers to whom products are marketed and the communication channels employed for marketing financial services.

(4) Ensures that all advertising and promotional materials disclose the fact that it is a regulated entity and that the name and contact details of the regulator are indicated.

c. Conflict of interest

(1) Discloses properly to the consumer prior to the execution of the transaction that the BSFI or its staff has an interest in a direct/ cross transaction with a consumer.

(2) Discloses the limited availability of products to consumers when the BSFI only recommends products which are issued by their related companies, particularly when commissions or rebates are the primary basis for recommending the particular product to consumers.

(3) Discloses the basis on which the BSFI is remunerated at the pre-contractual stage.

(4) Ensures that adequate systems and controls are in place to promptly identify issues and matters that may be detrimental to a customer's interest (e.g., cases in which advice may have been given merely to meet sales targets, or may be driven by financial or other incentives).

(Circular No. 857 dated 21 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§41002Q.2 *Protection of client Information.* Financial consumers have the right to expect that their financial transactions, as well as relevant personal information disclosed in the course of a transaction, are kept confidential. Towards this end, BSFIs must ensure that they have well-articulated information security guidelines, well-defined protocols, a secured database, and periodically re-validated procedures in handling the personal information of their financial consumers. This should be an end-to-end process that should cover, among others, the array of information that will be pre-identified and collected, the purpose of gathering each information, how these will be sourced from the client, the IT-security infrastructure of the BSFI, and the protocols for disclosure, both within the BSFI and especially to third parties.

The BSFI demonstrates the ability to protect client information if it is able to:

a. *Confidentiality and security of client information*

(1) Have a written privacy policy to safeguard its customers' personal information. This policy should govern the gathering, processing, use, distribution, storage, and eventual disposal of client information. The BSFI should ensure that privacy policies and sanctions for violations are implemented and strictly enforced.

(2) Ensure that privacy policies are regularly communicated throughout the organization. Opportunities include employees' initial training sessions, regular organization-wide training programs, employee handbooks, posters and posted signs, company intranet and internet websites, and brochures available to clients.

(3) Have appropriate systems in place to protect the confidentiality and security of the personal data of its customers against any threat or hazard to the security or integrity of the information and against unauthorized access. This includes a written information security plan that describes its program to protect customer personal information. The plan must be appropriate to its size and complexity, nature and scope of its activities, and the sensitivity of customer information it handles. As part of its plan, the BSFI must:

(a) Designate employee accountable to coordinate its Information Security Program.

(b) Identify and assess the risks to customer information in each relevant area of the BSFI operation, and evaluate the effectiveness of the current safeguards for controlling these risks.

(c) Design and implement a safeguards program, and regularly monitor and test it.

(d) Select service providers that can maintain appropriate safeguards.

(e) Evaluate and adjust the program in light of relevant circumstances, including changes in the firm's business or operations, or the results of security testing and monitoring.

(4) Have appropriate policies and practices for employee management and training to assess and address the risks to customer information. These include:

(a) Checking references and doing background checks before hiring employees who will have access to customer information.

(b) Asking new employees to sign an agreement to follow BSFI confidentiality and security standards for handling customer information.

(c) Limiting access to customer information to employees who have a business reason to see it.

(d) Controlling access to sensitive information by requiring employees to use "strong" passwords that must be changed on a regular basis.

(e) Using automatic time-out or log-off controls to lock employee computers after a period of inactivity.

(f) Training employees to take basic steps to maintain the security, confidentiality, and integrity of customer information. These may include locking rooms and file cabinets where records are kept; ensuring that employee passwords are not posted in work areas; encrypting sensitive customer information when transmitted electronically via public networks; referring calls or other requests for customer information to designated individuals who have been trained in how BSFI safeguards personal data; and reporting suspicious attempts to obtain customer information to designated personnel.

(g) Regularly reminding all employees of company policy to keep customer information secured and confidential.

(h) Imposing strong disciplinary measures for security policy violations.

(i) Preventing terminated employees from accessing customer information by immediately deactivating their passwords and user names and taking other measures.

(5) Have a strong IT System in place to protect the confidentiality, security, accuracy, and integrity of customer's personal information. This includes network and software design, and information processing, storage, transmission, retrieval, and disposal. Maintaining security throughout the life-cycle of customer information, from data entry to disposal, includes:

(a) Knowing where sensitive customer information is stored and storing it securely. Make sure only authorized employees have access.

(b) Taking steps to ensure the secure transmission of customer information.

(c) Disposing customer information in a secure way.

(d) Maintaining up-to-date and appropriate programs and controls to prevent unauthorized access.

(e) Using appropriate oversight or audit procedures to detect the improper disclosure or theft of customer information.

(f) Having a security breach response plan in the event the BSFI experiences a data breach.

b. *Sharing of customer information*

(1) Inform its customers in writing and explain clearly to customers as to how it will use and share the customer's personal information.

(2) Obtain the customers' written consent, unless in situations allowed as an exception by law or BSP-issued regulations on confidentiality of customer's information, before sharing customers' personal information with third parties such as credit bureau, collection agencies, marketing and promotional partners, and other relevant external parties.

(3) Provide access to customers to the information shared and should allow customers to challenge the accuracy and completeness of the information and have these amended as appropriate.

(4) Appropriate penalties should be imposed by the BSFI to erring employees for exposing or revealing client data to third parties without prior written consent from client.

(Circular No. 857 dated 21 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§41002Q.3 *Fair treatment*. Fair treatment ensures that financial consumers are treated fairly, honestly, professionally and are not sold inappropriate and harmful financial products and services. BSFIs should ensure they have the necessary resources and procedures in place, internal monitoring, and control mechanisms, for safeguarding the best interest of their customers. These include general rules, such as those addressing ethical staff behavior, acceptable selling practices as well as regulating products and practices where customers are more likely to be offered services that are inappropriate for their circumstances.

The BSFI demonstrates the principle of fair treatment towards financial consumers if it is able to:

a. *Affordability and suitability of product or service*

(1) When making a recommendation to a consumer:

(a) Gather, file, and record sufficient information from the customer to enable the BSFI to offer an appropriate product or service to the customer. The information gathered should be commensurate to the nature and complexity of the product or service either being proposed to or sought by the customer and should enable the BSFI to provide an appropriate level of professional service. As a minimum, information includes the customers' financial knowledge and experience, financial capabilities, investment objectives, time horizons, needs, priorities, risk affordability, and risk profile.

(b) Offer products or services that are in line with the needs/risk profile of the consumer. The BSFI should provide for and allow the customer to choose from a range of available products and services that can meet his needs and requirements. Sufficient and right information on the product or service should enable the customer to select the most suitable and affordable product or service.

(2) Inform or warn the customers that if they do not provide sufficient information regarding their financial knowledge and experience, the BSFI is not in a position to accurately determine whether the product or service is appropriate to them, given the limited information available. This information or warning may be provided in a standardized format.

(3) Ensure that the customer certifies in writing the accuracy of the personal information provided.

(4) Ensure to offer market-based pricing.

(5) Design products that are appropriate to the varying needs and interests of different types of consumers, particularly the more vulnerable consumers. Adequate product approval should be in place. Processes should be proper to ensure that products and services are fit for the targeted consumer.

(6) Do not engage in abusive or deceptive acts or practices.

(7) Seek customer feedback for product design and delivery and use this feedback to enhance product development and improve existing products. Likewise, investigate reasons for client drop out.

(8) Do not use high pressure/aggressive sales techniques and do not force clients to sign contracts.

(9) Have a system in place for approval when selling high-risk instruments to consumers.

b. *Prevention of over-indebtedness*

(1) Have appropriate policies for good repayment capacity analysis. The loan approval does not rely solely on guarantees (co-signers or collateral) as a substitute for good capacity analysis.

(2) Properly assess the creditworthiness and conduct appropriate client repayment capacity analysis when offering a new credit product or service significantly increasing the amount of debt assumed by the customer.

(3) Ensure to have an appropriate system in place for credit analysis and decisions including appropriate criteria to limit the amount of credit.

(4) Monitor enforcement of policies to prevent over-indebtedness. The Board and Senior Management of the BSFIs should be aware of and concerned about the risks of over-indebtedness of its customers.

(5) Draw the customer's attention to the consequences of signing a contract that may affect his financial position and his collateral in case of default in payment of a loan/obligation.

(6) Prepare and submit appropriate reports (e.g., loan quality, write-offs, restructured loans) to management.

(7) Ensure that corrective measures are in place for poor long-term quality of loan portfolio linked to over-indebtedness.

(8) Have specific procedures to actively work out solutions (i.e., through workout plan) for restructured loans/refinancing/writing-off on exceptional basis for clients in default who have the "willingness" but without the capacity to repay, prior to seizing the assets.

c. *Cooling-off period*[1]

(1) As may be appropriate, provide the customer with a "cooling-off" period of a reasonable number of days [at least two (2) banking days] immediately following the signing of any agreement or contract, particularly for financial products or services with a long-term savings component or those subject to high pressure sales contract.

Cooling-off shall be applicable to a customer who is a natural person and to financial instruments whose remaining term is equal to or beyond one (1) year.

(2) Permit the customer to cancel the agreement without penalty to the customer of any kind on his or her written notice to the BSFI during the cooling-off period. The BSFI may however collect or recover reasonable amount of processing fees. It is further recognized that there may be a need for some qualification to an automatic right of cooling off. For example, the right shall not apply where there has been a drawdown of a credit facility and a BSFI shall be able to recover any loss arising from an early withdrawal of a fixed rate term deposit which loss arises because of a difference in interest rates. This would be in addition to any reasonable administrative fees associated with closure of the term deposit.

d. *Objectivity*

(1) Deal fairly, honestly, and in good faith with customers and avoid making statements that are untrue or omitting information which are necessary to prevent the statement from being false or misleading.

(2) Present a balanced view when selling a product or service. While the BSFI highlights the advantages of a product/service, the customer's attention should also be drawn to its disadvantages and downside risks.

(3) Ensure that recommendations made to customer are clearly justified and explained to the customer and are properly documented. If the requested products are of higher risk rating than a customer's risk tolerance assessment results, the BSFI should draw to the customer's attention that the product may not be suitable for him in view of the risk mismatch. In such instances, there should be a written disclosure of consequences which is accepted by the client.

(4) Ensure that the customer's suitability and affordability are assessed against specific risks of the investment products:

(a) Financial Needs Analysis (FNA) and Client Suitability - to assess the customer's risk profile and suitability of the product.

(b) Customer's Declaration Form - to confirm his acceptance and understanding of the highlighted features of the product.

(c) FNA, Client Suitability and Declaration Form should be duly completed to make sure that the product sold is suitable and affordable for the customer.

e. *Institutional culture of fair and responsible treatment of clients*

(1) There should be a Code of Conduct (Code) applicable to all staff, spelling out the organizational values and standards of professional conduct that uphold protection of customers. This Code should be reviewed and approved by the Board. The staff signs a document by which they acknowledge that they will abide by the Code and not engage in the behaviors prohibited as provided for in the Code. To ensure adherence to the Code, the BSFI is required to implement measures to determine whether the principles of consumer protection are observed, the clients' concerns are appropriately addressed and problems are resolved in a timely manner. These may include among others, the regular conduct of customer satisfaction survey.

(2) Ensure that recruitment and training policies are aligned around fair and responsible treatment of clients.

(3) Ensure that staff, specifically those who interact directly with customers, receive adequate training suitable for the

[1] The effectivity of the cooling-off provisions shall be deferred to 16 January 2016.

complexity of the products or services they sell.

(4) Ensure that collection practices are covered during the initial training of all staff involved in collections (loan officers, collections staff, and branch managers). In particular, collection staff should receive training in acceptable debt collection practices and loan recovery procedures.

(5) Strictly comply with Bangko Sentral's existing regulation on what constitutes unfair debt collection practices. The BSFI's Code of Conduct should clearly spell out the specific standards of professional conduct that are expected of all staff involved in collection (including outsourced staff).

(6) Institute policy that guarantees that clients receive a fair price for any foreclosed assets and has procedures to ensure that collateral seizing is respectful of clients' rights.

(7) Ensure that managers and supervisors review ethical behavior, professional conduct, and quality of interaction with customers as part of staff performance evaluations.

(8) Have a system or internal processes in place to detect and respond to customer mistreatment as well as serious infractions. In case of violation of Code of Conduct (e.g., harassment), sanctions shall be enforced.

(9) Inform staff of penalties for non-compliance with Code of Conduct.

(10) Perform appropriate due diligence before selecting the authorized agents/outsourced parties (such as taking into account the agents' integrity, professionalism, financial soundness, operational capability and capacity, and compatibility with the FI's corporate culture) and implement controls to monitor the agents' performance on a continuous basis. The BSFI retains ultimate accountability for outsourced activities.

(11) Disseminate the main aspect of the Code of Conduct to clients through printed media or other appropriate means.

f. *Remuneration structure*

(1) Design remuneration structure for staff of BSFI and authorized agents in a manner that encourages responsible business conduct, fair treatment and avoidance/mitigation of conflicts of interest.

(2) Disclose to the customers the remuneration structure where appropriate, such as when potential conflicts of interest cannot be managed or avoided.

(3) Ensure adequate procedures and controls so that sales staff are not remunerated based solely on sales performance but that other factors, including customer's satisfaction (in terms of number of customer complaints served/settled) and compliance with regulatory requirements, best practices guidelines, and Code of Conduct in which certain principles are related to best interest of customers, satisfactory audit/compliance review results and complaint investigation results, are taken into account.

(Circular No. 857 dated 21 November 2014, as amended by Circular No. 898 dated 14 January 2016 and 890 dated 02 November 2015)

§41002Q.4 *Effective recourse.* Financial consumers should be provided with accessible, affordable, independent, fair, accountable, timely, and efficient means for resolving complaints with their financial transactions. BSFIs should have in place mechanisms for complaint handling and redress.

The BSFI demonstrates the ability to provide effective recourse if it is able to:

a. Establish an effective Consumer Assistance Management System (CAMS). *Appendix Q-10* provides for the minimum requirements of an effective CAMS.

b. Develop internal policies and practices, including time for processing, complaint response, and customer access.

c. Maintain an up-to-date log and records of all complaints from customers subject to the complaints procedure. This log must contain the following:

(1) Details of each complaint;

(2) The date the complaint was received;

(3) A summary of the BSFI's response;

(4) Details of any other relevant correspondence or records;

(5) The action taken to resolve each complaint; and

(6) The date the complaint was resolved.

d. Ensure that information on how to make a complaint is clearly visible in the BSFI's premises and on their websites.

e. Undertake an analysis of the patterns of complaints from customers on a regular basis including investigating whether complaints indicate an isolated issue or a more widespread issue for consumers. This analysis of consumer complaints must be escalated to the BSFI's compliance/risk management function and senior management.

f. Provide for adequate resources to handle financial consumer complaints efficiently and effectively. Staff handling complaints should have appropriate experience, knowledge, and expertise. Depending on the BSFI's size and complexity of operation, a Senior staff member should be appointed to be in charge of the complaint handling process.

(Circular No. 857 dated 21 November 2014, as amended by Circular No. 890 dated 02 November 2015)

§41002Q.5 ***Financial education and awareness.*** Financial education initiatives give consumers the knowledge, skills, and confidence to understand and evaluate the information they receive and empower them to make informed financial decisions. Because BSFIs deal directly with financial consumers, they have the reach, expertise, and established relationships necessary to deliver financial education. Financial education should be integral to the good governance of the BSFIs.

The BSFI demonstrates this principle through various means and in particular:

a. Have a clear and defined financial education and awareness program as part of a wider financial consumer protection and education strategy and corporate governance. It is an integral component of the BSFI's ongoing interaction and relationship with clients. Dedicated and adequate resources should be provided for the financial education initiatives.

b. Develop financial education and awareness programs, either on their own or in partnership or collaboration with industry associations, which contribute to the improvement of their clients' knowledge and understanding of their rights and responsibilities, basic information and risks of financial products and services, and ability to make informed financial decisions and participate in economic activities. Financial education programs should be designed to meet the needs and financial literacy level of target audiences, as well as those that will reflect how target audience prefers to receive financial information. These may include:

(1) Delivering public awareness campaigns and information resources that would teach consumers on certain aspects of their financial lives particularly, budgeting, financial planning, saving, investing, borrowing, retirement planning, and self-protection against fraud.

(2) Developing financial education tools or information materials that are updated and readily understood and transparent such as customized advice and guidance (face to face training); printed brochures, flyers, posters, training videos (e.g., about money management, debt management, saving), and newsletters; websites, and interactive calculators that deliver key messages and "call to action" concerning better money management (e.g., protect your money, know your product, read and understand the T&C, check your statements, pay credit card bills on time, safeguard your Personal Identification Number, understand fees and charges) and consumer responsibility to ask the right questions.

(3) Distributing to customers, at the point of sale, a pamphlet on questions, which customers need to ask before accepting a financial product or service.

c. Clearly distinguish between financial education from commercial advice. Any financial advice for business purposes should be transparent. Disclose clearly any commercial nature where it is also being promoted as a financial education initiative. It should train staff on financial education and develop codes of conduct for the provision of general advice about investments and borrowings, not linked to the supply of a specific product.

d. Provide via the internet or through printed publications unbiased and independent information to consumers through comparative information about the price and other key features, benefits and risks, and associated fees and charges of products and services.

e. Regularly track, monitor, and assess campaigns and programs and use the results of the evaluation for continuous improvement.
(Circular No. 857 dated 21 November 2014, as amended by Circular No. 890 dated 02 November 2015)

C. ENFORCEMENT ACTIONS

Sec. 41003Q Enforcement Actions.

a. Enforcement is the implementation of corrective measures and imposition of sanctions to BSFIs to:

(1) Ensure compliance with the BSP regulations on consumer protection and consumer protection laws and regulations;

(2) Inform the management of the BSFIs of the consequences of their decisions and actions;

(3) Instill discipline to the BSFIs; and

(4) Serve as deterrent to the commission of violations.

b. The bases for enforcement actions are the results of the:

(1) On-site consumer protection framework assessment;

(2) Off-site surveillance;

(3) Market monitoring; and

(4) Bangko Sentral Consumer Assistance Mechanism

c. The following enforcement action may be taken depending on:

(1) *Rating-based enforcement actions for on-site periodic assessment*. To implement the foregoing enforcement actions, the following rules shall apply:

(a) A Consumer Protection Rating (CPR) of 4 will require no enforcement action.

(b) A CPR of 3 will require issuance of a written reminder on consumer protection areas that may lead to weaknesses in the BSFI's Consumer Protection Framework.

(c) A CPR of 2 will require a written Action Plan in response to the written reminder issued by the BSP. The written Action Plan shall be duly approved by the Board. It shall aim to correct the identified weaknesses in the BSFI's Consumer Protection Framework or the noted violations of the BSP Regulations on Consumer Protection. FCPD shall assess the viability of the plan and shall monitor the BSFI's performance.

(d) A CPR of 1 shall also be considered as poor/grossly inadequate Financial Consumer Protection Framework. For this reason, a written action plan fully executable within ninety (90) days shall be prepared. The action plan shall be duly approved by the Board aimed at instituting immediate and strong measures to restore the BSFI to acceptable consumer protection operating condition, where it does not pose any risk of financial loss or harm to the financial consumers.

In the event of non-submission of the written Action Plan within the deadline or failure to implement its action plan, FCPD shall recommend appropriate enforcement actions on the BSFI and its responsible officers including monetary penalties to be computed on a daily basis until improvements are satisfactorily implemented.

Composite Rating				
Numerical Rating	**4**	**3**	**2**	**1**
Adjectival Rating	**Strong**	**Acceptable**	**Marginal**	**Poor**
Supervisory Approach	No cause for supervisory concern	Minimal supervisory concern	More than normal supervisory concern	Immediate and close supervisory attention and monitoring
Enforcement Action	None	Written reminder	Written action plan	Written action plan Suspension of introduction of new products and services or suspension of existing products/services that poses a consumer protection concern or suspension of further distribution or Issuance of consumer products and services

Table No. 1. Enforcement Actions for Consumer Protection Ratings

d. Enforcement actions for violations of consumer protection regulations

Depending on the seriousness and impact of the breaches of Bangko Sentral Regulations on consumer protection and specific consumer protection rules and regulations, the following administrative sanctions shall be imposed:

a. Fines in amount as may be determined by the Monetary Board to be appropriate;

b. Stopping/suspending operations/ products or restricting approval of new operations/products;

c. Requiring the withdrawal/ modification of advertising/marketing materials; and

d. Requiring submission of additional reports for monitoring.

(Circular No. 857 dated 21 November 2014, as amended by Circular No. 890 dated 02 November 2015)

Secs. 41004Q - 41099Q (Reserved)

GUIDELINES TO EVALUATE INVESTMENT HOUSES
(Appendix to Sec. 4105Q)

a. *Capital* - The requirement is a minimum paid-in capital of ₱200.0 million for an investment house to be established in Metro Manila and ₱100.0 million for all others. Foreign equity, if any, shall be registered with and approved by the Board of Investments and the BSP.

b. *Citizenship* - Majority (51%) of the voting stock shall be owned by Filipinos.

c. *Directorship/Officership* - Majority of the board members shall be Filipinos. Resident foreign directors and technicians shall register with the Bureau of Immigration and Deportation. Compliance with the prohibition on interlocking directorship/officership between banks and investment houses and between QBs shall be observed.

d. *Promotion of Public Interest and Economic Growth* -

(1) Submission of a one (1)-year investment program indicating:

(a) *Underwriting and distribution activities*. These shall show in details the various stages leading to the completion of an agreement. Target dates for each stage in the underwriting process shall be indicated which should serve as reference points in the event that an investment house is unable to bring the program and its components to fruition. Target volume of underwriting would be set initially at twenty-five percent (25%) of paid-in capital.

(b) *Fund mobilization*. Emphasis shall be on maturities beyond one (1) year. Domestic and foreign sources shall be indicated and the latter shall be evaluated in terms of pertinent BSP regulations.

(c) *Fund usage*. Support of priority investment areas of the Government and other projects which may be determined by the BSP shall be emphasized. Funds placed on maturities beyond one (1) year shall be preferred.

(d) *Planned distribution of portfolio* Activities indicating money-market services and investment in subsidiaries and affiliates, while necessary to sustain the investment house, shall be subordinated to the preferred activities above-indicated. Other activities as financial management, counseling, distribution of equity and debentures for "public" ownership, etc., shall be considered.

(2) The one (1)-year investment program of the investment house shall be related to the government development plan by indicating the portion of the investment and savings targets in the plan which would be supported by the investment house industry.

(3) A one (1)-year projected income statement showing major sources of income and expense items.

(4) Operational agreement with other FIs.

(5) A statement justifying the operation of the investment house as not in conflict with public interest and economic growth, taking into account the existing number of investment houses, indicating:

(a) record of underwriting;

(b) evidence of medium and long-term loans;

(c) evidence of obtaining funds with maturity beyond one (1) year; and

(d) equity investments which were subsequently distributed to the public.

e. *Organization, Direction and Administration* - The organizational/ functional chart should match the organization framework with operational objectives. The management of the company, board of directors and the managerial staff, must be firmly designated before it can be granted a license to operate as an investment house.

f. *Integrity, Experience and Expertise of Board and Management Staff*

(1) Formal training, academic or others;

(2) Experience along financial management, securities dealing, fund management, project evaluation and feasibility studies;

(3) Absence of administrative or criminal conviction; and

(4) Affiliation with professional organizations.

g. *Branching* - The rate at which branch offices are to be established shall depend upon the ability of the company to conduct operations from headquarters/ head offices as well as on correspondent (banking) arrangements.

Other factors to be considered are the following:

(1) Reserve and liquidity position; and

(2) Profitability and capacity to absorb losses.

DETERMINATION OF AMOUNT OF ADDITIONAL CAPITAL THE ENTITY MUST PUT UP (PROJECTION BASE - LATEST AVAILABLE REPORT)

(in thousand pesos)

(Appendix to Subsec. 4151Q.2)

____
(Name of Entity)

A.	1.	Estimated Amount of Risk Assets of Present Office for the Next 12 Months		
	a.	Actual Risk Assets		₱ xxx
	b.	Add: xx% of (a)		xxx
		Risk Assets - (Base Period)	₱ xxx	
		Risk Assets - (Previous Year)	xxx	
		Increase	₱ xxx	
		Rate of Increase = $\frac{\text{increase}}{\text{actual risk assets}}$ = xx%		
	c.	Total of (a) and (b)		₱ xxx
	2.	Maximum Possible Level of Risk Assets Based on the Base Period Figures:		
	a.	Net worth Less 30% of Paid-in Capital (₱xxx - xxx)	₱ xxx	
	b.	100% of Borrowings (Bills Payable)	xxx	
	c.	80% of Unutilized Acceptances or Credit Line with Foreign Bank(s)	xxx	₱ xxx
B.		Estimated Risk Assets for the First 12 Months of Operation:		
	1.	Branch Approved but not yet Opened:	₱ xxx	
	2.	Branch Being Applied for:	xxx	
		Add: Lower of A.1 or A.2	xxx	
C.		Total Estimated Risk Assets for 12 Months		₱ xxx
D.		10% of C (Minimum Paid-in Capital Required)		₱ xxx

E. Less:

Present Combined Capital Accounts (Base Period Figures)	₱ xxx	
Add: xx% of above	xxx	xxx
Capital Accounts - (Base Period)	₱ xxx	
Capital Accounts - (Previous Year)	xxx	
Increase	₱ xxx	

$$\text{*Rate of Increase} = \frac{\text{Increase}}{\text{Capital Accounts of Previous Year}} = \text{xx\%}$$

F. Estimated Excess of Capital over Minimum Capital Required or Additional Amount of Capital Applicant Must Put Up, as the case may be ₱ xxx

*The computation to arrive at the "rate of increase" in capital accounts shall only be considered if there is sufficient indication or evidence that the NBQB will continue to follow the same amount of increase in capital accounts for the succeeding year. If no evidence is found that the NBQB will continue to increase its capital accounts for the same amount for the succeeding year, then computations should consider only the amount of net profits (after dividends) plowed into the business for the year immediately preceding the date of application plus the amount of capital that the NBQB promised to put up per its schedule or program submitted to the Bangko Sentral. If no such schedule or program was submitted, then only the amount of net profits (after dividends) for the year immediately preceding the date of application should be considered.

LIST OF REPORTS REQUIRED FROM QUASI-BANKS
[Appendix to Sec. 4192Q (2008 - 4162Q)]

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-1	Unnumbered	4115Q *(Cir. No. 574 dated 07.10.07 as amended by M-062 dated 12.13.11, M-028 dated 06.19.13, M-056 dated 12.10.13 and M-044 dated 11.24.14)*	Basel III Capital Adequacy Ratio (CAR) Report - solo basis (head office and branches) - consolidated basis (parent QB plus subsidiary financial allied undertakings but excluding insurance companies)	Quarterly	 15th business day after end of reference quarter 30th business day after end of reference quarter	Appropriate department of the SES
A-1	Unnumbered	4191Q.3 *(As amended by Cir. Nos. 761 dated 07.20.12, 708 dated 01.10.11, 733 dated 05.08.11, M-048 dated 08.26.11 and M-020 dated 04.22.14 and by Cir. No. 890 dated 11.02.15)*	Reports on Initial Adoption of PFRS 9	Upon Initial application of PFRS 9	15 banking days after end of calendar/fiscal year of date of initial application of PFRS 9	E-mail to SDC sdcnbfi-pfrs@bsp. gov.ph
			Supplementary Report on Early Adoption of PFRS 9	Monthly	15 banking days after end of reference month	E-mail to SDC sdcnbqb-csoc@bsp. gov.ph
A-1		4192Q.3	Copy of Published Statement of Condition with Publisher's Certificate	Quarterly	5th business day from publication date	Appropriate department of the SES
A-1	Unnumbered	4611Q.5 *(Cir. No. 668 dated 10.02.09)*	Report on Outstanding Derivatives Contracts	Monthly	15th banking day from end reference month	-do-
A-1	Unnumbered	4611Q.5	Report on Trading Gains/(Losses) on Financial Derivatives	Monthly	15th banking day from end reference month	-do-
A-1		4115Q.3 *(Cir. No. 842 dated 07.25.14)*	Report of the Risk-Based Capital Adequacy ratio - solo basis (Head Office plus branches)	Quarterly	15th business day after end of reference quarter	-do-
			- consolidated basis (Parent QB plus subsidiary financial allied undertakings but excluding insurance companies)		30th business day after end of reference quarter	-do-
A-1	X115.5	4115Q.5 *(Cir. No. 856 dated 10.29.15 as amended by Cir. No. 890 datd 11.02.15)*	Report on Selected Accounts and Activities for the Identification of Domestic Systemically Important Banks[1] (Consolidated Basis)	Semestral Annual	30 banking days after end of reference quarter	electronic submission - SDC

[1] For guidelines and line item instructions please refer to http://www.bsp.gov.ph/regulations/regulations.asp?type = 1&id =3371

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-1		4115.6 (*Cir. No. 881 dated 06.09.15 and M-026 dated 07.16.15)*	Basel III Leverage Ratio (BLR) Report	Semi-annually		sdckb-leverage@bsp.gov.ph
			-Solo basis (head office and branches) For Reference Date: 30 June 2015		30 banking days from submission reference date	
			For Reference Dates: 31 December 2015 30 June 2016 31 December 2016		15 banking days from submission reference date	
			-Consolidated basis (parent bank plus subsidiary financial allied undertakings, but excluding insurance companies) For Reference Dates: 30 June 2015 31 December 2015 30 June 2016 31 December 2016		30 bankings days from submission reference date	sdcnbqb-leverage@bsp.gov.ph
A-1	Unnumbered	4136Q.4 (*Cir. No. 888 dated 10.09.15*)	Report on Dividend Declared		10th banking/business day after date of dividend declaration	Appropriate department of the SES
A-2	Unnumbered (no prescribed form)	4141Q.9 (*As amended by Cir. No. 758 dated 05.11.12 and Cir. No. 887 dated 10.07.15)*	Certification under oath of directors that they have received copies of the general responsibility and specific duties and responsibilities of the board of directors and that they fully understand and accept the same.	Upon election as first-time director with a QB or NBFI with trust authority or banking group	20th business day from date of election	Hard copy to appropriate department of the SES
A-2	BSP-7-26-02-A/B	4192Q (*As amended by M-020 dated 04.22.14 and by Cir. No. 890 dated 11.02.15)*	Financial Reporting Package with Supplementary Report on: Schedules:	Monthly	15 banking days after end of the reference month	sdcnbqb_csoc@bsp.gov.ph
	BSP-7-26-02-A Schedule 1 (IHs only)		Loans/Receivables, Trading Account Securities (TAS) - Loans Underwritten Debt Securities			
	BSP-7-26-02-B Schedule 1 (FCs only)		Loans/Receivables, Trading Account Securities (TAS) - Loans Underwritten Debt Securities			

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
	BSP-7-26-02-A Schedule 5 (For IHs)		Bills Payable and Bonds Payable			
	BSP 7-26-02-B Schedule 5 (For FCs)		Bills Payable and Bonds Payable			
	BSP-7-26-02-A/B Schedule 4		Remaining Maturities of Selected Accounts Interest Rate and Maturirty Matching			
	BSP-7-26-02-A/B Schedule 3		Interest Rate and Maturity Matching			
	BSP-7-26-02-A Schedule 2 (For His)		Underwritten Securities, Trading Account Securities - Investments, Available for Sale Securities and Investments in Bonds & Other Debt Instruments			
	BSP-7-26-02-B Schedule 2 (For FCs)		Trading Account Securities - Investments, Available for Sale Securities and Investments in Bonds & Other Debt Instruments (Government Issue – Local Government Units)			
	BSP-7-26-02-A Schedule 1 (For IHs)		Loans/Receivables, Trading Account Securities - Loans and Underwritten Debt Securities			
	BSP-7-26-02-B Schedule 1 (For FCs)		Loans/Receivables and Trading Account Securities - Loans			
	BSP-7-26-02-B Schedule 1.1 (For FCs)		Loans/Receivables and Trading Account Securities - Loans (Borrowing of Local Government Units)			
	BSP-7-26-02-A Schedule 1.1 (For IHs)		Loans/Receivables, Trading Account Securities - Loans and Underwritten Debt Securities (Borrowings of Local Government Units)			
	BSP-7-26-02-B Schedule 6 (FCs only)		Data on Firm's Businesses			

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	BSP-7-26-03-A/B	4192Q (*As amended by M-020 dated 04.22.14 and Cir. No. 880 dated 05.22.15 and Cir. No. 890 dated 11.02.15*)	Consolidated Statement of Condition/Income and Expenses with Supplementary Report on Early Adoption of PFRS 9 – Solo where applicable	Monthly	15 banking days after end of reference month	sdcnbqb_csoc@bsp.gov.ph
A-2	BSP-7-26-05	4253Q (*As amended by MAB dated 02.24.05, M-059 dated 12.13.13 and M-020 dated 04.22.14 and Cir. No. 890 dated 11.02.15*)	Consolidated Report on Required and Available Reserves Against Deposit Substitutes and Special Financing (CRRAR)	Weekly	4 banking days after end of reference week	sdcnbqb-crrar@bsp.gov.ph
A-2	BSP-7-26-05.1	4253Q	Components of Deposit Substitutes with Original Maturities of 730 Days or Less	Weekly	4th business day following end of reference week	Separate report for Head Office and each branch; and a Consolidated Report for Head Office and Branches; to be submitted via electronic mail
	BSP-7-26-05.2	4253Q	Components of Deposit Substitutes with Original Maturities of more than 730 days			
A-2	BSB-7-26-05.3	4253Q	Eligible Philippine Government Securities Utilized as Reserves Against Deposit Substitutes	-do-	-do-	-do-
A-2	BSP-7-26-06	4115Q (*As amended by M-020 dated 04.22.14 and Cir. No. 890 dated 11.02.15)*	Statement of Capital Required and Capital Accounts Control Prooflist duly signed by the authorized officer of the institution	Semi-Monthly	7 banking days after 15th and end of month	sdcnbqb-crca@bsp.gov.ph Fax to SDC @ (02) 708-7554
A-2	BSP-7-26-24	4192Q *(As amended by CL dated 08.06.03)*	Credit and Equity Exposures to Individuals/Companies/Groups Aggregating P1 million and above.	Quarterly	15th business day after end of reference year	Electronic submission/ CD - SDC
			Notarized Control Prooflist			Fax to SDC @ (02) 708-7554
A-2	Unnumbered (no prescribed form)	4239Q.3	Notice to Bangko Sentral on SEC's approval of bond issue together with the documents required by the SEC for the creation and registration of the bond issue	As approved	3rd business day from approval by SEC	Appropriate department of the SES
A-2	Unnumbered	4801Q *(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	4801Q	Report on Covered Transactions	As transaction occurs	10th business day from date of transaction/knowledge	-do-

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	Unnumbered	*(Cir. No. 609 dated 05.26.08 as amended by M-022 dated 06.26.08, M-020 dated 04.22.14, Cir. No. 890 dated 11.02.15, Cir. No. 913 dated 06.05.16 and M-009 dated 06.23.16)*	Financial Reporting Package for Trust Institutions (FRPTI) (with Supplementary Report on Early Adoption of PFRS 9 where applicable) Schedules: 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 Management - UITF E Fiduciary Accounts E1 to E1B Other Fiduciary Services - UITF Income Statement	Quarterly	20 banking days after end of reference quarter	SDC sdcnbfi-frpti@bsp.gov.ph
			Control Prooflist	Quarterly	20 banking days after end of reference quarter	SDC sdcnbfi-frpti@bsp.gov.ph
A-3	BSP-7-26-18DF	4326Q	Consolidated Monthly Report on Credit Accomodations to Directors, Officers, Stockholders and Their Related Interests	Monthly	15th calendar day from end of reference month	SDC
A-3	BSP-7-26-18.1	4326Q	Credit Accommodations to Directors, Officers, Stockholders, and Their Related Interests	Monthly	15th calendar day from end of reference month	Appropriate department of the SES
A-3	Unnumbered	4192Q *(CL-050 dated 10.04.07 and CL-059 dated 11.28.07)*	Report on Borrowings of BSP Personnel	Quarterly	15th calendar day from end of reference month	SDC
A-3	Unnumbered	4334Q	Copy of Written Approval of Board of Directors on Credit Accommodations to Directors, Officers, Stockholders, and their Related Interests	As Approved	20th business day from date of approval	Appropriate department of the SES
A-3	Unnumbered	4328Q.5 *(Cir. No. 560 dated 01.31.07)*	Transmittal of Board Resolution/Written Approval on Credit Accommodations to Subsidiaries and/or Affiliates	As loan to subsidiaries and/or affiliates is approved	20th banking day from date of approval	Original and duplicate appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	Unnumbered	4320Q.16 *(Cir. No. 812 dated 09.23.13 and M-060 dated 12.20.13 and M-002 dated 03.10.16)*	Credit Card Business Activity Report	Quarterly	15th banking day from reference quarter	SDC – e-mail
B	Unnumbered	4141Q.4	Notice of Election/Appointment of Members of Board of Directors and Committees	As change occurs	10th day from election/assumption of office	Appropriate department of the SES
B	Unnumbered (no prescribed form)	4143Q.4	Report on Disqualification of Director/Officer	As disqualification occurs	Within 72 hours from receipt of report by board of directors	Appropriate department of the SES
B	BSP-7-26-13	4306Q	Past Due Receivables, Loans and/or Commercial Papers/Private Securities	Quarterly	15th calendar day after end of reference quarter	Appropriate department of the SES
B	BSP-7-26-15 (IH only)	4192Q	Report on Underwriting Activities	-do-	End of month following each quarter	-do-
B	BSP-7-26-20	4381Q	Report on Equity Investments in Non-Allied Undertakings	Semestrally	15th business day following end of reference semester	Appropriate department of the SES
B	BSP-7-26-21	4103Q *(As amended by Cir. No. 557 dated 01.12.07)*	Borrowing-Investment Program	Annually	on or before Nov. 30	Appropriate department of the SES
B	BSP-7-26-22 (IH only)	4192Q	Annual Underwriting Program	Annually	1st working day of March of reference year	Appropriate department of the SES
B	BSP-7-26-26	4192Q.3	Statement of Condition for Publication (See Sec. 4192Q.3 for requirement on publication of names of directors/officers)	Quarterly	20th business day from receipt of call	Appropriate department of the SES
			Control Prooflist duly signed by the authorized officer of the institution		20th business day from receipt of call	E-mail to SDC: srso-nbqb@bsp.gov.ph Fax to SDC @ (02) 708-7554
B	Unnumbered	4235Q.14	Daily Report on Interbank Borrowings not Effected Through Clearing Account with Bangko Sentral	Daily (only when there are transactions covered)	Noon of business day following date of report	Appropriate department of the SES
B	Unnumbered	4190Q	Consolidated Annual Financial Statements of Financial Intermediaries and their Allied Undertakings/Affiliates/Subsidiaries supported by Individual Annual Undertakings/Affiliates/Subsidiaries and their Audited Financial Statements	Annually	120th calendar day after end of reference year	Appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	Unnumbered (no prescribed form)	4192Q	Annual Report of Management to Stockholders Covering Results of Operations for the Previous Year	Annually	As soon as available	Appropriate department of the SES
B	Unnumbered (no prescribed form)	4190Q	Audited Financial Statements for Previous Year Prepared by the External Auditor and the Corresponding Auditor's Letter of Comments	Annually	90th day after the start of audit	-do-
B	Unnumbered	4192Q	Report on Crimes/Losses for Head Office/Branches	As crime or incident occurs	48th hour from knowledge of crime/incident	-do-
B	Unnumbered	4192Q	Board resolution on quasi-bank's signatories of report submitted to BSP	As authorized	3rd day from date of resolution	-do-
B	Unnumbered	4192Q	Documentary requirements/information on organizational structure and operational policies	Upon submission of application to engage in QB		Appropriate department of the SES
			See Annex Q-3-e for documentary requirements/ information required	As changes occurs	15th calendar day from change/issuance	Appropriate department of the SES
B	Unnumbered (no prescribed form)	4192Q	Corporate Secretary's Certification under oath on list of stockholders and/or groups of stockholders	As change in composition of stockholders occurs	Immediately after change	-do-
B	Unnumbered (no prescribed form)	4425Q.2	Report on Required and Available Reserves on Peso-Denominated CTFs, Such Other Similarly Managed Peso Funds and TOFA-Others	Weekly	3 banking days after end of reference week	-do-
			Control Prooflist duly signed by the authorized officer of the institution			Email to SDC: srso-nbqb@bsp.gov.ph Fax to SDC @ (02) 708-7554
B	Unnumbered (no prescribed form)		Reconciliation statement on demand deposit with Bangko Sentral	Monthly	7th business day from receipt of Bangko Sentral statement of account	Original to be submitted to Bangko Sentral Controllership Department; one copy to appropriate department of the SES
B	Unnumbered	4625Q.9 *(Rev. Dec. 2007 per Cir. No. 591 dated 12.27.07)*	Report of FX Swaps with Customers[1] where 1st Leg is a Purchase of FX Against Peso (For QBs with derivative license)	Monthly	5th business day after end of reference month	ID @ e-mail: iod@bsp.gov.ph cc: mail SDC
B	Unnumbered	4625Q.9	Report of Cancellations, Roll-overs and Non-Delivery of FX Forwards Purchase-Sales Contracts and Forward Leg of Swap Contracts (For QBs with Derivatives license)	Monthly	5th business day after end of reference month	ID @ e-mail: iod@bsp.gov.ph cc: mail SDC

[1] Excluding cross currency swaps

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B	SEC Form	MAB dated 09.02.05	General information Sheet	Annually	30th day from date of Annual Stockholders' meeting or if changes occur, 7th day from date of change	Drop box - SEC Central Receiving Section
B	Unnumbered	M-005 dated 02.04.08	Disclosure statement on SPV Transactions	Quarterly	15th banking day after end of reference quarter	SDC
		M-019 dated 05.05.08	Report on NDF transactions with non-resident	Weekly	2nd banking day after end of reference week	Email to SDC sdc-ndf@bsp.gov.ph cc: Treasury Dept. fx-omo@bsp.gov.ph
			Control Prooflist			Fax to SDC @ (02) 708-7554
B	Unnumbered	4235Q.12 *(Cir. No. 467 dated 01.10.05)*	Report on Undocumented Repurchase Agreements	-do-	Within 72 hours from knowledge of transactions	Appropriate department of the SES
B	Unnumbered	4235Q.12 *(Cir. No. 467 dated 01.10.05)*	Notarized certification that the QB did not enter in the Repurchase Agreement covering Government Securities, Commercial Papers and other Non-Negotiable Securities or Instruments that are not documented	Semestral	5th banking day after end of every semester	Appropriate department of the SES
B	SES Form 6H (CBP-7-16-21), revised	4306Q.5 *(Cir. No. 745 dated 01.10.12)*	Notice of Write-off of Loans, Other Credit Accomodations, Advances and Other Assets (i) Sworn statement signed by the President or officer of equivalent rank stating that the write-off did not include DOSRI (ii) board resolution approving write-off	As write-off occurs	Within 30 business days after every write-off	Appropriate department of the SES
B		4409Q.16	Waiver of the Confidentiality of Information under Sections 2 and 3 of R.A. No. 1405, as amended	As transaction occurs		Appropriate department of the SES
B	SES II Form 15 (NP08-TB)	4144Q *(As amended by Cir. 758 dated 05.11.12, by M-024 dated 07.31. 08 and Cir. No. 887 dated 10.07.15)*	Biographical Data of Director/Officer with ID picture. -If submitted in CD form-Notarized first page of each of the directors'/officers' Biographical Data saved in CD and control proof list -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	Upon every election/re-election or appointment/ promotion or if change in name occurs, or if requesting for approval of interlocks	20th business day from date of election of the directors/ meeting of the board of directors in which the officers are appointed/ promoted. 10th business day from date the change of name occurred	Hard copy to appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B		4192Q *(MAB dated 09.02.05 as amended by Cir. No. 758 dated 05.11.12 and Cir. No. 887 dated 10.07.15)*	Certification under oath of the independent directors that he/she is an independent director as defined under Subsec. 4141Q.2 and that all the information thereby supplied are true and correct	Upon election	20th business day from date of election	Hard copy to appropriate department of the SES
B		*4192Q (Cir. No. 513 dated 02.10.06 as amended by Cir. No. 758 dated 05.11.12 and Cir. No. 887 dated 10.07.15)*	Certification under oath of directors/officers that he/she has all the qualifications and none of the disqualifications	Upon every election/re-election or appointment/ promotion	20th business day from date of election of the directors/ meeting of the board of directors in which the officers are appointed/promoted.	Hard copy to appropriate department of the SES
B	Unnumbered	4144Q (*Circular No. 758 dated 05.11.12, as amended by and Cir. No. 887 dated 10.07.15)*	List of Members of the Board of Directors and Officers	Annually	20th business day from the annual election of the board of directors	Hard copy to appropriate department of the SES
B			Duly accomplished and notarized authorization form for querying the BSP watchlist files	Upon election or appointment/ promotion as first time director/officer within a QB or NBFI with trust authority or banking group	20th business day from date of election of the directors/meeting of the board of directors in which the officers are appointed/ promoted	Hard copy to appropriate department of the SES
B	Form 1 Schedule 1	*M-031dated 09.11.09*	Report on Electronic Money Transactions Quarterly Statement of E-Money Balances and Activity - Volume and Amount of E-Money Transactions Schedule 1 - E-Money Balances	Quarterly	15^{th} banking day after end of reference quarter	e-mail - sdcnbfiemoney@bsp.gov.ph hardcopy - SDC
	Unnumbered	*(M-020 dated 04.22.14 as amended by Cir. No. 890 dated 11.02.15)*	IT Profile Report	Annually	25 calendar days after end of reference year	sdcnbfi-itprofile@bsp.gov.ph
	Unnumbered	*(M-020 dated 04.22.14 as amended by Cir. No. 890 dated 11.02.15)*	Registration Form (e-correspondences)	As changes occur		Sdcnbqb_rf@bsp.gov.ph
B		*(Cir. No. 857 dated 11.21.15)*	Complaints Report	Quarterly	Not later than one (1) month after the end of every quarter	SDC

Annex Q-3-a

INFORMATION ON ONE-YEAR BORROWING-INVESTMENT PROGRAM TO BE SUBMITTED BY QUASI BANKS

(Annex to Appendix Q-3)

1. Investment areas indicating industry direction of the corporation engaged in quasi-banking, indicating as a minimum, the following:

(a) money market operations;
(b) investments in stocks and bonds;
(c) investments in government securities;
(d) receivables financing;
(e) leasing activities; and
(f) direct loaning operations.

Likewise to be disclosed are the other preferred areas of investment, e.g., real estate, condominium, and those related to the government programs and other projects which may be determined by the BSP.

For investment houses with quasi-banking functions, the proposed underwriting program, as well as the previous year's activities, shall also be submitted identifying debt and equity issues.

2. Borrowing operations to support the investment program indicating among others:

(a) Maturity - short-term: less than a year
- medium-term: one (1) year to five (5) years
- long-term: more than five (5) years

(b) Interest rate per annum for the above three types of borrowings (more indicatory than fixed).

Individual or institutional source of funds; whether domestic or foreign, governmental or private, financial or non-financial.

3. Preference shall be given to fund usage and mobilization at terms beyond one (1) year.

Annex Q-3-b

GUIDELINES GOVERNING THE CONSOLIDATION OF FINANCIAL STATEMENTS OF FINANCIAL INTERMEDIARIES AND THEIR ALLIED UNDERTAKINGS/SUBSIDIARIES/AFFILIATES
(Annex to Appendix Q-3)

(deleted by Cir. No. 494 dated 20 September 2005)

Annex Q-3-c

REPORTING GUIDELINES ON CRIMES/LOSSES
(Annex to Appendix Q-3)

1. QBs shall report on the following matters through the appropriate department of the SES:

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 QBs when the amount involved in each crime is ₱20,000 or more.

Crimes involving QB personnel, regardless of whether or not such crimes involve the loss/destruction of property of the QB, 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 properties/facilities, other than arising from a crime, when the amount involved per incident is ₱100,000 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 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 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.

Annex Q-3-d

DOCUMENTARY REQUIREMENTS ON DIRECTORS/OFFICERS/ MAJOR INDIVIDUAL STOCKHOLDERS

(Annex to Appendix Q-3)

(Deleted by Circular No. 661 dated 01 September 2009)

Annex Q-3-e

DOCUMENTS/INFORMATION ON ORGANIZATIONAL STRUCTURE AND OPERATIONAL POLICIES
(Annex to Appendix Q-3)

I. *Documents on organizational structure and operational policies*

1. Chart of the firm's organizational structure or any substitute therefor;
2. Name of departments/units/offices with their respective duties and responsibilities;
3. Designations of positions in each department/unit/office with the respective duties and responsibilities;
4. Manual of Instructions or the like embodying the operating policies/ procedures of each department/unit/office, covering such areas as:
   (a) Signing/delegated authority;
   (b) Procedure/flow of paper work; and
   (c) Other matters.
5. Memoranda-Circulars or the like issued covering organizational and operational and operation policies;
6. Sample copies of each of the forms/reports used by each office/unit/ department other than those submitted to the BSP; and
7. Such other documents/information which may be required from time to time.

II. *Other Data*

1. Name of Institution
2. Address
3. P.O. Box number
5. Board of Directors including Corporate Secretary:
   (a) Names of Chairman, Vice-Chairman and Directors
   (b) Number of directors per By-Laws
   (c) Number of vacancies in the Board
   (d) Names of corporations where they serve as Chairman of the Board or as President and names of other business enterprises of which they are proprietors or partners
   (e) For the Corporate Secretary, indicate if he is also a Director
   (f) Date of annual election of directors per By-Laws
6. Executive officers including Auditor:
   (a) Names and titles
   (b) Telephone number of each officer (office)
   (c) For the Executive Vice-President, state the names of corporations where he serves as Chairman of the Board and names of other business enterprises where he is proprietor or partner
   (d) For Vice-Presidents and other officers with non-descriptive titles, indicate area of responsibility, e.g. Vice-President for Operations or Vice-President, International Department
   (e) Include officers from President to Vice-President
7. Branches, agencies and extension offices:
   (a) Name of branch, agency or extension office, e.g. Quiapo Branch or Makati Agency
   (b) Address
   (c) Names and telephone number of:
      (1) Manager
      (2) Cashier
      (3) Accountant
   (d) For agencies and extension offices, indicate name of mother branch.

Annex Q-3-f

GUIDELINES ON CALCULATING ADDITIONAL INFORMATION REQUIRED IN PUBLISHED STATEMENT OF CONDITION

(*Annex to Appendix Q-3)*

In calculating the additional information required to be disclosed in the Statement of Condition for publication, the following guidelines shall be observed:

1. All amounts and ratios to be reported shall be as of the same call date. However, the basis for computing the Return on Average Equity shall be the latest quarter immediately preceding the call date.

2. Return on Average Equity shall be computed as follows:

$$\text{Return on Average Equity (\%)} = \frac{\text{Net Income/(Loss) After Income Tax}}{\text{Average Total Capital Accounts}} \times 100$$

Where Net Income After Tax and Average Total Capital Accounts shall be:

	Net Income After Tax	Average Total Capital Accounts
March	Quarter End Net Income After Tax Multiplied by 4	Sum of end-month Capital Accounts (December-March) divided by 4.
June	Semester End Net Income After Tax Multiplied by 2	Sum of end-month Capital Accounts (December - June) divided by 7.
September	Nine (9) months Ended Net Income After Tax multiplied by 1.333333	Sum of end-month Capital Accounts (December – September) divided by 10.
December	Year Ended Net Income After Tax	Sum of end-month Capital Accounts (December - December) divided by 13.

GUIDELINES ON PRESCRIBED REPORTS SIGNATORIES AND SIGNATORY AUTHORIZATION

[Appendix to Subsec. 4192Q.1 (2008 - 4162Q.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 Q-4-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 Q-4-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 Q-4-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.

Annex Q-4-a

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-1 REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4192Q.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 Q-4-b

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-2 REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4192Q.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 Q-4-c

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

Resolution No. _____

Whereas, it is required under Subsec. 4192Q.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 No.
1. Authorized (Alternate)			
2. Authorized (Alternate)			
etc.			

are hereby authorized to sign the Category A-3 and B 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

MINIMUM INTERNAL CONTROL STANDARDS FOR QUASI-BANKS

(Appendix to Sec. 4185Q (2008 - 4171Q)]

I. Proper Accounting Records

1. QBs should maintain proper and adequate accounting records.

2. These records should be kept currently posted and should contain sufficient detail so that an audit trail is established.

3. All entries should bear official approval and should be initialed by the person originating and another person checking them.

II. Independent Balancing

1. Independent balancing shall mean that records posted by a person or cash held by a cashier shall be balanced or counted by another person.

2. The minimum independent balancing procedures which should be adopted are the following:

a. Monthly reconcilement of general ledger balances against their respective subsidiary and supporting records and documentations by someone other than the bookkeeper, the person handling the records, or the person directly connected with processing the transactions.

b. Irregular and unannounced count of cashier's cash and checks and other cash items at least twice a month by the auditor/ control officer or by an officer not connected with the treasurer's/cashier's office or its equivalent.

c. Monthly reconcilement of cash in banks accounts (domestic and foreign) and due from/to head office/branches by someone other than the check custodian, the person posting the general ledger entries or the authorized signatory of the bank account.

d. Periodic verification of securities and collaterals by someone other than their custodians. Verification should include both the physical inventory of securities and the record checking.

e. Periodic verification of the accuracy of the interest credits and payments to deposit substitute liabilities accounts.

3. All exceptions in the reconciliation/ verification should be followed up immediately until satisfactorily corrected.

III. Division of Duties and Responsibilities

1. The duties of all the officers and employees should be segregated, clearly defined, understood, documented and manualized if possible. No individual shall have complete authority and responsibility for handling all phases of any transaction from beginning to end.

2. The physical handling of a transaction should be separated from its recording and supervision as follows:

a. A person handling cash should not be permitted to post the ledger records nor should posting of the general ledger be performed by an employee who posts the investor's/creditor's subsidiary ledgers;

b. A loaning officer should never be allowed to disburse proceeds of notes, accept note payment nor process loan ledgers;

c. The functions of issuing, recording and signing of checks should be separated;

d. The receipt of statements from depository banks should be assigned to an employee other than the one connected with the preparation, recording and signing of checks;

e. Custodians of securities should not be allowed to handle security transactions;

f. Collateral appraisals should be done by an employee/officer other than the ones approving the loans;

g. Incoming checks and other cash items should be recorded chronologically in a register by an employee other than the bookkeeper;

h. Credit reports should be obtained by someone other than lending officers;

i. Mailing of client's statements and delinquent notices should be done by an employee other than the one who granted the loan or the one handling the records; and

j. Paid checks/drafts should be controlled and maintained by an officer/ employee other than the authorized signatory or the cashier.

3. Extensive background checking of persons intended to be assigned to handle cash and securities should be conducted. Frequent follow-up checking after their employment should also be made.

IV. Joint Custody

1. Joint custody shall mean the processing of transactions in the presence of and under the direct observation of a second person. Both persons shall be equally accountable for the physical protection of the items and records involved.

2. Physical protection should be deemed established through the use of two (2) locks or combinations on a file chest or vault compartment.

3. Two (2) or more persons should be assigned to each half of the control so that operating efficiency is not impaired if one person is not immediately available.

4. Persons who are related to each other within the third degree of consanguinity or affinity should not be made joint custodians.

5. The following should be under joint custody:

a. Cash on hand or in vault
b. All accountable forms
c. Collaterals
d. Securities
e. Documents of title and/or ownership of properties or fixed assets
f. Safekeeping items
g. Vault doors and safe combinations.

V. Signing Authorities

Signing authorities for the different levels of officers to sign for and in behalf of the institutions should be approved by the board of directors and the extent of each level of authority should be clearly defined. These signing authorities should include but need not be limited to the following:

a. Lending;
b. Borrowing;
c. Investments;
d. Approval of expenses;
e. Various supervisory reports; and
f. Checks.

VI. Dual Control

1. Dual control shall mean the work of one (1) person is to be verified by a second person to determine (a) that proper authority has been given to handle the transaction, (b) that the transaction is properly recorded, and (c) that proper settlement of the transaction is made.

2. The routine of each transaction should be designed so that at least two (2) or more individuals are involved in the completion of every transaction.

3. The following accounts/transactions should be under dual control:

a. Checks - The signature of at least two (2) officers should be required in the issuance of checks.

b. Borrowing - The signature of at least two (2) authorized officers should be required.

c. All transactions giving rise to "due to" or "due from" account and all instruments of remittances evidencing these transactions particularly those involving substantial amounts, should be approved by two (2) authorized officers.

VII. Number Control

1. Sequence number controls should be incorporated in the accounting systems and should be used in registering notes, in issuing official checks and in other similar situations. Number control should be policed by a person designated by senior management who should be detached from the particular operations involved.

2. The following are the forms, instruments and accounts that should be number-controlled:

a. Checks;

b. Promissory notes and other commercial papers;

c. Official and provisional receipts;

d. Certificate of stocks;

e. Loan accounts; and

f. Expense vouchers.

VIII. Rotation of Duties

1. The duties of personnel handling cash, securities and bookkeeping records should be rotated.

2. Rotation assignment should be irregular, unannounced and long enough to permit disclosure of irregularities or manipulations.

IX. Independence of the Internal Auditor

1. The position of internal auditor should be provided for in the by-laws together with the duties and responsibilities, scope and objectives of internal auditing.

2. The internal auditor should report directly to the Audit Committee.

3. The internal auditor should not install nor develop procedures, prepare records or engage in other activities which he normally reviews or appraises.

X. Direct Verification

1. Direct verification shall mean the confirmation of account or records by direct correspondence/visits with the institution's customers.

2. The following accounts, among others, should be subject to direct verification by the internal auditing staff at least once a year:

a. Balances of loans and credit accommodations of borrowers;

b. Outstanding balances of borrowings and other liabilities;

c. Outstanding balances of receivables/ payables; and

d. Collaterals securing said accounts.

XI. Other Internal Control Standards

1. Investments

a. Investment limits and a list of accredited companies as approved by the Board of Directors or by its Credit Committee should be established as a guide for investing in any FI engaged in money market trading.

b. Investments should be secured by assets approved by the Board of Directors or by its Credit Committee.

c. Checks representing placements of investments should be released only upon receipt of either the deposit substitute instrument or the underlying securities or documents of title.

2. Miscellaneous

a. Loan applications and related documents should be spot-checked to insure their authenticity, including verification of name, residence, employment and current reputation of the borrowers.

b. No employee should be permitted to process transaction affecting his own account.

c. Cashiers and other employees having contact with customers should be prohibited from preparing deposit substitute tickets or other records for the customers.

d. QBs should have a sound recruitment policy since internal control begins from point of hiring.

e. QBs should secure adequate insurance coverages, fidelity and other indemnity protection, viz:

(1) Insurance coverage - for losses arising from calamities and theft/ robberies.

(2) Fidelity bonds - for losses arising from dishonest, fraudulent and criminal acts of accountable officers/employees.

STANDARDIZED DEPOSIT SUBSTITUTE INSTRUMENTS
[Appendix to Subsec. 4235Q.3 (2008 - 4211Q.3)]

Serial No.__________

____
(Name of Quasi-Bank)

PROMISSORY NOTE

Issue Date : __________ , 20____
Maturity Date : __________ , 20____

FOR PESOS ______________________________________ (P__________)
(Present Value/Principal)

RECEIVED, ______________________________________ promises to pay
(Name of Issuer/Maker)

______________________________________ or order, the sum
(Name/Account Number of Payee)

of PESOS ______________________________________ (P__________)
(Maturity Value/Principal & Interest)

subject to the terms and conditions on the reverse side hereof.

____
(Duly Authorized Officer)

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

TERMS AND CONDITIONS OF A PROMISSORY NOTE

1. ***Computation of Yield***
   Interest is hereby stipulated/computed at_____% per annum, compounded
   ( ) monthly ( ) quarterly ( ) semi-annually ( ) others.

2. ***No Pretermination***
   This promissory note shall not be honored or paid by the issuer/maker before the maturity date indicated on the face hereof.

3. ***Liquidated Damages***
   In case of default, issuer/maker shall pay, in addition to stipulated interest, liquidated damages of ____(Amount or %)____, plus attorney's fees of ____(Amount or %)____ and costs of collection in case of suit.

4. ***Renewal***
   ( ) No automatic renewal.
   ( ) Automatic renewal under the following terms:
   ____
   ____

5. ***Collateral/Delivery***
   ( ) No collateral
   ( ) Collateral/secured by ____(describe collateral)____
   ( ) Physically delivered to Payee
   ( ) Evidenced by Custodian Receipt No.__________dated__________
   issued__________ by__________
   ( ) Collateralized/secured by ____(fraction or %)____
   share of ____(describe collateral)____ as evidenced
   by Custodian Receipt No.__________ dated__________
   issued by __________ .

6. ***Substitution of Securities***
   ( ) Not acceptable to Payee
   ( ) Acceptable to Payee, however, actual substitution shall be with prior written consent of payee.

7. ***Separate Stipulations***
   ( ) This Agreement is subject to the terms and conditions of__________
   ____(describe document)____ dated__________
   executed by ____(name of party/ies)____and
   made an integral part hereof.

Serial No.__________

____
(Name of Quasi-Bank)

REPURCHASE AGREEMENT

Issue Date : __________ , 20___
Repurchase Date : __________ , 20___

FOR AND IN CONSIDERATION OF PESOS __________________________ (₱ ________) Vendor, __(name of Quasi-Bank)__ hereby sells, transfers and conveys in favor of Vendee, ______(name of Vendee)______ the security(ies) described below, it being mutually agreed upon that the same shall be resold by Vendee and repurchased by Vendor on the repurchase date indicated above at the price of PESOS _________________ (₱_______), subject to the terms and conditions stated on the reverse side hereof.

(Description of Securities)

Issuer	Serial Number/s	Maturity Date/s	Face Value	Interest/Yield
			₱	₱
		T O T A L	₱	₱

CONFORME:

____
(Duly Authorized Officer)

____
(Signature of Vendee)

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

TERMS AND CONDITIONS OF A REPURCHASE AGREEMENT

1. ***Computation of Yield***
   Yield is hereby stipulated/computed at ____% per annum, compounded
   ( ) monthly ( ) quarterly ( ) semi-annually ( ) others.

2. ***No Pretermination***
   Vendor shall not repurchase subject security/ies before the repurchase date stipulated on the face of this document.

3. ***Liquidated Damages***
   In case of default, the Vendor shall be liable, in addition to stipulated yield, for liquidated damages of ______(Amount or %)______ , plus attorney's fees of______(Amount or %)______ , and costs of collection in case of suit.

4. ***Renewal***
   ( ) No automatic renewal
   ( ) Automatic renewal under the following terms:

   ____

   ____

5. ***Delivery/Custody of Securities***
   ( ) Physically delivered to Payee
   ( ) Evidenced by Custodian Receipt No. ____________________ dated,____________
   issued by____

6. ***Substitution of Securities***
   ( ) Not acceptable to Payee
   ( ) Acceptable to Payee, however, actual substitution shall be with prior written consent of payee.

7. ***Separate Stipulations***
   ( ) This Agreement is subject to the terms and conditions of__(describe document)__ dated________________ , executed by__________(name of Party/ies)__________ and made an integral part hereof.

Serial No. ________

____
(Name of Quasi-Bank)

CERTIFICATE OF ASSIGNMENT WITH RECOURSE

Issue Date: __________, 20 _____

FOR AND IN CONSIDERATION OF PESOS ____________________________(P _______) ____(name of Assignor)____ hereby assigns, conveys, and transfers with recourse to ____(name of Assignee)____ the debt of (name of Principal Debtor) to the Assignor, specifically described as follows:

(Description of Debt Securities)

Principal Debtor	Serial Number/s	Maturity Date/s	Face Value	Interest/Yield
			₱	₱
		T O T A L	₱	₱

and Assignor hereby undertakes to pay, jointly and severally with the Principal Debtor, the face value of, and the interest/yield on, said debt securities. The assignment shall be subject to the terms and conditions on the reverse side hereof.

C O N F O R M E :

____
(Duly Authorized Officer)

____
(Signature of Assignee)

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

TERMS AND CONDITIONS OF CERTIFICATE OF ASSIGNMENT WITH RECOURSE

1. ***No Pretermination***
   Assignor shall not pay nor repurchase subject security/ies before the maturity date thereof.

2. ***Liquidated Damages***
   In case of default, Assignor shall be liable, in addition to interest, for liquidated damages of _____(Amount or %)_____ plus attorney's fees of _____(Amount or %)_____, and costs of collection in case of suit.

3. ***Delivery/Custody of Securities***
   ( ) Physically delivered to Assignee
   ( ) Evidenced by Custodian Receipt No. __________ dated __________, issued by ____________________ .

4. ***Separate Stipulations***
   ( ) This Agreement is subject to the terms and conditions of ____________, dated ____________ executed by _____(name of Party/ies)_____ and made an integral part hereof.

Serial No. _________

____
(Name of Quasi-Bank)

CERTIFICATE OF ASSIGNMENT WITH RECOURSE

Issue Date: ______________ , 20____

FOR AND IN CONSIDERATION OF PESOS ____(Present Value/Principal)____ (₱_____), ____(name of Assignor)____ hereby assigns, conveys, and transfers with recourse to (name of Assignee) the debt of (name of Principal Debtor) to the Assignor, specifically described as follows:

Principal Debtor	Serial Number/s	Maturity Date/s	Face Value	Interest/Yield
			₱	₱
		T O T A L	₱	₱

and hereby undertakes that in case of default of the Principal Debtor, Assignor shall pay the face value of, and the interest/yield on, said debt securities, subject to the terms and conditions on the reverse side hereof.

C O N F O R M E :

____
(Duly Authorized Officer)

____
(Signature of Assignee)

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

TERMS AND CONDITIONS OF CERTIFICATE OF ASSIGNMENT WITH RECOURSE

1. ***No Pretermination***
   Assignor shall not pay nor repurchase subject security/ies before the maturity date thereof.

2. ***Liquidated Damages***
   In case of default, Assignor shall be liable, in addition to interest, for liquidated damages of ______(Amount or %)______ plus attorney's fees of ____(Amount or %)_____ , and costs of collection in case of suit.

3. ***Delivery/Custody of Securities***
   ( ) Physically delivered to Assignee
   ( ) Evidenced by Custodian Receipt No. __________________ dated ____________, issued by______________________

4. ***Separate Stipulations***
   ( ) This Agreement is subject to the terms and conditions of___________________ , dated ______________________ executed by______(name of Party/ies)________ and made an integral part hereof.

Serial No:_________

____
(Name of Quasi-Bank)

CERTIFICATE OF PARTICIPATION WITH RECOURSE

Issue Date:______________ , 20___

FOR AND IN CONSIDERATION OF PESOS ______________________(₱___________) , this certificate of participation is hereby issued to evidence the (Fraction or %) share of (name of Participant) in the loan/s of _________________ granted by/ assigned to the herein Issuer, specifically described as follows:

(Description of Debt Securities)

Principal Debtor	Serial Number/s	Maturity Date/s	Face Value	Interest/Yield
			₱	₱
		T O T A L	₱	₱

The issuer shall pay, jointly and severally with the Principal Debtor, (Fraction or %) share of the face value of, and the interest/yield on, said debt security(ies), subject to the terms and conditions on the reverse side hereof.

C O N F O R M E :

____
(Duly Authorized Officer)

____
(Signature of Participant)

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

TERMS AND CONDITIONS OF CERTIFICATE OF PARTICIPATION WITH RECOURSE

1. ***No Pretermination***
   Issuer shall not pay nor repurchase the participation before the maturity date of subject security(ies).

2. ***Liquidated Damages***
   In case of default, the Issuer of this instrument shall be liable, in addition to interest, for liquidated damages of ___(Amount or %)___ , plus attorney's fees of ___(Amount or %)___ , and costs of collection in case of suit.

3. ***Delivery/Custody of Securities***
   ( ) Physically delivered to Participant
   ( ) Evidenced by Custodian Receipt No. ______________dated_________________, issued by

4. ***Separate Stipulations***
   ( ) This Agreement is subject to the terms and conditions of___(describe document)___ , dated ________________ executed by ______(name of Party/ies)______ and made an integral part hereof.

Serial No: ___________

____
(Name of Quasi-Bank)

CERTIFICATE OF PARTICIPATION WITH RECOURSE

Issue Date: ________________ , 20 _____

FOR AND IN CONSIDERATION OF PESOS ___________________________, (₱ ______) this certificate of participation is hereby issued to evidence the ___(Fraction or %)___ share of ____(Participant)_____ in the loan/s of______________________ granted by/assigned to the herein Issuer, specifically described as follows:

(Description of Debt Securities)

Principal Debtor	Serial Number/s	Maturity Date/s	Face Value	Interest/Yield
			₱	₱
		TOTAL	₱	₱

In case of default of the Principal Debtor, the Issuer shall pay the ___(Fraction or %)___ share of the face value of, and the interest/yield on, said debt security(ies), subject to the terms and conditions on the reverse side hereof.

C O N F O R M E :

____
(Duly Authorized Officer)

____
(Signature of Participant)

NOT INSURED WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC)

TERMS AND CONDITIONS OF CERTIFICATE OF PARTICIPATION WITH RECOURSE

1. ***No Pretermination***
   Issuer shall not pay nor repurchase the participation before the maturity date of subject security(ies).

2. ***Liquidated Damages***
   In case of default, the Issuer of this instrument shall be liable, in addition to interest, for liquidated damages of __(Amount or %)__ , plus attorney's fees of __(Amount or %)__ , and costs of collection in case of suit.

3. ***Delivery/Custody of Securities***
   ( ) Physically delivered to Participant
   ( ) Evidenced by Custodian Receipt No. ________________ dated ____________ , issued by _______________________ .

4. ***Separate Stipulations***
   ( ) This Agreement is subject to the terms and conditions of __(describe document)__ dated ____________________ executed by __(name of Party/ies)__ and made an integral part hereof.

NEW RULES ON REGISTRATION OF SHORT-TERM COMMERCIAL PAPERS

[Appendix to Subsec. 4235Q.10 (2008 - 4211Q.9)]

Pursuant to Presidential Decree No. 678, as amended by Presidential Decree No. 1798, and other existing applicable laws, the Securities and Exchange Commission (SEC) hereby promulgates the following new Rules and Regulations governing short-term commercial papers, in the interest of full disclosure and protection of investors and lenders, in accordance with the monetary and credit policies of the BSP.

Sec. 1. Scope. These Rules and Regulations shall apply to short-term commercial papers issued by corporations.

Sec. 2. Definition. For the purpose of these Rules, the following definitions shall apply:

(a) *Commercial paper* is an evidence of indebtedness of any corporation to any person or entity with a maturity of 365 days or less.

(b) *Interbank loan transactions* shall refer to borrowings between and among banks and NBFIs duly authorized to perform quasi-banking functions.

(c) *Issue* means creation of a commercial paper and its actual or constructive delivery to the payee.

Sec. 3. Registration of Commercial Papers. Any corporation desiring to issue commercial paper shall apply for registration with, and submit to, the SEC the following:

(a) Ordinary Registration;

(1) Sworn Registration Statement in the prescribed form;

(2) Board resolution signed by majority of its members (a) authorizing the issue of commercial paper, (b) indicating the aggregate amount to be applied for, (c) providing that the registration statement shall be signed by the principal executive officer, the principal operating officer, the principal financial officer, the comptroller, or principal accounting officer, or persons performing similar functions, and (d) designating at least two senior officers with a rank of vice-president or higher, or their equivalent, to sign the commercial paper instrument to be issued;

(3) The latest audited financial statements; and should the same be as of a date more than three (3) months prior to the filing of the registration statement, an unaudited financial statement as of the end of the immediately preceding month: *Provided, however*, That such unaudited financial statement shall be certified under oath by the accountant and the senior financial officer of the applicant, duly authorized for the purpose, and substituted with an audited financial statement within 120 days after the end of the applicant's fiscal year.

(4) Schedules A to L, based on sub-section (3) above, in the form attached as Annex "A";

(5) A committed credit line agreement with a bank, or any FI which may be qualified subsequently by the BSP, earmarked specifically for repayment of aggregate outstanding commercial paper issues on a pro-rata basis, with the following features:

(i) A firm, irrevocable commitment to make available funds to cover at least 20% of the aggregate commercial papers outstanding at any time: *Provided*, That if the commitment is extended by a group, there shall be a lead bank or any FI which may be qualified subsequently by the BSP acting for the group;

(ii) The commitment shall be effective for as long as the issues are outstanding and may be renewed by the bank or any FI which may be qualified subsequently by the BSP;

(iii) The request for drawdown shall be addressed to the bank or any FI which may be qualified subsequently by the BSP, which request shall be duly signed by a member of the board of directors and a senior financial officer of the commercial paper issuer, duly authorized for the purpose by an appropriate board resolution, which shall also provide for the designation of the alternate signatories (likewise a member of the board of directors and a senior financial officer);

(iv) A provision that availments shall be allowed only for repayment of commercial papers which are due and payable in accordance with the terms of the commercial paper;

(v) Notwithstanding the foregoing requirements for a committed credit line with a bank, or any FI which may be qualified subsequently by the BSP, any corporation desiring to issue commercial papers may be exempted from compliance therewith by the SEC, should it meet all of the following financial ratios based on consolidated audited financial statements for the immediate past three (3) years:

1) Average current ratio shall be at least 1.2:1 computed as follows:

$$\text{Current ratio} = \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

OR

Average acid-test ratios shall be at least 0.5:1 computed as follows:

$$\text{Acid-test ratio} = \frac{\text{Cash, receivables, and marketable securities}}{\text{Current Liabilities}}$$

2) Average solvency position shall be one whereby total assets must not be less than total liabilities;

3) Average net profit margin shall be at least 3% computed as follows:

$$\text{Net profit margin} = \frac{\text{Net income after income tax, corporate development taxes, and other non-cash charges}}{\text{Net sales or revenues}}$$

OR

Average annual return on equity shall be at least 8% computed as follows:

$$\text{Return on equity} = \frac{\text{Net income after income tax, corporate development taxes, and other non-cash}}{\text{Total stockholders' equity}}$$

4) Average interest service coverage ratio shall be at least 1.2:1 computed as follows:

$$\text{Interest service coverage ratio} = \frac{\text{Net income-before-interest expense, income tax, corporate development taxes, and other non-cash charges}}{\text{Interest expense}}$$

5) Debt-to-equity ratio shall not exceed 2.5:1.

The SEC may, in its discretion, consult with industry organization(s) such as Investment Houses (IHs) Association of the Philippines (IHAP) and Bankers Association of the Philippines (BAP) and/or the Credit Information Bureau, Inc.

6) A selling agreement for the commercial paper issues with an expanded commercial bank or an investment house, or any FI which may be qualified subsequently by the BSP, with minimum conditions that the selling agent, among others, shall be responsible for ensuring that the issuer observes the provisions of these rules pertaining to the use of proceeds of the committed credit line and, with the issuer, shall be jointly responsible for complying with all reportorial requirements of the SEC and the BSP in

connection with the commercial paper issue, it being understood that the primary responsibility for the submission of the report to said regulatory agencies is upon the selling agent: *Provided, however*, That if the commercial paper issuer is unable to provide the information necessary to meet such reportorial requirements, the selling agent shall, not later than two (2) working days prior to the date when the report is due, notify the SEC of such inability on the part of the issuer: *Provided, finally*, That if the selling agreement is with a group, composed of expanded commercial banks and/or investment houses or any FIs which may be qualified subsequently by the BSP, there shall be a syndicate manager acting and responsible for the group.

(7) Income statements for the immediate past three (3) fiscal years audited by an independent certified public accountant: *Provided*, That, if the applicant has been in operation for less than three years, it shall submit income statements for such number of years that it has been in operation.

(8) A printed copy of a preliminary prospectus approved by the applicant's Board of Directors which, among others, shall contain the following:

(i) A statement printed in red on the left-hand margin of the front page of the following tenor:

"A registration statement relating to these short-term commercial papers has been filed with, but has not yet been approved by, the SEC. Information contained herein is subject to completion or amendment. These short-term commercial papers may not be sold nor may offer to buy be accepted prior to the time the registration statement is approved. This preliminary prospectus shall not constitute an offer to buy nor shall there be any sale of these commercial papers in the Philippines as such offer, solicitation, or sale is prohibited prior to registration under the Securities Act, as amended by P.D. No. 678 and P.D. No. 1798."

(ii) Aggregate maximum amount applied for, stated on the front page of the prospectus;

(iii) Description and nature of the applicant's business;

(iv) Intended use of proceeds;

(v) The nature of the firm, irrevocable, and committed credit line, the amount of the line which shall be at least 20% of the aggregate outstanding commercial paper issues, proceeds of which shall be allocated on a pro-rata basis to the aggregate outstanding commercial paper issue (regardless of the order of their maturities), and the manner of availments, as stipulated in the credit line agreement between the bank and the issuer;

(vi) The provision in the selling agreement naming the selling agent and the responsibilities of the selling agent in connection with, among others, the use by the issuer of the proceeds of the bank committed credit line and the reportorial requirements under these rules;

(vii) Other obligations of the commercial issuer classified by maturities (maturing within six (6) months; from six (6) months to one (1) year; over one (1) year; and past-due amounts);

(viii) Encumbered assets;

(ix) Directors, officers, and stockholders owning 2% or more of the total subscribed stock of the corporation, indicating any advance to said directors, officers, and stockholders;

(x) List of entities where it owns more than 33-1/3% of the total equity, as well as borrowings and advances to said entities;

(xi) Financial statements for the immediate past three (3) fiscal years audited by an independent certified public accountant: *Provided*, That if the applicant has been in operation for less than three (3) years, it shall submit financial statements for such number of years that it has been in operation.

(b) *Special Registration*

In the case of special registration provided for under Section 10 hereof, the following shall, in addition to the immediately preceding requirements, be prepared and submitted by the selling agent on behalf of the applicant:

(1) Projected annual cash flow statement as of the date of filing, presented on a quarterly basis, supported by schedules on actual maturity patterns of existing receivables and liabilities (under six (6) months, six (6) months to one (1) year, over one (1) year, and past-due amounts) and inventory turnover as of the end of the month prior to the filing of the registration statement; and

(2) Complementary financial ratios for each of the immediate past three (3) fiscal years:

(i) Ratio of (a) the total of cash on hand, marketable securities, current receivables to (b) the total of current liabilities;

(ii) Debt-to-equity ratio, with debt referring to all kinds of indebtedness, including guarantees;

(iii) Ratio of (a) net income after taxes to (b) net worth;

(iv) Net profits-to-sales ratio; and

(v) Such other financial indicators as may be prescribed by the SEC. These additional data shall likewise be incorporated in the prospectus.

(c) The SEC may, whenever it deems necessary impose other requirements in addition to those enumerated in subsections (a) and/or (b) above.

Sec. 4. Commercial Papers Exempt *Per Se*. The following specific debt instruments are exempt *per se* from the provisions of these Rules:

(a) Evidence of indebtedness arising from interbank loan transactions;

(b) Evidence of indebtedness issued by the national and local governments;

(c) Evidence of indebtedness issued to the BSP under its open market and/or rediscounting operations;

(d) Evidence of indebtedness issued by the BSP, Philippine National BanK (PNB), Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP), Government Service Insurance System, and the Social Security System (GSIS);

(e) Evidence of indebtedness issued to the following primary institutional lenders: banks, including their trust accounts, trust companies, QBs, IHs, including their trust accounts, financing companies, investment companies, non-stock savings and loan associations (NSSLA), building and loan associations, venture capital corporations, special purpose corporations referred to in Central Bank Monetary Board Res. No. 1051 dated 19 June 1981, insurance companies, government FIs, pawnshops, pension and retirement funds approved by the Bureau of Internal Revenue (BIR), educational assistance funds established by the national government; and other entities that may be classified as primary institutional lenders by the BSP, in consultation with the SEC: *Provided*, That all such evidences of indebtedness shall be held on to maturity and shall neither be negotiated nor assigned to any one other than the BSP and the DBP, with respect to private development banks in connection with their rediscounting privilege, and financial intermediaries with quasi-banking functions;

(f) Evidence of indebtedness the total outstanding amount of which does not exceed ₱5,000,000 and issued to not more than ten (10) primary lenders other than those mentioned in subsection (e) above, which evidence of indebtedness shall be payable to a specific person and not to bearer and shall neither be negotiated nor assigned but held on to maturity;

(g) Evidence of indebtedness denominated in foreign currencies; and

(h) Evidence of indebtedness arising from bonafide sale of goods or property.

Sec. 5. Other Commercial Papers Exempt from Registration. Commercial papers issued by any financial intermediary authorized by the BSP to engage in quasi-banking functions shall be exempt from registration under Section 3, but shall be subject to payment of the exemption fee, as provided under Section 15, and to the reportorial requirements under Section 17, all under these Rules.

Sec. 6. Prohibition. No commercial paper, except of a class exempt under Sections 4 and 5 hereof, shall be issued unless such commercial paper shall have been registered under these Rules: *Provided*, That no registered commercial paper issuer may issue commercial paper exempt per se under Section 4 (f) hereof.

Sec. 7. Compliance with Bangko Sentral Quasi-Banking Requirements Nothing in these Rules shall be construed as an exemption from or a waiver of the applicable BSP rules/regulations or circulars governing the performance of quasi-banking functions or financial intermediaries duly authorized to engage in quasi-banking activities. Any violation of said BSP rules/regulations or circulars shall be considered a violation of these rules and regulations.

Sec. 8. Action on Application for Registration

(a) Within sixty (60) days after receipt of the complete application for registration, the SEC shall act upon the application and shall, in the appropriate case, grant the applicant a Certificate of Registration and Authority to Issue Commercial Papers.

(b) The SEC shall return any application for registration, in cases where the requirement of applicable laws and regulations governing the issuance of commercial papers have not been complied with, or for reasons which shall be so stated.

Sec. 9. Ordinary Registration. If the value of commercial papers applied for, when added to the total outstanding liabilities of the applicant, does not exceed 300% of networth based on the financial statements referred to under Section 3(a) (3), the commercial papers shall be registered upon compliance with the requirements specified in Section 3(a) hereof. The same principle shall apply in the case of renewal of the Authority to Issue Commercial Paper.

Sec. 10. Special Registration. If the value of commercial paper applied for exceeds 300% of networth, as contemplated in the preceding section, it shall be subject to compliance with the requirement under Section 3(b) hereof.

Sec. 11. Validity Period of the Authority to Issue Commercial Paper. The authority to issue commercial papers shall be valid for a period of 365 days which shall be indicated in the Authority to Issue Commercial Paper, provided that renewal thereof, upon application filed at least forty five (45) days prior to its expiry date, may be for a period shorter than 365 days.

Sec. 12. Conditions of the Authority to Issue Commercial Paper

(a) In the event that the commercial paper issuer fails to pay in full any commercial paper upon demand at stated maturity date, the Authority to Issue Commercial Paper is automatically suspended. The selling agent shall, within the next working day, notify the SEC thereof, and the SEC shall forthwith issue a formal Cease-and-Desist Order, enjoining both the issuer and the selling agent from further issuing or selling Commercial papers.

(b) Whenever necessary to implement the monetary and credit policies promulgated from time to time by the Monetary Board of the BSP, the SEC may suspend the Authority to Issue Commercial Paper, or reduce the authorized amount thereunder, or schedule the maturities of the registered commercial paper to be issued.

Sec. 13. Basic Features of Registered Commercial Papers

(a) All registered commercial paper instruments shall have a standard format, serially pre-numbered, and denominated. The instrument shall state, among others, the debt ceiling of the registrant and a notice that information about the registrant submitted in connection with the registration and other reportorial requirements from the issuer is available at the SEC and open to public inspection and that the issuer is not authorized by the BSP to perform quasi-banking functions.

(b) A specimen of the proposed commercial paper instrument shall be submitted to the SEC for approval of the text thereof.

(c) The approved instrument shall be printed by the BSP Security Printing Plant pursuant to a prior authorization from the SEC, and shall be released by the SEC to the issuer.

Sec. 14. Minimum Maturity Value The maturity value of each registered commercial paper instrument shall not be lower than ₱300,000.

Sec. 15. Fees. Every registrant shall pay the following fees:

(a) Upon application for registration, and for renewals thereof, a filing fee of not more than 1/50th of 1% based on the total commercial paper proposed to be issued.

(b) For issuers of commercial paper exempt under Section 5 hereof, an annual exemption fee of ₱10,000.

Sec. 16. Notice of Availment Whenever the credit line is drawn upon, the selling agent and/or issuer shall, within two (2) working days immediately following the date of drawdown, notify the SEC of such event, indicating the amount availed of and the total availment as of that given time.

Sec. 17. Periodic Reports

(a) Issuers of registered commercial papers and those exempt under Section 5 hereof shall submit to the SEC and the BSP the following reports in the prescribed form:

(1) Monthly reports on commercial papers outstanding as at the end of each month, to be submitted within ten (10) working days following the end of the reference month;

(2) Quarterly reports on commercial paper transactions, accompanied by an interim quarterly financial statement, to be submitted within thirty (30) calendar days following the end of the reference quarter; and

(3) For issuers whose application for registration was under Section 10 hereof, the projected quarterly cash flow statements with the corresponding quarter's actual figure, to be submitted within ten (10) working days following the end of the reference quarter;

(b) These periodic reports shall be signed under oath by the corporate officers authorized pursuant to a board resolution previously filed with the SEC;

(c) Issuers whose offices are located in the provinces may submit their reports to the nearest extension offices of the SEC.

Sec. 18. Administrative Sanctions. If the SEC finds that there is a violation of any of these Rules and Regulations and implementing circulars or that any issuer, in a registration statement and its supporting papers, as well as in the periodic reports required to be filled with the SEC and the BSP, has made any untrue statement of a material fact, or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or refuses to permit any lawful examination into its corporate affairs, the SEC shall, in its discretion, impose any or all of the following sanctions:

(a) Suspension or revocation, after proper notice and hearing, of the Certificate of Registration and Authority to Issue Commercial Paper;

(b) A fine in accordance with the guidelines that the SEC shall issue from time to time: *Provided, however*, That such fine shall in no case be less than ₱200 or more than ₱50,000 for each violation, plus not more than ₱500 for each day of continuing violation. Annex "B" hereof shall initially be the guideline on the scale of fines;

(c) Other penalties within the power of the SEC under existing laws; and

(d) The filing of criminal charges against the individuals responsible for the violation.

Sec. 19. Cease-and-Desist Order. The SEC may, on its own motion or upon verified complaint by an aggrieved party, issue a Cease-and-Desist Order ex-parte if the violation(s) mentioned in Section 18 may cause great or irreparable injury to the investing public, or may amount to palpable fraud, or violation of the disclosure requirements of the Securities Act and of these Rules and Regulations.

The issuance of such Cease-and-Desist Order automatically suspends the Authority to Issue Commercial Paper.

Such Cease-and-Desist Order shall be confidential in nature until after the imposition of the sanctions mentioned in Section 18 shall have become final and executory.

Immediately upon the issuance of an ex-parte Cease-and-Desist Order, the SEC shall notify the parties involved, and schedule a hearing on whether to lift such order, or to impose the administrative sanctions provided for in Section 18 not later than fifteen (15) days after receipt of notice.

Sec. 20. Repealing Clause. These Rules and Regulations supersede the Rules on Registration of Commercial Papers dated 10 December 1975, and all the amendments to said Rules. All other rules, regulations, orders, and memoranda circular of the SEC which are inconsistent herewith are likewise hereby repealed or modified accordingly.

Sec. 21. Transitory Provision. Any authority to Issue Commercial Paper, valid and subsisting as of the date of the effectivity of these Rules and Regulations, shall remain valid and upon its expiration may, at the discretion of the SEC and subject to such conditions as it may impose, be renewed on the basis of the Rules of Registration of Commercial Papers dated 10 December 1975 for an aggregate period not exceeding fifteen (15) months from its expiry date.

Sec. 22. Effectivity. These Rules and Regulations shall take effect on 11 December 1981.

(Editors Note: Annexes "A" and "B" are not reproduced in this Appendix.)

NEW RULES ON THE REGISTRATION OF LONG-TERM COMMERCIAL PAPERS
[Appendix to Subsecs. 4235Q.10 and 4239Q.2 (2008 - 4211Q.9 and 4217Q.3)]

Pursuant to Section 4(b) of the Revised Securities Act and other existing applicable laws, the SEC hereby promulgates the following New Rules and Regulations governing long-term commercial papers, in the interest of full disclosure and protection of investors and lenders, in accordance with the monetary and credit policies of the BSP:

Section 1. Scope. These Rules shall apply to long-term commercial papers issued by corporations.

Sec. 2. Definitions. For purposes of these Rules, the following definitions shall apply:

a. *Long-term commercial papers* shall refer to evidence of indebtedness of any corporation to any person or entity with maturity period of more than 365 days.

b. *Interbank loan transactions* shall refer to borrowings between and among banks and QBs.

c. *Issue* shall refer to the creation of commercial paper and its actual or constructive delivery to the payee.

d. *Appraised value* shall refer to the value of chattel and real property, as established by a duly licensed and independent appraiser.

e. *Current market value* shall refer to the value of the securities at current prices, as quoted at the stock exchanges.

f. *Recomputed debt-to-equity ratio* shall refer to the proportion of total outstanding liabilities, including the amount of long-term commercial papers applied for, and any unissued authorized commercial papers to net worth.

g. *Specific person* shall refer to a duly named juridical or natural person as an investor for its or his own account, a trustee for one or more trustors, an agent or fund manager for a principal under a fund management agreement, and does not include numbered accounts.

h. *Net worth* shall refer to the excess of total assets over total liabilities, net of appraisal surplus.

i. *Subsidiary* shall refer to a company 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 another company.

j. *Affiliate* shall refer to a concern linked, directly or indirectly, to another by means of:

1) Ownership control and power to vote of ten percent (10%), but not more than fifty percent (50%), of the outstanding voting stock.

2) Common major stockholders; i. e., owning ten percent (10%), but not more than fifty percent (50%), of the outstanding voting stock.

3) Management contract or any arrangement granting power to direct or cause the direction of management and policies.

4) Voting trustee holding ten percent (10%), but not more than fifty percent (50%), of the outstanding voting stock.

5) Permanent proxy constituting ten percent (10%), but not more than fifty percent (50%), of the outstanding voting stock.

k) *Underwriting* shall refer to the act or process of distributing and selling of any kind of original issues of long-term commercial papers of a corporation other than those of the underwriter itself, either on guaranteed or best-effort basis.

l) *Trust accounts* shall refer to those accounts with a FI authorized by the BSP to engage in trust functions, wherein there is a trustor-trustee relationship under a trust agreement.

Sec. 3. Conditions for Registration Long-term commercial papers shall be registered under any of the following conditions:

a. *Collateral*

The amount of long-term commercial papers applied for is covered by the following collaterals which are not encumbered, restricted, or earmarked for any other purpose and which shall be maintained at their respective values at all times, indicated in relation to the face value of the long-term commercial paper issue;

1) Securities listed in the stock exchanges	- Current market value of 200%
2) Registered real estate mortgage	- Appraised value of 150%
3) Registered chattel mortgage on heavy equipment, machinery, and similar assets acceptable to the Commission and registrable with the appropriate government agency	- Appraised value of 200%

b. *Financial Ratios*

A registrant who meets such standard, as may be prescribed by the SEC, based on the following complementary financial ratios for each of the immediate past three (3) fiscal years:

1) Ratio of (a) the total cash, marketable securities, current receivables to (b) the total of current liabilities;

2) Debt-to-equity ratio, with debt referring to all kinds of indebtedness, including guarantees;

3) Ratio of (a) net income after taxes to (b) net worth;

4) Net profits to sales ratio; and

5) Such other financial indicators, as may be required by the SEC.

c. *Debt to equity*

The recomputed debt-to-equity to ratio of the applicant based on the financial statements required under Sec. 4.c. hereof shall not exceed 4:1: *Provided,* That the authorized short-term commercial papers do not exceed 300% of net worth and upon compliance with the registration requirements specified in Sec. 4 hereof.

The conditions under which the commercial papers of a registrant were registered shall be strictly maintained during the validity of the Certificate of Registration.

Sec. 4. Registration Requirements Any corporation desiring to issue long-term commercial papers shall apply for registration with, and submit to, the SEC the following:

a. Sworn Registration Statement in the form prescribed by the SEC;

b. Board resolution signed by a majority of its members -

1) authorizing the issue of long-term commercial papers;

2) indicating the aggregate amount to be applied for;

3) stating purpose or usage of proceeds thereof;

4) providing that the registration statement shall be signed by any of the following: the principal executive officer, the principal operating officer, the principal financial officer, the comptroller or principal accounting officer, or persons performing similar functions; and

5) designating at least two senior officers with a rank of Vice-President, or higher of their equivalent, to sign the commercial paper instruments to be issued.

c. The latest audited financial statements and should the same be as of a date more than three (3) months prior to the filing of the registration statements, an unaudited financial statement as of the end of the immediately preceding month; *Provided, however,* That such unaudited financial statement shall be certified under oath by the accountant and the senior financial officer of the applicant duly authorized for the purpose and substituted with an audited financial statement within 105 days after the end of the applicant's fiscal year;

d. Schedules A to L based on Subsection c above, in the form attached as Annex "A";

e. Income statements for the immediate past three (3) fiscal years audited by an independent certified public accountant: *Provided*, That if the applicant has been in operation for less than three (3) years, it shall submit income statements for such number of years that it has been in operation;

f. An underwriting agreement for the long-term commercial paper issues with an expanded commercial bank or an investment house, or any other FI which may be qualified subsequently by the BSP with minimum condition, among others, that the underwriter and the issuer shall be jointly responsible for complying with all reportorial requirements of the SEC and the BSP in connection with the long-term commercial paper issue, it being understood that the primary responsibility for the submission of the report to these regulatory agencies is upon the underwriting agreement and thereafter, the responsibility shall devolve upon this issuer: *Provided, however*, That if the issuer is unable to provide the information necessary to meet such reportorial requirements, the underwriter shall, not later than two (2) working days prior to the date when the report is due, notify the SEC of such inability on the part of the issuer: *Provided, further*, That if the underwriting agreement is with a group composed of expanded commercial banks and/or investment houses or any FIs which may be qualified subsequently by the BSP, there shall be a syndicate manager acting and responsible for the group: *Provided, finally*, That the underwriter may be changed subject to prior approval by the SEC;

g. A typewritten copy of a preliminary prospectus approved by the applicant's Board of Directors which, among others, shall contain the following:

1) A statement printed in red on the left-hand margin of the front page, to wit:

"A registration statement relating to these long-term commercial papers has been filed with, but has not yet been approved by, the SEC. Information contained herein is subject to completion or amendment. These long-term commercial papers may not be sold nor may offers to buy be accepted prior to the approval of the registration statement. This preliminary prospectus shall not constitute an offer to buy nor shall there be any sale of these long-term commercial papers in the Philippines as such offer, solicitation, or sale is prohibited prior to registration under the Revised Securities Act."

2) Aggregate maximum amount applied for, stated on the front page of the prospectus;

3) Description and nature of the applicant's business;

4) Intended use of proceeds;

5) Provisions in the underwriting agreement, naming the underwriter and its responsibilities in connection with, among others, the reportorial requirements under these Rules;

6) Other obligations of the applicant classified by maturities - maturing within six (6) months; from six (6) months to one (1) year; and one (1) year and past-due amounts;

7) List of assets which are encumbered, restricted, or earmarked for any other purposes;

8) List of directors, officers, and stockholders owning two percent (2%) or more of the total outstanding voting stock of the corporation, indicating any advance to said directors, officers, and stockholders;

9) List of entities where it owns more than thirty three and one third percent (33 1/3%) of the total outstanding voting stock, as well as borrowings from, and advances to, said entities.

h. Projected annual cash flow statement presented on a quarterly basis as of the approximate date of issuance for a period co-terminus with the life time of the issue, indicating the basic assumptions thereto and supported by schedules on actual maturity patterns of outstanding receivables and liabilities (under six (6) months, six (6) months to one (1) year, over one (1) year, and past-due accounts) and inventory turnover;

i. Data on financial indicators, as may be prescribed by the SEC, for each of the immediate past three (3) fiscal years, such as on solvency, liquidity, and profitability.

The SEC may, whenever it deems necessary, impose other requirements in addition to those enumerated above.

Sec. 5. Action on Application for Registration

a. Within sixty (60) days after receipt of the complete application for registration, the SEC shall act upon the application and shall, in the appropriate case, grant the applicant a Certificate of Registration and Authority to Issue Long-Term Commercial Papers valid for one (1) year, which may be renewed annually with respect to the unissued balance of the authorized amount, upon showing that the registrant has strictly complied with the provisions of these Rules and the terms and conditions of the Certificate of Registration.

b. The SEC shall return any application for registration, in cases where the requirements of applicable laws and regulations governing the issuance of long-term commercial papers have not been complied with, or for reasons which shall be so stated.

Sec. 6. Close-end Registration Registration of long-term commercial papers under these Rules shall be a close-end process, whereby the portion of the authorized amount already issued shall be deducted from the authorized amount and may no longer be reissued even if reacquired in any manner, pursuant to the terms and conditions of issue.

Sec. 7. Long-Term Commercial Papers Exempt Per Se. The following specific long-term debt instruments are exempt per se from the provisions of these Rules:

a. Evidence of indebtedness arising from interbank loan transactions;

b. Evidence of indebtedness issued by the national and local governments;

c. Evidence of indebtedness issued by government instrumentalities, the repayment and servicing of which are fully guaranteed by the National Government;

d. Evidence of indebtedness issued to the BSP under its open market and/or rediscounting operations;

e. Evidence of indebtedness issued by the BSP, PNB, DBP, and LBP;

f. Evidence of indebtedness issued to the following primary institutional lenders: banks, including their trust accounts, trust companies,QBs, investment houses, including their trust accounts, financing companies, investment companies, NSSLAs, building and loan associations, venture capital corporations, special purpose corporations referred to in Central Bank Monetary Board Resolution No. 1051 dated 19 June 1981, insurance companies, government FIs, pawnshops, pension and retirement funds approved by the BIR, educational assistance funds established by the national government, and other entities that may be classified as primary institutional lenders by the BSP, in consultation with the SEC: *Provided,* That all such evidences of indebtedness shall be held on to maturity and shall neither be negotiated nor assigned to any one other than the BSP, and the DBP, with respect to private development banks in connection with their rediscounting privileges, and financial intermediaries with quasi-banking functions;

g. Evidence of indebtedness, the total outstanding amount of which does not exceed ₱15.0 million and issued to not more than fifteen (15) primary lenders other than those mentioned in subsection (f) above, which evidence of indebtedness shall be payable to specific persons, and not to bearers, and shall neither be negotiated nor assigned but held on to maturity: *Provided*, That the aggregate amount of ₱15.0 million shall include outstanding short-term commercial papers: *Provided, further*, That in reckoning compliance with the number of primary lenders under this Section, holders of such papers exempt under Sec. 4(f) of the Rules on Registration of Short-Term Commercial Papers, as amended, shall be counted: *Provided, furthermore*, That such issuer shall:

1) File (1) a disclosure statement prior to the issuance of any evidence of indebtedness; and (2) a quarterly report on such borrowings in the forms prescribed by the SEC; and

2) Indicate in bold letters on the face of the instrument the words "NON-NEGOTIABLE, NON-ASSIGNABLE": and *Provided, finally*, That any issuer, in accordance with the Rules on Registration of Long-Term Commercial Papers and Bonds dated 15 October 1976 and with outstanding long-term commercial papers falling under this subsection as of the effectivity date hereof, shall likewise file the prescribed disclosure statement and the quarterly report on such borrowings;

h. Evidence of indebtedness denominated in foreign currencies; and

i. Evidence of indebtedness arising from *bona fide* sale of goods or property.

Sec. 8. Other Long-Term Commercial Papers Exempt from Registration. The following long-term commercial papers shall be exempt from registration under Secs. 3 and 4 hereof, but shall be subject to the payment of the exemption fee, as prescribed under Section 14, and to the reportorial requirements under Section 15 of these Rules:

a. Long-term commercial papers issued by a financial intermediary authorized by the BSP to engage in quasi-banking functions;

b. Long-term commercial papers fully secured by debt instruments of the National Government and the BSP and physically delivered to the trustee in the Trust Indenture.

Sec. 9. Prohibitions

a. No long-term commercial papers shall be issued, or negotiated or assigned unless the requirements of these Rules shall have been complied with: *Provided*, That no registered long-term commercial paper issuer may issue long-term commercial paper exempt per se under Section 7(g) hereof.

b. There shall be no pretermination of long-term commercial papers either by the issuer or the lender within 730 days from issue date. Pretermination shall include optional redemption, partial installments, and amortization payments; however, installment and amortization payments may be allowed, if so stipulated in the loan agreement.

Sec. 10. Compliance with Bangko Sentral Quasi-Banking Requirements Nothing in these Rules shall be construed as an exemption from, or a waiver of, the applicable BSP rules and regulations governing the performance of quasi-banking functions. Any violation of said BSP rules and regulations shall be considered a violation of these Rules.

Sec. 11. Conditions of the Authority to Issue Long-Term Commercial Papers

a. During the effectivity of the underwriting agreement, should the issuer fail to pay in full any interest due on or principal of long-term commercial paper upon demand at stated maturity date, the Authority to Issue Long-Term Commercial Papers shall be automatically suspended. The underwriter shall, within the next working day, notify the SEC thereof, and the SEC shall forthwith issue a formal Cease-and-Desist Order enjoining both the issuer and the underwriter from further issuing or underwriting long-term commercial papers.

b. Upon the expiration of the underwriting agreement, it shall be the responsibility of the issuer to notify the SEC that it failed to pay in full any interest due on, or principal of, long-term commercial paper upon demand at stated maturity date and has accordingly automatically suspended the issuance of its long-term commercial papers. Within the next working day, the SEC shall forthwith issue a formal Cease-and-Desist Order enjoining the issuer from further issuing long-term commercial papers.

c. Whenever necessary to implement the monetary and credit policies promulgated from time to time by the Monetary Board of the BSP, the SEC may suspend the authority to issue long-term commercial paper, or reduce the authorized amount thereunder, or schedule the maturities of the registered long-term commercial paper to be issued.

Sec. 12. Basic Features of Registered Commercial Papers

a. All registered commercial paper instruments shall have a standard format, serially pre-numbered, and denominated. The instrument shall state, among others, the debt ceiling of the registrant and a notice that information about the registrant submitted in connection with the registration, and other reportorial requirements from the issuer is available at the SEC and open to public inspection, and that the issuer is not authorized by the BSP to perform quasi-banking functions.

b. A specimen of the proposed commercial paper instrument shall be submitted to the SEC for approval of the text thereof.

c. The instrument approved by the SEC shall be printed by an entity authorized by the SEC and shall be released by the SEC to the issuer.

Sec. 13. Minimum Principal Amount The minimum principal amount of each registered long-term commercial paper instrument shall not be lower than the amounts indicated in the following schedule:

a. Up to two years	₱100,000
b. Over two years but less than four years	50,000
c. Four years or more	20,000

Sec. 14. Fees. Every registrant shall pay the following fees:

a. Upon application for registration, a filing fee of 1/20 of one percent 1% based on total commercial paper proposed to be issued, but not to exceed ₱75,000.

b. For issuers of commercial papers exempt under Section 8 hereof, an annual exemption fee of ₱10,000.

Sec. 15. Periodic Reports

a. Issuers of registered long-term commercial papers, through their underwriters and those exempt under Section 8 hereof, shall submit the following reports in the form prescribed by the SEC:

1) Monthly reports on long-term commercial papers outstanding as at the end of each month, to be submitted within ten (10) working days following the end of the reference month;

2) Quarterly reports on long-term commercial paper transactions, accompanied by an interim quarterly financial statement to be submitted within thirty (30) calendar days following the end of the reference quarter; and

3) Actual quarterly cash flow statement, to be submitted within ten (10) working days following the end of the reference quarter.

b. These periodic reports shall be signed under oath by the corporate officers authorized, pursuant to a board resolution previously filed with the SEC.

c. Issuers whose offices are located in the provinces may, through their underwriters, submit their reports to the nearest extension office of the SEC.

Sec. 16. Administrative Sanctions If the SEC finds that there is a violation of any of these Rules and Regulations and implementing circulars, or that any issuer, in a registration statement and its supporting papers, as well as in the periodic reports required to be filed with the SEC and the BSP, has made any untrue statement of a material fact, or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or refuses to permit any lawful examination into its corporate affairs, the SEC shall, in its discretion, impose any or all of the following sanctions:

a. Suspension or revocation, after proper notice and hearing, of the Certificate of Registration and Authority to Issue Commercial Paper;

b. A fine in accordance with the guidelines that the SEC shall issue from time to time: Provided, however, That such fine shall in no case be less than ₱200 nor more than ₱50,000 for each violation, plus not more than ₱500 for each day of continuing violation. Annex "B" hereof shall initially be the guidelines on the scale of fines;

c. Other penalties within the power of the SEC under existing laws; and

d. The filing of criminal charges against the individuals responsible for the violation.

Sec. 17. Cease-and-Desist Order

a. The SEC may, on its own motion or upon verified complaint by an aggrieved party, issue a Cease-and-Desist Order ex-parte, if the violation(s) mentioned in Section 16 hereof may cause great or irreparable injury to the investing public, or will amount to palpable fraud or violation of the disclosure requirements of the Revised Securities Act and of these Rules and Regulations.

b. The issuance of such Cease-and-Desist Order automatically suspends the Authority to Issue Long-Term Commercial Paper.

c. Such Cease-and-Desist Order shall be confidential in nature, until after the imposition of the sanctions mentioned in Section 16 hereof shall have become final and executory.

d. Immediately upon the issuance of an ex-parte Cease-and-Desist Order, the SEC shall notify the parties involved, and schedule a hearing on whether to lift such order, or to impose the administrative sanctions provided for in Section 16 not later than fifteen (15) days after receipt of notice.

Sec. 18. Repealing Clause. These Rules and Regulations supersede the Rules on Registration of Long-Term Commercial Paper and Bonds dated 15 October 1976 and all the amendments to said Rules except as provided in Section 19 hereof. All other rules, regulations, orders, memoranda circular of the SEC, which are inconsistent herewith, are likewise hereby repealed or modified accordingly.

Sec. 19. Transitory Provision

a. Any authority or Certificate of Exemption to Issue Long-Term Commercial Papers, granted under the Rules on Registration of Long-Term Commercial Papers dated 15 October 1976, valid and subsisting as of the date of the effectivity of these Rules, shall remain valid with respect only to all outstanding issue until such issues are retired or redeemed.

b. The SEC may, at its discretion and subject to such conditions it may impose, authorize issuance of any unissued portion of the issuer's approved long-term debt ceiling solely for refinancing of maturing long-term commercial paper issue for a period not beyond fifteen (15) months from the effectivity date of these Rules.

Sec. 20. Effectivity. These Rules and Regulations shall take effect fifteen (15) days after publication in two newspapers of general circulation in the Philippines.

(Ed. Note: Annexes "A" and "B" are not reproduced in this Appendix.)

LIST OF RESERVE - ELIGIBLE AND NON-ELIGIBLE SECURITIES
[Appendix to Subsec. 4254Q (2008 - 4246Q.1]

(Deleted by Circular No. 753 dated 29 March 2012)

BASIC GUIDELINES IN SETTING UP OF ALLOWANCE FOR CREDIT LOSSES
(*Appendix to Subsec. 4178Q.17*)

FIs with credit operations that may not economically justify a more sophisticated loan loss estimation methodology or where practices fell short of expected standards shall, at a minimum, be subject to the following guidelines:

I. Individually Assessed Loans and Other Credit Accommodations[1]

1. Loans and other credit accommodations with unpaid principal and/or interest shall be classified and provided with allowance for credit losses (ACL) based on the number of days of missed payments as follows:

For unsecured loans and other credit accommodations:

No. of Days Unpaid/with Missed Payment	Classification	ACL
31 - 90 days	Substandard	10%
91 - 120 days	Substandard	25%
121 - 180 days	Doubtful	50%
181 days and over	Loss	100%

For secured loans and other credit accommodations:

No. of Days Unpaid/with Missed Payment	Classification	ACL
31 - 180 days*	Substandard	10%
181 - 365 days	Substandard	25%
Over 1 year - 5 years	Doubtful	50%
Over 5 years	Loss	100%

** When there is imminent possibility of foreclosure and expectation of loss, ACL shall be increased to twenty five percent (25%)*

Provided, That where the quality of physical collaterals or financial guarantees securing the loans and advances are determined to be insufficient, weak or without recoverable values, such loans and advances shall be treated as if these are unsecured.

2. Loans and other credit accommodations that exhibit the characteristics for classified accounts described under Subsec. 4178Q.17 shall be provided with ACL as follows:

Classification	ACL
Especially Mentioned (EM)	5 %
Substandard - Secured	10%
Substandard - Unsecured	25%
Doubtful	50%
Loss	100%

3. Unsecured loans and other credit accommodations classified as *"Substandard"* in the last two (2) internal credit reviews which have been continuously renewed/extended without reduction in principal and is not in process of collection, shall be downgraded to *"Doubtful"* classification and provided with a fifty percent (50%) ACL.

4. Loans and other credit accommodations under litigation which have been classified as *"Pass"* prior to the litigation process shall be classified as *"Substandard"* and provided with twenty five percent (25%) ACL.

5. Loans and other credit accommodations that were previously classified as *"Pass"* but were subsequently restructured shall have a minimum classification of EM and provided with a five percent (5%) ACL, except for loans which are considered non-risk under existing laws, rules and regulations.

6. Classified loans and other credit accommodations that were subsequently restructured shall retain their classification

[1] Other credit accommodations include other credits such as accounts receivables, sales contract receivables, accrued interest receivables and advances

and provisioning until the borrower has sufficiently exhibited that the loan will be fully repaid.

II. Collectively Assessed Loans[1] and Other Credit Accommodations

1. Current *"Pass"* loans and other credit accommodations should be provided with a reasonable level of collective allowance, using historical loss experience adjusted for current conditions.

2. Loans and other credit accommodations with unpaid principal and/or interest shall be classified and provided with ACL based on the number of days of missed payments as follows:

For unsecured loans and other credit accommodations:

No. of Days Unpaid/with Missed Payment*	Classification	ACL
1 - 30 days	EM	2 %
31 - 60 days/ 1st restructuring	Substandard	25%
61 - 90 days	Doubtful	50%
91 days and over/ 2nd restructuring	Loss	100%

* PAR for microfinance loans

For secured loans and other credit accommodations[2]:

No. of Days Unpaid/with Missed Payment	Classification	ACL (%)	
		Other types of collateral	Secured by real estate
31 – 90	Substandard	10	10
91 – 120	Substandard	25	15
121 – 360 days	Doubtful	50	25
361 days – 5 years	Loss	100	50
Over 5 years	Loss		100

Provided, That where the quality of physical collaterals or financial guarantees securing the loans and advances are determined to be insufficient, weak or without recoverable values, such loans and advances shall be treated as if these are unsecured.

(As amended by Circular No. 855 dated 29 October 2014, M-2014-039 dated 01 October 2014, M-2014-031 dated 08 August 2014, M-2014-006 dated 12 February 2014, M-2013-050 dated 15 November 2013, M-2013-046 dated 30 October,2013, M-2013-045 dated 23 October 2013, M-2013-040 dated 03 September 2013, M-2013-001 dated 14 January,2013, M-2012-060 dated 27 December 2012, M-2012-051 dated 09 November 2012, M-2012-044 dated 24 August 2012, M-2012-042 dated 17 August 2012, M-2012-001 dated 03 January 2012, M-2011-059 dated 22 November 2011, M-2011-056 dated 21 October 2011, M-2011-055 dated 17 October 2011, M-2011 043 dated 12 August 2011, M-2011-007 dated 04 February 2011, M-2010-039 dated 03 October 2010, M-2010-007 dated 23 April 2010, M-2009-040 dated 30 October 2009, M-2009-038 dated 08 October 2009, M-2009-037 dated 15 October 2009, M 2009-036 dated 06 October 2009, Circular Nos. 622 dated 16 September 2008, 603 dated 03 March 2008, 520 dated 20 March 2006)

[1] This includes microfinance loans, micro enterprises and small business loans and consumer loans such as salary loans, credit card receivables, auto loans, housing loans and other consumption loans, and other loan types which fall below the FI's materiality threshold for individual assessment.
[2] As defined under Sec. 4311Q

FORMAT OF DISCLOSURE STATEMENT ON SMALL BUSINESS/RETAIL/CONSUMER CREDIT

[Appendix to Subsec. 4307Q.2 (2008-4309Q.2)]

____
(Business Name of Creditor)

DISCLOSURE STATEMENT ON LOAN/CREDIT TRANSACTION
(As required under R.A. No. 3765, Truth in Lending Act)

NAME OF BORROWER ______________________________
ADDRESS ______________________________

1. LOAN AMOUNT — ₱ XXX

2. OTHER BANK CHARGES/DEDUCTIONS COLLECTED[1] — ₱ XXX

a. Documentary/Science Stamps ₱________
b. Mandatory Credit Insurance ________
c. Others __(Specify)__ ________
____________ ________

3. NET PROCEEDS OF LOAN (Item 1 less Items 2) — ₱ XXX

4. SCHEDULE OF PAYMENTS

a. Single payment due on | **(date)** | **₱ XXX** |
b. Installment Payments **(Please see attached amortization schedule)**

5. EFFECTIVE INTEREST RATE (Interest and Other Charges) — XXX%

Explanation: The effective interest rate is higher than the contractual interest rate of ___% because of some deductions in Item 2 above.

6. CONDITIONAL CHARGES THAT MAY BE IMPOSED (if applicable). Please specify manner of imposition:

a. Late Charge ₱________
b. Prepayment (penalty/refund) ________
c. Others __(Specify)__ ________
____________ ________

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.

____________________ ____________________
(Signature of Borrower over Printed Name) Date

Notes:
[1] Itemize all charges including advance deductions
- Small business/Retail/Consumer Loans includes microfinance, auto (motor), salary, personal, medical, educational and other loans of similar nature
- This document contains the minimum information required to be disclosed to the borrower and may be enhanced to improve client information

SAMPLE GUIDE ON INFORMATION TO BE DISCLOSED ON CREDIT CARDS:

1. FINANCE CHARGES[1] P XXX
   a. P XXX
   b. (Specify) XXX
   c. XXX

2. NON-FINANCE CHARGES[2] P XXX
   a. P XXX
   b. (Specify) XXX
   c. XXX

3. EFFECTIVE INTEREST RATE (Interest and Other Charges)

4. SCHEDULE OF PAYMENTS (on installment)
   a.
   b. (Specify)
   c.
   (Please see attached amortization schedule)

5. CONDITIONAL CHARGES (Please specify manner of imposition)
   a. Late charge P XXX
   b. Prepayment/Penalty XXX
   c. Others (specify) XXX

Sample Statement of Account

Name:
Address:

Card Number:	xxx-xxx-xxx
Statement Date:	mm/dd/yy
Payment Due Date:	mm/dd/yy
Total Amount Due (P):	P xxx
Minimum Amount Due (P):	P xxx

COMBINED CREDIT LIMIT	AVAILABLE CREDIT LIMIT	COMBINED CASH ADVANCE LIMIT	MONTHLY INT. RATE	EFFECTIVE INT. RATE
P xxx	P xxx	P xxx	x.xx%	x.xx%

PREVIOUS BALANCE	PURCHASES & ADVANCES	CREDITS	PAYMENTS	FINANCE CHARGE	LATE CHARGE	TOTAL AMOUNT DUE
P xxx	P xxx	P xxx	P xxx	P xxx	P xxx	P xxx

SALE DATE	POST DATE	DESCRIPTION	AMOUNT
mm/dd/yy	mm/dd/yy		P xxx
mm/dd/yy	mm/dd/yy		xxx
mm/dd/yy	mm/dd/yy		xxx

Notes:
[1] Individually itemize all charges (paid or to be paid by the cardholder in connection with the transaction incident to the extension of credit)
[2] Individually itemize all charges (paid or to be paid by the cardholder in connection with the transaction but which are not incident to the extension of credit)
- Indicate method of determining the balance upon which interest and/or delinquency charges may be imposed
- Indicate method of determining the amount of interest and/or delinquency charges, including any minimum or fixed amount imposed as interest and/or delinquency charge
- Remind cardholder in the monthly billing statement, or its equivalent, the payment of only the minimum amount due or any amount less than the total amount due for the billing cycle period, would mean the imposition of interest and/or other charges.

AMORTIZATION SCHEDULE
(Sample Only)

Installment (A)	Loan (B)	Principal (C)	Interest (D)	Total (E)	O/S Balance (F)
	xxx				*xxx*
1		xxx	xxx	xxx	xxx
2		*xxx*	*xxx*	*xxx*	*xxx*
3		*xxx*	*xxx*	*xxx*	*xxx*
4		*xxx*	*xxx*	*xxx*	*xxx*
5		*xxx*	*xxx*	*xxx*	*xxx*
6		*xxx*	*xxx*	*xxx*	*xxx*
7		*xxx*	*xxx*	*xxx*	*xxx*
8		*xxx*	*xxx*	*xxx*	*xxx*
9		*xxx*	*xxx*	*xxx*	*xxx*
10		*xxx*	*xxx*	*xxx*	*xxx*
11		*xxx*	*xxx*	*xxx*	*xxx*
12		*xxx*	*xxx*	*xxx*	*xxx*
	Total	*xxx*	*xxx*	*xxx*	

Legends:

A - Number of installment periods based on loan term
B - Gross amount of loan
C - Installment payment on the principal
D - Installment payment on the interest
E - Total amortization payment for the installment period
F - Outstanding principal balance of the loan

(As amended by Circular No. 754 dated 17 April 2012 and M-2012-018 dated 19 April 2012)

ABSTRACT OF "TRUTH IN LENDING ACT" (Republic Act No. 3765)
[Appendix to Subsec. 4307Q.4 (2008 - 4309Q.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.

xxxx xxxx xxxx

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

xxxx xxxx xxxx

(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.

xxxx xxxx xxxx

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.

xxxx xxxx xxxx

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.

xxxx xxxx xxxx

(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.

xxxx xxxx xxxx

(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.

AGREEMENT FOR THE ENHANCED INTERBANK CALL LOAN FUNDS TRANSFER SYSTEM

[Appendix to Subsecs. 4343Q.1 and 4601Q.3 (2008 - 4376Q.1 and 4601Q.1)]

(As superseded by the agreement for PhilPaSS between the BSP and BAP/CTB/ RBAP/IHAP and MMAP)

SETTLEMENT PROCEDURES FOR INTERBANK LOAN TRANSACTIONS AND PURCHASE AND SALE OF GOVERNMENT SECURITIES UNDER REPURCHASE AGREEMENTS WITH THE BANGKO SENTRAL
[Appendix to Subsecs. 4343Q.3 and 4601Q.3 (2008 - 4376Q.4 and 4601Q.1)]

(As superseded by the agreement for PhilPaSS between the BSP and BAP/CTB/ RBAP/IHAP and MMAP)

ENHANCED INTRADAY LIQUIDITY FACILITY

[Appendix to Subsecs. 4343Q.1 and 4601Q.3 (2008 - 4376Q.1 and 4601Q.1)]

Given the increasing volume of PhilPaSS transactions as well as concerns of having temporary gridlocks in the PhilPaSS, the current features of the Intraday Liquidity Facility (ILF) had been enhanced, specifically on the following areas:

a. Flexibility in changing the securities that will be used for the ILF;

b. Availment of the facility on an "as the need arises" basis; and

c. Removal of commitment fees

The revised features of the ILF are described below.

A. Access to ILF

Government securities (GS) held by an Eligible Participant QB in its Regular Principal Securities Account that will be used for ILF purposes shall be delivered to a sub-account under the BSP-ILF Securities Account with the Bureau of the Treasury's (BTr) Registry of Scripless Securities (RoSS). The delivered GS to be used for ILF purposes shall be recorded by RoSS in a sub-account (the "Client Securities Account (CSA)"-ILF) under the BSP-ILF Securities Account in the name of the Eligible Participant QB.

QBs without RoSS securities accounts who intend/desire to avail of the ILF shall be required to open/maintain a Securities Account with the RoSS. The documentation requirements for RoSS membership shall be prescribed by the BTr.

QBs desiring to avail of the ILF shall be further required to open a sub-account under the BSP-ILF Securities Account with the BTr's RoSS by accomplishing an application letter addressed to the Treasurer of the Philippines, Attn: The Director, Liability Management Service and the Chief, Scripless Securities Registration Division. The application letter shall be in the form of Annex 1 hereto.

B. Timeline

From 9:00 am to 9:30 am of each banking day, an Eligible Participant QB shall electronically instruct the BTr to move/ transfer from its Principal Securities Account with the BTr's ROSS to the CSA-ILF under the name of the Eligible Participant QB, the pool of peso-denominated GS to be set aside for the ILF purpose. The Eligible Participant QB hereby confirms to the BTr that pursuant to an ILF availment, it has authorized the transfer without consideration unto the CSA-ILF the pool of GS to be used for ILF purposes.

From 9:30 am to 10:00 am, the BTr RoSS shall electronically submit a consolidated report to BSP showing the details of the GS that were transferred to the BSP-ILF Securities Account.

From 10:00 am to 4:00 pm, Eligible Participant QBs with insufficient balances in its Demand Deposit Account No.2 (PhilPaSS Account) may avail of the ILF.

Eligible Participant QBs may avail of the ILF as necessary to fund pending payment instructions. Thus, when the ILF system detects queued transactions in the PhilPaSS-Central Accounting System, the Eligible Participant QB with insufficient balance in its PhilPaSS Account will automatically sell to the BSP-Treasury the GS in the CSA-ILF pool corresponding to the amount which may be needed to cover any pending payment instruction, and the proceeds of the sale of securities shall be immediately credited to the bank's PhilPaSS Account. There may be more than one availment during the day. Until a sale to the BSP or an Overnight Repo (O/N-RP) transaction with the BSP is executed, the beneficial ownership of the GS that have been transferred to the CSA-ILF still belongs to the QBs.

At 5:00 pm, the BSP shall sell back to the Eligible Participant QB the GS at the same price as the original BSP purchase. Partial repayment of a particular availment will not be allowed.

In case the PhilPaSS Account balance of the participating QB is not sufficient to cover the afternoon repayment transaction, the BSP and the participating QB may agree on the following:

a. BSP shall extend to the Eligible participant QB an O/N-RP at 600 basis points over the BSP's regular overnight lending rate for the day. The O/N-RP shall be paid not later than 11:00 am on maturity date. Unpaid O/N-RP shall be automatically converted into an absolute sale to the BSP of the subject GS earlier delivered/ transferred to the CSA-ILF, pursuant to an ILF availment by the Eligible Participant QB, in which case, BSP shall issue an instruction to BTr to deliver/transfer the subject GS from the BSP-ILF Securities Account to the BSP regular Principal Securities Account. The sale shall be evidenced by the issue of Confirmation of Sale by the Eligible Participant QB (Annex 2) and the Confirmation of Purchase by the BSP Treasury Department (Annex 3), or,

b. Only in extreme cases, the BSP shall sell back to the participating QBs GS up to the extent of the PhilPaSS Account balance. The BSP shall issue an instruction to the BTr to transfer the remaining GS amounting to the unpaid ILF availment from the BSP-ILF Securities Account to the BSP's Regular Principal Securities Account.

At the end of the day and after BSP's sell-back of the GS to ILF participants, normally by 5:45 pm, the BSP Treasury Department shall electronically instruct RoSS, using the ILF RoSS system developed for herein purpose, to return/deliver from the CSA-ILF of the participating QBs to their respective Regular Principal Securities Accounts with the RoSS all unused/ unencumbered GS. GS used for O/N-RP shall remain in the CSA-ILF until repayment of subject O/N-RP or conversion to outright sale the following day.

Upon receipt of BSP's electronic instruction for the return of GS back to the participating QBs' regular Principal Securities Accounts, the BTr shall update their database after which participating QBs may request/download statements of securities accounts for their verification.

C. Eligible Securities

Peso-denominated scripless securities of the National Government that are free and unencumbered and with remaining maturity of eleven (11) days to ten (10) years shall be eligible for the ILF. GS that will be used for ILF purposes would be reclassified with due consideration to the original booking of the security, as follows:

Original Booking of GS	To be reclassified to
a. Held for Trading	Held for Trading – ILF
b. Designated Fair Value Through Profit or Loss	Designated Fair Value Through Profit or Loss - ILF
c. Available for Sale	Available for Sale - ILF
d. Held to Maturity	Held to Maturity - ILF

D. Valuation of Securities

The GS subject of an ILF transaction shall be valued based on the 11:16 am fixing rates of the previous business day, from the applicable Reuters PDEX pages or any other valuation benchmark as may be prescribed by the BSP.

E. Margins

Margins shall be applied based on prevailing policies of the BSP Treasury Department.

F. Transaction Fee

The BTr shall collect a monthly maintenance fee of One Thousand Pesos (P1,000.00) from each Eligible Participant QB for the use of the CSA-ILF Securities Account. The maintenance fees herein required to be paid by each Eligible Participant QB shall be separate from and exclusive of any other fees being assessed and collected by BTr for membership in the RoSS. For this purpose, the Eligible Participant QB shall issue to the BTr an autodebit instruction to authorize the BTr to debit its DDA with BSP for the above-mentioned monthly maintenance fee. The BTr will inform the Eligible Participant QBs of any change in fee at least fifteen (15) days prior to implementation.

G. DDA Statements/Transaction Details

Eligible Participating QBs will be able to verify the status of their accounts by initiating the SWIFT/PPS-Front-end System inquiry request.

Availability of Service

The ILF is covered by a Memorandum of Agreement (MOA) dated 25 March 2008 by and among the BSP, the BTr, the Bankers Association of the Philippines (for BAP members) and the Money Market Association of the Philippines (for non-BAP members). Participating QBs shall sign individual participation agreements. The services outlined in the MOA shall be available at the BSP and the BTr at a fixed hour on all banking days. Banking days refer to the days banking institutions are open for business, Mondays thru Fridays as authorized by the BSP.

(CL-2008-036 dated 20 June 2008)

PARTICIPATION AGREEMENT

____
Date

Bangko Sentral ng Pilipinas
A. Mabini corner P. Ocampo Sr. Streets,
Manila

Bureau of the Treasury
Palacio del Gobernador
Intramuros, Manila

Bankers Association of the Philippines
11th Floor, Sagittarius Building
H. V. dela Costa Street, Salcedo Village
Makati City

Money Market Association of the Philippines
Penthouse, PDCP Bank Center
Herrera corner L. P. Leviste Streets, Salcedo Village
Makati City

Gentlemen:

Please be advised that we agree to participate in the Agreement for the Establishment of Intraday Liquidity Facility to support the Philippine Payment and Settlement System (the "System") which is covered by the Memorandum of Agreement dated _____ (the "Agreement") among yourselves and its subsequent amendments of revisions as may be agreed upon by the parties thereto from time to time.

We agree to be bound by all the terms and conditions of the Agreement and adopt it as an integral part of this Participation Agreement, including the authority of the BSP to execute payment instructions and the authority of the Bureau of the Treasury (BTr) to execute our instructions on transfer to/from, credit and debit to/against our Securities Account. Further, we agree to comply with all our obligations as participating bank/financial institution as provided in the Agreement. Lastly, we agree to keep yourselves free and harmless from any claim or liability arising from, or in connection with, our transactions transmitted through the System in accordance with the provisions of the Agreement.

This participation will become effective upon your conformity hereto and your notification of the same to us, the BSP and the BTr.

Very truly yours,

____
Participating Bank/Financial Institutions

APPROVED:

Bangko Sentral ng Pilipinas By: _______________

Bureau of the Treasury By: _______________

Bankers Association of the Philippines By: _______________

Money Market Association of the Philippines By: _______________

Annex 1

(LETTERHEAD OF THE APPLICANT)

The Treasurer of the Philippines
Palacio del Gobernador
Intramuros, Manila

Sir:

The undersigned hereby makes an application to open a Client Securities Account under the BSP-ILF RoSS Account in the Registry of Scripless Securities (RoSS) operated and maintained by the Bureau of the Treasury (BTr).

The undersigned will pay to BTr an additional monthly fee of P1,000.00 for the Client Securities Account opened payable on the first business day of each month. The BTr will inform the undersigned of any change in fee at least fifteen (15) days prior to implementation.

Please debit/credit our Regular Demand Deposit Account No._______with the BSP for the payment of said monthly fee.

_______________ Manila, Philippines
(Date)

____
(Name of Applicant)

____
(Signature of Authorized Signatory)

____
(Designation)

Annex 2

LETTERHEAD OF THE SELLER

Transaction No. ________
Value Date ________

CONFIRMATION OF SALE OF GOVERNMENT SECURITIES

The ______________, does hereby CONFIRM that it has SOLD, TRANSFERRED AND CONVEYED unto ______________, pursuant to the Memorandum of Agreement for Intraday Liquidity Facility and the Participation Agreement executed on ______ and ______, respectively, all of its rights, titles and interests over the following described Government Securities, held by the Bureau of the Treasury under the Registry of Scripless Securities System.

ISIN	TERM	ISSUE DATE	MATURITY DATE	FACE AMOUNT

____
(Code)

____
(Account Number)

____
(Name of GSED)

____
(Signature of Authorized Signatory)

____
(Designation)

Annex 3

Transaction No. ________
Value Date ________

CONFIRMATION OF PURCHASE OF GOVERNMENT SECURITIES

The_____________, does hereby CONFIRM that it has PURCHASED from _____________, pursuant to the Memorandum of Agreement for Intraday Liquidity Facility and the Participation Agreement executed on ______ and ______, respectively, all of its rights, titles and interests over the following described Government Securities, held by the Bureau of the Treasury under its Registry of Scripless Securities System.

ISIN	TERM	ISSUE DATE	MATURITY DATE	FACE AMOUNT

____
(Code)

____
(Account Number)

____
(Name of GSED)

____
(Signature of Authorized Signatory)

____
(Designation)

SAMPLE INVESTMENT MANAGEMENT AGREEMENT
(Appendix to Subsec. 4411Q.1)

IMA No. (Prenumbered)

INVESTMENT MANAGEMENT AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This AGREEMENT, made and executed this _____ day of __________________ at ______________________________________ , Philippines by and between:

____
(Hereinafter referred to as the "PRINCIPAL")

and

___________________________ , an institution authorized to perform trust functions, organized and existing under and by virtue of the laws of the Philippines, with principal office and place of business at __________________ , _____________________ , Philippines.
(Hereinafter referred to as the "INVESTMENT MANAGER")

WITNESSETH: THAT -

WHEREAS, the Principal desires to avail of the services of the Investment Manager relative to the management and investment of Principal's investible funds.

WHEREAS, the Investment Manager is willing to render the services required by the Principal relative to the management and investment of Principal's investible funds, subject to the terms and conditions hereinafter stipulated;

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual conditions stipulated hereunder, the parties hereto hereby agree and bind themselves to the following terms and conditions:

INVESTMENT PORTFOLIO

1. Delivery of the Fund - Upon execution of this Agreement, the Principal shall deliver to the Investment Manager the amount of PHILIPPINE PESOS: ____(₱_____________).

2. Composition - The cash which the Principal has delivered to the Investment Manager as well as such securities in which said sums are invested, the proceeds, interest, dividends and income or profits realized from the management, investment and reinvestment thereof, shall constitute the managed funds and shall hereafter be designated and referred to as the *Portfolio*. For purposes of this Agreement, the term *securities* shall be deemed to include commercial papers, shares of stock and other financial instruments.

3. Delivery of Additional Funds - At any time hereafter and from time to time at the discretion of the Principal, the latter may deliver additional funds to the Investment Manager which shall form part of the Portfolio and shall be subject to the same terms and conditions of this Agreement. No formalities other than a letter from the Principal and physical delivery to the Investment Manager of cash will be required for any addition to the Portfolio.

4. Nature of Agreement - THIS AGREEMENT IS AN AGENCY AND NOT A TRUST AGREEMENT. AS SUCH, THE CLIENT SHALL AT ALL TIMES RETAIN LEGAL TITLE TO FUNDS AND PROPERTIES SUBJECT OF THIS ARRANGEMENT.

THIS AGREEMENT IS FOR FINANCIAL RETURN AND FOR THE APPRECIATION OF ASSETS OF THE ACCOUNT. THIS AGREEMENT DOES NOT GUARANTEE A YIELD, RETURN OR INCOME BY THE INVESTMENT MANAGER. AS SUCH, PAST PERFORMANCE OF THE ACCOUNT IS NOT A GUARANTY OF FUTURE PERFORMANCE AND THE INCOME OF INVESTMENTS CAN FALL AS WELL AS RISE DEPENDING ON PREVAILING MARKET CONDITIONS.

IT IS UNDERSTOOD THAT THIS INVESTMENT MANAGEMENT AGREEMENT IS NOT COVERED BY THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC) AND THAT LOSSES, IF ANY, SHALL BE FOR THE ACCOUNT OF THE PRINCIPAL.

POWERS

5. Powers of the Investment Manager - The Investment Manager is hereby conferred the following powers:

a. To invest or reinvest the Portfolio in (1) Evidences of indebtedness of the Republic of the Philippines and of the Bangko Sentral ng Pilipinas, and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines or loans against such government securities; (2) Loans fully guaranteed by the government as to the payment of principal and interest; (3) Loans fully secured by hold-out on, assignment or pledge of, deposits or of deposit substitutes, or mortgage and chattel mortgage bonds;

(4) Loans fully secured by real estate and chattels in accordance with Sec. 78 of R.A. No. 337, as amended, and subject to the requirements of Secs. 75, 76 and 77 of R.A. No. 337, as amended; and (5) Such other investments or loans as may be directed or authorized by the Principal in a separate written instrument which shall form part of this Agreement: *Provided*, That said written instrument shall contain the following minimum information: (a) The transaction to be entered into; (b) The amount involved; and (c) The name of the issuer, in case of securities and/or the name of the borrower and nature of security, in the case of loans;

b. To endorse, sign or execute any and all securities, documents or contracts necessary for or connected with the exercise of the powers hereby conferred or the performance of the acts hereby authorized;

c. To cause any property of the Portfolio to be issued, held, or registered in the name of the Principal or of the Investment Manager: *Provided*, That in case of the latter, the instrument shall indicate that the Investment Manager is acting in a representative capacity and that the Principal's name is disclosed thereat;

d. To open and maintain savings and/or checking accounts as may be considered necessary from time to time in the performance of the agency and the authority herein conferred upon the Investment Manager;

e. To collect and receive matured securities, dividends, profits, interest and all other sums accruing to or due to the Portfolio;

f. To pay such taxes as may be due in respect of or on account of the Portfolio or in respect of any profit, income or gains derived from the sale or disposition of securities or other properties constituting part of the Portfolio;

g. To pay out of the Portfolio all costs, charges and expenses incurred in connection with the investments or the administration and management of the Portfolio including the compensation of the Investment Manager for its services relative to the Portfolio; and

h. To perform such other acts or make, execute and deliver all instruments necessary or proper for the exercise of any of the powers conferred herein, or to accomplish any of the purposes hereof.

LIABILITY OF INVESTMENT MANAGER

6. Exemption from Liability - In the absence of fraud, bad faith, or gross or willful negligence on the part of the Investment Manager or any person acting in its behalf, the Investment Manager shall not be liable for any loss or damage to the Portfolio arising out of or in connection with any act done or performed or caused to be done or performed by the Investment Manager pursuant to the terms and conditions herein agreed, to carry out the powers, duties and purposes for which this Agreement is executed.

7. Advice of Counsel - The Investment Manager may seek the advice of lawyers. Any action taken or suffered in good faith by the Investment Manager as a consequence of the opinion of the said lawyers shall be conclusive and binding upon the Principal, and the Investment Manager shall be fully protected from any liability suffered or caused to be suffered by the Principal by virtue hereof.

ACCOUNTING AND REPORTING

8. The Investment Manager shall keep and maintain books of accounts and other accounting records as required by law. The Principal or the authorized representative of the Principal shall have access to and may inspect such books of accounts and all other records related to the Portfolio, including the securities held in custody by the Investment Manager for the Portfolio.

9. Reporting Requirements - The Investment Manager shall prepare and submit to the Principal the following reports within ______________________________: (a) Balance Sheet; (b) Income Statement; (c) Schedule of Earning Assets; (d) Investment Activity Report; and (e) (such other reports as may be required by the Principal).

INVESTMENT MANAGER'S FEE

10. Investment Fee - The Investment Manager, in addition to the reimbursement of its expenses and disbursements in the administration and management of the Portfolio including counsel fees, shall be entitled to receive as compensation for its services a management fee of ___(Specify amount or rate)___.

WITHDRAWALS FROM THE PORTFOLIO

11. Withdrawal of Income/Principal - Subject to availability of funds and the non-diminution of the Portfolio below ₱1 million, the Principal may withdraw the income/ principal of the Portfolio or portion thereof upon written instruction or order given to the Investment Manager. The Investment Manager shall not be required to see as to the application of the income/principal so withdrawn from the Portfolio. Any income of the Portfolio not withdrawn shall be accumulated and added to the principal of the Portfolio for further investment and reinvestment.

12. Non-alienation of Encumbrance of the Portfolio or Income - During the effectivity of this Agreement, the Principal shall not assign or encumber the Portfolio or its income or any portion thereof in any manner whatsoever to any person without the prior written consent of the Investment Manager.

EFFECTIVITY AND TERMINATION

13. Term - This Agreement shall take effect from the date of signing hereof and shall be in full force and effect until terminated by either party by giving written notice thereof to the other at least _______(__) days prior to the termination date.

14. Powers upon Liquidation - The powers, duties and discretion conferred upon the Investment Manager by virtue of this Agreement shall continue for the purpose of liquidation and return of the Portfolio, after the notice of termination of this Agreement has been served in writing, until final delivery of the Portfolio to the Principal.

15. Accounting of Transaction - Within ______ (__) days after the termination of this Agreement, the Investment Manager shall submit to the Principal an accounting of all transactions effected by it since the last report up to the date of termination. Upon the expiration of the ________ (__) days from the date of submission, the Investment Manager shall forever be released and discharged from all liability and accountability to anyone with respect to the Portfolio or to the propriety of its acts and transactions shown in such accounting, except with respect to those objected to in writing by the Principal within the __________ (__) day period.

16. Remittance of Net Assets of the Portfolio - Upon termination of the Agreement, the Investment Manager shall turn over all assets of the Portfolio which may or may not be in cash to the Principal less the payment of the fees provided in this Agreement in carrying out its functions or in the exercise of its powers and authorities.

This Agreement or any specific amendments hereto constitute the entire agreement between the parties, and the Investment Manager shall not be bound by any representation, agreement, stipulations or promise, written or otherwise, not contained in this Agreement or incorporated herein by reference, except pertinent laws, circulars or regulations approved by the Government or its agencies. No amendment, novation, modification or supplement of this Agreement shall be valid or binding unless in writing and signed by the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date and at the place first above set forth.

______________________________	______________________________
(PRINCIPAL)	(INVESTMENT MANAGER)
	By:

SIGNED IN THE PRESENCE OF:

______________________________	______________________________

RISK MANAGEMENT GUIDELINES FOR DERIVATIVES
[Appendix to Sec. 4611Q (2008-4603Q)]

I. **Introduction**

This appendix, together with the Guidelines on Supervision by Risk *(Appendix Q-42)* and other BSP issuances on management of the different risks attendant to FI activities, provides a framework on which an FI can establish its risk management activities. Accordingly, this set of risk management guidelines for derivatives should be read and used in conjunction with all related BSP issuances on risk management.

An FI, in using these guidelines to evaluate the propriety and adequacy of its risk management, must consider the following principles:

a. No single risk management system for derivatives is expected to work for all FIs considering that the structure and level of derivatives activities will vary from one FI to another. Each FI should apply the principles set in these guidelines in a manner appropriate to its needs and circumstances. The BSP shall evaluate the quality of an FI's risk management system based on the principles and minimum requirements of these guidelines, scaled to the derivatives activities being undertaken.

b. The requirements prescribed in these guidelines are merely minimum standards and therefore, should not be taken as the "be-all" for all FI's risk management. The Board of Directors ("BOD") has the responsibility of ensuring that an FI's risk management system appropriately captures its risk exposures and affords proper management of these.

II. **Risks associated with derivatives**

While derivatives primarily help manage existing and anticipated risks, derivatives themselves are exposed to the risks they are designed to manage. Moreover, simple derivatives, when combined with other financial instruments, may result in a structure that exposes an FI to complicated risks. Thus, derivatives can aggravate the risks of FIs and of counterparties if derivatives are not clearly understood and properly managed.

A single derivatives product may expose an FI to multiple risks as enumerated under Section III of *Appendix Q-42*. These categories are not mutually exclusive of each other. Hence, derivatives activities must be managed with consideration of all of these risks.

III. **Risk management process for derivatives**

The management of derivatives activities should be integrated into an FI's overall risk management system using a conceptual framework common to the FI's other businesses. For example, price risk exposure arising from derivatives transactions should be assessed in a manner comparable to and aggregated with all other price risk exposures. Risk consolidation is particularly important because the various risks contained in derivatives and other market activities can be interconnected and may transcend specific markets.

At a minimum, the risk management process for derivatives should be able to:

a. **Identify** the risks arising from its derivatives activities in whatever capacity it deals with the same. An FI must likewise identify the impact of its derivatives activities on its overall risk profile. To properly identify risks, an FI must understand the derivatives products with which it is transacting and the factors that affect them.

Considering that changes in the value of derivatives are highly influenced by changes in market factors, risk identification should be a continuing process and should occur at both a transaction and portfolio level.

b. **Measure** the risks arising from its derivatives activities. An FI must have measurement models or tools to quantify the risks identified. These measurement tools should be suitable to the nature and volume of an FI's derivatives activities. As the complexity and volume of the derivatives activity increases, the measurement tools should correspondingly be more sophisticated. The primary criteria for the propriety of the measurement tools are accuracy, timeliness, efficiency and comprehensiveness with which these tools can capture the risks involved and their contribution to the decision-making process of FI management.

c. **Monitor** the risks arising from its derivatives activities. Derivatives products are very sensitive to market factors, which continually change. Thus, an FI should have a mechanism to monitor the responsiveness of derivatives to market factors to enable it to review and assess its risk positions. In order to effectively monitor the risks, reports must be timely generated in order to aid management in determining whether there is need to adjust the FI's derivatives positions.

d. **Control** the risks arising from its derivatives activities. An FI must establish limits to its derivatives exposure. These limits should be comprehensive and aligned with an FI's overall risk tolerance. An FI's policies and procedures on control should provide for contingencies when limits are breached. An FI must allot lead time and have a mechanism that enables management to act in time to control unacceptable or undesired exposures. An FI must also establish a system that separates functions susceptible to conflicts of interest.

IV. **Sound risk management practices for derivatives**

Consistent with the criteria for sound risk management practices in Section V of *Appendices Q-43 and Q-44*, the BSP shall assess the propriety and adequacy of an FI's risk management system for its derivatives activities in accordance with the following basic principles.

a. Active and appropriate board and senior management oversight

An FI's BOD must set the general policy or the policy direction relating to the management of an FI's risks, including those arising from its derivatives activities. This policy should be consistent with the FI's business strategies, capital strength, management expertise and risk profile. Accordingly, the BOD must understand the nature and purpose of the FI's derivatives activities and the role derivatives play in the FI's overall business strategy. Passive BOD approval is not acceptable. There must be verifiable evidence of the BOD approval processes and that senior management exerted effort to explain the nature and purpose of the derivatives activities to the BOD (e.g. minutes of BOD meetings documenting presentations and reports to the BOD and the approval processes).

The BOD must review and pre-approve new derivatives products as well as significant related policies and procedures. Central to the approval of new products is defining when a product or activity is new in order to ensure that variations on existing products receive the proper review and authorization. Policies should also detail authorized activities (e.g., at what stages approvals should be obtained, from whom approvals should be obtained), those that require on-time approval and those that are considered inappropriate.

The BOD must be apprised of the FI's derivatives exposures on a timely basis in order to enable the BOD to act on such exposures accordingly. Consequently, there should be an established reporting methodology to ensure that the BOD receives, on a continuing basis, detailed information regarding the FI's risk exposures from derivatives, including the impact to the FI's overall risk profile, earnings and capital. These reports should include both normal and stress scenarios.

Pursuant to the general policy or policy direction on risk management set by the BOD, senior management must adopt adequate policies and procedures for conducting the FI's derivatives activities on both a long-range and day-to-day basis. Policies should clearly delineate responsibility for managing risk, and provide effective internal controls and a comprehensive risk-reporting process. Policies must also keep pace with the changing nature of derivatives products and markets and therefore must be reviewed on an on-going basis. Senior management should ensure that the various components of an FI's risk management process are regularly reviewed and evaluated. Internal evaluations may be supplemented by external auditors or other qualified outside parties.

The quality of oversight provided by the BOD and senior management to an FI's derivatives activities will be reflected in the overall risk management process, the adequacy of resources (financial, technical expertise, and systems technology) devoted to handle derivatives activities and its use of the monitoring reports. The BOD and senior management shall be responsible for ensuring that FI personnel comply with prescribed risk management standards and sales and marketing guidelines.

b. Adequate risk management policies and procedures

An FI must establish policies and procedures to guide its personnel in conducting derivatives activities. These risk management policies must be reflective of an FI's current strategy and practice.

An FI should not issue policies and procedures for derivatives in isolation. All aspects of the risk management process for derivatives activities should be integrated into the FI's over-all risk management system to the fullest extent possible using a conceptual framework common to the FI's other activities. Risk management policies should be comprehensive, covering all activities of the FI. The BSP will evaluate the degree to which controls covering derivatives activities have been integrated in other issuances of the FI covering aggregate risk-taking activities.

For FIs that conduct derivatives transactions with subsidiaries and affiliates, there should be policies and procedures that describe the nature, pricing, monitoring, and reporting of acceptable related-party transactions.

All risk management policies and procedures must be written, well-communicated to all personnel involved in the derivatives activities and readily available in user-friendly form, whether the same is a hard or soft copy thereof. An FI must also put up systems and procedures to ensure an audit trail evidencing the dissemination process for new and amended policies and procedures.

At a minimum, an FI is expected to have:

(1) Comprehensive, updated and relevant risk policy manual(s);

(2) Operations manual(s) or similar documents that describe the flow of transactions among and between the relevant units and personnel in an FI's treasury (front office, back office and accounting) and risk management unit;

(3) Approved product manual(s) that includes product definition, benefits and risks, pricing mechanisms, risk management processes, capital allocation guidelines, tax implications and other operating procedures and controls for the FI's derivatives activities.

c. Appropriate risk measurement methodologies, limits structure, monitoring and management information system

The process of measuring, monitoring and controlling risk should be carried out independently from individuals conducting derivatives activities. An independent system of reporting exposures to both senior level management and to the BOD is critical to the effectiveness of the process.

(1) Measurement methodologies

An FI must be able not only to accurately quantify the multiple risk exposures arising from its derivatives activities but also aggregate similar risks across the different activities of the FI to the fullest extent possible. An FI must develop a risk measurement model appropriate to its portfolio. Accordingly, an FI must evaluate the assumptions used, computational requirements, procedures for computing the risk metric, sourcing of inputs used in the measurement process, including the theoretical reasons for a particular input choice, and how these concepts apply to the FI's portfolio.

The risk measurement system should be structured to enable management to initiate prompt remedial action, facilitate stress-testing, and assess the potential impact of various changes in market factors on earnings and capital. A risk measurement system is considered sound if it is capable of comprehensively capturing risks from: (a) the FI's on and off-balance sheet exposure; (b) all relevant market factors; and (c) normal circumstances and stress events. Sound risk measurement practice includes identifying possible events or changes in market behavior that could have unfavorable effects on the FI and assessing the ability of the FI to withstand these events or changes. The stress testing should include not only quantitative exercises that compute potential gains or losses but also qualitative analyses of actions that management might take under particular scenarios.

An FI's risk measurement system should provide appropriate pricing and valuation procedures to ensure best execution for both proprietary trading and those undertaken for clients and a mark-to-market/model (MTM) methodology for derivatives instruments that follows established MTM regulations and Philippine Accounting Standards (PAS 39).

New measurement models, whether developed internally or purchased from vendors, should be subject to an initial validation before it is used. Internally developed models require more intensive evaluation where they have not been market-tested by external parties. The validation process should consist of a review of the logic, mathematical or statistical theories, assumptions, internal processes and overall reliability of an FI's measurement models, including the compatibility of the measurement model with the FI's technology and systems. The validation must be undertaken by a technical expert independent from the unit that developed the model. For example, pricing systems developed by a trader is required to be independently validated by a corresponding technical expert from the FI's risk management unit. If no such personnel from the risk management unit exists, an independent validation may be performed by internal audit provided that internal audit has the necessary expertise. An FI may also avail of the services of an independent outside expert. Thereafter, the frequency and extent to which models are validated depends on changes that affect pricing, risk presentation or the existing control environment. Changes in market conditions that affect pricing and risk conventions, which model performance, should trigger additional validation review.

Risk management policies should clearly address the scope of the validation process, the frequency of validations, documentation requirements, and management responses. At a minimum, policies should require the evaluation of significant underlying algorithms and assumptions before the model is put in regular use, and as market conditions warrant thereafter. Such internal evaluation should be conducted by parties who, where practicable, are independent of the business sector using or developing the model. The evaluation may, if necessary, be conducted or supplemented with reviews by qualified outside parties, such as experts in highly technical models and risk management techniques.

(2) Limits structure

An FI must specify individual limits for all types of risks involved in an FI's derivatives activities. An FI should use a variety of limits to adequately capture the range of risks or to address risks that the measurement system does not capture. These limits should be integrated into the FI-wide limit structure to ensure consistency with the BOD-approved risk appetite and business strategy.

The limit structure should be realistic taking into consideration the target budget, level of earnings and capital. Limits must be documented and promptly communicated to all relevant personnel. Limits must be reviewed at least annually or more frequently, if circumstances warrant, in order to ensure that limits reflect the FI's past performance and current position.

Limits should be continually analyzed as regards its impact on target income, earnings and capital. These analyses should be submitted/reported to the BOD. Any excess over the limit must be approved only by authorized personnel and immediately reported to senior management and depending on the seriousness, also to the BOD. The seriousness of limit exceptions depends upon management's approach towards setting limits and on the actual size of individual and organizational limits relative to the FI's capacity to take risks. An FI with relatively conservative limits may encounter more exceptions to those limits than that with less restrictive limits. There must also be mechanisms for the correction of breach of these limits.

An FI's limit structure should address the following:

(a) Definition of a credit exposure;

(b) Maximum credit exposure to an individual counterparty;

(c) Credit concentrations;

(d) Maximum nominal exposure:

(i) Per trader and per transaction; and

(ii) Position limits

(e) Approved credit risk mitigation techniques; and

(f) Appropriate loss exposure triggers:

(i) Loss alert;

(ii) Stop loss;

(iii) Value-at-risk; and

(iv) Earnings-at-risk

(3) Monitoring

Monitoring of risk exposures, market conditions, and trading positions should be done at least daily. Derivatives instruments are highly influenced by movements in market factors. Thus, an FI must have a mechanism that can track and analyze the effect of market movements on its derivatives exposures. To ensure proper monitoring of risks, an FI is expected to have technology and systems that can (a) track movements in reference variables (underlying) and other market factors affecting the value of the derivatives instruments, such as trigger events; and (b) incorporate observed market movements into the pricing and valuation of derivatives instruments.

While monitoring is undertaken independently from the personnel conducting derivatives activities, FI traders are expected to actively monitor their positions to ensure that they do not breach their limits. FI traders should not wait until a limit is breached to alert senior management and risk control units. Instead, traders should promptly report unanticipated changes and progressively deteriorating positions, as well as other significant issues arising from their positions, to the risk control function and responsible management.

(4) Management information system

An FI must institute an information system that generates accurate and incisive reports to ensure that management and the BOD are timely and regularly apprised of the FI's derivatives exposures. An FI is expected to have policies and procedures pertaining to the derivatives reporting specifying, among others, the types of derivatives reports to be generated, the purpose and contents thereof, responsible units that will generate the reports, frequency and deadlines of reports, recipients/users of reports, and the type of action expected from the users of the report. At a minimum, management reports should contain the following: outstanding derivatives positions, compliance with or status of positions as against limits, analysis of derivatives positions, along with other FI exposures, in relation to the impact to earnings and capital, monitoring of trigger events, and deviations from established policies and procedures and justifications thereof.

The management information system must be able to translate the measured risks from derivatives activities from a technical and quantitative format to one that can easily be read and understood by senior managers and directors, who may not have specialized and technical knowledge of derivatives products. Such a system enables management and the BOD to judge the changing nature of the FI's risk exposures. The electronic data processing capability must be commensurate to the volume and complexity of the FI's derivatives activities to facilitate the generation of needed reports.

The frequency and content of BOD and management reporting will ultimately depend upon the nature and significance of derivatives activities. Where applicable, BOD and management reports should consolidate information across functions and divisions. BOD and management reporting should be tailored to the intended audience, providing summary information to senior management and the BOD and more detailed information to FI traders.

Management reports should be generated by control departments independent of the risk-takers. When risk-takers provide information (e.g., valuations or volatilities on thinly traded derivatives contracts) for management reports, senior management should be informed of possible weaknesses in the data, and these positions should be audited frequently.

d. Comprehensive internal controls and independents audits.

A sound system of internal controls promotes effective and efficient operations, reliable financial and regulatory reporting, and compliance with relevant laws, regulations and policies of the FI. In determining whether an FI's internal controls meet these objectives, the BSP will consider the overall control environment of the FI, particularly, the process of identifying, measuring, analyzing and managing risk, the adequacy of management information systems, and degree of adherence to control activities such as approvals, confirmations and reconciliations. Control of the reconciliation process is particularly important where there are differences in the valuation methodologies or systems used by the front and back offices.

(1) Risk control

An FI should have an independent risk control unit responsible for the design and implementation of the FI's risk management system. A strong risk control function is a key element in fulfilling the oversight responsibilities of BOD members and senior managers. This unit must be independent from business trading units and should report directly to the BOD. The role and structure of risk control function should be commensurate to the nature, complexity and extent of an FI's derivatives activities.

A risk control unit should regularly evaluate risk-taking activities by assessing risk levels and the adequacy of risk management processes. It should also monitor the development and implementation of control policies and risk measurement systems. It should analyze daily reports produced by the FI's risk measurement model, including an evaluation of the relationship between measures of risk exposure and trading limits. Risk control personnel staff should periodically communicate their observations to senior management and the BOD.

An FI's control structure shall be considered sound if all the following elements are present:

(a) Formal approval process for new products

An FI should have an effective process to evaluate and review risks involved in products that are either new to the FI or new to the market and of potential interest to the FI. An FI that desires to engage in new products and transactions must first subject these products and transactions to a rigorous review and approval process. This will ensure that all FI personnel involved in the activity have sufficient knowledge of the product or transaction, and that the ensuing risk exposures can be identified, measured and analyzed. The process must be contained in a BOD-approved policy that is fully documented and must be implemented consistently and with integrity.

Before initiating a new derivatives activity, all relevant personnel should understand the product. Risks arising from the new product should be integrated into the FI's risk measurement and control systems. The new product approval process should include a sign-off by all relevant areas such as risk control, operations, accounting, legal, audit, and senior management and trading operations.

Defining a product or activity as "new" is central to ensuring that variations on existing products receive the proper review and authorization. Factors that should be considered in classifying a product/activity as "new" include: capacity changes (e.g., end-user to dealer), structure variations (e.g., non-amortizing swap versus amortizing interest rate swap), products which require a new pricing methodology, legal or regulatory considerations, or market characteristics (e.g., foreign exchange forwards in major currencies as opposed to emerging market currencies).

An FI should introduce new products in a manner that adequately limits potential losses and permits the testing of internal systems.

(b) Segregation of functions/units subject to conflict of interest

An FI must separate the business unit conducting the derivatives activities from the unit/s tasked with the checking, accounting, reporting and control functions of its derivatives activities.

An FI should have policies and procedures addressing conflicts of interest, particularly among the following functions: proprietary trading, sales or marketing desks/units, personal trading, and asset management.

An FI that conducts derivatives activities with its subsidiaries and/or affiliates must establish policies and procedures to avoid actual, or even the appearance of a conflict of interest. Off-market rates between related parties should generally be forbidden.

An FI should avoid dealing in transactions conducted at off-market rates. An FI should have internal policies defining what constitutes "market rates" and identify the range of deviation from the benchmark rates which could still be considered as "market rates". The FI's monitoring system should be able to alert management of any breaches in the rate tolerance levels and the appropriate action that should be taken. An FI must be able to justify any off-market transaction.

(c) Competent and adequate personnel who are properly supervised

The increased complexity of derivatives activities requires highly skilled staff particularly in the risk-taking, risk control, and operational functions. Management should regularly review the knowledge, skills and number of people needed to engage in the FI's derivatives activities. The staff must be appropriately balanced among the different areas involved in derivatives activities such that no area is understaffed in terms of number or skill.

Staff turnover can create serious problems, especially if knowledge is concentrated in a few individuals. The impact of staff turnover can be particularly acute in specialized trading markets where FI traders are in high demand and are often recruited in teams.

To mitigate business continuity and succession risk arising from a high staff turnover, an FI should devise a system of building technical expertise across involved personnel through continuous technical training, periodic rotation and cross-training of staff members performing key functions and developing understudies.

The BOD should ensure that the power and control delegated to these expert personnel are not abused. Therefore, the BOD must establish appropriate controls over their activities.

(d) Independent control functions or units

The risk control and audit units should possess the authority, independence, and corporate stature to enable them to identify and report their findings, unimpeded by FI traders. It is equally important to employ individuals with sufficient experience and technical expertise to be credible to the business line they monitor and senior executives to whom they report.

(2) Audit

Audit should be conducted by qualified professionals who are independent of the business line being audited. Audits should supplement, and not be substitute for risk control function.

The scope of audit coverage should be commensurate with the level of risk and volume of derivatives activity. The audit should include an appraisal of the effectiveness and independence of the FI's risk management process; the adequacy of operations, compliance, accounting and reporting systems; propriety of risk measurement models; and the effectiveness of internal controls. Auditors should test compliance with the FI's policies, including limits.

The level of auditor expertise should be consistent with the level and complexity of activities and degree of risk assumed. An FI may choose to outsource audit coverage to ensure that the professionals performing the work possess sufficient knowledge and experience.

Procedures should be in place to ensure that auditors are informed of significant changes in product lines, risk management methods, risk limits, operating systems, and internal controls so that the auditors can update their scope and procedures accordingly. Auditors should periodically review and analyze performance and risk management reports to ensure that areas showing significant changes are given appropriate attention.

The audit function must have the support of management and the BOD in order to be effective. Management should respond promptly to audit findings by investigating identified system and internal control weaknesses and implementing corrective action. Thereafter, management should periodically monitor newly implemented systems and controls to ensure they are working appropriately. The BOD, or designated committee, should receive reports tracking management's actions to address identified deficiencies.

(As amended by Circular No. 668 dated 02 October 2009)

SALES AND MARKETING GUIDELINES FOR DERIVATIVES
(Appendix to Subsec. 4661Q)

(Deleted by Circular No. 891 dated 09 November 2015)

SAMPLE RISK DISCLOSURE STATEMENT FOR DERIVATIVES ACTIVITIES
(Appendix to Subsec. 4661Q)

(Deleted by Circular No. 891 dated 09 November 2015)

ACCOUNTING GUIDELINES FOR DERIVATIVES
(Appendix to Subsec. 4603Q.5)

(Incorporated in Subsec. 4603Q.5)

SECURITIES AND EXCHANGE COMMISSION BASIC RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF PRESIDENTIAL DECREE NO. 129, OTHERWISE KNOWN AS "THE INVESTMENT HOUSES LAW"

[Appendix to Secs. 4903Q and 4106Q (2008 - 4604Q and 4656Q)]

To effectively carry out the provisions of Presidential Decree (P.D.) No. 129, otherwise known as "The Investment Houses Law", the Commission, pursuant to the powers vested in it by said Decree, and by R.A. Nos. 1143 and 5050, hereby promulgates the following rules and regulations for the information and guidance of the public:

Section 1. Scope of Applicability. These rules and regulations shall apply to any enterprise which engages or purports to engage in the underwriting of securities.

Sec. 2. Definitions. The following terms as used in P.D. No. 129 and these rules shall be understood to mean as follows:

a) *Investment House* (IH) is any 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.

b) *Underwriting of securities* is the act or process of guaranteeing the distribution and sale within the Philippines of securities issued by another person or enterprise, including securities of the Government or its instrumentalities. The distribution and sale may be on a public or private placement basis.

c) *Securities* are written evidences of ownership, interest or participation, in any enterprise, or written evidences of indebtedness of a person or enterprise. It includes, but is not limited to, the instruments enumerated in Section 2 of the Securities Act.

d) *Guarantee* is any commitment and/or undertaking made by a person, firm or entity to an issuer or holder of securities to raise funds for said issuer or holder, by the distribution of such securities for sale, resale, or subscription, either through an outright purchase or through a corresponding commitment to purchase the balance not subscribed or sold.

e) *Private placement* refers to the underwritten sale of securities to less than 20 persons or enterprises.

f) *Public distribution* refers to the underwritten sale of securities to at least 20 persons or enterprises.

g) *Voting stock* is that portion of the authorized capital stock of an IH, as are subscribed and entitled to vote.

h) *Paid-in capital* are all payments on subscriptions to the authorized capital of an IH, including premiums paid in excess of par.

i) *Officer* shall be understood to mean a senior officer of an IH or bank, which includes the president, executive vice-president, general manager, vice-president, assistant vice-president, corporate secretary, head of an operating department and branch manager and such other officers as the Commission, in consultation with the BSP, shall determine.

j) *Organizers* are persons who undertake to form an IH, among themselves and others, and who are indicated in the articles of incorporation as the incorporators and the incorporating directors.

k) *Managerial staff* are the officers of an IH. Where an IH is under a management contract the terms shall be understood to include the officers of the management firm.

l) *Unimpaired capital and surplus* means the total of the unimpaired paid-in capital, surplus, and undivided profits net of such valuation reserves as may be required by the Commission provided that the Commission may include such other items as it may deem appropriate.

m) *Quasi-banking functions* shall refer to the functions defined as such by law and appropriate implementing rules and regulations.

n) *Commission* shall mean the Securities and Exchange Commission.

Sec. 3. Organization and Registration

A. *Investment Houses* shall be organized in the form of stock corporations in accordance with the provisions of the Corporation Law, subject to the following requirements:

1) At least a majority of the voting stock of the corporation shall be owned by citizens of the Philippines. In determining the percentage of foreign-owned voting stocks in an IH, the basis of the computation shall be the citizenship of each stockholder, and, with respect to corporate owners of voting stock, the citizenship of the individual owners of voting stock in the corporation holding shares in the IH;

2) The majority of the members of the Board shall be citizens of the Philippines;

3) Foreign equity participation shall be registered or reported with the Board of Investment in accordance with the rules and regulations of that Office, prior to or simultaneous with the registration with the Commission;

4) The corporation shall have a minimum initial paid-in capital of ₱20.0 million at the time of incorporation;

5) Resident foreign directors or technicians of an IH, if any, shall register with the Bureau of Immigration and Deportation;

6) In no event shall an officer of an IH be at the same time an officer of a bank, as defined in Section 3 of R.A. No. 337, as amended;

7) No director or officer of an IH shall at the same time be a director of a bank, and no director of an IH shall at the same time be an officer of a bank, except as may be authorized as an exception by the Monetary Board of the BSP.

B. *Procedure* - The organizers shall file with the Commission, a sworn application for registration in accordance with the prescribed form, together with the following documents:

(1) All documents required for registration as a stock corporation;

(2) An information sheet of the registrant corporation; [SEC Form 129-2]

(3) A statement under oath by the organizers and the proposed managerial staff, of their educational background and work experience, as well as information on any position currently held by them in banking and other FIs, if any (SEC Form 129-3);

(4) A one-year projected statement of assets and liabilities of the proposed IH;

(5) A tentative program of operation for one year, including its investment direction and volume, its expected sources and intended uses of funds and its quasi-banking functions, if any.

C. *Hearing on Application* - The Commission shall conduct a hearing to determine whether the establishment of the proposed IH will promote public interest and economic growth. The BSP shall be officially notified.The SEC Commissioner shall not register any articles of incorporation unless his Office shall have consulted the BSP and is satisfied on the basis of the evidence submitted that:

(1) All the requirements of P.D. No. 129 and of existing laws relative to the organization of an IH have been complied with;

(2) Public interest and economic growth are promoted;

(3) The amount of capital, the proposed organization, direction and

administration, as well as the integrity, experience and expertise of the organizers and the proposed managerial staff, provide reasonable assurance that the enterprise will be conducted with financial prudence.

D. *Issuance of Certificate of Incorporation* - Upon compliance with all the requirements of law and implementing rules, and the Commission is satisfied that the formation of the IH will promote public interest and economic growth, a Certificate of Incorporation will be issued to it. A license to operate shall also be granted after it shall have adopted its by-laws, elected its directors and appointed its officers.

E. *Annual Fees* - On or before the fifteenth day of January of each year, and for as long as its license to operate remains in effect, each IH shall pay a fee of ₱200. At the time of payment, the Commission may require the licensee to appear and inform the Commission of the results of its operations.

F. *Branch Operations* - No IH shall open, maintain or operate a branch or agency without first securing from the Commission a license to operate a branch in a particular locality. All applications for a license to operate a branch shall be acted upon by the Commission within ninety (90) days after submission of such documents as may be required by the Commission in support of such application.

G. *Use of the Term "Investment House"* - No person, association, partnership or corporation other than those duly licensed as an IH in accordance with these rules and regulations, shall advertise or hold itself out as being engaged in the business of an IH.

Sec. 4. Underwriting Requirements Underwriting agreements entered into by an IH, with respect to public distribution of securities, including the fees to be charged in connection therewith, shall be subject to the approval of the Commission, it being understood that no public distribution of securities shall be made without such approval. The Commission may impose such terms and conditions as may be necessary in the public interest and for the protection of investors; and it may require the submission of such documents as may be necessary to ascertain compliance with such standards of operation as it may establish. Transactions which constitute quasi-banking functions shall be subject to BSP regulation.

As a gesture of faith in the issue, an IH may take for its own account a portion of the securities it underwrites but shall sell such securities to the public.

Sec. 5. Management of Funds. The Commission, by circular, shall provide limitations on investments of discretionary accounts under the management of an IH.

Should the IH engage in the management of funds, it must at all times adhere to the prudent man's rule. The IH shall ensure that the interest of the funds managed is promoted and that the operation of the funds is undertaken on an arms' length basis.

The Commission may require such documents and reports as may be necessary, in order to determine if prudence and safety of the principal have been paramount in the decision of the IH.

Sec. 6. Underwriting Fees. Except in highly meritorious cases, as approved by the Commission, an IH shall not collect underwriting fees in excess of five percent (5%) of the amount generated by the underwriter for the issuer.

Sec. 7. Contingency Reserves. An IH shall provide annually a reserve for contingencies in such reasonable amount as may be required by the Commission.

Sec. 8. Prohibitions

(1) No IH shall undertake underwriting commitments for its own account in an aggregate outstanding amount exceeding twenty (20) times its unimpaired capital and surplus.

(2) An IH shall not at any time allow its unimpaired capital and surplus to fall below ₱20.0 million; otherwise, it shall be prohibited from underwriting securities for so long as such deficiency remains.

(3) Whenever an IH is engaged in the management of funds, its officers and other personnel directly involved in the management of funds are prohibited from simultaneously or concurrently buying or selling the shares of stock of the same firm that the funds are buying or selling.

(4) No advance to directors, officers and stockholders owning at least 10% of the outstanding capital of an IH shall be allowed, unless sufficiently collateralized.

Sec. 9. Reporting Requirements. Every registered IH shall file with the Commission the following periodic reports in triplicate:

A. *Progress Reports* - a quarterly report of the results of its underwriting operations and activities of funds managed on all commitments entered into in such form as may be provided for the purpose, within fifteen (15) days from the end of each quarter.

B. *Semi-Annual Financial Statement* signed under oath by its chief accountant and verified by the president, within a period of sixty (60) days after the end of each semester containing such data, and in such form as the Commission shall require. A copy shall be filed with the BSP.

C. *Annual Report* concerning its operational activities for the year just ended, signed by its president (SEC Form 129-1) within the month of March of each year. A copy shall be filed with the BSP.

D. A *Report* on the composition of the board of directors or any resignation, dismissal, suspension, or filling of vacancies therein, or of any officers or managerial staff, signed under oath by the secretary, within fifteen (15) days after occurrence of the event.

Every registered IH shall maintain and preserve such records and documents as the Commission may prescribe by way of circulars. Such circulars shall provide for a reasonable degree of uniformity in accounting policies and principles to be followed by IHs in maintaining their accounting records and in preparing statements as required by these rules.

Sec. 10. Transitory Provisions

A. All existing enterprises which have been operating as Investment Houses, prior to 15 February 1973, shall:

(1) Within six (6) months from 15 February 1973 file an information sheet with the Commission in such form and containing such data as may be required, pay the required fee under Sec. 3-E of these rules, and the Commission in consultation with the Monetary Board, after determining compliance with the requirements of P.D. No. 129 and of these Rules, shall issue a License to Operate an IH.

(2) Within one (1) Year from 15 February 1973 comply with the requirement of a minimum paid-in capital of ₱20.0 million, citizenship requirements, and the prohibition on interlocking directorate or officership.

Sec. 11. Stockbrokerage or Dealership Functions. If an IH engages in the business of a stockbroker or dealer pursuant to P.D. No. 129, it shall comply with the provisions of C.A. No. 83, otherwise known as the Securities Act, and the rules and regulations of the Commission promulgated pursuant thereto: *Provided, however*, that an IHe need not obtain a separate license under Section 14 of the Securities Act.

Sec. 12. Bangko Sentral Rules. IHs shall also be subject to the rules and regulations promulgated by the BSP for non-bank financial intermediaries as provided by law.

Sec. 13. Visitorial Power. The Commission may, at its discretion, make such investigations as it deems necessary to determine whether or not an IH is complying with any of the provisions of P.D. No. 129 or of any applicable laws, rules and regulations. It shall determine all the facts and circumstances concerning the matter to be investigated for the imposition of sanctions/penalties or remedial or preventive measures.

Sec. 14. General Exemption Power The Commission may, upon proper petition and payment of a fee of ₱100, grant an exemption from compliance with any requirements of these rules as may be consistent with public interest and the protection of investors.

Sec. 15. Penalties. Any violation of P.D. No. 129 or of these rules and regulations, shall be penalized by suspension or revocation of the License to Operate, after proper notice and hearing. In appropriate cases, a fine not exceeding ₱200 per day for every day during which such violation continues, shall be imposed upon the IH and the officer or director who ordered or authorized the violation, without prejudice to the criminal liabilities provided in the second paragraph of Section 16 of P. D. No. 129.

In the exercise of its regulatory powers under Section 12 of P.D. No. 129, the Monetary Board may issue a cease-and-desist order upon an IH which is not complying with BSP rules and regulations pertaining to non-bank financial intermediaries or, in appropriate cases, rules governing quasi-banking functions of IHs. Failure to comply with the cease-and-desist order shall subject an IH to a fine to be imposed by the Monetary Board.

Sec. 16. Effectivity. These rules shall take effect immediately. They shall be published in a newspaper of general circulation in the Philippines and in the Official Gazette.

Manila, Philippines, 09 July 1973.

(SGD.) ARCADIO E. YABYABIN
Securities and Exchange Commissioner

APPROVED:

(SGD.) TROADIO T. QUIAZON, JR.
Acting Secretary of Trade

Date: 13 July 1973

Republic of the Philippines
Department of Finance
SECURITIES AND EXCHANGE COMMISSION
SEC Building, EDSA, Greenhills
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NEW RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF REPUBLIC ACT (R.A.) NO. 5980 (THE FINANCING COMPANY ACT), AS AMENDED

[Appendix to Sec. 4106Q (2008 - 4656Q)]

To effectively carry out the provisions of R.A. No. 5980 (The Financing Company Act), as amended, the Securities and Exchange Commission, pursuant to the powers vested in it under said Act, R.A. No. 1143 and Presidential Decree No. 902-A, as amended, hereby promulgates the following rules and regulations:

Section 1. Definition of Terms. The following definition of terms shall apply for purposes of these Rules:

a. FINANCING COMPANIES are corporations or partnerships, except those supervised by the Central Bank of the Philippines, Office of the Insurance Commissioner and the Bureau of Cooperatives Development, which are primarily organized for the purpose of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises: by discounting or factoring commercial papers or accounts receivable; by buying and selling contracts, leases, chattel mortgages, or other evidences of indebtedness; or by leasing of motor vehicles, heavy equipment and industrial machinery, business and office machines and equipment, appliances and other movable property.

b. PRIMARILY ORGANIZED shall mean organized for the primary purpose of operating as a financing company and that more than 50% of its funds shall be used or invested in financing company activities, *Provided, That* in the computation thereof direct loans and temporary investments in government securities shall be taken into account.

c. FUNDS as used herein shall mean total assets inclusive of allowance for doubtful accounts and deferred income less investment in real estate, shares of stock in a real estate development corporation and real estate based projects which shall not exceed 25% of networth of the investing company, leasehold rights and improvements, fixed assets inclusive of appraisal surplus, foreclosed properties and prepayments.

d. COMMISSION shall mean the Securities and Exchange Commission.

e. CREDIT shall mean any loan, mortgage, deed of trust, advance or discount, any conditional sales contract, any contract to sell, or sale or contract of sale of property or service, 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, any rental-purchase contract, any option, demand, lien, pledge, or other claim against, or for the delivery of, property or money, any purchase, or other acquisition of or any credit upon the security of any obligation or claim arising out of the foregoing; and any transactions having a similar purpose or effect.

f. PURCHASE DISCOUNT is the difference between the value of the receivables purchased or credit assigned, and the net amount paid by the finance company for such purchase or assignment, exclusive of fees, service charges, interest and other charges incident to the extension of credit.

g. RECEIVABLES FINANCING is a mode of extending credit through the purchase by, or assignment to, a financing company of evidences of indebtedness or open accounts by the discounting or factoring.

h. DISCOUNTING is a type of receivables financing whereby evidences of indebtedness of a third party, such as installments contracts, promissory notes, and similar instruments, are purchased by, or assigned to, a financing company in an amount or for a consideration less than their face value.

i. FACTORING is a type of receivables financing whereby open accounts, not evidenced by a written promise to pay supported by documents such as but not limited to invoices of manufacturers and suppliers, delivery receipts and similar documents, are purchased by, or assigned to, a financing company in an amount or for a consideration less than the outstanding balance of the open accounts.

j. LEASING shall refer to the financial leasing which is a mode of extending credit through a non-cancellable contract under which the lessor purchases or acquires at the instance of the lessee heavy equipment, motor vehicles, industrial machinery, appliances, business and office machines, and other movable property in consideration of the periodic payment by the lessee of a fixed amount of money sufficient to amortize at least 70% of the purchase price or acquisition cost, including any incidental expenses and a margin of profit, over the lease period. The contract shall extend over an obligatory period during which the lessee has the right to hold and use the leased property and shall bear the cost of repairs, maintenance, insurance and preservation thereof, but with no obligation or option to the part of the lessee to purchase the leased property at the end of the lease contract.

k. PAID-UP CAPITAL refers to the amount paid for the subscription of stock in a corporation including the amount paid in excess of par value, while CAPITAL CONTRIBUTION refers to the total contributions of the partners in a partnership.

l. NETWORTH is the excess of assets over liabilities, net of appraisal surplus, and booked valuation reserves, capital adjustments, overstatement of assets and unrecorded liabilities.

Sec. 2. Form of Organization. Financing companies shall be organized in the form of: stock corporations in accordance with the provisions of the Corporation Code of the Philippines (Batas Pambansa Blg. 68) or general partnerships pursuant to the provisions of the New Civil Code of the Philippines and subject to the following:

a. At least sixty percentum (60%) of the outstanding capital stock of the corporation, and in case of a partnership, at least sixty percentum (60%) of the total capital contributions of the partners, shall be owned by citizens of the Philippines.

b. A minimum paid-up capital, in case of corporations, and capital contribution in case of partnerships, that shall maintain their principal offices in the areas hereunder specified, shall be made in cash or in property of at least:

1) ₱10,000,000	-	Metro Manila Area
2) 5,000,000	-	First Class Cities outside Metro Manila
3) 2,500,000	-	Second Class Cities and First Class Municipalities

4) 1,000,000 - Third Class Cities and Second Class Municipalities

5) 500,000 - Fourth Class Cities, Third Class Municipalities and below

In case the area where the principal office of a financing company is located has been upgraded, the corresponding increase in capitalization requirement shall be undertaken within such period as the Commission shall fix.

Unless otherwise authorized by the Commission, all financing companies with a paid-up capital or capital contribution less than that mentioned above shall be given five (5) years within which to build up their capital requirement according to the following schedule:

	Metro Manila Area	1st Class Cities Out side Metro Manila	3rd Class 2nd Class Cities & 1st Class Muni-cipalities	Cities & 2nd Class Munici-palities
6-30-92	2,000,000	1,000,000	500,000	500,000
6-30-93	4,000,000	2,000,000	1,000,000	625,000
6-30-94	6,000,000	3,000,000	1,500,000	750,000
6-30-95	8,000,000	4,000,000	2,000,000	875,000
6-30-96	10,000,000	5,000,000	2,500,000	1,000,000

Any existing and/or new branch, agency, extension office or unit may operate subject to the provision of Section 5 thereof.

c. At least two-thirds of all the members of the board of directors in the case of a corporation and all the managing partners in case of a partnership shall be citizens and residents of the Philippines.

Any change in the membership in, or composition of, the board of directors, officers from the rank of VP and up or their equivalent, branch manager, cashier and administrative officer, or in the managing partners, as the case may be, shall be reported to the Commission within seven (7) working days thereafter, and the requirement prescribed under Section 3.a.4 and 7 and Section 5.a.3. and 4 hereof, shall be submitted within thirty (30) working days from date of the aforesaid change..

d. The corporate/partnership name of financing companies shall contain the term "financing company","finance company", or "finance and investment company" or other title or word(s) descriptive of its operations and activities as a financing company.

Sec. 3. Requirements for Registration

a. *Registration papers to be submitted to the Commission* - Any corporation or partnership may be registered as a financing company by filing with the Commission in five (5) copies an application to operate as a financing company under R.A. No. 5980, as amended, signed under oath by its President/Managing Partner, together with the following documents in the prescribed forms:

1) All documents required for registration as a corporation or partnership;

2) By-laws;

3) Information Sheet of registrant company;

4) Personal Information Sheet of each of the directors, officers with the rank of Vice-President and up or their equivalent or managing partners;

5) Answers to the questionnaire of the Commission;

6) Projected balance sheet, income statement and cash flow statement for three (3) years, together with a schedule of discounting, factoring, leasing and other financing activities and all related income therefrom.

7) Documents required of each director, officer to be appointed from the rank of Vice-President and up or their equivalent, or managing partner such as the following:

a) Police clearance from local police of the city or municipality of which he is a resident;

b) NBI clearance;

c) Certificate of good moral character to be executed under oath by at least two (2) reputable and disinterested persons in the community;

d) Bank credit information to be issued by his depository or creditor bank(s), if any; and

8) Such other documents as may be required by the Commission whenever it deems necessary.

b. *Publication and Posting of Notice and Order for Registration* - Upon receipt of the above registration papers of a proposed financing company, the Commission shall cause the notice and order to be published by the applicant company at its expense in a newspaper of general circulation in the Philippines once a week for two (2) consecutive weeks, and the notice shall simultaneously be posted in a public and conspicuous place where the principal office of the company will be located and in the Office of the Commission for the same period.

The notice shall state, among others, the name of the proposed financing company, the capital structure in case of a corporation or the total capital contribution in case of a partnership, and the names and residences of its directors or managing partners.

c. *Opposition to Registration, if any* - Any interested party may oppose the registration of a financing company in writing, personally or through counsel, within fifteen (15) days after the last date of the publication of the notice. If after the hearing, the Commission finds that the requirements of R. A. No. 5980, as amended, its implementing rules and regulations and other pertinent laws have been complied with and that no valid reason exists for the disapproval of the application, the Commission shall take appropriate action on said application.

Sec. 4. Issuance of Certificate of Filing of Articles of Incorporation and By-Laws; Certificate of Authority; Conditions for Commencement of Operations

a. The Commission, in consultation with the Central Bank, shall register the articles of incorporation and by-laws or articles of partnership of, and issue the Certificate of Authority to Operate to, any proposed financing company if it is satisfied that the establishment of such company will promote public interest and convenience, and on the basis of the documents and/or evidences submitted, that;

1) All the requirements of R. A. No. 5980, as amended, other existing laws, and applicable rules and regulations to engage in the business for which the applicant is proposed to be incorporated, or organized, have been complied with;

2) The organization, direction and administration of the applicant, as well as the integrity and responsibility of the organizers and administrators, presumably assure the protection of the interest of the general public; and

3) Proof of the publication and posting of the notice and order for registration is in accordance with Sec. 3.b. hereof.

b. A corporation or partnership which has been duly registered, and granted a Certificate of Authority to Operate as a financing company in accordance with the law and these Rules, shall commence operations within ninety (90) days from date of grant of such certificate. Failure to operate within the prescribed ninety (90) days period shall subject the financing company to a fine of not less than One Thousand (₱1,000.00) Pesos unless its non-operation is reasonably justified, as determined by the Commission.

c. The financing company may be granted a grace period of another ninety

(90) days from the expiry date of the first ninety (90) days within which to commence operations notwithstanding its failure to operate as aforestated. Failure to operate within the extended period shall empower the Commission, after notice and hearing, to revoke its Certificate of Authority.

Sec. 5. Branches, Agencies, Extension Offices or Units

a. *Certificate of Authority* - No financing company shall establish or operate a branch, agency, extension office or unit without a prior certificate of authority to be issued by the Commission. The application for authority filed under this section shall be accompanied by the following documents:

1) Information Sheet of the proposed branch;

2) Answer to SEC questionnaire;

3) Police clearance of the manager, cashier, and administrative officer of the proposed branch;

4) NBI clearance of the branch manager, cashier and administrative officer of the proposed branch;

5) Copy of the proposed personnel chart; and

6) Such other documents as may be required by the Commission whenever it deems necessary.

The above application shall be published in accordance with the provisions of Sec. 3.b. of these Rules. However, the Notice and Order shall be posted in a public and conspicuous place where the aforesaid branch, agency, extension office or unit shall be established.

b. *Evaluation Guideposts* - The number of branches, agencies, extension offices or units to be established shall depend upon the capacity of the company to conduct expanded operations and/or upon the capacity of the area wherein the proposed branch, extension office, agency or unit will be established, to absorb new entities engaged in financing, as may be determined by the Commission.

c. *Additional Capital Requirement* - A financing company may be required to put up additional capital for branches, agencies, extension offices or units in an amount to be determined by the Commission.

d. *Prescribed Period to Operate* - Such branch, agency, extension office or unit shall operate within ninety (90) days from the issuance of the certificate of authority and failure to operate within such period shall subject said branch, agency, extension office or unit to a fine of not less than One Thousand (₱1,000) Pesos or revocation of the certificate of authority, after due hearing at the discretion of the Commission, unless its non-operation is reasonably justified as determined by the Commission.

e. *Term of Authority to Operate* - The certificate of authority to operate a branch, agency, extension office or unit shall be co-terminus with that of the head office.

Sec. 6. Applicability of Central Bank Regulations - Financing companies duly licensed to operate as such, their branches, agencies, extension offices or units shall also be subject to applicable Central Bank regulations.

Sec. 7. Licensing Fees - A fee of 1/10 of 1% of the minimum paid-up capital or capital contribution required under Section 2.b. shall be charged for the issuance of the Certificate of Authority to Operate as a financing company.

A fee of one-tenth of one percent (1/10 of 1%) of the additional required capital under Sec. 5.c., but in no case less than ₱250.00 shall be charged likewise for the issuance of original Certificate of Authority of each branch, agency, extension office or unit of such financing company.

Sec. 8. Loans and Investments

a. Financing companies may engage in direct lending if authorized by the secondary purposes in its articles of incorporation and in accordance with Section 42 of the Corporation Code of the Philippines (B.P. 68).

b. Unless otherwise authorized by the Commission, the total investment in real estate and in shares of stock in a real estate development corporation and other real estate based projects shall not at any time exceed twenty-five (25%) per cent of the net worth of the investing financing company.

Sec. 9. Conveyance of Evidences of Indebtedness and Financed Receivables

a. The negotiation, sale or assignment by financing companies of evidences of indebtedness shall be in accordance with the rules of the Commission on registration of commercial papers.

b. Accounts which have been factored or discounted by, the lease receivables of, and other evidences of indebtedness (not covered in Item a. above) issued or negotiated to, a financing company shall not be sold, assigned or transferred in any manner except to banks including their trust accounts, trust companies, QBs, investment houses including their trust accounts, financing companies, investment companies, NSSLAs, insurance companies, government FIs, pension and retirement funds approved by the Bureau of Internal Revenue, educational assistance funds established by the National Government; *Provided, That* the negotiation of evidence of indebtedness to pension funds or educational assistance funds shall be on a recourse basis.

Sec. 10. Other Activities

a. Financing companies not duly authorized to perform quasi-banking functions shall not act as dealers in commercial papers but may act as dealers in other securities provided they are duly licensed by the Commission as such.

b. Financing companies shall not act as dealers of certificates of time deposit.

c. Except in cases of issuances to primary institutional lenders, financing companies without quasi-banking license shall not issue instruments other than promissory notes, to cover placements with, or borrowing by, them.

Sec. 11. Purchase Discount/Fees/Service and Other Charges - The purchase discounts, fees, service and other charges of financing companies on assignments of credit, purchases of installment papers, accounts receivable or other evidences of indebtedness, factoring of accounts receivable or other evidences of indebtedness, or leasing transactions shall be in accordance with the rules prescribed by the Monetary Board, in consultation with the Commission, pursuant to the provisions of Section 5 of R.A. No. 5980, as amended by P.D. No. 1454.

Sec. 12. Networth for Operating Financing Companies - The company's networth shall be maintained at an amount not less than that required under Sections 2.b. and 5.c. hereof.

Sec. 13. Prohibitions

a. No corporation shall be allowed to include financing activities as herein defined as one of its secondary purposes.

b. No person, association, partnership or corporation shall do or hold itself out as doing business as a financing company or finance and investment company or under any other title or name tending to give the public the impression that it is a financing company unless so authorized under R. A. No. 5980, as amended.

Sec. 14. Periodic Reports - Every financing company shall file with the Commission the following quarterly reports: a) Statement of Condition and Statement of Income and Expenses, together with the schedule of aging of receivables (indicating the maturity pattern of the aforesaid receivables under due within 1 year, due over 1 year to be applicable to long term receivables only, past due accounts to subdivided further to past due accounts within 1 year, over 1 year and litigation items), payable (indicating likewise the same maturing pattern of within 1 year and over 1 year) and off-balance sheet items; *Provided, however*, That respective collateral/s (if any) for past due accounts over 1 year and litigation items shall be adequately disclosed in the aforementioned Schedules and b) list of officers, directors, and stockholders. These reports shall be signed under oath by the company's principal executive officer and principal financial officer and shall be submitted within thirty (30) calendar days after the end of each quarter. They shall, likewise, file four (4) copies of their audited financial statements within 120 days after the end of their fiscal years and such other reports as may be required by the Commission.

Sec. 15. Administrative Sanctions - If the Commission finds that there is a violation of these Rules and Regulations and their implementing circulars or any of the terms and conditions of the Certificate of Authority to operate as a financing company, or any Commission order, decision or ruling, or refuses to have its books of accounts audited, or continuously fail to comply with SEC requirements, the Commission shall, in its discretion, impose any or all of the following sanctions:

a. Suspension or revocation of the certificate of authority to operate as a financing company after proper notice and hearing;

b. A fine in accordance with the guidelines that the Commission shall issue from time to time;

c. Other sanctions within the power of the Commission and the Central Bank under existing laws.

The imposition of the foregoing administrative sanctions shall not preclude the institution of appropriate action against the officers and directors of the financing company or any person who might have participated therein, directly or indirectly, in violation of R. A. No. 5980, as amended, and these Rules and Regulations.

Sec. 16. Cease and Desist Order - The Commission may, on its own motion or upon verified complaint of any aggrieved party, issue a Cease and Desist Order *ex-parte*, if the violation(s) mentioned in the preceding sections may cause grave or irreparable injury to the public or may amount to culpable fraud or violation of these Rules and Regulations, implementing circulars, certificates of authority issued by the Commission, or of any order, decision or ruling thereof.

The issuance of such Cease and Desist Order automatically suspends the authority to operate as a financing company.

Immediately upon the issuance of an *ex-parte* Cease and Desist Order, the Commission shall notify the parties involved and schedule a hearing on whether to lift such order or to impose administrative sanctions provided for in Section 16 not later than fifteen (15) days after service of notice.

Sec. 17. Transitory Provision - Any corporation/partnership at the time of the effectivity of these Rules has been registered and licensed by the Commission to operate as a financing company, shall be considered as registered and licensed under the provisions of these Rules, subject to the terms and conditions of the license, and shall be governed by the provisions hereof; *Provided, however*, That financing companies with existing certificate of authority shall surrender the same to the Commission upon payment of the annual fee pursuant to Section 7 hereof to be replaced by new certificate of authority and, *Provided,* That where such corporation/ partnership is affected by the new provisions hereof, said corporation/ partnership shall, unless otherwise herein provided, be given a period of not more than one (1) year from the effectivity of these Rules within which to comply with the same.

Sec. 18. Effectivity - These Rules and Regulations shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation in the Philippines.

Mandaluyong, Metro Manila, Philippines
16 October 1991.

(SGD.) ROSARIO N. LOPEZ
Chairman
Securities and Exchange Commission

CLASSIFICATION, ACCOUNTING PROCEDURES, VALUATION AND SALES AND TRANSFERS OF INVESTMENTS IN DEBT SECURITIES AND MARKETABLE EQUITY SECURITIES

[Appendix to Subsec. 4388Q.5 (2008 - 4391Q.3)]

Section 1. Statement of Policy. It is the policy of the BSP to promote full transparency of the financial statements of banks and other supervised institutions in order to strengthen market discipline, encourage sound risk management practices, and stimulate the domestic capital market. Towards these ends, the BSP desires to align local financial accounting standards with international accounting standards as prescribed by the International Accounting Standards Board (IASB) to the greatest extent possible.

Sec. 2. Scope. This Appendix covers accounting for investments in debt and equity securities except:

a. those that are part of hedging relationship;

b. those that are hybrid financial instruments;

c. those financial liabilities that are held for trading;

d. those financial assets and financial liabilities which, upon initial recognition, are designated by the FIs as at fair value through profit or loss; and

e. those that are classified as loans and receivables.

It also does not include accounting for derivatives and non-derivative financial instruments other than debt and equity securities. The foregoing exceptions and exclusions shall be covered by separate regulations.

Sec. 3. Investments in Debt and Equity Securities. Depending on the intent, investments in debt and equity securities shall be classified into one (1) of four (4) categories and accounted for as follows[1]:

a. Held to Maturity (HTM) Securities - These are debt securities with fixed or determinable payments and fixed maturity that an FI has the positive intention and ability to hold to maturity other than:

(1) those that meet the definition of Securities at Fair Value Through Profit or Loss; and

(2) those that the FI designates as ASS.

An FI shall not classify any debt security as HTM if the FI has, during the current financial year or during the two (2) preceding financial years, sold or reclassified more than an insignificant amount of HTM investments before maturity (more than insignificant in relation to the total amount of HTM investments) other than sales or reclassifications that:

(a) are so close to maturity or the security's call date (i.e., less than three (3) months before maturity) that changes in the market rate of interest would not have a significant effect on the security's fair value;

(b) occur after the FI has substantially collected all [i.e., at least eighty-five percent (85%)] of the security's original principal through scheduled payments or prepayments; or

(c) are attributable to an isolated event that is beyond the FI's control, is non-recurring and could not have been reasonably anticipated by the FI.

For this purpose, the phrase *"more than an insignificant amount"* refers to sales or reclassification of one percent (1%) or more of the outstanding balance of the HTM portfolio: *Provided, however,* That sales or reclassifications of less than one percent

[1] Reclassification allowed until 30 November 2005 as per MAB dated 23 November 2005

(1%) shall be evaluated on case-to-case basis.

Sales or reclassifications before maturity that do not meet any of the conditions prescribed in this Appendix shall require the entire HTM portfolio to be reclassified to ASS. Further, the FI shall be prohibited from using the HTM account during the reporting year of the date of sales or reclassifications and for the succeeding two (2) full financial years. Failure to reclassify the HTM portfolio to ASS on the date of sales or reclassifications, shall subject the FI and concerned officers to penalties and sanctions provided under 4388Q.5. This provision shall be applied prospectively, i.e., on prohibited sales or reclassifications occurring from 13 March 2005 (effectivity date of Circular No. 476 dated 16 February 2005) and thereafter.

Securities held in compliance with BSP regulations, e.g., securities held as liquidity reserves and for the faithful performance of trust duties, may be classified either as HTM, Securities Held for Trading (HFT) or ASS: *Provided*, That the provision of Item *(4)* of paragraph 2 of Section 3.a.1 shall not apply to sales or reclassifications of the said securities booked under HTM.

a.1.Positive intention and ability to hold investments in HTM securities to maturity - An FI does not have a positive intention to hold to maturity an HTM security if:

(a) the FI intends to hold the security for an undefined period;

(b) the FI stands ready to sell the security (other than if a situation arises that is non-recurring and could not have been reasonably anticipated by the FI) in response to changes in market interest rates or risks, liquidity needs, changes in the availability of and the yield on alternative investments, changes in financing sources and terms or changes in foreign currency risk; or

(c) the issuer has a right to settle the security at an amount significantly below its amortized cost.

Sales before maturity could satisfy the condition of HTM classification and therefore need not raise a question about the FI's intention to hold other HTM securities to maturity if they are attributable to any of the following:

(i) A significant deterioration in the issuer's creditworthiness; for example, a sale following a downgrade in a credit rating by an external rating agency would not necessarily raise a question about the FI's intention to hold other investments to maturity if the downgrade provides evidence of a significant deterioration in the issuer's creditworthiness judged by reference to the credit rating at initial recognition. Similarly, if an FI uses internal ratings for assessing exposures, changes in those internal ratings may help to identify issuers for which there has been a significant deterioration in creditworthiness, provided the FI's approach to assigning internal ratings and changes in those ratings give a consistent, reliable and objective measure of the credit quality of the issuers. If there is evidence that an instrument is impaired, the deterioration in creditworthiness is often regarded as significant.

(ii) A change in tax law that eliminates or significantly reduces the tax-exempt status of interest on the HTM security (but not a change in tax law that revises the marginal tax rates applicable to interest income);

(iii) A major business combination or major disposition (such as sale of a segment) that necessitates the sale or transfer of HTM securities to maintain the FI's existing interest rate risk position or credit risk policy: *Provided*, That the sale or transfer of HTM security shall be done only once and within a period of six (6) months from the date of the business combination or major disposition: *Provided, further*, That prior BSP approval is required for sales or transfers occurring after the prescribed six (6)-month time frame. In this case, FIs shall submit to the appropriate department of the SES, a plan stating the reason for the extension and the proposed schedule for the disposition of the HTM security.

(iv) A change in statutory or regulatory requirements significantly modifying either what constitutes a permissible investment or the maximum level of particular types of investments, thereby causing an FI to dispose of an HTM security;

(v) A significant increase in the industry's regulatory capital requirements that causes the FI to downsize by selling HTM securities; or

(vi) A significant increase in the risk weights of HTM securities used for regulatory risk-based capital purposes.

An FI does not have a demonstrated ability to hold to maturity an investment in HTM security if:

(aa) it does not have the financial resources available to continue to finance the investment until maturity; or

(bb) it is subject to an existing legal or other constraint that could frustrate its intention to hold the security to maturity.

Sales before maturity due to events that are non-recurring and could not have been reasonably anticipated by the FI such as a run on a bank, likewise satisfy the condition of HTM classification and therefore need not raise a question about the FI's intention and ability to hold other HTM investments to maturity.

An FI assesses its intention and ability to hold its investment in HTM securities to maturity not only when those securities are initially recognized, but also at each time that the FI prepares its financial statements.

a.2. HTM securities shall be measured upon initial recognition at their fair value plus transaction costs that are directly attributable to the acquisition of the securities.

For this purpose, *transactions costs* include fees and commissions paid to agents (including employees acting as selling agents), advisers, brokers and dealers, levies by regulatory agencies and securities exchanges, and transfer taxes and duties. Transaction costs do not include debt premiums or discounts, financing costs or internal administrative or holding costs.

After initial recognition, an FI shall measure HTM securities at their amortized cost using the effective interest method.

For this purpose, the *effective interest method* is a method of calculating the amortized cost of a security (or group of securities) and of allocating the interest income over the relevant period using the effective interest rate. The *effective interest rate* shall refer to the rate that exactly discounts the estimated future cash receipts through the expected life of the security or when appropriate, a shorter period to the net carrying amount of the security. When calculating the effective interest rate, an FI shall estimate cash flows considering all contractual terms of the security (for example, prepayment, call and similar options) but shall not consider future credit losses. The calculation includes all fees and points paid to the other party to the contract that are an integral part of the effective interest rate, transaction costs, and all other premiums or discounts. There is a presumption that the cash flows and the expected life of a group of similar securities can be estimated reliably. However, in those rare cases when it is not possible to estimate reliably the cash flows or the expected life of a security (or group of securities), the FI shall use the contractual cash flows over the full contractual terms of the security.

A gain or loss arising from the change

in the fair value of the HTM security shall be recognized in profit or loss when the security is derecognized or impaired, and through the amortization process.

An FI shall assess at each time it prepares its financial statements whether there is any objective evidence that an HTM security is impaired.

If there is objective evidence that an impairment loss on HTM securities has been incurred, the amount of the loss is measured as the difference between the security's carrying amount and the present value of estimated future cash flows (excluding future credit losses that have not been incurred) discounted at the security's original effective interest rate (i.e. the effective interest rate computed at initial recognition). The carrying amount of the security shall be reduced through the use of an allowance account. The amount of the loss shall be recognized in profit or loss.

As a practical expedient, a creditor may measure impairment of HTM securities on the basis of an instrument's fair value using an observable market price.

An FI first assesses whether objective evidence of impairment exists individually for HTM securities that are individually significant, and individually or collectively for HTM securities that are not individually significant. If an entity determines that no objective evidence of impairment exists for an individually assessed HTM security, whether significant or not, it includes the asset in a group of HTM securities with similar credit risk characteristics and collectively assesses them for impairment. HTM securities that are individually assessed for impairment and for which an impairment loss is or continues to be recognized are not included in a collective assessment of impairment.

If, in a subsequent period, the amount of the impairment loss decreases and the decrease can be related objectively to an event occurring after the impairment was recognized (such as an improvement in the debtor's credit rating), the previously recognized impairment loss shall be reversed by adjusting the allowance account. The reversal shall not result in a carrying amount of the security that exceeds what the amortized cost would have been had the impairment not been recognized at the date the impairment is reversed. The amount of the reversal shall be recognized in profit or loss.

b. Securities at Fair Value through Profit or Loss - These consist initially of HFT securities. HFT are debt and equity securities that are:

(1) acquired principally for the purpose of selling or repurchasing them in the near term; or

(2) part of a portfolio of identified securities that are managed together and for which there is evidence of a recent actual pattern of short-term profit-taking.

For this purpose, an FI shall adopt its own definition of short-term which shall be within a (twelve) 12-month period. Said definition which shall be included in its manual of operations, shall be applied and used consistently.

b.1 HFT securities shall be measured upon initial recognition at their fair value. Transaction costs incurred at the acquisition of HFT securities shall be recognized directly in profit or loss. After initial recognition, an FI shall measure HFT securities at their fair values without any deduction for transaction costs that it may incur on sale or other disposal. A gain or loss arising from a change in the fair value of HFT securities shall be recognized in profit or loss under the account "Trading Gain/(Loss)".

c. ASS. These are debt or equity securities that are designated as Available-for- Sale or are not classified/designated as

(a) HTM, (b) Securities at Fair Value through Profit or Loss, or (c) Investment in Non-Marketable Equity Securities (INMES).

c.1 ASS shall be measured upon initial recognition at their fair value plus transaction costs that are directly attributable to the acquisition of the securities. After initial recognition, an FI shall measure ASS at their fair values, without any deduction for transaction costs it may incur on sale or other disposal. A gain or loss arising from a change in the fair value of an ASS shall be recognized directly in equity under the account "Net Unrealized Gains/(Losses) on Securities Available-for-Sale" and reflected in the statement of changes in equity, except for impairment losses and FX gains and losses, until the security is derecognized, at which time the cumulative gain or loss previously recognized in equity shall be recognized in profit or loss. However, interest calculated using the effective interest method is recognized in profit or loss. Dividends on an Available- for- Sale equity security are recognized in profit or loss when the FI's right to receive payment is established.

For the purpose of recognizing foreign exchange gains and losses on a monetary ASS that is denominated in a foreign currency, it shall be treated as if it were carried at amortized cost in the foreign currency. Accordingly, for such an ASS, exchange differences resulting from changes in amortized cost are recognized in profit or loss and other changes in carrying amount are recognized directly in equity. For ASS that are not monetary items (for example, equity instruments), the gain or loss that is recognized directly in equity includes any related foreign exchange component.

An FI shall assess at each time it prepares its financial statements whether there is any objective evidence that an ASS is impaired.

When a decline in the fair value of an ASS has been recognized directly in equity and there is objective evidence that the asset is impaired, the cumulative loss that had been recognized directly in equity shall be removed from equity and recognized in profit or loss even though the security has not been derecognized.

The amount of the cumulative loss that is removed from equity and recognized in profit or loss shall be the difference between the acquisition cost (net of any principal repayment and amortization) and current fair value, less any impairment loss on that security previously recognized in profit or loss.

Impairment losses recognized in profit or loss for an investment in an equity instrument classified as Available-for-Sale shall not be reversed through profit or loss.

If, in a subsequent period, the fair value of a debt instrument classified as Available-for-Sale increases and the increase can be objectively related to an event occurring after the impairment loss was recognized in profit or loss, the impairment loss shall be reversed, with the amount of the reversal recognized in profit or loss.

c.2. Underwriting Accounts (UA) shall be a sub-account under Available-for-Sale. These are debt and equity securities purchased which have remained unsold/ locked-in from underwriting ventures on a firm basis. UA account is applicable only to UBs and IHs.

d. INMES - These are equity instruments that do not have a quoted market price in an active market, and whose fair value cannot be reliably measured.

INMES shall be measured upon initial recognition at its fair value plus transaction costs that are directly attributable to the acquisition of the security. After initial recognition, an FI shall measure INMES at cost. A gain or loss arising from the change in fair value of the INMES shall be recognized in profit or loss when the security is derecognized or impaired.

An FI shall assess each time it prepares its financial statements whether there is any objective evidence that an INMES is impaired.

If there is objective evidence that an impairment loss has been incurred on an INMES, the amount of impairment loss is measured as the difference between the carrying amount of the security and the estimated future cash flows discounted at the current market rate of return for a similar financial instrument. Such impairment loss shall not be reversed.

For Securities at Fair Value through Profit or Loss and Available-for-Sale, an FI is required to book the mark-to-market valuation on a daily basis. However, an FI may opt to book the mark-to-market valuation every end of the month: *Provided*, That an adequate mechanism is in place to determine the daily fair values of securities.

An FI shall recognize an investment in debt or equity security on its balance sheet when, and only when, the FI becomes a party to the contractual provisions of the financial instrument. A regular way purchase or sale of financial assets shall be recognized and derecognized, as applicable using trade date accounting or settlement date accounting. The method used is applied consistently for all purchases and sale of financial assets that belong to the same category.

Sec. 4. Reclassifications[1]

a. An FI shall not reclassify a security into or out of the Fair Value through Profit Loss category while it is held.

b. If, as a result of a change in intention or ability, it is no longer appropriate to classify a debt security as HTM, it shall be reclassified as Available-for-Sale and remeasured at fair value, and the difference between its carrying amount and fair value shall be accounted for in accordance with Section 3.c.1.

c. Whenever sales or reclassifications of more than an insignificant amount of HTM investments do not meet any of the conditions in Section 3.a, any remaining HTM investments shall be reclassified as Available-for-Sale. On such reclassification, the difference between the carrying amount and fair value shall be accounted for in accordance with Section 3.c.1.

d. If a reliable measure becomes available for an INMES, it shall be reclassified as Available-for-Sale and remeasured at fair value, and the difference between its carrying amount and the fair value shall be accounted for in accordance with Section 3.c.1.

e. If, as a result of a change in intention or ability, or because the two (2) preceding financial years' referred to in Section 3.a have passed, it becomes appropriate to carry the debt security at amortized cost (i.e, HTM) rather than at fair value (i.e, Available-for-Sale), the fair value carrying amount of the security on that date becomes its new amortized cost. Any previous gain or loss on that debt security that has been recognized directly in equity in accordance with Section 3.c.1 shall be amortized to profit or loss over the remaining life of the HTM using the effective interest method. Any difference between the new amortized cost and maturity amount shall also be amortized over the remaining life of the security using the effective interest method, similar to the amortization of a premium and a discount. If the security is subsequently impaired, any gain or loss that has been recognized

[1] The guidelines governing the reclassification of financial assets between categories in accordance with the provisions of the October 2008 amendments to PAS39 and PFRS7 are shown in Annex A.

directly in equity is recognized in profit or loss in accordance with Section 3.c.1.

f. If, in the rare circumstance that a reliable measure of fair value is no longer available, it becomes appropriate to carry the equity security at cost (i.e, INMES) rather than at fair value (i.e, Available-for-Sale), the fair value carrying amount of the security on that date becomes its new cost. Any previous gain or loss on that equity security that has been recognized directly in equity in accordance with Section 3.c.1 shall remain in equity until the security is sold or otherwise disposed of, when it shall be recognized in profit or loss. If the financial asset is subsequently impaired, any previous gain or loss that has been recognized directly in equity is recognized in profit or loss in accordance with Section 3.c.1.

g. The following securities booked under the HTM category, shall be exempted from the "tainting" provision for prudential reporting purposes which prohibits FIs from using the HTM category and requires reclassification of the entire HTM portfolio to the Available-for-Sale category during the reporting year and for the succeeding two (2) full financial years whenever an FI sells or reclassifies more than an insignificant amount of HTM investments before maturity, other than for reasons specified in Items *"a(a)"* to *"a(c)"* of Section 3 of this *Appendix*: *Provided,* That securities rejected under Items *"i"* and *"ii"*, shall continue to be booked under the HTM category:

i. Securities offered and accepted in tender offers pursuant to liability management transactions of the Republic of the Philippines: *Provided*, That FIs maintain appropriate documentation on such transactions;

ii. Securities offered and accepted in debt exchange offerings of GOCCs which carry the guarantee of the Philippine National Government, and

iii. Foreign currency denominated NG/ BSP bonds/debt securities, outstanding as of 10 February 2007, which were reclassified from the HTM category in view of the increased risk-weights of said securities under *Appendix Q-46* within thirty (30) calendar days after 10 February 2007. The subject securities once reclassified shall be accounted for in accordance with the measurement requirements of their new category (i.e., Available-for-Sale securities).

Sec. 5. Impairment. A debt or equity security is impaired and impairment losses are incurred if, and only if, there is objective evidence of impairment as a result of event that occurred after the initial recognition of the security (a "loss event") and that loss event has impact on the estimated future cash flows of the securities. Losses expected as a result of future events, no matter how likely, are not recognized. Objective evidence that the security is impaired includes observable data that comes to the attention of the holder of the security about the following loss events:

a. significant financial difficulty of the issuer or obligor;

b. a breach of contract, such as a default or delinquency in interest or principal payments;

c. the FI, for economic or legal reasons relating to the issuer's financial difficulty, granting to the issuer a concession that the FI would not otherwise consider;

d. it becoming probable that the issuer will enter bankruptcy or other financial reorganization;

e. the disappearance of an active market for that security because of financial difficulties; or

f. observable data indicating that there is a measurable decrease in the estimated future cash flows from a portfolio of securities since the initial recognition of those assets, although the decrease cannot yet be identified with the individual securities in the portfolio, including:

(1) adverse change in the payment status of issuers in the portfolio; or

(2) national or local economic conditions that correlate with defaults on the securities in the portfolio.

The disappearance of an active market because an FI's held securities are no longer publicly traded is not evidence of impairment. A downgrade of an issuer's credit rating is not, of itself, evidence of impairment, although it may be evidence of impairment when considered with other available information. A decline in the fair value of a security below its cost or amortized cost is not necessarily evidence of impairment (for example, a decline in fair value of an investment in debt security that results from an increase in the risk free interest rate).

In addition to the types of events enumerated in Items "*a*" to "*f*" in this Section, objective evidence of impairment for an investment in an equity instrument includes information about significant changes with an adverse effect that have taken place in the technological, market, economic or legal environment in which the issuer operates and indicates that the cost of the investment in the equity instrument may not be recovered. A significant or prolonged decline in the fair value of an investment in an equity security below its cost is also objective evidence of impairment.

Sec. 6. Operations Manual. The FI shall maintain an operations manual for booking and valuation of HTM, Securities at Fair Value through Profit or Loss, Available for Sale and INMES.

These guidelines shall no longer be applicable when an FI adopts PFRS 9 under *Appendix Q-56*.

(As amended by Circular Nos. 738 dated 11 October 2011, 733 dated 05 August 2011, 708 dated 10 January 2011, 670 dated 18 November 2009, 628 dated 31 October 2008, 626 dated 23 October 2008, 558 dated 22 January 2007, 546 dated 21 September 2006 and 509 dated 01 February 2006)

Annex A

RECLASSIFICATION OF FINANCIAL ASSETS BETWEEN CATEGORIES

The following quidelines govern the reclassification of investments in debt and equity securities between categories:

Section I. Conditions for Reclassifications
FIs shall be allowed to reclassify their investments in debt and equity securities from the Held for Trading (HFT) or Available for Sale (AFS) categories to the Held to Maturity (HTM) or Unquoted Debt Securities Classified as Loans (UDSCL) categories, subject to the following conditions:

(1) The reclassification shall be done in accordance with the provisions of the October 2008 amendments to the International Accounting Standards (IAS) 39: *Financial Instruments: Recognition* and Measurements and International Financial Reporting Standards (IFRS) 7: Financial Instruments: *Disclosures;*

(a) Only non-derivative financial assets may be reclassified from HFT to AFS, HTM or UDSCL. This shall however exclude those that are Designated at Fair Value through Profit or Loss (DFVPL).

(b) A financial asset may be reclassified out of HFT into AFS/HTM/UDSCL only in rare circumstances and if there is a change in intention (i.e., the financial asset is no longer held for the purpose of selling or repurchasing it in the near term). The financial assets shall be reclassified at their fair values on the effective date of reclassification all at the same time. Any gain or loss already recognized in profit or loss shall not be reversed. The fair value of a financial asset on the effective date of reclassification becomes its new cost or amortized cost, as applicable.

For this purpose, FIs may reclassify all or a portion of its financial assets for HFT to AFS/HTM/UDSCL as of the same date which shall be any day from 01 July 2008 to 14 November 2008. For example, an FI may choose to reclassify all financial assets booked under HFT to AFS/HTM/UDSCL as of 01 July 2008 using their fair values as of 01 July 2008. Another FI may choose to reclassify all financial assets booked under HFT to AFS/HTM/UDSCL as of 14 November 2008 using their fair values as of 14 November 2008. Thereafter, FIs shall not be allowed to "retrospectively" reclassify HFT to AFS/HTM/UDSCL. Any reclassification on or after 15 November 2008 shall take effect only from the date when the reclassification is made.

(c) A financial asset booked under HFT that would have also met the definition on UDSCL if the financial asset had not been required to be classified as HFT at initial recognition, may be reclassified from HFT to UDSCL if the entity has the intention and ability to hold the financial asset for the foreseeable future or until maturity.

(d) The financial assets shall be reclassified at their fair values on the effective date of reclassification, not necessarily all at the same time. Any gain or loss already recognized in profit or loss shall not be reversed. The fair value of a financial asset on the effective date of reclassification becomes its new cost or amortized cost, as applicable.

For this purpose, FIs may reclassify said financial assets from HFT to UDSCL as of any date from 01 July 2008 to 14 November 2008. Thereafter, FIs shall not be allowed to retrospectively reclassify HFT to UDSCL. Any reclassification on or after 15 November 2008 shall take effect only from the date when the reclassification is made.

(e) The financial asset reclassified in accordance with *Items "(b)", "(c)"* or *"(d)"* above shall thereafter be treated in accordance with the guidelines provided in *Appendix 20: Provided, however,* That if an FI subsequently increases its estimates of future cash receipts as a result of increased recoverability of those cash receipts, the effect of that increase shall be recognized as an adjustment to the effective interest rate from the date of the change in estimate rather than as an adjustment to the carrying amount of the asset at the date of the change in estimate.

(f) FIs that shall reclassify based on the provision of this Annex shall comply with the disclosure requirements under the Amendments to IAS 39 and IFRS 7 in preparing their audited financial statements.

(2) Financial assets that are reclassified from HFT/AFS to HTM/UDSCL shall thereafter be treated in accordance with the guidelines provided under *Appendix 33;*

(3) Reclassification from the AFS to the HTM category shall only be allowed if there was a change in intention for holding the debt instrument, and the financial institution has the ability to hold it until maturity; and

(4) FIs may reclassify from HFT/AFS to AFS/HTM/UDSCL effective 01 July 2008: *Provided,* That any reclassification made in periods beginning on or after 15 November 2008 shall take effect from the date when the reclassification is made.

Sec. II. Alternative accounting treatment for prudential reporting purposes. The following may be adopted for purposes of prudential reports:

(1) A financial asset booked under AFS may be reclassified from AFS to HTM/UDSCL if the FI has the intention and ability to hold the financial assets for the foreseeable future or until the maturity using the fair value carrying amount of the financial assets as of the effective date of reclassification.

For this purpose, FIs may reclassify said financial assets from AFS to HTM/UDSCL as of any day from 01 July 2008 to 14 November 2008. Thereafter, FIs shall not be allowed to retrospectively reclassify AFS to HTM/UDSCL. Any reclassification on or after 15 November 2008 shall take effect only from the date when ther reclassification is made.

(2) Financial assets that are booked under AFS category because of the tainting of the HTM portfolio may be reclassified to HTM or UDSCL using the fair value carrying amount of the financial assets as of the effective date of reclassification.

For this purpose, FIs may reclassify said financial assets from AFS to HTM/UDSCL as of any day from 01 July 2008 to 14 November 2008.

(3) Hybrid financial assets (other than CLNs) may be included among the financial assets that may be reclassified out of the HFT and into the AFS/HTM/UDSCL in accordance with *Items "(1)(b)"* and *"(1)(c)"* in Sec. I by, first, bifurcating the embedded derivative from the host instrument and booking the derivatives under Derivatives with Positive/Negative Fair Value; and second, reclassifying the host contract to AFS/HTM/UDSCL.

(4) CLNs and other similar instruments that are linked to ROPs, on the other hand, may be included among the financial assets that may be reclassified (i) out of the HFT into AFS/HTM/UDSCL in accordance with *Items "(1)(b)"* and *"(1)(c)"*; or (ii) from AFS to UDSCL or HTM in accordance with *Item "(1)(d)"* all in Sec. I and *Item "1"* above, without bifurcating the embedded derivatives from the host instrument: *Provided,* That this shall only apply for CLNs that are outstanding as of the effective

date of reclassification, which shall not be on or later than 15 November 2008.

Sec. III. Applicability to Trust Institutions The guidelines shall likewise apply to trust institutions except for the following accounts:

(a) UIT Funds; and

(b) Pre-need, escrow and other accounts whose investments are regulated by or require approval from other regulatory agencies: *Provided,* That prior to the reclassification, the approval/consent and reflect the change in client's investment profile in the revised Investment Policy Statement as provided in *Appendix 83*: *Provided, further,* That in the case of managed retirement funds/ employee benefit trust accounts, such reclassification shall be aligned with the liquidity requirements resulting from the latest actuarial valuation of the fund/account.

Sec. IV. Reportorial Requirements. FIs that reclassify financial assets out of the HFT/ AFS categories shall submit a report on Reclassification of Financial Assets between Categories to the Supervisory Data Center, Supervision and Examination Sector on or before 30 November 2008.

(Circular No. 626 dated 23 October 2008 as amended by Circular No. 628 dated 31 October 2008)

ESTABLISHING THE MARKET BENCHMARKS/REFERENCE PRICES AND COMPUTATION METHOD USED TO MARK-TO-MARKET DEBT AND MARKETABLE EQUITY SECURITIES

(Appendix to Subsec. 4388Q.5 (2008 - 4391Q.3)

General Principle

As a general rule, to the extent a credible market pricing mechanism as determined by the Bangko Sentral exists for a given security, that market price shall be the basis of marking-to-market. However, in the absence of a market price, a calculated price shall be used as prescribed herein.

Marking-to-Market Guidelines

To ensure consistency, the following shall be used as bases in marking-to-market debt and equity securities:

Type of Security	Market Price Basis
A. Equity Securities Listed in the Stock Exchange	
1. Traded in the Philippines	Same day closing price as quoted at the Philippine Stock Exchange. In case of halt trading/ suspension or holidays, use the last available closing price.
2. Traded Abroad	Latest available closing price from the exchange where the securities are traded.
B. Foreign Currency-Denominated Debt Securities Quoted in Major Information Systems (e.g., Bloomberg, Reuters)	
1. US Treasuries	Price as of end of day, Manila time.
2. US Agency papers such as Fannie Maes, Freddie Macs, Ginnie Maes, Municipal papers	Latest available price for the day, Manila time. In the absence of a price, use average quotes of at least three (3) regular brokers/market makers.*
3. Brady Bonds	Same as B.2.
4. For all US$-denominated government and corporate securities	Same as B.2.
5. Other foreign-currency securities	Same as B.2.

* Based on done rates if available. If done rates are not available, use the mid rate between bid and offer. If no mid rates are available, use the bid rate.

C. Foreign Currency Denominated Debt Securities Traded in a Local Registered Exchange or Market

The basis for marking-to-market foreign currency-denominated debt securities traded in a local registered exchange or market shall be the same as those used in Peso-Denominated GS in Section D below.

D. Peso-Denominated GS

The benchmark or reference prices shall be based on the weighted average of done or executed deals in a trading market registered with the SEC. In the absence of done deals, the simple average of all firm bids per benchmark tenor shall be used in calculating the benchmark; *Provided,* That the simple average of all firm offer per benchmark tenor shall likewise be included as soon as permissible under securities laws and regulations.

The benchmark or reference rate shall be computed and published in accordance with prescribed guidelines on the computation of reference rates by a Calculation Agent which is recognized by the BAP: *Provided*, That both the Calculation Agent and its method of computation are acceptable to the Bangko Sentral.

To ensure the integrity of the benchmark or reference prices, the Calculation Agent shall perform the following:

1. Monitor the quality of the contributed source rates for the benchmark;
2. Monitor the data contributors and replace participants, upon consultation with the BAP, that fail to meet commitments to the benchmark;
3. Monitor the activities of the participants to ensure compliance with their commitments and for possible market manipulation and enforce sanctions on errant participants and immediately inform BAP and the Bangko Sentral thereon; and
4. Review and upgrade the benchmark setting methodology upon consultation with BAP on a continuing basis, including documentation and publications thereof.

Accordingly, all data on done and firm bids/offers must be credible and verifiable and preferably sourced from trade executions and reporting systems that are part of a regulated and organized market duly licensed by the SEC where the data contributors are bound to uphold the principles of transparency, fair trading and best execution.

E. Peso-Denominated Private Debt Securities

The basis for marking-to-market peso-denominated debt securities traded in an organized market shall be the same as those used in Peso-Denominated Government Securities in Section D above.

For private debt securities which are not traded in an organized market, the marked to market value shall be based on the corresponding government security benchmark plus risk premium. The corresponding government security benchmark shall be determined according to Section D above. In determining the risk premium, the credit risk rating of the securities involved given by a BSP-recognized credit risk rating agency shall be established and taken into account whenever available. In the absence of such credit risk rating, alternative analyses may be used: *Provided*, That these are well-justified by sound risk analysis principles.

Other Guidelines

The basis for the market valuation of non-benchmark securities shall be the same as those used in Peso-Denominated Government Securities in Section D above. In the absence of both done and bid rates, interpolated yields derived from the benchmark or reference rates in accordance with the BSP-approved guidelines for computation of reference rates in Section D above shall be used.

Penalties and Sanctions

FIs and the concerned officers found to have violated the provisions of these regulations shall be subject to the penalties prescribed under Subsec. 4388Q.5: *Provided*, That non-compliance with the above guidelines may be a basis for a finding of unsafe and unsound banking practice.

(As amended by Circular No. 813 dated 27 September 2013 and M-2007-006 dated 28 February 2007)

GUIDELINES ON THE USE OF SCRIPLESS (RoSS) SECURITIES AS SECURITY DEPOSIT FOR THE FAITHFUL PERFORMANCE OF TRUST DUTIES

(Appendix to Sec. 4405Q and Sec. 4415Q)

Definition of Terms and Acronyms

Scripless securities and RoSS securities - refers to uncertificated securities issued by the Bureau of the Treasury (BTr) that are under the BTr's Registry of Scripless Securities

Trust institution - refers to an entity that is authorized to engage in trust business

BTr - Bureau of the Treasury

RoSS - Registry of Scripless Securities

BSP - Bangko Sentral ng Pilipinas

BSP-SES - Supervision and Examination Sector of BSP

SRSO - Supervisory Reports and Studies Office of BSP-SES

BSP-Accounting - Accounting Department of BSP

GSED - Government Securities Eligible Dealer of the BTr

DDA - refers to the regular demand deposit account of a bank/QB with BSP-Accounting

MOR - Manual of Regulations for Non-Bank Financial Institutions

Appropriate supervising and examining department or responsible supervising and examining department - refers to the Department of Thrift Banks and Non-Bank Financial Institutions

A. Basic Requirements

1. The BSP-SES shall file with BTr an application to open a RoSS Principal Securities Account where RoSS securities of trust institutions used as security deposit for trust duties shall be held. BSP-SES shall use *Annex 1* for this purpose.

2. Using *Annex 1-A*, BSP-SES shall also apply for a Client Securities Account (sub-account) for each trust institution under its RoSS Principal Securities Account to enable BSP-SES to keep track of the security deposit. BTr shall maintain Client Securities Accounts for ₱1,000 each month per account.

3. A trust institution which has a DDA with BSP-Accounting shall act as its own settlement bank.

A trust institution which does not have a DDA with the BSP-Accounting shall designate a settlement bank which will act as conduit for transferring securities for trust duties to the BSP-SES account and for paying interest, interest coupons and redemption proceeds. The trust institution shall inform the appropriate department of the SES of the designation of a settlement bank.

4. Each trust institution shall accomplish an *"Autodebit/Autocredit Authorization"* for its client securities account under the BSP-SES RoSS account. The document will authorize the BTr and the BSP to credit the DDA of the trust institution with BSP-Accounting for coupons/interest payments on securities in the BSP-SES RoSS accounts and to debit the DDA for the monthly fees payable to BTr for maintaining its client securities accounts with BSP-SES. It will also authorize

the BTR and BSP to credit the deposit account of BSP-SES with BSP-Accounting for the redemption proceeds of securities that mature while in the BSP-SES RoSS account.

A trust institution with a DDA with BSP-Accounting shall use *Annex 2-A* while a trust institution with a settlement arrangement shall use *Annex 2-B*.

5. BSP-SES shall open a deposit account with BSP-Accounting where the redemption value of securities shall be credited, in the event such securities mature while lodged in the RoSS account of BSP-SES.

6. SRSO shall be responsible for keeping track of the deposit and withdrawal of securities held under the BSP-SES Principal Securities Account and the Client Securities Accounts of the trust institutions. SRSO shall instruct BTr to transfer securities out of the BSP-SES account and the corresponding client securities accounts of trust institutions only after receiving authorization from the Director (or in his absence, the designated alternate officer) of the appropriate department of the SES.

SRSO shall also be responsible for keeping track of the BSP-SES deposit account with the BSP-Accounting representing credits for the redemption value of security deposit of trust institutions that have matured while in the RoSS account of BSP-SES. SRSO shall maintain sub-accounts for each trust institution for the purpose. SRSO shall instruct BSP-Accounting to transfer balances out of the deposit account and the corresponding sub-account of the trust institution only after receiving authorization from the Director (or in his absence, the designated alternate officer) of the appropriate department of the SES.

7. BSP-SES shall subscribe to the *Telerate* electronic trading system which is linked to BTr's RoSS and cause the installation of a *Telerate* terminal at SRSO. Trust institutions may be required to reimburse BSP-SES for whatever expenses that may be incurred in connection with the subscription.

8. Every trust institution must ensure that it has adequate security deposit for trust duties pursuant to the provisions of Subsecs. 4405Q.1, 4405Q.2, 4405Q.3 and 4405Q.4 of the MOR.

9. BTr shall provide BSP-SES with the end-of-day transaction report whenever a transaction in any client securities account is made. BTr shall also provide BSP-SES a monthly report of balances of each client securities account.

10. Every quarter, the responsible SED of BSP-SES shall determine, based on the *Report of Trust and Other Fiduciary Business and Investment Management Activities* (BSP 7-26-23) submitted by the trust institution, whether or not the trust institution's security deposit for trust duties is sufficient pursuant to the provisions of the MOR mentioned above. In case of deficiency, the department shall recommend the imposition of sanctions and/or any other appropriate action to higher authorities.

B. Procedures for Assigning RoSS Securities as Security Deposit for Trust Duties

1. The trust institution shall advise the appropriate BSP-SES department that it will transfer RoSS securities to BSP-SES. The advice should be received by the BSP-SES at least two (2) business days before the date of transfer using the prescribed form (*Annex 3*) and checking Box "b" of said form. (Box "a" shall be checked by a new trust institution that is making an initial security deposit pursuant to Subsec. 4404Q.4 of the MOR.) The advice should be sent by cc mail or by fax to be followed by an official letter duly signed by an authorized trust officer.

2. The trust institution shall electronically instruct BTr to transfer

securities from its own RoSS accounts to the BSP-SES RoSS and its corresponding Client Securities Account on the specified date. In the case of a trust institution with a settlement arrangement, the instruction shall be coursed through the settlement bank and the securities shall come from the RoSS account of the same bank.

3. BTr shall effect the transfer upon verification of RoSS balances. At the end of the day, BTr shall transmit a transaction report to SRSO containing the transfer.

4. SRSO shall provide the appropriate BSP-SES department a copy of the report.

5. The BSP-SES department concerned shall check from the report whether BTr effected the transfer indicated in the advice (*Annex 3*) sent earlier by the trust institution.

C. Procedures for Replacing RoSS Securities

1. The trust institution shall advise the appropriate deparment of the SES that it will replace existing RoSS securities assigned as security deposit. The advice should be received by the BSP-SES at least two (2) business days before the date of replacement using the prescribed form (*Annex 3*). The trust institution shall check Box "c" of the form and indicate the details of the securities to be withdrawn. The advice should be sent by cc mail or by fax to be followed by an official letter duly signed by an authorized trust officer.

2. The responsible BSP-SES department shall verify whether the securities to be replaced are in the RoSS account of BSP-SES and the sub-account of the trust institution and whether the book value of the securities to be deposited is equal to or greater than those to be withdrawn. The department concerned shall immediately communicate with the trust institution in case of a discrepancy.

3. The trust institution shall electronically instruct BTr to transfer securities from its own RoSS account to the BSP-SES RoSS accounts and its corresponding Client Securities Account on the specified date. In the case of a trust institution with a settlement arrangement, the instruction shall be coursed through the settlement bank and the securities shall come from the RoSS account of the same bank.

4. BTr shall effect the transfer upon verification of RoSS balances. At the end of the day, BTr shall transmit a transaction report to SRSO containing the transfer.

5. SRSO shall immediately provide the appropriate BSP-SES department a copy of the report.

6. The BSP-SES department concerned shall immediately check from the report whether the securities transferred to the BSP-SES account are the same securities described in the advice (*Annex 3*) sent earlier. If in order, the Director (or in his absence, the designated alternate officer) of the department concerned shall authorize SRSO to instruct BTr to transfer the securities specified to be withdrawn from the BSP-SES account to the trust institution's (or the settlement bank's) RoSS account. The Department concerned shall use *Annex 5* and check Boxes "a" and "d". Should there be any discrepancy, the department shall inform the trust institution immediately. The authority to allow the withdrawal should be transmitted to SRSO not later than the day after the replacement securities were transferred to the BSP-SES account.

The BSP-SES department concerned shall also advise the trust institution that it has approved the replacement of security deposit by using *Annex 6* and checking Boxes "a" and "d" and the appropriate box under "d" depending on whether or not the trust institution has a settlement arrangement.

7. On the same day, SRSO shall instruct BTr to transfer the securities specified to be withdrawn from the BSP-SES account to the RoSS account of the trust institution (or its settlement bank).

8. BTr shall effect the transfer/ withdrawal. At the end of the day, BTr shall send a report to SRSO containing the transfer/withdrawal.

9. SRSO shall provide the appropriate BSP-SES department a copy of the report.

10. The responsible BSP-SES department shall check from the report whether BTr effected the transfer/ withdrawal.

D. Procedures for Withdrawing RoSS Securities

1. The trust institution shall advise the appropriate BSP-SES department that it will withdraw existing RoSS securities assigned as security deposit. The advice should be received by the BSP-SES at least two (2) banking days before the date of withdrawal using the prescribed form (*Annex 4*) and indicating therein details of the securities to be withdrawn. The advice should be sent by cc mail or by fax to be followed by an official letter duly signed by an authorized trust officer.

2. The responsible BSP-SES department shall verify whether the securities to be withdrawn are in the RoSS account of BSP-SES and the Client Securities Account of the trust institution. The department shall also determine whether the amount of remaining security deposit will still be adequate in spite of the proposed withdrawal. If in order, the Director (or in his absence, the designated alternate officer) of the department concerned shall authorize SRSO to instruct BTr to transfer the securities specified to be withdrawn from the BSP-SES account to the trust institution's own RoSS account (or its settlement bank). The Department concerned shall use *Annex 5* and check Boxes "b" and "d". Should there be any discrepancy, the department shall inform the trust institution immediately. The authority to allow the withdrawal should be transmitted to SRSO not later than the date of the withdrawal indicated in the advice (*Annex 4*) sent earlier by the trust institution.

The BSP-SES department concerned shall also advise the trust institution that it has approved the withdrawal of security deposit by using *Annex* 6 and checking Boxes "b" and "d" and the appropriate box under "d" depending on whether or not the trust institution has a settlement arrangement.

3. On the same date, SRSO shall instruct BTr to transfer the securities specified to be withdrawn from the BSP-SES account to the RoSS account of the trust institution (or its settlement bank).

4. BTr shall effect the transfer/ withdrawal. At the end of the day, BTr shall send to SRSO a report which contains the transfer/withdrawal.

5. SRSO shall provide the appropriate BSP-SES department a copy of the report.

6. The BSP-SES department concerned shall check from the report whether BTr effected the withdrawal stated in the advice (*Annex 4*) sent earlier by the trust institution.

E. Procedures for Crediting Interest Coupon Payments. On coupon or interest payment date, BTr shall instruct BSP-Accounting to credit the DDA of trust institutions or their designated settlement banks for coupon/interest payment of securities held under the RoSS account of BSP-SES.

F. Procedures for Crediting and Withdrawing the Redemption Value of Matured Securities that are in the BSP-SES RoSS Account

1. On maturity date, BTr shall instruct BSP-Accounting to credit the deposit account of BSP-SES with BSP-Accounting

for the redemption value of securities that mature while held as security deposit in the RoSS account of BSP-SES.

2. BTr shall send to SRSO a copy of the credit advice.

3. SRSO shall immediately provide the appropriate BSP-SES department a copy of the credit advice.

4. The responsible BSP-SES department shall immediately inform the trust institution concerned of the cash credit and shall inquire whether the trust institution intends to transfer securities to the RoSS account of the BSP-SES to replace the matured securities.

5. The trust institution shall advise the appropriate BSP-SES department that it will transfer RoSS securities to BSP-SES in place of the cash credited to the deposit account of BSP-SES with BSP-Accounting for matured securities. The trust institution shall check Box "d" of the prescribed form (*Annex 3*). The concerned department shall determine if the book value of the securities to be transferred is equal to or greater than the cash credit.

6. The trust institution shall electronically instruct BTr to transfer securities from its own RoSS accounts to the BSP-SES RoSS account and its corresponding Client Securities Account on the specified date. In the case of a trust institution with a settlement arrangement, the instruction shall be coursed through the settlement bank and the securities shall come from the RoSS account of the same bank.

7. BTr shall effect the transfer upon verification of RoSS balances. At the end of the day, BTr shall send a report to SRSO containing the transfer.

8. SRSO shall provide the appropriate BSP-SES department a copy of the report.

9. The BSP-SES department concerned shall immediately check from the report whether the securities transferred to the BSP-SES account are the same securities described in the advice (*Annex 3*) sent earlier by the trust institution. If in order, the Director (or in his absence, the designated alternate officer) of the Department shall direct the SRSO to instruct BSP-Accounting Department to debit the BSP-SES deposit account and transfer the funds to the DDA of the trust institution (or its designated settlement bank). The Department concerned shall use *Annex 5* and check Boxes "c" and "e".

The BSP-SES department concerned shall also advise the trust institution that it has approved the replacement of matured securities by using *Annex 6* and checking Boxes "c" and "e" and the appropriate box under "e" depending on whether or not the trust institution has a settlement arrangement.

10. SRSO shall direct BSP-Accounting to debit the BSP-SES deposit account and credit the same amount to the DDA of the trust institution (or its designated settlement bank) using *Annex 7*.

11. BSP-Accounting shall effect the transaction and send a copy of the debit advice to SRSO and a copy of the credit advice to the trust institution (or the designated settlement bank).

Annex 1

SUPERVISION AND EXAMINATION SECTOR

Date____________________

____
Treasurer of the Philippines
Bureau of Treasury
Palacio del Gobernador
Intramuros, Manila

Attention: Registry of Scripless Securities (RoSS)

Dear__________________________ :

The Supervision and Examination Sector of the Bangko Sentral ng Pilipinas (BSP-SES) hereby makes an application to open a Principal Securities Account in the Registry of Scripless Securities (RoSS) for the purpose of holding the security deposit for the faithful performance of trust duties of institutions engaged in trust business pursuant to Section 65 of R.A. No. 337, as amended.

We understand that the Bureau of the Treasury shall maintain the Principal Securities Account of BSP-SES for free.

Very truly yours,

____
Deputy Governor

Annex 1-A

SUPERVISION AND EXAMINATION SECTOR

Date___________

____
Treasurer of the Philippines
Bureau of Treasury
Palacio del Gobernador
Intramuros, Manila

Attention: Registry of Scripless Securities (RoSS)

Dear Ms. __________________________

In connection with the Principal Securities Account of BSP-SES in the Registry of Scripless Securities (RoSS), please open Client Securities Account for the following trust institutions so we can keep track of their security deposit for the faithful performance of trust duties. Please note that the settlement bank of the institution, if it is required, is also indicated.

	Name of Trust Institution	Name of Settlement Bank, where required
1.	____________________	____________________
2.	____________________	____________________
n	____________________	____________________

We understand that the Bureau of the Treasury will maintain the Client Securities Account for P1,000 per month per account.

Very truly yours,

____
(Signature)
Authorized Signatory

Annex 2-A

To be used by a trust institution with own demand deposit account with BSP-Accounting

Letterhead of Trust Institution

AUTODEBIT/AUTOCREDIT AUTHORIZATION

The (name of trust institution) hereby authorizes the Bureau of the Treasury (BTr) and the Bangko Sentral ng Pilipinas (BSP) to debit/credit our demand deposit account with BSP-Accounting for coupons/interest payment of our securities in the BSP-SES RoSS accounts; and to settle the payment of monthly maintenance fees to BTr of our client securities account under the BSP-SES RoSS account. We also authorize the BTr and the BSP to credit the Account of BSP-SES with BSP-Accounting for the redemption proceeds of our securities in the event such securities mature while in the RoSS account of BSP-SES.

This authorization will take effect on (indicate date) .

(Signature)
(Authorized Signatory)

Annex 2-B

To be used by a trust institution with settlement arrangement with a bank

Letterhead of Trust Institution

AUTODEBIT/AUTOCREDIT AUTHORIZATION

The (name of settlement bank) for the account of (name of trust institution) hereby authorizes the Bureau of the Treasury (BTr) and the Bangko Sentral ng Pilipinas (BSP) to debit/credit our demand deposit account with BSP-Accounting for coupons/interest payment of securities of the trust institution in the BSP-SES RoSS accounts; for maturing securities of the trust institution held in our RoSS Principal Securities Account with BTr; and to settle the payment of monthly maintenance fees to BTr of our client securities account under the BSP-SES RoSS account.

The (name of trust institution) also authorizes the BTr and the BSP to credit the Account of BSP-SES with BSP-Accounting for the redemption proceeds of our securities in the event such securities mature while in the RoSS account of BSP-SES.

This authorization will take effect on (indicate date) .

____
(Signature)
(Authorized Signatory of Settlement Bank)

____
(Signature)
(Authorized Signatory of Trust Institution)

Annex 3

Letterhead of Trust Institution

Date________________

The Director
DTBNBFI
Bangko Sentral ng Pilipinas
A. Mabini St., Manila

Dear Sir:

We are transferring on (indicate date of transfer) the following securities to your Principal Securities Account and our Client Securities Account (sub-account) as our security deposit for the faithful performance of trust duties pursuant to Section 65 of R.A. No. 337, as amended.

Type	ISIN	Purchase Date	Issue Date	Due Date	Remaining Tenor [a/]	Face Amount	Purchase Price

We are transferring the above securities:
a. ☐ As our initial deposit
b. ☐ As an additional security deposit
c. ☐ To replace the following securities which we deposited on ___(date)___.

Type	ISIN	Purchase Date	Issue Date	Due Date	Remaining Tenor [a/]	Face Amount	Purchase Price

d. ☐ To replace matured securities the redemption value of which ₱ _________ is credited to the deposit account of BSP-SES with BSP-Accounting.

Very truly yours,

____
(Signature)
Name and Designation of Authorized Signatory

[a/] Reckoned from actual date of transfer/withdrawal

Annex 4

Letterhead of Trust Institution

Date: ______________

The Director
DTBNBFI
Bangko Sentral ng Pilipinas
A. Mabini St., Manila

Dear Sir:

We wish to withdraw on __(indicate date of transfer)__ the following securities used as security deposit for the faithful performance of trust duties from the Principal Securities Account and from our corresponding Client Securities Account (sub-account).

Type	ISIN	Purchase Date	Issue Date	Due Date	Remaining Tenor [a/]	Face Amount	Purchase Price
______	______	______	______	______	______	______	______
______	______	______	______	______	______	______	______
______	______	______	______	______	______	______	______

Very truly yours,

____
(Signature)
Name and Designation of Authorized Signatory

[a/] Reckoned from actual date of transfer/withdrawal

Annex 5

MEMORANDUM

DTBNBFI

F o r : The Director
Supervisory Reports and Studies Office

From : The Director

Subject : Scripless Securities Used As Deposit for Trust Duties

Date :

In connection with the request of (indicate name of trust institution) dated ______________ to:

a. ☐ Replace outstanding RoSS securities
b. ☐ Withdraw RoSS securities
c. ☐ Replace cash credit of matured securities with outstanding RoSS securities,

you are hereby authorized to:

d. ☐ Instruct the Bureau of Treasury to transfer the following securities out of the BSP-SES RoSS accounts to the RoSS Principal Securities Account of (indicate name of trust institution or, where applicable, the name of its settlement bank)

Type	ISIN	Purchase Date	Issue Date	Due Date	Remaining Tenor [a/]	Face Amount	Purchase Price

e. ☐ Instruct BSP-Accounting to debit the BSP-SES deposit account in the amount of P________ and to transfer said amount to the demand deposit account of (indicate name of trust institution or, where applicable, the name of its designated settlement bank).

(Signature)
Authorized Signatory

[a/] Reckoned from actual date of transfer/withdrawal

Annex 6

DTBNBFI

Date ___________

(Name of Trust Institution) ________________________
(Address) ________________________

Subject : Scripless Securities Used As Deposit for Trust Duties

Dear Mr. ___________:

We are pleased to inform you that we have approved your request dated _____________ to:

a. ☐ Replace outstanding RoSS securities
b. ☐ Withdraw RoSS securities
c. ☐ Replace cash credit of matured securities with outstanding RoSS securities.

Accordingly, we have authorized the Supervisory Reports and Studies Office to:

d. ☐ Instruct the Bureau of Treasury to transfer the following securities out of the BSP-SES RoSS accounts to -

☐ the RoSS Principal Securities Account
☐ your settlement bank's RoSS Principal Securities Account, the securities described in your request.

e. ☐ Instruct BSP-Accounting to debit the BSP-SES deposit account in the amount of ₱_______ and to credit said amount to -

☐ your demand deposit account with BSP-Accounting
☐ your settlement bank's demand deposit account with BSP-Accounting

Very truly yours,

____
(Signature)
Authorized Signatory

Annex 7

MEMORANDUM

DTBNBFI

F o r : The Director
Accounting Department

From : The Director

Date :

Subject: Security Deposit for Trust Duties

You are hereby instructed to debit our deposit account in the amount of ₱ ___________ and to credit said amount to the demand deposit account of (indicate name of trust institution or, where applicable, the name of its settlement bank).

The trust institution has transferred RoSS securities to the Principal Securities Account of BSP-SES to replace the matured securities.

____
(Signature)
Authorized Signatory

GUIDELINES ON THE USE OF SCRIPLESS SECURITIES AS SECURITY DEPOSIT FOR THE FAITHFUL PERFORMANCE OF PERA ADMINISTRATOR

(Appendix to Subsec. 4405Q.1)

Definition of Terms and Acronyms

BSP - Bangko Sentral ng Pilipinas

BSP-FAD- Financial Accounting Department of the BSP

BSP-SES - Supervision and Examination Sector of the BSP

DDA - refers to the regular demand deposit account of a quasi-bank with BSP-FAD

DSSA - Daily Statement of Securities Account

Financial Institution (FI) - refers to a bank, non-bank financial institution, or trust entity supervised by the BSP that is accredited to be a PERA Administrator

MORB/MORNBFI - Manual of Regulations for Banks/ Manual of Regulations for Non-Bank Financial Institutions

Off-site Supervising Department - refers to the department of the BSP-SES responsible for off-site supervision of FIs

Scripless Securities - refers to uncertificated securities issued by the Bureau of the Treasury (BTr) that are under the BTr's Registry of Scripless securities (RoSS)

Trust Specialist Group (TSG) - refers to the technical unit of the BSP-SES responsible for supervision of trust entities

A. Basic Requirements

1. The BSP-SES shall file with the BTr an application to open a BSP-PERA RoSS principal securities account where the securities for the faithful performance of PERA Administrator shall be held. The BSP-SES shall use Annex 1 for this purpose.

2. The BSP-SES through its TSG shall request with the BTr the creation of a PERA Administrator securities account under the BSP-PERA RoSS principal securities account using Annex 1-A. The BTr shall maintain each PERA Administrator securities account for P1,000.00 or any amount per month as may be determined by the BTr.

3. An FI must have a DDA with BSP-FAD. In case when an FI does not have a DDA with BSP-FAD, it shall designate a settlement bank and shall inform the appropriate BSP-SES off-site supervising department of its designated settlement bank.

4. Each FI shall accomplish an autodebit/autocredit authorization for its PERA Administrator securities account under the BSP-PERA RoSS principal securities account. The document shall authorize the BTr and the BSP to credit the DDA of the FI or the designated settlement bank with BSP-FAD for coupons/interest payments and maturity proceeds of securities and to debit the same DDA for the monthly fees payable to the BTr for maintenance of the PERA Administrator securities account.

An FI with a DDA with BSP-FAD shall use Annex 2-A while an FI with a settlement arrangement shall use Annex 2-B.

5. The BSP-SES off-site supervising department shall be responsible for monitoring deposit and withdrawal of securities in the PERA Administrator securities account.

6. Every FI shall ensure that it has adequate security for the faithful performance of PERA Administrator

pursuant to the provisions of the Personal Equity and Retirement Account (PERA) Act of 2008 and its implementing rules and regulations.

7. The BTr shall provide TSG a monthly statement of securities account as well as a DSSA whenever a transaction in any PERA Administrator securities account is made.

8. The responsible BSP-SES off-site supervising department shall determine on a quarterly basis the compliance with the security for the faithful performance of PERA Administrator based on the reportorial submission of the FI. In case of deficiency, the responsible BSP-SES off-site supervising department shall recommend, as warranted, the imposition of sanctions and/or any other appropriate action to higher BSP authorities.

B. Procedures for Assigning Initial/ Additional RoSS Securities as Security for the Faithful Performance of PERA Administrator

1. The FI shall notify the appropriate BSP-SES off-site supervising department that it will transfer RoSS securities to its PERA Administrator securities account at least two (2) banking days before the date of transfer using the prescribed form (Annex 3) and checking Box "A" or "B", as appropriate, and indicating details therein. The notice, which may initially be sent through electronic mail or fax, shall be forwarded as an official letter duly signed by authorized officer/s and shall be accompanied by the following:

a. Computation of compliance with the security for the faithful performance of PERA Administrator. The FI shall provide detailed calculation on specific and relevant dates whenever there is a transfer of RoSS securities to and from its PERA Administrator securities account using Annexes 4 and 4-a to affirm the continuing compliance with the security requirement; and

b. Notarized certification signed by the chief executive officer of the FI using Annex 5 attesting:

i. The accuracy and completeness of submitted reports and corresponding schedules; and

ii. The effective interest rate method is being used in the amortization of relevant premium/discount of securities in compliance with the Philippine accounting standards.

This notarized certification shall likewise be submitted to the appropriate BSP-SES off-site supervising department every quarter to attest the continuing compliance of the FI to the security requirement.

2. The FI shall instruct the BTr to transfer RoSS securities to its PERA Administrator securities account on specified date.

3. The BTr shall effect the transfer upon verification of RoSS balances. At the end of the day, the BTr shall transmit a DSSA to TSG containing the transfer.

4. The TSG shall provide the appropriate BSP-SES off-site supervising department a copy of the DSSA.

5. The responsible BSP-SES off-site supervising department shall verify from the DSSA the transfer of securities indicated in the advice (Annex 3) sent earlier by the FI.

6. The above procedures shall also be observed in transferring additional securities to replace maturing/matured RoSS securities.

C. Procedures for Withdrawing RoSS Securities

1. The FI shall notify the appropriate BSP-SES off-site supervising department that it will withdraw existing RoSS securities assigned as security for faithful performance of PERA Administrator at least two (2) banking days before the date of withdrawal

using the prescribed form (Annex 6) and indicating the details of the securities to be withdrawn. The notice shall be accompanied by a computation of compliance with security requirement and certification required under B.1.

2. The responsible BSP-SES off-site supervising department shall verify if the securities to be withdrawn are in the PERA Administrator securities account and the value of outstanding securities remains compliant with the security requirement after the withdrawal. The department concerned shall immediately inform the FI for any discrepancy/deficiency. If in order, the department concerned shall authorize TSG to instruct the BTr to transfer the securities to be withdrawn to the RoSS account of the FI. The BSP-SES off-site supervising department shall use Annex 7 and check boxes "B" and "C". The authority to allow the withdrawal should be transmitted to TSG one (1) banking day before the date of withdrawal indicated in the advice (Annex 6) sent earlier by the FI.

The BSP-SES off-site supervising department shall also advise the FI that it has approved the withdrawal of security using Annex 8 and checking boxes "B" and "C".

3. The TSG shall instruct the BTr within the same day to transfer the securities specified to be withdrawn from the PERA Administrator securities account to the RoSS account of the FI using Annex 9. The BTr shall acknowledge receipt of the confirmation of transfer of government securities (sans consideration).

4. The BTr shall effect the transfer/ withdrawal and shall send a DSSA to TSG containing the transfer/withdrawal.

5. The TSG shall provide the appropriate BSP-SES off-site supervising department a copy of the DSSA.

6. The responsible BSP-SES off-site supervising department shall verify from the DSSA the transfer of securities indicated in the advice (Annex 6) sent earlier by the FI.

7. The above procedures shall also be observed in withdrawing and replacing existing and/or maturing/matured RoSS securities.

D. Procedures for Replacing RoSS Securities

1. The FI shall notify the appropriate BSP-SES off-site supervising department that it will replace existing and/or maturing/ matured RoSS securities assigned as security for the faithful performance of PERA Administrator at least two (2) banking days before the date of replacement using the prescribed form (Annex 3). The FI shall check box "C" of the form and indicate the details of the securities to be replaced. The notice shall be accompanied by a computation of compliance with security requirement and certification required under B.1.

2. The responsible BSP-SES off-site supervising department shall verify if the securities to be replaced are in the PERA Administrator securities and the value of the outstanding securities remains compliant with the security requirement after the replacement. The department concerned shall immediately inform the FI for any discrepancy/deficiency.

3. The procedures for assigning additional RoSS securities specified in sections B.2 to B.5 of this Appendix shall herein apply.

4. The BSP-SES off-site supervising department shall use Annex 7 and check boxes "A" and "C". Should there be any discrepancy/deficiency, the BSP-SES off-site supervising department shall immediately

inform the FI. The authority to allow the replacement shall be transmitted to TSG not later than the day when the replacement securities were transferred to the PERA Administrator securities account.

The BSP-SES off-site supervising department shall also advise the FI that it has approved the replacement of security by using Annex 8 and checking boxes "A" and "B".

5. The procedures for withdrawing RoSS securities specified in sections C.3 to C.6 of this Appendix shall herein apply.

E. Procedures for Crediting Interest and Maturity Proceeds of Securities

1. On coupon or interest payment date, the BTr shall instruct BSP-FAD to credit the DDA of the FI or its designated settlement bank for coupon/interest payment of securities held in the PERA Administrator securities account.

2. On maturity date, the BTr shall instruct BSP-FAD to credit the DDA of the FI or its designated settlement bank for maturity proceeds of securities held in PERA Administrator securities account.

3. The appropriate BSP-SES off-site supervising department shall determine if the value of the outstanding securities remains compliant with the security requirement after the maturity of securities. The department concerned shall immediately inform the FI for any discrepancy/deficiency.

4. When the value of security falls below the required level, the FI shall instruct the BTr to transfer securities from the FI's own RoSS account to its PERA Administrator securities account under the BSP-PERA RoSS principal securities account. The procedures specified in sections B.1 to B.5 of this Appendix shall herein apply.

(Circular No. 879 dated 22 May 2015)

Annex 1

SUPERVISION AND EXAMINATION SECTOR

(Date)

____
Treasurer of the Philippines
Bureau of the Treasury
Cabildo Street corner
A. Soriano Avenue and
Sto. Tomas Street,
Intramuros, Manila

Attention: Registry of Scripless Securities (RoSS)

Dear ________________:

The Supervision and Examination Sector of the Bangko Sentral ng Pilipinas hereby makes an application to open a Principal Securities Account in the Registry of Scripless Securities (RoSS) to hold government securities earmarked in favor of the BSP as security for the faithful performance by PERA Administrators of their duties set forth in the Personal Equity and Retirement Account (PERA) Act of 2008 (BSP-PERA).

We understand that the Bureau of the Treasury shall maintain the Principal Securities Account of BSP-PERA for free.

Very truly yours,

____
Deputy Governor

Annex 1-A

SUPERVISION AND EXAMINATION SECTOR

________(Date)________

____
Treasurer of the Philippines
Bureau of the Treasury
Cabildo Street corner
A. Soriano Avenue and
Sto. Tomas Street,
Intramuros, Manila

Attention: Registry of Scripless Securities (RoSS)

Dear Ms. __________________:

In connection with the BSP-PERA Principal Secuirities Account of the Bangko Sentral ng Pilipinas-Supervision and Examination Sector in the Registry of Scripless Securities (RoSS), please open PERA Administrator Securities Account for the following trust entities/banks so we can MONITOR the security for the faithful performance of their duties set forth in the Personal Equity and Retirement Account (PERA) Act of 2008.

Please note that the settlement bank of the ENTITY, if it is required, is also indicated.

	Name of Trust Entity/Bank	Name of Settlement Bank, where required
1.	____________________	____________________
2.	____________________	____________________
3.	____________________	____________________

We understand that the Bureau of the Treasury will maintain the PERA Administrator Securities Account for (AMOUNT) per month per account.

Very truly yours,

____
Authorized Signatory

Annex 2-A

To be used by an FI with own demand deposit account for BSP-FAD

Letterhead of Financial Institution

AUTODEBIT/AUTOCREDIT AUTHORIZATION

The (Name of Financial Institution) hereby authorizes the Bureau of the Treasury (BTr) and the Bangko Sentral ng Pilipinas (BSP) to debit/credit our demand deposit account (DDA) with BSP-Financial Accounting Department for coupons/interest payment of our securities held in our RoSS accounts; and to settle the payment of monthly maintenance fees to the BTr in our PERA Administrator Securities Account. We also authorize the BTr and the BSP to credit our DDA with BSP-Financial Accounting Department for the redemption proceeds of our securities in the event such securities mature while in our RoSS account.

This authorization will take effect on ____(indicate date)________ .

____
(Authorized Signatory)

Annex 2-B

To be used by an FI with settlement arrangement with a bank

Letterhead of Financial Institution

AUTO DEBIT/AUTOCREDIT AUTHORIZATION

The (Name of Settlement Bank) for the account of (Name of Financial Institution) hereby authorizes the Bureau of the Treasury (BTr) and the Bangko Sentral ng Pilipinas (BSP) to debit/credit our demand deposit account (DDA) with BSP-Financial Accounting Department for coupons/interest payment of securities of (Name of Financial Institution) in its designated RoSS account; for maturing securities of the (Name of Financial Institution) held in its designated RoSS account with the BTr; and to settle the payment of monthly maintenance fees to the BTr of our PERA Administrator Securities Account.

The (Name of Financial Institution) also authorizes the BTr and the BSP to credit the account of the settlement bank with BSP-Financial Accounting Department for the redemption proceeds of our securities in the event such securities mature while in our RoSS account.

This authorization will take effect on (indicate date) .

(Authorized Signatory of
Settlement Bank)

(Authorized Signatory of
Financial Institution)

Annex 3

Letterhead of Financial Institution

Date:

The Director
Name of Off-site Supervising Department
Bangko Sentral ng Pilipinas
A. Mabini St., Manila

Dear Sir:

We are transferring on (indicate date of transfer) the following securities to our PERA Administrator Securities Account as our security for the faithful performance of PERA Administrator pursuant to Republic Act No. 9505 also known as the Personal Equity and Retirement Account (PERA) Act of 2008 and its implementing rules and regulations.

Type	ISIN	Purchase Date	Issue Date	Due Date	Remaining Tenor[1]/	Face Amount	Purchase Price

We are transferring the above securities:

a. ☐ As our initial security
b. ☐ As an additional security
c. ☐ To replace the following security/ies which we earmarked on _____(date)_____.

Type	ISIN	Purchase Date	Issue Date	Due Date	Remaining Tenor[1]	Face Amount	Purchase Price

d. ☐ To replace matured securities the redemption value of which ₱ _____________ is credited to our deposit account or that of our settlement bank with BSP-Financial Accounting Department.

Very truly yours,

____
Name and Designation of Authorized Signatory

[1] Reckoned from actual date of transfer/withdrawal.

Annex 4

Name of Financial Institution
Computation of Security for the Faithful Performance
of PERA Administrator
As of (date)

	FOR THE QUARTER ENDED (Date)			
	1st Month	**2nd Month**	**3rd Month**	**Average**
A. COMPUTATION OF AVERAGE BALANCES				
1 Securitied Held by the PERA Administrator	P -	P -	P -	P -

B. SECURITY REQUIREMENT	**Book Value**
1 Security Requirement (1% of A.1 (Ave.) above	-

As of (Transaction date) [1]

2 Inventory of Outstanding Securities held by the PERA Administrator (Beginning Balance) (Face Value P ___ million)	-
3 Add (Subtract) Securities earmarked (matured/replaced) (Face Value P ___ million)	-
4 Outstanding Securities held by the PERA Administrator (Ending Balance) (Face Value P ___ million)	P -
5 EXCESS (DEFICIENCY)	P -

[1] For multiple transaction dates, the FI shall provide separate calculation of Annex 4-A for each specific and relevant dates.

Name of Financial Institution
SECURITIES FOR THE FAITHFUL PERFORMANCE OF PERA ADMINISTRATOR
UNDER REGISTRY OF SCRIPLESS SECURITIES (RoSS)
As of (Transaction Date)

	A	B	C	D	E	F E-C	G	H F-G	J A-B	K	L J-K	M A-L
ISIN	SECURITY/IES (At Face Value)	SECURITY/IES (At Acquisition Cost)	PURCHASE DATE	ISSUE DATE	MATURITY DATE	Original No. of days	REMAINING TENOR TO DATE	NO. OF DAYS DISCOUNT/ (PREMIUM) EARNED	AMOUNT OF DISCOUNT/ (PREMIUM)	AMOUNT OF AMORTIZED DISCOUNT/ (PREMIUM)	REMAINING AMOUNT OF DISCOUNT (PREMIUM)	Book Value
—	—	—	—	—	—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—
1 Outstanding Gov't Securities (Beginning Balance)	—	—										—
2 Add: Securities on (date)												—
—	—	—	—	—	—	—	—	—	—	—	—	—
Subtotal	—	—										—
3 Less: Measured/Replaced Securities on (date)												
—	—	—	—	—	—	—	—	—	—	—	—	—
Subtotal	—	—										—
4 Outstanding Gov't Securities (Ending Balance)	—	—										—

Annex 5

(NAME OF FINANCIAL INSTITUTION)

CERTIFICATION
(DATE)

Pursuant to the requirements of Appendix Q-21a of the Manual of Regulations for Non-Bank Financial Institutions, I hereby certify the following:

1. The computation of security for the faithful performance of PERA Administrator and relevant schedule of inventory of outstanding securities under RoSS are true and accurate; and

2. The effective interest rate method is being used in the amortization of relevant premium/ discount of securities in compliance with the Philippine accounting standards.

____
Authorized Officer/Signatory

Annex 6

Letterhead of Financial Institution

Date:

The Director
Name of Off-site Supervising Department
Bangko Sentral ng Pilipinas
A. Mabini St., Manila

Dear Sir:

We hereby advise you of our decision to withdraw on <u>(indicate date of transfer)</u> the following securities used as security for the faithful performance of PERA Administrator from our PERA Administrator Securities Account.

Type	ISIN	Purchase Date	Issue Date	Due Date	Remaining Tenor[1]	Face Amount	Purchase Price

Very truly yours,

Name and Designation of Authorized Signatory

[1] Reckoned from actual date of transfer/withdrawal.

Annex 7

MEMORANDUM

Name of Off-site Supervising Department

F o r : **The Head**
Trust Specialist Group

From : The Authorized Officer

Subject : Scripless Securities for the Faithful Performance of PERA Administrator

Date :

In connection with the request of (indicate name of Financial Institution) dated _______ to:

a. ☐ Replace outstanding RoSS securities
b. ☐ Withdraw RoSS securities

You are hereby authorized to:

c. ☐ Instruct the Bureau of the Treasury to transfer the following securities to the RoSS Account of (Name of Financial Institution).

Type	ISIN	Purchase Date	Issue Date	Due Date	Remaining Tenor[1]	Face Amount	Purchase Price

____
Authorized Signatory

[1] Reckoned from actual date of transfer/withdrawal.

Annex 8

NAME OF OFF-SITE SUPERVISING DEPARTMENT

(Date)

(Name of Financial Institution)

(Address)

Subject: Scripless Securities for the Faithful Performance of PERA Administrator

Dear ______________:

We are pleased to inform you that we have approved your request dated __________ to:

a. ☐ Replace outstanding RoSS securities
b. ☐ Withdraw RoSS securities

Accordingly, we have authorized the Trust Specialist Group to:

c. ☐ Instruct the Bureau of the Treasury to the transfer the following securities to your RoSS accounts

Very truly yours,

____
Authorized Signatory

Annex 9

TRUST SPECIALIST GROUP

Transaction No. ______________
Value Date ______________201x

The Director
Liability Management Service
Bureau of the Treasury
Cabildo Street corner A. Soriano Avenue
and Sto. Tomas Street, Intramuros, Manila

Attention: Registry of Scripless Securities (RoSS)

Subject: RoSS Securities of PERA Administrator

CONFIRMATION OF TRANSFER OF GOVERNMENT SECURITIES (GS) SANS CONSIDERATION

The Bangko Sentral ng Pilipinas - Supervision and Examination Sector, BSP-PERA, does hereby **CONFIRM** that it has **TRANSFERRED SANS CONSIDERATION** unto (Name of Financial Institution) the following described government security held by the Bureau of the Treasury under the Registry of Scripless Securities (RoSS) System.

Type/ISIN	Issue Date	Due Date	Face Amount	Purchase Price

(NAME OF AUTHORIZED SIGNATORY)
Designation

REGISTRY OF SCRIPLESS SECURITIES

This is to acknowledge receipt of the Confirmation of Transfer of Government Securities (Sans Consideration) of Bangko Sentral ng Pilipinas - Supervision and Examination Sector, BSP-PERA.

____

RoSS
Bureau of the Treasury

PROCEDURES ON COLLECTION OF FINES/PENALTIES FROM QUASI-BANKS AND/OR DIRECTORS/OFFICERS OF QUASI-BANKS

[Appendix to Subsecs. 4902Q.2 (2008 - 4653Q.2)]

For uniform implementation of the regulations on collection of fines/penalties from QBs and/or directors/officers of QBs, the following procedures shall be observed:

1. Upon approval of the fines/penalties by the Governor/Monetary Board, the Department/Office concerned shall send the Statement of Account (SOA)/billing letter to the QB with an advice that the penalty should be paid in full within fifteen (15) calendar days from receipt of SOA/billing letter. For entities which maintain demand deposit account (DDA) with BSP, the amount of the penalty/ies shall be automatically debited from the QB's DDA with the BSP after the lapse of the fifteen (15)-calendar day period. The QB shall likewise be advised that penalty or portion thereof which remained unpaid after the lapse of said fifteen (15)-day period shall be subject to additional charge of six percent (6%) per annum reckoned from the business day immediately following the end of the fifteen (15)-day period up to the day of actual payment.

2. On the business day immediately following the end of said fifteen (15)-day period, unpaid penalties shall be automatically debited, without additional charge, against the QB's DDA with the BSP by the Comptrollership Sub-sector (CoSS) based on the amount booked by the Department/Office concerned after first confirming with the CoSS the sufficiency of the QB's DDA balance to cover the amount of the penalty.

3. If, based on its confirmation with the CoSS, the Department/Office concerned received information that the QB's DDA balance is insufficient to cover the amount of the penalty, it shall accordingly advise and request the bank to immediately fund its DDA.

4. As soon as it is funded, the QB's DDA shall be debited by the CoSS for the amount of the penalty, plus the six percent (6%) additional charge for late payment of the penalty reckoned from the business day immediately following the end of the fifteen (15)-day period up to the day of actual payment, based on the amount booked by the Department/Office concerned.

5. Payment by QBs of penalty, plus the additional charge if any by check or demand draft shall be made directly to the BSP Cash Department or to BSP Regional Cash Units in accordance with the provisions of Subsec. 4902Q.4.

6. In the case of penalty/ies imposed on QB directors/officers, said directors/officers shall be advised by the Department/Office concerned to pay within fifteen (15) calendar days from receipt of the SOA/billing letter directly to the BSP in the form of cash or check and in accordance with the provisions of Subsec. 4902Q.4. Penalty or portion thereof which remained unpaid after the lapse of said fifteen (15)-day period shall also be subject to additional charge of six percent (6%) per annum reckoned from the banking day immediately following the end of the fifteen (15)-day period up to the day of actual payment.

(As amended by Circular No. 662 dated 09 September 2009)

PROFORMA PAYMENT FORM
[Appendix to Subsec. 4902Q.2 (2008 - 4653Q.2)]

BANGKO SENTRAL NG PILIPINAS
Manila

____
(Name of Department/Office)

FOR -

The Director
Cash Department

Please issue OFFICIAL RECEIPT to ________(name of payor)________ as payment of ______(nature of payment)______ and effect the following accounting entries:

Account Code	Account Title/Description Accountee Type/Code/Name	DR/CR	Amount
			P

Total Debit ____________
Total Credit P____________

Approved by: ____________________________
(Name of BSP Official/Position)

Date:____________________

Received by:______________________
Date:___________________________

Official Receipt No:________
Date:____________________

(As amended by Circular No. 662 dated 09 September 2009)

(RESERVED)

CERTIFICATION OF COMPLIANCE WITH ANTI-MONEY LAUNDERING REGULATIONS

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

Anti-Money Laundering Council Resolution No. 292

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

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

CUSTOMER DUE DILIGENCE FOR BANKS AND QUASI-BANKS

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

GENERAL IDENTIFICATION REQUIREMENTS

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

GENERAL GUIDE TO ACCOUNT OPENING AND CUSTOMER IDENTIFICATION

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

Anti-Money Laundering Council Resolution No. 02
Series of 2005

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

ACTIVITIES WHICH MAY BE CONSIDERED UNSAFE AND UNSOUND PRACTICES

(Appendix to Secs. 4149Q and 4408Q and Subsec. 4301Q.6)

The following activities are considered only as guidelines and are not irrebutably presumed to be unsafe or unsound. Conversely, not all practices which might under the circumstances be termed unsafe or unsound are mentioned here. The Monetary Board may now and then consider other acts/omissions as unsafe or unsound practices.

a. Operating with management whose policies and practices are detrimental to the QB/trust entity and jeopardize the safety of its deposit substitutes/trust accounts.

b. Operating with total adjusted capital and reserves that are inadequate in relation to the kind and quality of the assets of the QB/trust entity.

c. Operating in a way that produces a deficit in net operating income without adequate measures to ensure a surplus in net operating income in the future.

d. Operating with a serious lack of liquidity, especially in view of the asset and deposit substitute/liability structure of the QB/trust entity.

e. Engaging in speculative and hazardous investment policies.

f. Paying excessive cash dividends in relation to the capital position, earnings capacity and asset quality of the QB/trust entity.

g. Excessive reliance on large, high-cost or volatile borrowings to fund aggressive growth that may be unsustainable.

For this purpose, a QB is considered offering high-cost borrowings if the effective interest rate paid on said borrowings and/or non-cash incentives is fifty percent (50%) over the prevailing comparable market median rate for similar QB categories, maturities and currency denomination.

h. Excessive reliance on letters of credit either issued by the QB/trust entity or accepted as collateral to loans advanced.

i. Excessive amounts of loan participations sold.

j. Paying interest on participations without advising participating institution that the source of interest was not from the borrower.

k. Selling participations without disclosing to the purchasers of those participations material, non-public information known to the QB/trust entity.

l. Failure to limit, control and document contingent liabilities.

m. Engaging in hazardous lending and lax collection policies and practices, as evidenced by any of the following circumstances:

(1) An excessive volume of loans subject to adverse classification;

(2) An excessive volume of loans without adequate documentation, include credit information;

(3) Excessive net loan losses;

(4) An excessive volume of loans in relation to the total assets and deposit substitutes/trust liabilities of the QB/trust entity;

(5) An excessive volume of weak and self-serving loans to persons connected with the QB/trust entity, especially if a significant portion of these loans are adversely classified;

(6) Excessive concentrations of credit, especially if a substantial portion of this credit is adversely classified;

(7) Indiscriminate participation in weak and undocumented loans originated by other institutions;

(8) Failing to adopt written loan policies;

(9) An excessive volume of past due or NPLs;

(10) Failure to diversify the loan portfolio/asset mix of the institution;

(11) Failure to make provision for an adequate reserve for possible loan losses;

(12) High incidence of spurious and fraudulent loans due to patently inadequate risk management systems and procedures resulting in significant impairment of capital;

(13) QB's niche mostly consists of borrowers who have impaired or limited credit history, or majority of the loans are either clean/unsecured or backed with minimum collateral values except those underwritten using microfinance technology consistent with Sec. X361 and other acceptable cash flow-based lending systems; and the QB does not have a robust risk management system in place leaving the QB vulnerable to losses;

(14) Loan rates are excessively higher than market rates to compensate the added or higher risks involved. Excessively higher rates are those characterized by effective interest rates that are fifty percent (50%) over the prevailing comparable market median rate for similar loan types, maturities and collaterals; and

(15) Assignment of loans on without recourse basis with real estate properties as payment, resulting in total investment in real estate in excess of the prescribed ceiling.

n. Permitting officers to engage in lending practices beyond the scope of their positions.

o. Operating the QB/trust entity with inadequate internal controls.

p. Failure to keep accurate and updated books and records.

q. Operating the institution with excessive volume of out-of-territory loans.

r. Excessive volume of non-earning assets.

s. Failure to heed warnings and admonitions of the supervisory and regulatory authorities.

t. Continued and flagrant violation of any law, rule, regulation or written agreement between the institution and the BSP.

u. Any other action likely to cause insolvency or substantial dissipation of assets or earnings of the institution or likely to seriously weaken its condition or otherwise seriously prejudice the interest of its investors/clients.

v. Non-observance of the principles and the requirements for managing and monitoring large exposures and credit risk concentrations under Subsec. 4301Q.6a and b.

w. Improper or non-documentation of repurchase agreements covering government securities and commercial papers and other negotiable and non-negotiable securities or instruments.

(As amended by Circular No. 640 dated 16 January 2009)

REVISED IMPLEMENTING RULES AND REGULATIONS
R.A. NO. 9160, AS AMENDED BY R.A. NO. 9194
[Appendix to Sec. 4801Q (2008 - 4691Q)]

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

INVESTMENT HOUSES AND FINANCING COMPANIES (IH/FC)
WITH QUASI-BANKING FUNCTIONS
[Appendix to Subsec. 4601Q.2 (2008 - 4602Q.1)]

(Deleted by Circular No. 636 dated 17 December 2008)

DETAILS ON THE COMPUTATION OF QUARTERLY INTEREST PAYMENTS CREDITED TO THE DEMAND DEPOSIT ACCOUNTS OF QUASI-BANKS' LEGAL RESERVE DEPOSITS WITH THE BANGKO SENTRAL
[Appendix to Subsec. 4254Q.3 (2008 - 4246Q.7)]

(Deleted by Circular No. 753 dated 29 March 2012)

TRANSFER/SALE OF NON-PERFORMING ASSETS TO A SPECIAL PURPOSE VEHICLE OR TO AN INDIVIDUAL

[Appendix to Sec. 4394Q.10 (2008 - 4396Q)]

The following procedures shall govern the transfer/sale of NPAs to a SPV or to an individual that involves a single family residential unit, or transactions involving *dacion en pago* by the borrower or third party of a NPL, for the purpose of obtaining the COE which is required to avail of the incentives provided under R.A. No. 9182, as amended by R.A. No. 9343.

a. Prior to the filing of any application for transfer/sale of NPAs, a QB shall coordinate with the BSP through the SDC and the appropriate department of the SES to develop a reconciled and finalized master list of its eligible NPAs.

For this purpose, QBs were requested to submit a complete inventory of their NPAs in the format prescribed under Circular Letter dated 07 January 2003. Only NPAs included in the masterlist that meet the definition of NPA, NPL and ROPA under R.A. No. 9182 may qualify for the COE. The QBs shall be provided a copy of their reconciled and finalized masterlist for their guidance.

Only QBs which have not yet submitted their masterlist of NPAs and intend to avail of the incentives and fee privileges of the SPV Act 2nd Phase implementation are allowed to submit a complete inventory of their NPAs in the format prescribed under Circular Letter dated 07 January 2003. QBs which have already submitted to BSP a masterlist of NPAs as of 30 June 2002 in the 1st Phase implementation of the SPV Act will not be allowed to submit a new/amended masterlist.

b. An application for eligibility of specific NPAs shall be filed in writing (hard copy) by the selling QB with the BSP through the appropriate department of the SES for each proposed transfer of asset/s. Although no specific form is prescribed, the applicant shall describe in sufficient detail its proposed transaction, identifying its counterparty/ies and disclosing the terms, conditions and all material commitments related to the transaction.

c. For applications involving more than ten (10) NPA accounts, the list of NPAs to be transferred/sold shall be submitted in soft copy (by electronic mail or diskette) in excel format using the prescribed data structure/format for NPLs and ROPAs to the appropriate department of the SES of the applicant QB at the following addresses:

SEDI-SPV@bsp.gov.ph
SEDII-SPV@bsp.gov.ph
SEDIII-SPV@bsp.gov.ph
SEDIV-SPV@bsp.gov.ph

For applications involving ten (10) NPA accounts or less, it is preferable that the list be submitted also in soft copy. The applicant may opt to submit the list in hard copy, provided all the necessary information shown in the prescribed data structure that are relevant to each NPL or ROPA to be transferred/sold will be indicated. The list to be submitted in hard copy would be ideal for the sale/transfer of NPAs that involve one (1) promissory note and/or one (1) asset item per account.

d. The application shall be accompanied by a written certification signed by a senior officer with a rank of at least senior vice president or equivalent, who is authorized by the board of directors, or by the country head, in the case of foreign banks, that:

(1) the assets to be sold/transferred are NPAs as defined under the SPV Act of 2002;

(2) the proposed sale/transfer of said NPAs is under a true sale;

(3) the notification requirement to the borrowers has been complied with; and

(4) the maximum ninety (90)-day period for renegotiation and restructuring has been complied with.

Items *(3)* and *(4)* above shall not apply if the NPL has become a ROPA after 30 June 2002.

e. In the case of *dacion en pago* by the borrower or a third party to a QB, the application for COE on the NPL being settled shall be accompanied by a Deed of Dacion executed by the borrower, the third party, the registered owner of the property and the QB.

f. The appropriate department of the SES may conduct an on-site review of the NPLs and ROPAs proposed to be transferred/sold. After the on-site review, the application for transfer/sale shall be submitted to the Deputy Governor, SES for approval and for the issuance of the corresponding COE.

g. Upon the issuance of the SPV Application Number by the BSP, a QB shall be charged a processing fee, as follows:

(1) 1/100 of one percent (1%) of the book value of NPAs transferred or the transfer price, whichever is higher, but not below ₱25,000 if the transfer is made to an SPV;

(2) 1/100 of 1% of the book value of the NPL but not below ₱5,000 in case of a *dacion en pago* arrangement by an individual or corporate borrower;

(3) ₱5,000 if the transfer involves a single family residential unit to an individual.

h. An SPV that intends to transfer/sell to a third party an NPA that is covered by a COE previously issued by the BSP shall file an application for such transfer/sale with the SEC which shall issue the corresponding COE based on the data base of COEs maintained at the BSP.

An individual who intends to transfer/ sell an NPA that involves a single family residential unit he had acquired that is covered by a COE shall file an application for the another COE with the BSP through the QB from which the NPA was acquired. The individual shall indicate in his application the previous COE issued for the NPA he had acquired and the name, address and TIN of the transferee/buyer of the NPA. A processing fee of ₱5,000 shall be collected by BSP upon issuance of the SPV Application Number by the BSP.

(As amended by M-2006-001 dated 11 May 2006)

ACCOUNTING GUIDELINES ON THE SALE OF NON-PERFORMING ASSETS TO SPECIAL PURPOSE VEHICLES AND TO QUALIFIED INDIVIDUALS FOR HOUSING UNDER "THE SPECIAL PURPOSE VEHICLE ACT OF 2002"

[Appendix to Sec. 4394Q.10 (2008 - 4396Q)]

General Principles

These guidelines set out alternative regulatory accounting treatment of the sale of NPAs by banks and other FIs under BSP supervision to SPVs and to qualified individuals for housing under R.A. No. 9182, otherwise known as "The Special Purpose Vehicle Act of 2002".

The guidelines recognize that banks/FIs may need temporary regulatory relief, in addition to tax relief under the SPV Law, particularly in the timing of recognition of losses, so that they may be encouraged to maximize the sale of their NPAs even at substantial discounts: *Provided, however*, That in the interest of upholding full transparency and sustaining market discipline, banks/FIs that avail of such regulatory relief shall fully disclose its impact in all relevant financial reports.

The guidelines cover the following areas:

(1) Derecognition of NPAs sold/transferred to an SPV and initial recognition of financial instruments issued by the SPV to the selling bank/FI as partial or full settlement of the NPAs sold/transferred to the SPV;

(2) Subsequent measurement of the carrying amount of financial instruments issued by the SPV to the selling bank/FI;

(3) Capital adequacy ratio (CAR) calculation; and

(4) Disclosure requirement on the selling bank/FI.

The sale/transfer of NPAs to SPV referred to in these guidelines shall be in the nature of a "true sale" pursuant to Section 13 of the SPV Law and its Implementing Rules and Regulations.

I. Derecognition of NPAs Sold and Initial Recognition of Financial Instruments Received

A bank/FI should derecognize an NPA in accordance with the provisions of PAS 39 (for financial assets such as loans and securities) and PAS 16 and 40 (for non-financial assets such as land, building and equipment).

A sale of NPA qualifying as a true sale pursuant to Section 13 of the SPV Law and its Implementing Rules and Regulations but not qualifying for derecognition under PASs 39, 16 and 40 may nonetheless, be derecognized. *Provided:* That the bank/FI shall disclose such fact, in addition to all other disclosures provided in this Appendix.

On derecognition, any excess of the carrying amount of the NPA (i.e., net of specific allowance for probable losses after booking the BSP recommended valuation reserve) over the proceeds received in the form of cash and/or financial instruments issued by the SPV represents an actual loss that should be charged to current period's operations.

However, a bank/FI may use any existing specific allowance for probable losses on NPA sold:

(1) to cover any unbooked (specific/general) allowance for probable losses; and

(2) to apply the excess, if any, as additional (specific/general) allowance for probable losses, on remaining assets, in which case the carrying amount of the NPA

(which is compared with the proceeds received for purposes of determining the actual loss) shall be the gross amount of the NPA: *Provided,* That the use of such existing specific allowance for probable losses on the NPA sold as provisions against remaining assets shall be properly disclosed.

The loss may, moreover, be booked under "Deferred Charges" account which should be written down over the next ten (10) years based on the following schedule:

End of Period From Date of Transaction	Cumulative Write-down of Deferred Charges
Year 1	5%
Year 2	10%
Year 3	15%
Year 4	25%
Year 5	35%
Year 6	45%
Year 7	55%
Year 8	70%
Year 9	85%
Year 10	100%

Provided, That the staggered booking of actual loss on sale/transfer of the NPA shall be properly disclosed.

In case the face amounts of the financial instruments exceed the excess of the carrying amount of the NPA over the cash proceeds, the same shall be adjusted by setting up specific allowance for probable losses so that no gain shall be recognized from the transaction.

The carrying amount of the NPA shall be initially assumed to be the NPA's fair value. The excess of the carrying amount of the NPA over the cash proceeds or the face amounts of the financial instruments, whichever is lower, shall then be the initial cost of financial instruments received.

Banks/FIs shall book such financial instruments under the general ledger account "Unquoted Debt Securities Classified as Loans" for debt instruments or "Investments in Non-Marketable Equity Securities" for equity instruments.

Consolidation of SPV with Bank/FI. Even if the sale of NPAs to SPVs qualifies for derecognition, a bank/FI shall consolidate the SPV in the audited consolidated financial statements when the relationship between the bank/FI and the SPV indicates that the SPV is controlled by the bank/FI in accordance with the provisions of SIC (Standing Interpretations Committee) -12 Consolidation - Special Purpose Entities.

II. Subsequent Measurement of Financial Instruments Received

(a) A bank/FI should assess at end of each fiscal year or more frequently whether there is any objective evidence or indication based on analysis of expected net cash inflows that the carrying amount of financial instruments issued by an SPV may be impaired. A financial instrument is impaired if its carrying amount (i.e., net of specific allowance for probable loss) is greater than its estimated recoverable amount. The estimated recoverable amount is determined based on the net present value of expected future cash flows discounted at the current market rate of interest for a similar financial instrument.

In applying discounted cash flow analysis, a bank/FI should use the discount rate(s) equal to the prevailing rate of return for financial instruments having substantially the same terms and characteristics, including the creditworthiness of the issuer.

(b) Alternatively, the estimated recoverable amount of the financial instruments may be determined based on an updated estimate of residual NPV of the issuing SPV.

The estimated recoverable amount of the financial instrument shall be the present value of the excess of expected cash inflows (e.g., proceeds from the sale of collaterals and/or ROPAs, which in no case shall exceed the contract price of the NPAs sold/ transferred, interest on the reinvestment of proceeds) over expected cash outflows (e.g., direct costs to sell, administrative expenses, principal and interest payments on senior obligations, interest payments on the financial instruments).

The fair market value of the collateral and/or ROPAs should under this method be considered only under the following conditions:

(1) The appraisal was performed by an independent appraiser acceptable to the BSP; and

(2) The valuation of the independent appraiser is based on current market valuation of similar assets in the same locality as underlying collateral rather than other valuation methods such as replacement cost, etc.

The assumptions regarding the timing of sale, the direct cost to sell, administrative expenses, reinvestments rate and current market rate should be disclosed in sufficient detail in the audited financial statements. The applicable discount rate should be based on the implied stripped yield of the Treasury note or bond for the tenor plus an appropriate risk premium.

(c) In case of impairment, the carrying amount of the financial instrument should be reduced to its estimated recoverable amount, through the use of specific allowance for probable losses account that should be charged to current period's operations. However, at the end of the fiscal year the sale/transfer of NPA occurred, such setting up of specific allowance for probable losses account may be booked on a staggered basis over the next ten (10) years based on the following schedule:

End of Period From Date of Transaction	Cumulative Booking of Allowance for Probable Losses
Year 1	5%
Year 2	10%
Year 3	15%
Year 4	25%
Year 5	35%
Year 6	45%
Year 7	55%
Year 8	70%
Year 9	85%
Year 10	100%

Provided, That the staggered booking of impairment, if any, upon remeasurement of financial instruments at end of the fiscal year the sale/transfer of the NPA occurred shall be properly disclosed.

After initially recognizing an impairment loss, the bank/FI should review the financial instruments for future impairment in subsequent financial reporting date.

If in a subsequent period, the estimated recoverable amount of the financial instrument decreases, the bank/FI should immediately book additional allowance for probable losses corresponding to the decrease. However, a bank/FI may stagger the booking of such additional allowance for probable losses in such a way that it catches up and keeps pace with the original deferral schedule (e.g., if the impairment occurred in Year 8, a bank/FI should immediately book 70 percent (70%) at end of Year 8, and thereafter, additional 15 percent (15%) each at end of Year 9 and Year 10, respectively): *Provided,* That the staggered booking of impairment, if any, upon remeasurement of financial instruments shall be properly disclosed.

If in a subsequent period, the estimated recoverable amount of the financial instrument increases exceeding its carrying amount, and the increase can be objectively related to an event occurring after the write-down, the write-down of the financial instruments should be reversed by adjusting the specific allowance for probable losses account. The reversal should not result in a carrying amount of the financial instrument that exceeds what the cost would have been had the impairment not been recognized at the date the write-down of the financial instrument is reversed. The amount of the reversal should be included in the profit for the period.

Illustrative accounting entries for derecognition of NPAs, initial recognition of financial instruments issued by the SPV, and subsequent measurement of the carrying amount of the financial instrument are in Annex Q-28-a-1.

III. CAR Calculation

Banks/FIs may, for purposes of calculating CAR, likewise stagger over a period of seven (7) years the recognition of:

(1) actual loss on sale/transfer of NPAs; and

(2) impairment, if any, upon remeasurement of financial instruments, in accordance with the following schedule:

End of Period From Date of Transaction	Cumulative Recognition of Losses/Impairment
Year 1	5%
Year 2	10%
Year 3	15%
Year 4	25%
Year 5	35%
Year 6	45%
Year 7	55%
Year 8	70%
Year 9	85%
Year 10	100%

Provided, That no cash dividend on common stock and/or preferred stock shall be declared by the bank/FI while the staggered recognition of actual loss on sale/transfer of NPA and/or impairment, if any, on the remeasurement of financial instruments at end of the first fiscal year following the sale/transfer of NPA exist.

The financial instruments received by the selling bank/FI shall be risk weighted in accordance with Sec. 4115Q.

A bank/FI may declare cash dividend on common and/or preferred stock notwithstanding deferred recognition of loss duly authorized by the BSP.

IV. Disclosure

Banks/FIs should disclose as "Additional Information" in periodic reports submitted to the BSP, as well as in published reports and audited financial statements and all relevant financial reports the specific allowance for probable losses on NPAs sold used as provisions against remaining assets, the staggered recognition of actual loss on sale/transfer of NPAs" and/or impairment, if any, on the remeasurement of financial instruments.

In addition, banks/FIs which receive financial instruments issued by the SPVs as partial or full settlement of the NPAs transferred to the SPVs should disclose in the AFS the method used and the significant assumptions applied in estimating the recoverable amount of the financial instruments, including the timing of the sale, the direct cost to sell, administrative expenses, reinvestment rate, current market rate, etc. (The pro-forma disclosure requirements on the staggered recognition of actual loss on sale/transfer of NPAs and/or impairment, if any, on the remeasurement of financial instruments are shown in Annex Q-28-a-2.)

Annex Q-28-a-1

ILLUSTRATIVE ACCOUNTING ENTRIES TO RECORD SALE OF NPAs TO SPV UNDER THE SPV LAW OF 2002 UNDER DEFERRED RECOGNITION OF LOSS/IMPAIRMENT OF FINANCIAL INSTRUMENTS

	Mode of Payment (Cash, Financial Instruments)				
	Cash Only (30, 0)	Financial Instruments Only (0, 120)	Part Cash, Part Financial Instruments [1] (30,100)	Part Cash, Part Financial Instruments[2] (30, 90)	Part Cash, Part Financial Instruments (30, 70)
Assumptions:					
Loans/ROPAs, gross	120	120	120	120	120
Allowance for probable losses	20	20	20	20	20
Loans/ROPAs, net	100	100	100	100	100
Cash payment received	30	0	30	30	30
Financial instruments received	0	120	100	90	70
Unbooked valuation reserves on remaining assets	15	15	15	15	15

[1] Face amounts of financial instruments exceed the excess of the gross amount of the NPAs over the cash proceeds.
[2] Face amounts of financial instruments do not exceed the excess of the gross amount of the NPAs over the cash proceeds.

	Accounting Entries	Cash Only (30, 0)		Financial Instruments Only (0, 120)		Part Cash, Part Financial Instruments [1] (30, 100)		Part Cash, Part Financial Instruments [2] (30, 90)		Part Cash, Part Financial Instruments (30, 70)	
		Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit
1	Allowance for Probable Losses – NPAs sold Allowance For Probable Losses - Remaining Assets *(For unbooked provisions)* *(As additional provisions)* To record the reclassification of existing specific allowance for credit losses on NPAs sold as provisions against remaining assets.	20	 15 5	20	 15 5	20	 15 5	20	 15 5	20	 15 5
2	Cash Unquoted Debt Securities Classified as Loans/INMES Deferred Charges Loans/ROPAs Allowance for Credit Losses - Unquoted Debt Securities Classified as Loans/INMES To record the sale of NPAs, receipt of cash and/or financial instruments, and deferred recognition of loss, if any.	30 0 90	 120 0	0 120 0	 120 0	30 100 0	 120 10	30 90 0	 120 0	30 70 20	 120 0
3	Amortization – Deferred Charges Deferred Charges To record annual write down of deferred charges based on schedule of staggered booking of losses.	xxx	 xxx	0	 0	0	 0	0	 0	xxx	 xxx
4	Provision for Credit Losses – Unquoted Debt Securitues Classified as Loans/INMES Allowance for Credit Losses – Unquoted Debt Securities Classified as Loans/INMES To record annual build up of allowance for credit losses on financial instruments based on schedule of staggered booking of allowance for credit losses.	0	 0	xxx	 xxx	xxx	 xxx	xxx	 xxx	xxx	

[1] Face amounts of financial instruments exceed the excess of the gross amount of the NPAs over the cash proceeds.

[2] Face amounts of financial instruments do not exceed the excess of the gross amount of the NPAs over the cash proceeds.

Annex Q-28-a-2

PRO-FORMA DISCLOSURE REQUIREMENT

A. Statement of Condition

Particulars	Amount		
	Qualified for derecognition Under PFRS/PAS	Not Qualified for derecognition Under PFRS/PAS	Total
Additional Information:			
NPAs sold, gross	xxx	xxx	xxx
Allowance for credit losses (specific) on NPAs sold	xxx	xxx	xxx
Allowance for credit losses (specific) on NPAs sold applied to:			
Unbooked allowance for credit losses:			
Specific	xxx	xxx	xxx
General	xxx	xxx	xxx
Additional allowance for credit losses			
Specific	xxx	xxx	xxx
General	xxx	xxx	xxx
Cash received	xxx	xxx	xxx
Financial instruments received, gross	xxx	xxx	xxx
Less: Allowance for credit losses (specific)	xxx	xxx	xxx
Carrying amount of financial instruments received	xxx	xxx	xxx
Less: Unbooked allowance for credit losses (specific)	xxx	xxx	xxx
Adj. carrying amount of financial instruments received	xxx	xxx	xxx
Deferred charges, gross	xxx	xxx	xxx
Less: Deferred charges written down	xxx	xxx	xxx
Carrying amount of deferred charges	xxx	xxx	xxx

B. Statement of Income and Expenses

Particulars	Amount		
	Qualified for derecognition Under PFRS/PAS	Not Qualified for derecognition Under PFRS/PAS	Total
Additional Information:			
Net income/(loss) after income tax *(with regulatory relief)*			xxx
Less: Deferred charges not yet written down	xxx	xxx	xxx
Unbooked allowance for credit losses (specific) on financial instruments received	xxx	xxx	xxx
Total deduction	xxx	xxx	xxx
less: Deferred tax liability, if applicable	xxx	xxx	xxx
Net deductions	xxx	xxx	xxx
Net income/(loss) after income tax *(without regulatory relief)*			

SIGNIFICANT TIMELINES RELATIVE TO THE IMPLEMENTATION OF R.A. NO. 9182, ALSO KNOWN AS THE "SPECIAL PURPOSE VEHICLE ACT", AS AMENDED BY R.A. NO. 9343

[Appendix to Sec. 4394Q.10 (2008 - 4396Q]

Timelines of Implementation Expired as follows:

		Expired on
First Leg Transactions	:	*1st phase - 08 April 2005*
		2nd phase - 14 May 2008
Second Leg Transactions:		*14 May 2013*

GUIDELINES AND MINIMUM DOCUMENTARY REQUIREMENTS FOR FOREIGN EXCHANGE FORWARD AND SWAP TRANSACTIONS

[Appendix to Subsecs. 4625Q.3 - 4625Q.4 and 4625Q.6 (2008 - 4603Q.16 - 4603Q.18)]

The following is a list of minimum documentary requirements for FX forward and swap transactions. Unless otherwise indicated, original documents[1] shall be presented on or before deal date to QBs.

A. FORWARD SALE OF FX TO COVER OBLIGATIONS – DELIVERABLE AND NON-DELIVERABLE

1. *FORWARD SALE OF FX – TRADE*

1.1 Trade transactions

1.1.1 Under LC

a. Copy of LC opened; and

b. Accepted draft, or commercial invoice/Bill of Lading

1.1.2 Under DA/OA arrangements

a. Certification of reporting QB on the details of DA/OA under Schedule 10 (Import Letters of Credits Opened and DA/OA Import Availments and Extensions) of FX Form 1 (Consolidated Report on Foreign Exchange Assets and Liabilities); and

b. Copy of commercial invoice;

In addition to the above requirements, the QB shall require the customer to submit a Letter of Undertaking that:

(i.) Before or at maturity date of the forward contract, it (the importer) shall comply with the documentation requirements on sale of FX for trade transactions under existing regulations; and

(ii.) No double hedging has been obtained by the customer for the covered transactions.

1.1.3 Direct Remittance

Original shipping documents indicated in Item *"II.a"* of Circular Letter dated 24 January 2002.

2. *NON-TRADE TRANSACTIONS*

Only non-trade transactions with specific due dates shall be eligible for forward contracts, and shall be subject to the same documentation requirements under Circular No. 388 dated 26 May 2003 with the following additional guidelines for foreign currency loans and investments.

2.1 Foreign Currency Loans owed to non-residents or AABs

2.1.1 Deliverable Forwards

The maturing portion of the outstanding eligible obligation, i.e., those that are registered with the BSP registration letter, may be covered by a deliverable forward subject to the documentary requirements under Circular No. 388. A copy of the creditor's billing statement may be submitted only on or before the maturity date of the contract.

2.1.2 NDFs

The outstanding eligible obligation, i.e., those that are registered with the BSP, including interests and fees thereon as indicated in the BSP registration letter may be covered by a NDF, subject to the documentary requirements under Circular No. 388, except for the creditor's billing statement which need not be submitted.

The amount of the forward contract shall not exceed the outstanding amount of the underlying obligation during the term of the contract.

2.2 Inward Foreign Investments

The unremitted amount of sales/ maturity proceeds due for repatriation to non-resident investors pertaining to BSP - registered investments in the following instruments issued by a Philippine resident:

a. shares of stock listed in the PSE;

b. GS;

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[1] If copy is indicated, it shall mean photocopy, electronic copy or facsimile of original.

c. money market instruments; and

d. peso time deposits with a minimum tenor of ninety (90) days may be covered by FX forward contracts subject to the presentation of the original BSRD on or before deal date. However, for Item *"2.2.a"* above, original BSRD or BSRD Letter-Advice, together with the broker's sales invoice, shall be presented on or before maturity date of the FX forward contract, which date coincides with the settlement date of the PSE transaction.

Sales proceeds of BSP-registered investments in shares of stock that are not listed in the PSE may be covered by a deliverable FX forward contract only if determined to be outstanding as of the deal date for the contract and payable on a specific future date as may be indicated in the Contract To Sell/Deed of Absolute Sale and subject to the same documentary requirements under Circular No. 388.

B. FORWARD SALE OF FX TO COVER EXPOSURES– DELIVERABLE AND NON-DELIVERABLE

1. *TRADE (DELIVERABLE AND NON-DELIVERABLE)*

1.1 Under LC

a. Copy of LC opened; and

b. Proforma Invoice, or Sales Contract/Purchase Order

1.2 Under DA/OA, Documents Against Payment (DP) or Direct Remittance (DR)

Any of the following where delivery or shipment shall be made not later than one (1) year from deal date:

a. Sales Contract

b. Confirmed Purchase Order

c. Accepted Proforma Invoice

d. Shipment/Import Advice of the Supplier

In addition to the above requirements, the QB shall require the customer to submit a Letter of Undertaking that:

(i) At maturity of the forward contract, it shall comply with the documentation requirements on the sale of FX for trade transactions under Circular-Letter dated 24 January 2002, as amended; and

(ii) No double hedging has been obtained by the customer for the covered transactions.

2. *NON-TRADE (NON-DELIVERABLE)*

The outstanding balance of BSP-registered foreign investments without specific repatriation date, appearing in the covering BSRD may only be covered by an NDF contract, based on its market/ book value on deal date, subject to prior BSP approval and if already with BSRD presentation of the covering BSRD and the proof that the investment still exists (e.g., stock certificate, or broker's buy invoice, or confirmation of sale, or certificate of investment in money market instruments, or certificate of peso time deposits). Hedging for permanently assigned capital of Philippine branches of foreign banks/ firms is not allowed.

C. FORWARD PURCHASE OF FX

Such FX forward contracts shall be subject to the QB's "Know Your Customer" policy and existing regulations on anti-money laudering. In addition, counterparties must be limited to those that are manifestly eligible to engage in FX forwards as part of the normal course of their operations and which satisfy the QB's suitability and eligibility rules for such transactions.

D. FX SWAP TRANSACTIONS

1. *FX SALE (first leg)/FORWARD FX PURCHASE (second leg)*

The same minimum documentary requirements for sale of FX under BSP

Circular No. 388 for non-trade transactions, and Circular-Letter dated 24 January 2002, as amended, for trade transactions, shall be presented on or before deal date.

2. *FX PURCHASE (first leg)/FORWARD FX SALE (second leg)*

The first leg of the swap will be subject to the QB's "Know Your Customer" policy and existing regulations on anti-money laundering. The second leg of the swap transaction will be subject to the swap contract between the counterparties.

Swap contracts of this type intended to fund peso loans to be extended by non-residents in favor of residents shall require prior BSP approval.

(As amended by Circular No. 591 dated 15 October 2007)

GUIDELINES TO GOVERN THE SELECTION, APPOINTMENT, REPORTING REQUIREMENTS AND DELISTING OF EXTERNAL AUDITORS AND/OR AUDITING FIRM OF COVERED ENTITIES

[Appendix to Sec. 4189Q (2008 - 4180Q) and 4162Q (2008 - 4190Q)]

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. 4409Q.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 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 amounts 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.

RULES AND REGULATIONS ON COMMON TRUST FUNDS[1]

(Appendix to Sec. 4410Q)

1. The administration of CTFs shall be subject to the provisions of Subsecs. 4409Q.1 up to 4409Q.6 and to the following regulations.

As an alternative compliance with the required prior authority and disclosure under Subsecs. 4409Q.2 and 4409Q.3, a list which shall be updated quarterly of prospective and/or outstanding investment outlets may be made available by the trustee for the review of all CTF clients. *(Sec. 4410Q)*

2. Establishment of CTFs. Any trust company or investment house authorized to engage in trust business may establish, administer and maintain one (1) or more CTFs. *(Subsec. 4410Q.1)*

3. Minimum documentary requirements for CTFs. In addition to the trust agreement or indenture required under Subsec. 4409Q.1, each CTF shall be established, administered and maintained in accordance with a written declaration of trust referred to as the plan, which shall be approved by the board of directors of the trustee and a copy submitted to the appropriate department of the SES within thirty (30) business days prior to its implementation.

The plan shall make provisions on the following matters:

a. Title of the plan;

b. Manner in which the plan is to be operated;

c. Investment powers of the trustee with respect to the plan, including the character and kind of investments which may be purchased;

d. Allocation, apportionment and distribution dates of income, profit and losses;

e. Terms and conditions governing the admission or withdrawal as well as expansion or contraction of participations in the plan including the minimum initial placement and account balance to be maintained by the trustor;

f. Auditing and settlement of accounts of the trustee with respect to the plan;

g. Detailed information on the basis, frequency, and method of valuing and accounting of CTF assets and each participation in the fund;

h. Basis upon which the plan may be terminated;

i. Liability clause of the trustee;

j. Schedule of fees and commissions which shall be uniformly applied to all participants in a fund and which shall not be changed between valuation dates; and

k. Such other matters as may be necessary or proper to define clearly the rights of participants under the plan.

The legal capacity of the institution administering a CTF shall be indicated in the plan and other related agreements or contracts as trustee of the fund and not in any other capacity such as fund manager, financial manager, or like terms.

The provisions of the plan shall control all participations in the fund and the rights and benefits of all parties in interest.

The plan may be amended by resolution of the board of directors of the trustee: *Provided, however*, That participants in the fund shall be immediately notified of such amendments and shall be allowed to

[1] The rules and regulations on CTFs were previously under Sec. 4410Q and the subsections enclosed in parentheses.The UIT Funds regulations which are now in said section/subsections took effect on 01 October 2004 (effectivity of Circular No. 447 dated 03 September 2004).

withdraw their participations if they are not in conformity with the amendments made: *Provided, further,* That amendments to the plan shall be submitted to the appropriate department of the SES within ten (10) business days from approval of the amendments by the board of directors.

A copy of the plan shall be available at the principal office of the trustee during regular office hours for inspection by any person having an interest in a trust whose funds are invested in the plan or by his authorized representative. Upon request, a copy of the plan shall be furnished such person. *(Subsec. 4410Q.2)*

4. Management of CTFs. The trustee shall have the exclusive management and control of each CTF administered by it, and the sole right at any time to sell, convert, reinvest, exchange, transfer or otherwise change or dispose of the assets comprising the fund.

The trustee shall designate clearly in its records the trust accounts owning participation in the CTF and the extent of the interests of such account. The trustee shall not negotiate nor assign the trustor's beneficial interest in the CTF without prior written consent of the trustor or beneficiary. No trust account holding a participation in a CTF shall have or be deemed to have any ownership or interest in any particular asset or investment in the CTF but shall have only its proportionate beneficial interest in the fund as a whole. *(Subsec. 4410Q.3)*

5. Trustee as participant in CTFs. A trustee administering a CTF shall not have any interest in such fund other than in its capacity as trustee of the CTF nor grant any loan on the security of a participation in such fund: *Provided, however,* That a trustee which administers funds representing employee benefit plans under trust or investment management may invest funds in the CTF: *Provided, further,* That in the case of employee benefit plans under trust belonging to employees of entities other than that of the trustee, the trustee may invest such funds in its own CTF only on a temporary basis in accordance with Subsec. 4409Q.5. *(Subsec. 4410Q.4)*

6. Exposure limit of CTF to a single person or entity. No investment for a CTF shall be made in stocks, bonds, bank deposits or other obligations of any one (1) person, firm or corporation, if as a result of such investment the total amount invested in stocks, bonds, bank deposits or other obligations issued or guaranteed by such person, firm or corporation shall aggregate to an amount in excess of fifteen percent (15%) of the market value of the CTF: *Provided*, That this limitation shall not apply to investments in government securities or other evidences of indebtedness of the Republic of the Philippines and of the BSP, and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines. *(Subsec. 4410Q.5)*

7. Operating and accounting methodology. By its inherent nature, a CTF shall be operated and accounted for in accordance with the following:

a. The trustee shall have exclusive management and control of each CTF administered by it and the sole right at any time to sell, convert, reinvest, exchange, transfer or otherwise change or dispose of the assets comprising the fund;

b. The total assets and accountabilities of each fund shall be accounted for as a single account referred to as *pooled fund accounting;*

c. Contributions to each fund by clients shall always be through participations in the fund;

d. All such participations shall be pooled and invested as one (1) account (referred to as collective investments); and

e. The interest of each participant shall be determined by a formal method of participation valuation established in the written plan of the CTF, and no participation shall be admitted to or withdrawn from the fund except on the basis of such valuation. *(Subsec. 4410Q.6)*

8. Tax-exempt common trust funds The following shall be the features/ requirements of CTFs which may qualify for exemption from the twenty percent (20%) final tax under Section 24(B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997):

a. The tax exemption shall apply to CTFs established on or after January 3, 2000;

b. The CTF indenture or plan as well as evidences of participation shall clearly indicate that the participants shall be limited to individual trustors/investors who are Filipino citizens or resident aliens and that participation is non-negotiable and non-transferable;

c. The date of contributions to the CTF shall be clearly indicated in the evidence of participation to serve as basis for the trustee-QB to determine the period of participation for tax exemption purposes;

d. The CTF indenture/plan as well as the evidence of participation shall indicate that pursuant to Section 24(B)(1) of R.A. No. 8424, interest income of the CTF derived from investments in interest-bearing instruments (e.g., time deposits, government securities, loans and other debt instruments) which are otherwise subject to the twenty percent (20%) final tax, shall be exempt from said final tax provided participation in the CTF is for a period of at least five (5) years. If participation is for a period less than five (5) years, interest income shall be subject to a final tax which shall be deducted and withheld based on the following schedule:

Participation Period	Rate of Tax
Four (4) years to less than five (5) years	5%
Three (3) years to less than four (4) years	12%
Less than three (3) years	20%

Necessarily, the date of contribution shall be clearly indicated in the evidence of participation which shall serve as basis for determining the participation period of each participant; and

e. Tax-exempt CTFs established under this Subsection shall be subject to the provisions of Subsecs. 4409Q.1(c), 4409Q.2 up to 4409Q.7, and Items *"2 to 7"* of this Appendix.

Regarding the required prior authority and disclosure under Subsecs. 4409Q.2 and 4409Q.3, a list of prospective and/or outstanding investment outlets that is made available by the trustee for the review of all CTF clients may serve as an alternative compliance, which list shall be updated quarterly. *(Subsec. 4410Q.7)*

9. Custody of Securities. Investments in securities of all existing CTFs shall be delivered to a BSP-accredited third party custodian not later than 31 October 2004.

CHECKLIST OF BANGKO SENTRAL REQUIREMENTS IN THE SUBMISSION OF FINANCIAL AUDIT REPORT, ANNUAL AUDIT REPORT AND REPORTS REQUIRED UNDER APPENDIX Q-30

[Appendix to Secs. 4190Q (2008 - 4172Q), 4172S and 4172N]

The external auditor (Included in the List of Bangko Sentral Selected External Auditors) shall start the audit not later than thirty (30) calendar days after the close of the calendar/fiscal year adopted by the FI. AFS of FIs with subsidiaries shall be presented side by side on a solo basis and on a consolidated basis (FIs and subsidiaries). The FAR shall be submitted by the FI to the appropriate department of the SES not later than 120 calendar days after the close of the calendar year or fiscal year adopted by the FI, together with the following:

Information/Data Required	Deadline for submission
A. FAR	
1. Certification by the external auditor on the following:	For submission together with the FAR not later than 120 calendar days after the close of the calendar year or fiscal year adopted by the bank.
a. The dates of commencement and termination of audit.	
b. The date when the FAR 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 bank/QB were submitted to the board of directors or country head, in the case of foreign bank branches; and	
c. That the external auditor, partners, associates, auditor-in-charge of the engagement and the members of their immediate family do not have any direct or indirect financial interest with the bank/QB, its subsidiaries and affiliates and that their independence is not considered impaired under the circumstances specified in the Code of Professional Ethics for CPAs.	
2. Reconciliation statement for the differences in amounts between the audited and the submitted BS and IS for bank proper (regular and FCDU) and	For submission together with the FAR not later than 120 calendar days after the close of the calendar year or fiscal year adopted by the bank.

Information/Data Required	Deadline for submission
trust department, including copies of adjusting entries on the reconciling items. **Note:** Please see pro-forma comparative analysis (Annex Q-33-a).	
3. LOC indicating the external auditor's findings and comments on the material weakness noted in the internal control and risk management systems and other aspects of operations.	Within thirty (30) calendar days after submission of the FAR.
In case no material weakness 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 bank shall be submitted by the external auditor.	For submission together with the FAR not later than 120 calendar days after the close of the calendar year or fiscal year adopted by the bank.
4. Copies of the board resolutions showing the:	
a. Action taken on the FAR and, where applicable, on the certification under oath including the names of the directors, present and absent, among other things; and	Within thirty (30) banking days after the receipt of the FAR and certification under oath by the board of directors.
b. Action taken on the findings and recommendations in the LOC, and the names of the directors present and absent, among other things.	Within thirty (30) banking days after the receipt of the LOC by the board of directors.
5. In case of foreign banks with branches in the Philippines, in lieu of the board resolution:	
a. A report by the country head on the action taken by management (head office, regional or country) on the FAR and, where applicable, on the	Within thirty (30) banking days after the receipt of the FAR and certification under oath by the country head.

Information/Data Required		Deadline for submission
	applicable, on 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 bank.	
b.	A report by the country head on the action taken by management (head office, regional or country) on the LOC.	Within thirty (30) banking days after the receipt of the LOC by the country head.
6.	Certification of the external auditor on the date when the LOC was submitted to the board of directors or country head.	Within thirty (30) banking days after the receipt of the LOC by the board of directors or country head.
7.	All the required disclosures in the AFS provided under Subsec. 4190Q.4	For submission together with the FAR not later than one hundred twenty calendar days after the close of the calendar year or fiscal year adopted by the bank.
8.	Reports required to be submitted by the external auditor under *Appendix Q-30*.	
a.	To enable the Bangko Sentral to take timely and appropriate remedial action, the external auditor must report to the Bangko Sentral, the following cases: (1) Any material finding involving fraud or dishonesty (including cases that were resolved during the period of audit); and (2) Any potential losses the aggregate of which amounts to at least one percent (1%) of the capital.	Within thirty (30) calendar days after discovery.
b.	The external auditor shall report directly to the Bangko Sentral the following: (1) Termination or resignation as external auditor and starting the reason therefore; (2) Discovery of a material breach of laws or Bangko Sentral rules and regulations such as, but not limited to:	Within fifteen (15) calendar days after the occurrence/discovery.

Information/Data Required	Deadline for submission
(a) CAR; and	
(b) Loans and other risk assets review and classification.	
(3) Findings on matters of corporate governance that may require urgent action by the Bangko Sentral.	
c. In case there are no matters to report (e.g., fraud, dishonesty, breach of laws, etc.) a notarized certification that there is none to report.	Within fifteen (15) calendar days after the closing of the audit engagement.
B. AAR – For FIs under the concurrent jurisdiction of the Bangko Sentral and COA.	
1. Copy of the AAR accompanied by the:	Within forty (40) calendar days after receipt of the AAR by the board of directors.
a. Certification by the institution concerned on the date of receipt of the AAR by the board of directors;	
b. Reconciliation statement between the AFS in the AAR and the BS and IS of bank proper (Regular and FCDU) and trust department submitted to the Bangko Sentral, including copies of adjusting entries on the reconciling items; and	
c. Other information that may be required by the Bangko Sentral.	
2. Copy of the board resolution showing the action taken on the AAR, as well as on the comments and observations, including the names of the directors present and absent, among other things.	Within thirty (30) banking days after receipt of the AAR by the board of directors.

(As amended by Circular Nos. 911 dated 02 May 2016, 554 dated 22 December 2006 and 540 dated 09 August 2006)

Annex Q-33-a

Name of Financial Institution
Comparison of Submitted Consolidated Balance Sheet and Income Statement
and Audited Financial Statements
(Parent and Subsidiaries)
As of (end of calendar or fiscal year)
(In Thousand Pesos)

	Submitted Report	Audited Report	Variance/ Discrepancy	Reasons for Discrepancy
Cash and Other Cash Items				
Due from BSP				
Due from Other Banks				
Financial Assets Held for Trading (HFT)				
Held-to-Maturity (HTM) Financial Assets				
Available-for-Sale Financial Assets				
Loans and Receivables, *net*				
Interbank Loans Receivable				
Equity Investments in Subsidiaries, Associates & Joint Ventures				
Bank Premises, Furniture, Fixtures and Equipment, net				
Real and Other Properties Acquired (ROPA), net				
Other Assets				
Due from Head Office/Branches/Agencies Abroad				
Total Assets				
	= = = = =	= = = =	= = = = =	= = = = = =
Deposit Liabilities				
Bills Payable				
Bonds Payable				
Unsecured Subordinated Debt (UnSD)				
Redeemable Preferred Shares				
Accrued Interest, Taxes and Other Expenses				
Other Liabilities				
Due to Head Office/Branches/Agencies Abroad				
Total Liabilities				
	= = = = =	= = = =	= = = = =	= = = = = =
Paid-in Capital Stock				
Additional Paid-In Capital				
Retained Earnings				
Assigned Capital				
Total Capital				
	= = = = =	= = = =	= = = = =	= = = = = =
Total Liabilities and Capital				
	= = = = =	= = = =	= = = = =	= = = = = =
Total Income				
Total Expenses				
Net Income before Income Tax				
	= = = = =	= = = =	= = = = =	= = = = = =

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

GUIDE IN PREPARING THE KEY INFORMATION AND INVESTMENT DISCLOSURE STATEMENT FOR UNIT INVESTMENT TRUST FUNDS
(Appendix to Subsec. 4410Q.7)

1. The Key Information and Investment Disclosure Statement (KIIDS) is a document intended to provide unit investment trust fund (UITF) participants with key information and disclosures to facilitate better understanding and comparison of UITFs offered by trust entities (TEs).

2. The KIIDS is, preferably a one-sheet document with back-to-back information. The text shall be written in Arial style with font size 10 or its equivalent while the disclosures enumerated below shall be in capital letter and in bold font:

- **THE UIT FUND IS NOT A DEPOSIT AND IS NOT INSURED BY THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC).**
- **RETURNS CANNOT BE GUARANTEED AND HISTORICAL NAVPu IS FOR ILLUSTRATION OF NAVPu MOVEMENTS/FLUCTUATIONS ONLY.**
- **WHEN REDEEMING, THE PROCEEDS MAY BE WORTH LESS THAN THE ORIGINAL INVESTMENT AND ANY LOSSES SHALL BE SOLELY FOR THE ACCOUNT OF THE CLIENT.**
- **THE TRUSTEE IS NOT LIABLE FOR ANY LOSS UNLESS UPON WILLFUL DEFAULT, BAD FAITH OR GROSS NEGLIGENCE.**

3. The attached format serves as a standard template in preparing the KIIDS. The headings, lay-outs and disclosures inside the boxes shall be strictly followed; nonetheless, the trustee may opt to add sub-headings provided that these additions shall result to clearer disclosure of key information.

4. The trustee shall use clear and plain language to ensure that the participants can easily understand the disclosures contained therein.

5. The use of diagrams such as graphs, charts, flowcharts, tables or numerical explanations is highly encouraged.

6. The trustee is advised to be judicious in deciding the information to be disclosed. The KIIDS shall give a fair and balanced view of the investments and shall ensure that no material information is omitted if such omission would make the KIIDS to be misleading. Examples are presented for illustration purposes only and are not meant to be prescribed or exhaustive.

7. The trustee shall include a web address for online access of other disclosure documents, educational resources or explanatory materials. However, key information shall be clearly disclosed in the KIIDS and not merely referred to other sources.

(As amended by Circular Nos. 876 dated 20 April 2015, 852 dated 21 October 2014 and 593 dated 08 January 2008)

(**Name of Bank)**

(Name of UIT Fund)
KEY INFORMATION AND INVESTMENT DISCLOSURE STATEMENT
(Reporting Period)

FUND FACTS	
Classification:	Net Asset value per unit (NAVPu):
Launch Date:	Total Fund NAV:
Minimum Investment:	Dealing Day:
Additional Investment:	Redemption Settlement:
Minimum Holding Period:	Early Redemption Charge:

FEES*(*Indicate trustee fees and special reimbursable expenses, as necessary)*

Trustee Fees: ____%	Custodianship Fees: ____%	External Auditor Fees: ____%	Other Fees: ____%
(Name of Trustee)	*(Name of Custodian)*	*(Name of External Auditor)*	*(Please specify)*

* As a percentage of average daily NAV for the quarter valued at ____________.

INVESTMENT OBJECTIVE AND STRATEGY [*Indicate the investment objective of the fund and the strategies on how to attain the said objective]*
Example:
The Fund intends to achieve for its participants long-term capital growth by investing into the extent possible, equity securities issued by Philippine domiciled companies which have a value style bias. The Fund aims to provide returns in excess of the return of the Philippine Stock Exchange Index (PSEI).
CLIENT SUITABILITY
A client profiling process shall be performed prior to participating in the Fund to guide the prospective investor if the Fund is suited to his/her investment objectives and risk tolerance. Clients are advised to read the Declaration of Trust/Plan Rules of the Fund, which may be obtained from the Trustee, before deciding to invest.
- The (Name of the Fund) is suitable only for investors who:
  - *[Indicate the risk profile of the target investors/participants]*
  - *[Indicate if the principal will be at risk]*
  - *[Indicate the recommended investment horizon of a participant]*
  - *[Indicate other key characteristics of the fund which can help investors determine if it is suitable for them]*

Example
- The Equity Fund is suitable only for investors who:
  - Have aggresive risk appetite
  - Are comfortable with the greater volatility and risks of an equity fund
- Participants are recommended to stay invested in an equity fund for three (3) years

KEY RISKS AND RISK MANAGEMENT *(Disclose the key risks of the Fund and provide short illustrations/explanations which are stated in plain and simple language, and the risk management process employed in managing the Fund, as necessary)*

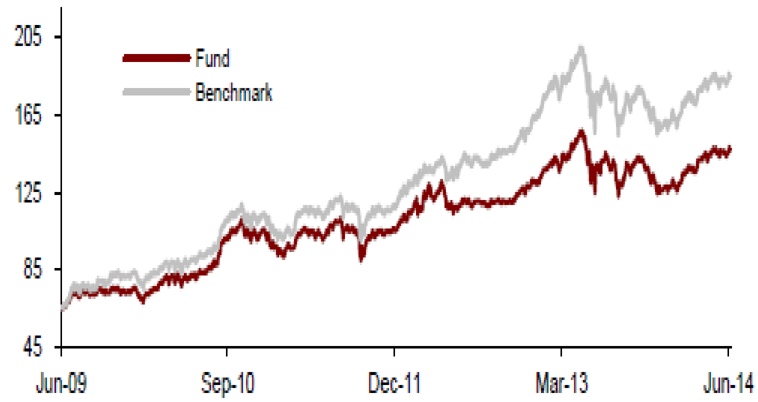
You should not invest in this Fund if you do not understant or are not comfortable with the accompanying risks.
Example:
- Market risks. You have greater exposure to market risks as this is an equity fund since equities usually have greater volatility than bonds and other fixed income securities.
- The Fund employs a risk management policy based on duration. Duration measures the sensitivity of NAVPu to interest rate movements. As interest rates rise, bond prices fall. The higher the duration, the more NAVPu will fluctuate in relation to changes in interest rates.

0 **THE UIT FUND IS NOT A DEPOSIT AND IS NOT INSURED BY THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC).**
0 **RETURNS CANNOT BE GUARANTEED AND HISTORICAL NAVPu IS FOR ILLUSTRATION OF NAVPu MOVEMENTS/FLUCTUATIONS ONLY.**
0 **WHEN REDEEMING, THE PROCEEDS MAY BE WORTH LESS THAN THE ORIGINAL INVESTMENT AND ANY LOSSES WILL BE SOLELY FOR THE ACCOUNT OF THE CLIENT.**
0 **THE TRUSTEE IS NOT LIABLE FOR ANY LOSS UNLESS UPON WILLFUL DEFAULT, BAD FAITH OR GROSS NEGLIGENCE.**

(*Indicate contact details of the trustee which investors can use if they have queries, include a website address, e-mail address and telephone number)*

FUND PERFORMANCE AND STATISTICS AS OF JUNE 30, 2014
(Purely for reference purposes and is not a guarantee of future results)

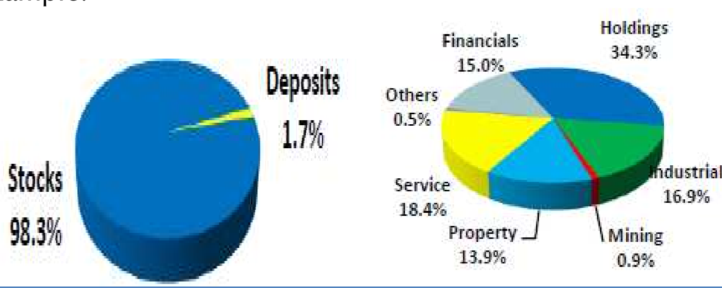
NAVPu Graph *[Include graph showing the NAVPu trend vis-à-vis the benchmark]*
Example:



Cumulative Performance (%)

Period	1 mo	3 mos	6 mos	1 yr	3 yrs
Fund	xx.xx	xx.xx	xx.xx	xx.xx	xx.xx
Benchmark	xx.xx	xx.xx	xx.xx	xx.xx	xx.xx

Portfolio Composition *[Illustrate/describe the composition of the Fund as a percentage of the NAV as of the reference quarter in terms of asset class, maturity profile, and credit rating of trustees, as applicable; use of graphs/charts/tables are highly recommended]*
Example:



NAVPu over the past 12 months

Highest	xx
Lowest	xx

Statistics *[Fill in the information, as necessary]*

Weighted Ave. Duration	xx
Volatility, Past 1 Year *	xx%
Sharpe Ratio **	xx
Information Ratio ***	xx

*Volatility measures the degree to which the Fund fluctuates vis-à-vis its average return over a period of time.
**Sharpe Ratio is used to characterize how well the return of a Fund compensates the investor for the level of risk taken. The higher the number, the better.
*** Information Ratio measures reward-to-risk efficiency of the portfolio relative to the benchmark. The higher the number, the higher the reward per unit of risk.

Top Ten Holdings (%)

ABC Co.	xx.x
DEF Co.	xx.x
XYZ	xx.x
AB & J	xx.x
KYLPN Co.	xx.x
GJ Investments	xx.x
JK Corp.	xx.x
Bank OP	xx.x
FKH Group	xx.x
ANGL Corp.	xx.x
Total	xx.x

OTHER DISCLOSURES *[Indicate RELATED PARTY TRANSACTIONS, prospective investments and other disclosures deemed necessary or relevant] [This heading may be changed as appropriate]*
Example:
RELATED PARTY TRANSACTIONS
The Fund has deposits with the Bank Proper and investments in ABC Co., a wholly-owned subsidiary of the Bank, amounting to Pxxx and Pxxx, respectively, which were approved by the Board of Directors. Likewise, all related party transactions are conducted on an arm's length basis.

OUTLOOK AND STRATEGY
The Fund took advantage of the pockets of rallies supported by the substantial liquidity in the system. It took profit on its bond holdings across the curve in anticipation of increased volatility in the months ahead. Market corrections are likewise seen as opportunities to reposition in the more liquid and tradable bonds. Nonetheless, amidst prospects of further SDA rate hikes, we maintain our overall defensive stance. The Fund's prospective investments include xxx.

Annex A

(NAME OF TRUST ENTITY)-(TRUST BANKING GROUP/TRUST DEPARTMENT)
Unit Investment Trust Funds
RISK DISCLOSURE STATEMENT

Prior to making an investment in any of the (Name of Trust Entity) Unit Investment Trust Funds (UITFs), (Name of Trust Entity) is hereby informing you of the nature of the UITFs and the risks involved in investing therein. As investments in UITFs carry different degrees of risk, it is necessary that before you participate/invest in these funds, you should have: 1. Fully understood the nature of the investment in UITFs and the extent of your exposure to risks; 2. Read this Risk disclosure Statement completely; and 3. Independently determined that the investment in the UITFs is appropriate for you.

There are risks involved in investing in the UITFs because the value of your investment is based on the Net Asset Value per unit (NAVpu) of the Fund which uses a marked-to-market valuation and therefore may fluctuate daily. The NAVpu is computed by dividing the Net Asset Value (NAV) of the Fund by the number of outstanding units. The NAV is derived from the summation of the market value of the underlying securities of the Fund plus accrued interest income less liabilities and qualified expenses.

Investment in the UITF does not provide guaranteed returns even if invested in government securities and high-grade prime investment outlets. Your principal and earnings from investment in the Fund can be lost in whole or in part when the NAVpu at the time of redemption is lower than the NAVpu at the time of participation. Gains from investment is realized when the NAVpu at the time of redemption is higher than the NAVpu at the time of participation.

Your investment in any of the (Name of Trust Entity) UITFs exposes you to the various types of risks enumerated and defined hereunder:

Interest Rate Risk. This is the possibility for an investor to experience losses due to changes in interest rates. The purchase and sale of a debt instrument may result in profit or loss because the value of a debt instrument changes inversely with prevailing interest rates.

The UITF portfolio, being market-to-market, is affected by changes in interest rates thereby affecting the value of fixed income investments such as bonds. Interest rate changes may affect the prices of fixed income securities inversely, i.e., as interest rates rise, bond prices fall and when interest rates decline, bond prices rise. As the prices of bonds in a Fund adjust to a rise in interest rates, the Fund's unit price may decline.

Market/Price Risk. This is the possibility for an investor to experience losses due to changes in market prices of securities (e.g., bonds and equities). It is the exposure to the uncertain market value of a portfolio due to price fluctuations.

It is the risk of the UITF to lose value due to a decline in securities prices, which may sometimes happen rapidly or unpredictably. The value of investments fluctuates over a given time period because of general market conditions, economic changes or other events that impact large portions of the market such as political events, natural calamities, etc. As a result, the NAVpu may increase to make profit or decrease to incur loss.

Liquidity Risk. This is the possibility for an investor to experience losses due to the inability to sell or convert assets into cash immediately or in instances where conversion to cash is possible but at a loss. These may be caused by different reasons such as trading in securities with small or few outstanding issues, absence of buyers, limited buy/sell activity or underdeveloped capital market.

Liquidity risk occurs when certain securities in the UITF portfolio may be difficult or impossible to sell at a particular time which may prevent the redemption of investment in UITF until its assets can be converted to cash. Even government securities which are the most liquid of fixed income securities may be subjected to liquidity risk particularly if a sizeable volume is involved.

Credit Risk/Default Risk. This is the possibility for an investor to experience losses due to a borrower's failure to pay principal and/or interest in a timely manner on instruments such as bonds, loans, or other forms of security which the borrower issued. This inability of the borrower to make good on its financial obligations may have resulted from adverse changes in its financial condition thus, lowering credit quality of the security, and consequently lowering the price (market/price risk) which contributes to the difficulty in selling such security. It also includes risk on a counterparty (a party the UITF Manager trades with) defaulting on a contract to deliver its obligation either in cash or securities.

This is the risk of losing value in the UITF portfolio in the event the borrower defaults on his obligation or in the case of a counterparty, when it fails to deliver on the agreed trade. This decline in the value of the UITF happens because the default/failure would make the price of the security go down and may make the security difficult to sell. As these happen, the UITFs NAVpu will be affected by a decline in value.

Reinvestment Risks. This is the risk associated with the possibility of having lower returns or earnings when maturing funds or the interest earnings of funds are reinvested.

Investors in the UITF who redeem and realize their gains run the risk of reinvesting their funds in an alternative investment outlet with lower yields. Similarly, the UITF manager is faced with the risk of not being able to find good or better alternative investment outlets as some of the securities in the fund matures.

In case of a foreign-currency denominated UITF or a peso denominated UITF allowed to invest in securities denominated in currencies other than its base currency, the UITF is also exposed to the following risks:

Foreign Exchange Risk. This is the possibility for an investor to experience losses due to fluctuations in foreign exchange rates. The exchange rates depend upon a variety of global and local factors, e.g., interest rates, economic performance, and political developments.

It is the risk of the UITF to currency fluctuations when the value of investments in securities denominated in currencies other than the base currency of the UITF depreciates. Conversely, it is the risk of the UITF to lose value when the base currency of the UITF appreciates. The NAVpu of a peso-denominated UITF invested in foreign currency-denominated securities may decrease to incur loss when the peso appreciates.

Country Risk. This is the possibility for an investor to experience losses arising from investments in securities issued by/in foreign countries due to the political, economic and social structures of such countries. There are risks in foreign investments due to the possible internal and external conflicts, currency devaluations, foreign ownership limitations and tax increases of the foreign country involved which are difficult to predict but must be taken into account in making such investments.

Likewise, brokerage commissions and other fees may be higher in foreign securities. Government supervision and regulation of foreign stock exchanges, currency markets, trading systems and brokers may be less than those in the Philippines. The procedures and rules governing foreign transactions and custody of securities may also involve delays in payment, delivery or recovery of investments.

Other Risks. Your participation in the UITFs may be further exposed to the risk of any actual or potential conflicts of interest in the handling of in-house or related party transactions by (Name of Trust Entity). These transactions may include own-bank deposits; purchase of own-institution or affiliate obligations (stock, mortgages); purchase of assets from or sales to own institution, directors, officers, subsidiaries, affiliates or other related interests/parties; or purchases or sales between fiduciary/managed accounts.

I/we have completely read and fully understood this risk disclosure statement and the same was clearly explained to me/us by a (Name of Trust Entity) UIT marketing personnel before I/we affixed my/our signature/s herein. I/we hereby voluntarily and willingly agree to comply with any and all laws, regulations, the plan rules, terms and conditions governing my/our investment in the (Name of Trust Entity) UITFs.

______________________________ ____________
Signature over Printed Name Date

I acknowledge that I have (1) advised the client to read this Risk Disclosure Statement, (2) encouraged the client to ask questions on matters contained in this Risk Disclosure Statement, and (3) fully explained the same to the client.

______________________________ ____________
Signature over Printed Name/ Date
Position of UIT Marketing Personnel

(Circular No. 593 dated 08 January 2008)

BANGKO SENTRAL RULES OF PROCEDURE ON ADMINISTRATIVE CASES INVOLVING DIRECTORS AND OFFICERS OF QUASI-BANKS AND TRUST ENTITIES

(Appendix to Sec. 4150Q)

RULE I – GENERAL PROVISIONS

Section 1. Title. – These Rules shall be known as the BSP Rules of Procedure on Administrative Cases Involving Directors and Officers of Quasi-Banks and Trust Entities.

Sec. 2. Applicability. – These Rules shall apply to administrative cases filed with or referred to the Office of Special Investigation (OSI), BSP, involving directors and officers of quasi-banks and trust entities pursuant to Section 37 of R.A. No. 7653 (The New Central Bank Act) and Sections 16 and 66 of R.A. No. 8791 (The General Banking Law of 2000).

The disqualification of directors and officers under Section 16 of R.A. No. 8791 shall continue to be covered by existing BSP rules and regulations.

Sec. 3. Nature of Proceedings. – The proceedings under these Rules shall be summary in nature and shall be conducted without necessarily adhering to the technical rules of procedure and evidence applicable to judicial trials. Proceedings under these Rules shall be confidential and shall not be subject to disclosure to third parties, except as may be provided under existing laws.

RULE II – COMPLAINT

Sec. 1. Complaint. - The complaint shall be in writing and subscribed and sworn to by the complainant. However, in cases initiated by the appropriate department of the BSP, the complaint need not be under oath. No anonymous complaint shall be entertained.

Sec. 2. Where to file. – The complaint shall be filed with or referred to the OSI.

Sec. 3. Contents of the Complaint - The complaint shall contain the ultimate facts of the case and shall include:

a. full name and address of the complainant;

b. full name and address of the person complained of;

c. specification of the charges;

d. statement of the material facts;

e. statement as to whether or not a similar complaint has been filed with the BSP or any other public office.

The complaint shall include copies of documents and affidavits of witnesses, if any, in support of the complaint.

RULE III – DETERMINATION OF *PRIMA FACIE* CASE AND PROSECUTION OF THE CASE

Sec. 1. Action on Complaint.- Upon determination that the complaint is sufficient in form and substance, the OSI shall furnish the respondent with a copy thereof and require respondent to file within ten (10) days from receipt thereof, a sworn answer, together with copies of documents and affidavits of witnesses, if any, copy furnished the complainant.

Failure of the respondent to file an answer within the prescribed period shall be considered a waiver and the case shall be deemed submitted for resolution.

Sec. 2. Preliminary Investigation. – Upon receipt of the sworn answer of the respondent, the OSI shall determine whether there is a *prima facie* case against the respondent. If a *prima facie* is established during the preliminary investigation, the OSI shall file the formal charge with the Supervised Banks Complaints Evaluation Group (SBCEG), BSP. However, in the absence of a *prima facie* case, the OSI shall dismiss the complaint without prejudice or take appropriate action as may be warranted.

Sec. 3. Formal Charge. – The formal charge shall contain the name of the respondent, a brief statement of material or relevant facts, the specific charge, and the pertinent provisions of banking laws, rules or regulations violated.

Sec. 4. Prosecution. – The OSI shall prosecute the case. The complainant may be assisted or represented by counsel, who may be deputized for such purpose, under the direction and control of the OSI.

RULE IV – PROCEEDING BEFORE THE HEARING PANEL OR HEARING OFFICER

Sec. 1. Filing of the Formal Charge.- The OSI shall file the formal charge before the SBCEG. It shall also furnish the SBCEG with supporting documents relevant to the formal charge.

Sec. 2. Hearing Officer and Composition of the Hearing Panel. – The case shall be heard either by a Hearing Officer or a Hearing Panel, which shall be composed of a Chairman and two (2) members, all of whom shall be designated by the SBCEG. The SBCEG shall determine whether the case shall be heard either by a Hearing Panel or a Hearing Officer.

Sec. 3. Answer. – The Hearing Panel or Hearing Officer shall furnish the respondent with a copy of the formal charge, with supporting documents relevant thereto, and shall require him to submit, within ten (10) days from receipt thereof, a sworn answer, copy of which shall be furnished the prosecution.

The respondent, in his answer, shall specifically admit or deny all the charges specified in the formal charge, including the attachments. Failure of the respondent to comment, under oath, on the documents attached thereto shall be deemed an admission of the genuineness and due execution of said documents.

Sec. 4. Waiver. – In the event that the respondent, despite due notice, fails to submit an answer within the prescribed period, he shall be deemed to have waived his right to present evidence. The Hearing Panel or Hearing Officer shall issue an Order to that effect and direct the prosecution to present evidence *ex parte*. Thereafter, the Hearing Panel or Hearing Officer shall submit a report on the basis of available evidence.

Sec. 5. Preliminary Conference.– Upon receipt of the answer of respondent, the Hearing Panel or Hearing Officer shall set the case for preliminary conference for the parties to consider and agree on the admission or stipulation of facts and of documents, simplification of issues, identification and marking of evidence and such other matters as may aid in the prompt and just resolution of the case. Any evidence not presented and identified during the preliminary conference shall not be admitted in subsequent proceedings.

Sec. 6. Submission of Position Papers.– After the preliminary conference, the Hearing Panel or Hearing Officer shall issue an Order stating therein the matters taken up, admissions made by the parties and issues for resolution. The Order shall also direct the parties to simultaneously submit, within ten (10) days from the receipt of said Order, their respective position papers which shall be limited to a discussion of the issues as defined in the Order.

Sec. 7. Hearing. – After the submission by the parties of their position papers, the Hearing Panel or Hearing Officer shall determine whether or not there is a need for a hearing for the purpose of cross-examination of the affiant(s). If the Hearing Panel or Hearing Officer finds no necessity for conducting a hearing, he shall issue an Order to the effect.

In cases where the Hearing Panel or Hearing Officer deems it necessary to allow the parties to conduct cross-examination, the case shall be set for hearing. The affidavits of the parties and their witnesses shall take the place of their direct testimony.

RULE V – PROHIBITED MOTIONS

Sec. 1. Prohibited Motions. – No motion to dismiss or quash, motion for bill of particulars and such other dilatory motions shall be allowed in the cases covered by these Rules.

RULE VI – RESOLUTION OF THE CASE

Sec. 1. Contents and Period for Submission of Report. – Within sixty (60) days after the Hearing Panel or Hearing Officer has issued an Order declaring that the case is submitted for resolution, a report shall be submitted to the Monetary Board. The report of the Hearing Panel or Hearing Officer shall contain clearly and distinctly the findings of facts and conclusions of law on which it is based.

Sec. 2. Rendition and Notice of Resolution. – After consideration of the report, the Monetary Board shall act thereon and cause true copies of its Resolution to be served upon the parties.

Sec. 3. Finality of the Resolution.– The Resolution of the Monetary Board shall become final after the expiration of fifteen (15) days from receipt thereof by the parties, unless a motion for reconsideration shall have been timely filed.

Sec. 4. Motion for Reconsideration.– A motion for reconsideration may only be entertained if filed within fifteen (15) days from receipt of the Resolution by the parties. No second motion for reconsideration shall be allowed.

RULE VII – APPEAL

Sec. 1. Appeal. – An appeal from the Resolution of the Monetary Board may be taken to the Court of Appeals within the period and in the manner provided under Rule 43 of the Revised Rules of Court.

RULE VIII – EXECUTION OF RESOLUTION

Sec. 1. Resolution Becoming Executory. – The Resolution of the Monetary Board shall become executory upon the lapse of fifteen (15) days from receipt thereof by the parties or from the receipt of the denial of the motion for reconsideration.

Sec. 2. Effect of Appeal. – The appeal shall not stay the Resolution sought to be reviewed unless the Court of Appeals shall direct otherwise upon such terms as it may deem just.

Sec. 3. Enforcement of Resolution.– When the Resolution orders the imposition of fines, suspension or removal from office of respondent, the enforcement thereof shall be referred to the appropriate department of the BSP.

RULE IX – MISCELLANEOUS PROVISIONS

Section 1. Repeal. – All existing rules, regulations, orders or circulars or any part thereof inconsistent with these Rules are hereby repealed, amended or modified accordingly.

Section 2. Separability Clause. – If any part of these Rules is declared unconstitutional or illegal, the other parts or provisions shall remain valid.

FORMAT CERTIFICATION
[Appendix to Subsec. 4235Q.12 (2008 - 4211Q.12)]

(Deleted by Circular No. 873 dated 25 March 2015)

DOCUMENTS REQUIRED UNDER THE REVISED OUTSOURCING FRAMEWORK FOR NON-BANKS

(Appendix to Section 4162Q, 4190S, 4190P, 4190N and Subsec. 4701Q.13)

1. A comprehensive policy on outsourcing duly approved by the board of directors of the QB/NBFI.

2. Service level agreement of contract between the bank and the service provider, which shall, at a minimum, include all of the following:

a. Complete description of the work to be performed or services to be provided;

b. Fee structure;

c. Provisions governing amendment and pretermination of contract;

d. Responsibility, fines, penalties and accountability of the service provider for errors, omissions and frauds;

e. Confidentiality clause covering all data and information; solidarity liability of service provider and bank for any violation of R.A. No. 1405, (the Bank Deposits Secrecy Law) actions that the QB/NBFI may take against the service provider for breach of confidentiality or any form of disclosure of confidential information; and the applicable penalties;

f. Segregation of the data of the QB/NBFI from that of the service provider and its other clients;

g. Disaster recovery/business continuity contingency plans and procedures;

h. Guarantee that the service provider will provide necessary levels of transition assistance if the QB/NBFI decides to convert to other service providers or other arrangements;

i. Access to the financial information of the service provider;

j. Access of internal and external auditors to information regarding the outsourced activities/services which they need to fulfill their respective responsibilities;

k. Access of Bangko Sentral to the operations of the service provider in order to review the same in relation to the outsourced activities/services;

l. Provision which requires the service provider to immediately take the necessary corrective measures to satisfy the findings and recommendations of Bangko Sentral examiners and those of the internal and/or external auditors of the QB/NBFI and/or the service provider;

m. Remedies for the QB/NBFI in the event of change of ownership, assignment, attachment of assets, insolvency, or receivership of the service provider; and

n. Provision allowing the QB/NBFI to cancel the contract by contractual notice of dismissal or extraordinary notice of cancellation if so required by the Bangko Sentral.

Additional Requirements for IT outsourcing:

o. Provisions regarding on-line communication availability, transmission line security, and transaction authentication;

p. Responsibilities regarding hardware, software and infrastracture upgrades;

q. Mandatory notification by the service provider of all systems changes that will affect the bank;

r. Details of all security procedures and standards;

s. Adequate insurance for fidelity and fire liability; and

t. Ownership/maintenance of the computer hardware, software (program source code), user and system documentation, master and transaction data files.

3. Secretary's certificate on the minutes of meeting of the board of directors of the QB/NBFI, explicitly approving the activity to be outsourced, the determination of whether an outsourcing arrangement is considered material or non-material and the specific service provider with which the QB/NBFI is entering into an outsourcing contract;

4. Profile of the selected service provider; and

5. A central record of all outsourcing arrangements which shall be periodically updated and shall form part of the corporate governance reviews undertaken by the QB/NBFI.

(Circular No. 764 and 765 dated 03 August 2012)

IMPLEMENTATION OF THE DELIVERY BY THE SELLER OF SECURITIES DIRECTLY TO THE BUYER OR TO HIS DESIGNATED SECURITIES CUSTODIAN/CENTRAL SECURITY DEPOSITORY

[Appendix to Secs. 4441Q/4144N and Subsecs. 4235Q.5 (2008-4211Q.4), 4235Q.12, 4101Q.4/4103N.3 and 4441Q.10/4144N.10]

Section 1. Statement of Policy. Pursuant to the policy of the Bangko Sentral to promote the protection of investors in order to gain their confidence in the securities market, the following rules/guidelines shall be observed by banks and NBFIs under Bangko Sentral supervision in their dealings in securities whether they are acting as seller, buyer, agent, or custodian.

The guidelines on the delivery of government securities by the selling banks to an investor's Principal Securities Account with the RoSS through the Client Interface System facility are in *Appendix Q-38a*.

Sec. 2. Distinction between a Securities Custodian, Registry and Central Securities Depository. For purposes of these Rules, a securities custodian, registry and central securities depository are defined as follows:

A securities custodian is a Bangko Sentral-accredited financial institution under Bangko Sentral supervision that is authorized to engage in investment management (for banks/investment houses with quasi-banking authority only) or trust business and is designated by the investor to perform the functions of safekeeping, holding title to the securities in a nominee capacity, reports rendition, mark-to-market valuation, collection and payment of dividends, interest earnings or proceeds from the sale/redemption/maturity of securities held under custodianship and representation of clients in corporate actions.

It may also perform the value-added service of securities lending as agent, subject to the conditions specified under Subsecs. 4441Q.6 and 4144N.6.

A security registry, is a duly authorized financial institution designated or appointed by the issuer to maintain the securities registry book either in electronic or in printed form. It records the initial issuance of the securities and subsequent transfer of ownership and issues registry confirmation to the buyers/holders. The registry must be a third party that does not belong to the same financial conglomerate or banking group as that of the issuer of securities.

A central securities depository is an SEC-authorized entity that provides securities accounts, central safekeeping services, and asset services, which may include the administration of corporate actions and redemptions, and plays an important role in helping to ensure the integrity of securities issues.[1]

The securities custodian and the central securities depository must at all times maintain their independence and should not belong to the same financial conglomerate or banking group as that of the issuer or seller of securities held under custody or deposit.

It shall be the responsibility of the securities custodian and central securities depository to ensure that appropriate systems capacity, procedures or measures such as proper recording, accounting, reporting, preserving, and segregation of securities are in place in order to protect the interest of the client.

Sec. 3. Registry of Scripless Securities (RoSS) of the Bureau of the Treasury. The Bureau of the Treasury, as operator of the RoSS, which serves as the official registry for government securities, is not subject to

[1] BIS-IOSCO, "Principles for Financial Market Infrastructure", p.8 (April 2012)

Bangko Sentral accreditation and is exempted from the independence requirement under the existing Bangko Sentral regulations.

Sec. 4. Delivery of Securities. Pursuant to existing Bangko Sentral regulations, securities which are the subject of quasi-banking activities, repurchase agreements and securities sold on a without recourse basis shall be delivered by the seller directly to the purchaser or to the purchaser's designated Bangko Sentral-accredited securities custodian or SEC-authorized central securities depository.

Sec. 5. Modes of Delivery.

a. If the securities sold are certificated, delivery shall be effected physically to the purchaser, or to the purchaser's designated Bangko Sentral-accredited custodian. The certificate must be transferred to and registered under the name of the purchaser and properly recorded in the registry book.

b. Delivery of immobilized or dematerialized securities shall be effected by means of book entry transfer to the appropriate securities account of the following: (1) the purchaser in a registry of said securities; (2) purchaser in an SEC-authorized central securities depository; or (3) the purchaser's designated Bangko Sentral-accredited securities custodian. Book-entry transfer to a sub-account for clients under the primary account of the dealer will not be deemed compliant with this requirement.

Sec. 6. Client Information. Selling or dealing banks shall inform their clients of the requirements under Sections 3 and 4 above, together with the complete list of all Bangko Sentral-accredited securities custodians or SEC-authorized central securities depositories. The selling or dealing bank or NBFI must inform their clients that the choice of securities custodian or central securities depository is the sole prerogative of the securities purchaser. The seller or dealer may, however, indicate to their clients their *preferred securities custodians or central securities depositories.*

Sec. 7. Custodianship/ Securities Deposit Agreement. The securities owner/purchaser shall enter into a custodianship agreement with a Bangko Sentral-accredited securities custodian or a securities deposit agreement with an SEC-authorized central securities depository of his choice. The Agreement shall contain the following minimum stipulations:

a. Rights and obligations of the parties;

b. Fees for the services offered by the custodian/depository; and

c. Scope and term/period of the Agreement.

The securities purchasers/ owners may designate/appoint a representative or agent for the purpose of opening of the custodianship/securities deposit account and execution of trade transactions (i.e., buying and selling instructions including relaying of instructions to the custodian/ central securities depository to receive or deliver securities in order to consummate the buy/sell transactions).

Sec. 8. Compliance with the Anti-Money Laundering (AML) Act of 2001, as amended. Compliance with AML Act of 2001, as amended, by Bangko Sentral-accredited securities custodians/registries or SEC-authorized central securities depositories shall be governed by AML rules and regulations issued by their supervising authorities, such as the Bangko Sentral or the SEC. For purposes of complying with the customer identification requirement, a Bangko Sentral-accredited securities custodian/registry or SEC-authorized central securities depository may rely on the customer identification process undertaken by a third party pursuant to existing AML rules and regulations.

Notwithstanding the above, the custodian, registry or central securities depository is not precluded from conducting its own Know-Your-Customer (KYC) activities and maintaining direct holding of the KYC information/ documents of its clients.

(Circular No. 524 dated 31 March 2006,as amended by Circular Nos. 903 dated 29 February 2016, 873 dated 25 March 2015, 714 dated 10 March 2011 and M-2007-002 dated 23 January 2007)

Annex A

TEMPLATE OF LETTER TO INVESTOR

Dear Investor:

We wish to inform you that the Bangko Sentral ng Pilipinas (BSP), in July of 2003 issued **Circular No. 392, Series of 2003,** which requires all securities sold by banks on a **"without recourse basis"** (i.e. the bank has no liability to the buyer of securities in paying the obligation due on the security) to be delivered to the buyer/purchaser of securities through any of the following means:

(a) **If the security is evidenced by a certificate of indebtedness**, the certificate must be transferred in the name of the purchaser/buyer and physically delivered to the purchaser/buyer or to his designated BSP-accredited third party custodian.

(b) **If the security is immobilized or dematerialized** (i.e., that the security is not evidenced by a certificate of indebtedness and instead security account is created in the electronic books of the registry in the name of the purchaser/ buyer or his designated custodian):

i. The security must be delivered by book-entry transfer to the appropriate securities account of the buyer in the registry of said securities which must be evidenced by a confirmation in writing by the registrar to the buyer. The confirmation of sale or document of conveyance shall be physically delivered by the seller or dealer to the buyer, or

ii. The security must be delivered by book-entry transfer to the appropriate securities account of the BSP-accredited third party custodian designated by the buyer/purchaser in the registry of said securities which must be evidenced by a confirmation in writing by the registrar to the said BSP-accredited third party custodian, who shall in turn issue to the securities owner a delivery receipt acknowledging receipt of the securities

Circular No. 392 is part of a package of reforms to support the development of the domestic capital market through enhanced investor protection and greater market transparency. It provides for a more defined role and responsibilities for the custodians and registrars and a stricter supervision and regulation thereof by the BSP. It aims to provide the client with the following benefits:

a. Full control and possession of the securities purchased;
b. Independent validation of the existence of securities purchased;
c. Regular reporting of securities holdings; and
d. Capability to choose most competitive counter-parties in case of sale, pledge, transfer, and lending of securities.

Moreover, Circular No. 392, which amends CBP Circular 437-74, seeks to address the changes in the legal framework brought by the developments in the market, i.e., where purchase of securities may be evidenced not only by transfer of certificates but also by electronic book-entry transfer of ownership in the books of the registrar for said security.

As an investor, therefore, of securities which is dematerialized or scripless, you have **the option** to require your dealer/broker to deliver the securities to you by requiring them to have the securities registered directly in **your name in the registry** of said securities **or** by requiring them to have the securities registered in the name of the BSP **accredited third party custodian** of your choice who in turn will credit your securities account with them.

The **registry** is a BSP-accredited bank or non-bank financial institution (NBFI) designated or appointed by the Issuer to (1) maintain the securities registry book; (2) record the (a) issuance of the securities and (b) subsequent transfers of ownership thereof; and (3) issue registry confirmation to the buyers/holders of security.

The **custodian**, on the other hand, is a BSP-accredited bank or NBFI designated by the investor to safekeep the security by allowing it to hold title to the security, either in a nominee or trustee capacity, to enable it to perform the following administrative functions/ services related to investing in a security or various securities: i) Mark to market valuation of security that will enable the client to know the value of his investment at any period in time; ii) compute and collect the interest due on the security; iii) render statements on outstanding securities under safekeeping; iv) represents the client (per its instruction) in the events of default or breach of contract of the issuer; and v) lend the security of the clients as "agent" that will enable the client to earn additional income on the security.

The registrars and custodians underwent a rigorous evaluation process by the BSP to determine whether they have the following: i) adequate capital to cover for potential operating risks related to performing its custody functions; ii) competent management team to manage the company with responsibility and proper corporate ethics; iii) robust technology system to operate the custody business efficiently; and iv) favorable track record or significant experience in the custody business or related business. They will also undergo regular audit by the BSP to ensure that they comply with BSP rules and regulations and will be subject to penalties and administrative sanctions for any violation thereof.

As of date, BSP has accredited the following registrars and custodians: Bank of the Philippine Islands, CITIBANK N.A., Deutsche Bank, Hongkong and Shanghai Banking Corporation, Philippine Depository and Trust Corporation, and Standard Chartered Bank.

The Registry of Scripless Securities (RoSS) operated by the Bureau of Treasury (BTR) which is acting as a registry for government securities, is automatically accredited as securities registry. However, the BTR, as registry, cannot act as custodian of government securities pursuant to the opinion of the Secretary of Justice rendered on 17 January 2005 due to irreconcilable conflict of loyalties that is anathema to agency if the same institution were to act as registrar and custodian at the same time.

The custodian shall render periodic reports on your account balances on a quarterly basis, or at such interval as you may require. Moreover, the custodian shall issue to you a confirmation of any transfer of ownership as it occurs, in either electronic or printed forms. Said reports shall be delivered/mailed directly at your address unless you give a written instruction directly to the custodian to deliver the said reports to your designated person/ entity. You are, however, required to acknowledge in the written instruction that you are designating another person/entity to receive the periodic reports from the custodian, notwithstanding contrary advice of the BSP.

Please note that the abovementioned arrangements may change once the BSP issues more detailed implementing rules and guidelines to the abovementioned circulars. We will update you if and when these developments occur.

Please fill up and sign the required documentation of your chosen custodian and we will forward the same to them so that your securities account can be opened as soon as possible. You may, however, designate/appoint an agent for this purpose. In either case, the custody arrangement may or may not entail additional fees.

If you have any further questions, please call us so that we can refer the matter to the appropriate custodian/registrar.

Very truly yours,

(Circular No. 524 dated 31 March 2006 and as amended by M-2007-002 dated 23 January 2007)

DELIVERY OF GOVERNMENT SECURITIES TO THE INVESTOR'S PRINCIPAL SECURITIES ACCOUNT WITH THE REGISTRY OF SCRIPLESS SECURITIES

(Appendix to Sec. 4441Q and 4144N and Subsecs. 4101Q.4, 4235Q.5 and 4103N.3]

The following are the guidelines on the delivery of government securities by the selling bank and/or NBFI under the supervision of the Bangko Sentral to an investor's Principal Securities Account with the Registry of Scripless Securities (RoSS) through the Client Interface System (CIS) facility as compliance with the requirement of effective delivery under Sec. 4441Q and 4144N and Subsecs. 4253Q.5, 4253Q.12, 4104Q.4 and 4103N.3 :

(a) Banks/NBFIs, acting either as accredited government securities eligible dealers (GSEDs) or licensed government securities dealers, shall execute the attached Memorandum of Agreement (MOA) with the BTr regarding the creation of the Principal Securities Account with the RoSS on or before 31 January 2007. The MOA between the BTr and the GSED is attached as Annex A.

(b) The dealing bank shall provide BTr with the following documents:

(1) Agency document issued by investor/client if the dealing bank is designated as the agent; and

(2) Investor's undertaking (attached as Annex B)

(c) No new Investors Principal Securities Account shall be created unless the foregoing documents are submitted to the BTr. Otherwise, the dealing bank will be subject to the appropriate penalties prescribed under Secs. 4441Q and 4144N and Subsecs. 4235Q.5, 4101Q.4 and 4103N.3.

(M-2007-002 dated 23 January 2007, as amended by Circular 873 dated 25 March 2015)

Annex A

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This agreement made and entered into this ______________________ at ________________, Philippines by and between:

The **BUREAU OF THE TREASURY**, a duly constituted government bureau under the Department of Finance, Republic of the Philippines, with principal office at Palacio del Gobernador Building, Gen. Luna corner A. Soriano Avenue, Intramuros, Manila, represented herein by the Treasurer of the Philippines, _______________________, and hereinafter referred to as "**BTr**";

-and-

____, a domestic/ international banking/financial institution organized and existing pursuant to the laws of the Republic of the Philippines/*(country of incorporation),* duly licensed by the Securities and Exchange Commission (SEC) to deal in securities, represented herein by ____________________________________ in her/his capacity as __________________________, and hereinafter referred to as the "**Dealer**";

(the "BTr" and the "Dealer" may be referred to as a "Party" in the singular tense, as "Parties" in the plural/collective tense)

WITNESSETH: THAT

WHEREAS, the Registry of Scripless Securities ("RoSS") is the official registry of government securities issued by the National Government through the Bureau of the Treasury;

WHEREAS, the RoSS is an electronic registry of recording ownership of or interest in and transfers of government securities;

WHEREAS, the delivery of government securities sold by the Dealer, on a without recourse basis, to the investor's Principal Securities Account with the RoSS through the Client Interface System ("CIS") Facility shall be sufficient compliance with the delivery requirement under Subsec. X238.1, of the Bangko Sentral ng Pilipinas ("BSP") Manual of Regulations for Banks (MORB) and Circular No. 524 dated 31 March 2006.

WHEREAS, the Dealer is a government securities eligible dealer, accredited by the BTr to participate in the primary auction of government securities pursuant to Finance

Department Order No. 141-95, as amended, and/or a bank/financial institution licensed by the SEC to deal in government securities in the secondary market;

WHEREAS, investors of government securities purchase/trade the same in the secondary market through any of the dealers;

WHEREAS, recording of ownership of, or interest in government securities requires the creation/opening of a Principal Securities Account with the RoSS through the CIS Facility;

WHEREAS, to promote transparency, investor confidence and deepening of the government bond market, investors must be given adequate assistance in the opening/creation of his/its Principal Securities Account with the RoSS ("Name-on- Registry");

NOW, *THEREFORE*, in view of the foregoing premises and the mutual covenants hereinafter provided, the parties hereby agree as follows:

Section 1. Obligations of BTr.

1. Receive instruction from the Dealer as authorized by the investor, through the RoSS-CIS for the creation/opening of the Principal Securities Account;

2. Create/open in the RoSS a Principal Securities Account for the requesting investor of scripless government securities through which all transactions affecting said securities will be recorded;

3. Provide and forward to the investor an electronic confirmation of his/its RoSS Principal Securities Account Number and notices and statements of account under any of the modes indicated in the Investor's Oath of Undertaking submitted to the BTr;

4. On relevant coupon/maturity payment dates and for payments made through the BSP, instruct the BSP to credit the regular demand deposit account (DDA) of the investor's settlement bank: *Provided*, That if the coupon/maturity payment date falls on a Saturday, Sunday, or Holiday or on a day during which business operations of the BTr is suspended, payment/s shall be made by the BTr on the next business day, without adjustment in the amount of interest to be paid.

5. Ensure that all government securities bought by investors from the Dealer are accurately recorded under the investor's Principal Securities Account or to the Securities Custody Account of the investor's designated third-party custodian, or to the Securities Deposit Account of the investor's designated depository.

6. Furnish the investor with Statement(s) of Securities Account, at least quarterly and whenever there is a movement in the investor's Principal Securities Account, through the investor's preferred mode of receipt of notice and/or statement;

7. Consistent with BTr Memoranda dated 28 December 2005, 12 January 2006 and 31 January 2006 and applicable BSP regulations, disallow any increase in the holdings of beneficial owners of securities recorded in the sub-account of the Dealer, if any, existing as of 02 February 2006, for beneficial owners of securities who have either (a) declined in writing the delivery of his/its securities to a direct registry account under his or its name or a third-party custodian or (b) not responded to the Dealer's letter to the investor as regards the disposition of his/its securities. Any withdrawal or sale of the securities, either partial or total, under the sub-account of the Dealer for the beneficial owners may only be allowed if the Dealer is authorized in writing by the client/Investor. Such written authority shall be furnished by the Dealer to the BTr prior to the execution of the transaction.

Sec. 2. Obligations of the Dealer

The Dealer shall:

1. Assist the investor to open his/its individual Principal Securities Account (Name-On-Registry) with the RoSS through the CIS facility;

2. Conduct the Know your Client ("KYC") screening of its investors/clients referred to the BTr for the creation of the Principal Securities Account (Name-On-Registry) with the RoSS. In this connection it shall: (a) issue a certification to the BTr that it has conducted the necessary "KYC" screening; (b) maintain client identification records; (c) report any suspicious transaction in accordance with the provisions of R.A. No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001", as amended, and its implementing rules and regulations; and whenever necessary, (d) afford BTr unchallenged access to said KYC records/documents. The same KYC or customer identification documents shall likewise be made available to regulators for verification upon request.

3. Transmit the investor's instructions to the RoSS for the creation/opening of a Principal Securities Account. For this purpose, the Dealer shall submit and/or inform the investor to submit to the BTr his/her settlement account maintained in a settlement bank of his/her choice, through which all relevant payments on the securities will be made by the BTr;

4. Upon the creation of the investor's Principal Securities Account with the BTr's RoSS to which the securities subject of a sale will be credited, immediately furnish the investor with the BTr's electronic confirmation of its creation. The Dealer shall also provide to the investor the BTr electronic confirmation that includes a statement on the credited amount of securities;

5. Ensure that all the necessary documents executed by the client investor are complete and submitted to BTr upon request;

6. Ensure that all government securities sold to investors are delivered to their appropriate Principal Securities Account with the RoSS, or to the account of the investor's designated custodian or securities depository;

7. Undertake not to misuse the investor's RoSS Account No., which may come into its possession upon the creation of a Principal Securities Account for the investor or on previous transactions with the investor;

8. Acquaint/apprise investors on the rules and procedure prescribed by the BTr in connection with investment and trading of scripless government securities, including but not limited to coupon payment, redemption value/proceeds of the investor's securities, legal encumbrances, and other relevant information relative to investor's security holdings. As a minimum, investors must be apprised of the Revised RoSS Procedure on Buy and Sell of Securities and recording of transfers through the RoSS-CIS facility found in the BTr website, with particular emphasis on the feature of non-tagging of securities to GSEDs, or non-exclusivity of the selling GSEDs for subsequent transactions;

9. Whenever designated as authorized agent and/or settlement bank, ensure confidentiality and prompt delivery of all notices and statements of securities account/s to investors;

10. Ensure that all instructions transmitted to BTr concerning the securities account of clients-investors are legal, valid and duly authorized pursuant to an agreement, a special power of attorney, or any written authority executed by the client-investor in favor of the dealer; and

Annex B

NOTE: TO BE SUBMITTED TO THE
BUREAU OF THE TREASURY

INVESTOR'S UNDERTAKING

I/We,

For Individual Investors of legal age	*Name:* *Address:* *Civil Status:*
For Juridical Entity authorized to do business in the Philippines	*Name:* *Principal Office Address:* *Place of Incorporation:* *Name of Representative:* *Capacity/Position of Representative:*

A. Hereby agree to execute, the necessary written authority in favor of either the dealing Government Securities Eligible Dealer[1] (GSED) or Securities Dealer[2] for the creation of a Principal Securities Account with the RoSS or for the execution of trade transactions (i.e. buying and selling instructions, including relaying of instructions to "the CUSTODIAN" or "Central Securities Depository" to receive or deliver securities in order to consummate the buy/sell transactions) and to be bound by the provisions of a written authority or any relevant agreement I/we have entered into concerning my/our government security holdings, thereby confirming my/our authority for BTr-RoSS to carry out and execute the acts or instructions referred to in the aforesaid documents;

B. It is understood that the RoSS administered by the BTr is the official registry of ownership of or interest in government securities; that all government securities floated/originated by NG under its scripless policy are recorded in the RoSS as well as subsequent transfer of the same; and that I/we will abide by the rules and regulations of BTr-RoSS concerning government securities.

And further undertake as follows:

1. To create/open through the Client Interface System a Principal Securities Account with the RoSS to ensure that title of said scripless securities is officially recorded in my/our name and under my/our control.

2. That as a condition for the creation/opening of my/our Principal Securities Account with the RoSS, I/we have opened a bank account with (__________________________________ *as Settlement Bank)* to which coupon and maturity proceeds and any other payments to be made on my/our government securities holdings will be credited; undertake to furnish the RoSS of said bank

[1] Accredited by the Bureau of the Treasury
[2] Licensed by the Securities and Exchange Commission

account number; and give notice at least three (3) business days prior to any coupon and/or maturity payment of any change in the Settlement Bank and/or bank account number.

3. That no transfer of securities shall be made (i) during the period of two (2) business days ending on (and including) the due date of any redemption payment of principal and (ii) during the period of two (2) business days ending on (and including) the due date of any coupon payment date (the "Closed Period"). I/We further acknowledge that the BTr shall prevent any transfer of the securities to be recorded in the RoSS during any Closed Period.

4. That in the case of outright sale transactions of government securities, including that of RTBs, I/we undertake to sell the same to any of the GSEDs or Securities Dealers, save those provided for under existing rules and regulations on government securities applicable to tax-exempt institutions, government-owned or controlled corporations and local government units. Otherwise, I/we shall have the said securities delivered to my/our agent/custodian for trading or any other transactions pursuant to a relevant written instruction/authority.

5. To receive notices and/or statements of account on a quarterly basis or whenever there is a movement in my Principal Securities Account from the RoSS through any of the following modes:
   (*Please indicate choice*)

   [ ] Pick-up at the RoSS
   [ ] Registered Mail to Home/Office Address ________________________
   [ ] Deliver electronically to Agent
   [ ] Deliver electronically to Settlement Bank (for pick up)
   [ ] Email - email address__________________

   In the absence of an indicated choice, I/we understand that the BTr shall electronically deliver all Notices and Statements to my/our designated settlement bank.

   Note: In addition to the indicated manner of receiving notice(s) and statement(s), Investor can directly secure from the BTr written copy of any notice, statement of account, or confirmation report, subject to prior notice to and in accordance with the procedures of the BTr.

   I/We hereby agree to abide with the Schedule of Fees and the manner of collection, as may be prescribed by the BTr from time to time.

6. That I/we expressly agree and acknowledge that the crediting to the regular DDA of my/our settlement bank of coupons and/or redemption value due my/our scripless securities, shall constitute actual receipt of payment by me/us.

7. To hold the BTr, its officers, employees and agents free and harmless against all suits, actions, damages or claims arising from failure of my/our Settlement Bank to credit my/our bank account for coupons and maturity values on due date.

8. That all instructions affecting my/our scripless securities which are transmitted to or received in good faith the RoSS from myself/ourselves or my/our designated agent/ custodian are covered by relevant documentation indicating my/our express consent and authority.

9. That I/we expressly warrant and authorize the delivery of copies of all evidence of authority granted to my/our designated agent/custodian to transact on my/our scripless securities upon reasonable demand by BTr.

10. That I/we undertake to immediately notify the RoSS of any unauthorized trade of my/ our scripless securities, and until receipt of such notice, transactions effected by BTr in good faith are deemed valid.

11. To render free and harmless the BTr, its officers, employees and agents for any claim or damages with respect to trade instructions carried out in good faith.

12. That while it is understood that BTr shall maintain the strict confidentiality of records in the RoSS, I/we hereby expressly waive and authorize BTr, to the extent allowed by law, to disclose relevant information in compliance with Anti-Money Laundering laws, rules and regulations.

13. To submit to the BTr the relevant authorizations issued to my/our agent, upon demand of BTr.

IN WITNESS WHEREOF, I/We hereunto affix our hands this ________ day of ______________ at ____________________, Philippines.

____
Name & Signature of Investor

Conforme:

____
Settlement Bank

ACKNOWLEDGMENT

BEFORE ME, a Notary Public for and in the City of ____________, personally appeared:

Name:	**CTC No.**	**Date:**	**Place of Issue:**
____________________________	____________	____________	______________

(Investor or Representative of Juridical Entity)

known to me to be the same person who executed the foregoing instrument and he/she acknowledged to me that the same is his/her free and voluntary act and deed (and the free act and deed of the entity they represent).

WITNESS MY HAND AND NOTARIAL SEAL this ____________ at ________________ , Philippines.

NOTARY PUBLIC

Doc. No.: ______
Page No.: ______
Book No.: ______
Series of ______

DELIVERY OF GOVERNMENT SECURITIES TO THE INVESTOR'S PRINCIPAL SECURITIES ACCOUNT WITH THE REGISTRY OF SCRIPLESS SECURITIES
(Appendix to Sec. 4441Q and 4144N and Subsecs. 4101Q.4, 4235Q.5 (2008 - 4211Q.4) and 4103N.3]

(Renumbered as Appendix Q-38a by Circular No. 873 dated 25 March 2015)

THE GUIDELINES FOR THE IMPOSITION OF MONETARY PENALTY FOR VIOLATIONS/OFFENSES WITH SANCTIONS FALLING UNDER SECTION 37 OF R. A. NO. 7653 ON QUASI-BANKS, DIRECTORS AND/OR OFFICERS

(Appendix to Secs. 4199Q, 4299Q, 4399Q, 4499Q, 4699Q, 4799Q, 4899Q, 4999Q, 4101N.1 and Circular No. 645 dated 13 February 2009)

The schedule of penalty, categorized based on: (1) the nature of offenses such as minor, less serious, and/or serious, and (2) the assets size of the quasi-bank, shall be as follows:

A. For Serious Offense

Asset Size / Penalty Range	Up to P200 million	Above P200 million but not exceeding P500 million	Above P500 million but not exceeding P1 billion	Above P1 billion but not exceeding P10 billion	Above P10 billion but not exceeding P50 billion	Above P50 billion
Minimum	P 500	P 1, 000	P 3, 000	P 10, 000	P 18, 000	P 25, 000
Medium	750	1, 500	5, 000	12, 500	20, 000	27, 500
Maximum	1, 000	2, 000	7, 000	15, 000	22, 000	30, 000

B. For Less Serious Offense

Asset Size / Penalty Range	Up to P200 million	Above P200 million but not exceeding P500 million	Above P500 million but not exceeding P1 billion	Above P1 billion but not exceeding P10 billion	Above P10 billion but not exceeding P50 billion	Above P50 billion
Minimum	P 300	P 600	P 1, 000	P 3, 000	P 7, 000	P 15, 000
Medium	350	700	1, 250	4, 000	8, 500	17, 500
Maximum	400	800	1, 500	5, 000	10, 000	20, 000

C. For Minor Offense

Asset Size / Penalty Range	Up to P200 million	Above P200 million but not exceeding P500 million	Above P500 million but not exceeding P1 billion	Above P1 billion but not exceeding P10 billion	Above P10 billion but not exceeding P50 billion	Above P50 billion
Minimum	P 150	P 300	P 600	P 1, 000	P 3, 000	P 6, 000
Medium	200	400	700	1, 500	4, 000	8, 000
Maximum	250	500	800	2, 000	5, 000	10, 000

For purposes of this Regulation, the following definition of terms shall mean:

1. **Serious Offense -** This refers to unsafe or unsound quasi-banking practice. An unsafe or unsound practice is one (1) in which there has been some conduct, whether act or omission, which is contrary to accepted standards of prudent quasi-banking operation and may result to the exposure of the quasi-bank and its shareholders to abnormal risk or loss.

In determining the acts or omissions included under the unsafe or unsound banking practice, an analysis of the impact thereof on the banks/quasi-banks/trust entities' operations and financial condition must be undertaken, including evaluation of capital position, asset condition, management, earnings posture and liquidity position. The following circumstances shall be considered:

(a) The act or omission has resulted or may result in material loss or damage, or abnormal risk or danger to the safety, stability, liquidity or solvency of the institution;

(b) The act or omission has resulted or may result in material loss or damage or abnormal risk to the institution's depositors, creditors, investors, stockholders or to the Bangko Sentral or to the public in general;

(c) The act or omission has caused any undue injury, or has given unwarranted benefits, advantage or preference to the quasi-bank or any party in the discharge by the director or officer of his duties and responsibilities through manifest partiality, evident bad faith or gross inexcusable negligence; or

(d) The act or omission involves entering into any contract or transaction manifestly and grossly disadvantageous to the bank, quasi-bank or trust entity, whether or not the director or officer profited or will profit thereby.

Certain acts or omissions as falling under this classification maybe determined based on the guidelines provided under *Appendix Q-24*.

2. **Less Serious Offense -** These include major acts or omissions defined as quasi-bank/individual's failure to comply with the requirements of banking laws, rules and regulations, provisions of Manual of Regulations(MOR)/Circulars/Memorandum as well as Monetary Board directives/instructions having *material*[1/] impact on quasi-bank's solvency, liquidity or profitability and/or those violations classified as major offenses under the Report of Examination, except those classified under unsafe or unsound banking practice.

3. **Minor Offense -** These include acts or omissions which are procedural in nature, can be corrected immediately and do not have material impact on the solvency, liquidity and profitability of the quasi-bank. All other acts or omissions that cannot be classified under the major offenses/violations will be classified under this category.

4. **Minimum** refers to the range of penalties to be imposed if the mitigating factor(s) outweigh the aggravating circumstances.

5. **Medium** refers to the penalty to be imposed in the absence of any mitigating and aggravating circumstances or if the mitigating factor(s) offset the aggravating factor(s).

[1/] SFAS/IAS defines materiality as any information, which if omitted or misstated, could influence the economic decisions of users taken on the basis of the financial statements. Per Financial Accounting Standard Board (FASB), it is defined as the magnitude of an omission or misstatement of accounting information.

6. **Maximum** refers to the penalty to be imposed if the aggravating circumstances outweigh the mitigating factor(s).

In determining the amount of penalty, a two-stage assessment shall be conducted as follows:

Step 1: Determine the nature of offense whether it is: (a) Serious; (b) Less Serious; or (c) Minor Offense; and

Step 2: Determine whether there are aggravating and/or mitigating factors (as listed and defined in *Annex A*).

Both the aggravating and mitigating factors shall be considered for initial penalty imposition and subsequent requests for reconsideration thereto.

The foregoing monetary penalties shall be without prejudice to the imposition of non-monetary sanctions, if and when deemed applicable by the Monetary Board. Violations of banking laws and Bangko Sentral regulations with specific penal clause are not covered by this Regulation.
(As amended by Circular Nos. 673 dated 10 December 2009 and 645 dated 13 February 2009)

Annex A

Aggravating and Mitigating Factors to be Considered in the Imposition of Penalty

1. Aggravating Factors:

(a) Frequency of the commission of specific violation – This pertains to commission or omission of a specific offense involving either the same or different transaction. This will also refer to a violation which may have been corrected in the past but found repeated in another transaction/account in the subsequent examination.

In determining frequency, the number of times of commission or omission of a specific offense during the preceding three (3) - year period shall also be considered.

The word "offense" pertains to a violation that connotes infraction of existing BSP rules and regulations as well as non-compliance with BSP/MB directives.

(b) Duration of Violations Prior to Notification – This pertains to the length of time prior to the latest notification on the violation. Violations that have been existing for a long time before it was revealed/ discovered in the regular examination or are under evaluation for a long time due to pending requests or correspondences from QBs on whether a violation has actually occurred shall be dealt with through this criterion. Violations outstanding for more than one (1) year prior to notification, at the minimum, will qualify as violations outstanding for a long time.

(c) Continuation of offense or omission after notification – This pertains to the persistence of an act or offense after the latest notification on the existence of the violation, either from the appropriate department of the SES or from the Monetary Board and/or Deputy Governor, in cases where the violation has been elevated accordingly. This covers the period after the final notification of the existence of the violation until such time that the violation has been corrected and/ or remedied. The corrective action shall be reckoned with from the date of notification.

(d) Concealment – This factor pertains to the cover up of a violation. In evaluating this factor, one shall consider the intention of the party(ies) involved and whether pecuniary benefit may accrue accordingly.

Intention precedes concealment. The act of concealing an offense or omission carries with it the intention to defraud regulators. Moreover, the amount of pecuniary benefit, which may or may not accrue from the offense or omission, shall also be considered under this factor.

Concealment may be apparent in cases when QB officers purposely complicates the transaction to make it difficult to uncover or refuse to provide information/ documents that would support the violation/offense committed.

In as much as concealment and intention are speculative matters and may be difficult to establish, appropriate support of facts or circumstantial evidence in this factor shall be considered.

(e) Loss or risk of loss to QB – In assessing this factor, "potential loss" refers to any time at which the QB was in danger of sustaining a loss.

- *Substantial actual loss* – The QB has been exposed to a significant loss of earnings and capital. The volume of accounts involved in the loss is substantial/ significant in relation to the institution's assets and capital. The QB/individual may have substantial/serious violations that could impact the reputation and earnings of the QB.

- *Minimal actual loss or substantial risk of loss* – The QB has incurred minimal loss or will be exposed to substantial risk of loss of earnings or capital although both do not materially impact financial condition. The volume of accounts involved for minimal loss or substantial risk of loss is reasonable and manageable. While a loss was incurred, the QB could absorb the loss in the normal course of business. Substantial risk of loss includes *any potential losses the aggregate of which amounts to at least one percent (1%) of the capital of the QB*[1].
- *Minimal risk of loss* – The risk exposure on earnings or capital is minimal. QB is not vulnerable to significant loss. The volume of accounts involved for potential loss/risk is minimal/negligible. The risk of loss would have little impact on the QB or its financial condition. The risk of loss aggregating to less than one percent (1%) of the capital of the QB will fall under this classification.

(f) Impact to QB/banking industry– In assessing this factor, it is appropriate to consider any possible negative impact or harm to the QB. (e.g. A violation of law involving insider abuse may result in adverse publicity for the institution, possibly causing a run on deposits and affecting the QB's liquidity). Resulting effect on the banking industry on the violation/offenses committed by the QB, if any, will also be considered. Sources of data may come from news reports.

- *Substantial impact on QB. No impact on banking industry*. This may involve reputational risk of the QB as a result of negative publicity generated for example, by involvement of QB's director/ officer in activities not acceptable to the regulatory bodies, e.g. pyramiding, investment scams etc. This may also involve insider abuse of authority/power. However, the banking industry is not affected for this isolated case.
- *Moderate impact on banking industry or on public perception of banking industry*. This may involve poor corporate governance and mismanagement of QB that may result to erosion of public confidence leading to bank run in various branches. This may also trigger a bank run in other subsidiaries.
- *Substantial impact on banking industry or on public perception of banking industry*. This is a worst-case scenario. The violations/irregular activities of the QB may totally erode the trust and confidence of the quasi-banking public resulting to a nationwide bank run. Pessimistic perception of the banking public on the banking industry is highly observed.

2. Mitigating Factors

(a) Good Faith – Good faith is the absence of intention of the erring individual/entity in the commission of a violation.

- *Full Cooperation* - This is determined by the actions of the individual and/or QB towards the regulators after or even before notification of the offense and/ or omission. Assistance rendered by the QB during the investigation and/or examination conducted relative to the cited offense and/or omission may be viewed favorably when computing the amount of penalty to be imposed on the QB/ individual.
- *With positive measures/action undertaken although not corrected immediately*. The QB is willing to remedy/

[1] Cir. 410 dated 29 October 2003 provides that external auditors of QBs must report to BSP, among others, any potential losses the aggregate of which amounts to at least one percent (1%) of the capital to enable the BSP to take timely and appropriate remedial action.

correct the violation but is being restrained of its capacity to take immediate action thus, will undertake a Memorandum of Undertaking/Commitment for a specified period as a sign of good faith. The QB has started to rectify the infraction by instituting reforms in their operations or systems.

- Voluntary disclosure of offense - Voluntary disclosure of the QB of the offense committed before it is discovered by BSP examiners in the regular/special examination or in the supervisory work (e.g. submission of reports to the BSP disclosing the violation committed by the QB based on the internal auditor's findings) may be considered as the highest level of mitigation under this factor.

The burden of proof, however, falls on the QB/individual to support its/his/her claim of good faith and may be used as basis to mitigate the amount of penalty that may be imposed.

PROMPT CORRECTIVE ACTION FRAMEWORK

[Appendix to Secs. 4193Q (2008 - 4192Q), 4192S, 4192P and 4192N]

In carrying out its primary objective of maintaining price stability conducive to a balanced and sustainable growth of the economy[1], the BSP must necessarily maintain stability of the financial system through preservation of confidence therein. While preservation of confidence in the financial system may call for closure of mismanaged banks and/or financial entities under its jurisdiction, such closure is not the only option available to the BSP. When a bank's closure, for instance, is adjudged by the Monetary Board to have adverse systemic consequences, the State may act in accordance with law to avert potential financial system instability or economic disruption.[2]

It is recognized that the closure of a bank or its intervention can be a costly and painful exercise. For this reason, the BSP, as supervisor, can enforce PCA[3] as soon as a bank's condition indicates higher-than normal risk of failure.

PCA essentially involves the BSP directing the board of directors of a bank, prior to an open outbreak of crisis, to institute strong measures to restore the entity to normal operating condition within a reasonable period, ideally within one (1) year. These measures may include any or all of the following components:

(1) Implementation of a capital restoration plan;

(2) Implementation of a business improvement plan; and

(3) Implementation of corporate governance reforms.

Capital restoration plan – this component contains the schedule for building up a bank's capital base (primarily through an increase in Tier 1 capital) to a level commensurate to the underlying risk exposure and in full compliance with minimum capital adequacy requirement. In conjunction with this plan, the BSP may also require any one (1), or a combination of the following:

1. Limit or curtail dividend payments to common stockholders;
2. Limit or curtail dividend payments to preferred stockholders; and
3. Limit or curtail fees and/or other payments to related parties.

Business improvement plan – this component contains the set of actions to be taken immediately to bring about an improvement in the entity's operating condition, including but not limited to any one (1), or a combination of the following:

1. Reduce risk exposures to manageable levels;
2. Strengthen risk management;
3. Curtail or limit the bank's scope of operations including those of its subsidiaries or affiliates where it exercises control;
4. Change or replace management officials;
5. Reduce expenses; and
6. Other measures to improve the quality of earnings.

Corporate governance reforms – this component contains the actions to be immediately taken to improve the composition and/or independence of the board of directors and to enhance the quality of its oversight over the management and operation of the entity. This also includes measures to minimize potential shareholder conflicts of interest detrimental to its creditors, particularly, depositors in a

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[1] Section 3 of Republic Act No. 7653
[2] Section 17 and 18 of Republic Act No. 3591, as amended
[3] Section 4.6 of Republic Act No. 8791

bank. This likewise lays down measures to provide an acceptable level of financial transparency to all stakeholders. Such actions could include, but are not limited to, any one (1), or a combination of the following:

1. A change in the composition of the board of directors or any of the mandatory committees (under the MORNBFI);
2. An enhancement to the frequency and/or depth of reporting to the board of directors;
3. A reduction in exposures to and/or a termination or reduction of business relationships with affiliates that pose excessive risk or are inherently disadvantageous to the supervised FI; and
4. A change of external auditor.

A bank may be subject to PCA whenever any or all of the following conditions obtain:

(1) When either of the Total Risk-Based Ratio[1], Tier 1 Risk-Based Ratio, or Leverage Ratio[2] falls below ten percent (10%), six percent (6%) and five percent (5%), respectively, or such other minimum levels that may be prescribed for the said ratios under relevant regulations, and/or the combined capital account falls below the minimum capital requirement prescribed under Sec. 4111Q;

(2) CAMELS composite rating is less than "3" or a Management component rating of less than "3";

(3) A serious supervisory concern has been identified that places a bank at more-than-normal risk of failure in the opinion of the director of the Examination Department concerned, which opinion is confirmed by the Monetary Board. Such concerns could include, but are not limited, to any one (1) or a combination of the following:

a. Finding of unsafe and unsound activities that could adversely affect the interest of depositors and/or creditors;

b. A finding of repeat violations of law or the continuing failure to comply with Monetary Board directives; and

c. Significant reporting errors that materially misrepresent the bank's financial condition.

The initiation of PCA shall be recommended by the Deputy Governor, SES to the Monetary Board for approval. Any initiation of PCA shall be reported to the PDIC for notation. Upon PCA initiation, the BSP shall require the bank to enter into a MOU committing to the PCA plan. The MOU shall be subject to approval by the Monetary Board.

In order to monitor compliance with the PCA, quarterly progress reports shall be made. The BSP reserves the right to conduct periodic on-site visits outside of regular examination to validate compliance with the PCA plan.

Subject to Monetary Board approval, sanctions may be imposed on any bank subject to PCA whenever there is unreasonable delay in entering into a PCA plan or when PCA is not being complied with. These may include any or all of the following:

(1) monetary penalty on or curtailment or suspension of privileges enjoyed by the board of directors or responsible officers;

(2) restriction on existing activities that the supervised FI may undertake;

(3) denial of application for branching and other special authorities;

(4) denial or restriction of access to BSP credit facilities; and

(5) restriction on declaration of dividends.

On the other hand, if the bank subject to PCA promptly implements a PCA plan and substantially complies with its conditions, it may continue to have access to BSP credit facilities notwithstanding non-compliance with standard conditions of access to such

[1] Otherwise known as CAR
[2] Total Capital / Total Assets

facilities. The Deputy Governor, SES shall recommend such exemption to the Monetary Board for approval.

In cases where a bank's problems are deemed to be exceptionally serious from the outset, or when a bank is unwilling to submit to the PCA or unable to substantially comply with an agreed PCA plan, the Deputy Governor, SES may immediately recommend to the Monetary Board more drastic actions as prescribed under Sec. 29 (conservatorship) and Sec. 30 (receivership) of R.A. No. 7653.

Subject to Monetary Board approval, the PCA status of a bank may be lifted: *Provided,* That the bank fully complies with the terms and conditions of its MOU and: *Provided, further,* That the Deputy Governor, SES has determined that the financial and operating condition of the bank no longer presents a risk to itself or the financial system. Such improved assessment shall be immediately reported to the PDIC.

(Circular No. 523 dated 23 March 2006, as amended by Circular No. 664 dated 15 September 2009)

GUIDELINES FOR THE CHANGE IN THE MODE OF COMPLIANCE WITH THE LIQUIDITY RESERVE REQUIREMENT
[Appendix to Subsecs. 4254Q (2008 - 4246Q.1) & 4405Q.5]

(Deleted by Circular No. 753 dated 29 March 2012)

GUIDELINES ON SUPERVISION BY RISK

[Appendix to Secs. 4173Q (2008 - 4193Q), 4193S, 4193P and 4193N]

I. Background

It must be recognized that banking is a business of taking risks in order to earn profits. While banking risks historically have been concentrated in traditional banking activities, the financial services industry has evolved in response to market-driven, technological, and legislative changes. These changes have allowed FIs to expand product offerings, geographic diversity, and delivery systems. They have also increased the complexity of the FI's consolidated risk exposure. Because of this complexity, FIs must evaluate, control, and manage risk according to its significance. The FI's evaluation of risk must take into account how non-bank activities within a banking organization affect the FI. Consolidated risk assessments should be a fundamental part of managing the FI. Large FIs assume varied and complex risks that warrant a risk-oriented supervisory approach.

II. Statement of policy

The existence of risk is not necessarily a reason for concern. Likewise, the existence of high risk in any area is not necessarily a concern, so long as management exhibits the ability to effectively manage that level of risk. Under this approach, the BSP will not necessarily attempt to restrict risk-taking but rather ensure that FIs identify, understand, and control the risks they assume. As an organization grows more diverse and complex, the FI's risk management processes must keep pace. When risk is not properly managed, BSP will direct FI management to take corrective action such as reducing exposures, increasing capital, strengthening risk management processes or a combination of these actions. In all cases, the primary concern of the BSP is that the FI operates in a safe and sound manner and maintains capital commensurate with its risks. Further guidance on risk management issues will be addressed in subsequent issuances that are part of the overall risk assessment program.

III. Guidelines for risk management

For purposes of the discussion of risk, the BSP will evaluate banking risk relative to its impact on capital and earnings. From a supervisory perspective, risk is the potential that events, expected or unanticipated, may have an adverse impact on the FI's capital or earnings.

The BSP-SES has defined eight (8) categories of risk for FI supervision purposes. These risks are: credit, market, interest rate, liquidity, operational, compliance, strategic, and reputation. These categories are not mutually exclusive; any product or service may expose the FI to multiple risks. In addition, they can be interdependent. Increased risk in one (1) category can increase risk in other categories.

Types and definitions of risk

1. *Credit risk* arises from counterparty's failure to meet the terms of any contract with the FI or otherwise perform as agreed. Credit risk is found in all activities where success depends on counterparty, issuer, or borrower performance. It arises any time FI funds are extended, committed, invested, or otherwise exposed through actual or implied contractual agreements, whether reflected on or off the balance sheet. Credit risk is not limited to the loan portfolio.

2. *Market risk* is the risk to earnings or capital arising from changes in the value

of traded portfolios of financial instruments. This risk arises from market-making, dealing, and position-taking in interest rate, foreign exchange, equity and commodities markets.

3. *Interest rate risk* is the current and prospective risk to earnings or capital arising from movements in interest rates. Interest rate risk arises from differences between the timing of rate changes and the timing of cash flows (repricing risk); from changing rate relationships among different yield curves affecting FI activities (basis risk); from changing rate relationships across the spectrum of maturities (yield curve risk); and from interest-related options embedded in FI products (options risk).

4. *Liquidity risk* is the current and prospective risk to earnings or capital arising from an FI's inability to meet its obligations when they come due without incurring unacceptable losses. Liquidity risk includes the inability to manage unplanned decreases or changes in funding sources. Liquidity risk also arises from the failure to recognize or address changes in market conditions that affect the ability to liquidate assets quickly and with minimal loss in value.

5. *Operational risk* is the current and prospective risk to earnings or capital arising from fraud, error, and the inability to deliver products or services, maintain a competitive position, and manage information. Risk is inherent in efforts to gain strategic advantage, and in the failure to keep pace with changes in the financial services marketplace. Operational risk is evident in each product and service offered. Operational risk encompasses: product development and delivery, operational processing, systems development, computing systems, complexity of products and services, and the internal control environment.

6. *Compliance risk* is the current and prospective risk to earnings or capital arising from violations of, or non-conformance with, laws, rules, regulations, prescribed practices, internal policies and procedures, or ethical standards. Compliance risk also arises in situations where the laws or rules governing certain FI products or activities of the FI's clients may be ambiguous or untested. This risk exposes the FI to fines, payment of damages, and the voiding of contracts. Compliance risk can lead to diminished reputation, reduced franchise value, limited business opportunities, reduced expansion potential, and lack of contract enforceability.

7. *Strategic risk* is the current and prospective impact on earnings or capital arising from adverse business decisions, improper implementation of decisions, or lack of responsiveness to industry changes. This risk is a function of the compatibility of an organization's strategic goals, the business strategies developed to achieve those goals, the resources deployed against these goals, and the quality of implementation. The resources needed to carry out business strategies are both tangible and intangible. They include communication channels, operating systems, delivery networks, and managerial capacities and capabilities. The organization's internal characteristics must be evaluated against the impact of economic, technological, competitive, regulatory, and other environmental changes.

8. *Reputation risk* is the current and prospective impact on earnings or capital arising from negative public opinion. This affects the FI's ability to establish new relationships or services or continue servicing existing relationships. This risk may expose the FI to litigation, financial loss, or a decline in its customer base. In extreme cases, FIs that lose their reputation may suffer a run on deposits. Reputation risk exposure is present throughout the organization and requires the responsibility to exercise an abundance of caution in dealing with customers and the community.

IV. FI management of risk

Because market conditions and company structures vary, there is no single risk management system that works for all FIs. Each FI should tailor its risk management program to its needs and circumstances. Sound risk management systems, however, have several things in common; for example, they are independent of risk-taking activities. Regardless of the risk management program's design, each program should:

1. *Identify risk*: To properly identify risks, an FI must recognize and understand existing risks or risks that may arise from new business initiatives, including risks that originate in non-bank subsidiaries and affiliates. Risk identification should be a continuing process, and should occur at both the transaction and portfolio level.

2. *Measure risk*: Accurate and timely measurement of risk is essential to effective risk management systems. An FI that does not have a risk measurement system has limited ability to control or monitor risk levels. Further, the more complex the risk, the more sophisticated should be the tools that measure it. An FI should periodically conduct tests to make sure that the measurement tools it uses are accurate. Good risk measurement systems assess the risks of both individual transactions and portfolios. During the transition process in FI mergers and consolidations, the effectiveness of risk measurement tools is often impaired because of the technological incompatibility of the merging systems or other problems of integration. Therefore, the resulting FI must make a strong effort to ensure that risks are appropriately measured across the consolidated entity. Larger, more complex FIs must assess the impact of increased transaction volume across all risk categories.

3. *Monitor risk*: FIs should monitor risk levels to ensure timely review of risk positions and exceptions. Monitoring reports should be frequent, timely, accurate, and informative and should be distributed to appropriate individuals to ensure action, when needed. For large, complex FIs, monitoring is essential to ensure that management's decisions are implemented for all geographies, products, and legal entities.

4. *Control risk*: The FI should establish and communicate risk limits through policies, standards, and procedures that define responsibility and authority. These control limits should be valid tools that management should be able to adjust when conditions or risk tolerances change. The FI should have a process to authorize exceptions or changes to risk limits when warranted. In merging or consolidating FIs, the transition should be tightly controlled; business plans, lines of authority, and accountability should be clear. Large, diversified FIs should have strong risk controls covering all geographies, products, and legal entities.

The Board must establish the FI's strategic direction and risk tolerances. In carrying out these responsibilities, the Board should approve policies that set operational standards and risk limits. Well-designed monitoring systems will allow the Board to hold management accountable for operating within established tolerances. Capable management and appropriate staffing are also essential to effective risk management. FI management is responsible for the implementation, integrity, and maintenance of risk management systems. Management also must keep the directors adequately informed. Management must:

a. Implement the FI's strategy;

b. Develop policies that define the FI's risk tolerance and ensure that they are compatible with strategic goals;

c. Ensure that strategic direction and risk tolerances are effectively communicated and adhered to throughout the organization;

d. Oversee the development and maintenance of management information systems to ensure that information is timely, accurate, and pertinent.

V. Assessment of risk management

When assessing risk management systems, the BSP will consider the FI's policies, processes, personnel, and control systems. Significant deficiencies in any one of these areas will cause the BSP to expect the FI to compensate for these deficiencies in their overall risk management process.

1. *Policies* are statements of the FIs' commitment to pursue certain results. Policies often set standards (on risk tolerances, for example) and recommend courses of action. Policies should express an FI's underlying mission, values, and principles. A policy review should always be triggered when an FI's activities or risk tolerances change.

2. *Processes* are the procedures, programs, and practices that impose order on the FI's pursuit of its objectives. Processes define how daily activities are carried out. Effective processes are consistent with the underlying policies, are efficient, and are governed by checks and balances.

3. *Personnel* are the staff and managers that execute or oversee processes. Good staff and managers perform as expected, are qualified, and competent. They understand the FI's mission, values, policies, and processes. Compensation programs should be designed to attract, develop, and retain qualified personnel. In addition, compensation should be structured to reward contributions to effective risk management.

4. *Control systems* include the tools and information systems (e.g, internal/external audit programs) that FI managers use to measure performance, make decisions about risk, and assess the effectiveness of processes. Feedback should be timely, accurate, and pertinent.

VI. Supervision by Risk

Using the core assessment standards of the BSP as guide, an examiner will obtain both a current and prospective view of an FI's risk profile. When appropriate, this profile will incorporate potential material risks to the FI from non-bank affiliates' activities conducted by the FI. Subsidiaries and branches of foreign FIs should maintain sufficient documentation onsite to support the analysis of their risk management. This risk assessment drives supervisory strategies and activities. It also facilitates discussions with FI management and directors and helps to ensure more efficient examinations. The core assessment complements the risk assessment system (RAS). Examiners document their conclusions regarding the quantity of risk, the quality of risk management, the level of supervisory concern (measured as aggregate risk), and the direction of risk using the RAS. Together, the core assessment and RAS give the appropriate department of the SES the means to assess existing and emerging risks in FIs, regardless of size or complexity.

Specifically, supervision by risk allocates greater resources to areas with higher risks. The appropriate department of the SES will accomplish this by:

1. Identifying risks using common definitions. The categories of risk, as they are defined, are the foundation for supervisory activities.

2. Measuring risks using common methods of evaluation. Risk cannot always

be quantified in pesos. For example, numerous internal control deficiencies may indicate excessive operational risk.

3. Evaluating risk management to determine whether FI systems and processes permit management to manage and control existing and prospective levels of risk.

The appropriate department of the SES will discuss preliminary conclusions regarding risks with FI management. Following these discussions, it will adjust conclusions when appropriate. Once the risks have been clearly identified and communicated, it can then focus supervisory efforts on the areas of greater risk within the FI, the consolidated banking organization, and the banking system.

To fully implement supervision by risk, the appropriate department of the SES will also assign CAMELS ratings to the lead FI and all affiliated FIs. It may determine that risks in individual FIs are increased, reduced, or mitigated in light of the consolidated risk profile of the FI as a whole. To perform a consolidated analysis, it obtain pertinent information from FIs and affiliates, and verify transactions flowing between FIs and affiliates.

(Circular No. 510 dated 03 February 2006)

GUIDELINES ON MARKET RISK MANAGEMENT

[Appendix to Sec. 4175Q (2008 - 4194Q), 4194S, 4194P and 4194N]

I. Background

The globalization of financial markets, increased transaction volume and volatility, and the introduction of complex products and trading strategies have made market risk management take on a more important role in risk management. FIs now use a wide range of financial products and strategies, ranging from the most liquid fixed income securities to complex derivative instruments and structured products. The risk dimensions of these products and strategies must be fully understood, monitored, and controlled by a FI.

II. Statement of policy

For purposes of these guidelines, FIs refer to banks and NBFIs supervised by the Bangko Sentral and their respective financial subsidiaries. The level of market risk assumed by an FI is not necessarily a concern, so long as the FI has the ability to effectively manage the risk. Therefore, the Bangko Sentral will not restrict the level of risk assumed by an FI, or the scope of its financial market activities, so long as the FI is authorized to engage in such activities and:

- Understands, measures, monitors and controls the risk assumed,
- Adopts risk management practices whose sophistication and effectiveness are commensurate to the risk being monitored and controlled, and
- Maintains capital commensurate with the risk exposure assumed.

If the Bangko Sentral determines that an FI's risk exposures are excessive relative to the FI's capital, or that the risk assumed is not well managed, the Bangko Sentral will direct the FI to reduce its exposure to an appropriate level and/or strengthen its risk management systems.In evaluating the above parameters, the BSP expects FIs to have sufficient knowledge, skills and appropriate system and technology necessary to understand and effectively manage their market risk exposures. The principles set forth in these guidelines shall be used in determining the adequacy and effectiveness of an FI's market risk management process, the level and trend of market risk exposure and adequacy of capital relative to exposure. The Bangko Sentral shall consider the following factors:

1. The major sources of market risk exposure and the complexity and level of risk posed by the assets, liabilities, and off-balance-sheet activities of the FI;
2. The FI's actual and prospective level of market risk in relation to its earnings, capital, and risk management systems;
3. The adequacy and effectiveness of the FI's risk management practices and strategies as evidenced by:
   - The adequacy and effectiveness of board and senior management oversight;
   - Management's knowledge and ability to identify and manage sources of market risk as measured by past and projected financial performance;
   - The adequacy of internal measurement, monitoring, and management information systems;
   - The adequacy and effectiveness of risk limits and controls that set tolerances on income and capital losses;
   - The adequacy and frequency of the FI's internal review and audit of its market risk management process.

Further, an FI's market risk management system shall be assessed under the FI's general risk management framework, consistent with the guidelines on supervision by risk as set forth under *Appendix Q-42*.

III. Market risk management process

An FI's market risk management process should be consistent with its general risk management framework and should be commensurate with the level of risk assumed. Although there is no single market risk management system that works for all FIs, an FI's market risk management process should:

1. *Identify market risk*. Identifying current and prospective market risk exposures involves understanding the sources of market risk arising from an FI's existing or new business initiatives. An FI should have procedures in place to identify and address the risk posed by new products and activities prior to initiating the new products or activities.

Identifying market risk also includes identifying an FI's desired level of risk exposure based on its ability and willingness to assume market risk. An FI's ability to assume market risk depends on its capital base and the skills/capabilities of its management team. In any case, market risk identification should be a continuing process and should occur at both the transaction and portfolio level.

2. *Measure market risk*. Once the sources and desired level of market risk have been identified, market risk measurement models can be applied to quantify an FI's market risk exposures. However, market risk cannot be managed in isolation. Market risk measurement systems should be integrated into an FI's general risk measurement system and results from models should be interpreted in coordination with other risk exposures. Further, the more complex an FI's financial market activities are, the more sophisticated the tools that measure market risk exposures arising from such complex activities should be.

3. *Control market risk*. Quantifying market risk exposures help an FI align existing exposures with the identified desired level of exposures. Controlling market risk usually involves establishing market risk limits that are consistent with an FI's market risk measurement methodologies. Limits may be applied through an outright prohibition on exposures above a pre-set threshold, by restraining activities or deploying strategies that alter the risk-return characteristics of on- and off- balance sheet positions. Appropriate pricing strategies may likewise be used to control market risk exposures.

4. *Monitor market risk*. Ensuring that market risk exposures are adequately controlled requires the timely review of market risk positions and exceptions. Monitoring reports should be frequent, timely and accurate. For large, complex FIs, consolidated monitoring should be employed to ensure that management's decisions are implemented for all geographies, products, and legal entities.

IV. Definition and sources of market risk

Market risk is the risk to earnings or capital arising from adverse movements in factors that affect the market value of instruments, products, and transactions in an institution's overall portfolio, both on or off-balance sheet. Market risk arises from market-making, dealing, and position-taking in interest rate, foreign exchange, equity and commodities markets.

Interest rate risk is the current and prospective risk to earnings or capital arising from movements in interest rates.

FX risk refers to the risk to earnings or capital arising from adverse movements in FX rates.

Equity risk is the risk to earnings or capital arising from movements in the value of an institution's equity-related holdings.

Commodity risk is the risk to earnings or capital due to adverse changes in the value of an institution's commodity-related holdings.

While there are generally four sources of market risk, as defined herein, the focus of this Appendix is *interest rate risk* and *FX risk*. Nevertheless, the principles set forth in the market risk management process and sound risk management practices are generally applicable to all sources of market risk.

a. Interest rate risk

Interest rate risk is the risk that changes in market interest rates will reduce current or future earnings and/or the economic value of a FI. Accepting interest rate risk is a normal part of financial intermediation and is a major source of profitability and shareholder value. Excessive or inadequately understood and controlled interest rate risk, however, can pose a significant threat to an FI's earnings and capital. Thus, an effective risk management process that maintains interest rate risk within prudent levels is essential to the safety and soundness of FIs.

1. Sources of interest rate risk

a. *Re-pricing risk*

This is the most common type of interest rate risk and arises from differences in the maturity (for fixed-rate instruments) and re-pricing (for floating-rate instruments) of an FI's assets, liabilities and off-balance sheet positions. While such re-pricing mismatches are fundamental to the business of financial intermediation, they also expose an FI's earnings and underlying economic value to changes based on fluctuations in market interest rates.

b. *Basis risk*

Basis risk arises from imperfect correlations among the various interest rates earned and paid on financial instruments with otherwise similar re-pricing characteristics. A shift in the relationship between these rates or interest rates in different markets can give rise to unexpected changes in the cash flows and earnings spread between assets, liabilities and off-balance sheet instruments of similar maturities or re-pricing frequencies.

c. *Yield curve risk*

Yield curve risk is the risk that rates of different maturities may change by a different magnitude. It arises from variations in the movement of interest rates across the maturity spectrum of the same index or market. Yield curves can steepen, flatten or even invert. Unanticipated shifts of the yield curve may have adverse effects on an FI's earnings or underlying economic value.

d. *Option risk*

Option risk is the risk that the payment patterns of assets and liabilities will change when interest rates change. Formally, an option gives the option holder the right, but not the obligation to buy, sell, or in some manner alter the cash flow of an instrument or financial contract. Options may be stand-alone instruments or may be embedded within otherwise standard instruments. Examples of instruments with embedded options include various types of bonds, notes, loans or even deposits which give a counter-party the right to prepay or even extend the maturity of an instrument or to change the rate paid. In some cases, the holder of an option can force a counter-party to pay additional notional, or to forfeit notional already paid.

The option holder's ability to choose to alter cash flows creates an asymmetric performance pattern. If not adequately managed, the asymmetrical pay-off characteristics of instruments with optionality can pose significant risk particularly to those who sell the options, since the options held, both explicit and embedded, are generally exercised to the advantage of the holder and the disadvantage of the seller.

2. Measuring the effects of interest rate risk

Changes in interest rates affect both earnings and the economic value of an FI. This has given rise to two separate, but complementary, perspectives for evaluating an FI's exposure to interest rate risk.

Exposure to earnings typically receives the most attention. Many FIs use a modified interest rate gap or earnings simulation model to forecast earnings over a running next twelve (12) month time horizon under a variety of interest rate scenarios. Given that a large portion of a typical FI's liabilities and even assets re-price in less than one (1) year, there is value in such a system. For example, earnings are a key measure in determining if the board of directors is creating value for the shareholders.

However, earnings over the next twelve (12) months do not present a complete picture of an FI's exposure to interest rate risk. Many FIs hold assets such as bonds and fixed rate loans with extended terms. The full effect of changes in interest rates on the value of these assets cannot be fully captured by a short-term earnings model. Thus, it is also important to consider a more comprehensive picture of the FI's exposure to interest rate risk through an assessment of the FI's economic value.

The BSP will not consider market risk to be "well managed" unless the FI has fully implemented an effective risk measurement system whose sophistication is commensurate with the nature and complexity of the risk assumed. Smaller FIs with non-complex single currency balance sheets may be able to use a single non-complex measurement methodology, such as re-pricing gap analysis to manage their interest rate risk. However, large commercial or universal banks with complex, multi-currency balance sheets, or FIs that accept large exposures of interest rate risk relative to capital will be expected to measure interest rate risk through a combination of earnings simulation and economic value. Trading activities should continue to be managed through the use of an effective, and independently validated Value-at-Risk (VaR) methodology.

a. *Earnings perspective*

An FI should consider how changes in interest rates may affect future earnings. The focus of analysis under the earnings perspective is the impact of changes in interest rates on accrual or reported earnings. Volatility in earnings should be monitored and controlled because reduced earnings or outright losses can threaten the financial stability of an FI by undermining its capital adequacy. Further, unexpected volatility in earnings can undermine an FI's reputation and result in an erosion of public confidence.

Fluctuations in interest rates generally have the greatest impact on reported earnings through changes in net interest income (i.e., the difference between total interest income and total interest expense). Thus, the BSP will expect FIs to adopt systems that are capable of estimating changes to net interest income under a variety of interest rate scenarios. For example, non-complex FIs with traditional business lines and balance sheets could potentially limit their simulations to a single ±100 basis point parallel rate shock. However, FIs that hold significant levels of derivatives and structured products relative to capital should incorporate more severe rate movements (e.g., ± 100, 200 and 300 basis points) to determine what happens if strike prices are breached or "events" are triggered. Further, the BSP will expect an FI to employ alternative scenarios such as changes to the shape of the yield curve if the FI is exposed to significant levels of yield curve or basis risk.

Changes in market interest rates may also affect the volume of activities that generate fee income and other non-interest income. Thus, FIs should incorporate a broader focus on overall net income – incorporating both interest and non-interest income and expenses – if the FI reports significant levels of interest rate sensitive non-interest income.

b. *Economic value perspective*

The economic value of an FI can be viewed as the present value of an FI's expected net cash flows, defined as the expected cash flows from assets minus the expected cash flows from liabilities plus the expected net cash flows on off-balance sheet positions. As such, it provides a more comprehensive view of the potential long-term effects of changes in interest rates than is offered by the earnings perspective.

While a variety of models are available, the BSP expects that economic value models will incorporate all significant classes of assets, liabilities and off-balance sheet. As with earnings at risk, the FI should incorporate a variety of interest rate scenarios to ensure that any strike prices, caps, limits, or "events" are breached in the simulation. Also, FIs with significant levels of basis or yield curve risk are expected to add scenarios such as alternative correlations between interest rates and/or a flatter or steeper yield curve.

Managing earnings and economic exposures

Management must make certain trade-offs when immunizing earnings and economic value from interest rate risk. When earnings are immunized, economic value becomes more vulnerable, and vice versa. The economic value of equity, like that of other financial instruments, is a function of the discounted net cash flows it is expected to earn in the future. If an FI has immunized earnings, such that expected earnings remain constant for any change in interest rates, the discounted value of those earnings will be lower if interest rates rise. Hence, its economic value will fluctuate with rate changes. Conversely, if an FI fully immunizes its economic value, its periodic earnings must increase when rates rise and decline when interest rates fall.

b. FX risk

FX risk is the risk to earnings or capital arising from changes in FX rates.

In contracting to meet clients' foreign currency needs or simply buying and selling FX for its own account, a FI undertakes a risk that exchange rates might change subsequent to the time the contract is consummated. FX risk may also arise from maintaining an open FX position. Thus, managing FX risk includes monitoring an FI's net FX position.

An FI has a net position in a foreign currency when its assets, including spot and future contracts to purchase, and its liabilities, including spot and future contracts to sell, in that currency are not equal. An excess of assets over liabilities is called a net "long" position and liabilities in excess of assets, a net "short" position.

It should be noted that when engaging in FX activities, FIs are also exposed to other risks including liquidity and credit risks, particularly related to the settlement of FX contracts. FIs should have an integrated approach to risk management in relation to its FX activities: FX risk should be reviewed together with other risks to determine the FI's overall risk profile. Liquidity and settlement risks related to FX activities are outside the scope of these guidelines. Nevertheless, future guidelines may be issued on these risk areas.

V. Sound market risk management practices

When assessing an FI's market risk management system, the BSP expects an FI to address the four (4) basic elements of a sound risk management system:

1. Active and appropriate Board and senior management oversight;

2. Adequate risk management policies and procedures;

3. Appropriate risk measurement methodologies, limits structure, monitoring and management information systems; and

4. Comprehensive internal controls and independent audits.

The specific manner in which an FI applies these elements in managing its market risk will depend upon the complexity and nature of its activities, as well as the level of market risk exposure assumed. What constitutes adequate market risk management practices can therefore vary considerably. Regardless of the systems used, the BSP will not consider market risk to be well managed unless all four of the above elements are deemed to be at least "satisfactory".

As with other risk factor categories, banking groups (banks and subsidiaries/ affiliates) should monitor and manage market risk exposures of the group on a consolidated and comprehensive basis. At the same time, however, FIs should fully recognize any legal distinctions and possible obstacles to cash flow movements among affiliates and adjust their risk management practices accordingly. While consolidation may provide a comprehensive measure in respect of market risk, it may also underestimate risk when positions in one affiliate are used to offset positions in another affiliate. This is because a conventional accounting consolidation may allow theoretical offsets between such positions from which an FI may not in practice be able to benefit because of legal or operational constraints.

A. Active and appropriate board and senior management oversight[1]

Effective board and senior management oversight of an FI's market risk activities is critical to a sound market risk management process. It is important that these individuals are aware of their responsibilities with regard to market risk management and how market risk fits within the organization's overall risk management framework.

Responsibilities of the board of directors

The board of directors has the ultimate responsibility for understanding the nature and the level of market risk taken by the FI. In order to carry out its responsibilities, the Board should:

1. Establish and guide the FI's strategic direction and tolerance for market risk. While it is not possible to provide a comprehensive list of documents to consider, the BSP should see a clear and documented pattern whereby the Board reviews, discusses and approves strategies and policies with respect to market risk management. In addition, there should be evidence that the Board periodically reviews and discusses the overall objectives of the FI with respect to the level of market risk acceptable to the FI.

2. Identify senior management who has the authority and responsibility for managing market risk and ensure that senior management takes the necessary steps to monitor and control market risk consistent with the approved strategies and policies. The BSP should be able to discern a clear hierarchal structure with a clear assignment of responsibility and authority.

3. Monitor the FI's performance and overall market risk profile, ensuring that the level of market risk is maintained within tolerance and at prudent levels supported by adequate capital. The Board should be regularly informed of the market risk exposure of the FI and any breaches to established limits for appropriate action. Reporting should be timely and clearly

[1] This section refers to a management structure composed of a board of directors and senior management. The BSP is aware that there may be differences in some FIs as regards the organizational framework and functions of the board of directors and senior management. For instance, branches of foreign banks have board of directors located outside of the Philippines and are overseeing multiple branches in various countries. In this case, "board-equivalent" committees are appointed. Owing to these differences, the notions of the board of directors and the senior management are used in these guidelines not to identify legal constructs but rather to label two decision-making functions within a FI.

presented. In assessing an FI's capital adequacy for market risk, the Board should consider the FI's current and potential market risk exposure as well as other risks that may impair the FI's capital, such as credit, liquidity, operational, strategic, and reputation risks.

4. Ensure that the FI implements sound fundamental principles that facilitate the identification, measurement, monitoring and control of market risk. The board of directors should encourage discussions among its members and senior management – as well as between senior management and others in the FI – regarding the FI's market risk exposures and management process.

5. Ensure that adequate resources, both technical and human resources, are devoted to market risk management. While board members need not have detailed technical knowledge of complex financial instruments, legal issues or sophisticated risk management techniques, they have the responsibility to ensure that the FI has personnel available who have the necessary technical skills to evaluate and control market risk. This responsibility includes ensuring that there is continuous training of personnel on market risk management and providing competent technical staff for the internal audit function.

Responsibilities of senior management

Senior management is responsible for ensuring that market risk is adequately managed for both long-term and day-to-day basis. In managing the FI's activities, senior management should:

1. Develop and implement policies, procedures and practices that translate the board's goals, objectives and risk tolerances into operating standards that are well understood by personnel and that are consistent with the board's intent. Senior management should also periodically review the organization's market risk management policies and procedures to ensure that they remain appropriate and sound.

2. Ensure adherence to the lines of authority and responsibility that the board has established for measuring, managing, and reporting market risk exposures.

3. Maintain appropriate limits structure, adequate systems for measuring market risk, and standards for measuring performance.

4. Oversee the implementation and maintenance of management information and other systems to identify, measure, monitor, and control the FI's market risk.

5. Establish effective internal controls over the market risk management process.

6. Ensure that adequate resources are available for evaluating and controlling market risk. Senior management of FIs, including branches of foreign banks, should ensure that analysis and market risk management activities are conducted by competent staff with technical knowledge and experience consistent with the nature and scope of the FI's activities. There should be sufficient depth in staff resources to manage these activities and to accommodate the temporary absence of key personnel and normal succession.

In evaluating the quality of oversight, the BSP shall evaluate how the board and senior management carry out the above functions/responsibilities. Further, sound management oversight is highly related to the quality of other areas/elements of an FI's risk management system. Thus, even if board and senior management exhibit active oversight, the FI's policies, procedures, measurement methodologies, limits structure, monitoring and information systems, controls and audit must be considered adequate before quality of board and senior management can be considered at least "satisfactory".

Lines of responsibility and authority

FIs should clearly define the individuals and/or committees responsible for managing market risk and should ensure that there is adequate separation of duties in key elements of the risk management process to avoid potential conflicts of interest. Management should ensure that sufficient safeguards exist to minimize the potential that individuals initiating risk-taking positions may inappropriately influence key control functions of the market risk management process. FIs should therefore have risk measurement, monitoring, and control functions with clearly defined duties that are sufficiently independent from position-taking functions of the FI and which report risk exposures directly to the board of directors.

The nature and scope of safeguards to minimize potential conflicts of interest should be in accordance with the size and structure of an FI. Larger or more complex FIs should have a designated independent unit responsible for the design and administration of the FI's market risk measurement, monitoring and control functions.

B. Adequate risk management policies and procedures

An FI's market risk policies and procedures should be clearly defined, documented and duly approved by the board of directors. Policies and procedures should be consistent with the nature and complexity of the FI's activities. When reviewing banking groups, the BSP will assess whether adequate and effective policies and procedures have been adopted and implemented across all levels of the organization.

Policies and procedures should delineate lines of responsibility and accountability and should clearly define authorized instruments, hedging strategies, position-taking opportunities, and the market risk models used to quantify market risk. Market risk policies should also identify quantitative parameters that define the acceptable level of market risk for the FI. Where appropriate, limits should be further specified for certain types of instruments, portfolios, and activities. All market risk policies should be reviewed periodically and revised as needed. Management should define the specific procedures to be used for identifying, reporting and approving exceptions to policies, limits, and authorizations.

It is important that FIs identify market risk, as well as other risks, inherent in new products and activities and ensure these are subject to adequate procedures and controls before the new products and activities are introduced or undertaken. Specifically, new products and activities should undergo a careful pre-acquisition review to ensure that the FI understands their market risk characteristics and can incorporate them into its risk management process. Major hedging or risk management initiatives should be approved in advance by the board or its appropriate delegated committee.

Proposals and the subsequent new product/activity review should be formal and written. For purposes of managing market risk inherent in new products, proposals should, at a minimum, contain the following features:

1. Description of the relevant product or strategy;
2. Use/purpose of the new product/activity;
3. Identification of the resources required and unit/s responsible for establishing sound and effective market risk management of the product or activity;
4. Analysis of the reasonableness of the proposed activities in relation to the FI's overall financial condition and capital levels; and

5. Procedures to be used to measure, monitor, and control the risks of the proposed product or activity.

C. Appropriate risk measurement methodologies, limits structure, monitoring, and management information system

Market risk measurement models/ methodologies

It is essential that FIs have market risk measurement systems that capture all material sources of market risk and that assess the effect of changes in market risk factors in ways that are consistent with the scope of their activities. Depending upon the size, complexity, and nature of activities that give rise to market risk, the ability to capture all material sources of market risk in a timely manner may require an FI's market risk measurement system to be interfaced with other systems, such as the treasury system or loan system. The assumptions underlying the measurement system should be clearly understood by risk managers and senior management.

Market risk measurement systems should:

1. Assess all material market risk associated with an FI's assets, liabilities, and off-balance sheet positions;
2. Utilize generally accepted financial concepts and risk measurement techniques; and
3. Have well-documented assumptions and parameters.

There are a number of methods/ techniques for measuring market risks. Complexity ranges from simple marking-to-market or valuation techniques to more advanced static simulations using current holdings to highly sophisticated dynamic modeling techniques that reflect potential future business activities. In designing market risk measurement systems, FIs should ensure that the degree of detail regarding the nature of their positions is commensurate with the complexity and risk inherent in those positions.

At a minimum, smaller non-complex FIs should have the ability to mark-to-market or revalue their investment portfolio and construct a simple re-pricing gap. When using gap analysis, the precision of interest rate risk measurement depends in part on the number of time bands into which positions are aggregated. Clearly, aggregation of positions/cash flows into broad time bands implies some loss of precision. In addition, the use of reasonable and valid assumptions is important for a measurement system to be precise. In practice, the FI must assess the significance of the potential loss of precision in determining the extent of aggregation and simplification to be built into the measurement approach. Assumptions and limitations of the measurement approach, such as the loss of precision, should be documented.

On the other hand, banks holding an expanded derivatives license and FIs engaging in options or structured products with embedded options cannot capture all material sources of market risk by using static models such as the re-pricing gap. These FIs should have interest rate risk measurement systems that assess the effects of rate changes on both earnings and economic value. These systems should provide meaningful measures of an FI's current levels of interest rate risk exposure, and should be capable of identifying any excessive exposures that might arise. Pricing models and simulation techniques will probably be required.

There is also a question on the extent to which market risk should be viewed on a whole institution basis or whether the trading book, which is marked to market, and the accrual book, which is often not, should be treated separately. As a general rule, it is desirable for any measurement system to incorporate market risk exposures arising from the full scope of an FI's activities, including both trading and non-trading sources. A single measurement system can facilitate analysis of market risk exposure. However, this does not preclude different measurement systems and risk management approaches being used for similar or different activities. For example, a bank with expanded derivatives license will use pricing models as basic tools in valuing position from its derivatives activities and structured products. In addition, the bank should use simulation models to assess the potential effects of changes in market risk factors by simulating the future path of market risk factors and their impact on cash flows from these activities.

Different methodologies may also be applied to the trading and accrual books. Regardless of the number of models or measurement systems used, management should have an integrated view of market risk across products and business lines.

Regardless of the measurement system used, the BSP will expect the FI to ensure that input data are timely and correct, assumptions can be supported and are valid, the methodologies used produce accurate results, and the results can be easily understood by senior management and the board.

(1) Model input. All market risk measurement methodologies require various types of inputs, including hard data, readily observable parameters such as asset prices, and both quantitatively and qualitatively-derived assumptions. This applies equally to simple gap as well as complex simulation models.

The integrity and timeliness of data is a key component of the market risk measurement process. The BSP expects that adequate controls will be established to ensure that all material positions and cash flows from on- and off- balance sheet positions are incorporated into the measurement system on a consistent and timely basis. Inputs should be verified through a process that validates data integrity. Assumptions and inputs should be subject to control and oversight review. Any manual adjustments to underlying data should be documented, and the nature and reasons for the adjustments should also be clearly understood.

Critical to model accuracy is the validity of underlying assumptions. Assumptions regarding maturity of deposits, for example, are critical in measuring interest rate risk. The treatment of positions where behavioral maturity is different from contractual maturity requires the use of assumptions and may complicate the measurement of interest rate risk exposure, particularly when using the economic value approach. The validity of correlation assumptions to aggregate market risk exposures is likewise important as breakdowns in correlations may significantly affect the validity of model results. Key assumptions should therefore be subject to rigorous documentation and review. Any significant changes should be approved in advance by the board of directors.

(2) Model risk. While accuracy is key to an effective market risk measurement system, methodologies cannot be expected to flawlessly predict potential losses arising from market risk. The use of models introduces the potential for model risk. Thus, model risk is the risk of loss arising from inaccurate or incorrect quantification of market risk exposures due to weaknesses in market risk methodologies. It may arise from relying on assumptions that are inconsistent with market realities, from employing input parameters that are unreliable, or from calibrating, applying and implementing models incorrectly.

Model risk is more likely to arise for instruments that have non-standard or option-like features. The use of proprietary models that employ unconventional techniques that are not widely agreed upon by market participants is likewise more sensitive to model risk. Even the use of standard models may lead to errors if the financial tools are not appropriate for a given instrument.

The BSP expects FIs to implement effective policies and procedures to manage model risk. The scope of policies and procedures will depend upon the type and complexity of models developed or purchased. However, FIs holding an expanded license or significant levels of complex investments including structured products, should at a minimum implement the following controls:

a. Model development/acquisition, implementation and revisions. The BSP expects larger, complex FIs to adopt policies governing development/acquisition, implementation and revision of market risk models. These policies should clearly define the responsibilities of staff involved in the development/acquisition process. FIs should ensure that modeling techniques and assumptions are consistent with widely accepted financial theories and market practices. Policies and procedures should be duly approved by the board of directors and properly documented. An inventory of the models in use should be maintained along with documentation explaining how they operate.

The BSP also expects that revisions to models will be performed in a controlled environment by authorized personnel and changes should be made or verified by a control function. Written policies should specify when changes to models are acceptable and how those revisions should be accomplished.

b. Model validation. Before models are authorized for use, they should be validated by individuals who are neither directly involved in the development process nor responsible for providing inputs to the model. Independent model validation is a key control in the model development process and should be specifically addressed in an FI's policies. Further, the BSP expects that the staff validating the models will have the necessary technical expertise.

A sound validation process should rigorously and comprehensively evaluate the sensitivity of the model to material sources of model risk and includes the following:

1. Tests of internal logic and mathematical accuracy;

2. Development of empirical support for the model's assumptions;

3. Back-testing. The BSP expects FIs to conduct backtesting of model results. Back-testing is a method of periodically evaluating the accuracy and predictive capability of an FI's market risk measurement system by monitoring and comparing actual movements in market prices or market risk factors with projections produced by the model. To be more effective, back-testing should be conducted by parties independent of those developing or using the model. Policies should address the scope of the back-testing process, frequency of back-testing, documentation requirements, and management responses. Complex models should be back-tested continually while simple models can be back-tested periodically. Significant discrepancies should prompt a model review.

4. Periodic review of methodologies and assumptions. The BSP expects that FIs will periodically review or reassess their modeling methodologies and assumptions. Again, the frequency of review will depend on the model but

complex models should be reviewed at least once a year, when changes are made, or when a new product or activity is introduced. Model review could also be prompted when there is a need for the model to be updated to reflect changes in the FI or market. The review process should be performed by an independent group as it is considered to be part of the risk control and audit function.

The use of vendor models can present special challenges, as vendors often claim proprietary privilege to avoid disclosing information about their models. Thus, FIs may be constrained from performing validation procedures related to internal logic, mathematical accuracy and model assumptions. However, vendors should provide adequate information on how the models were constructed and validated so that FIs have reasonable assurances that the model works as intended.

c. Stress testing

The underlying statistical models used to measure market risk summarize the exposures that reflect the most probable market conditions. Regardless of size and complexity of activities, the BSP expects FIs to supplement their market risk measurement models with stress tests. Stress testing are simulations that show how a portfolio or balance sheet might perform during extreme events or highly volatile markets.

Stress testing should be designed to provide information on the kinds of conditions under which the FI's strategies or positions would be most vulnerable. Thus stress tests must be tailored to the risk characteristics of the FI. Possible stress scenarios might include abrupt changes in the general level of interest rates, changes in the relationships among key market rates (i.e., basis risk), changes in the slope and the shape of the yield curve (i.e., yield curve risk), changes in the liquidity of key financial markets, or changes in the volatility of market rates.

In addition, stress scenarios should include conditions under which key business assumptions and parameters break down. The stress testing of assumptions used for illiquid instruments and instruments with uncertain contractual maturities are particularly critical to achieving an understanding of the FI's risk profile. When conducting stress tests, special consideration should be given to instruments or markets where concentrations exist. FIs should consider also "worst case" scenarios in addition to more probable events.

Further, the BSP will expect FIs with material market risk exposure, particularly from derivatives and/or structured products to supplement their stress testing with an analysis of their exposure to "interconnection risk." While stress testing typically considers the movement of a single market factor (e.g., interest rates), interconnection risk considers the linkages across markets (e.g., interest rates and foreign exchange rates) and across the various categories of risk (e.g., credit, and liquidity risk). For example, stress from one market may transmit shocks to other markets and give rise to otherwise dormant risks, such as liquidity risk. Evaluating interconnected risk involves assessing the total or aggregate impact of singular events.

Guidelines for performing stress testing should be detailed in the risk management policy statement. Management and the board of directors should periodically review the design, major assumptions, and the results of such stress tests to ensure that appropriate contingency plans are in place.

(3) Model output. Reports should be provided to senior management and the Board as a basis for making decisions. Report content should be clear and straightforward, indicating the purpose of the model, significant limitations, the quantitative level of risk estimated by the

simulation, a comparison to Board approved limits and a qualitative discussion regarding the appropriateness of the FI's current exposures. Sophisticated simulations should be used carefully so that they do not become "black boxes" producing numbers that have the appearance of precision but may not be very accurate when their specific assumptions and parameters are revealed.

Market limits structure

The FI's board of directors should set the institution's tolerance for market risk and communicate that tolerance to senior management. Based on these tolerances, senior management should establish appropriate risk limits, duly approved by the Board, to maintain the FI's exposure within the set tolerances over a range of possible changes in market risk factors such as interest rates.

Limits represent the FI's actual willingness and ability to accept real losses. In setting risk limits, the board and senior management should consider the nature of the FI's strategies and activities, past performance, and management skills. Most importantly, the board and senior management should consider the level of the FI's earnings and capital and ensure that both are sufficient to absorb losses equal to the proposed limits. Limits should be approved by the board of directors. Furthermore, limits should be flexible to changes in conditions or risk tolerances and should be reviewed periodically.

An FI's limits should be consistent with its overall approach to measuring market risk. At a minimum, FIs using simple gap should establish limits on mismatches in each time bucket on a stand-alone and cumulative basis. In addition, limits should be adopted to control potential losses in the investment portfolio to a pre-set percentage of capital.

Larger, more complex FIs should establish limits on the potential impact of changes in market risk factors on reported earnings and/or the FI's economic value of equity. Market risk limits may include limits on net and gross positions, volume limits, stop-loss limits, value-at-risk limits, re-pricing gap limits, earnings-at-risk limits and other limits that capture either notional or (un)expected loss exposures. In assigning interest rate risk limits under the earnings perspective, FIs should explore limits on the variability of net income as well as net interest income in order to fully assess the contribution of non-interest income to the interest rate risk exposure of the FI. Such limits usually specify acceptable levels of earnings volatility under specified interest rate scenarios.

For example, interest rate risk limits may be keyed to specific scenarios of movements in market interest rates such as an increase or decrease of a particular magnitude. The rate movements used in developing these limits should represent meaningful stress situations taking into account historic rate volatility and the time required for management to address exposures. Limits may also be based on measures derived from the underlying statistical distribution of interest rates, such as earnings at risk or economic value-at-risk techniques. Moreover, specified scenarios should take account of the full range of possible sources of interest rate risk to the FI including re-pricing, yield curve, basis, and option risks. Simple scenarios using parallel shifts in interest rates may be insufficient to identify such risks. This is particularly important for FIs with significant exposures to these sources of market risk.

The form of limits for addressing the effect of rates on an FI's economic value of equity should be appropriate for the size and complexity of its underlying positions. For FIs engaged in traditional banking activities, relatively simple limits may suffice. However, for FIs with significant holdings of long-term instruments, options, instruments with embedded options, or other structured instruments, more detailed limit systems may be required.

Depending on the nature of an FI's holdings and its general sophistication, limits can also be identified for individual business units, portfolios, instrument types, or specific instruments. The level of detail of risk limits should reflect the characteristics of the FI's holdings including the various sources of market risk the FI is exposed to.

The BSP also expects that the limits system will ensure that positions that exceed predetermined levels receive prompt management attention. Limit exceptions should be communicated to appropriate senior management without delay. Policies should include how senior management will be informed and what action should be taken by management in such cases. Particularly important is whether limits are absolute in the sense that they should never be exceeded or whether, under specific circumstances, breaches of limits can be tolerated for a short period of time. The circumstances leading to a tolerance of breaches should be clearly described.

Market risk monitoring and reporting

An accurate, informative, and timely management information system is essential for managing market risk exposures both to inform management and to support compliance with board policy. Reporting of risk measures should be done regularly and should clearly compare current exposure to policy limits. In addition, past forecasts or risk estimates should be compared with actual results to identify any modeling shortcomings.

Reports detailing the market risk exposure of the FI should be reviewed by the board on a regular basis. While the types of reports prepared for the board and for various levels of management will vary based on the FI's market risk profile, they should at a minimum include the following:

1. Summaries of the FI's aggregate exposures;
2. Reports demonstrating the FI's compliance with policies and limits;
3. Summary of key assumptions, for example, non-maturity deposit behavior, prepayment information, and correlation assumptions;
4. Results of stress tests, including those assessing breakdowns in key assumptions and parameters; and
5. Summaries of the findings of reviews of market risk policies, procedures, and the adequacy of the market risk measurement systems, including any findings of internal and external auditors and retained consultants.

D. Risk controls and audit

Adequate internal controls ensure the integrity of an FI's market risk management process. These internal controls should be an integral part of the institution's overall system of internal control and should promote effective and efficient operations, reliable financial and regulatory reporting, and compliance with relevant laws, regulations, and institutional policies. An effective system of internal control for market risk includes:

1. A strong control environment;
2. An adequate process for identifying and evaluating risk;
3. The establishment of control activities such as policies, procedures, and methodologies;
4. Adequate information systems;
5. Continual review of adherence to established policies and procedures; and
6. An effective internal audit and independent validation process.

Policies and procedures should specify the approval processes, exposure limits, reconciliations, reviews, and other control mechanisms designed to provide a reasonable assurance that the institution's market risk management objectives are achieved. Many attributes of a sound risk management process, including risk measurement, monitoring, and control functions, are actually key aspects of an effective system of internal control. FIs should ensure that all aspects of the internal control system are effective, including those aspects that are not directly part of the risk management process.

An important element of an FI's internal control system is regular evaluation and review. The BSP expects that FIs will establish a process to ensure that its personnel are following established policies and procedures, and that its procedures are actually accomplishing their intended objectives. Such reviews and evaluations should also address any significant change that may impact the effectiveness of controls, and that appropriate follow-up action was implemented when limits were breached. Management should ensure that all such reviews and evaluations are conducted regularly by individuals who are independent of the function they are assigned to review. When revisions or enhancements to internal controls are warranted, there should be a mechanism in place to ensure that these are implemented in a timely manner.

Independent reviews of the market risk measurement system should also include assessments of the assumptions, parameters, and methodologies used. Such reviews should seek to understand, test, and document the current measurement process, evaluate the system's accuracy, and recommend solutions to any identified weaknesses. If the measurement system incorporates one or more subsidiary systems or processes, the review should include testing aimed at ensuring that the subsidiary systems are well-integrated and consistent with each other in all critical respects. The results of this review, along with any recommendations for improvement, should be reported to senior management and/or the board.

The BSP expects that FIs with complex risk exposures should have their measurement, monitoring, and control functions reviewed on a regular basis by an independent party (such as an internal or external auditor). In such cases, reports written by external auditors or other outside parties should be available to the BSP. It is essential that any independent reviewer ensures that the FI's risk measurement system is sufficient to capture all material elements of market risk, whether arising from on- or off-balance-sheet activities. Among the items that an audit should review and validate are:

1. The appropriateness of the FI's risk measurement system(s) given the nature, scope, and complexity of its activities.

2. The accuracy and completeness of the data inputs - This includes verifying that balances and contractual terms are correctly specified and that all major instruments, portfolios, and business units are captured in the model. The review should also investigate whether data extracts and model inputs have been reconciled with transactions and general ledger systems.[1]

3. The reasonableness and validity of scenarios and assumptions – This includes a review of the appropriateness of the

[1] It is acceptable for parts of the reconciliation to be automated; e.g., routines may be programmed to investigate whether the balances being extracted from various transaction systems match the balances recorded on the FI's general ledger. Similarly, the model itself often contains various audit checks to ensure, for example, that maturing balances do not exceed original balances.

interest rate scenarios as well as customer behaviors and pricing/volume relationships to ensure that these assumptions are reasonable and internally consistent.[1]

4. The validity of the risk measurement calculations - The scope and formality of the measurement validation will depend on the size and complexity of the FI. At large FIs, internal and external auditors may have their own models against which the FI's model is tested. FIs with more complex risk profiles and measurement systems should have the model or calculations audited or validated by an independent source. At smaller and less complex FIs, periodic comparisons of actual performance with forecasts may be sufficient.[2]

The frequency and extent to which an FI should re-evaluate its risk measurement methodologies and models depend, in part, on the particular market risk exposures created by holdings and activities, the pace and nature of market rate changes, and the pace and complexity of innovation with respect to measuring and managing market risk.

VI. Capital adequacy

In addition to adequate risk management systems and controls, capital has an important role to play in mitigating and supporting market risk. FIs must hold capital commensurate with the level of market risk they undertake. As part of sound market risk management, FIs must translate the level of market risk they undertake whether as part of their trading or non-trading activities, into their overall evaluation of capital adequacy. Where market risk is undertaken as part of an FI's trading activities, existing capital adequacy ratio requirements shall prevail.

The BSP will periodically evaluate the market risk measurement system for the accrual book to determine if the FI's capital is adequate to support its exposure to market risk and whether the internal measurement systems of the FI are adequate. In performing this assessment, the BSP may require information regarding the market risk exposure of the FI, including re-pricing gaps, earnings and economic value simulation estimates, and the results of stress tests. This information will typically be found in internal management reports.

If an FI's internal measurement system does not adequately capture the level of market risk, the BSP may require an FI to improve its system. In cases where an FI accepts significant market risk in its accrual book, the BSP expects that a portion of capital will be allocated to cover this risk.

When performing these evaluations, the BSP will determine if:

(a) All material market risk associated with an institution's assets, liabilities, and off-balance sheet positions in the accrual book are captured by the risk management systems;

(b) Generally accepted financial concepts and risk measurement techniques are utilized. For larger, complex FIs, internal systems must be capable of measuring risk using both an earnings and economic value approach.

(c) Data inputs are adequately specified (commensurate with the nature

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[1] Key areas of review include the statistical methods that were used to generate scenarios and assumptions (if applicable), and whether senior management reviewed and approved key assumptions. The review should also compare actual pricing spreads and balance sheet behavior to model assumptions. For some instruments, estimates of value changes can be compared with market value changes. Unfavorable results may lead the FI to revise model relationships.

[2] The validity of the model calculations is often tested by comparing actual with forecasted results. When doing so, FIs can compare projected net income results with actual earnings. Reconciling the results of economic valuation systems can be more difficult because market prices for all instruments are not always readily available, and the FI does not routinely mark all of its balance sheet to market. For instruments or portfolios with market prices, these prices are often used to benchmark or check model assumptions.

and complexity of an FI's holdings) with regard to rates, maturities, re-pricing, embedded options, and other details;

(d) The system's assumptions (used to transform positions into cash flows) are reasonable, properly documented, and stable over time.[1]

(e) Market risk measurement systems are integrated into the institution's daily risk management practices. The output of the systems should be used in characterizing the level of market risk to senior management and board of directors.

(Circular No. 544 dated 15 September 2006)

[1] This is especially important for assets and liabilities whose behavior differs markedly from contractual maturity or re-pricing, and for new products. Material changes to assumptions should be documented, justified, and approved by management.

GUIDELINES ON LIQUIDITY RISK MANAGEMENT

[Appendix to Sec. 4176Q (2008 - 4195Q), 4195S, 4195P and 4195N]

I. Background

The on-going viability of institutions, particularly financial organizations, is heavily influenced by their ability to manage liquidity. Innovations in investment and funding products, growth in off-balance sheet activities and continuous competition for consumer funds have affected the way FI do business and intensified the need for proactive liquidity risk management. FIs need to fully understand, measure and control the resulting liquidity risk exposures.

II. Statement of Policy

For purposes of these guidelines, FIs include banks, NBFIs supervised by the Bangko Sentral and their financial subsidiaries.

The Bangko Sental recognizes the liquidity risk inherent in FI activities and how these activities expose an FI to multiple risks which may increase liquidity risk. The Bangko Sentral will not restrict risk-taking activities as long as FIs are authorized to engage in such activities and:

1. Understand, measure, monitor and control the risk they assume;
2. Adopt risk management practices whose sophistication and effectiveness is commensurate to the risk assumed; and
3. Maintain capital commensurate with their risk exposures.

The principles set forth in these guidelines shall be used to determine the level and trend of liquidity risk exposure and adequacy and effectiveness of an FI's liquidity risk management process. In evaluating the adequacy of an FI's liquidity position, the Bangko Sentral shall consider the FI's current level and prospective sources of liquidity as compared to its funding needs. Further, the Bangko Sentral will evaluate the adequacy of funds management practices relative to the FI's size, complexity, and risk profile.

In general, liquidity risk management practices should ensure that an institution is able to maintain a level of liquidity sufficient to meet its financial obligations in a timely manner and to fulfill the legitimate funding needs of its community. Practices should reflect the ability of the institution to manage unplanned changes in funding sources, as well as react to changes in market conditions that affect the ability to quickly liquidate assets with minimal loss. In addition, funds-management practices should ensure that liquidity is not consistently maintained at a high cost, from concentrated sources, or through undue reliance on funding sources that may not be available in times of financial stress or adverse changes in market conditions.

In evaluating the above parameters, the Bangko Sentral shall consider the following factors:

1. The actual and potential level of liquidity risk posed by the FI's products and services, balance sheet structure and off-balance sheet activities;
2. The cost of an FI's access to money markets and other alternative sources of funding;
3. The diversification of funding sources (on and off-balance sheet);
4. The adequacy and effectiveness of board and senior management oversight, particularly the Board's ability to recognize the effects of interrelated risk areas, such as market and reputation risks, to liquidity risk;
5. The reasonableness of liquidity risk limits and controls in relation to earnings, as affected by the cost of access to money markets and other alternative sources of funding, and capital;

6. The adequacy of measurement methodologies, monitoring and management information systems;

7. The adequacy of foreign currency liquidity management;

8. The appropriateness and reasonableness of contingency plans for handling liquidity crises;

9. The adequacy of internal controls and audit of liquidity risk management process.

The sophistication of liquidity risk management shall depend on the size, nature and complexity of an FI's activities. However, in all instances, FIs are expected to measure their liquidity position on an ongoing basis, analyze net funding requirements under alternative scenarios, diversify funding sources and adopt contingency funding plans.

An FI's liquidity risk management system shall be assessed under the FI's general risk management framework, consistent with the guidelines on supervision by risk as set forth under *Appendix Q-42*. If an FI's risk exposures are deemed excessive relative to the FI's capital, or that the risk assumed is not well managed, the BSP will direct the FI to reduce its exposure and/or strengthen its risk management system.

III. Liquidity Risk Management Process

Liquidity risk management process should be tailored to an FI's structure and scope of operations and application can vary across institutions. Regardless of the structure, an FI's liquidity risk management process should be consistent with its general risk management framework and should be commensurate with the level of risk assumed. At a minimum, the process should:

1. *Identify liquidity risk.* Proper identification of liquidity risk requires that management understand both existing risk and prospective risks from new products and activities. It involves determining the volume and trends of liquidity needs and the sources of liquidity available to meet these needs. Identifying liquidity risk necessitates expressing the FI's desired level of risk exposure based on its ability and willingness to assume risk which may primarily depend on the FI's capital base and access to funds providers. Liquidity risk identification should be a continuing process and should occur at both the transaction, portfolio and entity level.

2. *Measure liquidity risk***.** Adequate measurement systems enable FIs to quantify liquidity risk exposures on a per entity basis and across the consolidated organization. A relatively large organization with extensive scope of operations would generally require a more robust management information system to properly measure risk in a timely and comprehensive manner.

3. *Control liquidity risk.* The FI should establish policies and standards on acceptable product types, activities, counterparties and set risk limits on a transactional, portfolio and aggregate/ consolidated basis to control liquidity risk. In setting limits, the FI should recognize any legal distinctions and possible obstacles to cash flow movements among affiliates or across separate books. Lines of authority and accountability should be clearly defined to ensure liquidity risk exposures remain reasonable and within the risk tolerance expressed by the board.

4. *Monitor liquidity risk***.** Monitoring liquidity risk requires timely review of liquidity risk positions and exceptions, including day-to-day liquidity management. Monitoring reports should be frequent, timely, and accurate and should be distributed to appropriate levels of management.

IV. Definition of Liquidity Risk

Liquidity risk is generally defined as the current and prospective risk to earnings or capital arising from an FI's inability to meet its obligations when they come due without incurring unacceptable losses or costs. Liquidity risk includes the inability to manage unplanned decreases or changes in funding sources. Liquidity risk also arises from the failure to recognize or address changes in market conditions that affect the ability to liquidate assets quickly and with minimal loss in value.

In terms of capital markets and trading activities, FIs face two (2) types of liquidity risk: *funding liquidity risk* and *market liquidity risk*. *Funding liquidity risk* refers to the inability to meet investment and funding requirements arising from cash flow mismatches without incurring unacceptable losses or costs. This is synonymous with the general definition of liquidity risk.

Market liquidity risk, on the other hand, refers to the risk that an institution cannot easily eliminate or offset a particular position because of inadequate liquidity in the market. The size of the bid/ask spread of instruments in a market provides a general indication of its depth, hence its liquidity, under normal circumstances. Market liquidity risk is also associated with the probability that large transactions may have a significant effect on market prices in markets that lack sufficient depth. In addition, market liquidity risk is associated with structured or complex investments as the market of potential buyers is typically small. Finally, FIs are exposed to the risk of an unexpected and sudden erosion of market liquidity. This could be the result of sharp price movement or jump in volatility, or internal to the FI such as that posed by a general loss of market confidence. Understanding market liquidity risk is particularly important for institutions with significant holdings of instruments traded in financial markets.

Market and liquidity risks are highly interrelated, particularly during times of uncertainty when there is a high correlation between the need for liquidity and market volatility. Likewise, an FI's exposure to other risks such as reputation, strategic, and credit risks, can likewise significantly affect an institution's liquidity risk. It is therefore important that an FI's liquidity risk management system is consistent with its general risk management framework.

V. Sound Liquidity Risk Management Practices

When assessing an FI's liquidity risk management system, the BSP shall consider how an FI address the four basic elements of a sound risk management system:

1. Active and appropriate board and senior management oversight;
2. Adequate risk management policies and procedures;
3. Appropriate risk measurement methodologies, limits structure, monitoring and management information system; and
4. Comprehensive internal controls and independent audits

Evaluation of the adequacy of the FI's application of the above elements will be relative to the FI's risk profile. FIs with less complex operations may generally use more basic practices while larger, and/or more complex institutions will be expected to adopt more formal and sophisticated practices. Large organizations should likewise take a comprehensive perspective to measuring and controlling liquidity risk by understanding how subsidiaries and affiliates can raise or lower the consolidated risk profile.

A. Active and Appropriate Board and Senior Management Oversight[1]

Effective liquidity risk management requires that the Board and senior management be fully informed of the level of liquidity risk assumed by the FI and ensure that the activities undertaken are within the prescribed risk tolerance. Senior management should have a thorough understanding of how other risks such as credit, market, operational and reputation risks impact the FI's overall liquidity strategy.[1]

Responsibilities of the board of directors

The Board has the ultimate responsibility for understanding the nature and level of liquidity risk assumed by the FI and the processes used to manage it.

The board of directors should:

1. Establish and guide the FI's strategic direction and tolerance for liquidity risk by adopting a formal written liquidity/funding policy that specifies quantitative and qualitative targets;

2. Approve policies that govern or influence the FI's liquidity risk, including reasonable risk limits and clear guidelines which are adequately documented and communicated to all concerned;

3. Identify the Senior Management staff who has the authority and responsibility for managing liquidity risk and ensure that this staff takes the necessary steps to monitor and control liquidity risk;

4. Monitor the FI's performance and overall liquidity risk profile in a timely manner by requiring frequent reports that outline the liquidity position of the FI along with information sufficient to determine if the FI is complying with established risk limits;

5. Mandate and track the implementation of corrective action in instances of breaches in policies and procedures;

6. Establish, review and to the extent possible, test contingency plans for dealing with potential temporary and long-term liquidity disruptions; and

7. Ensure that the FI has sufficient competent personnel, including internal audit staff, and adequate measurement systems to effectively manage liquidity risk.

Responsibilities of senior management

Senior management is responsible for effectively executing the liquidity strategy and overseeing the daily and long-term management of liquidity risk. In managing the FI's activities, Senior Management should:

1. Develop and implement procedures and practices that translate the Board's goals, objectives, and risk tolerances into operating standards that are transmitted to and well understood by personnel. Operating standards should be consistent with the Board's intent;

2. Plan for adequate sources of liquidity to meet current and potential funding needs and establish guidelines for the development of contingency funding plans;

3. Adhere to the lines of authority and responsibility that the Board has established for managing liquidity risk;

4. Oversee the implementation and maintenance of management information and other systems that identify, measure, monitor, and control the FI's liquidity risk; and

5. Establish effective internal controls over the liquidity risk management process.

In evaluating the quality of oversight provided by the Board and Senior

[1] This section refers to a management structure composed of a board of directors and senior management. The BSP is aware that there may be differences in some FIs as regards the organizational framework and functions of the board of directors and senior management. For instance, branches of foreign banks have board of directors located outside of the Philippines and are overseeing multiple branches in various countries. In this case, "board-equivalent" committees are appointed. Owing to these differences, the notions of the board of directors and the senior management are used in these guidelines not to identify legal constructs but rather to label two decision-making functions within a FI.

Management, the BSP will evaluate how the Board and Senior Management carry out the above functions/responsibilities. Further, sound management practices are highly related to the quality of other areas/ elements of risk management system. Thus, even if Board and Senior Management exhibit active oversight, the FI's policies, procedures, measurement methodologies, limits structure, monitoring and information systems, controls and audit should be adequate before quality of Board and Senior Management can be considered "satisfactory".

Lines of Responsibility and Authority

Management of liquidity risk generally requires collaboration from various business areas of the FI, thus a clear delineation of responsibilities is necessary. The management structure should clearly define the duties of senior level committees, members of which have authority over the units responsible for executing liquidity-related transactions. There should be a clear delegation of day-to-day operating responsibilities to particular departments such as the Treasury Department.

To ensure proper management of liquidity risk, the FI should designate an independent unit responsible for measuring, monitoring and controlling liquidity risk. Said unit should take a comprehensive approach and directly report to the board of directors or a committee thereof.

B. Adequate risk management policies and procedures

An FI's liquidity risk policies and procedures should be comprehensive, clearly defined, documented and duly approved by the board of directors. Policies and procedures should cover the FI's liquidity risk management system in order to provide appropriate guidance to management. These policies should be applied on a consolidated basis and, as appropriate, at the level of individual affiliates, especially when recognizing legal distinctions and possible obstacles to cash movements among affiliates.

Liquidity risk policies should identify the quantitative parameters used by the FI to define the acceptable level of liquidity risk such as risk limits and financial ratios as well as describe the measurement tools and assumptions used. Qualitative guidelines should include description of the FI's acceptable products and activities, including off-balance sheet transactions, desired composition of assets and liabilities, and approach towards managing liquidity in different currencies, geographies and across subsidiaries and affiliates. Where appropriate, a large FI should apply these policies on a consolidated basis to address risk exposures resulting from inter-connected funding structures and operations among members of an FI's corporate group.

It is essential that policies include the development of a formal liquidity risk measurement system that addresses business-as-usual scenarios and a contingency funding plan that addresses a variety of stress scenarios. FIs should likewise have specific procedures for addressing breaches in policies and implementation of corrective actions.

Management should periodically review its liquidity risk policies and ensure that these remain consistent with the level and complexity of the FI's operations. Policies should be updated to incorporate effects of new products/activities, changes in corporate structure and in light of its liquidity experience.

C. Appropriate risk measurement methodologies, limits structure, monitoring, and management information system

Liquidity risk measurement models/ methodologies

An FI should have a measurement system in place capable of quantifying and capturing the main sources of liquidity risk in a timely and comprehensive manner. Liquidity management requires ongoing measurement, from intra-day liquidity to long-term liquidity positions. Depending on its risk profile, an FI can use techniques of simple calculations, static simulations based on current holdings or sophisticated models. What is essential is that the FI should be able to identify and avoid potential funding shortfalls such that the FI can consistently meet investment, funding and/or strategic targets.

FIs with simple operations can generally use a static approach to liquidity management. Static models are based on positions at a given point in time. While an exact definition of "simple operations" will not be provided, the BSP expects that banks using a static approach to liquidity management would limit their operations to core banking activities such as accepting plain vanilla deposits and making traditional loans. Such banks would not have active Treasury Departments, would not hold or offer structured products and would not be exposed to significant levels of FX risk. Board reporting could be less frequent than in more complex banks but in no event should be less than quarterly.

Complex FIs, on the other hand, will be expected to adopt more robust approaches such as a dynamic maturity/ liquidity gap reporting or even simulation modeling. At a minimum, universal banks should use maximum cash outflow/ liquidity or maturity gap models. FIs engaged in holding or offering significant levels of structured products and/or derivatives will be expected to have the capability to model the cash flows from these instruments under a variety of scenarios. Specifically, scenarios should be designed to measure the effects of a breach of the triggers (strike price) on these instruments.

Where the FI's organizational structure and business practices indicate cash flow movements and liquidity support among corporate group members, the FI should adopt consolidated risk measurement tools to help management assess the group's liquidity risk exposure. Depending on the degree of inter-related funding, non-complex measurement and monitoring systems may be acceptable. However, large, complex FIs that display a high degree of inter-related and inter-dependent funding will be expected to utilize more sophisticated monitoring and management systems. These systems should enable the Board of the consolidated entity to simulate and anticipate the funding needs of the FIs on both a consolidated basis and in each of its component parts.

Liquidity risk measurement methodologies/models should be documented and approved by the board and should be periodically independently reviewed for reasonableness and tested for accuracy and data integrity. Assumptions used in managing liquidity should be periodically revisited to ensure that these remain valid.

Liquidity models require projecting all relevant cash flows. As such, FIs engaged in complex activities should have the capability to model the behavior of all assets, liabilities, and off-balance sheet items both under normal/business-as usual and a variety of stressed conditions. Stressed conditions may include liquidity crisis confined within the institution, or a systemic liquidity crisis, in which all FIs are affected. For FIs operating in a global environment, cash flow projections should reflect various foreign-currency funding requirements.

When projecting cash flows, management should also estimate customer behavior in addition to contractual maturities. Many cash flows are uncertain and may not necessarily follow contractual maturities. Cash flows may be influenced by interest rates and customer behavior, or may simply follow a seasonal or cyclical pattern. When modeling liquidity risk, it is important that assumptions be documented. Assumptions should be reasonable and should be based on past experiences or with consideration of the potential impact of changes in business strategies and market conditions. Measurement tools should include a sufficient number of time bands to enable effective monitoring of both short- and long-term exposures. This expectation applies not only to complex simulation modeling, but to the construction of simple liquidity GAP models as well.

To sufficiently measure an FI's liquidity risk, management should analyze how its liquidity position is affected by changes in internal (company-specific) and external (market-related) conditions. Management will need to assess how a shift from a normal scenario to various levels of liquidity crisis can affect its ability to source external funds and at what cost, liquidate certain assets at expected prices within expected timeframes, or hasten the need to settle obligations (e.g., limited ability to roll-over deposits). Management should, at a minimum, consider stress scenarios where securities are sold at prices lower than anticipated and credit lines are partially or wholly cancelled.

Regardless of the liquidity risk models used, an FI should adopt an appropriate contingency plan for handling liquidity crisis. Well before a liquidity crisis occurs, management should carefully plan how to handle administrative matters in a crisis. Management credibility, which is essential to maintaining the public's confidence and access to funding, can be gained or lost depending on how well or poorly some administrative matters are handled. A contingency funding/liquidity plan ensures that an FI is ready to respond to liquidity crisis.

The sophistication of a contingency plan should be commensurate with the FI's complexity and risk exposure, activities, products and organizational structure. The plan should identify the types of events that will trigger the contingency plan, quantify potential funding needs and sources and provide the specific administrative policies and procedures to be followed in a liquidity crisis.

Specifically, the contingency plan should:

1. Clearly identify, quantify and rank all sources of funding by preference including, but not limited to:
   - Reducing assets
   - Modifying the liability structure or increasing liabilities
   - Using off-balance-sheet sources, such as securitizations
   - Using other alternatives for controlling balance sheet changes
2. Consider asset and liability strategies for responding to liquidity crisis including, but not limited to:
   - Whether to liquidate surplus money market assets
   - When (if at all) HTM securities might be liquidated
   - Whether to sell liquid securities in the repo markets
   - When to sell longer-term assets, fixed assets, or certain lines of business
   - Coordinating lead bank funding with that of the FI's other banks and non-bank affiliates
   - Developing strategies on how to interact with non-traditional funding sources (e.g., whom to contact, what type of information and how much detail should be provided, who will be available for further questions, and how to ensure that communications are consistent)

3. Address administrative policies and procedures that should be used during a liquidity crisis:

- The responsibilities of Senior Management during a funding crisis
- Names, addresses, and telephone numbers of members of the crisis team
- Where, geographically, team members will be assigned
- Who will be assigned responsibility to initiate external contacts with regulators, analysts, investors, external auditors, press, significant customers, and others
- How internal communications will flow between management, Asset Liability Committee (ALCO), investment portfolio managers, traders, employees, and others
- How to ensure that the ALCO receives management reports that are pertinent and timely enough to allow members to understand the severity of the FI's circumstances and to implement appropriate responses.

The above outline of the scope of a good contingency plan is by no means exhaustive. FIs should devote significant time and consideration to scenarios that are most likely, given their activities. Regardless of the strategies employed, an FI should consider the effects of such strategies on long-term liquidity positions and take appropriate actions to ensure that level of risk exposures shall remain or be brought down within the risk tolerance of the Board.

Limits structure

The board and senior management should establish limits on the nature and amount of liquidity risk they are willing to assume. In setting limits, management should consider the nature of the FI's strategies and activities, its past performance, the level of earnings and capital available to absorb potential losses and costs of an FI's access to money markets and other alternative sources of funding.

Limits can take various forms. FIs should address limits on types of funding sources and uses of funds, including off-balance sheet positions. In addition, policies should set targets for minimum holdings of liquid assets relative to liabilities. Complex FIs, or FIs engaged in complex activities should set maximum cumulative cash-flow mismatches over particular time horizons and establish counterparty limits. Such limits should be applied to all currencies to which the FI has a significant exposure. In particular, FIs should take into consideration any legal distinctions and possible obstacles to cash flow movements between the Regular Banking Unit (RBU) and the FCDU.

When evaluating a bank's liquidity position, the BSP will consider low levels of liquid assets relative to liabilities, and significant negative funding gaps to be indicative of high liquidity risk exposure. Further, negative cash-flow mismatches in the short term time buckets will receive heightened scrutiny by the BSP and should also receive the attention of senior management and the board of directors.

Before accepting negative funding gaps, or setting limits that allow negative funding gaps, the board and senior management should consider the FI's ability to fund these negative gaps. Factors include, but are not limited to: the availability of on-balance sheet liquidity, the amount of firm credit lines available from commercial sources that can be drawn to fund the shortfall, and the amount of unencumbered on-balance sheet assets that can be sold without excessive loss and in a reasonable time-frame.

Further, actual positions and limits should reflect the outcome of possible stress scenarios caused by internal and external factors, particularly those related to reputation risk. Stress scenarios should consider the possibility that securities may be sold at a greater discount and/or may take more time to sell than expected or that credit lines and other off-balance sheet sources of funding may be cancelled or may be unavailable at reasonable cost.

Management should define specific procedures for the prompt reporting and documentation of limit exceptions and the management approval and action required in such cases.

Liquidity risk monitoring and reporting

An adequate management information system is critical in the risk monitoring process. The system should be able to provide the Board, senior management and other personnel with timely information on the FI's liquidity position in all the major currencies it deals in, on an individual and aggregate basis, and for various time periods.

Effective liquidity risk monitoring requires frequent routine liquidity reviews and more in-depth and comprehensive reviews on a periodic basis. In general, monitoring should include sufficient information and a clear presentation such that the reader can determine the FI's ongoing degree of compliance with risk limits. For example, reports should address funding concentrations, funding costs, projected funding needs and available funding sources.

Monitoring and board reporting should be robust. It is not unreasonable to expect complex FIs or FIs engaged in complex activities to monitor liquidity on a daily basis. Board reporting should be no less frequent than monthly. However, the BSP would expect Board-level committees or sub-committees to receive more frequent reporting.

Comprehensive and accurate internal reports analyzing an FI's liquidity risk should be regularly prepared and reviewed by senior management and submitted to the board of directors.

D. Risk controls and audit

An FI should have adequate internal controls in place to protect the integrity of its liquidity risk management process. Fundamental to the internal control system is for the Board to prescribe independent reviews to evaluate the effectiveness of the risk management system and check compliance with established limits, policies and procedures.

An effective system of internal controls for liquidity risk includes:

1. A strong internal control environment;
2. An adequate process for identifying and evaluating liquidity risk;
3. Adequate information systems; and
4. Continual review of adherence to established policies and procedures.

To ensure that risk management objectives are achieved, management needs to focus on the following areas: appropriate approval processes, limits monitoring, periodic reporting, segregation of duties, restricted access to information systems and the regular evaluation and review by independent competent personnel.

Internal audit reviews should cover all aspects of the liquidity risk management process, including determining the appropriateness of the risk management system, accuracy and completeness of measurement models, reasonableness of assumptions and stress testing methodology. Audit staff should have the skills commensurate with the sophistication of the FI's risk management systems. Audit results should be promptly reported to the board. Deficiencies should be addressed in a timely manner and monitored until resolved/corrected.

E. Foreign currency liquidity management

The principles described in this Appendix also apply to the management of any foreign currency to which the FI maintains a significant exposure. Specifically, management should ensure that its measurement, monitoring and control systems account for these exposures as well. Management needs to set and regularly review limits on the size of its cash flow mismatches for each significant individual currency and in aggregate over appropriate time horizons. In addition, an FI should consider effects of other risk areas, particularly settlement risks from its off-balance sheet activities. An FI should also conservatively assess its access to foreign exchange markets when setting up its risk limits. As with overall liquidity risk management, foreign currency liquidity should be analyzed under various scenarios, including stressful conditions.

(Circular No. 545 dated 15 September 2006)

AUTHORIZATION FORM FOR QUERYING THE BANGKO SENTRAL WATCHLIST FILES FOR SCREENING APPLICANTS AND CONFIRMING APPOINTMENTS OF DIRECTORS AND OFFICIALS

(Appendix to Subsecs. 4143Q.5, 4143S.6, 4143P.6 and 4143N.6)

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

I, ______________________________ , after being sworn in accordance with law, do hereby authorize the following, pursuant to the provisions of Subsecs. 4143Q.5(c), 4143S.6(c), 4143P.6(c) and 4143N.6(c) of the MORNBFI:

a) (Name of NBFI) to conduct a background investigation on myself relative to my application for or appointment to the position of (position) in (Name of NBFI) which include, among others, inquiring from the Watchlist Files of the BSP; and

b) The BSP to disclose its findings pertinent to the aforementioned inquiry on the said watchlist files to (Name of NBFI).

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

IN WITNESS WHEREOF, I have hereunto set my hand this ________________.

____
(Signature Over Printed Name)

SIGNED IN THE PRESENCE OF:

______________________	______________________
(Witness)	(Witness)

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES } S.S.
________________CITY }

BEFORE ME, this ___ day of ________________200___ in ________________ personally appeared the following person:

Name	Community Tax Certificate	Place	Date

known to me to be the same person who executed the foregoing instrument and he acknowledged to me to be the same person who executed the foregoing instrument and he acknowledged to me that the same is his free act and deed.

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

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

Notary Public

Doc. No.: __________
Page No.: __________
Book No.: __________
Series of 200___

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

RISK-BASED CAPITAL ADEQUACY FRAMEWORK FOR THE PHILIPPINE BANKING SYSTEM

[Appendix to Sec. 4115Q (2008 - 4116Q)]

Introduction

This Appendix outlines the Bangko Sentral implementing guidelines of the revised International Convergence of Capital Measurement and Capital Standards, popularly known as Basel II, and the reforms introduced in Basel III: *A global regulatory framework for more resilient banks and banking systems*. Basel II and Basel III comprise the international capital standards set by the Basel Committee on Banking Supervision (BCBS)[1].

The guidelines revise the risk-based capital adequacy framework for UBs and KBs, as well as their subsidiary banks and QBs. TBs and RBs as well as QBs that are not subsidiaries of UBs and KBs shall be subject to a different set of guidelines except the criteria for eligibility as qualifying capital.

The guidelines shall take effect on 01 January 2014.

(As amended by Circular Nos. 822 dated 13 December 2013, 781 dated 15 January 2013 and M-2006-022 dated 24 November 2006)

Part I. Risk-based capital adequacy ratio (CAR)

1. UBs and KBs and their subsidiary banks and QBs shall be subject to the following risk-based CARs:

a. Common Equity Tier (CET1) must be at least six percent (6.0%) of risk-weighted assets at all times;

b. Tier 1 capital must be at least seven and a half percent (7.5%) of risk-weighted assets at all times; and

c. Qualifying capital (Tier 1 plus Tier 2 capital) must be at least ten percent (10.0%) of risk-weighted assets at all times.

2. CET1 capital, Tier 1 capital and qualifying capital are computed in accordance with the provisions of Part II. Risk-weighted assets is the sum of (1) credit-risk weighted assets (Parts IV, V and VI), (2) market risk-weighted assets (Parts V and VII), and (3) operational risk-weighted assets (Part VIII).

3. The CAR requirement will be applied to all UBs and KBs and their subsidiary banks, and QBs on both solo[2] and consolidated[3] bases. The application of the requirement on a consolidated basis is the best means to preserve the integrity of capital in banks with subsidiaries by eliminating double gearing. However, as one of the principal objectives of supervision is the protection of depositors, it is essential to ensure that capital recognized in capital adequacy measures is readily available for those depositors. Accordingly, individual banks should likewise be adequately capitalized on a stand-alone basis.

4. To the greatest extent possible, all banking and other relevant financial activities (both regulated and unregulated)

[1] The Basel Committee on Banking Supervision is a committee of banking supervisory authorities that was established by the central bank governors of the Group of Ten countries in 1975. It consists of senior representatives of bank supervisory authorities and central banks from Argentina, Australia, Belgium, Canada, China, France, Germany, Hong Kong SAR, India, Indonesia, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, Russia, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States. It usually meets at the Bank for International Settlements in Basel, Switzerland where its permanent Secretariat is located.

[2] Pertains to the reporting entity's head office and branches

[3] Pertains to the reporting entity and its financial allied subsidiaries except insurance companies that are required to be consolidated on a line-by-line basis for the purpose of preparing consolidated financial statements

conducted by a bank and its subsidiaries will be captured through consolidation. Thus, majority-owned or -controlled financial allied undertakings should be fully consolidated on a line by line basis. Exemptions from consolidation shall only be made in cases where such holdings are acquired through debt previously contracted and held on a temporary basis, are subject to different regulation[1], or where non-consolidation for regulatory capital purposes is otherwise required by law. All cases of exemption from consolidation must be made with prior clearance from the Bangko Sentral.

5. Banks shall comply with the minimum CARs at all times notwithstanding that supervisory reporting shall only be on quarterly basis. Any breach, even if only temporary, shall be reported to the bank's Board of Directors and to Bangko Sentral, SES within three (3) banking days. For this purpose, banks shall develop an appropriate system to properly monitor their compliance.

6. The Bangko Sentral reserves the right, upon authority of the Deputy Governor, SES, to conduct on-site inspection outside of regular or special examination, for the purpose of ascertaining the accuracy of CAR calculations as well as the integrity of CAR monitoring and reporting systems.

Part II. Qualifying capital

1. Qualifying capital consists of the sum of the following elements, net of required deductions:

a. Tier 1 capital (going concern capital) is composed of:

i. CET1; and

ii. Additional Tier 1 (AT1) capital; and

b. Tier 2 (gone-concern) capital.

2. A bank/QB must ensure that any component of capital included in qualifying capital complies with all the eligibility criteria for the particular category of capital in which it is included.

Section A. Domestic banks

CET1 capital

3. CET 1 capital consists of:

a. Paid up common stock issued by the bank that meet the eligibility criteria in *"App. Q-46 Annex A"*;

b. Common stock dividends distributable;

c. Additional paid-in capital resulting from the issuance of common stock included in CET1 capital;

d. Deposit for common stock subscription;

e. Retained earnings;

f. Undivided profits;[2]

g. Other comprehensive income;

(1) Net unrealized gains or losses on AFS securities[3]; and

(2) Cumulative foreign currency translation;

h. Minority interest in subsidiary banks which are less than wholly-owned:[4]

[1] These currently pertain to insurance companies and securities brokers/dealers.

[2] For early adopters of PFRS 9, this account should include the net unrealized gains/losses on available-for-sale (AFS) debt securities;

[3] For early adopters of PFRS 9, this account shall refer only to "Net Unrealized gains(losses) on AFS equity securities; For AFS debt securities, refer to Footnote No.5. In view of the continuing evaluation by the Basel Committee on the appropriate treatment of unrealized gains/losses with respect to the evolution of the accounting framework, the Bangko Sentral will revise its relevant regulation once the treatment of fair value adjustments in the calculation of CET1 has been determined.

[4] Minority interest in a subsidiary that is a bank is strictly excluded from the parent bank's common equity if the parent bank or affiliate has entered into any arrangements to fund directly or indirectly minority investment in the subsidiary whether through an SPV or through another vehicle or arrangement. The treatment of minority interest set out above is strictly available where all minority investments in the bank subsidiary solely represent genuine third party common equity contributions to the subsidiary.

Provided, That the minority interest arises from issuances of common stock which, if issued by the bank itself, would meet all of the criteria for classification as CET1 capital: *Provided, further,* That the amount to be included as minority interest shall be reduced by the surplus CET1 of the subsidiary attributable to minority shareholders: *Provided, furthermore,* That the surplus CET capital of the subsidiary attributable to minority shareholders is computed as the available CET1 capital minus the lower of: (1) the minimum CET capital requirement of the subsidiary and (2) the portion of the consolidated minimum CET requirement that is attributable to the subsidiary, multiplied by the percentage of CET held by minority shareholders.

Illustrative computation is in *App. Q-46 Annex D.*

Regulatory adjustment to CET1 capital

4. The following must be deducted from/(added to) CET1 capital:

a. Common stock treasury shares[1], including shares that the bank could be contractually obliged to purchase;

b. Gains (Losses) resulting from designating financial liabilities at fair value through profit or loss that are due to changes in its own credit worthiness;[2]

c. Unbooked valuation reserves and other capital adjustments based on the latest report of examination as approved by the Monetary Board;

d. Total outstanding unsecured credit accommodations, both direct and indirect, to DOSRI;

e. Total outstanding unsecured loans, other credit accommodations and guarantees granted to subsidiaries;

f. Total outstanding loans, other credit accommodations and guarantees granted to related parties that are not at arm's length terms as determined by the appropriate supervising department of the Bangko Sentral;

g. Deferred tax assets that rely on future profitability of the bank to be realized, net of any (1) allowance for impairment and (2) associated deferred tax liability, if and only if the conditions cited in PAS 12 are met: *Provided*, That, if the resulting figure is a net deferred tax liability, such excess cannot be added to Tier 1 capital;

h. Goodwill, net of any allowance for impairment and any associated deferred tax liability which would be extinguished upon impairment or derecognition, including that relating to unconsolidated subsidiary banks, financial allied undertakings (excluding subsidiary securities dealers/brokers and insurance companies) (on solo basis) and unconsolidated subsidiary securities dealers/ brokers, insurance companies and non-financial allied undertakings (on solo and consolidated bases);

i. Other intangible assets, net of any allowance for impairment and any associated deferred tax liability which would be extinguished upon impairment or derecognition;

j. Gain on sale resulting from a securitization transaction;

k. Defined benefit pension fund assets (liabilities);[3]

l. Investments in equity of unconsolidated subsidiary banks and QBs, and other financial allied undertakings (excluding subsidiary securities dealers/

[1] Treasury shares are: (1) shares of the parent bank held by a subsidiary financial allied undertaking in a consolidated statement of condition, or (2) the reacquired shares of a subsidiary bank/quasi-bank that is required to compute its capital adequacy ratio in accordance with this framework.

[2] This adjustment shall only apply to banks/QBs which would not early adopt the provisions of PFRS 9 and recognize the gains/losses (relative to changes in own credit worthiness) in undivided profits.

[3] The adjustment pertains to the defined benefit asset or liabilitiy that is recognized in the balance sheet. Such that CET1 cannot be increased by derecognizing the liabilities, in the same manner, any asset recognized in the balance sheet should be deducted from CET1 capital;

brokers and insurance companies), after deducting related goodwill, if any (for solo basis);

m. Investments in equity of unconsolidated subsidiary securities dealers/ brokers and insurance companies after deducting related goodwill, if any (for both solo and consolidated bases);

n. Significant minority investments (10%-50% of voting stock) in banks and QBs, and other financial allied undertakings (for both solo and consolidated bases);

o. Significant minority investments (10%-50% of voting stock) in securities dealers/ brokers and insurance companies, after deducting related goodwill, if any (for both solo and consolidated bases);

p. Minority investments (below 10% of voting stock) in banks and QBs, and other financial allied undertakings (excluding subsidiary securities dealers/brokers and insurance companies), after deducting related goodwill, if any (for both solo and consolidated bases;

q. Minority investments (below 10% of voting stock) in securities dealers/brokers and insurance companies, after deducting related goodwill, if any (for both solo and consolidated bases);

For equity investments in financial entities (Items *"k" to "p"*), total investments include:

i. common equity exposures in both the banking and trading book; and

ii. underwriting positions in equity and other capital instruments held for more than five (5) days:

Provided, That should the instrument of the entity in which the bank has invested does not meet the criteria for CET1 capital of the bank, the capital is to be considered common shares and thus deducted from CET1.

r. Other equity investments in non-financial allied undertakings and non-allied undertakings;

s. Capital shortfalls of unconsolidated subsidiary securities dealers/brokers and insurance companies (for both solo and consolidated bases);

t. Reciprocal investments in common stock of other banks/QBs and financial allied undertakings including securities dealers/brokers and insurance companies, after deducting related goodwill, if any (for both solo and consolidated bases);

u. Materiality thresholds in credit derivative contracts purchased;

v. Credit-linked notes and other similar products in the banking book with issue ratings below investment grade;

w. Securitization tranches and structured products which are rated below investment grade or are unrated; and

x. Credit enhancing interest only strips in relation to a securitization structure, net of the amount of "gain-on-sale" that must be deducted from CET1 capital.

(As amended by Circular No. 914 dated 23 June 2016)

Additional Tier 1 (AT1) capital

5. AT1 capital consists of the following:

a. Instruments issued by the bank that are not included in CET1 capital that meet the following:

i. criteria for inclusion in AT1 capital as set out in *"App. Q-46 Annex B"*;

ii. required loss absorbency features for instruments classified as liabilities for accounting purposes. The loss absorbency requirements are provided in *"App. Q-46 Annex E"*; and

iii. required loss absorbency feature at point of non-viability as set out in *"App. Q-46 Annex F"*.

b. Additional paid-in capital resulting from the issuance of instruments included in AT1 capital;

c. Deposit for subscription of AT1 capital instruments;

d. Minority interest in subsidiary banks which are less than wholly-owned[1]:

[1] Please refer to Footnote in Part II, Item "3a"

Provided, That the minority interest arises from issuances of Tier 1 instruments, if issued by the bank itself, would meet all of the criteria for classification as Tier 1 capital: *Provided, further,* That the amount to be included as minority interest shall be reduced by the surplus Tier 1 capital of the subsidiary attributable to minority shareholders: *Provided, furthermore,* That the surplus Tier 1 capital of the subsidiary attributable to minority shareholders is computed as the available Tier 1 capital minus the lower of: (1) the minimum Tier 1 capital requirement of the subsidiary and (2) the portion of the consolidated minimum Tier 1 requirement that is attributable to the subsidiary, multiplied by the percentage of Tier 1 held by minority shareholders: *Provided, finally,* That the amount of Tier 1 capital to be recognized in AT1 capital will exclude amounts recognized in CET1 capital.

Illustrative computation is in *App. Q-46 Annex D*.

Regulatory adjustments to AT1 capital

6. The following are the adjustments to AT1 capital:

a. AT1 instruments treasury shares[1], including shares that the bank could be contractually obliged to purchase;

b. Investments in equity of unconsolidated subsidiary banks and QBs, and other financial allied undertakings (excluding subsidiary securities dealers/ brokers and insurance companies), after deducting related goodwill, if any (for solo basis);

c. Investments in equity of unconsolidated subsidiary securities dealers/brokers and insurance companies after deducting related goodwill, if any (for both solo and consolidated bases);

d. Significant minority investments (10%-50% of voting stock) in banks and QBs, and other financial allied undertakings (for both solo and consolidated bases);

e. Significant minority investments (10%-50% of voting stock) in securities dealers/ brokers and insurance companies, after deducting related goodwill, if any (for both solo and consolidated bases);

f. Minority investments (below 10% of voting stock) in banks and QBs, and other financial allied undertakings (for both solo and consolidated bases);

g. Minority investments (below 10% of voting stock) in securities dealers/brokers and insurance companies, after deducting related goodwill, if any (for both solo and consolidated bases.

For equity investments in financial entities (Items *"b"* to *"g"*), total investments include:

i. other capital instruments in both the banking and trading book; and

ii. underwriting positions in equity and other capital instruments held for more than five (5) days:

Provided, That should the instrument of the entity in which the bank has invested does not meet the criteria for AT1 capital of the bank, the capital is to be considered common shares and thus deducted from CET1 capital.

h. Reciprocal investments in AT-1 capital instruments of other banks/QBs and financial allied undertakings including securities dealers/brokers and insurance companies, after deducting related goodwill, if any (for both solo and consolidated bases);

Tier 2 capital

7. Tier 2 capital is composed of the following:

a. Instruments issued by the bank (and are not included in AT1 capital) that meet the following:

[1] Please refer to Footnote in Part II, item "4a"

i. criteria for inclusion in Tier 2 capital as set out in "*App. Q-46 Annex C*"; and

ii. Required loss absorbency feature at point of non-viability as set out in "*App. Q-46 Annex F*".

b. Deposit for subscription of T2 capital;

c. Appraisal increment reserve – bank premises, as authorized by the Monetary Board;

d. General loan loss provision, limited to a maximum of one percent (1.00%) of credit risk-weighted assets, and any amount in excess thereof shall be deducted from the credit risk-weighted assets in computing the denominator of the risk-based capital ratio;

e. Minority interest in subsidiary banks which are less than wholly-owned:[1] *Provided,* That the minority interest arises from issuances of capital instruments, if issued by the bank itself, would meet all of the criteria for classification as Tier 1 or Tier 2 capital: *Provided, further,* That the amount to be included as minority interest shall be reduced by the surplus total capital of the subsidiary attributable to minority shareholders: *Provided, furthermore,* That the surplus total capital of the subsidiary attributable to minority shareholders is computed as the available total capital minus the lower of: (1) the minimum total capital requirement of the subsidiary and (2) the portion of the consolidated minimum total capital requirement that is attributable to the subsidiary, multiplied by the percentage of total capital held by minority shareholders. *Provided, finally,* That the total capital that will be recognized in Tier 2 will exclude amounts recognized in CET1 and AT1 capital.

Illustrative computation in *App. Q-46 Annex D.*

Regulatory adjustments to Tier 2 capital

8. The following adjustments shall be charged against Tier 2 capital:

a. Tier 2 instruments treasury shares[2], including shares that the bank could be contractually obliged to purchase;

b. Investments in equity of unconsolidated subsidiary banks and QBs, and other financial allied undertakings (excluding subsidiary securities dealers/ brokers and insurance companies), after deducting related goodwill, if any (for solo basis);

c. Investments in equity of unconsolidated subsidiary securities dealers/brokers and insurance companies after deducting related goodwill, if any (for both solo and consolidated bases);

d. Significant minority investments (10%-50% of voting stock) in banks and QBs, and other financial allied undertakings (for both solo and consolidated bases);

e. Significant minority investments (10%-50% of voting stock) in securities dealers/brokers and insurance companies, after deducting related goodwill, if any (for both solo and consolidated bases);

f. Minority investments (below 10% of voting stock) in banks and QBs, and other financial allied undertakings (for both solo and consolidated bases);

g. Minority investments (below 10% of voting stock) in securities dealers/brokers and insurance companies, after deducting related goodwill, if any (for both solo and consolidated bases;

For equity investments in financial entities (Items "b" to "g"), total investments include:

i. other capital instruments in both the banking and trading book; and

[1] Please refer to Footnote in Part II, Item "3a"
[2] Please refer to Footnote in Part II, Item "4a"

ii. underwriting positions in equity and other capital instruments held for more than five (5) days:
Provided, That should the instrument of the entity in which the bank has invested does not meet the criteria for T2 capital of the bank, the capital is to be considered common shares and thus deducted from CET1 capital.

h. Sinking fund for the redemption of T2 capital instruments; and

i. Reciprocal investments in T2 capital instruments of other banks/QBs and financial allied undertakings including securities dealers/brokers and insurance companies, after deducting related goodwill, if any (for both solo and consolidated bases).

9. Any asset deducted from qualifying capital in computing the numerator of the risk-based capital ratio shall not be included in the risk-weighted assets in computing the denominator of the ratio.

Section B. Branches of Foreign Banks

CET 1 capital

10. CET1 Capital shall be comprised of:
a. Permanently assigned capital[1];
b. Undivided profits;
c. Retained earnings;
d. Accumulated net earnings[2];
e. Other comprehensive income
(1) Net unrealized gains or losses on available for sale (AFS) securities[3];
(2) Cumulative foreign currency translation.
(3) Others.

Regulatory adjustments to CET1 capital

11. The regulatory adjustments to CET1 capital are provided in paragraph 4, as applicable.

In addition, any balance in the Net due from account[4] shall be deducted from CET1 capital.

Additional Tier 1 (AT1) capital

Tier 2 Capital

12. Tier 2 capital shall consist of general loan loss provision, limited to a maximum of one percent (1%) of credit risk-weighted assets, and any amount in excess thereof shall be deducted from the credit risk-weighted assets in computing the denominator of the risk-based capital ratio.

Regulatory adjustments to Tier 2 capital

13. The regulatory adjustments to T2 capital for branches of foreign banks are provided in paragraph 8, as applicable.

14. Any asset deducted from qualifying capital in computing the numerator of the risk-based capital ratio shall not be included in the risk-weighted assets in computing the denominator of the ratio.

[1] Shall include unremitted earnings elected by the branch to be part of assigned capital.
[2] Pertains to the sum of undivided profits, unremitted profits not yet approved by the Bangko Sentral, net of losses in operation of Philippine branch of foreign banks.
[3] For early adopters of PFRS 9, this account shall refer only to Net Unrealized gains (losses) on AFS equity securities. For AFS debt securities, refer to Footnote in Part II, Item 3f. In view of the continuing evaluation by the Basel Committee on the appropriate treatment of unrealized gains/losses with respect to the evolution of the accounting framework, the Bangko Sentral will revise its relevant regulation once the treatment of fair value adjustments in the calculation of CET1 has been determined.
[4] The balance of Net Due from account shall exclude accumulated earnings/losses that were included as part of CET1 capital.

Part III. Capital conservation buffer

1. A capital conservation buffer of two and a half percent (2.5%) of risk-weighted assets, comprised of CET1 capital, shall be required of U/KBs (both domestic and branches of foreign banks) and their subsidiary banks and QBs.

2. This buffer is meant to promote the conservation of capital and build up of adequate cushion that can be drawn down by banks to absorb losses during periods of financial and economic stress.

3. Where a bank does not have positive earnings, has CET1 of not more than eight and a half percent (8.5%) (CET1 ratio of six percent (6%) plus conservation buffer of two and a half percent (2.5%) and has not complied with the ten percent (10%) minimum CAR, it would be restricted from making positive distributions, as illustrated below:

Level of CET 1 capital	Restriction on Distributions
<6.0%	No distribution
6.0%-7.25%	No distribution until more than 7.25% CET1 capital is met
>7.25%-8.5%	50% of earnings may be distributed
>8.5%	No restriction on distribution

4. Elements subject to the restriction on distributions include dividends, profit remittance, in the case of foreign bank branches, share buybacks, discretionary payments on other Tier 1 capital instruments, and discretionary bonus payments to staff.

5. Payments which do not result in the depletion of CET1 are not considered distributions.

6. Earnings refer to distributable profits calculated prior to the deduction of elements subject to the restriction on distributions. The earnings is computed after the tax which would have been reported had none of the distributable items been paid.

7. The framework shall be applied on both solo and consolidated basis. The distribution constraints when applied to solo basis (individual bank level) would allow conservation of resources in specific parts of the group.

8. Drawdowns on the capital conservation buffers are generally allowed, subject to certain restrictions on distributions. However, UBs/KBs and their subsidiary banks and QBs shall be subject to a capital restoration plan within the timeframe determined by the Bangko Sentral. This restoration plan shall likewise be required for banks under the PCA framework.

9. While banks are not prohibited from raising capital from private sector in case they wish to distribute in excess of the constraints, this matter should be discussed with the Bangko Sentral and included in the capital planning process.

Part IV. Credit risk-weighted assets

A. Risk-weighting

1. Banking book exposures shall be risk-weighted based on third party credit assessment of the individual exposure given by eligible external credit assessment institutions listed in Part IV.C.

The table below sets out the mapping of external credit assessments with the corresponding risk weights for banking book exposures. Exposures related to credit derivatives and securitizations are dealt with in Parts V and VI, respectively. Exposures should be risk-weighted net of specific provisions.

STANDARDIZED CREDIT RISK WEIGHTS								
Credit Assessment[1]	AAA	AA+ to AA-	A+ to A-	BBB+ to BBB-	BB+ to BB-	B+ to B-	Below B-	Unrated
Sovereigns	0%	0%	20%	50%	100%	100%	150%	100%
MDBs	0%	20%	50%	50%	100%	100%	150%	100%
Banks	20%	20%	50%	50%	100%	100%	150%	100%[2]
Interbank call loans				20%				
Local government units	20%	20%	50%	50%	100%	100%	150%	100%[2]
Government corporations	20%	20%	50%	50%	100%	150%	150%	100%[2]
Corporates	20%	20%	50%	100%	100%	150%	150%	100%[2]
Housing loans				50%				
MSME qualified portfolio				75%				
Defaulted exposures								
Housing loans				100%				
Others				150%				
ROPA				150%				
All other assets				100%				

Sovereign Exposures

2. These include all exposures to central governments and central banks. All Philippine peso (Php) denominated exposures to the Philippine National Government (NG) and the Bangko Sentral shall be riskweighted at zero percent (0%). Foreign currency denominated exposures to the NG and the Bangko Sentral, however, shall be risk-weighted according to the table above: *Provided,* That only one-third (1/3) of the applicable risk weight shall be applied from 01 July 2007, two-thirds (2/3) from 01 January 2008, and the full risk weight from 01 January 2009[3]. Exposures to the Bank for International Settlements (BIS), the International Monetary Fund (IMF), and the European Central Bank (ECB) and the European Community (EC) shall also receive zero percent (0%) risk weight.

(As amended by Circular No. 588 dated 11 December 2007)

MDB Exposures

3. These include all exposures to multilateral development banks. Exposures to the World Bank Group comprised of the IBRD and the IFC, the ADB, the AfDB, the EBRD, the IADB, the EIB, the European Investment Fund (EIF), the NIB, the CDB, the Islamic Development Bank (IDB), and the CEDB currently receive zero percent (0%) risk weight. However, it is the responsibility of the bank to monitor the external credit assessments of multilateral development banks to which they have an exposure to reflect in the risk weights any change therein.

Bank Exposures

4. These include all exposures to Philippine-incorporated banks/QBs, as well as foreign-incorporated banks.

Interbank Call Loans

5. *Interbank call loans* refer to interbank loans that pass through the Interbank Call Loan Funds Transfer System of the Bangko Sentral, the BAP, and the PCHC.

Exposures to Local Government Units

6. These include all exposures to non-central government public sector entities. Bonds issued by Philippine local government units (LGU Bonds), which are

[1] The notations follow the rating symbols used by Standard & Poor's. The mapping of ratings of all recognized external rating agencies is in Part III.C
[2] Or risk weight applicable to sovereign of incorporation, whichever is higher
[3] The capital treatment of QB's holdings of ROP Global Bonds paired with Warrants under the BSP's revised risk-based capital adequacy framework is contained in *Appendix Q-46a*.

covered by Deed of Assignment of Internal Revenue Allotment of the LGU and guaranteed by the LGU Guarantee Corporation shall be risk-weighted at the lower of fifty percent (50%) or the appropriate risk weight indicated in the table above.

Exposures to Government Corporations

7. These include all exposures to commercial undertakings owned by central or local governments. Exposures to Philippine GOCCs that are not explicitly guaranteed by the Philippine NG are also included in this category.

Corporate Exposures

8. These include all exposures to business entities, which are not considered as micro, small, or medium enterprises (MSME), whether in the form of a corporation, partnership, or sole proprietorship. These also include all exposures to FIs, including securities dealers/brokers and insurance companies, not falling under the definition of *Bank* in paragraph 4.

Housing Loans

9. These include all current loans to individuals for housing purpose, fully secured by first mortgage on residential property that is or will be occupied by the borrower.

Micro, Small, and Medium Enterprises (MSME)

10. An exposure must meet the following criteria to be considered as an MSME exposure:

a) The exposure must be to an MSME as defined under existing Bangko Sentral regulations; and

b) The exposure must be in the form of direct loans, or unavailed portion of committed credit lines and other business facilities such as outstanding guarantees issued and unused letters of credit: *Provided*, That the credit equivalent amounts thereof shall be determined in accordance with the methodology for off-balance sheet items.

Qualified portfolio

11. For a bank's portfolio of MSME exposures to be considered as *qualified*, it must be a highly diversified portfolio, i.e., it has at least 500 borrowers that are distributed over a number of industries. In addition, all MSME exposures in the qualified portfolio must be current exposures. All non-current MSME exposures are excluded from count and are to be treated as ordinary non-performing loans. Current MSME exposures not qualifying under highly diversified MSME portfolio will be riskweighted based on external rating and shall be risk-weighted in the same manner as corporate exposures.

Defaulted Exposures

12. A default is considered to have occurred in the following cases:

a) If a credit obligation is considered non-performing under existing rules and regulations. For non-performing debt securities, they shall be defined as follows:

i. For zero-coupon debt securities, and debt securities with quarterly, semi-annual, or annual coupon payments, they shall be considered non-performing when principal and/or coupon payment, as may be applicable, is unpaid for thirty (30) days or more after due date; and

ii. For debt securities with monthly coupon payments, they shall be considered non-performing when three (3) or more coupon payments are in arrears: *Provided, however*, That when the total amount of arrearages reaches twenty percent (20%) of the total outstanding balance of the debt security, the total outstanding balance of the debt security shall be considered as non-performing.

b) If a borrower/obligor has sought or

has been placed in bankruptcy, has been found insolvent, or has ceased operations in the case of businesses;

c) If the bank sells a credit obligation at a material credit-related loss, i.e., excluding gains and losses due to interest rate movements. Banks' board-approved internal policies must specifically define when a material credit-related loss occurs; and

d) If a credit obligation of a borrower/ obligor is considered to be in default, all credit obligations of the borrower/obligor with the same bank shall also be considered to be in default.

Housing loans

13. These include all loans to individuals for housing purpose, fully secured by first mortgage on residential property that is or will be occupied by the borrower, which are considered to be in default in accordance with paragraph 12.

Others

14. These include the total amounts or portions of all other defaulted exposures, which are not secured by eligible collateral or guarantee as defined in Part IV.B.

ROPA

15. All real and other properties acquired and classified as such under existing regulations.

Other Assets

16. The standard risk weight for all other assets, including bank premises, furniture, fixtures and equipment, will be 100%, except in the following cases:

a) Cash on hand and gold, which shall be risk-weighted at zero percent (0%); and

b) Checks and other cash items, which shall be risk-weighted at twenty percent (20%).

Accruals on a claim shall be classified and risk-weighted in the same way as the claim. Bills purchased shall be classified and risk-weighted as claims on the drawee bank. The treatments of credit derivatives and securitization exposures are presented separately in Parts V and VI, respectively. Investments in equity or other regulatory capital instruments issued by banks or other financial/non-financial allied/non-allied undertakings will be risk-weighted at 100%, unless deductible from the capital base as required in Part II.

Off-balance sheet items

17. For off-balance sheet items, the risk-weighted amount shall be calculated using a two-step process. First, the credit equivalent amount of an off-balance sheet item shall be determined by multiplying its notional principal amount by the appropriate credit conversion factor, as follows:

a) *100% credit conversion factor* - this shall apply to direct credit substitutes, e.g., general guarantees of indebtedness (including standby letters of credit serving as financial guarantees for loans and securities) and acceptances (including endorsements with the character of acceptances), and shall include:

i. Guarantees issued other than shipside bonds/airway bills;

ii. Financial standby letters of credit

b) *Fifty percent (50%) credit conversion factor* – this shall apply to certain transaction-related contingent items, e.g., performance bonds, bid bonds, warranties and standby letters of credit related to particular transactions, and shall include:

i. Performance standby letters of credit (net of margin deposit), established as a guarantee that a business transaction will be performed;

This shall also apply to –

i. Note issuance facilities and revolving underwriting facilities; and

ii. Other commitments, e.g., formal standby facilities and credit lines with an original maturity of more than one (1) year, and this shall also include Underwritten Accounts Unsold.

c) *Twenty percent (20%) credit conversion factor* – this shall apply to short-term, self-liquidating trade-related contingencies arising from movement of goods, e.g., documentary credits collateralized by the underlying shipments, and shall include:

i. Trade-related guarantees:

- Shipside bonds/airway bills
- Letters of credit – confirmed

ii. Sight letters of credit outstanding (net of margin deposit);

iii. Usance letters of credit outstanding (net of margin deposit);

iv. Deferred letters of credit (net of margin deposit); and

v. Revolving letters of credit (net of margin deposit) arising from movement of goods and/or services;

This shall also apply to commitments with an original maturity of up to one (1) year, and shall include committed credit line for commercial paper issued.

d) *Zero percent (0%) credit conversion factor* – this shall apply to commitments which can be unconditionally cancelled at any time by the bank without prior notice, and shall include Credit Card Lines.

This shall also apply to those not involving credit risk, and shall include:

i. Late deposits/payments received;

ii. Inward bills for collection;

iii. Outward bills for collection;

iv. Travelers' checks unsold;

v. Trust department accounts;

vi. Items held for safekeeping/ custodianship;

vii. Items held as collaterals;

viii.Deficiency claims receivable; and

ix. Others.

18. For derivative contracts, the credit equivalent amount shall be the sum of the current credit exposure (or replacement cost) and an estimate of the potential future credit exposure (or add-on). However, the following shall not be included in the computation:

a) Instruments which are traded in an exchange where they are subject to daily receipt and payment of cash variation margin; and

b) Exchange rate contract with original maturity of fourteen (14) calendar days or less.

19. The current credit exposure shall be the positive mark-to-market value of the contract (or zero if the mark-to-market value is zero or negative). The potential future credit exposure shall be the product of the notional principal amount of the contract multiplied by the appropriate potential future credit conversion factor, as indicated below:

Residual Maturity	Interest Rate Contract	Exchange Rate Contract	Equity Contract
One (1) year or less	0.0%	1.0%	6.0%
Over one (1) year to five (5) years	0.5%	5.0%	8.0%
Over five (5) years	1.5%	7.5%	10.0%

Provided, That:

a) For contracts with multiple exchanges of principal, the factors are to be multiplied by the number of remaining payments in the contract;

b) For contracts that are structured to settle outstanding exposure following specified payment dates and where the terms are reset such that the market value of the contract is zero on these specified dates, the residual maturity would be set equal to the time until the next reset date, and in the case of interest rate contracts with remaining maturities of more than one (1) year that meet these criteria, the potential future credit conversion factor is subject to a floor of one-half percent (1/2%); and

c) No potential future credit exposure shall be calculated for single currency floating/floating interest rate swaps, i.e., the credit exposure on these contracts would be evaluated solely on the basis of their mark-to-market value.

20. The credit equivalent amount shall be treated like any on-balance sheet asset, and shall be assigned the appropriate risk weight, i.e., according to the third party credit assessment of the counterparty exposure.

B. Credit risk mitigation (CRM)

21. Banks use a number of techniques to mitigate the credit risks to which they are exposed. For example, exposures may be collateralized by first priority claims, in whole or in part with cash or securities, or a loan exposure may be guaranteed by a third party. Physical collateral, such as real estate, buildings, machineries, and inventories are not recognized at this time for credit risk mitigation purposes in line with Basel II recommendations.

22. In order for banks to obtain capital relief for any use of CRM techniques, all documentation used in collateralized transactions and for documenting guarantees must be binding on all parties and legally enforceable in all relevant jurisdictions. Banks must have conducted sufficient legal review to verify this and have a well-founded legal basis to reach this conclusion, and undertake such further review as necessary to ensure continuing enforceability.

23. The effects of CRM will not be double counted. Therefore, no additional supervisory recognition of CRM for regulatory capital purposes will be granted on claims for which an issue-specific rating is used that already reflects that CRM. Principal-only ratings will not be allowed within the framework of CRM.

24. While the use of CRM techniques reduces or transfers credit risk, it simultaneously may increase other risks (residual risks). Residual risks include legal, operational, liquidity and market risks. Therefore, it is imperative that banks employ robust procedures and processes to control these risks, including strategy; consideration of the underlying credit; valuation; policies and procedures; systems; control of roll-off risks; and management of concentration risk arising from the bank's use of CRM techniques and its interaction with the bank's overall credit risk profile.

25. The disclosure requirements under Part IX of this document must also be observed for banks to obtain capital relief (i.e., adjustments in the risk weights of collateralized or guaranteed exposures) in respect of any CRM techniques.

Collateralized transactions

26. A collateralized transaction is one in which:

a) banks have a credit exposure or potential credit exposure; and

b) that credit exposure or potential credit exposure is hedged in whole or in part by collateral posted by a counterparty[1] or by a third party in behalf of the counterparty.

27. In addition to the general requirement for legal certainty set out in paragraph 22, the legal mechanism by which collateral is pledged or transferred must ensure that the bank has the right to liquidate or take legal possession of it, in a timely manner, in the event of default, insolvency or bankruptcy (or one or more otherwise-defined credit events set out in the transaction documentation) of the counterparty (and, where applicable, of the custodian holding the collateral). Furthermore, banks must take all steps necessary to fulfill those requirements under the law applicable to the bank's interest in the collateral for obtaining and maintaining

[1] *Counterparty* refers to a party to whom a bank has an on- or off-balance sheet credit exposure or a potential credit exposure.

an enforceable security interest, e.g., by registering it with a registrar, or for exercising a right to net or set off in relation to title transfer collateral.

28. In order for collateral to provide protection, the credit quality of the counterparty and the value of the collateral must not have a material positive correlation. For example, securities issued by the counterparty – or by any related group entity – would provide little protection and so would be ineligible.

29. Banks must have clear and robust procedures for the timely liquidation of collateral to ensure that any legal conditions required for declaring the default of the counterparty and liquidating the collateral are observed, and that collateral can be liquidated promptly.

30. Where the collateral is required to be held by a custodian, the Bangko Sentral will only recognize the collateral for regulatory capital purposes if it is held by Bangko Sentral authorized third party custodians.

31. A capital requirement will be applied to a bank on either side of the collateralized transaction: for example, both repos and reverse repos will be subject to capital requirements. Likewise, both sides of a securities lending and borrowing transaction will be subject to explicit capital charges, as will the posting of securities in connection with a derivative exposure or other borrowing.

Banking book

32. Where banks take eligible collateral, as listed in paragraph 34, and satisfies the requirements under paragraphs 27 to 31, they are allowed to apply the risk weight of the collateral to the collateralized portion of the credit exposure (equivalent to the fair market value of recognized collateral), subject to a floor of twenty percent (20%). The twenty percent (20%) floor shall not apply and a zero percent (0%) risk weight can be applied when the exposure and the collateral are denominated in the same currency, and either:

a) The collateral is cash as defined in paragraph 34.a; or

b) The collateral is a sovereign debt security eligible for zero percent (0%) risk weight, or a Php-denominated debt obligation issued by the Philippine NG or the Bangko Sentral, which fair market value has been discounted by twenty percent (20%).

33. For collateral to be recognized, however, the collateral must be pledged for at least the life of the exposure and it must be marked to market and revalued with a minimum frequency of every six (6) months.

34. The following are the eligible collateral instruments:

a) Cash (as well as certificates of deposit or comparable instruments issued by the lending bank) on deposit with the bank which is incurring the counterparty exposure;

b) Gold;

c) Debt obligations issued by the Philippine NG or the Bangko Sentral;

d) Debt securities issued by central governments and central banks (and PSEs treated as sovereigns) of foreign countries as well as MDBs with at least investment grade external credit ratings;

e) Other debt securities with external credit ratings of at least BBB- or its equivalent;

f) Unrated senior debt securities issued by banks with an issuer rating of at least BBB- or its equivalent, or with other debt issues of the same seniority with a rating of at least BBB- or its equivalent;

g) Equities included in the main index of an organized exchange; and

h) Investments in Unit Investment Trust Funds (UITF) and the Asian Bond Fund 2 (ABF2) duly approved by the Bangko Sentral .

Trading book

35. A credit risk capital requirement should also be applied to banks' counterparty exposures in the trading book (e.g., repo-style transactions, OTC derivatives contracts). Where banks take eligible collateral for these trading book transactions, as listed in paragraph 34, and satisfies the requirements under paragraphs 27 to 31, they are to compute for the credit risk capital requirement according to the following paragraphs: *Provided,* That, for repo-style transactions in the trading book, all instruments which are included in the trading book may be used as eligible collateral.

36. For collateralized transactions in the trading book, the exposure amount after risk mitigation is calculated as follows:

$E^* = \max \{0, [E \times (1 + H_e) - C \times (1 - H_c - H_{fx})]\}$

Where:

E^* = the exposure value after risk mitigation

E = the current value of the exposure

H_e = haircut appropriate to the exposure

C = the current value of the collateral received

H_c = haircut appropriate to the collateral

H_{fx} = haircut appropriate for currency mismatch between the collateral and exposure set at 8% (based on a 10-business day holding period and daily marking to market)

37. The treatment of transactions where there is a maturity mismatch between the maturity of the counterparty exposure and the collateral is given in paragraphs 50 to 54.

38. These are the haircuts to be used (based on a 10-business day holding period, daily marking to market and daily remargining), expressed as percentages:

Issue rating for debt securities[1]	Residual maturity	Haircut: Sovereign (and PSEs treated as sovereign) and MDB with 0% risk weight issuers	Haircut: Other Issuers
Php - denominated securities issued by the Philippine NG and BSP	< 1 year	0.5	
	>1 yr. to 5 yrs.	2	
	> 5 years	4	
AAA to AA-	< 1 year	0.5	1
	>1 yr. to 5 yrs.	2	4
	> 5 years	4	8
A+ to BBB-/ Unrated bank debt insecurities as defined in paragraph 34.f	< 1 year	1	2
	> 1 yr. to 5 yrs.	3	6
	> 5 years	6	12
Equities included in the main index and gold		15	
UITF and ABF2		Highest haircut applicable to any security in which the fund can invest	
Cash per paragraph 34.a in the same currency		0	
Other financial instruments in the trading book (applies to repo-style transactions in the trading book only)		25	

39. Where the collateral is a basket of assets, the haircut on the basket will be $H = \Sigma a_i H_i$, where a_i is the weight of the asset in the basket and H_i is the haircut applicable to that asset.

40. For collateralized OTC derivatives transactions in the trading book, the credit equivalent amount will be computed

[1] The notations follow the rating symbols used by Standard & Poor's. The mapping of ratings of all recognized external rating agencies is in Part III.C

according to paragraphs 18 to 19, but adjusted by deducting the volatility adjusted collateral amount as computed according to paragraphs 36 to 39.

41. The exposure amount after risk mitigation will be multiplied by the risk weight of the counterparty to obtain the risk-weighted asset amount for the collateralized transaction.

Guarantees

42. Where guarantees are direct, explicit, irrevocable and unconditional, banks may be allowed to take account of such credit protection in calculating capital requirements.

43. A guarantee must represent a direct claim on the protection provider and must be explicitly referenced to specific exposures or a pool of exposures, so that the extent of the cover is clearly defined and incontrovertible.Other than non- payment by a protection purchaser of money due in respect of the credit protection contract, the guarantee must be irrevocable; there must be no clause in the contract that would allow the protection provider unilaterally to cancel the credit cover or that would increase the effective cost of cover as a result of deteriorating credit quality in the hedged exposure. It must also be unconditional; there should be no clause in the protection contract outside the direct control of the bank that could prevent the protection provider from being obliged to pay out in a timely manner in the event that the original counterparty fails to make the payment(s) due.

44. In addition to the legal certainty requirement in paragraph 22, in order for a guarantee to be recognized, the following conditions must be satisfied:

a) On the qualifying default/ non-payment of the counterparty, the bank may in a timely manner pursue the guarantor for any monies outstanding under the documentation governing the transaction. The guarantor may make one lump sum payment of all monies under such documentation to the bank, or the guarantor may assume the future payment obligations of the counterparty covered by the guarantee. The bank must have the right to receive any such payments from the guarantor without first having to take legal actions in order to pursue the counterparty for payment;

b) The guarantee is an explicitly documented obligation assumed by the guarantor; and

c) The guarantee must cover all types of payments the underlying obligor is expected to make under the documentation governing the transaction, for example, notional amount, margin payments, etc. Where a guarantee covers payment of principal only, interests and other uncovered payments should be treated as an unsecured amount.

45. Where the bank's exposure is guaranteed by an eligible guarantor, as listed in paragraph 47, and satisfies the requirements under paragraphs 42 to 44, the bank is allowed to apply the risk weight of the guarantor to the guaranteed portion of the credit exposure.

46. The treatment of transactions where there is a mismatch between the maturity of the counterparty exposure and the guarantee is given in paragraphs 50 to 54.

47. The following are the eligible guarantors:

a) Philippine NG and the Bangko Sentral;

b) Central governments and central banks and PSEs of foreign countries as well as MDBs with a lower risk weight than the counterparty;

c) Banks with a lower risk weight than the counterparty; and

d) Other entities with external credit assessment of at least A- or its equivalent.

48. Where a bank provides a credit protection to another bank in the form of a guarantee that a third party will perform on its obligations, the risk to the guarantor bank

is the same as if the bank had entered into the transaction as a principal. In such circumstances, the guarantor bank will be required to calculate capital requirement on the guaranteed amount according to the risk weight corresponding to the third party exposure. In this instance, and provided the credit protection is deemed to be legally effective, the credit risk is considered transferred to the bank providing credit protection. However, the bank receiving credit protection on its exposure to a third party shall recognize a corresponding risk-weighted credit exposure to the bank providing credit protection.

49. An exposure that is covered by a guarantee that is counter-guaranteed by the Philippine NG or Bangko Sentral, may be considered as covered by the guarantee of the Philippine NG or Bangko Sentral: *Provided,* That:

a) the counter-guarantee covers all credit risk element of the exposure;

b) both the original guarantee and the counter-guarantee meet all operational requirements for guarantees, except that the counter guarantee need not be direct and explicit to the original exposure; and

c) the cover is robust and that no historical evidence suggests that the coverage of the counter-guarantee is less than effectively equivalent to that of a direct guarantee of the Philippine NG and Bangko Sentral.

Currently, Php-denominated exposures to the extent guaranteed by Industrial Guarantee and Loan Fund (IGLF), Home Guaranty Corporation (HGC), and Trade and Investment Development Corporation of the Philippines (TIDCORP), which guarantees are counter-guaranteed by the Philippine NG receive zero percent (0%) risk weight.

Maturity mismatch

50. For collateralized transactions in the trading book and guaranteed transactions, the credit risk mitigating effects of such transactions will still be recognized even if a maturity mismatch occurs between the hedge and the underlying exposure, subject to appropriate adjustments.

51. For purposes of calculating risk-weighted assets, a maturity mismatch occurs when the residual maturity of a hedge is less than that of the underlying exposure.

52. The maturity of the hedge and the maturity of the underlying exposure should both be defined conservatively. For the hedge, embedded options which may reduce the term of the hedge should be taken into account so that the shortest possible effective maturity is used. Where a call is at the discretion of the guarantor/protection seller, the maturity will always be at the first call date. If the call is at the discretion of the protection buying bank but the terms of the arrangement at origination of the hedge contain a positive incentive for the bank to call the transaction before contractual maturity, the remaining time to the first call date will be deemed to be the effective maturity. For example, where there is a step-up in cost in conjunction with a call feature or where the effective cost of cover increases over time even if credit quality remains the same or increases, the effective maturity will be the remaining time to the first call. The effective maturity of the underlying, on the other hand, should be gauged as the longest remaining time before the counterparty is scheduled to fulfill its obligation, taking into account any applicable grace period.

53. Hedges with maturity mismatches are only recognized when their original maturities are greater than or equal to one year. As a result, the maturity of hedges for exposures with original maturities of less than one (1) year must be matched to be recognized. In all cases, hedges will no longer be recognized when they have a residual maturity of three months or less.

54. When there is a maturity mismatch with recognized credit risk mitigants, the following adjustment will be applied.

$$Pa = P \times (t - 0.25)/(T - 0.25)$$

Where:
Pa = value of the credit protection adjusted for maturity mismatch
P = credit protection (e.g., collateral amount, guarantee amount) adjusted for any haircuts
t = min (T, residual maturity of the credit protection arrangement) expressed in years
T = min (5, residual maturity of the exposure) expressed in years

C. Use of third party credit assessments

55. The following third party credit assessment agencies are recognized by the Bangko Sentral for regulatory capital purposes:

International credit assessment agencies:

a) Standard & Poor's;
b) Moody's;
c) Fitch Ratings; and
d) Such other rating agencies as may be approved by the Monetary Board.

Domestic credit assessment agencies:

a) PhilRatings; and
b) Such other rating agencies as may be approved by the Monetary Board.

56. The tables below set out the mapping of ratings given by the recognized credit assessment agencies for purposes of determining the appropriate risk weights:

Agency	**INTERNATIONAL RATINGS**						
S&P	AAA	AA+	AA	AA-	A+	A	A-
Moody's	Aaa	Aa1	Aa2	Aa3	A1	A2	A3
Fitch	AAA	AA+	AA	AA-	A+	A	A-

Agency	**DOMESTIC RATINGS**						
PhilRatings	AAA	Aa+	Aa	Aa-	A+	A	A-

Agency	**INTERNATIONAL RATINGS**						
S&P	BBB+	BBB	BBB-	BB+	BB	BB-	B+
Moody's	Baa1	Baa2	Baa3	Ba1	Ba2	Ba3	B1
Fitch	BBB+	BBB	BBB-	BB+	BB	BB-	B+

Agency	**DOMESTIC RATINGS**						
PhilRatings	Baa+	Baa	Baa-	Ba+	Ba	Ba-	B+

Agency	**INTERNATIONAL RATINGS**	
S&P	B	B-
Moody's	B2	B3
Fitch	B	B-

Agency	**DOMESTIC RATINGS**	
PhilRatings	B	B-

57. The Bangko Sentral will issue the mapping of ratings of other rating agencies as soon as it is recognized by the Bangko Sentral for regulatory capital purposes.

National rating systems

58. With prior Bangko Sentral approval, international credit rating agencies may have national rating systems developed exclusively for use in the Philippines using the Philippine sovereign as reference highest credit quality anchor.

Multiple assessments

59. If an exposure has only one rating by any of the Bangko Sentral recognized

credit assessment agencies, that rating shall be used to determine the risk weight of the exposure; in cases where there are two or more ratings which map into different risk weights, the higher of the two lowest risk weights should be used.

Issuer versus issue assessments

60. Any reference to credit rating shall refer to issue-specific rating; the issuer rating may be used only if the exposure being risk-weighted is:

a) an unsecured senior obligation of the issuer and is of the same denomination applicable to the issuer rating (e.g., local currency issuer rating may be used for risk weighting local currency denominated senior claims);

b) short-term; and

c) in cases of guarantees.

61. For loans, risk weighting shall depend on either the rating of the borrower or the rating of the unsecured senior obligation of the borrower: *Provided*, That in case of the latter, the loan is of the same currency denomination as the unsecured senior obligation.

Domestic versus international debt issuances

62. Domestic debt issuances may be rated by Bangko Sentral-recognized domestic credit assessment agencies or by international credit assessment agencies which have developed a national rating system acceptable to the Bangko Sentral. Internationally issued debt obligations shall be rated by Bangko Sentral-recognized international credit assessment agencies only.

Level of application of the assessment

63. External credit assessments for one entity within a corporate group cannot be used to proxy for the credit assessment of other entities within the same group. Such other entities should secure their own ratings.

Part V. Credit Derivatives

1. This Part sets out the capital treatment for credit derivatives. Banks may use credit derivatives to mitigate its credit risks or to acquire credit risks. For credit derivatives that are used as credit risk mitigants (CRM), the general requirements for the use of CRM techniques in paragraphs 21 to 25, Part IV.B, have to be satisfied, in addition to the specific operational requirements for credit derivatives in paragraphs 8 to 14.

2. The contents of this Part are just the general rules to be followed in computing capital requirements for credit derivatives. A bank, therefore, is expected to consult the Bangko Sentral-SES when there is uncertainty about the computation of capital requirements, or even about whether a given transaction should be treated under the credit derivatives framework.

A. Definitions and general terminology

3. *Credit derivative* – a contract wherein one party called the *protection buyer* or *credit risk seller* transfers the credit risk of a reference asset or assets issued by a reference entity or entities, which it may or may not own, to another party called the *protection seller* or *credit risk buyer*. In return, the protection buyer pays a premium or interest-related payments to the protection seller reflecting the underlying credit risk of the reference asset/s. Credit derivatives may refer to credit default swaps (CDS), total return swaps (TRS), and credit-linked notes (CLN) and similar products.

4. *Credit default swap* – a credit derivative wherein the protection buyer may exchange the reference asset or any deliverable obligation of the reference entity for cash equal to a specified amount, or get compensated to the extent of the difference between the par value and market value of the asset upon the occurrence of a defined credit event.

5. *Total return swap* – a credit derivative

wherein the protection buyer exchanges the actual collections and variations in the prices of the reference asset with the protection seller in return for a fixed premium.

6. *CLn* – a pre-funded credit derivative wherein the note holder acts as a protection seller while the note issuer is the protection buyer. As such, the repayment of the principal to the note holder is contingent upon the non-occurrence of a defined credit event. All references to CLNs shall be taken to generically include similar instruments, such as credit-linked deposits (CLDs).

7. *Special purpose vehicle* – refers to an entity specifically established to issue CLNs of a single, homogeneous risk class that are fully collateralized as to principal by eligible collateral instruments listed in paragraph 34, Part IV.B, and which are purchased out of the proceeds of the note issuance.

B. Operational requirements for credit derivatives

8. A credit derivative must represent a direct claim on the protection seller and must be explicitly referenced to specific exposures or a pool of exposures, so that the extent of the cover is clearly defined and incontrovertible. Other than non-payment by a protection buyer of money due in respect of the credit derivative contract, it must be irrevocable; there must be no clause in the contract that would allow the protection seller unilaterally to cancel the credit cover or that would increase the effective cost of cover as a result of deteriorating credit quality in the hedged exposure. It must also be unconditional; there should be no clause in the credit derivative contract outside the direct control of the protection buyer that could prevent the protection seller from being obliged to pay out in a timely manner in the event of a defined credit event.

9. The credit events specified by the contracting parties must at a minimum cover:

a) failure to pay the amounts due under terms of the underlying obligation that are in effect at the time of such failure (with a grace period that is closely in line with the grace period in the underlying obligation);

b) bankruptcy, insolvency or inability of the obligor to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due, and analogous events; and

c) restructuring of the underlying obligation involving forgiveness or postponement of principal, interest or fees that results in a credit loss event (i.e., charge-off, specific provision or other similar debit to the profit and loss account).

10. The credit derivative shall not terminate prior to expiration of any grace period required for a default on the underlying obligation to occur as a result of a failure to pay, subject to the provisions of paragraph 52 of Part IV.B.

11. Credit derivatives allowing for cash settlement are recognized for capital purposes insofar as a robust valuation process is in place in order to estimate loss reliably. There must be a clearly specified period for obtaining post-credit event valuations of the underlying obligation.

12. If the protection buyer's right or ability to transfer the underlying obligation to the protection seller is required for settlement, the terms of the underlying obligation must provide that any required consent to such transfer may not be unreasonably withheld.

13. The identity of the parties responsible for determining whether a credit event has occurred must be clearly defined. This determination must not be the sole responsibility of the protection seller. The bank as protection buyer must have the right/ability to inform the protection seller of the occurrence of a credit event.

14. Asset mismatches (underlying obligation is different from the obligation

used for purposes of determining cash settlement or the deliverable obligation, or from the obligation used for purposes of determining whether a credit event has occurred) are permissible if:

a) the obligation used for purposes of determining cash settlement or the deliverable obligation, or the obligation used for purposes of determining whether a credit event has occurred ranks *pari passu* with or is junior to the underlying obligation; and

b) both obligations share the same obligor (i.e., the same legal entity) and legally enforceable cross-default or cross-acceleration clauses are in place.

C. Capital treatment for protection buyers

15. A bank that enters into a credit derivative transaction as a protection buyer in order to hedge an existing exposure in the banking book may only get capital relief if all the general requirements for the use of CRM techniques in paragraphs 21 to 25, Part IV.B and the conditions in paragraphs 8 to 14 are satisfied. In addition, only the eligible guarantors listed in paragraph 47, Part IV.B are considered as eligible protection sellers.

16. If all of the conditions in paragraph 15 are satisfied, banks that are protection buyers may apply the risk weight of the protection seller to the protected portion of the exposure being hedged. The risk weight of the protection seller should therefore be lower than the risk weight of the exposure being hedged for capital relief to be recognized. Exposures that are protected through the issuance of CLNs will be treated as transactions collateralized by cash and a zero percent (0%) risk weight is applied to the protected portion. The uncovered portion shall retain the risk weight of the bank's underlying counterparty.

17. The protected portion of an exposure is measured as follows:

a) The fixed amount, if such is to be paid upon the occurrence of a credit event; or

b) The notional value of the contract if either (1) par is to be paid in exchange for physical delivery of the reference asset, or (2) par less market value of the asset is to be paid upon the occurrence of a credit event.

18. A bank may obtain credit protection for a basket of reference entities where the contract terminates and pays out on the first entity to default. In this case, the bank may substitute the risk weight of the protection seller for the risk weight of the asset within the basket with the lowest risk-weighted amount, but only if the notional amount is less than or equal to the notional amount of the credit derivative.

19. Where the contract terminates and pays out on the n^{th} (other than the first) entity to default, the bank will only be able to recognize any reductions in the risk weight of the underlying asset if $(n-1)^{th}$ default-protection has also been obtained or when n-1 of the assets within the basket has already defaulted.

20. Where the contract is referenced to entities in the basket proportionately, reductions in the risk weight will only apply to the extent of the underlying asset's share of protection in the contract.

21. When a bank conducts an internal hedge using a credit derivative (i.e., hedging the credit risk of an exposure in the banking book with a credit derivative booked in the trading book), in order for the bank to receive any reduction in the capital requirement for the exposure in the banking book, the credit risk in the trading book must be transferred to an outside third party (i.e., an eligible protection seller).

22. Where a bank buys credit protection through a TRS and records the net payments received on the swap as net income, but does not record offsetting deterioration in the value of the asset that is protected (either through reductions in fair value or by an

addition to reserves), the credit protection will not be recognized.

23. Materiality thresholds on payments below which no payment is made in the event of loss are equivalent to retained first loss positions and must be deducted in full from the capital of the bank buying the credit protection.

24. Where the credit protection is denominated in a currency different from that in which the exposure is denominated – i.e., there is a currency mismatch – the protected portion of the exposure will be reduced by the application of a haircut, as follows:

$$G_a = G \times (1 - H_{fx})$$

Where:

Ga = adjusted protected portion of the exposure

G = protected portion of the exposure prior to haircut

Hfx = haircut appropriate for currency mismatch between the credit protection and underlying obligation set at eight percent (8%) (based on a 10-business day holding period and daily marking to market)

25. Where a maturity mismatch occurs between the credit protection and the underlying exposure, the protected portion of the exposure adjusted for maturity mismatch will be computed according to paragraph 50 to 54, Part IV.B.

D. Capital treatment for protection sellers

26. Where a bank is a protection seller in a CDS or TRS transaction, it must calculate a capital requirement on the reference asset as if it were a direct investor in the reference asset. The risk weight of the reference asset is multiplied by the nominal amount of the protection provided by the credit derivative to obtain the risk- weighted exposure.

27. For a bank holding a CLN, credit exposure is acquired on two fronts. As such, the on-balance sheet exposure arising from the note should be weighted by adding the risk weights of the reference entity and the risk weight of the note issuer. The amount of exposure is the carrying amount of the note. If the CLN principal is fully collateralized by an eligible collateral listed in paragraph 34, Part IV.B, and which satisfies the requirements in paragraphs 27 to 31, Part IV.B, the risk weight of the note issuer is substituted with the risk weight associated with the relevant collateral.

28. When the credit derivative is referenced to a basket of reference entities and the contract terminates and pays out on the first entity to default in the basket, capital should be held to consider the cumulative risk of all the reference entities in the basket. This means that the risk weights of all the reference entities are added up and multiplied by the amount of the protection provided by the credit derivative to obtain the risk-weighted exposure to the basket. However, the risk-weighted exposure is capped at ten (10) times the protection provided under the contract. Accordingly, the maximum capital charge is 100% of the protection provided under the contract. The multiplier ten (10) is the reciprocal of the Bangko Sentral-required minimum CAR of ten percent (10%). For CLNs, the risk weight of the issuer is likewise included in the summing of the risk weights.

29. When the contract terminates and pays out on the n^{th} (other than the first) entity to default, the treatment above shall apply except that in aggregating the risk weights of the reference entities, the risk weight/s of the n-1 lowest risk-weighted entity/ies is/are excluded from the computation. For CLNs, the risk weight of the issuer is likewise included in the summing of the risk weights.

30. When a first or an n^{th}-to-default credit derivative has an external credit rating acceptable to the Bangko Sentral, the risk

weight in paragraph 21, Part VI.F will be applied.

31. A contract that is referenced to entities in the basket proportionately should be risk-weighted according to each reference entity's share of protection under the contract.

E. Credit derivatives in the trading book

32. The following describes the positions to be reported for credit derivative transactions for purposes of calculating specific risk and general market risk charges under the standardized approach.

33. A CDS creates a notional position in the specific risk of the reference obligation. A TRS creates notional positions on the specific and general market risks of the reference obligation, and an opposite notional position on a zero coupon government security representing the fixed payments or premium under the TRS. A CLN creates a notional position in the specific risk of the reference obligation, a position on the specific risk associated with the issuer, and a position on the general market risk of the note.

Specific risk

34. The specific risk position/s on the reference obligation/s created by credit derivatives are reported as short positions by protection buyers and long positions by protection sellers. In addition, holders of CLNs should report a long position on the specific risk of the note issuer.

35. The protection buyer in a first-to-default transaction should report a short position in the reference obligation with the lowest specific risk charge. A protection buyer in an n^{th} (other than the first)-to-default transaction shall only be allowed to report a short position in a reference obligation only if n-1 obligations in the reference basket has/have already defaulted.

36. When a credit derivative is referenced to multiple entities and the contract terminates and pays out on the first obligation to default in the basket, the transaction should be reported by the protection seller as long positions in each of the reference obligations in the basket. A CLN should likewise be reported as a long position on the note issuer. The total capital charge is capped at the notional amount of the derivative or, in the case of a CLN, the carrying amount of the note.

37. When the contract terminates and pays out on the n^{th} (other than the first) entity to default in the basket, the treatment above shall apply except that the protection seller may exclude the long position/s on n-1 reference obligations with the lowest risk-weighted exposures in its report. A CLN should likewise be reported as a long position on the note issuer. The total capital charge is capped at the notional amount of the derivative or, in the case of a CLN, the carrying amount of the note.

38. When an n^{th}-to-default credit derivative has an external credit rating acceptable to the Bangko Sentral, the specific risk weights in Part VII.B will be applied.

39. When the contract is referenced to multiple obligations under a proportionate structure, positions in the reference obligations should be reported according to their respective proportions in the contract.

General market risk

40. A protection buyer/seller in a TRS should report a short/long notional position on the reference obligation and a long/short notional position on a zero coupon government security representing the fixed payment under the contract.

41. A protection buyer/seller in a CLN should report a short/long position on the note.

Counterparty credit risk

42. CDS and TRS transactions in the trading book attract counterparty credit risk charges. A five percent (5%) add-on factor for the computation of the potential future credit exposure shall be used by both protection buyers and protection sellers if the reference obligation has an external credit rating of at least BBB- or its equivalent. A ten percent (10%) add-on factor applies to all other reference obligations. However, a protection seller in a CDS shall only be subject to the add-on factor if it is subject to closeout upon the insolvency of the protection buyer while the underlying is still solvent. The add-on in this case should be capped to the amount of unpaid premiums.

43. Where the credit derivative is a first to default transaction, the add-on will be determined by the lowest credit quality underlying in the basket, i.e., if there are any non-investment grade or unrated items in the basket, the ten percent (10%) add-on should be used. For second and subsequent to default transactions, underlying assets should continue to be allocated according to the credit quality, i.e., the second lowest credit quality will determine the add-on for a second to default transaction, etc.

44. Where the credit derivative is referenced proportionately to multiple obligations, the add-on factor will follow the add-on factor applicable for the obligation with the biggest share. If the protection is equally proportioned, the highest add-on factor should be used.

Part VI. Securitization

1. Banks must apply the securitization framework for determining regulatory capital requirements on their securitization exposures. Securitization exposures can include but are not restricted to the following: asset-backed securities, mortgage-backed securities, credit enhancements, liquidity facilities, interest rate or currency swaps, and credit derivatives. Underlying instruments in the pool being securitized may include but are not restricted to the following: loans, commitments, asset-backed and mortgage-backed securities, corporate bonds, equity securities, and private equity investments.

2. Since securitizations may be structured in many different ways, the capital treatment of a securitization exposure must be determined on the basis of its economic substance rather than its legal form. The contents of this Part are just the general rules to be followed in computing capital requirements for securitization exposures. A bank should therefore consult the Bangko Sentral-SES when there is uncertainty about the computation of capital requirements, or even about whether a given transaction should be considered a securitization.

A. Definitions and general terminology

3. *Traditional securitization* – a structure where the cash flow from an underlying pool of exposures is used to service at least two (2) different stratified risk positions or tranches reflecting different degrees of credit risk. Payments to the investors depend upon the performance of the specified underlying exposures, as opposed to being derived from an obligation of the entity originating those exposures. The stratified/tranched structures that characterize securitizations differ from ordinary senior/subordinated debt instruments in that junior securitization tranches can absorb losses without interrupting contractual payments to more senior tranches, whereas subordination in a senior/subordinated debt structure is a matter of priority of rights to the proceeds of liquidation.

4. *Synthetic securitization* – a structure with at least two (2) different stratified risk positions or tranches that reflect different degrees of credit risk where credit risk of an underlying pool of exposures is transferred, in whole or in part, through the

use of funded (e.g., credit-linked notes) or unfunded (e.g., credit default swaps) credit derivatives or guarantees that serve to hedge the credit risk of the portfolio. Accordingly, the investors' potential risk is dependent upon the performance of the underlying pool.

5. *Originating bank* – a bank that originates directly or indirectly underlying exposures included in the securitization.

6. *Clean-up call* – an option that permits the securitization exposures to be called before all of the underlying exposures or securitization exposures have been repaid. In the case of traditional securitizations, this is generally accomplished by repurchasing the remaining securitization exposures once the pool balance or outstanding securities have fallen below some specified level. In the case of a synthetic transaction, the clean-up call may take the form of a clause that extinguishes the credit protection.

7. *Credit enhancement* – a contractual arrangement in which the bank retains or assumes a securitization exposure and, in substance, provides some degree of added protection to other parties to the transaction.

8. *Early amortization provisions* – mechanisms that, once triggered, allow investors to be paid out prior to the originally stated maturity of the securities issued. For risk-based capital purposes, an early amortization provision will be considered either controlled or non-controlled. A controlled early amortization provision must meet all of the following conditions:

a) The bank must have an appropriate capital/liquidity plan in place to ensure that it has sufficient capital and liquidity available in the event of an early amortization;

b) Throughout the duration of the transaction, including the amortization period, there is the same pro rata sharing of interest, principal, expenses, losses and recoveries based on the bank's and investors' relative shares of the receivables outstanding at the beginning of each month;

c) The bank must set a period for amortization that would be sufficient for at least ninety percent (90%) of the total debt outstanding at the beginning of the early amortization period to have been repaid or recognized as in default; and

d) The pace of repayment should not be any more rapid than would be allowed by straight-line amortization over the period set out in criterion (c).

An early amortization provision that does not satisfy the conditions for a controlled early amortization provision will be treated as non-controlled early amortization provision.

9. *Eligible liquidity facilities* – an off-balance sheet securitization exposure shall be treated as an eligible liquidity facility if the following minimum requirements are satisfied:

a) The facility documentation must clearly identify and limit the circumstances under which it may be drawn. Draws under the facility must be limited to the amount that is likely to be repaid fully from the liquidation of the underlying exposures and any seller-provided credit enhancements. In addition, the facility must not cover any losses incurred in the underlying pool of exposures prior to a draw, or be structured such that draw-down is certain (as indicated by regular or continuous draws);

b) The facility must be subject to an asset quality test that precludes it from being drawn to cover credit risk exposures that are considered non-performing under existing Bangko Sentral regulations. In addition, liquidity facilities should only fund exposures that are externally rated investment grade at the time of funding;

c) The facility cannot be drawn after all applicable (e.g., transaction-specific and program-wide) credit enhancements from which the liquidity would benefit have been exhausted; and

d) Repayment of draws on the facility (i.e., assets acquired under a purchase agreement or loans made under a lending agreement) must not be subordinated to any interests of any note holder in the program or subject to deferral or waiver.

10. *Eligible servicer cash advance facilities* – cash advance that may be provided by servicers to ensure an uninterrupted flow of payments to investors. The servicer should be entitled to full reimbursement and this right is senior to other claims on cash flows from the underlying pool of exposures.

11. *Excess spread* – generally defined as gross finance charge collections and other income received by the trust or special purpose entity (SPE, specified in paragraph 13) minus certificate interest, servicing fees, charge-offs, and other senior trust or SPE expenses.

12. *Implicit support* – arises when a bank provides support to a securitization in excess of its predetermined contractual obligation.

13. *Special purpose entity* – a corporation, trust, or other entity organized for a specific purpose, the activities of which are limited to those appropriate to accomplish the purpose of the SPE, and the structure of which is intended to isolate the SPE from the credit risk of an originator or seller of exposures. SPEs are commonly used as financing vehicles in which exposures are sold to a trust or similar entity in exchange for cash or other assets funded by debt issued by the trust.

B. Operational requirements for the recognition of risk transference in traditional securitizations

14. An originating bank may exclude securitized exposures from the calculation of risk-weighted assets only if all of the following conditions have been met. Banks meeting these conditions, however, must still hold regulatory capital against any securitization exposures they retain.

a) Significant credit risk associated with the securitized exposures has been transferred to third parties.

b) The transferor does not maintain effective or indirect control over the transferred exposures. The assets are legally isolated from the transferor in such a way (e.g., through the sale of assets or through subparticipation) that the exposures are put beyond the reach of the transferor and its creditors, even in bankruptcy or receivership. These conditions must be supported by an opinion provided by a qualified legal counsel.

The transferor is deemed to have maintained effective control over the transferred credit risk exposures if it:

i. is able to repurchase from the transferee the previously transferred exposures in order to realize their benefits; or

ii. is obligated to retain the risk of the transferred exposures.

The transferor's retention of servicing rights to the exposures will not necessarily constitute indirect control of the exposures.

c) The securities issued are not obligations of the transferor. Thus, investors who purchase the securities only have claim to the underlying pool of exposures.

d) The transferee is an SPE and the holders of the beneficial interests in that entity have the right to pledge or exchange them without restriction.

e) Clean-up calls must satisfy the conditions set out in paragraph 17.

f) The securitization does not contain clauses that (i) require the originating bank to alter systematically the underlying exposures such that the pool's weighted average credit quality is improved unless this is achieved by selling assets to independent and unaffiliated third parties at market prices; (ii) allow for increases in a retained first loss position or credit enhancement provided by the originating bank after the transaction's inception; or (iii) increase the yield payable to parties other than the originating bank, such as investors and third-party providers of credit enhancements, in response to a deterioration in the credit quality of the underlying pool.

C. Operational requirements for the recognition of risk transference in synthetic securitizations

15. For synthetic securitizations, the use of CRM techniques (i.e., collateral, guarantees and credit derivatives) for hedging the underlying exposure may be recognized for risk-based capital purposes only if the conditions outlined below are satisfied:

a) Credit risk mitigants must comply with the requirements as set out in Part IV.B and Part V of this Framework.

b) Eligible collateral is limited to that specified in paragraph 34, Part IV.B. Eligible collateral pledged by SPEs may be recognized.

c) Eligible guarantors are defined in paragraph 47, Part IV.B. SPEs are not recognized as eligible guarantors in the securitization framework.

d) Banks must transfer significant credit risk associated with the underlying exposure to third parties.

e) The instruments used to transfer credit risk must not contain terms or conditions that limit the amount of credit risk transferred, such as those provided below:

i. Clauses that materially limit the credit protection or credit risk transference (e.g., significant materiality thresholds below which credit protection is deemed not to be triggered even if a credit event occurs or those that allow for the termination of the protection due to deterioration in the credit quality of the underlying exposures);

ii. Clauses that require the originating bank to alter the underlying exposures to improve the pool's weighted average credit quality;

iii. Clauses that increase the banks' cost of credit protection in response to deterioration in the pool's quality;

iv. Clauses that increase the yield payable to parties other than the originating bank, such as investors and third-party providers of credit enhancements, in response to a deterioration in the credit quality of the reference pool; and

v. Clauses that provide for increases in a retained first loss position or credit enhancement provided by the originating bank after the transaction's inception.

f) An opinion must be obtained from a qualified legal counsel that confirms the enforceability of the contracts in all relevant jurisdictions.

g) Clean-up calls must satisfy the conditions set out in paragraph 17.

16. For synthetic securitizations, the effect of applying CRM techniques for hedging the underlying exposure are treated according to Part IV.B and Part V of this Framework. In case there is a maturity mismatch, the capital requirement will be determined in accordance with paragraphs 50 to 54, Part IV.B. When the exposures in the underlying pool have different maturities, the longest maturity must be taken as the maturity of the pool. Maturity mismatches may arise in the context of synthetic securitizations when, for example, a bank uses credit derivatives to transfer part or all of the credit risk of a specific pool of assets to third parties. When the credit derivatives unwind, the transaction will terminate. This implies that the effective maturity of the tranches of the synthetic securitization may differ from that of the underlying exposures. Originating banks of synthetic securitizations with such maturity mismatches must deduct all retained positions that are unrated or rated

below investment grade. Accordingly, when deduction is required, maturity mismatches are not taken into account. For all other securitization exposures, the bank must apply the maturity mismatch treatment set forth in paragraphs 50 to 54, Part IV.B.

D. Operational requirements and treatment of clean-up calls

17. For securitization transactions that include a clean-up call, no capital will be required due to the presence of a clean-up call if the following conditions are met: (i) the exercise of the clean-up call must not be mandatory, in form or in substance, but rather must be at the discretion of the originating bank; (ii) the clean-up call must not be structured to avoid allocating losses to credit enhancements or positions held by investors or otherwise structured to provide credit enhancement; and (iii) the clean-up call must only be exercisable when ten percent (10%) or less of the original underlying portfolio, or securities issued remain, or, for synthetic securitizations, when ten percent (10%) or less of the original reference portfolio value remains.

18. Securitization transactions that include a clean-up call that does not meet all of the criteria stated in paragraph 17 result in a capital requirement for the originating bank. For a traditional securitization, the underlying exposures must be treated as if they were not securitized. Additionally, banks must not recognize in regulatory capital any gain-on-sale, as defined in paragraph 23. For synthetic securitization, the bank purchasing protection must hold capital against the entire amount of the securitized exposures as if they did not benefit from any credit protection. Same treatment applies for synthetic securitization that incorporates a call, other than a clean-up call, that effectively terminates the transaction and the purchased credit protection on a specified date.

19. If a clean-up call, when exercised, is found to serve as a credit enhancement, the exercise of the clean-up call must be considered a form of implicit support provided by the bank and must be treated in accordance with paragraph 26.

E. Operational requirements for use of external credit assessments

20. The following operational criteria concerning the use of external credit assessments apply in the securitization framework:

a) To be eligible for risk-weighting purposes, the external credit assessment must take into account and reflect the entire amount of credit risk exposure the bank has with regard to all payments owed to it. For example, if a bank is owed both principal and interest, the assessment must fully take into account and reflect the credit risk associated with timely repayment of both principal and interest.

b) The external credit assessments must be from an eligible ECAI as recognized by the bank's national supervisor in accordance with Part IV.C. An eligible credit assessment must be publicly available. In other words, a rating must be published in an accessible form and included in the ECAI's transition matrix. Consequently, ratings that are made available only to the parties to a transaction do not satisfy this requirement.

c) Eligible ECAIs must have a demonstrated expertise in assessing securitizations, which may be evidenced by strong market acceptance.

d) A bank must apply external credit assessments from eligible ECAIs consistently across a given type of securitization exposure. Furthermore, a bank cannot use the credit assessments issued by one ECAI for one or more tranches and those of another ECAI for other positions (whether retained or purchased) within the same securitization structure that may or may not be rated by the first ECAI. Where two or more eligible ECAIs can be used and these assess the credit risk of the same securitization exposure differently, paragraph 59 of Part IV.C will apply.

e) Where CRM is provided directly to an SPE by an eligible guarantor defined in paragraph 47 of Part IV.B and is reflected in the external credit assessment assigned to a securitization exposure(s), the risk weight associated with that external credit assessment should be used. In order to avoid any double counting, no additional capital recognition is permitted. If the CRM provider is not an eligible guarantor, the covered securitization exposures should be treated as unrated.

f) In the situation where a credit risk mitigant is not obtained by the SPE but rather applied to a specific securitization exposure within a given structure (e.g., ABS tranche), the bank must treat the exposure as if it is unrated and then use the CRM treatment outlined in Part IV.B to recognize the hedge.

F. Risk-weighting

21. The risk-weighted asset amount of a securitization exposure is computed by multiplying the amount of the position by the appropriate risk weight determined in accordance with the following table. For off-balance sheet exposures, banks must apply a credit conversion factor (CCF) and then risk weight the resultant credit equivalent amount.

Credit assessment[1]	**AAA to AA-**	**A+ to A-**	**BBB+ to BBB-**	**Below BBB- and unrated**
Risk weight	20%	50%	100%	Deduction from CET 1 capital

22. The capital treatment of implicit support, liquidity facilities, securitizations of revolving exposures, and credit risk mitigants are identified separately.

23. Banks must deduct from CET 1 capital any increase in equity capital resulting from a securitization transaction, such as that associated with expected future margin income resulting in a gain-on-sale that is recognized in regulatory capital. Such an increase in capital is referred to as a "gain-on-sale" for the purposes of the securitization framework.

24. Credit enhancing interest only, net of the amount that must be deducted from CET 1 as in paragraph 23.

25. Deductions from capital may be calculated net of any specific provisions taken against the relevant securitization exposures.

26. When a bank provides implicit support to a securitization, it must, at a minimum, hold capital against all of the exposures associated with the securitization transaction as if they had not been securitized. Additionally, banks would not be permitted to recognize in regulatory capital any gain-on-sale, as defined in paragraph 23. Furthermore, the bank is required to disclose publicly that (a) it has provided non-contractual support and (b) the capital impact of doing so.

27. As a general rule, off-balance sheet securitization exposures will receive a CCF of 100%, except in the cases below.

28. A CCF of twenty percent (20%) and fifty percent (50%) will be applied to eligible liquidity facilities as defined in paragraph 9 above with original maturity of one year or less and more than one year, respectively. However, if an external rating of the facility itself is used for risk weighting the facility, a 100% CCF must be applied. A zero percent (0%) CCF may be applied to eligible liquidity facilities that are only available in the event of a general market disruption (i.e., whereupon more than one SPE across

[1] The notations follow the rating symbols used by Standard & Poor's. The mapping of ratings of all recognized external rating agencies is in Part III.C

different transactions are unable to roll over maturing commercial paper, and that inability is not the result of an impairment in the SPE's credit quality or in the credit quality of the underlying exposures). To qualify for this treatment, the conditions provided in paragraph 9 must be satisfied. Additionally, the funds advanced by the bank to pay holders of the capital market instruments (e.g., commercial paper) when there is a general market disruption must be secured by the underlying assets, and must rank at least *pari passu* with the claims of holders of the capital market instruments.

29. A CCF of zero percent (0%) will be applied to undrawn amount of eligible servicer cash advance facilities, as defined in paragraph 10 above, that are unconditionally cancellable without prior notice.

30. An originating bank is required to hold capital against the investors' interest (i.e., against both the drawn and undrawn balances related to the securitized exposures) when:

a) It sells exposures into a structure that contains an early amortization feature; and

b) The exposures sold are of a revolving nature. These involve exposures where the borrower is permitted to vary the drawn amount and repayments within an agreed limit under a line of credit (e.g., credit card receivables and corporate loan commitments).

31. Originating banks, though, are not required to calculate a capital requirement for early amortizations in the following situations:

a) Replenishment structures where the underlying exposures do not revolve and the early amortization ends the ability of the bank to add new exposures;

b) Transactions of revolving assets containing early amortization features that mimic term structures (i.e., where the risk of the underlying facilities does not return to the originating bank);

c) Structures where a bank securitizes one or more credit line(s) and where investors remain fully exposed to future draws by borrowers even after an early amortization event has occurred; and

d) The early amortization clause is solely triggered by events not related to the performance of the securitized assets or the selling bank, such as material changes in tax laws or regulations.

32. As described below, the CCFs depend upon whether the early amortization repays investors through a controlled or non-controlled mechanism. They also differ according to whether the securitized exposures are uncommitted retail credit lines (e.g., credit card receivables) or other credit lines (e.g., revolving corporate facilities). A line is considered uncommitted if it is unconditionally cancellable without prior notice.

33. For uncommitted retail credit lines (e.g., credit card receivables) that have either controlled or non-controlled early amortization features, banks must compare the three-month average excess spread defined in paragraph 11 to the point at which the bank is required to trap excess spread as economically required by the structure (i.e., excess spread trapping point). In cases where such a transaction does not

require excess spread to be trapped, the trapping point is deemed to be 4.5 percentage points.

34. The bank must divide the excess spread level by the transaction's excess spread trapping point to determine the appropriate segments and apply the corresponding conversion factors, as outlined in the following tables:

	Controlled		Non- controlled	
	3-month average excess spread- credit conversion factor (CCF)	**Credit conversion factor (CCF)**	**3-month average excess spread- credit conversion factor (CCF)**	**Credit conversion factor (CCF)**
	Uncommitted	**Committed**	**Uncommitted**	**Committed**
Retail credit lines	133.33% of trapping point or more - 0% CCF less than 133.33% to 100% of trapping point - 1% CCF less than 100% to 75% off trapping point - 2% CCF less than 75% to 50% of trapping point - 10% CCF less than 50% to 25% of trapping point - 20% CCF less than 25% of trapping point - 40%	90% CCF	133.33% of trapping point or more - 0% CCF less than 133.33% to 100% of trapping point - 5% CCF less than 100% to 75% of trapping point - 15% CCF less than 75% to 50% of trapping point 50% CCF less than 50% of trapping point - 100% CCF	100% CCF
Non-retail credit lines	90% CCF	90% CCF	100%CCF	100% CCF

35. All other securitized revolving exposures with controlled and non-controlled early amortization features will be subject to CCFs of ninety percent (90%) and 100%, respectively, against the off-balance sheet exposures.

36. The CCF will be applied to the amount of the investors' interest. The resultant credit equivalent amount shall then be applied a risk weight applicable to the underlying exposure type, as if the exposures had not been securitized.

37. For a bank subject to the early amortization treatment, the total capital charge for all of its positions will be subject to a maximum capital requirement (i.e., a 'cap') equal to the greater of (i) that required for retained securitization exposures, or (ii) the capital requirement that would apply had the exposures not been securitized. In addition, banks must deduct the entire amount of any gain-onsale and credit enhancing interest only arising from the securitization transaction in accordance with paragraphs 23 and 25.

G. Credit risk mitigation

38. The treatment below applies to a bank that has obtained or given a credit risk mitigant on a securitization exposure. Credit risk mitigants include collateral, guarantees, and credit derivatives. Collateral in this

context refers to that used to hedge the credit risk of a securitization exposure rather than the underlying exposures of the securitization transaction.

Collateral

39. Eligible collateral is limited to that recognized in paragraph 34, Part IV.B. Collateral pledged by SPEs may be recognized.

Guarantees and credit derivatives

40. Credit protection provided by the entities listed in paragraph 47, Part IV.B may be recognized. SPEs cannot be recognized as eligible guarantors.

41. Where guarantees or credit derivatives fulfill the minimum operational requirements as specified in Part IV.B and Part V, respectively, banks can take account of such credit protection in calculating capital requirements for securitization exposures.

42. Capital requirements for the collateralized or guaranteed/protected portion will be calculated according to Part IV.B and Part V.

43. A bank other than the originator providing credit protection to a securitization exposure must calculate a capital requirement on the covered exposure as if it were an investor in that securitization. A bank providing protection to an unrated credit enhancement must treat the credit protection provided as if it were directly holding the unrated credit enhancement.

Maturity mismatches

44. For the purpose of setting regulatory capital against a maturity mismatch, the capital requirement will be determined in accordance with paragraphs 50 to 54, Part IV.B, except for synthetic securitizations which will be determined in accordance with paragraph 16.

Part VII. Market Risk-weighted Assets

1. Market risk is defined as the risk of losses in on- and off-balance sheet positions arising from movements in market prices. The risks addressed in these guidelines are:

a) The risks pertaining to interest rate-related instruments and equities in the trading book; and

b) Foreign exchange risk throughout the bank.

A. Definition of the trading book

2. A trading book consists of positions in financial instruments held either with trading intent or in order to hedge other elements of the trading book. To be eligible for trading book capital treatment, financial instruments must either be free of any restrictive covenants on their tradability or able to be hedged completely. In addition, positions should be frequently and accurately valued, and the portfolio should be actively managed.

3. A financial instrument is any contract that gives rise to both a financial asset of one entity and a financial liability or equity instrument of another entity. Financial instruments include both primary financial instruments (or cash instruments) and derivative financial instruments. A financial asset is any asset that is cash, the right to receive cash or another financial asset; or the contractual right to exchange financial assets on potentially favorable terms, or an equity instrument. A financial liability is the contractual obligation to deliver cash or another financial asset or to exchange financial liabilities under conditions that are potentially unfavorable.

4. Positions held with trading intent are those held intentionally for short-term resale and/or with the intent of benefiting from actual or expected short-term price movements or to lock in arbitrage profits, and may include for example proprietary

positions, positions arising from client servicing (e.g. matched principal brokering) and market making.

5. The following will be the basic requirements for positions eligible to receive trading book capital treatment:

a) Clearly documented trading strategy for the position/instrument or portfolios, approved by senior management (which would include expected holding horizon);

b) Clearly defined policies and procedures for the active management of the position, which must include:

i. positions are managed on a trading desk;

ii. position limits are set and monitored for appropriateness;

iii. dealers have the autonomy to enter into/manage the position within agreed limits and according to the agreed strategy;

iv. positions are marked to market at least daily, and when marking to model the parameters must be assessed on a daily basis;

v. positions are reported to senior management as an integral part of the institution's risk management process; and

vi. positions are actively monitored with reference to market information sources (assessment should be made of the market liquidity or the ability to hedge positions or the portfolio risk profiles). This would include assessing the quality and availability of market inputs to the valuation process, level of market turnover, sizes of positions traded in the market, etc.

c) Clearly defined policy and procedures to monitor the positions against the bank's trading strategy including the monitoring of turnover and stale positions in the bank's trading book.

6. The documentations of the basic requirements of Part V, Item "5" should be submitted to the Bangko Sentral.

7. In addition to the above documentation requirements, the bank should also submit to the Bangko Sentral a documentation of its systems and controls for the prudent valuation of positions in the trading book including the valuation methodologies.

B. Measurement of capital charge

8. The market risk capital charge shall be computed according to the methodology set under Subsec. 1115.2 of the MORB, subject to certain modifications as outlined in the succeeding paragraphs.

9. The specific risk weights for trading book positions in debt securities and debt derivatives shall depend on the third party credit assessment of the issue or the type of issuer, as may be appropriate, as follows:

Credit ratings of debt securities/derivatives issued by sovereigns[1]	**Credit ratings of debt securities/derivatives issued by MDBs**	**Credit ratings of debt securities/derivatives issued by other entities**	**Unadjusted specific risk weight**
Php-denominated debt securities/derivatives issued by the Philippine NG and Bangko Sentral			0.00%
LGU Bonds covered by Deed of Assignment of Internal Revenue Allotment and guaranteed by LGU Guarantee Corporation			4.00%
AAA to AA-	AAA		0.00%
A+ to BBB-	AA+ to BBB-	AAA to BBB-	
Residual maturity ≤ 6 months	Residual maturity ≤ 6 months	Residual maturity ≤ 6 months	0.25%
Residual maturity > 6 months, ≤ 24 months	Residual maturity > 6 months, ≤ 24 months	Residual maturity > 6 months, ≤ 24 months	1.00%
Residual maturity > 24 months	Residual maturity > 24 months	Residual maturity > 24 months	1.60%
		All other debt securities/ derivatives	8.00%

[1] The notations follow the rating symbols used by Standard & Poor's. The mapping of ratings of all recognized external rating agencies is in Part III.C. For purposes of this framework, debt securities/derivatives issued by sovereigns include foreign currency denominated debt securities/derivatives issued by the Philippine NG.

10. Foreign currency denominated debt securities/derivatives issued by the Philippine NG and Bangko Sentral[1] shall be risk-weighted according to the table above: *Provided*, That only one-third (1/3) of the applicable risk weight shall be applied from 01 July 2007, two-thirds (2/3) from 01 January 2008, and the full risk weight from 01 January 2009.

11. A security, which is the subject of a repo-style transaction, shall be treated as if it were still owned by the seller/lender of the security, i.e., to be reported by the seller/ lender.

12. In addition to capital charge for specific and general market risk, a credit risk capital charge should be applied to banks' counterparty exposures in repo-style transactions and OTC derivatives contracts. The computation of the credit risk capital charge for counterparty exposures arising from trading book positions are discussed in paragraphs 35 to 41 of Part IV.B.

(As amended by Circular No. 605 dated 05 March 2008)

C. Measurement of risk-weighted assets

13. Market risk-weighted assets are determined by multiplying the market risk capital charge by ten (10) [i.e., the reciprocal of the minimum capital ratio of ten percent (10%)].

Part VIII. Operational Risk-weighted Assets

A. Definition of operational risk

1. Operational risk is defined as the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events. This definition includes legal risk, but excludes strategic and reputational risk.

2. Banks should be guided by the Basel Committee on Banking Supervision's recommendations on *Sound Practices for the Management and Supervision of Operational Risk* (February 2003). The same may be downloaded from the BIS website (www.bis.org).

B. Measurement of capital charge

3. In computing for the operational risk capital charge, Banks may use either the basic indicator approach or the standardized approach.

4. Under the basic indicator approach, banks must hold capital for operational risk equal to fifteen percent (15%) of the average gross income over the previous three (3) years of positive annual gross income. Figures for any year in which annual gross income is negative or zero should be excluded from both the numerator and denominator when calculating the average.

5. Banks that have the capability to map their income accounts into the various business lines given in paragraph 7 may use the standardized approach subject to prior Bangko Sentral approval[2]. In order to qualify for use of the standardized approach, a bank must satisfy Bangko Sentral that, at a minimum:

a) Its board of directors and senior management are actively involved in the oversight of the operational risk management framework;

b) It has an operational risk management system that is conceptually sound and is implemented with integrity; and

c) It has sufficient resources in the use of the approach in the major business lines as well as the control and audit areas.

6. Operational risk capital charge is calculated as the three (3)-year average of the simple summation of the regulatory capital charges across each of the business lines in each year. In any given year, negative capital charges (resulting from negative gross income) in any business line may offset positive capital charges in other business

[1] Warrants paired with ROP Global Bonds shall be exempted from capital charge for market risk only to the extent of bank's holdings of bonds paired with warrants equivalent to not more than fifty (50%) of total qualifying capital, as defined under Part II of this Appendix.

[2] Refer to *Appendix Q-46b* for the Guidelines on the Use of the Standardized Approach in Computing the Capital Charge for Operational Risk

lines without limit. However, where the aggregate capital charge across all business lines within a given year is negative, then figures for that year shall be excluded from both the numerator and denominator.

7. The business lines and their corresponding beta factors are listed below:

Business lines Level 1	Business lines Level 2	Activity Groups	Beta factors
Corporate finance	Corporate Finance Municipal/Government Finance Advisory Services	Mergers and acquisitions, underwriting, privatization, securitization, research, debt (government, high yield), equity, syndications, IPO, secondary private placements	18%
Trading and Sales	Sales Market Making Proprietary Positions Treasury	Fixed income, equity, foreign exchanges, commodities, credit, funding, own position securities, lending and repos, brokerage, debt, prime brokerage	18%
Retail Banking	Retail Banking	Retail lending and deposits, banking services, trust and estates	12%
	Private Banking	Private lending and deposits, banking services, trust and estates, investment advice	
	Card Services	Merchant/commercial/corporate cards, private labels and retail	
Commercial Banking	Commercial Banking	Project finance, real estate, export finance, trade finance, factoring, leasing, lending, guarantees, bills of exchange	15%
Payment and Settlement	External Clients	Payments and collections, funds transfer, clearing and settlement	18%
Agency Services	Custody	Escrow, depository receipts, securities lending (customers) corporate actions	15%
	Corporate Agency	Issuer and paying agents	
	Corporate Trust		
Asset Management	Discretionary Fund Management Non-Discretionary Fund Management	Discretionary and non-discretionary fund management, whether pooled, segregated, retail, institutional, closed, open, private equity	12%
Retail Brokerage	Retail brokerage	Execution and full service	12%

8. Gross income, for the purpose of computing for operational risk capital charge, is defined as net interest income plus non-interest income. This measure should:

a) be gross of any provisions for losses on accrued interest income from financial assets;

b) be gross of operating expenses, including fees paid to outsourcing service providers;

c) include fees and commissions;

d) exclude gains/(losses) from the sale/redemption/derecognition of non-trading financial assets and liabilities;

e) exclude gains/(losses) from sale/derecognition of non-financial assets; and

f) include other income (i.e., rental income, miscellaneous income, etc.)

C. Measurement of risk-weighted assets

9. The resultant operational risk capital charge is to be multiplied by 125% before multiplying by ten (10) [i.e., the reciprocal of the minimum capital ratio of ten percent (10%)].

(As amended by M-2007-019 dated 21 June 2007)

Part IX Disclosures in the Annual Reports and Published Financial Statements

This section lists the specific information that banks have to disclose, at a minimum, in their Annual Reports, except Item "i", paragraph 3 which should also be disclosed in banks' quarterly Published Balance Sheet.

2. Full compliance of these disclosure requirements is a prerequisite before banks can obtain any capital relief (i.e., adjustments in the risk weights of collateralized or guaranteed exposures) in respect of any credit risk mitigation techniques.

A. Capital structure and capital adequacy

3. The following information with regard to banks' capital structure and capital adequacy shall be disclosed in banks' Annual Reports, except Item "i" below which should also be disclosed in banks' quarterly published Balance Sheet:

a) CET1 capital and a breakdown of its components;

b) Tier 1 capital and a breakdown of its components;

c) Tier 2 capital and a breakdown of its components;

d) Total qualifying capital;

e) Capital conservation buffer;

f) Capital requirements for credit risk (including securitization exposures);

g) Capital requirements for market risk;

h) Capital requirements for operational risk; and

i) Total CAR, Tier 1 and CET1 ratios on both solo and consolidated bases.

4. In addition to the above disclosure requirements, the following shall likewise be disclosed to improve transparency of regulatory capital and enhance market discipline:

a) Full reconciliation of all regulatory capital elements back to the balance sheet in the audited financial statements;

b) All regulatory adjustments/ deductions, as applicable;

c) Description of the main features of capital instruments issued; and

d) Comprehensive explanations of how ratios involving components of regulatory capital are calculated.

5. On top of the above disclosure requirements, banks/QBs shall be required to make available on their websites the full terms and conditions of all instruments included in regulatory capital.

B. Risk exposures and assessments

6. For each separate risk area (credit, market, operational, interest rate risk in the banking book), banks must describe their risk management objectives and policies, including:

a) Strategies and processes;

b) The structure and organization of the relevant risk management function;

c) The scope and nature of risk reporting and/or measurement systems; and

d) Policies for hedging and/or mitigating risk, and strategies and processes for monitoring the continuing effectiveness of hedges/mitigants.

Credit risk

7. Aside from the general disclosure requirements stated in paragraph 4, the following information with regard to credit risk have to be disclosed in banks' Annual Reports:

a) Total credit risk exposures (i.e., principal amount for on-balance sheet and credit equivalent amount for off-balance sheet, net of specific provision) broken down by type of exposures as defined in Part IV;

b) Total credit risk exposure after risk mitigation, broken down by:

i. type of exposures as defined in Part IV; and

ii. risk buckets, as well as those that are deducted from capital;

c) Total credit risk-weighted assets broken down by type of exposures as defined in Part IV;

d) Names of external credit assessment institutions used, and the types of exposures for which they were used;

e) Types of eligible credit risk mitigants used including credit derivatives;

f) For banks with exposures to securitization structures, aside from the general disclosure requirements stated in paragraph 4, the following minimum information have to be disclosed:

i. Accounting policies for these activities;

ii. Total outstanding exposures securitized by the bank; and

iii. Total amount of securitization exposures retained or purchased, broken down by exposure type;

g) For banks that provide credit protection through credit derivatives, aside from the general disclosure requirements stated in paragraph 4, total outstanding amount of credit protection given by the bank broken down by type of reference exposures should also be disclosed; and

h) For banks with investments in other types of structured products, aside from the general disclosure requirements stated in paragraph 4, total outstanding amount of other types of structured products issued or purchased by the bank broken down by type should also be disclosed.

Market risk

8. Aside from the general disclosure requirements stated in paragraph 4, the following information with regard to market risk have to be disclosed in banks' Annual Reports:

a) Total market risk-weighted assets broken down by type of exposures (interest rate, equity, foreign exchange, and options); and

b) For banks using the internal models approach, the following information have to be disclosed:

i. The characteristics of the models used;

ii. A description of stress testing applied to the portfolio;

iii. A description of the approach used for backtesting/validating the accuracy and consistency of the internal models and modeling processes;

iv. The scope of acceptance by the Bangko Sentral; and

v. A comparison of VaR estimates with actual gains/losses experienced by the bank, with analysis of important outliers in backtest results.

Operational risk

9. Aside from the general disclosure requirements stated in paragraph 4, banks have to disclose their operational risk-weighted assets in their Annual Reports.

Interest rate risk in the banking book

10. Aside from the general disclosure requirements stated in paragraph 4, the following information with regard to interest rate risk in the banking book have to be disclosed in banks' Annual Reports:

a) Internal measurement of interest rate risk in the banking book, including assumptions regarding loan prepayments and behavior of non-maturity deposits, and frequency of measurement; and

b) The increase (decline) in earnings or economic value (or relevant measure used by management) for upward and downward rate shocks according to internal measurement of interest rate risk in the banking book.

Part X. Enforcement

(Transferred to Subsec. 4115Q.9)

(Circular No. 538 dated 04 August 2006, as amended by Circular Nos. 914 dated 23 June 2016, 890 dated 02 November 2015, 858 dated 21 December 2014, 826 dated 14 February 2014, 822 dated 13 December 2013, 781 dated 15 January 2013, M-2013-056 dated 10 December 2013, Circular No. 762 dated 25 July 2012, 750 dated 01 March 2012, 717 and 716 both dated 25 March 2011, 713 dated 14 February 2011 and 709 dated 10 January 2011, M-2008-015 dated 25 March 2008, Circular Nos. 605 dated 05 March 2008 and 588 dated 11 December 2007, M-2007-019 dated 21 June 2007, Circular No. 560 dated 31 January 2007 and M-2006-022 dated 24 November 2006)

Annex A

COMMON SHARES

Criteria for classification as common shares for regulatory capital purposes

1. It represents the most subordinated claim in liquidation.

2. It is entitled to a claim on the residual assets that is proportional with its share of issued capital, after all senior claims have been repaid in liquidation (i.e., has an unlimited and variable claim, not a fixed or capped claim).

3. Its principal is perpetual and never repaid outside of liquidation (setting aside discretionary repurchases or other means of effectively reducing capital in a discretionary manner that is allowable under relevant law).

4. The bank does nothing to create an expectation at issuance that the instrument will be bought back, redeemed or cancelled nor do the statutory or contractual terms provide any feature which might give rise to such an expectation.

5. The distributions are paid out of distributable items (retained earnings included). The level of distributions is not in any way tied or linked to the amount paid in at issuance and is not subject to a contractual cap (except to the extent that a bank is unable to pay distributions that exceed the level of distributable items).

6. There are no circumstances under which the distributions are obligatory. Non payment is therefore not an event of default.

7. The distributions are paid only after all legal and contractual obligations have been met and payments on more senior capital instruments have been made. This means that there are no preferential distributions, including in respect of other elements classified as the highest quality issued capital.

8. It is the issued capital that takes the first and proportionately greatest share of any losses as they occur[1]. Within the highest quality capital, each instrument absorbs losses on a going concern basis proportionately and *pari passu* with all the others.

9. The paid in amount is recognized as equity capital (i.e., not recognized as a liability) for determining balance sheet insolvency.

10. The paid in amount is classified as equity under the relevant accounting standards.

11. It is directly issued and paid-in and the bank can not directly or indirectly have funded the purchase of the instrument.

12. It must be underwritten by a third party not related to the issuer bank/QB nor acting in reciprocity for and in behalf of the issuer bank/QB.

13. The paid in amount is neither secured nor covered by a guarantee of the issuer or related entity[2] or subject to any other arrangement that legally or economically enhances the seniority of the claim.

14. It is only issued with the approval of the owners of the issuing bank, either given directly by the owners or, if permitted by applicable law, given by the board of directors or by other persons duly authorized by the owners.

15. It is clearly and separately disclosed on the bank's balance sheet.

(Circular No. 781 dated 15 January 2013)

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[1] In cases where capital instruments have a permanent write-down feature, this criterion is still deemed to be met by common shares.

[2] A related entity can include a parent company, a sister company, a subsidiary or any affiliate. A holding company is a related entity irrespective of whether it forms part of the consolidated banking group.

Annex B

ADDITIONAL TIER 1 CAPITAL

Criteria for inclusion in Additional Tier 1 capital

1. It must be issued and paid-in.

2. It must be subordinated to depositors, general creditors and subordinated debt of the bank/QB.

3. It is neither secured nor covered by a guarantee of the issuer or related entity or other arrangement that legally or economically enhances the seniority of the claim vis-à-vis bank/QB creditors.

4. It is perpetual, ie., there is no maturity date and there are no step-ups or other incentives to redeem.

5. It may be callable at the initiative of the issuer only after a minimum of five(5) years, subject to the following conditions:

a. To exercise a call option a bank/QB must receive prior supervisory approval;

b. A bank/QB must not do anything which creates an expectation that the call will be exercised; and

c. Banks/QBs must not exercise a call unless:

i. They replace the called instrument with capital of the same or better quality and the replacement of this capital is done at conditions which are sustainable for the income capacity of the bank/QB[1]; or

ii. The bank/QB demonstrates that its capital position is well above the minimum capital requirements after the call option is exercised.

6. Any repayment of principal (e.g. through repurchase or redemption) must be with prior supervisory approval and banks should not assume or create market expectations that supervisory approval will be given.

7. With regard to dividend/coupon discretion:

a. The bank/QB must have full discretion at all times to cancel distributions/ payments[2];

b. Cancellation of discretionary payments must not be an event of default;

c. Banks/QB must have full access to cancelled payments to meet obligations as they fall due; and

d. Cancellation of distributions/ payments must not impose restrictions on the bank except in relation to distributions to common stockholders.

8. Dividends/coupons must be paid out of distributable items.

9. The instrument cannot have a credit sensitive dividend feature, that is a dividend/ coupon that is reset periodically based in whole or in part on the bank's/ QB 's credit standing.

10. The instrument cannot contribute to liabilities exceeding assets if such a balance sheet test forms part of national insolvency law.

11. Instruments classified as liabilities for accounting purposes must have principal loss absorption through either (i) conversion to common shares or (ii) a write-down mechanism which allocates losses to the instrument at a pre-specified trigger point. The trigger point is set at CET1 ratio of 7.25% or below or as determined by the Bangko Sentral. The bank must submit an expert's opinion on the accounting treatment/classification of the instruments.

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[1] Replacement issues can be concurrent with but not after the instrument is called.

[2] A consequence of full discretion at all times to cancel distributions/payments is that "dividend pushers" are prohibited. An instrument with a dividend pusher obliges the issuing bank to make a dividend/coupon payment on the instrument if it has made a payment on another (typically more junior) capital instrument or share. This obligation is inconsistent with the requirement for full discretion at all times. Furthermore, the term "cancel distributions/payments" means extinguish these payments. It does not permit features that require the bank to make distributions/payments in kind.

The guidelines on loss absorbency features of AT1 capital as provided in *Appendix Q-46 Annex E* shall likewise be observed.

12. It must have a provision that requires the instrument to either be written off or converted into common equity upon the occurrence of a trigger event.

The trigger event occurs when a bank/QB is considered nonviable as determined by the Bangko Sentral. Non-viability is defined as a deviation from a certain level of CET1 ratio, inability of the bank/QB to continue business (CLOSURE), or any other event as may be determined by the Bangko Sentral, whichever comes earlier.

The issuance of any new shares as a result of the trigger event must occur prior to any public sector injection of capital so that the capital provided by the public sector is not diluted.

The guidelines on loss absorbency features of AT1 capital at point of non-viability as provided in *Appendix Q-46 Annex F* shall likewise be observed.

13. The write-down will have the following effects:

a. Reduce the claim of the instrument in liquidation;

b. Reduce the amount re-paid when a call is exercised; and

c. Partially or fully reduce coupon/dividend payments on the instrument.

14. Neither the bank/QB nor a related party over which the bank exercises control or significant influence can have purchased the instrument, nor can the bank/QB directly or indirectly have funded the purchase of the instrument.

15. The instrument cannot have any features that hinder recapitalization, such as provisions that require the issuer to compensate investors if a new instrument is issued at a lower price during a specified time frame.

16. It must be underwritten by a third party not related to the issuer bank/QB nor acting in reciprocity for and in behalf of the issuer bank/QB;

17. It must clearly state on its face that it is not a deposit and is not insured by the Philippine Deposit Insurance Corporation (PDIC).

18. The bank/QB must submit a written external legal opinion that the above-mentioned requirements, including the subordination and loss absorption features have been met.

19. If the instrument is not issued out of an operating entity or the holding company in the consolidated group (e.g. a special purpose vehicle – "SPV"), proceeds must be immediately available without limitation to an operating entity or the holding company in the consolidated group in a form which meets or exceeds all of the other criteria for inclusion in AT1 capital[1].

(Circular No. 781 dated 15 January 2013)

[1] Capital issued to third parties out of a special purpose vehicle cannot be included in Common Equity Tier1. Instruments meeting the criteria for eligibility as Additional Tier 1 capital will be treated as if the bank itself has issued the capital directly to 3rd parties. In cases where the capital has been issued to 3rd parties through an SPV via a fully consolidated subsidiary of the bank, such capital subject to the requirements for eligibility as AT1 capital, be treated as if the subsidiary itself had issued it directly to the third parties and may be included in the banks consolidated additional Tier 1 capital based on the treatment of minority interest.

Annex C

TIER 2 CAPITAL

Criteria for inclusion in Tier 2 Capital

1. It must be issued and paid-in.

2. It must be subordinated to depositors and general creditors of the bank/QB.

3. It is neither secured nor covered by a guarantee of the issuer or related entity or other arrangement that legally or economically enhances the seniority of the claim vis-à-vis depositors and general creditors of the bank/QB.

4. With regard to maturity:

a. It must have a minimum original maturity of at least five(5) years;

b. Its recognition in regulatory capital in the remaining five(5) years before maturity will be amortized on a straight line basis as shown in the table below; and

Remaining maturity	Discount factor
5 years & above	0%
4 years to <5 years	20%
3 years to <4 years	40%
2 years to <3 years	60%
1 year to <2 years	80%
< 1 year	100%

c. There are no step-ups or other incentives to redeem.

5. It may be callable at the initiative of the issuer only after a minimum of five (5) years:

a. To exercise a call option, a bank/QB must receive prior supervisory approval; and

b. A QB must not do anything which creates an expectation that the call will be exercised[1]; and

c. A Bank/QB must not exercise a call unless:

i. It replace the called instrument with capital of the same or better quality and the replacement of this capital is done at conditions which are sustainable for the income capacity of the bank/QB[2]; or

ii. The bank/QB demonstrates that its capital position is well above the minimum capital requirements after the call option is exercised.

6. The investor must have no rights to accelerate the repayment of future scheduled payments (coupon or principal), except in bankruptcy and liquidation.

7. The instrument cannot have a credit sensitive dividend feature, that is a dividend/ coupon that is reset periodically based in whole or in part on the bank's/QB's credit standing.

8. Neither the bank nor a related party over which the bank/QB exercises control or significant influence can have purchased the instrument, nor can the bank directly or indirectly have funded the purchase of the instrument.

9. It must be underwritten by a third party not related to the issuer bank/QB nor acting in reciprocity for and in behalf of the issuer bank/QB.

10. It must have a provision that requires the instrument to either be written off or converted into common equity upon the occurrence of a trigger event.

The trigger event occurs when a bank/ QB is considered nonviable as determined by the Bangko Sentral. Non-viability is defined as a deviation from a certain level of CET1 ratio, inability of the bank/QB to continue business (CLOSURE) or any other event as determined by the Bangko Sentral, whichever comes earlier.

The issuance of any new shares as a

[1] An option to call the instrument after five (5) years but prior to the start of the amortization period will not be viewed as an incentive to redeem as long as the bank/QB does not do anything that creates an expectation that the call will be exercised at this point.

[2] Replacement issues can be concurrent with but not after the instrument is called.

result of the trigger event must occur prior to any public sector injection of capital so that the capital provided by the public sector is not diluted.

The guidelines on loss absorbency features of T2 capital at point of nonviability as provided in *Appendix Q-46 Annex F* shall likewise be observed.

11. The write-down will have the following effects:

a. Reduce the claim of the instrument in liquidation;

b. Reduce the amount re-paid when a call is exercised; and

c. Partially or fully reduce coupon/ dividend payments on the instrument

12. The bank/QB must submit a written external legal opinion that the foregoing requirements, including the subordination and loss absorption features have been met.

13. It must clearly state on its face that it is not a deposit and is not insured by the PDIC.

14. If the instrument is not issued out of an operating entity or the holding company in the consolidated group (e.g. a special purpose vehicle – "SPV"), proceeds must be immediately available without limitation to an operating entity or the holding company in the consolidated group in a form which meets or exceeds all of the other.[1]

(Circular No. 781 dated 15 January 2013)

[1] Capital issued to third parties out of a special purpose vehicle cannot be included in CET1. Instruments meeting the criteria for eligibility as Tier 2 capital will be treated as if the bank itself has issued the capital directly to 3rd parties. In cases where the capital has been issued to third parties through an SPV via a fully consolidated subsidiary of the bank, such capital subject to the requirements for eligibility as Tier 2 capital, be treated as if the subsidiary itself had issued it directly to third parties through an SPV via a fully consolidated subsidiary of the bank, such capital subject to the requirements for eligibility as AT1 capital, be treated as if the subsidiary itself had issued it directly to the third parties and may be included in the banks consolidated additional Tier 1 capital based on the treatment of minority interest.

Annex D

Illustrative Sample

Computation of eligible minority interests to be included in parent bank's capital base

The case:

A banking group consists of two (2) legal entities that are both banks – Bank P is the parent and Bank S is the subsidiary. Their individual balance sheets are set out below:

Bank P – Balance Sheet		Bank S - Balance Sheet	
Assets		Assets	
Loans	90	Loans	160
CET1 investments in Bank S	30		
AT1 investments in Bank B	9		
Tier 2 investments in Bank S	4		
Liabilities and Equity		Liabilities and Equity	
Deposits	70	Deposits	90
Tier 2 capital instruments	20	Tier 2 capital instruments	16
AT1 capital instruments	12	AT1 capital instruments	11
CET1 capital instruments	31	CET1 capital instruments	43

The consolidated balance sheet of the banking group is set out below:

Consolidated balance sheet	
Assets	
Loans	250
Liabilities and equity	
Deposits	160
Tier 2 issued by subsidiary to third parties	12
Tier 2 issued by parent	20
AT1 issued by subsidiary to third parties	2
AT1 issued by parent	12
Common Equity issued by subsidiary to third parties (i.e., minority interest)	13
Common Equity issued by parent	31

The balance sheet of Bank P shows that in addition to its loans to customers, it has investments in Bank S as follows:

1. 70% of common shares;
2. 82% of Additional Tier 1 capital; and
3. 25% of Tier 2 capital.

	Amount issued to Bank P		Amount issued to third parties		Total
CET1	30	*70%*	13	*30%*	43
AT1	9	*82%*	2	*18%*	11
Tier 1	39		15		54
Tier 2	4	*25%*	12	*75%*	16
Total Capital	43		27		70

(A) Computation of minority interests arising from ordinary shares issued by a consolidated bank subsidiary

Step 1 –

Calculate the surplus CET1 of Bank S in excess of its 8.5% minimum CET1 plus conservation buffer requirement (i.e., 6.0% + 2.5%). Bank S is assumed to have risk weighted assets of 100.

Minimum and surplus capital of Bank S		
	Minimum plus capital conservation buffer	Surplus capital
CET1	8.5 (= 8.5% * 100)	34.5 (= 43 - 8.5)

Step 2 –

Calculate the eligible portion of minority interest (MI) arising from CET1 issued by Bank S that is allowed to be included in the consolidated capital of Bank P [i.e., item (e)].

Bank S : amount of capital issued to third parties included in consolidated capital					
	Total amount issued (a)	Amount issued to third parties (b)	Surplus capital (c)	Surplus attributable to third parties (i.e., amount excluded from consolidated capital) (d) = (c) * (b)/(a)	Amount included in consolidated capital (e) = (b) - (d)
CET1	43	13	34.5	10.4	2.6

Step 3 –

The eligible amount of MI to be included in the consolidated CET1 Capital of Bank P is 2.6.

	Total amount issued by Bank P (all of which is to be included in consolidated capital)	Amount issued by Bank S to third parties to be included in consolidated capital of Bank P	Total amount issued by Bank P and Bank S to be included in consolidated capital of Bank P
CET1	31	2.6	33.6

(B) Minority interests arising from ordinary shares and Additional Tier 1 capital instruments issued by a consolidated bank subsidiary

Step 1 –

Calculate the surplus Tier 1 Capital of Bank S in excess of its 10% minimum Tier 1 capital plus capital conservation buffer requirement (i.e., 7.5% + 2.5%). Bank S is assumed to have risk weighted assets of 100.

Minimum and surplus capital of Bank S		
	Minimum plus capital conservation buffer	Surplus capital
Tier 1	10 (= 10% * 100)	44 (=(43+11) – 10)

Step 2 –

Calculate the eligible portion of MI arising from Tier 1 Capital issued by Bank S that is allowed to be included in the consolidated capital of Bank P (i.e., item (e))

Bank S : amount of capital issued to third parties included in consolidated capital					
	Total amount issued (a)	Amount issued to third parties (b)	Surplus capital (c)	Surplus attributable to third parties (i.e., amount excluded from consolidated capital) (d) = (c) * (b)/(a)	Amount included in consolidated capital (e) = (b) - (d)
CET1	43	13	34.5	10.4	2.6
Tier 1	54	15	44	12.2	2.8

Step 3 –

The eligible amount for inclusion in Bank P's consolidated AT1 Capital is 2.0, arrived at by excluding from the eligible amount for inclusion as Tier 1 Capital (i.e., 2.8) the amount that has already been recognized in CET1 (i.e., 2.6).

	Total amount issued by Bank P (all of which is to be included in consolidated capital)	Amount issued by Bank S to third parties to be included in consolidated capital of Bank P	Total amount issued by Bank P and Bank S to be included in consolidated capital of Bank P
CET1	31	2.6	33.6
AT1	12	0.2	12.2
Tier 1	43	2.8	45.8

(C) Minority interests arising from Tier 1 capital instruments and Tier 2 capital instruments issued by a consolidated bank subsidiary

Step 1 –

Calculate the surplus total capital of Bank S in excess of 12.5% minimum total capital plus conservation buffer requirement (i.e., 10% + 2.5%). Bank S is assumed to have risk weighted assets of 100.

	Minimum and surplus capital of Bank S	
	Minimum plus capital conservation buffer	Surplus capital
Tier 2	12.5 (= 12.5% * 100)	57.5 (= (43+11+16) - 12.5)

Step 2 –

Calculate the eligible portion of MI arising from total capital by Bank S that is allowed to be included in the consolidated capital of Bank P (i.e., item (e)).

Bank S : amount of capital issued to third parties included in consolidated capital					
	Total amount issued (a)	Amount issued to third parties (b)	Surplus capital (c)	Surplus attributable to third parties (i.e., amount excluded from consolidated capital) (d) = (c) * (b)/(a)	Amount included in consolidated capital (e) = (b) - (d)
CET1	43	13	34.5	10.4	2.6
Tier 1	54	15	44	12.2	2.8
Total Capital	70	27	57.5	22.2	4.8

Step 3 –

The eligible amount for inclusion in Bank P's consolidated capital is 2.0, arrived at by excluding from the eligible amount for inclusion as total capital (i.e., 4.8) the amount that has already been recognized in Tier 1 Capital (i.e., 2.8).

	Total amount issued by Bank P (all of which is to be included in consolidated capital)	Amount issued by Bank S to third parties to be included in consolidated capital of Bank P	Total amount issued by Bank P and Bank S to be included in consolidated capital of Bank P
CET1	31	2.6	33.6
AT1	12	0.2	12.2
Tier 1	**43**	**2.8**	**45.8**
Tier 2	**20**	**2.0**	**22.0**
Total Capital	**63**	**4.8**	**67.8**

(Circular No. 781 dated 15 January 2013)

Annex E

LOSS ABSORBENCY REQUIREMENTS FOR ADDITIONAL TIER 1 CAPITAL

1. Capital instruments classified as liabilities for accounting purposes must have principal loss absorption when the pre-specified trigger point is breached, through either:

a. conversion to common shares ; or

b. write-off mechanism which allocates losses to the instrument.

2. The trigger point for conversion or write-off is set at 7.25% CET 1 or below or as determined by the Bangko Sentral.

3. The write-off or conversion to common equity must generate CET1 under the relevant accounting standards. The instrument will only receive recognition in T1 up to the amount of CET1 generated by a full write-off of the instrument.

4. The aggregate amount to be written off or converted for all such instruments on breaching the trigger point must be at least the amount needed to immediately return the bank's CET1 ratio at more than 7.25%, or if this is not possible, the full principal value of the instrument.

5. The bank/QB has the option to choose its main loss absorption mechanism for its AT1 instruments which must be explicitly provided in the terms and condition of the issuance of the instruments.

In case the conversion mechanism was chosen as an option, the terms and condition of the issuance shall likewise provide that in case, said conversion cannot be implemented due to certain legal constraints, the write-off mechanism shall take effect.

6. Banks/QB opting to use the conversion mechanism must address all legal impediments and obtain all prior authorization to ensure immediate recapitalization through conversion when the trigger point is breached. Failure to satisfy these requirements would render the instruments ineligible for inclusion in AT1 capital.

7. Banks/QBs must make the necessary adjustments to their Articles of Incorporation to accommodate the conversion of capital instruments to common shares for loss absorbency. Moreover, banks/QBs must ensure that it has an appropriate buffer of authorized capital stock.

8. Where AT1 capital instruments provide for conversion into common shares when the trigger point is breached, the issue documentation must include, among others:

a. the specific number of common shares to be received upon conversion, or specify the conversion formula for determining the number of common shares received; and

b. number of shares to be received based on the specified formula.

Provided, That the capital instruments converting into ordinary shares shall have a maximum conversion rate of fifty percent (50%) of the ordinary share price at the time of issue.

9. In issuing AT1 capital, the bank may:

a. differentiate between/among instruments as to whether the instrument is required to be converted or written off upon breaching the trigger point; and

b. provide for a hierarchy as to which AT1 instruments will be converted or written off.

10. Where the issue documentation provides for a ranking of the conversion or write-off, the terms attached to such hierarchy must not impede the ability of the

capital instrument to be immediately converted or written off, as required.

11. Written commitment to undertake the necessary actions to effect the conversion must be accomplished by the bank/QB. Otherwise, the write-off mechanism will take effect as the main loss absorbency mechanism.

12. Where, following the breach of the trigger point, the conversion cannot be undertaken, the write-off mechanism shall likewise take effect.

13. The write-off mechanism shall have the following effects:

a. reduce the claim of the instrument in liquidation;

b. reduce the amount re-paid when a call is exercised; and

c. partially or fully reduce coupon/ dividend payments on the instruments.

14. The conversion to common shares or write-off of capital instruments prompted by the breach of the trigger point does not preclude the Bangko Sentral from requiring further conversion or write-off upon the occurrence of the trigger event.

(Circular No. 781 dated 15 January 2013)

Annex E-1

RISK DISCLOSURE REQUIREMENTS ON LOSS ABSORBENCY FEATURES OF CAPITAL INSTRUMENTS

The following are the risk disclosure requirements on the loss absorbency features of AT1 and AT2 capital instruments eligible under the BASEL III framework. Said requirements uphold investor protection through enhanced disclosure and transparency.

When marketing, selling and distributing AT1 and AT2 instruments eligible as capital under the Basel III framework, banks/QBs must:

a. Subject investors to a client suitability test to determine their understanding of the specific risks related to these investments and their ability to absorb risks arising from these instruments;

b. Provide the appropriate Risk Disclosure Statement for the issuance of AT1 and AT2 capital instruments. The said disclosure statement shall explain the loss absorbency feature for AT1 and AT2 capital instruments as well as the resulting processes that will be effected when the triggers for loss absorbency are breached;

c. Secure a written certification from each investor stating that;

(1) The investor has been provided with a risk disclosure statement which, among others, explains the concept of loss absorbency for AT1 and AT2 capital instruments as well as the resulting processes should the case triggers are breached;

(2) The investor has read and understood the terms and conditions of the issuances;

(3) The investors are aware of the risks associated with the capital instruments; and

(4) Said risks include permanent write-down or conversion of the debt instrument into common equity at a specific discount;

d. Make available to the Bangko Sentral, as may be required, the:

(1) Risk disclosure statement;

(2) Certification cited in Item "c" *(3)* above, duly signed by the investor; and

(3) Client suitability test of the investor.

(Circular 786 dated 15 February 2013)

Annex F

LOSS ABSORBENCY REQUIREMENTS FOR ADDITIONAL TIER 1 CAPITAL AND TIER 2 CAPITAL AT THE POINT OF NON-VIABILITY

1. AT1 and AT2 capital instruments are required to have loss absorbency features at the point of non-viability.

2. Upon the occurrence of the trigger event, AT1 and T2 capital instruments should be able to absorb losses either through:

a. conversion to common shares ; or

b. write-off mechanism which allocates losses to the instrument.

3. AT1 and T2 capital instruments will then be converted to common shares or written off upon the occurrence of the trigger event.

The trigger event occurs when a bank/QB is considered nonviable as determined by the Bangko Sentral. Non-viability is defined as a deviation from a certain level of CET1 Ratio, inability of the bank/QB to continue business (CLOSURE) or any other event as determined by the Bangko Sentral, which ever comes earlier.

4. The write-off or conversion to common equity must generate CET1 and total capital under the relevant accounting standards. The instrument will only receive recognition in T1 and total capital up to the amount of CET1 generated by a full write-off of the instrument.

5. In the absence of any contractual terms to the contrary, AT1 capital instruments shall be utilized first before T2 capital instruments are converted or written off, until viability of the bank is re-established.

6. In the event that the bank/QB does not have any AT1 instruments, then the conversion/write-off shall automatically apply to T2 capital.

7. The bank/QB has the option to choose its main loss absorption mechanism at the point of non-viability which must be explicitly provided in the terms and condition of the issuance of the instruments.

In case the conversion mechanism was chosen as an option, the terms and condition of the issuance shall likewise provide that in case, said conversion cannot be implemented due to certain legal constraints, the write-off mechanism shall take effect.

8. Banks/QBs opting to use the conversion mechanism must address all legal impediments and obtain all prior authorization to ensure immediate recapitalization through conversion when the trigger event occurs. Failure to satisfy these requirements shall render the instruments ineligible for inclusion as either AT1 capital or AT2 capital.

9. Banks/QBs must make the necessary adjustments to their Articles of Incorporation to accommodate the conversion of capital instruments to common shares for loss absorbency at the point of non-viability. Moreover, banks/QBs must ensure that it has an appropriate buffer of authorized capital stock.

10. Where AT1 or T2 capital instruments provide for conversion into common shares when the trigger event occurs, the issue documentation must include among others:

a. the specific number of common shares to be received upon conversion, or specify the conversion formula for determining the number of common shares received; and

b. number of shares to be received based on the specified formula.

Provided, That the capital instruments converting into ordinary shares shall have a maximum conversion rate of fifty percent (50%) of the ordinary share price at the time of issue.

11. In issuing AT1 or AT2 capital, the bank may:

a. differentiate between/among instruments as to whether the instrument is required to be converted or written off upon the occurrence of the trigger event; and

b. provide for a hierarchy as to which instruments will be converted or written off among the AT1 capital instruments as well as among the T2 capital instruments.

12. Where the issue documentation provides for a ranking of the conversion or write-off, the terms attached to such hierarchy must not impede the ability of the capital instrument to be immediately converted or written off, as required.

13. Written commitment to undertake the necessary actions to effect the conversion must be accomplished by the bank/QB. Otherwise, the write-off mechanism will take effect as the main loss absorbency mechanism.

14. Where, upon the occurrence of the trigger event, the conversion cannot be undertaken, the write-off mechanism shall likewise take effect.

15. The write-off mechanism shall have the following effects:

a. reduce the claim of the instrument in liquidation;

b. reduce the amount re-paid when a call is exercised; and

c. partially or fully reduce coupon/ dividend payments on the instruments.

16. In case of bank closure prior to the breach of the trigger event, a provision that provides for automatic write-off of AT1 and T2 instruments must be included in the terms and conditions of the issuance.

GROUP TREATMENT

17. The relevant jurisdiction in determining the trigger event is the jurisdiction in which the capital is being given recognition for regulatory purposes. However, the group treatment will only apply to wholly-owned subsidiary banks/ QBs.

18. Where an issuing bank/QB is a subsidiary of a wider banking group regulated by the Bangko Sentral or its parent wishes the instrument to be included in the capital of the consolidated group in addition to its solo capital, the terms and conditions of the subsidiary bank/QB AT1 and T2 capital instruments must specify an additional trigger event as follows:

AT1 and T2 capital instruments will be converted to common shares or written off once the parent bank is considered non-viable.

19. In case of a Bangko Sentral supervised entity that is a subsidiary of another institution that is not regulated by the Bangko Sentral, if the instruments are to be recognized as capital under Bangko Sentral requirements, in addition to the applicability of the trigger event, said instruments must provide that;

a. any supervisor of the parent entity cannot impede the right of Bangko Sentral to require the write-off or conversion of the instruments in relation to the Bangko Sentral supervised entity; and

b. any right of write-off or conversion by the parent supervisor must generate CET1 in the Bangko Sentral supervised entity.

20. Further, any common stock paid as compensation to the holders of the instrument must be common stock of either the issuing bank or of the parent company of the consolidated group.

(Circular No. 781 dated 15 January 2013)

Annex G

RISK DISCLOSURE REQUIREMENTS ON LOSS ABSORBENCY FEATURES OF CAPITAL INSTRUMENTS

I. When marketing, selling and/or distributing AT1 and T2 instruments eligible as capital under the Basel III framework, in the Philippines, QBs must:

1. Subject investors to a client suitability test to determine their understanding of the specific risks related to these investments and their ability to absorb risks arising from these instruments;

2. Provide the appropriate Risk Disclosure Statement for the issuance of AT1 and T2 capital instruments. The said disclosure statement shall explain the loss absorbency features for AT1 and T2 capital instruments as well as the resulting processes that will be effected when the triggers for loss absorbency are breached;

3. Secure a written certification from each investor stating that:

a. The investor has been provided a Risk Disclosure Statement which, among others, explains the concept of loss absorbency for AT1 and T2 capital instruments as well as the resulting processes should the case triggers are breached;

b. The investor has read and understood the terms and conditions of the issuance;

c. The investor is aware of the risks associated with the capital instruments; and

d. Said risks include permanent write-down or conversion of the debt instrument into common equity at a specific discount;

4. Make available to the Bangko Sentral, as may be required, the:

a. Risk disclosure statement;

b. Certification cited in Item *"3"* above duly signed by the investor; and

c. Client suitability test of the investor.

II. For offshore issuances of AT1 and T2 capital instruments, the risk disclosure requirements shall be governed by the applicable rules and regulations of the country where these instruments are issued.

The subsequent sale and/or distribution of AT1 and T2 capital instruments in the Philippines, originally issued overseas, shall comply with all the risk disclosure requirements for issuance in the Philippines. (*Circular No. 826 dated 14 February 2014)*

GUIDELINES ON THE CAPITAL TREATMENT OF BANKS' HOLDINGS OF REPUBLIC OF THE PHILIPPINES GLOBAL BONDS PAIRED WITH WARRANTS

[Appendix to Sec. 4115Q (2008 - 4116Q) and 4116Q]

A QB's holdings of ROP Global Bonds that are paired with Warrants (paired Bonds), which give the QB the option or right to exchange its holdings of ROP Global Bonds into Peso-denominated government securities upon occurrence of a predetermined credit event, shall be risk weighted at zero percent (0%): *Provided*, That the zero percent (0%) risk weight shall be applied only to QB's holdings of paired Bonds equivalent to not more than fifty percent (50%) of the total qualifying capital, as defined under *Appendix Q-46*.
(Circular 588 dated 11 December 2007)

GUIDELINES ON THE USE OF THE STANDARDIZED APPROACH IN COMPUTING THE CAPITAL CHARGE FOR OPERATIONAL RISKS
[Appendix to Sec. 4115Q (2008 - 4116Q) and 4116Q]

QBs applying for the use of the Standardized Approach (TSA) must satisfy the following requirements/ criteria:

General Criteria

1. The use of TSA shall be conditional upon the explicit prior approval of the BSP.

2. The BSP will only give approval to an applicant QB if at a minimum:

a. Its board of directors and senior management are actively involved in the oversight of the operational risk management framework;

b. It has an operational risk management system that is conceptually sound and is implemented with integrity; and,

c. It has sufficient resources in the use of the approach in the major business lines as well as in the control and audit areas.

3. The above criteria should be supported by a written documentation of the board-approved operational risk management framework of the QB which should cover the following:

a. Overall objectives and policies

b. Strategies and processes

c. Operational risk management structure and organization

d. Scope and nature of risk reporting/ assessment systems

e. Policies and procedure for mitigating operational risk

4. This operational risk management framework of the QB should be disclosed in its annual report, as provided under *Appendix Q-46*.

Mapping of Gross Income

5. QBs using TSA in computing operational risk capital charge must develop specific written policies and criteria for mapping gross income of their current business lines into the standard business lines prescribed under *Appendix Q-46*. They must also put in place a review process to adjust these policies and criteria for new or changing business activities or products as appropriate.

6. QBs must adopt the following principles for mapping their business activities to the appropriate business lines:

(a) Activities or products must be mapped into only one (1) of the eight (8) standard business lines, as follows:

(1) *Corporate finance*- This includes arrangements and facilities [e.g., mergers and acquisitions, underwriting, privatizations, securitization, research, debt (government, high yield), equity, syndications, Initial Public Offering (IPO), secondary private placements] provided to large commercial enterprises, multinational companies, NBFIs, government departments, etc.

(2) *Trading and sales*- This includes treasury operations, buying and selling of securities, currencies and others for proprietary and client account.

(3) *Retail banking*- This includes financing arrangements for private individuals, retail clients and small businesses such as personal loans, credit cards, auto loans, etc. as well as other facilities such as trust and estates and investment advice.

(4) *Commercial banking*- This includes financing arrangements for commercial enterprises, including project finance, real

estate, export finance, trade finance, factoring, leasing, guarantees, bills of exchange, etc.

(5) *Payment and settlement* - This includes activities relating to payments and collections, inter-bank funds transfer, clearing and settlement.

(6) *Agency services* - This refers to activities of QBs acting as issuing and paying agents for corporate clients, providing custodial services, etc.

(7) *Asset management* - This includes managing funds of clients on a pooled, segregated, retail, institutional, open or closed basis under a mandate.

(8) *Retail brokerage* - This includes brokering services provided to customers that are retail investors rather than institutional investors.

(a) Any activity or product which cannot be readily mapped into one (1) of the standardized business lines but which is ancillary[1] to a business line shall be allocated to the business line to which it is ancillary. If the activity is ancillary to two (2) or more business lines, an objective criteria or qualification must be made to allocate the annual gross income derived from that activity to the relevant business lines.

(b) Any activity that cannot be mapped into a particular business line and is not an ancillary[1] activity to a business line shall be mapped into one (1) of the business lines with the highest associated beta factor eighteen percent (18%). Any ancillary activity to that activity will follow the same business line treatment.

(c) QBs may use internal pricing methods to allocate gross income between business lines: *Provided*, That the sum of gross income for the eight business lines must still be equal to the gross income as would be recorded if the QB uses the Basic Indicator Approach (BIA).

(d) The process by which QBs map their business activities into the standardized business lines must be regularly reviewed by party independent from that process.

7. In computing the gross income of the QB, the amounts of the income accounts reported in the operational risk template[2] must be equal to the year-end balance reported in the FRP. Any discrepancy must be properly accounted and supported by a reconciliation statement.

Application Process for the Use of TSA

8. QBs applying for the use of TSA should submit the following documents to their respective Central Points of Contact (CPCs) of the BSP:

(a) An application letter signed by the president/CEO of the QB signifying its intention to use TSA in computing the capital charge for operational risk;

(b) Written documentation of the Board-approved operational risk management framework as described in paragraph 3.

(c) Written policies and criteria for mapping business activities and their corresponding gross income into the standard business lines as described in paragraphs 5 to 7.

(d) An overall roll-out plan of the QB including project plans and execution processes, with the appropriate time lines.

Initial Monitoring Period

9. The BSP may require a six (6)-month period of initial monitoring of a QB's TSA before it is used for supervisory capital purposes.

Reversion from TSA to BIA

10. A QB which has been approved to use TSA in computing its capital charge

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[1] Ancillary function is an activity/function that is not the main activity of a given business line but only as a support activity

[2] Part V of the revised CAR report template

for operational risk will not be allowed to revert to the simpler approach, i.e., the BIA. However, if the BSP determines that the QB no longer meets the qualifying criteria for TSA, it may require the QB to revert to BIA. The QB shall be required to repeat the whole application process should it opt to return to the use of TSA, but only after a year of using the BIA.

These guidelines shall take effect on 21 July 2007.

(M-2007-019 dated 21 June 2007)

RISK-BASED CAPITAL ADEQUACY FRAMEWORK FOR THE QUASI-BANKS ON THE DEFINITION OF QUALIFYING CAPITAL INSTRUMENTS
[Appendix to Sec. 4116Q.2 (2008-4116Q.1) and App. Q - 46]

(Deleted by Circular No. 781 dated 15 January 2013)

GUIDELINES ON THE PROHIBITION AGAINST THE USE OF FUNDS FROM NON-RESIDENT SOURCES FOR PLACEMENTS IN THE BANGKO SENTRAL'S TERM DEPOSIT FACILITY (TDF) AND THE OVERNIGHT DEPOSIT FACILITY (ODF)
(Appendix to Subsec. 4601Q.8)

The TDF and ODF are monetary policy instruments deployed by the Bangko Sentral for the purpose of managing domestic liquidity in the financial system. These should not be made available for opportunistic investment activities funded from non-resident sources. Furthermore, placements in the TDF and the ODF are contractual in nature and thus, shall be governed by the intent of the contracting parties. In keeping with the nature of this facility, all counterparties of the Bangko Sentral are required to comply with the following conditions:

1. Eligible banks shall not place in the TDF and in the ODF funds obtained, directly or indirectly, from non-residents.

2. Investments of trust departments/ entities in the TDF and the ODF shall not be sourced directly or indirectly, from funds of non-residents.

An eligible QB or trust department/ entity is required to submit to the Bangko Sentral's Treasury Department a notarized Letter of Undertaking (LOU) (Annex "*A*" for QBs and Annex "*B*" for trust departments/ entities) committing to the above conditions to be qualified as a counterparty of the Bangko Sentral TDF and the ODF.

It is the responsibility of an eligible QB or trust department/entity to have in place the appropriate internal policies and monitoring and assurance mechanisms consistent with its LOU.

The Bangko Sentral reserves the right to verify compliance with the above conditions. Whenever the Bangko Sentral has reason to believe that an eligible QB or trust department/entity is unable or unwilling to comply with the terms and conditions for the access to the TDF or the ODF, the Bangko Sentral may limit, suspend, or deny access by the subject QB, its trust department or a trust entity to the TDF and/ or the ODF.

The eligible QB or trust department/ entity shall report to the appropriate department of the SES all existing TDF and ODF placements not consistent with these guidelines. Such placements shall not be renewed and shall be terminated upon maturity.

(As amended by Circular No. 913 dated 02 June 2016)

Annex A

(Institution's Letterhead)

Date:_________________

The Treasury Department
Bangko Sentral ng Pilipinas
A. Mabini St., Malate, Manila

Letter of Undertaking

Pursuant to Subsec. 4601Q.8, which prohibits the use of funds sourced from non-residents from being placed in the Term Deposit Facility (TDF) and in the Overnight Deposit Facility (ODF) of the Bangko Sentral, the (Name of Institution) hereby undertakes not to place in the TDF and in the ODF, as applicable, funds obtained from non-residents.

The (Name of Institution) shall put in place appropriate internal policies and monitoring and assurance mechanisms consistent with the above conditions. Furthermore, it shall make available pertinent information and documents requested by the Bangko Sentral to verify compliance with the terms and conditions on its access to the Bangko Sentral's TDF and ODF.

___________________________	___________________________
(Treasurer) Signature Over Printed Name	(President or Equivalent Position) Signature Over Printed Name

SUBSCRIBED AND SWORN to before me this ______ day of 20____ at _____________, affiants exhibiting their _________________________, to wit:

Notary Public

Doc No. _____ ;
Page No. _____ ;
Book No. _____ ;
Series of 20____ ;

Annex B

(Institution's Letterhead)

Date:________________

The Treasury Department
Bangko Sentral ng Pilipinas
A. Mabini St., Malate, Manila

Letter of Undertaking

Pursuant to Subsec. 4601Q.8, which prohibits the use of funds sourced from non-residents from being placed in the Term Deposit Facility (TDF) and in the Overnight Deposit Facility (ODF) of the Bangko Sentral, the ___(Name of Trust Department/Trust Entity)___ hereby undertakes not to place in the TDF and in the ODF, as applicable, funds obtained from non-residents.

The ___(Name of Trust Department/Trust Entity)___ shall put in place appropriate internal policies and monitoring and assurance mechanisms consistent with the above conditions. Furthermore, it shall make available pertinent information and documents requested by the Bangko Sentral to verify compliance with the terms and conditions on its access to the Bangko Sentral's TDF and ODF.

_________________________ _________________________

(Treasurer)
Signature Over Printed Name

(President or Equivalent Position)
Signature Over Printed Name

SUBSCRIBED AND SWORN to before me this ______ day of 20____ at ____________, affiants exhibiting their ________________________, to wit:

Notary Public

Doc No. _____ ;
Page No. _____ ;
Book No. _____ ;
Series of 20____ ;

ACCESS OF TRUST DEPARTMENTS/ENTITIES WHICH ARE COUNTERPARTIES IN THE TERM DEPOSIT FACILITY (TDF) AND THE OVERNIGHT DEPOSIT FACILITY (ODF) OF THE BANGKO SENTRAL

(Appendix to Subsec. 4409Q.2)

The Monetary Board affirmed that the TDF and the ODF are monetary policy instruments made available to banks for the primary purpose of managing domestic liquidity in the financial system. Trust departments of banks acting as trustees and trust entities are also given access to the facility. Consistent with the contractual nature of TDF and ODF placements, the Bangko Sentral reiterates its intent to limit access to the TDF and the ODF to eligible QBs and their trust departments, and trust entities, for their own account or acting as trustees pursuant to the following revised guidelines:

1. Access by trust departments/entities to the TDF and the ODF shall be limited to the fund management activities of trust accounts allowed under existing regulations. With respect to pooled funds, only Unit Investment Trust Funds shall be allowed access to the TDF and the ODF. Other fiduciary business including agency accounts and investment management activities shall not have access to the said facilities. Furthermore, trust departments/entities shall not allow the creation/utilization of any other trust accounts whose purpose is to merely access the TDF and the ODF.

2. Trust departments/entities are required to submit to the Bangko Sentral's Treasury Department a notarized Letter of Undertaking (LOU) (Annex *"A"*) committing to the terms of this Appendix to be qualified as counterparty of the Bangko Sentral TDF and ODF.

3. It is the responsibility of the trust departments/entities to have in place appropriate internal policies and monitoring mechanisms to ensure compliance with this Appendix and commitments under the LOU.

4. The Bangko Sentral reserves the right to verify compliance with the terms of this Appendix. Whenever the Bangko Sentral has reason to believe that a QB, its trust department or any trust entity is unwilling or unable to comply with this Appendix, the Bangko Sentral may limit, suspend, or deny access by the QB and/or trust department or any trust entity to the TDF and the ODF. The Bangko Sentral also has the right to seek reimbursement of or to forfeit interest earnings on TDF and ODF placements made in contravention of the terms of this Appendix. The resort to the foregoing remedies is without prejudice to the imposition by Bangko Sentral of administrative sanctions and its filing of criminal charges.

(As amended by Circular No. 913 dated 02 June 2016)

Annex A

(Institution's Letterhead)

Date:_________________

The Treasury Department
Bangko Sentral ng Pilipinas
A. Mabini St., Malate, Manila

Letter of Undertaking

Pursuant to *Appendix Q-47a*, which sets out the guidelines for the access of trust departments of banks and trust entities to the Bangko Sentral-Term Deposit Facility (TDF) and the Overnight Deposit Facility (ODF), (name of trust department/trust entity) hereby undertake that its placements in the BSP-TDF and ODF shall be limited to the fund management activities of trust accounts covered by existing regulations. With respect to pooled funds, only Unit Investment Trust Funds shall access the TDF and the ODF. Likewise, it shall not allow the creation/utilization of any other trust accounts whose purpose is to merely access the TDF and the ODF.

The (name of trust department/trust entity) shall put in place appropriate internal policies and monitoring mechanisms to ensure compliance with *Appendix Q-47a* and this LOU. Furthermore, it shall provide and make available pertinent information and documents requested by the Bangko Sentral to verify compliance with the terms and conditions on its access to the BSP-TDF and ODF. It also undertakes to authorize the Bangko Sentral to be reimbursed and/or to forfeit interest earnings on TDF and ODF placements determined to have been made in contravention of *Appendix Q-47a*.

______________________	______________________
(Trust Officer) Signature Over Printed Name	(President or Equivalent Position) Signature Over Printed Name

SUBSCRIBED AND SWORN to before me this ______ day of 20____ at ____________, affiants exhibiting their ________________________, to wit:

Notary Public

Doc No. _____ ;
Page No. _____ ;
Book No. _____ ;
Series of 20____ ;

GUIDELINES ON THE PROHIBITION AGAINST NON-RESIDENTS FROM INVESTING IN THE SDA FACILITY

(Appendix to Subsection 4409Q.2)

(Deleted by Circular No. 913 dated 02 June 2016)

ACCESS OF TRUST DEPARTMENTS/ENTITIES WHICH ARE COUNTERPARTIES IN THE SPECIAL DEPOSIT ACCOUNT (SDA) FACILITY OF THE BANGKO SENTRAL
(Appendix to Subsection 4409Q.2)

(Deleted by Circular No. 913 dated 02 June 2016)

BASIC STANDARDS IN THE ADMINISTRATION OF TRUST, OTHER FIDUCIARY AND INVESTMENT MANAGEMENT ACCOUNTS

(Appendix to Subsec. 4401Q)

I. Introduction

Trust and other fiduciary business and investment management activities have evolved with the changes in the financial market and advancement in technology. These innovations have allowed trust entities to expand the scope of trust products and services offered to customers, thus increasing their exposure to various risks. As trust entities grow more diverse, necessarily policies and procedures as well as risk management practices must keep pace. The basic standards would provide common processes for an efficient operation and administration of trust, other fiduciary and investment management activities across the trust industry.

II. Statement of policy

It is the policy of the BSP to provide adequate level of protection to investors who, under a fiduciary arrangement, engage the services or avail of products of trust entities which are required to observe prudence in the exercise of their fiduciary responsibility. Along this line, the BSP prescribes basic standards for the efficient administration and operation of trust and other fiduciary business and investment management activities.

III. Standards

The basic standards in the administration of trust, other fiduciary and investment management accounts are meant to address the significant areas of operations and provide minimum set of requirements and procedures:

A. Account acceptance and review processes

1. Pre-acceptance account review

This review must document that the trust entity (TE) can effectively administer the account. It shall be covered by a written policy which shall contain, among other things, the types of trust, other fiduciary and investment management accounts that are desirable and consistent with the TE's risk strategies and the specific conditions for accepting new accounts, and approved by the Trust Committee, or the Trust Officer, or subordinate officer of the trust department, authorized by the board of directors or its functional oversight equivalent, in the case of foreign banks and institutions.

The review process entails the thorough and complete review of the client's/account's characteristics and investment profile, including the assets/ properties to be contributed/delivered. Non-financial/non-traditional assets (i.e., real estate and the like) which are more likely to be iliquid shall be carefully reviewed prior to acceptance to ensure that the TE only accepts accounts which hold assets it may be able to properly manage.

Prior to the acceptance of a fiduciary account, the TE shall review the underlying instrument (trust agreement or contract) for potential conflicts of interest. If such conflict exists, the TE shall take appropriate action to address such condition before the account is accepted.

In cases where the TE is chosen as a successor trustee or investment manager, the TE shall perform a review and evaluation of all assets to be delivered to the TE to determine how these would serve the client's objectives, whether the TE can properly handle such assets and to assess any possible issue/problem which may arise with respect to such assets before acceptance of such assets and/or assumption of the trust, fiduciary or investment management relationship.

2. Establishment and post-acceptance review

Acceptance policies for new accounts shall, at a minimum, include the following processes and/or requirements:

(a) *Account opening process.* This process defines the TE's policies and procedures for client/account identification, consistent with the TE's KYC policy for compliance with anti-money laundering regulations; identification of the needs of the client; the objective(s) of the engagement; the vehicle to be used; and the account's investment parameters. The trust officer or other authorized personnel of the trust department shall conduct the account opening process for trust, fiduciary and investment management accounts. In the case of UIT Funds, only authorized branch managers/officers as well as UIT marketing personnel, who have all successfully undergone the required certification/accreditation/licensing process, may perform said process for UIT Fund clients. The account opening process shall at least involve the following:

(a) As a general rule, client profiling shall be performed for all UIT Fund and regular trust, other fiduciary and investment management accounts via a duly acknowledged Client Suitability Assessment (CSA), which aims to provide the TE with information leading to the prudent design of investment packages, suited to a particular client or investment account. The CSA, however, shall not be required for the following trust and other fiduciary accounts:

(i) court trust;
(ii) legislated and quasi-judicial trust;
(iii) trust under indenture;
(iv) facility/loan agency;
(v) transfer agency;
(vi) depository and reorganization;
(vii) escrow;
(viii) custodianship;
(ix) safekeeping; and
(x) institutional trust – pre-need plans.

The profiling process, to be documented through a CSA Form signed by the concerned parties, shall be undertaken on a per client basis, which shall emphasize the level of risk tolerance of the client.

• CSA

The TE shall obtain adequate information from the client to determine the appropriateness of the fiduciary product/ service to be provided and ensure the suitability of the investment product/ portfolio/strategy to be recommended to each client. It shall provide prospective clients with client suitability questionnaire and require them to accomplish the same prior to the acceptance of the account and execution of a transaction.

For this purpose, the TE shall make an assessment of the client's level of financial sophistication and consider factors relevant to the creation and management of, or participation in, an investment portfolio, such as but not limited to, the specific needs and unique circumstances of the client and/ or beneficiary/(ies), basic characteristics of the clients' investment and experience, financial constraints, risk tolerance, tax considerations and regulatory requirements.

The same CSA process shall be applied by the TE for directional accounts.

• Minimum information required for CSA:

i. Personal/Institutional data. Minimum personal/institutional information that are unique to a natural or juridical client, which shall also cover demographics and KYC information; the identity of beneficiaries, where applicable, and approximate portion of total assets administered/managed.

ii. Investment objective. A clear statement or definition of the client's investment goals/purposes to be achieved through a particular trust, fiduciary or investment product or service. The client may opt to open several accounts, each one (1) with specific investment objectives separate and distinct from the other accounts.

iii. Investment experience. A list of various types of investment the prospective client is familiar with, acquired from actual/ personal investment experience, or of similar investment circumstances.

iv. Knowledge and financial situation. For complex transactions where the level of risk involved is greater, the TE must take into account the knowledge, experience and financial situation of the client or potential client to assess the level of investment sophistication. This may include the careful assessment whether the specific type of financial instrument/service/portfolio/ strategy is in line with the client's disclosed financial capacity.

Such assessment is necessary as there are significant risks involved on financial investments (e.g., derivatives), the type of transaction (e.g. sale of options), the characteristics of the order (e.g., size or price specifications) or the frequency of the trading.

v. Investment time frame and liquidity requirement. The TE is able to organize the portfolio in a manner that will provide for anticipated liquidity requirement through redemption of principal contribution or earnings.

vi. Risk tolerance. Allow the TE to classify clients in accordance with its own pre-set internal risk classification.

Based on the results of the CSA, classification of clients by the TE may include, but need not be limited to the following:

i. *Conservative*. Client wants an investment strategy where the primary goal is to prevent the loss of principal at all times, and where the client prefers investment grade and highly liquid assets, government securities, Republic of the Philippines' bonds (ROPs), deposits with local banks/ branches of foreign banks operating in the Philippines, and deposits with FIs in any foreign country: *Provided*, That said FI has at least an investment grade credit rating from a reputable international credit rating agency. For purposes of investing in a UIT Fund, a client wants an investment strategy where the primary objective is to prevent the loss of principal at all times and where the fund is invested in deposits with local banks/branches of foreign banks operating in the Philippines and with FI in any foreign country: *Provided,* That said FI has at least an investment grade credit rating from a reputable international credit rating agency.

ii. *Moderate*. Client wants a portfolio which may provide potential returns on investment that are higher than the regular traditional deposit products and client is aware that a higher return is accompanied by a higher level of risk. Client is willing to expose the funds to a certain level of risks in consideration for higher returns.

iii. *Aggressive*. Client wants a portfolio which may provide appreciation of capital over time and client is willing to accept higher risks involving volatility of returns and even possible loss of investment in return for potential higher long-term results.

- Investment policy statement

The TE shall have in place a method by which suitability of investment is determined based on the results of the CSA and formulated via an Investment Policy Statement (IPS). It shall communicate to prospective clients the results of the assessment, recommend the investment product/portfolio/strategy, and explain the reasons why, on the basis of the given information, its recommendation is to the best interest of the client as of a defined timeframe. The TE shall make a recommendation only after having reasonably determined that the proposed investment is suitable to the client's and/or beneficiary's financial situation, investment experience, and investment objectives.

The IPS is a clear reference frame for investment decisions and must be based on the investment objectives and risk tolerance of the client. It must include, at a minimum, a description of the following:

i. Investment objective;

ii. Investment strategy-indicating how assets will be allocated indicating the agreed portfolio mix;

iii. Investment performance review – indicating proposed market benchmarks, if any and the desired frequency of the performance review/reporting;

iv. Investment limits – identifies any limitation which the client may have for the portfolio such as investment restrictions (e.g., prohibited investments) and client's consent for taking losses.

For UIT Fund, the IPS is equivalent to the investment objective of the fund specifically stated in the Declaration of Trust.

• Option of client to re-classification

Generally, the TE shall recommend the investment product/portfolio/strategy suitable to the client based on the results of the CSA. The TE may, however, provide a process for allowing clients to invest in investment products/ portfolio/strategy with a higher risk than those corresponding to the CSA profile results. A client who exercises the option to be re-classified outside the CSA process thereby waives some of the protection afforded by these guidelines. Such re-classification may be allowed subject to the observance of the following:

i. The client shall state in writing to the TE that -

• He does not agree with or accept the recommendation of the TE on the investment product/portfolio/strategy appropriate to the client's profile based on the results of the CSA;

• He would like to avail of the investment product/portfolio/strategy other than that which is consistent with the results of the CSA;

• He requests/intends to be re-classified, either generally or in respect to a particular investment/service/ transaction/product; and

• He fully understands and is willing to take the risks incidental to the investment product/portfolio/strategy to be availed of.

ii. The TE shall issue a clear written warning to the client of the protections he may lose and conversely, of the risks that he is exposed to.

iii. The TE shall have taken all reasonable steps to ensure that the client meets all relevant requirements as provided for in the TE's written policies.

• Frequency of CSA and IPS

i. The CSA shall be performed and the IPS shall be formulated and executed prior to the opening of the account;

ii. The TE shall update the CSA and the IPS at least every three (3) years except in the following instances;

• Whenever updates are necessitated by the client, upon notice/advise to the TE, on account of a change in personal/financial circumstances or preferences, the TE shall adjust/modify its investment strategy/ portfolio and recommendation, subject to the conformity of the client;

• Whenever managed trust, other fiduciary, and investment management accounts express intention to invest in complex investment products such as financial derivatives, the TE shall ensure that the CSA and the IPS are updated at least annually. Otherwise, the TE shall not make new/additional investments in complex investment products.

iii. The TE shall ensure that periodic written notices given to clients reminding them of such updates are received/ acknowledged by clients or their authorized representatives;

iv. Updated CSA and IPS shall be acknowledged by the client;

v. The frequency of review shall be included as a provision in the written agreement; and

vi. The latest CSA and IPS will continue to be applied for any subsequent principal contributions to the account, until these are amended or updated by the client.

(b) Identification of degree of discretion granted by client to the TE. This process involves the determination of the extent of discretion granted to the TE to manage the client's portfolio.

(1) Discretionary. The TE has authority or discretion to invest the funds/property of the client in accordance with the parameters set forth by the client. Such authority of the TE which obtained a composite Trust Rating of "4" in the latest BSP examination will not be subject to the investment limitations provided under Subsecs. X409.2 and X409.3 for trust and other fiduciary accounts and Subsecs. X411.4 and X411.5 for investment management accounts, respectively; and

(2) Non-discretionary. Investment activity of the TE is directed by the client or limited only to specific securities or properties and expressly stipulated in the agreement or upon written instruction of the client.

(3) Documentation. The trust, fiduciary or investment management relationship shall be formally established through a written legal document such as the trust or investment management agreement. The engagement documents shall clearly specify the extent of fiduciary assignments/ responsibilities of the TE and articulate the nature and limits of each party's status as trustor/principal or trustee/agent. Policies and procedures shall provide that trust or investment management agreements are signed by the trust officer or , subordinate officer of the trust department, or in the case of UIT Funds, branch managers/officers duly authorized by the board of directors.

The documentation process must also consider the following:

(a) The Agreement must conform to the requirements provided under Subsec. X409.1 for trust and other fiduciary accounts and Subsec. X411.1 for investment management accounts. In addition, the Agreement shall contain the following provisions:

(i) A description of the services to be provided;

(ii) All charges relating to the services or instruments envisaged and how the charges are calculated;

(iii)The obligations of the client with respect to the transactions envisaged, in particular his financial commitments towards the TE; and

(iv) For engagements involving management of assets or properties, the degree of discretion granted to the trustee or agent must be clearly defined and stated in the agreement;

(b) The Agreement shall be in plain language understandable by the client and/ or personnel of the TE responsible for explaining the contents of the agreement to the client.

(c) For complex investment products such as financial derivatives instruments or those that use synthetic investment vehicles, the TE shall disclose to the client and require client's prior written conformity to the following:

(i) Key features of investment services and financial instruments envisaged, according to the nature of such instruments and services;

(ii) The type(s) of instruments and transactions envisaged;

(iii)The obligations of the TE with respect to the transactions envisaged, in particular, its reporting and notice obligations to the clients; and

(iv) An appropriate disclosure bringing to the client's attention the risks involved in the transactions envisaged.

(d) In order to give a fair and adequate description of the investment service or financial instrument, the TE shall provide a clearly stated and easily understood Risk Disclosure Statement to its clients, which forms part of or attached to the trust, fiduciary or investment management agreement. The Risk Disclosure Statement shall contain, among other things, the following provisions:

(i) Cautionary statement on the general risks of investing or associated with financial intruments, i.e., if the market is not good, an investor may not be able to get back his principal or original investment. Such statement must be given due prominence, and not to be concealed or masked in any way by the wording, design or format of the information provided;

(ii) If the investment outlet is exposed to any major or specific risks, a description and explanation of such risks shall be clearly stated; and

(iii)Advisory statement that for complex investment products, said instruments can be subject to sudden and sharp falls in value such that the client may lose its/his entire investment, and, whenever applicable, be obligated to provide extra funding in case it/he is required to pay more later.

Additional risk disclosures may be provided as appropriate.

The TE must ensure that the trust, fiduciary and investment management agreements and documents have been reviewed and found to be legally in order.

B. Account administration

It is the fundamental duty of a fiduciary to administer an account solely in the interest of clients. The duty of loyalty is a paramount importance and underlies the entire administration of trust, other fiduciary and investment management accounts. A successful administration will meet the needs of both clients and beneficiaries in a safe and productive manner.

Account administration basically involves three (3) processes, namely; (1) periodic review of existing accounts, (2) credit process and (3) investment process.

(1) Periodic review of existing accounts

The board of directors and Trust Committee shall formulate and implement a policy to ensure that a comprehensive review of trust, fiduciary and investment management accounts (including collective investment schemes such as UIT Funds) shall be conducted. The periodic review of managed accounts shall be aligned with the provisions on the review and updating of the CSA and IPS. The board of directors may delegate the conduct of account review to the Trust Officer or Trust Department Committee created for that purpose. The policy shall likewise indicate the scope of the account review depending upon the nature and types of trust, fiduciary and investment management accounts managed.

A comprehensive accounts review, which shall entail an administrative as well as investments review, shall be performed on a periodic basis to ascertain that the account is being managed in accordance with the instrument creating the trust and other fiduciary relationship. The administrative review of an account is taken to determine whether the portfolio/assets are appropriate, individually and collectively, for the account, while an investment review is used to analyze the investment performance of an account and reaffirm or modify the pertinent investment policy statement, including asset allocation guidelines. Whether the administrative and investment review are performed separately or simultaneously, the reviewing authority shall be able to determine if certain portfolio/ assets are no longer appropriate for the account, (i.e., not consistent with the requirements of the client) and to take proper action through prudent investment practices to change the structure or composition of the assets.

The periodic review process also involves disclosure of information on the investment portfolio and the relevant investing activities. Regardless of the degree of discretion granted by the client to the TE, the former assumes full risk on the investment and related activities, and counterparties. Relevant changes in the TE's organization or investment policies that may affect the client's decision to continue the services of the TE shall be disclosed to the client.

In the case of non-discretionary public interest accounts such as employee benefit/ retirement or pension funds, due diligence review of the investment portfolio by the TE shall include providing investors with appropriate information needed to make an informed investment decision and avoid possible conflict of interest and self-dealing situations.

The TE should be able to show (in addition to the specific written directive from the client) what it has done in the exercise of due diligence and prudence on its part to protect the interest of the client and/or beneficiaries, especially for accounts of public interest like retirement/pension fund accounts.

The TE shall keep its clients informed of the investment and related activities by rendering periodic reports and financial statements prescribed under Subsec. X425.1 and as necessary. The types of reports and statements and the frequency of their submission must be clearly specified in the TE's written policies and procedures.

The TE shall also establish a system that enables a trust account representative or officer to periodically contact clients and/or beneficiaries to determine whether their financial objectives and circumstances have changed.

(2) Credit process

Each trust entity shall define its credit process in relation to the discharge of the TE's investment function. The process ensures credit worthiness of investment undertakings including dealings and relationship with counterparties. It also serves to institutionalize the independence of the credit process of the TE. The credit process must at least cover the following:

a. *Credit policies.* Trust entities must clearly define its credit policies and processes, including the use of internal and external credit rating and approval process relative to the delivery of its instrument function. The TE can share credit information with the bank proper subject to proper delineation and documentation. The credit process shall show the following at the minimum:

i. Clear credit process flow, from initiation of the lending activities envisioned by the TE up to the execution of actual investment;

ii. Credit criteria and rating used;

iii. Manner by which the TE handles the information, including confidential and material data, which is shared between and among the departments, subsidiaries or affiliates of the TE; and

iv. Clear delineation of duties and responsibilities of each of the departments, subsidiaries and affiliates of the TE, where such groups or entities share the credit process.

b. *Counterparty accreditation process.* The TE must clearly define the policies and the processes it will undertake to accredit counterparties, including the bank proper, and its subsidiaries and affiliates, for their investment trading functions. It may use or avail itself of the accreditation process of its bank proper provided there is proper delineation of functions. The counterparty accreditation process shall show the following at the minimum:

i. Clear accreditation process flow from the initiation of credit activities up to the actual usage of lines;

ii. Credit criteria and rating used;

iii. Manner by which the TE handles the information, including confidential and material data, which are shared between and among the departments, subsidiaries or affiliates of the TE;

iv. Usage, duties and responsibilities of each of the department, subsidiaries and affiliates of the TE, where there is sharing of credit lines between and among these concerned groups/entities; and

v. Clear delineation of duties and responsibilities of each of the departments, subsidiaries and affiliates of the TE, where such groups or entities share the accreditation credit process.

(3) Investment process

This process defines the investment policies and procedures, including decision-making processes, undertaken by the TE in the execution of its fund/asset management function. The primary objective of such process is to create a structure that will assure TEs observe prudence in investment activities at all levels, preservation of capital, diversification, a reasonable level of risk as well as undivided loyalty to each client and adherence to established structure for the TE's investment undertakings. The investment process covers a broad range of activities; thus, the investment policies shall clearly outline the parameters that, at a minimum, include the following:

a. Overall investment philosophy, standards and practices. A general statement of principles that guides the portfolio manager in the management of investments outlined in the board-approved policy, along with a discussion on the practices and standards to be implemented to achieve the desired result.

b. Investment Policies and Processes. Defines the policies and the processes undertaken to create the portfolio to ensure the proper understanding of the client's preferences.

i. Profiling of client. Aims to understand the level of maturity of the client relevant to the creation of an appropriate portfolio.

ii. Portfolio construction for custom-made portfolios. Includes the process of researching and selecting recommended portfolio and setting objectives or strategies for diversification by types and classes of securities into general and specialized portfolios.

- Asset allocation. Outlines the process and criteria for selecting and evaluating different asset classes identified to be appropriate for the client's profile and investment objective. It includes the allocation of desired tenors in conjunction with the client or portfolio profile based on the CSA or IPS. The asset allocation may be based on percentage to total funds managed by the TE or stated in absolute amount whichever is preferred by the client.

- Security selection. Policies and procedures on the selection of investment outlets, including investment advisory, must be in place. This involves the selection of issuers for each of the identified asset classes. The process provides for the review of investment performance using risk parameters and comparison to appropriate benchmarks. It shall also identify the documentation required for all investment decisions.

If the TE uses approved lists of investments, there shall be an outline of the criteria for the selection and monitoring of such investments, as well as a description of the overall process for addition to and deletion from the lists.

- Benchmark selection/creation. Selects or crafts the benchmarks to reflect the desired return of the portfolio and to measure the performance of the portfolio manager. The TE shall be required to measure performance based on benchmarks to gauge or measure the performance of the account. The TE must have clear definition of its benchmarking policy.

- Limits. Identifies any limitations on portfolio management which the client may impose on the TE. These limitations have to be specific as to the nature of the portfolio, such as but not limited to, core holdings, investment in competitor companies, and companies engaged in vices.

- Risk disclosure statement. A clear and appropriately worded statement/s to disclose different risks to clients of the various investment undertakings of the investment manager done in behalf of the client.

iii. Internal policies on trade allocation. Defines the institution's policies in ensuring timely, fair and equitable allocation of investments across investing portfolios.

iv. Diversification of discretionary investments. The TE shall have a policy on the general diversification requirements for asset administration, as well as the process implemented to monitor and control deviations from policy guidelines.

v. A TE shall have access to timely and competent economic analyses and forecasts for the capital markets and other products in which its clients will be investing. TEs engaged in more complex transactions may consider providing an economic and securities research unit that continually monitors global trends and capital markets. This unit provides necessary forecasts of capital market expectations, currency relationships, interest rate movements, commodity prices, and expected returns of asset classes and individual investment instruments, which help the TE establish appropriate investment policies and strategies, select appropriate investments, and manage risks effectively.

vi. The TE shall have a process that will confirm trust personnel with investment functions know and follow the BOD-approved investment policies and processes.

c. Selection and use of brokers/ dealers. The quality of execution is an important determinant in broker selection. In selecting brokers/dealers, a TE must consider the following minimum standards and criteria:

i. Execution capability and ability to handle specialized transactions;

ii. Commission rates and other compensation;

iii. Financial strength, including operating results and adequacy of capital and liquidity;

iv. Past record of good and timely delivery and payment on trades;

v. Value of services provided, including research; and

vi. Available information about the broker from other broker customers, regulators, and self-regulated organizations authorized by the SEC.

The TE with large portfolio may opt to evaluate broker performance using a formalized point scoring system. A list of approved brokers shall be made available by the TE, reviewed periodically and updated at least annually.

d. Best practices. The TE shall document best practices policies and processes to institutionalize proper safeguards for the protection of its clients and itself. At a minimum, the policies must include the following standards:

i. Best execution. The TE shall use reasonable diligence to ensure that investment trades are executed in a timely manner and on the best available terms that are favorable to the client under prevailing market conditions as can be reasonably obtained elsewhere with an acceptable counterparty. For related counterparties, no purchase/sale must be made for discretionary accounts without considering at least two (2) competitive quotes from other sources. The policy on best execution must document processes to warrant such execution is readily and operationally verifiable.

ii. Chinese wall. A clear policy on Chinese Wall aims to protect the institution from conflict of interest arising from varying functions carried by the TE in relation to credit (debt), shareholder, and investment position taking. The policy shall state the duties and responsibilities of the TE and each department including that of the bank proper and subsidiaries and affiliates should transactions involve the concerned departments and entities.

iii. Personnel investment policies. These policies aim to ensure honest and fair discharge of investment trading functions of all qualified personnel. Qualified personnel are those that may have access to information on clients and investment position-taking of clients, investment manager or portfolios. The use of such information may be abused and detrimental to the clients. The policy shall state the duties and responsibilities of each qualified personnel in relation to trading and portfolio management activities including allowed and not allowed transactions as well as sanctions in case of violations.

iv. Confidentiality and materiality of Information. The TE must keep information about past, current and prospective clients confidential, unless disclosure is authorized in writing by the client or required by law and the information involve illegal activities perpetrated by the client. It must ensure safekeeping of confidential and material information and prevent the abuse of such information to the detriment of the institution or its clients.

v. Fair dealing. The TE shall document dealing practices to ensure fair, honest and professional practices in accordance with the best interest of the client and counterparties at all times and for the integrity of the market. It must ensure that any representations or other communications made and information provided to the client are accurate and not misleading. The TE must also take care not to discriminate against any client but treat all clients in a fair and impartial manner.

vi. Diligence and reasonable basis. In conducting its investment services, the TE shall act with skill, and care and diligence, and in the best interests of its clients and the integrity of the market. The duty of due diligence is intertwined with the duty to maintain independence and objectivity in providing investment recommendations or taking investment actions. When providing advice to a client, the TE shall act diligently and make certain that its advice and recommendations to clients are based on thorough analysis and take into account available alternatives.

- The TE shall take all reasonable steps to execute promptly client orders in accordance with the instruction of clients.
- The TE, when acting for or with clients, shall always execute client orders on the best available terms.
- The TE shall ensure that transactions executed on behalf of clients are promptly and fairly allocated to the accounts of the clients on whose behalf the transactions were executed.

Where a client opts not to accept the recommendation of the TE and chooses to purchase another investment product which is not recommended, the TE may proceed with the client's request/instruction, provided it shall document the decision of the client and highlight to him/her that it is his/her responsibility to ensure the suitability of the product selected.

vii. In-House or related party transactions handling. The TE shall define the policies in handling related-interest transaction to ensure that the best interest of clients prevails at all times and all dealings are above board. It must conform to the requirements of Subsecs. X409.3 and X411.5.

viii. Valuation. The TE shall document the institution's valuation process to show the sources of prices, either market or historical value, and the formula used to derive the NAV of investment portfolios. Valuation shall be understood, compliant with written policies and operating procedures, and used consistently within the TE. The TE must ensure that the valuation processes of service providers, custodians, and other subcontractors are compatible with those of the TE and in compliance with relevant statutory or regulatory valuation standards.

Risk officers shall document the accuracy and reliability of all valuation processes and data sources and ensure that valuations are completed as required by internal policies and procedures and regulatory reporting standards.

e. Conflicts of interests. These may arise when the TE exercises any discretion where mutually opposing interests are involved. The most serious conflict of interest is self-dealing, which could include transactions such as an investment in related interests of the TE or purchase of securities from or through an affiliate. Such transactions must be fully disclosed and authorized in writing by clients. Because of the complexity and sensitivity of the issue, a TE must develop policies and procedures to identify and deal with conflicts of interest situations.

3. Account termination

Accounts may be terminated for a variety of reasons, including the occurrence of a specified event or upon written notice of either the client or the TE. The trust or investment management agreement shall provide for the terms and manner of liquidation, return and delivery of assets/portfolio to the client. Generally, the TE's responsibilities include distribution to the client, the successor trustee and/or beneficiaries of the remaining assets held under trusteeship/ agency arrangement, preparation and filing of required reports. The TE must ensure the risk control processes are observed when terminating accounts just as when accepting them.

The TE must have a general policy with respect to the termination of trust accounts, which policy shall take into consideration the general processes to be observed in the return or delivery of different types of assets, the possible modes of distribution, fees to be paid, taxes to be imposed, the documentation required to effect the transfer of assets, the provision of terminal reports, and whenever applicable, the timing of distribution, needs and circumstances of the beneficiaries. Should the TE anticipate possible issues or problems with respect to the termination of the account, such as the liquidation of certain assets or the partition or division of assets, these issues shall be disclosed to the client for proper disposition. The policy on the termination of trust, fiduciary and investment management accounts shall likewise include the approval process to be observed for the termination of these accounts as well as the reporting requirements for accounts terminated and closed.

(Circular No. 618 dated 20 August 2008, as amended by Circular No. 721 dated 13 May 2011)

RISK MANAGEMENT GUIDELINES FOR TRUST AND OTHER FIDUCIARY BUSINESS AND INVESTMENT MANAGEMENT ACTIVITIES

(Appendix to Sec. 4401Q)

I. Introduction

Recent changes in the nature and complexity of fiduciary activities have underscored the need for an effective and sound risk management process. With the deepening of the capital market and the increasing complexity of the financial environment, the risk management practices and techniques employed by financial institutions should continuously improve and adapt to these evolving financial landscape.

These guidelines aim to provide principles-based guidance in the implementation of sound risk management practices for trust, other fiduciary business, and investment management activities. As such, the applicability of these guidelines shall depend on the size, complexity, and risk profile of the institution's fiduciary activities.

II. Statement of Policy

It is the policy of the Bangko Sentral ng Pilipinas to support the development of the Philippine financial market and promote adequate level of protection to investors through, full and fair disclosure on financial instruments covering banking and fiduciary activities. With the continuous emergence of complex financial products, investor protection is a significant concern in building investors' confidence in the Philippine financial market. It is in furtherance of this policy that Bangko Sentral prescribes risk management guidelines for fiduciary activities aligned with the basic standards in the administration of fiduciary products and services by trust entities (TEs).

III. Risk Management Principles for Fiduciary Activities

Risk management practices must be designed to ensure that exposures are well within TEs capacity to manage and risks taken by the TE and its clients are consistent with their respective risk tolerance. Risk management practices shall also promote efficiency in the administration and operation of the fiduciary business; ensure adherence and conformity with the terms of the instrument or contract; and maintain absolute separation of property free from any intrusion of conflict of interest.

As fiduciary activities become more diverse and complex, an institutions' ability to effectively identify, measure, monitor and control risks should keep pace and continue to evolve. There is no single risk management framework that would effectively work for all TEs due to differing size, business model, complexity of activities, and risk profile. Nevertheless, regardless of the structure in place, the framework shall cover the following key elements of sound risk management system:

a. Active and appropriate oversight by the Board of Directors (BOD)/Trust Committee;

b. Adequate risk management processes, policies and procedures;

c. Appropriate risk measurement system, prudent risk limits, monitoring and management information system; and

d. Comprehensive and effective internal control system, audit, and compliance program.

IV. Risks Associated with Fiduciary Activities

For purposes of these Guidelines, the following definitions of risks are adopted:

1. Credit/counterparty risk is the current and prospective risk to client's earnings or principal contribution arising from an obligor's failure to meet the terms of any contract with the TE or otherwise perform as agreed. Credit risk is found in all activities where success depends on counterparty, issuer, or borrower performance.

It arises anytime fiduciary funds are extended, committed, invested, or otherwise exposed through actual or implied contractual agreements, and reflected in the client's financial statements. Credit/counterparty risk exists in the loan portfolio and other forms of credit accommodations.

2. Market risk is the current and prospective risk to client's earnings or principal contribution arising from changes in the value of the TE's holdings of investment portfolios. Market risk arises from dealing and position-taking activities in interest rate, foreign exchange and equity markets.

3. Liquidity risk is the current and prospective risk to client's earnings or principal contribution arising from a TE's inability to recognize or address unplanned changes in client's and/or beneficiary's needs thereby affecting the ability to liquidate assets quickly with minimal loss in value. The TE shall determine and maintain adequate level of liquidity in each accounts based on client-defined constraints/ circumstances or product specifications.

4. Operational risk is the current and prospective risk to the non-bank financial institution's earnings or capital arising from fraud or error, and the inability of the TE to deliver products or services, maintain a competitive position and manage information. Operational risk is evident in each fiduciary product and service offered. As the fiduciary products and services become sophisticated or volume of activities expands, so does the level of operational risk. This risk encompasses product development and delivery, operational processing, systems development, and the internal control environment. Operational risk is present in the day-to-day operations of TEs and in all aspects of fiduciary activities.

A part of operational risk is legal risk which arises from non-adherence with the terms of the fiduciary agreement and the potential that unenforceable contracts, lawsuits, or adverse judgments can disrupt or otherwise negatively affect the operations of a TE.

5. Compliance risk is the current and prospective risk to the NBFI's earnings or capital arising from violation of laws, rules and regulations of regulatory authorities, prescribed practices or sound fiduciary principles, internal policies and procedures, and prudent ethical standards. Compliance risk also arises in situations where the laws or rules governing certain fiduciary products or activities of the TE may be ambiguous or untested. This risk exposes the TE to fines, payment of damages, and the voiding of contracts. Compliance risk can lead to limited business opportunities, reduced expansionary potential, unenforceability of contract or even adversely affect TE's reputation.

6. Strategic risk is the current and prospective risk to the non-bank financial institution's earnings and capital arising from adverse business decisions, improper implementation of decisions, or lack of responsiveness to industry changes. Strategic risk is a function of the compatibility of a financial institution's strategic goals, the business strategies developed to achieve those goals, the resources deployed in support of these goals, and the quality of implementation. The TE's internal characteristics must be evaluated against the impact of economic, technological, competitive, regulatory, and other environmental changes. Financial success requires a sound strategic planning process embraced by the board and senior management.

7. Reputation risk is the current and prospective risk to the non-bank financial institution's earnings and capital arising from negative publicity regarding the financial institution's fiduciary business practices. The negative public opinion can cause (a) clients to question or doubt the TE's integrity to engage in fiduciary activities which can result in the termination of fiduciary relationships, (b) litigation costs to increase, or (c) revenues to decline. Reputation risk affects the TE's ability to establish new fiduciary relationships or services, or

continue servicing existing relationships. Since public's perception is critical in the fiduciary business, TEs should exercise an abundance of caution in dealing with clients and the public in general.

V. Risk Management Process

A TE shall develop and implement a formal, comprehensive, and effective risk management program that outlines, among other things, the risk management processes that effectively identify, measure, monitor and control risks affecting the clients and the TE. These processes shall also recognize and address the differences in the needs, objectives and risk tolerance of the clients and the TE. An effective risk management program can serve as an early warning system that enables the TE to anticipate and/or pro-actively identify potential problems from arising which may result in unanticipated loss to the clients and the TE. A risk management program should:

1. *Identify risk.* TEs shall recognize and understand existing exposures or those that may arise from new products/services, acceptance of new clients, and changes in operating environment. They shall establish procedures that identify and address such risks prior to initiation of the activities. Risk identification is a continuing process that should be embedded in all phases of TE's activities and shall cover both the individual investment transactions and portfolio activities. Identifying risk also involves the determination of the desired level of exposures both for the TE and client after taking into account the willingness and the ability to absorb risks.

2. *Measure risk.* TEs shall have appropriate systems or tools in place that could adequately quantify or measure both their client and their own risk exposure/s. It shall be the TE's responsibility to ensure that the risk measurement tools can adequately and reliably capture and quantify exposures. Risk measurement tools shall be subjected to independent and periodic validation and review to ensure that they remain reliable and appropriate. Effective risk measurement systems assess the risks of both individual transactions and portfolios and ensure that the sophistication of the risk measurement tools remains proportionate to the complexity of exposures.

3. *Monitor risk.* TEs shall monitor risk levels to ensure timely review of risk positions and exceptions. Monitoring reports should be frequent, timely, accurate, and informative and should be distributed to clients/individuals and appropriate level of management to ensure corrective action, when necessary.

4. *Control risk.* TEs shall establish and communicate risk limits through policies, standards, and procedures that define responsibility and authority. The types and sophistication of control processes shall be consistent with the risk tolerance standards defined by the BOD/Trust Committee and the client. TEs shall implement a process for tracking and reporting exposures to monitor the TE's compliance with risk tolerance standards.

The risk management process for fiduciary activities should be structured and incorporated in the required basic standards in the administration of fiduciary products and services.

VI. Sound Risk Management System

Consistent with the guidelines on supervision by risk set forth under Appendix Q-42, the Bangko Sentral shall assess the suitability and adequacy of a TE's risk management system in accordance with the following elements:

A. Active Board and Senior Management Oversight

1. The Board of Directors and the Trust Committee shall perform their responsibilities in accordance with the applicable provisions of this Manual.

2. Independent Risk Management Function. To uphold the principles of undivided loyalty and impartiality, and discourage possible conflicts of interest, the process of measuring, monitoring,

and controlling risks shall be managed as independently as practicable by a body or personnel apart from those individuals who have the authority to initiate transactions. The board-designated body or personnel performing independent risk management on fiduciary activities shall either be part of or directly report to the risk management unit/institution proper to ensure holistic implementation of enterprise-wide risk management framework. Nevertheless, the Board-designated body or personnel tasked to perform risk management function for fiduciary activities is not precluded to freely communicate with the trust officer or relevant trust committee any information relative to the discharge of its function.

B. Adequate Risk Management Processes, Policies and Procedures

The TE shall have board-approved written risk management policies and documentation standards which provide detailed guidance for the day-to-day implementation of the TE's strategies and generally include risk limits, operating procedures and control processes designed to safeguard the TE and its clients from excessive and imprudent risks. Terminologies relevant to trust, other fiduciary and investment management activities shall be specifically defined and clearly described through appropriate sample documents/exhibits to avoid the likelihood of incomplete communication, ambiguities and misinterpretations.

Policies shall provide an outline on the formal process for the BOD/Management's review (at least annually), amendment and approval. In the case of personnel management, the policies and procedures shall provide for personnel recruitment, training, performance evaluation, and salary administration that must address staffing needs, and compensation programs. Effective risk management requires experienced and competent officers and supporting staff.

Policies and procedures shall delineate lines of responsibility and accountability. Copies of policies and procedures, including updates and changes, shall be promptly transmitted to all concerned personnel who are directly or indirectly involved in fiduciary activities. Policies and procedures shall, at the minimum, include:

1. Scope of fiduciary products and types of services offered to clients with clear description of each product and service;
2. Organizational structure;
3. Authorities and responsibilities of the:
    a. Board of directors,
    b. Trust committee,
    c. Trust investment committee and other related committees,
    d. Trust officer*,
    e. Trust Department/Branch/Unit Heads*,
    f. Account officers/marketing personnel, including those assigned in branches*,
    g. Trading or dealing officers and staff*,
    h. Backroom officers and staff*,
4. Basic standards in the administration of trust, other fiduciary business and investment management activities;
5. Accounting and records maintenance;
6. Policy review;
7. System of financial and regulatory reporting; and
8. Client-oriented safety nets.

C. Appropriate Risk Measurement System, Prudent Risk Limits, Monitoring and Management Information System

The process of measuring, controlling and monitoring fiduciary risks shall be carried out independently by personnel not directly involved in fiduciary activities. Results of this process shall be reported to the BOD, or to the appropriate Board-level committee, thru the risk management unit/institution proper in a timely and comprehensive manner. In the same manner, the trust officer or relevant trust committee should be apprised of the results of these processes and relevant risk management issues.

* including minimum qualification standards

Risk Measurement System

In formulating the risk measurement models and methodologies for its fiduciary risk-taking activities, the TEs shall be guided by the minimum requirements prescribed in Appendices Q-43 and Q-44, and the guidelines provided under Appendix Q-15, as applicable.

TEs are expected to adopt models/ methodologies commensurate to the size, complexity and nature of the fiduciary activities undertaken. In addition, the TE's risk measurement system shall provide detailed guidelines on the:

a. Frequency of risk measurement;

b. Sources of data, i.e., market prices;

c. Appropriateness of risk measurement tools given the complexity and level of risk assumed (including the reasonableness and validity of assumptions);

d. Frequency of validation of risk measurement tools;

e. Ability to measure risk at both transactional and portfolio levels; and

f. Frequency of review of the risk measurement system by the BOD and the trust committee.

TEs shall develop a liquidity contingency plan for its investment portfolios especially for the UITFs to demonstrate how liquidity funding needs will be handled in times of crises, as well as supplement their market and liquidity risk measurement models with periodic stress testing.

Prudent Risk Limits

Risk limits shall be established, approved and periodically reviewed by the BOD or trust committee. In setting limits, the risk management policy shall include the determination of the experience, background and authority of individuals involved in setting portfolio limits, and the processes for setting and changing individual and portfolio limits; and shall recognize the restrictions/constraints that the client may impose on the TE. The risk management policy should also indicate when excess over approved limits may be allowed and the appropriate approving authority for such excess.

Limits must be documented and promptly communicated to all concerned personnel. Portfolio limits must be reviewed at least annually, but client-set limits must be reviewed at least quarterly to ensure consistency with the investment objectives set by the client and conformity to the terms of the contract.

Risk Monitoring and Management Information Systems (MIS)

Effective risk monitoring and control is dependent on accurate, timely, reliable, and relevant information processing and reporting systems. Rapid technology advancements create new risk monitoring and control issues, thus, the BOD should ensure that the impact of emerging technologies on fiduciary activities is properly considered. The BOD and Trust Committee shall be afforded with adequate information on the trust and investment management activities to properly fulfill their responsibilities. Accordingly, the TEs shall have policies and procedures in reporting information on fiduciary activities to the BOD and trust committee specifying, among other things, the type, amount and timing of information reported; methodology to ensure all identified risks are monitored; frequency, timeliness, accuracy and clarity of monitoring reports; report distribution to management and staff; and comparability of output against predetermined limits.

The sophistication of management information system (MIS) shall be commensurate with the complexity and diversity of the TE's operations such that a complex TE shall have a more comprehensive MIS.

Because of the cost involved in developing technology, a TE may opt to purchase information technology rather than develop its own internal system. Nonetheless, regardless of the source of information system, the BOD and Trust Committee shall exercise the proper level of control and oversight to appropriately fulfill their fiduciary duties. Service agreements or vendor contracts shall be thoroughly reviewed by legal counsel to ensure that they include appropriate indemnification and recourse language. In addition, contracts shall contain specific language recognizing the authority of the TE's regulators to conduct reviews of third-party vendors as part of their overall supervisory activities.

D. Comprehensive and effective internal controls, audit, and compliance program

Internal Control Systems

A comprehensive internal control is the foundation for the safe and sound functioning of a TE and its fiduciary risk management system. It shall form an integral part of the TE's overall system of controls and shall promote effective fiduciary operations and reliable financial and regulatory reporting, safeguard assets and help ensure compliance with relevant laws, regulations, and institutional policies.

Effectiveness of the internal control system shall be periodically tested by an independent party (preferably the auditor, or at least an individual not involved in the process being reviewed) who shall submit a formal report on the results of such testing/review directly to the BOD or the audit committee. The review shall cover all material controls and shall consider:

· The change in the nature and extent of significant risks, and the TE's ability to respond to such changes;

· The scope and quality of management's ongoing monitoring of risks and of the system of internal control, and the work of its internal audit function;

· The extent and frequency of the communication of results of the monitoring to the BOD or appropriate committee;

· The incidence of significant control failings or weaknesses that have been identified, and the extent to which they have resulted in losses or potential losses; and

· The effectiveness of the TE's reporting processes.

Given the importance of appropriate internal controls to an organization, management's response to results of the test/review should be documented.

The system of internal control shall set forth clear lines of authority and appropriate segregation of operational duties and functions to ensure independence of the control areas from the business lines. An organizational chart shall specify the reporting lines for risk management, compliance, and internal audit groups.

Audit Program

A well-designed and executed internal audit program is essential to effective risk management and provides an independent assessment of the efficiency and effectiveness of the internal control system.

An effective audit program shall be based on an appropriate risk assessment methodology that documents the TE's significant fiduciary activities and their associated risks, and internal control systems. Such documentation shall be available for review by the Bangko Sentral. It shall describe the objectives of specific audit activities and list the procedures to be performed during the process.

While the frequency and extent of the internal audit review and testing shall be consistent with the nature, complexity and risk of the TE's fiduciary activities, existing Bangko Sentral regulations require the conduct of periodic internal audits of the TE at least once every twelve (12) months. The BOD may also require the adoption of a suitable continuous audit system to supplement or replace the periodic audit. In any case, the audit shall ascertain whether the TE's fiduciary activities have been administered in accordance with laws, Bangko Sentral rules and regulations, and sound fiduciary principles.

There shall also be a system that allows sensitive findings (e.g., defined non-observance of the basic principles on fiduciary relationships, unsafe and unsound practices, operational lapses/ deficiencies resulting to recognition of material losses) to be reported directly to the BOD.

Moreover, the audit committee and/or BOD shall review the effectiveness of the internal audit and other control review activities on a regular basis.

Bangko Sentral regulations also require annual external audit of the fiduciary activities of TEs and of each unit investment trust fund by an independent auditor acceptable to the Bangko Sentral.

Compliance Program

The TE shall develop and implement a compliance system for its trust, other fiduciary business and investment management activities, and appoint/designate a compliance officer to oversee its implementation in accordance with Sections 4180Q and their corresponding subsections respectively. The Board-designated body or personnel performing independent compliance function on fiduciary activities shall either be part of or directly report to the compliance unit/institution proper to ensure holistic implementation of enterprise-wide compliance program. Nevertheless, the Board-designated body or personnel tasked to implement the compliance program for fiduciary activities is not precluded to freely communicate with the trust officer or relevant trust committee any information relative to the discharge of its function.

The compliance system must provide a written and comprehensive compliance program designed to monitor observance with relevant laws, rules and regulations, internal policies including risk limits, internal control systems, fiduciary principles, and agreements with clients. The compliance system shall be periodically reviewed for relevance, effectiveness and appropriate follow-up.

The BOD must recognize the scope and implications of applicable laws; approve a compliance program that protects the TE from adverse litigation, increased regulatory oversight, and damage to reputation; and ensure that the compliance officer primarily undertakes to oversee and coordinate the implementation of the compliance system.

The extent of formality of the compliance program may vary from one TE to another. Nevertheless, an effective compliance programs have common elements that include:

1. A strong commitment from the BOD and Trust Committee;
2. A formalized program coordinated by a designated compliance officer that includes periodic testing and validation process;
3. Responsibility and accountability from line management;
4. Comprehensive training programs; and
5. Timely reporting and follow-up process.

(Circular 766 dated 17 August 2012)

GUIDELINES FOR DAYS DECLARED AS PUBLIC SECTOR HOLIDAYS

(Appendix to Sec. 4256Q and Subsec. 4601Q.6)

Table of standard operating procedures of the Bangko Sentral ng Pilipinas (BSP), the Bureau of the Treasury (BTR) and the Philippine Clearing House Corp (PCHC) during the public sector holidays. Exceptions to these guidelines shall be issued by the Bangko Sentral when deemed necessary.

Time of receipt of Public Holiday Announcement by the Bangko Sentral		Bangko Sentral ng Pilipinas								Bureau of the Treasury		PCHC	
		Treasury Department				PDS	PhilPASS	Cash Dept Withdrawal	Reserve Position				
		Trading and Settlement											
		ODF	OLF	TDF	Overnight RRP Facility					Auction	Sec. Mkt	Manila	Regional
1. On an ordinary business day prior to the date of effectivity		Closed	Closed	Closed. TDF offering to be rescheduled by the Auction Committee	Closed	Closed	Closed	Closed	Non-Reserve	Closed	Closed	No clearing; no settlement. PCHC will issue an advisory to its members that it will continue accepting and processing checks	To be decided in coordination with Head Office
2. On a Saturday or Sunday to take effect the following Monday or on a non-working holiday to take effect the next business day													
a. Under good weather conditions		Open	Open	Open	Open	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office
b. Under unfavorable conditions such as bad weather, (e.g., Typhoon signal no. 3), natural calamities or civil disturbances		Closed	Closed	Closed. TDF offering to be rescheduled by the Auction Committee	Closed	Closed	Closed	Closed	Non-Reserve	Closed	Closed	No clearing; no settlement. PCHC will issue an advisory to its members that it will continue accepting and processing checks	To be decided in coordination with Head Office
3. Before 9:00 am on the date of effectivity		Closed	Closed	Closed. The TDF offering to be rescheduled by the Auction Committee	Closed	Closed	Closed	Closed	Non-Reserve	Closed	Closed	No clearing; no settlement. PCHC will issue an advisory to its members that it will continue accepting and processing checks	To be decided in coordination with Head Office

Time of receipt of Public Holiday Announcement by the Bangko Sentral		Bangko Sentral ng Pilipinas								Bureau of the Treasury		PCHC	
		Treasury Department – Trading and Settlement				PDS	PhilPASS	Cash Dept Withdrawal	Reserve Position				
		ODF	OLF	TDF	Overnight RRP Facility					Auction	Sec. Mkt	Manila	Regional
4. After 9:00 am and before 12:00 pm on the date of effectivity	Day 1	Suspended at 12:00 pm; to resume on Day 2 at 8:00 am to 8:45 am. Settlement of all Overnight Deposits dealt from Day 1 until 8:45 am of Day 2 shall be settled until 9:00 am of Day 2	Suspended at 12:00 pm; to resume on Day 2 at 8:00 am to 8:30 am. Settlement of all Overnight Lendings dealt from Day 1 until 8:30 am of Day 2 shall be settled until 9:00 am of Day 2	No change in auction time, settlement will be until 9:00 am of Day 2	Offering suspended; to resume on Day 2 at 8:00 am and settled until 9:00 am of Day 2	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office
	Day 2	Day 1 transactions to resume from 8:00 am to 8:45 am for value Day 1 and settled until 9:00 am of Day 2 then, Regular trading and settlement hours for same day value transactions		Settlement of Day 1 transactions until 9:00 am of Day 2 then, Regular trading and settlement hours for same day value transactions, if there is a scheduled auction	Bid submission at 8:00 am to 8:20 am, allocation until 8:45 am, settlement until 9:00 am of Day 2 for value Day 1 then, Regular trading and settlement of same day value transactions	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office

Time of receipt of Public Holiday Announcement by the Bangko Sentral		Bangko Sentral ng Pilipinas							Reserve Position	Bureau of the Treasury		PCHC	
		Treasury Department				PDS	PhilPASS	Cash Dept Withdrawal					
		Trading and Settlement											
		ODF	OLF	TDF	Overnight RRP Facility					Auction	Sec. Mkt	Manila	Regional
5. After 1:00 pm on the date of effectivity		No change in trading and settlement hours	No change in trading and settlement hours	No change in trading and settlement hours	No change in trading and settlement hours	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office
6. In case the suspension of work is extended to Day 2													
a. Before 9:00 am of Day 2	Day 2	Closed; If the ODF was suspended on Day 1, Day 1 transactions and settlement will resume on Day 3 at 8:00 am	Closed; If the ODF was suspended on Day 1, Day 1 transactions and settlement will resume on Day 3 at 8:00 am	Closed; If there were TDF transactions on Day 1, settlement will continue from 8:00 am to 9:00 am on Day 3. If the TDF offering was suspended on Days 1 and 2, the Auction Committee will reschedule	Closed; If the Overnight RRP offering was suspended on Day 1, Day 1 transactions will be moved to Day 3 at 8:00 am	Closed	Closed	Closed	Non-Reserve	Closed	Closed	No clearing; no settlement. PCHC will issue an advisory to its members that it will continue accepting and processing checks	To be decided in coordination with the Head Office
	Day 3	Day 1 transactions to resume from 8:00 am to 8:45 am and settled for value Day 1 until 9:00 am of Day 3 then, Regular trading and settlement of same day value transactions	Day 1 transactions to resume from 8:00 am to 8:30 am and settled for value Day 1 until 9:00 am of Day 3 then, Regular trading and settlement of same day value transactions	Settlement of Day 1 transactions, if any, until 9:00 am of Day 3 then, Regular trading and settlement hours for same day value transactions if there is a scheduled auction	Bid submission from 8:00 am to 8:20 am, allocation until 8:45 am. Settlement for value Day 2 until 9:00 am of Day 3 then, Regular trading and settlement of same day value transactions.	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with the Head Office

Time of receipt of Public Holiday Announcement by the Bangko Sentral		Bangko Sentral ng Pilipinas							Reserve Position	Bureau of the Treasury		PCHC	
		Treasury Department				PDS	PhilPASS	Cash Dept Withdrawal					
		Trading and Settlement											
		ODF	OLF	TDF	Overnight RRP Facility					Auction	Sec. Mkt	Manila	Regional
b. After 9:00 am but before 12:00 pm of Day 2	Day 2	Day 1 transactions to resume from 8:00 am to 8:45 am and settled for value Day 1 until 9:00 am of Day 2 then, Day 2 suspended at 12:00 pm; to be resumed on Day 3 at 8:00 am to 8:45 am. Settlement of all Overnight Deposits dealt from Day 2 until 8:45 am of Day 3 shall be until 9:00 am of Day 3	Day 1 transactions to resume from 8:00 am to 8:30 am and settled for value Day 1 until 9:00 am of Day 2 then, Day 2 suspended at 12:00 pm; to be resumed on Day 3 at 8:00 am to 8:30 am. Settlement of all Overnight Deposits dealt from Day 2 until 8:45 am of Day 3 shall be until 9:00 am of Day 3	Settlement of Day 1 transactions, if any, until 9:00 am of Day 2 then, Regular trading hours for same day value transactions, if there is a scheduled auction. Settlement of Day 2 transactions will be until 9:00 am of Day 3	Bid submission from 8:00 am to 8:20 am, allocation until 8:45 am. Settlement for value Day 1 until 9:00 am of Day 2 then, Offering for Day 2 suspended; to resume on Day 3 at 8:00 am and settled until 9:00 am of Day 3	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office
	Day 3	Day 2 transactions to resume from 8:00 am to 8:45 am and settled for value Day 2 until 9:00 am of Day 3 then, Regular trading and settlement of same day value transactions	Day 2 transactions to resume from 8:00 am to 8:30 am and settled for value Day 2 until 9:00 am of Day 3 then, Regular trading and settlement of same day value transactions	Settlement of Day 2 transactions, if any, until 9:00 am of Day 3 then, Regular trading and settlement hours for same day value transactions if there is a scheduled auction	Bid submission from 8:00 am to 8:20 am, allocation until 8:45 am. Settlement for value Day 1 until 9:00 am of Day 3 then, Regular trading and settlement of same day value transactions	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with the Head Office

Time of receipt of Public Holiday Announcement by the Bangko Sentral		Bangko Sentral ng Pilipinas – Treasury Department – Trading and Settlement: ODF	OLF	TDF	Overnight RRP Facility	PDS	PhilPASS	Cash Dept Withdrawal	Reserve Position	Bureau of the Treasury: Auction	Sec. Mkt	PCHC: Manila	Regional
c. After 12:00 pm of Day 2	Day 2	Day 1 transactions to resume from 8:00 am to 8:45 am and settled for Value Day 1 until 9:00 am of Day 2 then, Regular trading and settlement of same day value transactions	Day 1 transactions to resume from 8:00 am to 8:30 am and settled for Value Day 1 until 9:00 am of Day 2 then, Regular trading and settlement of same day value transactions	Settlement of Day 1 transactions, if any, until 9:00 am of Day 2 then, Regular trading and settlement hours for same day value transactions if there is a scheduled auction	Bid submission from 8:00 am to 8:20 am, allocation until 8:45 am, Settlement for value Day 1 until 9:00 am of Day 2 then, Regular trading and settlement of same day value transactions	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with Head Office
7. In case the suspension of work does not apply to all government offices (Manila Day, Quezon City Day, etc)		4:45 pm to 5:30 pm for same day transactions	4:45 pm to 5:45 pm	No change in trading hours	No change in settlement time	Open	Open	Open	Reserve	Open	Open	Normal	To be decided in coordination with the Head Office

Notes:

1. The Bangko Sentral consulted with and obtained the agreement of BAP, ACI and MART in formulating these standard operating procedures.
2. Placements in the ODF, TDF and Overnight RRP Facility which would have matured on the public sector holiday will instead mature on the next business day and earn additional interest.

(M-2008-025 dated 31 August 2008, as amended by Circular No. 913 dated 02 June 2016)

GUIDELINES ON THE SUBMISSION OF APPLICATION FOR MERGER AND CONSOLIDATION

(Appendix to Subsec. 4108Q.1)

The following guidelines and procedures shall be observed by non-bank financial institutions with quasi-banking functions (NBQBs) in their application for merger/consolidation:

1. The merging/consolidating entities shall comply with the safety and soundness test requirements as follows:

a. Compliance, especially by the acquiring NBQB, with major banking laws and regulations; and

b. Submission to the BSP of a satisfactory action plan, if applicable, to address serious supervisory concerns.

2. Submission of the following documentary requirements simultaneously to the BSP and the PDIC for merger/ consolidation application involving only NBQBs;

a. Articles of Merger or Consolidation duly signed by the President or Vice-President and certified by the secretary or assistant secretary of each of the constituent institutions setting forth the following as required in Section 78 of the Corporation Code:

- The Plan of Merger or Consolidation;
- The number of shares outstanding; and
- The number of shares voting for and against the Plan, respectively.

b. Plan of Merger or Consolidation setting forth the following:

- The names of the constituent institutions;
- The terms of the merger or consolidation and the mode of carrying the same into effect;
- A statement of the changes, if any, in the Articles of Incorporation of the surviving institution in the case of merger; and in the case
- Of consolidation, all the statements required to be set forth in the Articles of Incorporation;
- Such other provisions with respect to the proposed merger or consolidation as are deemed necessary or desirable.

c. Resolution of the Board of Directors of the respective institutions approving the Plan of Merger or Consolidation. The resolution shall be certified under oath by the respective corporate secretaries of the constituent institutions;

d. Resolution of the meeting of the stockholders in which at least two-thirds (2/3) of the outstanding capital stock of each corporation have approved the plan of merger or consolidation. The resolution shall be certified under oath by the respective corporate secretaries of the constituent institutions;

e. Financial Statements:

- Latest financial statements and three (3) - year audited financial statements of the merging institutions
- Three (3) - year financial projections with valid assumptions of the merged or consolidated institutions' balance sheet and income statement.

f. List of merger incentives the bank will avail of;

g. List of stockholdings of each of the constituent institutions before and after the merger;

h. List of directors and officers of each of the merging/consolidating institutions;

i. List of proposed officers and directors of the merged or consolidated institution and the summary of their qualifications;

j. Organizational chart of the merged or consolidated institution including the number of offices and locations thereof;

k. Inter-company transactions relative to the submitted Financial Statements;

l. Computation of Capital Adequacy Ratio on the submitted financial Statements;

m. Viable Operational Plan with the following components:

- Marketing Strategies
- Proposed Loan Portfolio Diversification
- Deposit Generation
- Proposed Improvements in Accounting System
- Operational Control
- Computerization Plan
- Communication System

n. The appraiser's report of reappraisal of NBQB premises, if any, done by an independent and licensed appraiser;

o. Proposed increase of capital stock of surviving NBQB;

p. Proposed amendments in the Articles of Incorporation of surviving NBQB;

q. Director's Certificate (surviving NBQB) on the proposed amendment of the Articles of Incorporation increasing the authorized capital stock; and

r. Any other reasonable requirement deemed material in the proper evaluation of the merger or consolidation as may subsequently be requested by the BSP and/ or PDIC.

3. For merger/consolidation involving a NBQB, the BSP shall wait for PDIC consent before elevating the proposed merger/consolidation to the Monetary Board for approval; and

4. The authority given to merge/ consolidate the constituent entities shall be valid within six (6) months reckoned after BSP approval.

(M-2009-028 dated 12 August 2009)

GUIDELINES ON THE COLLECTION OF THE ANNUAL SUPERVISORY FEES
[Appendix to Subsec. 4901Q.1 (2008 - 4652Q)]

The following guidelines shall govern the collection by the Bangko Sentral and the payment by QBs of the Annual Supervisory Fees (ASF).

1. *Notification of amount due for ASF and mode of payment.* The Bangko Sentral Supervisory Data Center (SDC) shall send a billing notice to the QB for its ASF payment indicating, among others, the computation of the ASF due, including the two percent (2%) creditable withholding tax (CWT) thereon, if applicable, the period covered by the ASF and the specific date when the ASF will be debited from the QB's demand deposit account (DDA) with the Bangko Sentral.

The Bangko Sentral will not accept checks as mode of ASF payment. QBs, upon receipt of the ASF billing notice from the Bangko Sentral, should maintain adequate balance in their DDA to cover the ASF and other daily obligations and, when necessary, make corresponding deposits to fully cover said obligations. In case of deficiency, the provisions on DDA deficiency in Subsec. 4901Q.1 shall apply.

2. *Exceptions noted on billing notice of ASF*. Upon receipt of the Bangko Sentral Notice of ASF billing, a QB is encouraged to check the accuracy of the billing and to submit any of the noted exceptions therein not later than ten (10) days before the specified date of collection/debit to DDA as indicated in the billing notice. The said exceptions, together with supporting documents, shall be submitted to:

The Director
Supervisory Data Center (SDC)
Bangko Sentral Ng Pilipinas
11th Floor, Multi-Storey Building
BSP Complex, A. Mabini Street
Malate, Manila 1004

Any exceptions received after the cut-off date or any exception not duly substantiated with documents before the cut-off date will be evaluated and considered in the computation of the ASF for the immediate succeeding year.

3. *Withholding tax supervisory fees*. The following shall apply to QBs covered by Sections M and N of BIR Revenue Regulations (R.R.) No. 2-98, as amended by R.R. No. 17-2003 and R.R. No. 2-2006:

a. Within seven (7) days from specified date, the QB shall submit a written representation to the Bangko Sentral (at the address indicated in Item "2" hereof), on whether or not it is included among the institutions covered under Sections M or N of R.R. No. 2-98, as amended. If available, a certified true copy of the BIR Notice classifying it under Section M of R.R. No. 2-98, as amended, shall be attached to the written representation. The submission of the written representation or BIR Notice shall no longer be necessary if previously transmitted and received by the Bangko Sentral in connection with previous ASF assessments.

b. The ASF, net of the two percent (2%) CWT, shall be debited from their respective DDAs on the specified date referred to in the notice of ASF billing under Item *"1"*.

c. Three (3) original signed copies of the BIR Form No. 2307 Certificate of Creditable Tax Withheld at Source, which exclusively pertain to the withholding on ASF shall be submitted to the SDC at the address provided in Item 2 above on specified date. The BIR Form No. 2307 shall accurately indicate, among others, the following details:

(1) Payee: Bangko Sentral ng Pilipinas

(2) Tax Identification Number: 000-354-790-000

(3) Address: A. Mabini St. corner P. Ocampo Sr. St., Malate, Manila

(4) Zip Code: 1004

(5) The BIR-registered name of the payor-QB, as exactly indicated in the BIR Certificate of Registration (BIR Form No. 2303) of the QB.

(6) the amount of income payment pertaining to the gross ASF

(7) the tax withheld

(8) the period of tax return.

Furthermore, the BIR Form No. 2307 – Certificate of Creditable Tax Withheld at Source covering the withholding on ASF should not include other transactions with Bangko Sentral and should pertain exclusively to the ASF. If the concerned QB has other transactions with Bangko Sentral, a separate BIR Form 2307 for the transaction/s shall be provided to Bangko Sentral.

d. In case of failure of concerned QB to submit the duly accomplished forms within the deadline stated above or if such forms contain errors and discrepancies that would render the BIR Form No. 2307 invalid for claiming tax credits, the Bangko Sentral shall be constrained to immediately debit an amount equivalent to the two percent (2%) CWT from the DDA of QBs concerned, with no obligation on the part of the Bangko Sentral to reimburse said amount in case of late submission. In case of DDA deficiency, the provisions in Subsec. 4901Q.1 shall apply.

(M-2009-004 dated 12 February 2009, as amended by Circular No. 903 dated 29 February 2016, M-2016-001 dated 24 February 2016, Circular No. 890 dated 02 November 2015, M-2015-022 dated 06 May 2015, M-2014-014 dated 20 March 2014, M-2013-015 dated 18 April 2013, M-2012-010 dated 17 February 2012, M-2011-029 dated 26 May, 2011, M-2010-013 dated 31 May 2010, and M-2009-046 dated 17 November 2009)

GUIDELINES ON BANKS' INTERNAL CAPITAL ADEQUACY ASSESSMENT PROCESS
(Appendix to Sec. 4119Q)

A. Introduction

1. This document sets out the broad guidelines that UBs and KBs (hereinafter referred to as 'banks') should follow in the design and use of their Internal Capital Adequacy Assessment Process (ICAAP). A bank's ICAAP supplements the BSP's Risk-Based Capital Adequacy Framework (the Framework) as contained in existing regulations and, thus, must be applied on a group-wide basis, i.e., it should cover all of a bank's subsidiaries and affiliates.

2. Although the Framework prescribes the guidelines for determining banks' minimum regulatory capital requirements in relation to their exposure to credit risk, market risk and operational risk, a bank's Board of Directors and senior management are still ultimately responsible in ensuring that the bank maintains an appropriate level and quality of capital commensurate not just with the risks covered by the Framework, but also with all other material risks to which it is exposed. Hence, a bank must have in place an ICAAP that takes into account all of these risks.

B. Guiding principles

1. Banks must have a process for assessing their capital adequacy relative to their risk profile (an ICAAP).

2. The ICAAP is the responsibility of banks. Banks are responsible for setting internal capital targets that are consistent with their risk profile, operating environment, and strategic/business plans. The ICAAP should be tailored to a bank's circumstances and needs, and it should use the inputs and definitions that a bank normally uses for internal purposes.

3. Banks' ICAAP (i.e., the methodologies, assumptions and procedures) and other policies supporting it (e.g., capital policy, risk management policy, etc.) should be formally documented, and they should be reviewed and approved by the board. The results of the ICAAP should also be regularly reported to the board.

In addition, the board and senior management are responsible for integrating capital planning and capital management into banks' overall management culture and approach. They should ensure that formal capital planning and management policies and procedures are communicated and implemented group-wide and supported by sufficient authority and resources.

Banks' ICAAP document should be submitted to the appropriate Central Point of Contact Department (CPCD) of the BSP every 31 January of each year. A suggested format of the ICAAP submission to the BSP is provided in *Annex A* of *Appendix Q-52*.

4. The ICAAP should form an integral part of banks' risk management processes so as to enable the board and senior management to assess, on an on-going basis, the risks that are inherent in their activities and material to their bank. This could range from using the ICAAP in more general business decisions (e.g. expansion plans) and budgets, to the more specific decisions such as allocating capital to business units, or to having it play a role in the individual credit decision process.

5. The ICAAP should be reviewed by the board and senior management at least annually, or as often as is deemed necessary

to ensure that risks are covered adequately and that capital coverage reflects the actual risk profile of their bank. Moreover, any changes in a bank's strategic focus, business plan, operating environment or other factors that materially affect assumptions or methodologies used in the ICAAP should initiate appropriate adjustments to the ICAAP. New risks that occur in the business of a bank should be identified and incorporated into the ICAAP. The ICAAP and its review process should be subject to independent internal or external review. Results thereof should be communicated to the board and senior management.

6. Banks should set capital targets which are consistent with their risk profile, operating environment, and business plans. Banks, however, may take other considerations into account in deciding how much capital to hold, such as external rating goals, market reputation and strategic goals. If these other considerations are included in the process, banks must be able to show to the BSP how they influenced their decisions concerning the amount of capital to hold.

7. The ICAAP should capture the risks covered under the Framework – credit risk, market risk, and operational risk. If applicable, banks should disclose major differences between the treatments of these risks in the calculation of minimum regulatory capital requirement under the Framework and under the ICAAP. In addition, the ICAAP should also consider other material risks that banks are exposed to, albeit that there is no standard definition of materiality. Banks are free to use their own definition, albeit that they should be able to explain this in detail to the BSP, including the methods used, and the coverage of all material risks. These other material risks may include any of the following:

a. Risks *not fully* captured under the Framework, for example, credit concentration risk, risk posed by non-performing assets, risk posed by contingent exposures, etc.;

b. Risks *not* covered under the Framework. As a starting point, banks may choose to use the other risks identified under Circular No. 510 dated 03 February 2006. Some of these risks are less likely to lend themselves to quantitative approaches, in which cases banks are expected to employ more qualitative methods of assessment and mitigation. Banks should clearly establish for which risks a quantitative measure is warranted, and for which risks a qualitative measure is the correct risk assessment and mitigation tool; and

c. Risk factors external to banks. These include risks which may arise from the regulatory, economic or business environment.

8. Banks should have a documented process for assessing risks. This process may operate either at the level of the individual banks within the banking group, or at the banking group level. Banks are likely to find that some risks are easier to measure than others, depending on the availability of information. This implies that their ICAAP could be a mixture of detailed calculations and estimates. It is also important that banks not rely on quantitative methods alone to assess their capital adequacy, but include an element of qualitative assessment and management judgment of inputs and outputs. Non-quantifiable risks should be included if they are material, even if they can only be estimated. This requirement might be eased if banks can demonstrate that they have an appropriate policy for mitigating/managing these risks.

9. The ICAAP should take into account banks' strategic plans and how they

relate to macro-economic factors. Banks should develop an internal strategy for maintaining capital levels which can incorporate factors such as loan growth expectations, future sources and uses of funds and dividend policy, and any procyclical variation of minimum regulatory capital requirements.

Banks should also have an explicit, board-approved capital plan which states their objectives and the time horizon for achieving those objectives, and in broad terms the capital planning process and the responsibilities for that process. The plan should also lay out how banks will comply with capital requirements in the future, any relevant limits related to capital, and a general contingency plan for dealing with divergences and unexpected events (for example, raising additional capital, restricting business, or using risk mitigation techniques).

In addition, banks should conduct appropriate scenario/stress tests which take into account, for example, the risks specific to the particular stage of the business cycle. Banks should analyze the impact that new legislation/regulation, actions of competitors or other factors may have on their performance, in order to determine what changes in the environment they could sustain.

10. The results and findings of the ICAAP should feed into banks' evaluation of their strategy and risk appetite. For less sophisticated banks in particular, for which genuine strategic capital planning is likely to be more difficult, the results of the process should mainly influence the bank's management of its risk profile (for example, via changes to its lending behavior or through the use of risk mitigants). The ICAAP should produce a reasonable overall capital number and assessment. Banks should be able to explain to the BSP's satisfaction the similarities and differences between its ICAAP and its minimum regulatory capital requirements under the Framework.

C. ICAAP Methodologies

1. While banks may use simple or model-based ICAAP methodologies depending on what they think is appropriate for them *(please see Annex B of Appendix Q-52 for description of the different broad classification of methodologies),* at the minimum, the BSP expects banks to adopt an ICAAP based on the minimum regulatory capital requirement under the Framework and, where applicable, assess extra capital proportionate to the other risks that are not covered under said Framework. This requires an assessment first of whether the risks covered under the Framework - credit risk, market risk and operational risk - are fully captured, and second, how much capital to allocate against other risks and external factors.

2. Regardless of which methodology a bank decides to adopt, it should compare its actual and future projected capital with the actual and future internal capital need arising from the assessment. The actual calculation and allocation of capital always needs to be supplemented by sufficiently robust qualitative procedures, measures and provisions to identify, manage, control and monitor all risks.

3. The ICAAP will always consist of two parts. One part covers all steps necessary for assessing the risks. The other part covers all steps necessary to assess the actual capital (risk-taking capacity). As these two parts will always meet at the end of the ICAAP and have to be in balance, there is no procedure which says which part has to be assessed first.

4. After choosing its ICAAP methodology, a bank could take its thinking through the following steps in developing the ICAAP:

a. Risk identification

A bank could prepare a list of all material risks to which it is exposed; for that purpose it may find it useful to identify and consider its largest past losses and whether those losses are likely to recur. The identification of all material risk to which a bank is exposed should be conducted in a forward looking manner.

b. Capital assessment

For all the risks identified through the process above, a bank could then consider how it would act, and the amount of capital that would be absorbed, in the event that one or more of the risks identified was to materialize.

c. Forward capital planning

A bank could then consider how its capital need as calculated above might change in line with its business plans over its strategic time horizon, and how it might respond to these changes. In doing so, a bank may want to perform a sensitivity analysis to understand how sensitive its capital is to changes in internal and external factors such as business risks, and changes in economic/business cycles.

d. ICAAP outcome

Finally, a bank should document the ranges of capital required as identified above and form an overall view on the amount of internal capital which it should hold.

(Circular No. 639 dated 15 January 2009)

Annex A

INTERNAL CAPITAL ADEQUACY ASSESSMENT PROCESS
(Suggested Format)

The BSP expects that there will be a fair degree of variation in the length and format of submissions since banks' business and risk profiles differ. As such the ICAAP document should be proportional to the size, nature and complexity of a bank's business.

This format has been provided as a starting point. Banks are not required to adopt this format. However, adopting this format may be convenient for banks as it covers the minimum issues which typically would be the subject of review by the BSP and may therefore make the review process more efficient for both the bank and the BSP.

Equally, use of this template is not a substitute for being aware of the relevant rules.

What is an ICAAP document?

An ICAAP document is a bank's explanation to the BSP of its internal capital adequacy assessment process. While this may be based on existing internal documentation from numerous sources, the BSP will clearly find it helpful to have a summary prepared to communicate the key results and issues to it at a senior level. Since the BSP will be basing many of its views on the information contained in the ICAAP document, the bank's board of directors and senior management should have formally approved its contents. As such, the BSP would expect the ICAAP document to be in a format that can be easily understood at a high level and to contain all the relevant information that is necessary for the bank and BSP to make an informed judgment and decision as to the appropriate capital level and risk management approach.

Where appropriate, technical information on risk measurement and capital methodologies, and all other works carried out to validate the approach (e.g. board papers and minutes, internal or external reviews) could be contained in appendices.

1. EXECUTIVE SUMMARY

The purpose of the Executive Summary is to present an overview of the ICAAP methodology and results. This overview would typically include:

i. The purpose of the report and which group entities are covered by the ICAAP;

ii. The main findings of the ICAAP analysis:

- How much and what composition of internal capital the bank considers it should hold as compared with the capital adequacy requirement under the existing BSP Risk-Based Capital Adequacy Framework (the Framework), and
- The adequacy of the bank's risk management processes given the risks assumed;

iii. A summary of the financial position of the business, including the strategic position of the bank, its balance sheet strength, and future profitability;

iv. Brief descriptions of the capital and dividend plan; how the bank intends to manage capital going forward and for what purposes;

v. Commentary on the most material risks, why the level of risk is acceptable or, if it is not, what mitigating actions are planned;

vi. Commentary on major issues where further analysis and decisions are required; and

vii. Who has carried out the assessment, how it has been challenged, and who has approved it.

2. BACKGROUND

This section would cover the relevant organizational structure and business lines, and historical financial data for the bank (e.g., group structure (legal and operational), operating profit, profit before tax, profit after tax, dividends, equity, capital resources held and as compared with regulatory requirements, total loans, total deposits, total assets, etc., and any conclusions that can be drawn from trends in the data which may have implications for the bank's future).

3. CAPITAL ADEQUACY

This section could start with a description of the risk appetite used in the ICAAP. It is vital for the BSP to understand whether the bank is presenting its view regarding: (1) the amount of capital required to meet minimum regulatory needs, or (2) the amount of capital that a bank believes it needs to meet its business objectives (e.g., whether the capital required is based on a particular desired credit rating, or includes buffers for strategic purposes, or minimizes the chances of breaching regulatory requirements). A description of the methodology used to assess the bank's capital adequacy should also be included.

The section would then include a detailed review of the capital adequacy of the bank.

The information provided would include:

Timing

i. The effective date of the ICAAP calculations together with consideration of any events between this date and the date of submission which would materially impact the ICAAP calculation together with their effects; and

ii. Details of, and rationale for, the time period over which capital has been assessed.

Risks analyzed

i. An identification of the major risks faced in each of the following categories:

- credit risk;
- market risk;
- interest rate risk in the banking book;
- liquidity risk;
- operational risk;
- compliance risk;
- strategic/business risk; and
- reputation risk;

ii. And for each, an explanation of how the risk has been assessed and, where appropriate, the quantitative results of that assessment;

iii. Where relevant, a comparison of that assessment with the results of the assessment under the Framework (specifically for credit risk, market risk, and operational risk);

iv. A clear articulation of the bank's risk appetite by risk category if this varies from the assessment; and

v. Where relevant, an explanation of any other methods apart from capital used to mitigate the risks.

The discussion here would make clear which additional risks the bank considers material to its operation and, thus, would warrant additional capital on top of that required for credit risk, market risk, and operational risk under the Framework.

Methodology and assumptions

A description of how assessments for each of the major risks have been approached and the main assumptions made.

At a minimum, the BSP expects banks to base their ICAAP on the results of the capital adequacy requirement under the

Framework and additional risks, where applicable, should be assessed separately.

Capital transferability

Details of any restrictions that may curtail the management's ability to transfer capital into or out of the business(es) covered, for example, contractual, commercial, regulatory or statutory restrictions that apply.

4. CURRENT AND PROJECTED FINANCIAL AND CAPITAL POSITIONS

This section would explain the current and expected changes to the business profile of the bank, the environment in which it expects to operate, its projected business plans (by appropriate lines of business), and projected financial position for, say three to five years.

The starting balance sheet and date as of which the assessment is carried out would be set out.

The projected financial position might consider both the projected capital available and projected capital resource requirements to support strategic/business initiatives. These might then provide a baseline against which adverse scenarios (please see Capital Planning below) might be compared.

Given these business plans, this section would also discuss the bank's assessment on whether additional capital is necessary on top of that assessed to cover their existing risk exposures, as well as future planned sources of capital.

5. CAPITAL PLANNING

This section would explain how a bank would be affected by an economic recession or downswings in the business or market relevant to its activities. The BSP is interested in how a bank would manage its business and capital so as to survive a recession/ market disruption while meeting minimum regulatory standards. The analysis would include financial projections forward for, say, three to five years based on business plans and solvency calculations. Likewise, a bank should disclose here the key assumptions and other factors that would have significant impact on its financial condition, in conducting scenario analyses/ stress testing.

Typical scenarios would include how an economic downturn/market disruption would affect:

i. the bank's capital resources and future earnings; and

ii. the bank's capital adequacy requirement under the Framework taking into account future changes in its projected balance sheet.

It would also be helpful if these projections showed separately the effects of management potential actions to change the bank's business strategy and the implementation of contingency plans.

In addition, banks are encouraged to include an assessment of any other capital planning actions that would be necessary to enable it to continue to meet its regulatory capital requirements throughout a recession/market disruption such as new capital injections from related companies or new share issues.

Given the projected capital needs arising from an economic recession or business/market downswings, this section would also discuss the bank's assessment on whether additional capital is necessary on top of that assessed to cover their existing risk exposures and business plans.

6. CHALLENGE AND ADOPTION OF THE ICAAP

This section would describe the extent of challenge and testing of the ICAAP. Banks should describe the review and sign-off procedures used by senior management and the board. It might also be helpful if a copy of any relevant report to senior management or the board and their response were attached.

Details of the reliance placed on any external suppliers would also be detailed here, e.g. for generating economic scenarios.

In addition, a copy of any report obtained from an external reviewer or internal audit would also be included.

7. USE OF THE ICAAP WITHIN THE BANK

This section would describe the extent to which capital management is embedded within the bank including the extent and use of scenario analysis and/or stress testing within the bank's capital management policy, e.g. in business decisions (e.g. expansion plans) and budgets, or in allocating capital to business units, or in individual credit decision process.

Banks should include a statement of the actual operating philosophy on capital management and how this links to the ICAAP. For instance differences in risk appetite used in the ICAAP as compared to that used for business decisions might be discussed.

Lastly, it would be helpful if details on any anticipated future refinements within the bank's ICAAP (highlighting those aspects which are work-in-progress), as well as any other information that would help the BSP review the bank's ICAAP could be provided.
(Circular No. 639 dated 15 January 2009)

Annex B

ALTERNATIVE INTERNAL CAPITAL ADEQUACY ASSESSMENT PROCESS METHODOLOGIES

This appendix outlines ICAAP methodologies which banks may adopt in lieu of that based on the minimum regulatory capital requirement under the BSP Risk-Based Capital Adequacy Framework (the Framework). However, the choice of methodology should clearly be commensurate with banks' ability to collect the necessary information and to calculate the necessary inputs in a reliable manner.

Structured approach - In this case, banks will need to set the internal capital requirement at a starting point of zero capital and then build on capital due to all risks (both those captured under the Framework and those that are not) and external factors. This methodology could be seen as a simple model for calculating economic capital and is not based on the minimum regulatory capital requirement. A sensitivity analysis could form the starting point. The sensitivity analysis should be based on an exceptional but plausible scenario. Risks which are not included in the sensitivity analysis should also be considered in terms of the structured approach.

Allocation-of-risk-taking approach – In this approach, banks might start with its actual capital and break it down to all its material risks. This step in the process requires quantification or at least an estimation method for various risks. The amount of capital provided for each risk category is determined by the current and envisaged amount of risk in each category, a risk buffer and their risk appetite. Banks will decide which type of risk quantification/ estimation method is suitable and sufficient for its particular use. If the allocated capital seems insufficient, either the risk has to be reduced or capital has to be raised. The allocated amounts of the capital will therefore work as a limit system, which assists and facilitates banks in balancing their risk-taking capacity and their risks.

Formal economic capital models – These are expected to be used eventually by banks that use advanced approaches in determining the minimum regulatory capital requirement, or those that have substantial derivatives and structured products transactions (i.e., those that have expanded dealer and/or user capabilities).

(Circular No. 639 dated 15 January 2009)

GUIDELINES ON THE BANGKO SENTRAL'S SUPERVISORY REVIEW PROCESS
(Appendix to Sec. 4119Q)

A. Introduction

1. The BSP's supervisory review process (SRP) in the context of this document involves (1) an evaluation of banks' internal capital adequacy assessment processes (ICAAP) and their output, (2) a dialogue with banks with regard to their ICAAP, and (3) the prudential measures that may be taken to address issues identified. These guidelines should be observed mainly by the appropriate Central Point of Contact Department (CPCD) within the BSP and, where appropriate for on-site validation during regulation examination, by the examination personnel. This therefore supplements the existing guidelines set out in the Manual of Examinations, the CAMELS Rating, and the Risk Assessment System (RAS). The CPCD may draft, for its own use, detailed guidelines on the conduct of the assessment of banks' ICAAP and of the BSP-bank dialogue.

2. Although these guidelines are directed mainly at BSP supervision and examination personnel, banks will have a clear interest in knowing the approach the BSP intends to take in assessing their capital adequacy.

B. Guiding principles in assessing banks' ICAAP

1. As a first step, the BSP should evaluate banks' compliance with the minimum regulatory capital requirements as prescribed under the Framework. This would involve the verification of banks' calculation of their risk weighted assets (RWA) and capital adequacy ratio (CAR). The minimum regulatory capital requirements should always be the starting point in the assessment of banks' capital adequacy. The validated CAR should then be compared with the required capital resulting from the ICAAP.

2. Next, the assessment of banks' ICAAP should include an evaluation of their assumptions, components, methodologies, coverage and outcome. This review should cover both banks' risk management processes and their assessment of adequate capital. The BSP should review how banks assess the other risks they are exposed to, especially Elements 2 to 4 listed in Item "*C.4*" hereof, the controls they have in place to mitigate these risks, as well as the adequacy and composition of capital held against those risks.

3. The BSP should then identify existing or potential problems and key risks faced by banks, the deficiencies in their control and risk management frameworks, and the degree of reliance that can be placed on the outputs of their ICAAP. This process will enable the BSP to tailor its approach for each individual bank and will provide the foundation for the BSP's general approach for each bank and its actions.

4. The BSP's evaluation of the adequacy of banks' capital in relation to their risk profile would serve as the basis for assigning a rating for the Capital component of the bank's CAMELS rating. It would also serve as the basis for identifying any prudential measures or other supervisory actions required. For example, where there is an imbalance between business and risk controls, the BSP should consider the range of remedial supervisory actions that may be needed to rectify a deficiency in controls and/or perceived shortfalls in capital, either as a long-term requirement(s) or as a short-term action(s).

5. The results of the SRP will be communicated to the board and senior

management of banks together with any action that is required of them and any significant action planned by the BSP. This may be done as part of the dialogue between the BSP and each bank on the ICAAP.

6. In evaluating the ICAAP of branches of foreign banks in the Philippines, the BSP will refer to the home supervisor's consolidated assessment of the ICAAP of the head office/parent bank. The BSP will also take into account the strength and availability of parental support.

C. Guiding principles on BSP-bank dialogue

1. A key element of the SRP is the dialogue between the BSP and each bank. The dialogue will inform the BSP about the way each bank's ICAAP is structured, and the assumptions and methodologies which are used to assess its risk exposures.

2. The ICAAP document, which banks are required to submit to the BSP every January of each year (suggested format is in *Annex A* of *Appendix 91*), will be the basis for the BSP-bank (specifically, BSP-CPCD) dialogue. This dialogue may feed into the regular examination, and the findings of the regular examination may in turn feed into the dialogue. The BSP will determine the nature and depth of the dialogue, based on the type and complexity of the bank.

3. Banks should be able to justify their processes for identifying and measuring their risks as well as how much capital, if any, they allocate against them, taking into account other qualitative mitigants of risk. Banks should be able to explain any differences between their own assessment of capital needs and targets under the ICAAP and the minimum regulatory capital requirements prescribed under the Framework.

4. The dialogue should embrace the following four main elements:

a. Element 1: Risks covered under the Framework (i.e., credit risk, market risk, and operational risk);

b. Element 2: Risks *not fully* covered under the Framework (for example, credit concentration risk, risk posed by non-performing assets, risk posed by contingent exposures, etc.);

c. Element 3: Risks *not* covered under the Framework (other risks identified under Circular No. 510 dated 3 February 2006); and

d. Element 4: External factors, which include risks which may arise from the regulatory, economic or business environment.

5. Aside from these four main elements, the dialogue should also cover the quality of internal governance of banks, including risk controls, compliance and internal audit, as well as operational and organizational structure.

6. For the SRP to be effective, the BSP will need to develop a sufficiently thorough understanding of how the ICAAP is determined and the differences between it and the minimum regulatory capital requirement under the Framework. This would help in evaluating the ICAAP outcome. The SRP emphasizes the importance of analyzing the main elements, and understanding the differences between ICAAP assumptions and minimum regulatory capital requirement assumptions.

7. Once the process has begun, the dialogue will provide the opportunity for iteration between the ICAAP and SRP, with each informing the other, i.e., banks may make changes to the ICAAP in the course of the dialogue, in response to challenge and feedback from the BSP, and vice versa. Following the dialogue, the BSP will reach an assessment.

D. Guidelines on prudential measures

1. If the BSP considers that a bank's ICAAP does not adequately reflect its overall

risk profile, or does not result in the bank having adequate capital, then consideration should be given to applying prudential measures.

2. The measures available to the BSP include:

a. Requiring the bank to improve its internal control and risk management frameworks;

b. Requiring the bank to reduce the risk inherent in its activities, products and systems;

c. Restricting or limiting the business, operations or network of the bank;

d. Limiting or prohibiting the distribution of net profits and requiring that part or all of the net profits be used to increase the capital accounts of the bank; and

e. Requiring the bank to increase its capital.

3. The choice of prudential measures should be determined according to the severity and underlying causes of the situation and the range of measures and sanctions available to the BSP. Measures can be used individually or in combination. The requirement to increase capital should, however, be imposed on any bank which exhibits an imbalance between its business risks and its internal control and risk frameworks, if that imbalance cannot be remedied by other prudential measures or supervisory actions within an appropriate timeframe.

4. The requirement to increase capital may also be set where the BSP judges the existing capital held by a bank to be inherently inadequate for its overall risk profile. It must be acknowledged that there is no 'scientific' method for determining the amount, and that capital is not a long-run substitute for remedying deficiencies in systems and controls. In practice, the process relies heavily on subjective judgment and peer-group consistency to ensure a level playing field and a defense to possible challenge that may be posed by banks.

5. Prudential measures should be communicated promptly and in sufficient detail. In communicating its decision on prudential measures, the BSP should:

a. Explain in sufficient detail the factors which have led to the risk assessment conclusions;

b. Indicate areas of weakness and the timeframe for remedial action;

c. Explain the reasons for any additional capital requirement; and

d. Indicate what improvements could be made to systems and controls to make them adequate for the risks and activities of the bank, and for this improvement to be reflected in the bank's capital requirements.

(Circular No. 639 dated 15 January 2009)

(Reserved)

GUIDELINES ON OUTSOURCING OF SERVICES BY ELECTRONIC MONEY ISSUERS (EMIs) TO ELECTRONIC MONEY NETWORK SERVICE PROVIDERS (EMNSP)

(Appendix to Subsec. 4780Q.11)

I. *Statement of policy*. It is the goal of the BSP to achieve a truly inclusive financial system. In line with achieving this goal, the BSP recognizes the potential of electronic money (e-money) as an instrument to facilitate delivery of financial services affordably to the low-income, unbanked or undeserved segments of the population, particularly in non-urbanized areas. The BSP likewise recognizes that efficient and effective delivery of financial services may necessitate Electronic Money Issuers (EMI) to develop business models that utilize outsourcing arrangements, considering the specialized operational and technological requirements in an e-money business. Outsourcing, however may introduce an EMI to certain operational and reputational risks that need to be properly managed. The BSP hereby issues the following guidelines to govern the outsourcing of E-Money related services.

II. *Definition*. An Electronic Money Network Service Provider (EMNSP) shall refer to a non-financial institution that provides automated systems, network infrastructure, including a network of accredited agents utilizing the systems, to enable clients of an EMI to perform any or all of the following:

a. Convert cash to e-money and monetize e-money;

b. Transfer funds from one electronic wallet to another;

c. Use e-money as a means of payment for goods and services; and

d. Conduct other similar and/or related e-money activities/transactions.

III. *Application to outsource*. An EMI intending to outsource the services contemplated under Item "*2*" shall limit itself to an EMNSP as an outsource entity, and shall follow the procedures for outsourcing information technology systems/processes as provided under *Appendix Q-37*. In addition to the documentary requirements under said Subsec., an EMI should also submit a certification signed by its President or any officer of equivalent rank and function certifying that a due diligence review had been conducted and that the selected EMNSP has met the minimum requirements provided under Item "*V*".

IV. *Responsibilities of an EMI*. Relative to the outsourcing of services to an EMNSP, it shall be the responsibility of an EMI to:

a. Conduct due diligence review on an EMNSP in accordance with Item "*V*";

b. Ensure that the relationship/arrangement with an EMNSP is supported by a written contract that should contain, at a minimum, the requirements prescribed under *Appendix Q-37*. The contract should also stipulate that:

(1) the EMNSP shall allow the BSP to have access and to examine the e-money system, network infrastructure, operation of the network of accredited agents and all operations related to e-money services being outsourced by the EMI for the purpose of assessing the confidentiality, integrity, and reliability of the e-money system and determining compliance with BSP rules and regulations;

(2) that the EMNSP shall not further outsource or subcontract the activity being outsourced to the EMNSP; and

(3) that interconnection by the EMNSP with other networks shall be limited to networks of other EMNSPs and the BSP-recognized ATM consortia.

c. Ensure that the EMNSP employs a high degree of professional care in performing the outsourced activities as if these were conducted by the EMI itself. This would include, among others, making use of monitoring and control procedures to ensure compliance at all times with applicable BSP rules and regulations;

d. Ensure that the EMNSP has an accreditation process in the selection of agents participating in the retail network for the conversion of cash to e-money and its monetization and that the EMNSP has instituted mechanism to manage sufficient liquidity in the system/network.

e. Ensure that the EMNSP enforces a program that requires all cash-in and cash out agents under its network to undergo AML trainings and re-trainings every two (2) years; and

f. Comply with all laws and BSP rules and regulations covering the activities outsourced to the EMNSP, especially on compliance with anti-money laundering (AML) requirements.

V. *Due diligence and continuing operational review*. Prior to entering into an outsourcing arrangement with an EMNSP, an EMI should conduct appropriate due diligence review to assess the capability of an EMNSP in performing the service to be outsourced. The due diligence should take into consideration both qualitative and quantitative factors affecting the performance of the outsourced service, such as the financial condition and results of operation for the previous year/s, risk management practices, technical expertise which involve monitoring the velocity of e-money transactions and aggregation of monthly limits, among others, market share, reputation (both the company and its stockholders) and compliance with anti-money laundering requirements and BSP rules and regulations.

An EMI should make sure that the EMNSP adheres to international standards on IT governance, information security, and business continuity in the performance of its outsourced activities. An EMI should endeavor to obtain independent reviews and market feedback on the EMNSP to supplement its own findings.

Operational review by an EMI of the EMNSP should be undertaken at least on an annual basis as part of risk management. This review should be documented as part of an EMI's monitoring and control process.

VI. *Delineation of responsibilities*. The EMI and EMNSP shall identify, delineate and document the responsibilities and accountabilities of each party as regards the outsourcing arrangement, including planning for contingencies. Notwithstanding any contractual agreement between an EMI and an EMNSP on the sharing of responsibility, the EMI shall be responsible to its customers, without prejudice to further recourse, if any, by the EMI to the EMNSP.

VII. *Confidentiality and security*. An EMI should review and monitor the security practices and control processes of the EMNSP on a regular basis, including commissioning or obtaining periodic expert reports on adequacy of security to maintain the confidentiality and integrity of data, and compliance with internationally-recognized standards in respect to the operations of the EMNSP. Considering that the EMNSP may service more than one EMI, the EMI should ensure that records pertaining to its transactions are segregated from those of other EMIs.

The EMI and EMNSP shall identify circumstances under which each party has the right to change security requirements. An EMNSP should be required to report immediately any security breaches to the EMI.

In addition, the EMI should make sure the EMNSP have documented business continuity plans in place and that said plan is periodically reviewed and tested with no significant test findings. An EMNSP shall provide the EMI with timely and adequate notification on any adverse development that may impact the former's performance and delivery of service to the EMI.

VIII. *EMI-Others intending to be an EMNSP*. An EMI-Others that intend to be an EMNSP because of its specialized technical expertise shall comply with the requirements for an EMNSP. In addition, an EMI-Others shall undertake risk-mitigating measures to ensure that liquid assets, corresponding to the outstanding balance of e-money issued by the EMI-Others and maintained pursuant to Sec. 4780Q and Subsecs. 4780Q.1 to 4780Q.7, be insulated from risks arising from its liabilities as EMNSP. These measures may include ring fencing the liquid assets through an escrow or trust account in a financial institution acceptable to BSP.

IX. *Sanctions*. Violations committed by EMIs pertaining to outsourcing of activities to EMNSP shall be subject to monetary penalties as graduated under *Appendix Q-39* and/or other non-monetary sanctions under Section 37 of RA No. 7653.

X. *Transitory provisions*. EMIs that were granted an authority to outsource their e-money activities to an EMNSP may continue to exercise such authority provided that they have to conform to this guidelines within a six (6)-month period from 04 Novemeber 2010.

(Circular No. 704 dated 22 December 2010)

GUIDELINES GOVERNING THE IMPLEMENTATION/EARLY ADOPTION OF PHILIPPINE FINANCIAL REPORTING STANDARDS (PFRS 9) FINANCIAL INSTRUMENTS AS OF 31 DECEMBER 2015

(Appendix to Subsec. 4191Q.3)

Section 1. 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 Bangko Sentral aims to adopt all Philippine Financial Reporting Standards (PFRS) and Philippine Accounting Standards (PAS) to the greatest extent possible.

Section 2. Classification and Measurement of Financial Assets and Financial Liabilities under PFRS 9

PFRS 9 shall apply to financial assets and financial liabilities within the scope of PAS 39. FIs shall classify and measure financial assets and financial liabilities in accordance with the provisions of PFRS 9 upon its initial application. FIs shall likewise observe the following guidelines in the implementation of PFRS 9:

1. Classification of financial assets. Financial assets that are debt instruments shall be classified as subsequently measured at either amortized cost or fair value based on the (a) FI's business model for managing financial assets, and (b) the contractual cash flow characteristics of the financial asset. Financial assets that are equity securities shall be classified at either fair value through profit or loss (FVPL) or irrevocably designated at initial recognition at fair value through other comprehensive income (DFVOCI).

2. Business model for managing financial assets. An FI's business model pertains to the manner by which it actually manages its business or portfolio of financial instruments.

An FI's business model need not be assessed at the level of the FI. The business model criteria may be applied at the level of a portfolio of financial instruments (i.e., group of financial instruments that are managed together by the FI) but not on an instrument-by-instrument basis (i.e., not based on intention for each individual financial instrument). This may include, for instance, a portfolio of investments that an FI manages in order to collect contractual cash flows and another portfolio of investments that an FI manages in order to trade to realize fair value changes.

An FI's business model for managing financial assets shall be documented and approved by the FI's board of directors or its equivalent governing body. The documentation shall include, at a minimum, the following:

a. clearly documented policies and procedures on the specific business model for managing financial assets and for measuring/evaluating performance of those financial assets within a specific business model;

b. type and frequency of reports which shall be presented to management to measure/evaluate performance of financial instruments within a specific business model; and

c. accountable officers and their specific responsibilities with respect to the management, monitoring and evaluation of the performance of financial instruments within a specific business model.

3. Financial assets measured at fair value through profit or loss (FVPL). A financial asset shall be measured at fair value through profit or loss, except in the following cases:

a. The financial asset is part of a hedging relationship, in which case the provisions of PAS 39 on hedge accounting shall apply;

b. The financial asset that is an equity security that is not held for trading and is irrevocably elected upon initial recognition to be measured at fair value through other comprehensive income as provided under Item No. *"5"*; or

c. The financial asset that is a debt instrument is measured at amortized cost as provided under Item No. *"7"*.

Financial assets measured at fair value through profit or loss shall consist of the following:

a. Financial assets held for trading (HFT) as defined in PFRS 9;

b. Financial assets designated at fair value through profit or loss (FA DFVPL) as defined in PFRS 9; and

c. Other financial assets mandatorily measured at fair value through profit or loss (FA MMFVPL) under PFRS 9.

Investments in hybrid securities, securities overlying securitization structures and other structured products shall be measured at FVPL, unless these meet the criteria for amortized cost measurement in accordance with PFRS 9.

Investments in credit-linked notes (CLNs) and similar structured products with embedded credit derivatives, as defined under Section 1628, including those that were reclassified from HFT to Available for Sale (AFS)/Held to Maturity (HTM)/Unquoted Debt Securities Classified as Loans (UDSCL) or from AFS to HTM/UDSCL in accordance with the reclassification rules under *Appendix Q-20*, shall be classified and measured at FVPL upon initial application of PFRS 9.

The accounting treatment for investments in CLNs and other structured products under *Appendix 66a* of the MORB and the guidelines on the reclassification of CLNs and other similar instruments that are linked to the ROP under Bangko Sentral Memorandum No. M-2009-012 dated 16 April 2009 shall no longer apply to financial assets that are accounted for in accordance with PFRS 9.

4. Financial assets designated at fair value through profit or loss (DFVPL). An FI may, at initial recognition, designate financial assets that are debt instruments as measured at fair value through profit or loss in accordance with the conditions mentioned under PFRS 9, subject to the following requirements:

a. FIs shall have in place appropriate risk management systems (including related risk management policies, procedures and controls) prior to initial application of the fair value option for a particular activity or purpose and on an ongoing basis;

b. FIs shall apply the fair value option only to instruments for which fair values can be reliably estimated; and

c. FIs shall provide Bangko Sentral with supplemental information as may be necessary, to enable Bangko Sentral to assess the impact of the FI's use of the DFVPL option.

5. Equity securities designated at fair value through other comprehensive income (DFVOCI). Financial assets that are equity securities that are not held for trading may be irrevocably elected at initial recognition by an FI to be accounted for as at fair value through other comprehensive income, subject to the conditions provided under PFRS 9.

Unrealized gains/(losses) arising from changes in fair value of investment in equity securities classified as DFVOCI, including any related foreign exchange gains/(losses), shall be credited/(charged) to Other Comprehensive Income (OCI) under the equity section of the balance sheet: *Provided*, That the realized gains/(losses) on sale or derecognition of equity securities booked under the DFVOCI account shall be credited/(charged) to the "Retained Earnings – Free" account on sale/ derecognition date.

6. Investments in unquoted equity securities. Investments in unquoted equity securities shall be recorded at fair value from the date of initial application of PFRS 9.

However, in limited circumstances, cost may be an appropriate measure of fair value. For this purpose, FIs shall be guided by the provisions of PFRS 9 in making its assessment.

7. Financial assets measured at amortized cost

a. Classification criteria

Financial assets that are debt instruments, other than those that are DFVPL, which meet all of the following conditions shall be measured at amortized cost:

i. The financial asset is held within a business model whose objective is to hold financial assets in order to collect contractual cash flows; and

ii. The contractual terms of the financial asset give rise on specified dates to cash flows that are solely payments of principal and interest on the principal amount outstanding.

b. Hold to collect contractual cash flows (HTC) business model

In addition to those provided under PFRS 9, the following instances are, likewise, deemed inconsistent with an HTC business model; hence, should not qualify for amortized cost measurement category:

i. a portfolio of debt instruments that is managed in order to benefit from actual or expected price movements/fair value changes (e.g., changes in credit spreads, yield curve, etc.) or to lock in arbitrage profits;

ii. a portfolio of debt instruments held for market-making by an FI who is a market maker in those instruments (e.g., government securities);

iii. positions in debt instruments which arise from the execution of trade orders from customers; or

iv. a portfolio of debt instruments that is managed and evaluated on a fair value basis in accordance with a documented risk management or investment strategy as evidenced by management reports provided to senior management.

A "more than infrequent sale" of financial assets in a portfolio of debt instruments measured at amortized cost shall be assessed as to whether such sales are consistent with an HTC business model.

The following sales/derecognition of financial assets shall not be considered inconsistent with an HTC business model:

(1) sales which no longer meet the FI's investment policy (e.g., due to downgrade in credit rating below that required by the entity's investment policy);

(2) sales of financial assets in order to fund capital expenditures;

(3) sales of financial assets to reflect the change in expected timing of payouts;

(4) sales which are so close to maturity (e.g., less than three (3) months) or the security's call date that changes in the market rate of interest would not have a significant effect on the security's fair value;

(5) sales that occur after the FI has substantially collected all of the security's original principal through scheduled payments or prepayments.

(6) sales attributable to an isolated event that is beyond the FI's control, is non-recurring and could not have been reasonably anticipated by the FI (e.g., a run on a bank);

(7) sales attributable to a change in tax law that eliminates or significantly reduces the tax exempt status of interest on the security under the amortized cost category;

(8) sales attributable to a major combination or major disposition that necessitates the sale of securities under the amortized cost category to maintain the FI's interest rate risk position or credit risk policy;

(9) sales attributable to a change in statutory or regulatory requirements significantly modifying either what constitutes a permissible investment or the maximum level of particular investments, thereby causing the FI to dispose a security under the amortized cost category;

(10) sales attributable to a significant increase in regulatory capital requirements that causes the FI to downsize by selling securities under the amortized cost category;

(11) sales attributable to a significant increase in the risk weights of securities under the amortized cost category used for regulatory risk-based capital purposes; and

(12) sales/derecognition attributable to the changes in the payment structure as initiated by the creditor (e.g., bond swap or exchange, options, changes in tenor and other related debt restructuring).

An FI shall clearly document in its policies and procedures the instances and the manner by which sales of financial assets under the amortized cost category would not be inconsistent with the HTC business model in accordance with PFRS 9 and the requirements of this Appendix.

Any sale/derecognition of financial assets under the amortized cost category shall be documented by the FI. The documentation shall include, at a minimum, the following information:

i. details of the financial asset sold/ derecognized;

ii. gain or loss on sale/derecognition; and

iii. the specific reason/s for derecognizing the financial asset and a justification on how such sale/derecognition is consistent with the HTC business model.

c. Amortized cost of financial assets at date of initial application. The amortized cost of financial assets that are reclassified from the fair value category (i.e., HFT, DFVPL, AFS) to the amortized cost category at the date of initial application of PFRS 9 shall be determined retrospectively (i.e., using the original acquisition cost and the original effective interest rate at the date of acquisition) in accordance with the provisions of PFRS 9, except in cases when it is "impracticable" to do so, as defined in PAS 8, in which case the fair value of the financial asset at the date of initial application of PFRS 9 shall be treated as the new amortized cost of that financial asset at the date of initial application.

The retrospective determination of amortized cost at initial application of PFRS 9 under the preceding paragraph shall, likewise, apply to financial assets accounted for under the amortized cost category under PFRS 9 that were reclassified from the HFT and AFS categories to the HTM and the UDSCL categories in accordance with the reclassification guidelines under Annex A of *Appendix Q-20*.

In the case of financial assets reclassified from AFS to the HTM/UDSCL category under Annex A of *Appendix Q-20*, any remaining balance (i.e., unamortized amount) of previously recognized net unrealized gains/(losses) under the "Other Comprehensive Income - Net Unrealized Gains/(Losses) on AFS Financial Assets" account in the balance sheet that correspond to those reclassified AFS financial assets shall be closed to the appropriate accounts upon initial application of PFRS 9.

8. Classification of financial liabilities. Financial liabilities shall be classified as subsequently measured at amortized cost using the effective interest method, except for:

a. Financial liabilities which are part of a hedging relationship, in which case the provisions of PAS 39 on hedge accounting shall apply;

b. Financial liabilities measured at fair value through profit or loss; and

c. The following financial liabilities which shall be subsequently measured in accordance with the provisions of PFRS 9 :

i. Financial liabilities that arise when a transfer of a financial asset does not qualify for derecognition or when the continuing involvement approach applies;

ii. Financial guarantee contracts, as defined under Appendix A of PFRS 9 ; and

iii. Commitments to provide a loan at a below-market interest rate.

9. Financial liabilities measured at fair value through profit or loss. Financial liabilities measured at fair value through profit or loss shall consist of the following:

a. Financial liabilities HFT, including derivative liabilities that are not accounted for as hedging instruments, and

b. Financial liabilities designated at fair value through profit or loss.

10. Financial liabilities designated at fair value through profit or loss (DFVPL). An FI may, at initial recognition, irrevocably designate financial liabilities at fair value through profit or loss subject to the conditions mentioned under PFRS 9 and the regulatory requirements for financial assets DFVPL under Item No. "4" above.

Net unrealized gains/losses arising from changes in the fair value of financial liabilities DFVPL shall be recognized in profit or loss: *Provided,* That those net unrealized gains/losses that are attributable to changes in the liability's credit risk shall be recognized in "Other Comprehensive Income (OCI)", *Provided, however*, That if the recognition of net unrealized gains/losses in OCI would create or enlarge an accounting mismatch in the FI's profit or loss, the FI shall present all net unrealized gains/losses on that financial liability DFVPL in profit or loss.

11. Reclassification of financial assets and financial liabilities.

a. Financial assets shall be reclassified when, and only when, an FI changes its business model for managing financial assets in accordance with the provisions of PFRS 9 and of this Appendix. Reclassifications other than due to change in business model are not permitted.

A change in an FI's business model is expected to be very infrequent and must be determined as a result of external and internal changes that are significant to the FI's operations and demonstrable to external parties. Hence, such change in business model must be approved by the FI's board of directors or its equivalent governing body, and such fact properly documented. The documentation, at a minimum, shall include the following information:

a. A certified true copy of the board resolution approving the change in the business model for managing financial assets;

b. The reasons for the change in the FI's business model and how it is aligned with the objectives and strategies of the FI;

c. A description of the new business model; and

d. A qualitative description of the new business model's implication on the FI's financial statements.

In addition to the foregoing items, the Bangko Sentral may require additional documents from FIs to support the reclassification of financial assets due to change in business model.

A change in the objective of the entity's business model must be effected before the reclassification date.

An FI shall not effect a reclassification within the period of change in the business model. Any reclassification of financial assets due to change in business model should take effect from the beginning of the next reporting period of the FI's financial statements: *Provided*, That the change in business model shall be disclosed in the financial statements in the period of change consistent with PFRS 7 *Financial Instruments*: Disclosures which require among others the disclosure of an entity's objectives, policies and processes for managing the risk from financial instruments and any changes to those objectives, policies, and procedures.

b. Financial liabilities shall not be reclassified.

12. Operations and Accounting Manual. An FI shall maintain an operations and accounting manual on the classification and measurement of financial assets and financial liabilities which shall be consistent with PFRS 9 and the provisions of this Appendix. The said manual shall cover processes and procedures that will capture the reconfiguration and/or modification of existing systems, interface and data requirements, changes to the chart of accounts and implementation of new accounting/information systems to ensure compliance with the PFRS/PAS and the reportorial requirements of the SEC and the Bangko Sentral, as applicable.

Section 3. Early Adoption of PFRS 9

The guidance provided in this Section shall apply to FIs that have early-adopted PFRS 9 as of 31 December 2015. The date of initial application of PFRS 9 is the date when the FI first applies the requirements of PFRS 9. If the date of initial application is prior to 01 January 2011, the date of initial application can be any date between 01 January 2010 up to 31 December 2010. If the date of early application is on or after 01 January 2011 up to 31 December 2015, the date of initial application must be the first day of the calendar year or fiscal year adopted by the FI (e.g., 01 January).

An FI that has early-adopted PFRS 9 (2009-2010) as of 31 December 2015 shall observe the requirements of PFRS 9 as provided in this Appendix.

FI's shall, likewise, observe the following guidelines:

1. Board/Senior management approval. FIs that early adopt PFRS 9 must assess the financial statement implications of early adoption of PFRS 9 and must ensure that it has the capability to comply with the requirements of that standard, including the required disclosures in the financial statements. The early adoption of PFRS 9 must be approved by the FI's board of directors.

2. Inapplicability of *Appendix Q-20*. The guidelines set forth under *Appendix Q-20*, including Annex A of *Appendix Q-20* on the classification and accounting of debt and equity securities shall no longer be applicable when an FI opts to adopt PFRS 9.

3. FRP reporting. Banks shall report financial assets and financial liabilities in accordance with the following guidelines on the mapping of financial assets and liabilities (Annexes A and A-1) using the existing FRP template issued under Circular No. 512 dated 03 February 2006, as amended:

a. Debt securities measured at amortized cost under PFRS 9 shall be booked under the HTM account, in the case of debt securities that are quoted in an active market, or the UDSCL account, in the case of debt securities that are not quoted in an active market.

The "tainting rule" for HTM securities shall no longer apply to early adopters of PFRS 9.

b. Financial assets measured at fair value through profit or loss under PFRS 9 shall be booked under the following accounts/sub-accounts.

(i) Held for Trading (HFT) Financial Assets

· The "HFT Securities" sub-account shall be used to record held for trading debt and equity securities.

· The "Derivatives with Positive Fair Value Held for Trading" account shall be used to record the positive fair value of derivatives, other than those that are designated and effective hedging instruments.

· The sub-account "Derivatives with Positive Fair Value Held for Trading (stand-alone derivatives)" in the FRP shall be used to record the positive fair value of stand-alone derivatives, other than those that are designated and effective hedging instruments.

· The sub-account "Derivatives with Positive Fair Value Held for Trading" (embedded derivatives)" in the FRP, shall be used to record the positive fair value of embedded derivatives where the host contract is a financial liability of the FI.

(ii) Financial Assets Designated at Fair Value through Profit or Loss (DFVPL). This account shall be used to record investments in FA DFVPL and FA MMFVPL, as follows:

· FA DFVPL refers to investments in debt instruments that are designated as at fair value through profit or loss in accordance with PFRS 9.

· FA MMFVPL refers to financial assets that are required to be measured at fair value through profit or loss under PFRS 9, other than those that are HFT and DFVPL.

c. The "Available for Sale (AFS) Financial Asset – Equity Securities" account shall be used to record investments in equity securities (other than those that are held for trading) that are irrevocably designated at initial recognition to be accounted for as DFVOCI in accordance with PFRS 9. The "Other Comprehensive Income – Net Unrealized Gains/(Losses)" account under the equity section of the balance sheet shall be used to record unrealized gains/(losses) from changes in fair value, including any related foreign exchange gains/(losses), of those equity securities under the DFVOCI category.

d. Financial liabilities measured at fair value through profit or loss under PFRS 9 shall continue to be booked under the following accounts/sub-accounts:

i. The "Financial Liabilities Held for Trading" account shall be used to record financial liabilities HFT.

· The "Derivatives with Negative Fair Value Held for Trading" account shall be used to record the negative fair value of derivatives, other than those that are designated and effective hedging instruments.

· The sub-account "Derivatives with Negative Fair Value Held for Trading (stand-alone derivatives)" shall be used to record the negative fair value of stand-alone derivatives, other than those that are designated and effective hedging instruments.

· The sub-account "Derivatives with Negative Fair Value Held for Trading (embedded derivatives)" shall be used to record the negative fair value of embedded derivatives where the host contract is a financial liability of the FI.

· The "Liability for Short Position" account shall be used to record the (a) obligation of the purchaser/borrower of securities under Reverse Repurchase Agreements/Certificates of Assignment/ Participation with Recourse/Securities Lending and Borrowing Agreements to return the securities purchased/borrowed from the seller/lender which the former sold to third parties.

ii. The "Financial Liabilities designated at Fair Value Through Profit or Loss' account shall be used to record financial liabilities that are designated as at fair value through profit or loss. The "Other Comprehensive Income – Others" account under the equity section of the balance sheet shall be used to record net unrealized gains/(losses) from changes in fair value attributable to own credit risk of financial liabilities DFVPL that are accounted for in accordance with PFRS 9.

e. The following accounts/sub-accounts shall no longer be used upon initial application of PFRS 9.

(i) Financial assets HFT (c) Derivatives Carried at Cost,

(ii) AFS Financial Assets (i) Debt Securities, and

(iii) Investment in Non-Marketable Equity Securities (INMES).

f. All the required information in the main schedules, sub-schedules, and additional disclosures/information in the FRP shall be accomplished for completeness.

4. Consolidated Statement of Condition (CSOC). QBs and other NBFIs shall report financial assets and financial liabilities in accordance with the following guidelines on the mapping of financial assets and financial liabilities (Annexes B and B-1) using the existing CSOC template:

a. Debt securities measured at amortized cost under PFRS 9 shall be booked under the "Investments in Bonds and Other Debt Instruments" account.

The "tainting rule" for HTM securities shall no longer apply to early adopters of PFRS 9.

b. The use of the "Trading Account Securities – Loans" account shall be limited to the recording of the amortized cost of loans arising from repurchase agreements, certificates of assignment, participation with recourse transactions.

(i) The "Government Securities Purchased under Resale Agreements" sub-account shall be used to record the amortized cost of loans arising from repurchase agreements involving government securities.

(ii) The "Government Securities Purchased under Certificates of Assignment/ Participation with Recourse" sub-account shall be used to record the amortized cost of loans arising from certificates of assignment and participation with recourse agreements involving government securities.

(iii) The "Government Securities Purchased under Reverse Repurchase Agreements with the Bangko Sentral" sub-account shall be used to record the amortized cost of loans arising from repurchase agreements with the Bangko Sentral.

(iv) The "Private Debt Securities/ Commercial Papers Purchased Under Resale Agreements" sub-account shall be used to record the amortized cost of loans arising from repurchase agreements involving private debt securities.

(v) The "Private Debt Securities/ Commercial Papers Purchased under Certificates of Assignment/Participation with Recourse" sub-account shall be used to record the amortized cost of loans arising from certificates of assignment and participation with recourse agreements involving private debt securities.

c. Financial assets measured at fair value through profit or loss under PFRS 9 shall be booked under the following accounts/sub-accounts.

(i) Trading Account Securities (TAS)

· The "TAS - Investments" account shall be used to record held for trading debt securities under PAS 39.

· The "TAS - Equity" account shall be used to record held for trading equity securities.

(ii) Underwriting Accounts – Debt/ Equity Securities. This account shall be used to record investments in FA DFVPL and FA MMFVPL, as follows:

· FA DFVPL refers to investments in debt securities that are designated as at fair value through profit or loss in accordance with PFRS 9.

· FA MMFVPL refers to financial assets that are required to be measured at fair value through profit or loss under PFRS 9, other than those that are HFT and DFVPL.

d. The "Available for Sale (AFS) Securities" account shall be used to record investments in equity securities (other than those that are held for trading) that are irrevocably designated at initial recognition to be accounted for as DFVOCI in accordance with PFRS 9. The "Net Unrealized Gains/(Losses) on Securities Available for Sale" account under the equity section of the balance sheet shall be used to record unrealized gains/(losses) from changes in fair value, including any related foreign exchange gains/(losses), of those equity securities under the DFVOCI category.

e. The "Bills Payable–Others" account shall temporarily be used to record financial liabilities held for trading and financial liabilities DFVPL.

f. Changes in fair value of financial liabilities DFVPL attributable to own credit risk shall temporarily be recorded in the account "Net Unrealized Gains/Losses on Available for Sale Financial Asset".

g. The following sub-accounts in the balance sheet of the CSOC shall no longer be used upon initial application of PFRS 9.

(i) Underwriting Accounts – Debt Securities

a. Underwritten Debt Sec. Purchased,

b. Accum. Market Gains/(Losses) UA,

c. Receivables – Underwritten Debt Securities Sold,

(ii) Trading Accounts Securities – Loans

d. Private Debt Sec./Commercial Papers (CPs) Purchased,

h. Private Debt Sec./Commercial Papers (CPs) Sold Under Repurchase Agreements,

(iii) Underwriting Accounts – Equity Securities

a. Underwritten Equity Securities Purchased,

b. Accumulated Market Gains/(Losses) UA,

c. Receivables – Underwritten Equity Securities Sold.

5. FRP for Trust Institutions (FRPTI) reporting. Trust institutions shall report financial assets in accordance with the following guidelines on the mapping of financial assets (Annexes C and C-1) using the existing FRPTI template issued under Circular No. 609 dated 26 May 2008, as amended:

a. Debt securities measured at amortized cost under PFRS 9 shall be booked under the HTM account, in the case of debt securities that are quoted in an active market, or the UDSCL account, in the case of debt securities that are not quoted in an active market.

The "tainting rule" for HTM securities shall no longer apply to early adopters of PFRS 9.

b. Financial assets measured at fair value through profit or loss under PFRS 9 shall be booked under the "Financial Assets at Fair Value Through Profit or Loss-Debt and Equity Securities" sub-account.

c. The "Derivatives with Positive Fair Value Held for Trading" account shall be used to record the positive fair value of derivatives, other than those that are designated and effective hedging instruments.

d. The "Available for Sale (AFS) Financial Assets" account shall be used to record investments in equity securities (other than those that are held for trading) that are irrevocably designated at initial recognition to be accounted for as DFVOCI in accordance with PFRS 9. The "Net Unrealized Gains/(Losses) on AFS Financial Assets" account under the equity section of the balance sheet shall be used to record the unrealized gains/(losses) arising from changes in fair value, including any related foreign exchange gains/(losses), of those equity securities under the DFVOCI category.

e. The following accounts/sub-accounts in the balance sheet of the FRPTI shall no longer be used upon initial application of PFRS 9.

(i) AFS Financial Assets (i) Debt Securities, and

(ii) INMES account.

f. All the required information in the main schedules, sub-schedules, and additional disclosures/information in the FRPTI shall be accomplished for completeness.

g. Trust institutions that early adopt PFRS 9 on or before 31 December 2010 need not submit revised FRPTI reports that conform with the guidelines under Section 2 of this Circular for periods prior to 31 December 2010.

6. Supplementary report. Early adopters shall submit a Supplementary Report on Early Adoption of PFRS 9 which shall be a *Category A-1* report to the SDC together with the prescribed monthly/quarterly FRP/ CSOC reports, as follows:

a. Banks shall submit the solo and consolidated supplementary (Annex D) in accordance with the submission frequency and deadline of the prescribed FRP.

b. NBFIs, other than trust institutions, shall submit the solo supplementary report (Annex E) in accordance with the submission frequency and deadline of the Consolidated Statement of Condition report".

7. Report on initial application of PFRS 9. A QB and each of its subsidiary QBs, that opt to early adopt PFRS 9 shall submit a one-time solo Report on Initial Application of PFRS 9 to the Bangko Sentral through the SDC. The report which shall be considered a *Category A-1* report shall be submitted to the Bangko Sentral in accordance with the following timelines:

a. For FIs which initially apply PFRS 9 on or before 31 December 2010 - not later than 31 January 2011;

b. For FIs which initially apply PFRS 9 in 2011 – not later than fifteen (15) banking days from the end of the month when such initial adoption is reflected in their books, and

c. For FIs which initially apply PFRS 9 on 01 January 2012 up to 31 December 2015 – not later than fifteen (15) business days from the end of the calendar or fiscal year of initial application of PFRS 9.

The report shall disclose the cumulative impact of the FI's adoption of PFRS 9 on selected balance sheet accounts, net income and capital position reckoned from the beginning of the FI's calendar of fiscal year, as applicable.

Section 4. Transition Rules

FIs shall observe the transition rules provided under PFRS 9 as well as the following:

1. PFRS 9 shall not be applied to financial assets and financial liabilities that have already been derecognized at the date of initial application.

2. An FI shall assess whether a financial asset shall be classified under the amortized cost, FVPL, or DFVOCI category on the basis of the facts and circumstances that exist at the date of initial application of PFRS 9. However, the resulting classification shall be applied retrospectively, irrespective of the FI's business model in prior reporting periods.

3. The tainting rule for HTM securities and the related holding period for HTM securities that are classified to the AFS category under *Appendix Q-20* shall no longer apply to FIs upon initial application of PFRS 9.

4. An FI may choose to adopt the provisions of PFRS 9 issued in 2009 or the provisions of PFRS 9 issued in 2010 on or before 31 December 2015.

5. An FI that has adopted PFRS 9 on financial assets in 2010 need not submit revised FRCP/CSOC reports that conform with Section 2 of this Appendix for periods prior to 31 December 2010. It may adopt

the provisions of PFRS 9 on financial liabilities on or before 31 December 2015: *Provided*, That it does not re-apply the transitional provisions of the said standard on its financial assets: *Provided, further,* That the FI complies with the submission guidelines set forth under Nos. *"6", "7"* and *"8"* below, as applicable: *Provided, finally,* That the FI limits the information that it shall report in the one-time solo Report on Initial Application of PFRS 9 to that arising from its adoption of the provisions of PFRS 9 on financial liabilities.

6. An FI which intends to early adopt PFRS 9 in 2011 is given up to 31 December 2011 within which to reflect the requirements of PFRS 9 in its prudential reports: *Provided,* That it notifies the Bangko Sentral, through the SDC, of the details of its actual implementation of adoption of the said standard, including the month-end date when such initial adoption is reflected in its books, in its one-time solo Report on initial Application of PFRS 9.

7. An FI that has early-adopted PFRS 9 on 01 January 2012 up to 31 December 2015 shall reflect the requirements of the said standard in its FRP/CSOC report as of the end of the calendar or fiscal year of initial application of PFRS 9.

8. An FI is expected to comply with the reportorial and disclosure requirements of the Securities and Exchange Commission on the adoption of PFRS 9.

Section 5. Sanction

The penalties and sanctions provided under Subsec. X388.5(c) shall be imposed on FIs and officers concerned found to have violated any of the provisions of this Appendix.

(Circular No. 708 dated 10 January 2011, as amended by Circular Nos. 912 dated 27 May 2016, 761 dated 20 July 2012, M-2011-048 dated 26 August 2011 and Circular No. 733 dated 05 August 2011)

Documentary Requirements to be Submitted to Bangko Sentral for the Election/Appointment of Directors/Officers of QBs, NBFIs with Trust Authority and Trust Corporations[1/]

(Appendix to Subsecs. 4141Q.4, 4180Q.2 and 4406Q.10)

Requiring Bangko Sentral Confirmation[2/]		Not Requiring Bangko Sentral Confirmation nor Monetary Board Approval		Requiring Monetary Board Approval
Directors	**Officers with rank of SVP and above (or equivalent ranks)**	**Officers below the rank of SVP requiring a different set of minimum qualifications**[3/]	**All other officers below the rank of SVP**[4/]	**Compliance Officer**
• Letter-request for Bangko Sentral confirmation signed by authorized officer[5/] with an affirmative statement that the institution has conducted a fit and proper test on the director/s concerned	• Letter-request for Bangko Sentral confirmation signed by authorized officer with an affirmative statement that the institution has conducted a fit and proper test on the officer/s concerned			• Letter-request for Bangko Sentral approval signed by authorized officer[5/] with an affirmative statement that the institution has conducted a fit and proper test on the officer/s concerned.
• Secretary's Certificate attesting to the resolution of the stockholders or board of directors approving the election	• Secretary's Certificate attesting to the resolution of the board of directors approving the appointment[6/]			• Secretary's Certificate attesting to the resolution of the board of directors approving the appointment[7/]
• Bio-data with a photograph (2″ x 2″) taken within the last six (6) months	• Bio-data with a photograph (2″ x 2″) taken within the last six (6) months	• Bio-data with a photograph (2″ x 2″) taken within the last six (6) months		• Bio-data with a photograph (2″ x 2″) taken within the last six (6) months

[1/] To be submitted within twenty (20) business days from date of election/re-election/appointment/promotion to the appropriate department of the SES. For interlocks requiring Monetary Board approval, the following shall be submitted:(a) Letter-request for Monetary Board approval with justification; and (b) Bio-data.

[2/] Including those exempted from the required Bangko Sentral confirmation as provided in Subsecs. 4141Q.4 and 4406Q.10.

[3/] E.g., Internal Auditor, Security Officer, Head/In-Charge of E/FCDU Operations, and Head/In-Charge of Import and Export Financing Operations (for TBs)

[4/] No documentary requirements to be submitted to the Bangko Sentral

[5/] Authorized signatory is the President of the institution, except for appointment of President, in which case the authorized signatory shall be the Chairman of the Corporate Governance Committee or of the Board of Directors, as may be applicable. For those exempted from the required Bangko Sentral confirmation as provided in Subsec. 4141Q.4, 4406Q.4 and 4906N.10 submit letter-notice to the Bangko Sentral, in lieu of letter-request for Bangko Sentral confirmation, signed by the aforementioned authorized officer with an affirmative statement that the institution has conducted a fit and proper test on the director/officer concerned.

[6/] In case of foreign bank branches, consularized letter of appointment of the officer concerned from the Head Office and/or Regional Office

[7/] In case of foreign bank branches, letter of appointment from the Country Head

Requiring Bangko Sentral Confirmation[1]		Not Requiring Bangko Sentral Confirmation nor Monetary Board Approval		Requiring Monetary Board Approval
Directors	**Officers with rank of SVP and above (or equivalent ranks)**	**Officers below the rank of SVP requiring a different set of minimum qualifications [2]**	**All other officers below the rank of SVP[3]**	**Compliance Officer**
• Certification under oath of the director concerned that he/she possesses all the qualifications and none of the disqualifications to become a director	• Certification under oath of the officer concerned that he/she possesses all the qualifications and none of the disqualifications to become an officer			• Certification under oath of the officer concerned that he/she possesses all the qualifications and none of the disqualifications to become an officer
• For directors who are holding concurrent positions in government/ government owned and controlled corporations (GOCC), written permission from the head of Department/GOCC, allowing him/her to become a director of the FI.	• For first-time officers to be subject to Bangko Sentral confirmation in a particular QB/NBFI/ with trust authority/ trust corporation/banking group as defined in Subsec. 4141Q.4of the MORNBFI:			
• For first-time directors in a particular QB/NBFI with trust authority as defined in Subsec. 4141Q.4 a. Copy of certificate of attendance in Corporate Governance seminar				

[1] Including those exempted from the required Bangko Sentral confirmation as provided in Subsec. 4141Q.4 and 4406Q.10.
[2] E.g., Internal Auditor, Security Officer, Head/In-Charge of E/FCDU Operations, and Head/In-Charge of Import and Export Financing Operations (for TBs)
[3] No documentary requirements to be submitted to the Bangko Sentral

Requiring Bangko Sentral Confirmation[1/]		Not Requiring Bangko Sentral Confirmation nor Monetary Board Approval		Requiring Monetary Board Approval
Directors	**Officers with rank of SVP and above (or equivalent ranks)**	**Officers below the rank of SVP requiring a different set of minimum qualifications**[2/]	**All other officers below the rank of SVP**[3/]	**Compliance Officer**
b. Certification under oath that the director has received copies of the general responsibility and specific duties and responsibilities of the board of directors and of a director and that he/she fully understands and accepts the same				
c. Duly accomplished and notarized authorization form for querying the Bangko Sentral watchlist file from the director concerned	a. Duly accomplished and notarized authorization form for querying the Bangko Sentral watchlist file from the officer concerned			• Duly accomplished and notarized authorization form for querying the Bangko Sentral watchlist file from the officer concerned
• For independent directors, certification under oath that he/she is an independent director as defined in Bangko Sentral regulations				

[1/] Including those exempted from the required Bangko Sentral confirmation as provided in Subsec. 4141Q.4 of the MORNBFI.
[2/] E.g., Internal Auditor, Security Officer, Head/In-Charge of E/FCDU Operations, and Head/In-Charge of Import and Export Financing Operations (for TBs),
[3/] No documentary requirements to be submitted to the Bangko Sentral

Requiring Bangko Sentral Confirmation[1]		Not Requiring Bangko Sentral Confirmation nor Monetary Board Approval		Requiring Monetary Board Approval
Directors	**Officers with rank of SVP and above (or equivalent ranks)**	**Officers below the rank of SVP requiring a different set of minimum qualifications [2]**	**All other officers below the rank of SVP[3]**	**Compliance Officer**
• For re-elected directors, Secretary's Certificate on the attendance by the director concerned to the board meetings held for the last twelve (12) months covering the term of service, indicating percentage of attendance to board meetings *(As amended by Circular Nos. 887 dated 07 October 2015 and 758 dated 11 May 2012)*	• Brief description of his/her duties and responsibilities • Alien Employment Permit issued by the Department of Labor and Employment for foreigners appointed as officers	• Brief description of his/her duties and responsibilities		• Brief description of his/her duties and responsibilities • Alien Employment Permit issued by the Department of Labor and Employment for foreigners appointed as officers

[1] Including those exempted from the required Bangko Sentral confirmation as provided in Subsec. 4141Q.4 of the MORNBFI.
[2] E.g., Internal Auditor, Security Officer, Head/In-Charge of E/FCDU Operations, and Head/In-Charge of Import and Export Financing Operations (for TBs),
[3] No documentary requirements to be submitted to the Bangko Sentral

LIST OF DOCUMENTARY REQUIREMENTS
APPROVAL OF THE APPOINTMENT OF TRUST AND COMPLIANCE OFFICERS
OF QBs AND TRUST CORPORATIONS
(Appendix to Subsecs. 4180Q.2, 4406Q.10 and 4906N.10)

(Superseded by Circular Nos. 766 dated 17 August 2012 and 758 dated 11 May 2012 ; See Appendix 98)

[Appendix to Subsec. 4144Q]

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

(Name of Bank/QB/NBFI/with Trust Authority/Trust Corporation/NBFI/NSSLA)

List of Members of the Board of Directors and Officers

As of ____________________

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

REPUBLIC OF THE PHILIPPINES)
____________________________) S.S.

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

____
(Signature of Authorized Signatory)

SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of __________ 20___, affiant exhibiting to me his/her (valid identification document) No. ___________ issued at __________ on ______________20___.

____
Notary Public
Until December 31, 20 ___
PTR No. ______________
Place ________________

Doc No. ___________
Page No. ___________
Book No. ___________
Series of ___________

(Circular No. 758 dated 11 May 2012, As amended by Circular 887 dated 07 October 2015)

GUIDELINES ON RECEIVERSHIP AND LIQUIDATION PROCEEDINGS OF NON-BANKS WITH QUASI-BANKING FUNCTIONS AND TRUST ENTITIES

(*Appendix to Section* 4428Q)

PART I

GUIDELINES ON RECEIVERSHIP OF NBQBs/TRUST ENTITIES

Introduction. Receivership is defined as the condition when the Monetary Board designates a person, known as a "*Receiver*", to take over an institution enumerated under Item "*I*" of these guidelines and administer and hold the assets of the institution in trust for its creditors and stockholders.

I. Coverage. These Guidelines shall cover institutions which shall refer to any of the following:

a. Non-banks with quasi-banking license (i.e. Investment houses and Financing companies); and

b. Trust entities.

II. Legal Bases for Placement under Receivership

a. Section 30, R.A. No. 7653.

b. Section 53, R.A. No. 8791.

c. Section 56, R.A. No. 8791, 2nd par.

d. Section 91, R.A. No. 8791 in relation to Section 66 of R.A. No. 8791 and Section 36 of R.A. No. 7653.

III. Minimum Qualifications of the Receiver. The receiver shall possess at all times the following minimum qualifications*:*

a. Must belong to the private sector;

b. Must have appropriate knowledge, training and competence in the field of banking and finance, receivership, liquidation, rehabilitation/corporate recovery, insolvency, or supervision and regulation of financial institutions;

c. Must have a minimum of five (5) years work experience in any of the following:

(i) rehabilitation/corporate recovery, receivership, liquidation, or insolvency involving a business similar in size and complexity as that of the institution under receivership; or

(ii) banking and finance or supervision and regulation of financial institutions.

d. Must pass the *"fit and proper"* rule of the BSP on bank directors/officers;

e. Must be of good moral character, sound judgment and tact in dealing with the transactions of the institution under receivership;

f. Must not have conflict of interest as defined in these guidelines*;*

g. Must not be included in the BSP Watchlist Disqualification Files *"A"* and *"B"*;

h. Must be eligible for coverage by a fidelity bond;

i. Must not have been convicted by, or have no pending criminal or administrative case before a court or administrative body for any offense 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; and

j. Must not have been sentenced by a court to serve a maximum term of imprisonment of more than six years, which conviction has become final and executory.

A juridical person may serve as a receiver: *Provided*, that it must designate as its representative/s natural person/s who possess/ess all of the above qualifications. Such juridical entity and the representative/s are solidarily accountable for all the liabilities of the receiver.

The Receiver shall be appointed by the MB and may be replaced at anytime upon written notice by the MB.

The BSP may maintain a pool of qualified receivers who shall be subjected to the following selection process:

(i) The SES shall send invitations citing the minimum requirements for the position, together with a copy of the terms of reference (TOR), to specific persons with reputable track record in handling corporate recoveries, rehabilitation, receivership, liquidation, banking and finance or supervision and regulation of financial institutions.

(ii) Interested parties shall submit an application for appointment as receiver of an entity, together with the statement that the applicant is agreeable to the TOR prescribed by the BSP. The applicant shall also submit his/her/its proposed compensation and other fees.

(iii) The SES shall evaluate the qualifications submitted by the applicants and shall prepare a short list of those qualified. To be included in the short list, candidates must comply strictly with the minimum qualifications.

The BSP-accreditation of the receivers may be renewed every three (3) years. Any person pre-qualified to be included in the pool, may be appointed as Receiver of one (1) or more NBQBs/Trust Entities subject to such conditions as may be imposed by the MB.

The SES, when recommending to the MB the person who shall be appointed as receiver, shall consider, among others, the following:

(i) Area of expertise of the candidates vis-à-vis the nature of the business of the entity under receivership;

(ii) Amount of assets of the entity under receivership;

(iii) Proposed compensation and other fees; and

(iv) Any information available in the business community and/or in legal/professional organizations regarding the candidate.

IV. Conflict of Interest. Conflict of interest is a situation wherein a person in a fiduciary position has competing professional or personal interests that can make it difficult to fulfill his/her duties impartially, which may include the following:

a. The person is, or was within two (2) years prior to the date the MB placed the institution under receivership a director, officer, employee, consultant/adviser, external counsel/auditor, creditor, debtor, or stockholder of the institution under receivership;

b. The person is presently engaged in a competing line of business as the institution under receivership;

c. The person is related by consanguinity or affinity within the fourth civil degree to such creditor, debtor, stockholder, director, officer of the institution under receivership;

d. The person has a direct or indirect interest in the institution under receivership or any of its creditors; or

e. Other cases analogous to the foregoing or where there is a clear showing of a conflict of interest, as may be determined by the MB.

The applicant-receiver shall disclose whether he/she/it possesses any of the foregoing conflict of interest.

V. Powers, Duties and Responsibilities of the Receiver. The receiver has the following principal responsibilities:

a. Take charge of the institution's assets and liabilities as provided in the Receivership Procedures under Annex A of this *Appendix*;

b. As expeditiously as possible, collect and gather all the assets and administer the same for the benefit of its creditors and exercise the general powers of a receiver under the Revised Rules of Court but shall not, with the exception of administrative expenditures, pay or commit any act that will involve the transfer or disposition of any asset of the institution;

c. Determine as soon as possible, but not later than ninety (90) days from takeover, whether the institution may be rehabilitated or otherwise placed in such a condition so that it may be permitted to resume business with safety to its clients, creditors and the general public; and

d. Evaluate and propose rehabilitation plan that may be submitted and make a recommendation to the MB whether the institution should be rehabilitated or liquidated.

e. Upon approval by the MB of the receiver's recommendation for liquidation, the receiver shall proceed with the liquidation without prejudice to the prerogative of the MB to select a liquidator.

The receiver, in the performance of his/her/its duties, shall observe due diligence as required under the circumstances, reasonable skill, sound discretion and good faith.

VI. Designation of Deputy Receiver/s The receiver may appoint as many deputies as may be necessary to accomplish the objectives of receivership. The appointed deputies should possess the same qualifications required of a receiver.

VII. Term of Receivership. Unless otherwise provided by competent court, the receiver shall determine within ninety (90) days from takeover, whether the institution may be rehabilitated or liquidated. The said determination to rehabilitate or liquidate the institution shall be subject to prior approval of the MB. The receivership may be terminated either upon receipt of the order of the MB authorizing the institution to resume its operation or order placing it under liquidation.

VIII. Remuneration of the Receiver. The Receiver and the Deputy Receivers shall receive remunerations not more than the amount to be fixed by the MB.

All expenses attendant to the receivership, including the above, shall be borne by or chargeable to the institution concerned.

PART II

GUIDELINES ON LIQUIDATION PROCEEDINGS OF NBQBs/TRUST ENTITIES

1. Introduction. Liquidation is the process by which all the assets of an NBQB/Trust Entity are converted into liquid assets (cash) in order to pay for all the claims of creditors of the NBQBs, and the remaining balance, if any, is to be distributed to the stockholders of the corporation. A liquidation proceeding is a proceeding *in rem* so that all other interested persons whether known to the parties or not may be bound by such proceeding.[1]

2. Legal Bases for Liquidation Proceedings

a. Section 30 of Republic Act No. 7653, otherwise known as the New Central Bank Act

b. Section 56, R.A. No. 8791

c. Section 91, R.A. No. 8791 in

[1] Chua v. NLRC, 1990

relation to Section 66 of R.A. No. 8791 and Section 36 of R.A. No. 7653

d. Section 36, R.A. No. 7653

3. Selection of Liquidator

3.1. Minimum Qualifications of the Liquidator.

The liquidator shall possess at all times the following minimum qualifications:

a. Must belong to the private sector;

b. Must have appropriate knowledge, training and competence in the field of banking and finance, receivership, liquidation, rehabilitation/corporate recovery, insolvency, or supervision and regulation of financial institutions;

c. Must have a minimum of five (5) years work experience in any of the following:

(i) rehabilitation/corporate recovery, receivership, liquidation, or insolvency involving a business similar in size and complexity as that of the institution under liquidation; or

(ii) banking and finance or supervision and regulation of financial institutions.

d. Must pass the "*fit and proper*" rule of the BSP on bank directors/officers;

e. Must be of good moral character, sound judgment and tact in dealing with the transactions of the institution under liquidation;

f. Must not have conflict of interest as defined in these guidelines;

g. Must not be included in the BSP Watchlist Disqualification Files *"A"* and *"B"*;

h. Must be eligible for coverage by a fidelity bond;

i. Must not have been convicted by, or have no pending criminal or administrative case before a court or administrative body for any offense 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; and

j. Must not have been sentenced by a court to serve a maximum term of imprisonment of more than six (6) years, which conviction has become final and executory.

A juridical person may serve as a liquidator: *Provided,* that it must designate as its representative/s natural person/s who possess/ess all of the above qualifications. Such juridical entity and the representatives are solidarily accountable for all the liabilities of the liquidator.

The BSP may create a pool of pre-qualified liquidators, whose inclusion in the pool is subject to renewal every three (3) years. Any person pre-qualified to be included in the pool, may be appointed as Liquidator of one (1) or more NBQBs/Trust Entities subject to such conditions as may be imposed by the MB.

The Liquidator shall be appointed by the MB and may be replaced at anytime upon written notice by the MB.

3.2. Conflict of Interest.

Conflict of interest is a situation wherein a person in a fiduciary position has competing professional or personal interests that can make it difficult to fulfill his/her duties impartially, which may include the following:

a. The person is, or was within two (2) years prior to the date the Monetary Board placed the NBQB/Trust Entity under liquidation, director, officer, employee, consultant/adviser, external counsel/auditor, creditor, debtor, or stockholder of the said NBQB, or any of its subsidiaries, affiliates or related interests;

b. The person is presently engaged in a competing line of business as the NBQB/ Trust Entity under liquidation;

c. The person is related by consanguinity or affinity within the fourth civil degree to such creditor, debtor, stockholder, director, officer, consultant/ adviser, or external counsel/auditor of the NBQB/Trust Entity under liquidation;

d. The person has a direct or indirect interest in the NBQB/Trust Entity under liquidation; or any of its creditors; or

e. Other cases analogous to the foregoing or where there is a clear showing of conflict of interest, as may be determined by the Monetary Board.

3.3. Selection Process

a. The SES shall send invitations, together with a copy of the terms of reference (TOR), to specific persons with reputable track record in handling corporate recoveries, rehabilitation, receivership and liquidation citing the minimum requirements for the position.

b. Interested parties shall submit an application for appointment as liquidator of an entity, together with the statement that the applicant is agreeable to the TOR prescribed by the BSP. The applicant shall also submit his/its proposed compensation and other fees.

c. The SES shall evaluate the qualifications submitted by the applicants and shall prepare a short list of those qualified. To be included in the short list, candidates must comply strictly with the minimum qualifications.

SES, when recommending to the MB the person who shall be appointed as liquidator, shall consider, among others, the following:

(i) Area of expertise of the candidates vis-à-vis the nature of the business of the NBQB/Trust Entity under liquidation;

(ii) Amount of assets of the NBQB under liquidation;

(iii) Proposed compensation and other fees; and

(iv) Any information available in the business community and/or in legal/professional organizations regarding the candidate.

SES shall then recommend to the Monetary Board the person/partnership/firm who/which shall be appointed as liquidator.

4. Terms of Reference of the BSP-Appointed Liquidator

4.1 Functions, Responsibilities and Authorities of the Liquidator.

a. Master Liquidation Plan

Implement the Master Liquidation Plan for NBQBs/Trust Entities, as provided under Annex B of this *Appendix*.

b. Liquidation Process

The BSP-designated liquidator of the NBQB/Trust Entity shall:

1. Within sixty (60) days upon receipt of the Monetary Board placing the NBQB/ Trust Entity under liquidation, file *ex parte* a Petition for Assistance in the Liquidation of the NBQB/Trust Entity with the proper Regional Trial Court pursuant to the Master Liquidation Plan;

2. Represent and act for and in behalf of the closed NBQB/Trust Entity;

3. Gather and take charge of all the assets which shall include the NBQB/Trust Entity license, records, documents and affairs of the NBQB/Trust Entity, and administer the same for the benefit of its creditors;

4. Collect loans and other claims of the NBQB/Trust Entity, and for this purpose, modify, compromise or restructure the terms and conditions of such loans or claims as may be deemed advantageous to the interest of the creditors and claimants of the closed NBQB/Trust Entity;

5. Convert the assets to money or dispose of the same to creditors and other parties for the purpose of paying debts of

the NBQB/Trust Entity in accordance with the preference of credits provided under the Civil Code;

6. Settle the affairs of the NBQB/Trust Entity within a reasonable time preferably within three (3) to five (5) years;

7. Provide for his own organizational support and for other resource back-up facilities to accomplish the liquidation plan, including hiring of counsel;

8. Bring suits to enforce liabilities of the directors, officers, employees, agents of the closed NBQB/Trust Entity and other entities related or connected to the closed NBQB/Trust Entity or to collect, recover and preserve all assets, including assets over which the NBQB/Trust Entity has equitable interest;

9. Incur, disburse, charge and be paid from the funds of the NBQB/Trust Entity, liquidator's fees, salaries/compensation of support personnel and such other necessary expenses incurred in the discharge of the liquidation functions subject to approval by the Liquidation Court; and

10. Perform such other functions necessary in the liquidation of the NBQB/Trust Entity.

c. Safeguards for Preserving the Assets of an Entity during the Liquidation Process.

The liquidator, in the performance of his/her/its duties, shall observe due diligence as required under the circumstances, reasonable skill, sound discretion and good faith. Immediately after his takeover, the liquidator shall take appropriate steps to manage, administer and preserve the assets of the NBQB/Trust Entity in order to conserve and/or maximize the value of the assets, including assets in the possession or administration of third persons or those previously given as collaterals by the NBQB/Trust Entity to its creditors. Accordingly, the liquidator shall undertake the following steps:

1. All properties included in the inventory of assets and/or under the custody of the liquidator that are reasonably deemed to have inherent risk, shall be adequately insured;

2. The liquidator shall use all legal means to control the assets, collect all receivables, bring suit to collect claims and resist all unlawful claims against the assets of the entity;

3. Investible funds shall be limited to readily marketable government securities;

4. The liquidator shall convert the assets into money with convenient speed as may be practicable and at maximum recovery obtainable under the circumstances;

5. The liquidator and his staff shall be prohibited from purchasing properties of the NBQB/Trust Entity subject of liquidation;

6. The liquidator shall limit administrative expenses to what is necessary and reasonable;

7. Third parties hired to perform certain activities shall possess the education, experience, training and competence necessary for the job;

8. The liquidator shall maintain appropriate records which may be made available to parties as provided in Section 4.6 below; and

9. The liquidator shall be required to post a surety bond in an amount not less than 10% of the book value of the total assets of the institution as of takeover. Said surety bond shall be renewable every year and the amount of which shall be at least ten percent (10%) of the realizable assets of the preceding quarter.

d. Submission of Status Report.

The liquidator shall submit a semestral status report to the MB, or as often as may be required by the MB.

The liquidator shall also submit a status report to the Liquidation Court if so required by the Liquidation Court.

4.2. Compensation and/or Fees of Liquidator

The Liquidator and the Deputy Liquidators shall receive compensations not more than the amount to be fixed by the MB.

All expenses attendant to the liquidation, including the above, shall be borne by or chargeable to the institution concerned.

4.3. Termination of Liquidation Proceedings

The liquidation proceeding shall be deemed closed and terminated upon finality of the order of the Liquidation Court approving the termination of the liquidation proceeding and discharging the Liquidator from any and all liabilities arising from or in connection with the Liquidation of the closed NBQB/Trust Entity.

4.3.1. Disposition of Remaining Non-Cash Assets

In case the NBQB/Trust Entity has remaining non-cash assets, the Liquidator shall recommend to the Court the final disposition of such assets.

4.4. Final Liquidation Report

At the end of the liquidation proceedings, the Liquidator shall submit a final report to the Monetary Board and the Liquidation Court. The Liquidator shall recommend to the Court the issuance of an order terminating the liquidation proceedings.

4.5. Extension or Replacement of Liquidator.

In case the Liquidator fails to terminate the Liquidation proceedings within his term, the Liquidator shall submit a status report and may request for extension of his term or replacement, subject to BSP approval. The Liquidator shall manifest to the court such approval for the information of creditors and other stakeholders.

Upon the termination of the liquidation proceedings, the Liquidator shall pursue action in accordance with the preceding Subsection.

4.6. Records of the Liquidation Proceedings.

The liquidator shall maintain records of the liquidation proceedings which may be made available to parties duly authorized by him or the Liquidation Court.

After the termination of the liquidation proceedings, the liquidator shall turn over all records to a custodian duly appointed by the Court.

5. Term of Liquidator. The Liquidator shall serve for a term of five (5) years unless sooner terminated, revoked or extended by the Monetary Board.

6. Proceedings in Case of Voluntary Liquidation

6.1. Grounds. An NBQB/Trust Entity may elect voluntary dissolution under the Corporation Code by any of the following methods:

a. by two-thirds (2/3) vote of the stockholders and majority vote of the board of directors, where no creditors are prejudiced;

b. judgment of the Securities and Exchange Commission after hearing the petition for voluntary dissolution, where creditors are prejudiced; or

c. amending the articles of incorporation to shorten the corporate term, provided all creditors are assured of payment of their claims.

The liquidation of an NBQB/Trust Entity which is voluntarily dissolved may be undertaken by the NBQB/Trust Entity itself through its Board of Directors, or by a Trustee appointed by the NBQB/Trust Entity. If the liquidation cannot be carried out by the Board of Directors or by a Trustee, a Liquidator may be appointed by the Monetary Board. However, in both of the foregoing cases, the following conditions shall apply:

(i) No voluntary dissolution shall be undertaken by an NBQB/Trust Entity without written notice to the Monetary Board;

(ii) The notice shall be accompanied by a surrender of license and request for approval of a liquidation plan which lays down the procedures to be adopted in the liquidation of the NBQB/Trust Entity;

(iii) The liquidation plan shall be implemented by the Board of Directors/ Trustee/Liquidator only upon its approval by the Monetary Board;

(iv) Within five (5) days from receipt of notice of approval by the Monetary Board of the NBQB/Trust Entity's Liquidation Plan, the Board of Directors shall cause the posting in three (3) public places and publication of the NBQB/Trust Entity's voluntary dissolution once in a newspaper of general circulation; and

(v) The liquidation shall be terminated within a reasonable time, preferably within five (5) years or sooner.

6.2. Liquidation Process.

The liquidation plan shall, at a minimum, include the following:

a. Inventory/Appraisal of Assets and Liabilities. A schedule/inventory and status/ appraisal reports of assets and liabilities of the NBQB/Trust Entity.

b. Notice to Creditors. Notice of the voluntary dissolution to be sent by the Board of Directors/Trustee/Liquidator by registered mail to all creditors of the NBQB/Trust Entity advising them to file their claims within a set deadline. Publication of the same notice shall be made in a newspaper of general circulation at least once a week for two (2) consecutive weeks, within thirty (30) days from approval by the Monetary Board of the voluntary dissolution.

c. Conversion of Assets into Money. Projected timetable to convert assets and manner of conversion, e.g., thru public auction or negotiated sale.

d. Project of Distribution of Assets and Liquidating Dividends.

e. Final Notice to Claimants/Creditors. Undertaking of the Board of Directors/ Trustee/Liquidator to advise, within thirty (30) days from conversion into money of all or substantially all of the assets of the NBQB/Trust Entity, by registered mail and by publication in a newspaper of general circulation at least once a month for three (3) consecutive months, that claimants/ creditors have thirty (30) days from last publication within which to claim check payments.

f. Final Liquidation Report. Submission by the Board of Directors/ Trustee/Liquidator, within thirty (30) days from the deadline given in the final notice to claimants/creditors, of a final liquidation report to the Stockholders, copy furnished the Securities and Exchange Commission and the Monetary Board. The final report shall include, among others, a list of the remaining non-cash assets of and claims against, the NBQB/Trust Entity, if any.

(Circular No. 719 dated 06 May 2011)

Annex A

RECEIVERSHIP PROCEDURES FOR NON-BANKS WITH QUASI-BANKING FUNCTIONS (NBQBs) AND TRUST ENTITIES

A. Pre-Takeover Preparations

In preparation for actual takeover, the receiver designated by the Monetary Board ("MB") shall, as much as practicable, see to it that the following procedures are accomplished:

1. Designation of deputy receiver(s) and the formation of a complete receivership team which preferably includes an auditor and a lawyer. The composition of the team shall depend on the size, type of institution and the number of branches;
2. Planning, organization, and coordination of the duties and functions of all members of the team and complete briefing of the mechanics and the strategy of the takeover in a conference called for the purpose;
3. Drawing-up/formulation of policies, guidelines and strategies to ensure the effective implementation of Monetary Board ("MB") resolutions, BSP Circulars and other applicable laws in relation to the receivership of the institution;
4. Arrange security measures for the takeover; and
5. Review of the examination papers/ files and other documents pertaining to the institution to be taken over.

B. Actual Takeover

During the actual takeover, the following procedures shall be observed:

1. Serve the letter of authority from the Deputy Governor of the Supervision and Examination Sector on the takeover addressed to the President/Board of Directors of the institution. The receiver/ deputy receiver shall see to it that the official receiving the said letter of authority indicates his designation, date and time of receipt on the duplicate copies of the letter.

In case the management of the institution refuses to allow the takeover, the receiver/deputy receiver shall immediately report the matter to the nearest office of the Philippine National Police and to the MB for further instructions;

2. As soon as the official of the institution receives the letter of authority on takeover, all operations shall be under the direction of the receiver or deputy receiver. The receiver shall suspend all operations except collections of loans and receivables;
3. Post a notice in the most conspicuous place in the institution's premises (usually the main door) informing the public of the placement of the institution under receivership;
4. Adopt appropriate security measures, such as hiring of private security guards, to prevent removal of records and other properties from the premises of the institution;
5. Notify in writing all of the institution's depository banks of the receiver's takeover with instruction not to honor any withdrawal from the institution's deposit accounts without the written approval of the receiver/deputy receiver;
6. Request or secure copies of trial balance, statement of condition and statement of earnings and expenses as of the last working day preceding the actual takeover;
7. Open a new deposit account (preferably a current account-savings account combo) with a reputable bank within the vicinity, in the name of the closed institution, with the Receiver as the authorized signatory and custodian. The Receiver may also maintain the existing account of the institution provided that the Receiver shall be the authorized signatory.

8. Conduct physical inventory and institute appropriate control and custody of all assets, liabilities, records, books of accounts and accountable forms of the institution;

9. Notify in writing the employees of the institution concerning the suspension of their employment contracts. Determine the number of employees to be retained in the receivership operation of the institution, and issue a notice of indefinite leave of absence for those who may not be retained and a confirmation of employment for those to be retained;

10. Deposit all checks and other cash items that were inventoried and subsequent collections to the savings account/current account mentioned in Item No. "7" above; and

11. Reconcile the inventoried properties/assets with the books/records and account for missing items. Demand from the responsible/ accountable officials the turnover of unaccounted items or written explanation under oath for each of the missing items.

The tasks and the procedures listed above need not be followed in the order they were listed. The entire receivership team is expected to exercise sound discretion in giving priorities to more urgent matters. Moreover, the receiver/deputy receiver may adopt other measures/ appropriate steps he may deem necessary under given circumstances. Finally, he shall endeavor to effect an orderly and seamless takeover and minimize inconvenience to the institution's management and personnel.

Item Nos. *"(1)"* to *"(9)"* above should be, as much as practicable, undertaken on the first day of takeover.

C. Post Takeover

Within fifteen (15) days after the completion of the takeover, the receiver shall submit to the MB, through the Deputy Governor of the SES, a report containing the following information:

1. Brief history of the institution;
2. Basis of its placement under receivership;
3. Comparative balances of its account as reflected in the books as of takeover date against the balances obtained per inventory and turnover from the institution's management to the receiver;
4. Inventories mentioned in Item B. 8 above; and
5. Such other information that should be brought to the attention of the MB.

D. Accounting and Reportorial Requirements Accounting

Once takeover is in place, the receivership team shall immediately undertake to:

1. Adopt an effective accounting system.

a) Carry in the receiver's books a chart of accounts of the institution, with additional accounts such as Receivership Costs and Fees (for recording of the salaries of the receivership team and those of the institution's employees to be retained, and other authorized expenses incurred by the receiver) and the Receivership Income (which may include rental income, and interest income);

b) Supervise the closing of the books as of takeover date and transfer the balances of all real accounts from the institution's books to the new set of books opened by the receiver's team; and

c) Record receiver's transactions involving receipt and disbursement of cash in accordance with generally accepted accounting principles.

2. Attend to all requirements of various agencies of the government, such as filing of tax returns and notices or other reportorial requirements of the DOLE, SEC and SSS/GSIS.

Reports

The receiver shall submit a monthly report of the receivership to the MB containing, among others, the following:

a) Statement of Condition;
b) Statement of Earnings and Expenses;
c) Cash receipts and disbursements;
d) Bank Reconciliation Statements;
e) Summary of loan collections;
f) Summary of Assets Acquired; and
g) Status of Legal Cases

E. Administration of the Assets of the Institution

The receivership team or any member thereof, to be assigned by the receiver relative to the administration of the institution's assets, shall perform the following tasks/duties:

Cash and Deposits in Banks

1. Reconcile the deposit accounts of the institution and prepare/book the necessary adjusting entries.

2. Pay the following receivership expenses:

a) Salaries and other allowances of officers and employees, including those of the receivership team;

b) Security and janitorial services;

c) Rental on institution's premises;

d) Telephone, light, water and other utility expenses; and

e) Insurance

Other than the foregoing expenses, no payment shall be made unless it is necessary for the preservation of the institution's assets and the operation of the receiver.

Loans/Receivables and Trading Account Securities

1. Evaluate documents of each loan folder and segregate vital documents from the file;

2. Prepare inventory of missing documents and demand explanations under oath from accountable/responsible officers of the institution;

3. Send demand letters, when due, or notice to borrowers and co-makers of various loan accounts;

4. Ensure that the real estate taxes on properties mortgaged in favor of the institution are updated by the borrowers;

5. Hire legal counsels to enforce collection;

6. Initiate collection proceedings; and

7. Follow-up on execution of judgments when warranted.

Real and Other Properties Acquired

1. Update payment of taxes;

2. Collect the fruits and rentals; and

3. Perform other acts which are necessary in preserving the properties and making them productive;

F. Rehabilitation Proposal

In case a rehabilitation proposal is submitted, the receiver shall undertake to:

1. Evaluate the rehabilitation proposal which shall contain, among others, the following:

a) a capital restoration plan that shall include an initial fresh capital infusion of an amount (to be determined by the Receiver) that will render the institution operational ;

b) a business improvement plan that shall contain set of actions to be taken immediately to bring about an improvement in the entity's operating condition ; and

c) a corporate governance reforms that shall contain actions to be immediately taken to improve composition of the Board of Directors and to enhance the quality of its oversight over the management and operation of the entity.

2. Submit report on the rehabilitation proposal, together with his evaluations and recommendation(s), to the MB within ninety days (90) from takeover.

G. Termination of Receivership
Unless otherwise provided by competent court, the receiver shall determine within ninety (90) days from takeover, whether the institution may be rehabilitated or liquidated. The said determination to rehabilitate or liquidate the institution shall be subject to prior approval of the MB. The receivership may be terminated either upon receipt of the order of the MB authorizing the institution to resume its operation or order placing it under liquidation.

Upon termination of the receivership, the receiver shall -

1. Submit a report to the MB containing the following:

   a) MB resolution placing the institution under receivership;

   b) Summary of total cash realized and disbursed by the receiver;

   c) Comparative balance sheet statements as of takeover date and as of termination date of the receivership;

   d) Other information which should be brought to the attention of the MB;

   e) Recommendation for the discharge of the receivership team from the receivership duties.

2. Prepare an inventory of assets, liabilities and records to be turned over to the new management (if the entity is to be rehabilitated) or to the liquidator (if the entity is to be liquidated).

(Circular No. 719 dated 06 May 2011)

Annex B

MASTER LIQUIDATION PLAN FOR NBQBs/TRUST ENTITIES

1. Preparation of Schedules of Assets and Liabilities.

After the turn-over of the affairs of the insolvent NBQB/Trust Entity is completed, the Liquidator shall prepare the schedules of all the assets and liabilities of the entity accompanied by the following basic information:

a. Statement of condition as of date of order of liquidation

b. Exceptions/variances noted in the takeover

c. Work program pursuant to the master liquidation plan

2. Inventory of Assets

The following procedures/guidelines shall be observed by the Liquidator in preparing the inventory of assets:

2.1. The inventory shall contain all known assets of the NBQB together with their book value and market value based on the latest available appraisal report.

2.2. Supplemental reports shall be submitted for additional assets discovered, if any, and the Liquidator shall take possession thereof.

2.3. The schedules/reports shall be the basis for the conversion/disposition of the assets.

3. Conversion of Receivables/Loans, Securities, and Other Receivables into Money

The following procedures/guidelines shall be observed by the Liquidator in converting the NBQB's/Trust Entity's assets to money:

3.1. In case the Liquidator engages the services of private collection agencies to collect all or particular receivables of the entity, such shall be covered by an agreement in writing.

3.2. In case the Liquidator shall undertake the collection of the loan receivables:

3.2.1. At least three (3) demand letters shall be sent to borrowers whose accounts are not subject to pending cases in courts, furnishing a copy of said letters to respective co-makers or guarantors, by registered mail with return card or by courier;

3.2.2. The Liquidator shall cause the appraisal of collaterals to determine their existence and valuation, where necessary.

3.2.3. Settlement proposals which require at least 20% payment of the total obligation and the balance (with interest) payable in equal amortizations within a one-year period may be allowed, provided, any deviation from the aforementioned arrangement shall require approval of the Liquidation Court.

3.2.4. For borrowers who ignore demand letters or who fail to settle their accounts in accordance with the agreed payment arrangement, or whose demand letters are returned by the Post Office or by courier, the following courses of action shall be taken:

3.2.4.a. Secured loans – Immediate foreclosure of the mortgaged property shall be instituted.

3.2.4.b. Unsecured loans – The Liquidator shall pursue appropriate legal action.

3.2.5. Foreclosure of mortgages may be done either extra-judicially or judicially. The amount of bid shall be the current appraisal value of the property or the total obligation consisting of principal, interest, penalties and other charges, including attorney's fees, other foreclosure and collection expenses incurred, whichever is lower. In case the bid price in foreclosure sale is not sufficient to cover the total loan obligation, the necessary legal remedies shall be instituted against the borrower-mortgagor, with the assistance of the counsel engaged by the Liquidator, to recover the deficiency.

3.2.6. The Liquidator is authorized to disburse funds for foreclosure expenses, including legal fees, to be charged against the NBQB/Trust Entity.

3.2.7. Booked receivables found to be non-existent and/or uncollectible shall be written-off subject to prior approval of the Liquidation Court.

4. Conversion of Personal and Real Estate Properties

The conversion into money of the personal properties and real estate properties and their improvements shall be made as follows:

4.1. These items shall be sold by means of public sealed bidding or on negotiated basis; provided that negotiated sale shall only be resorted to in the event of failure of public sealed bidding.

Negotiated sale shall be governed by Annex B-1.1. Sample form for negotiated offer to purchase is attached as Annex B-1.

4.2. Publication of the sale by means of sealed bidding shall be made by the Liquidator once in a national newspaper of general circulation in the Philippines.

4.3. In case of properties situated outside National Capital Region, the invitation to bid shall also be published once in a local newspaper of general circulation in the province or city where the property is situated at least fifteen (15) days before the scheduled sale. If there is no newspaper of general circulation in the locality where the property is situated, the invitation to bid shall be posted conspicuously in the city or municipal hall and in other public places, like public market, at least fifteen (15) days before the scheduled sale.

4.4. In the case of personal property, the publication of sale in a newspaper may be dispensed with if the value of the property to be sold is insignificant relative to the cost of publication. Instead, notices of sale of these properties shall be posted in government offices and other public places at least fifteen (15) days before the scheduled sale.

4.5. In case of sale through sealed bidding, sample invitation to bid is attached as Annex B-2.

4.6. The minimum selling price of real and personal properties of the NBQB shall be determined taking into consideration the appraised value based on the appraisal report made not more than two (2) years prior to date of disposition.

4.7. The Liquidator may reduce the minimum bid/selling price by not more than 10%, in case of properties that cannot be sold at the stipulated minimum bid/selling price.

4.8. The Liquidator shall recommend to the Court the write-off of assets which are ascertained to be worthless.

4.9. In case of sale thru sealed bidding of personal and/or real properties, the Liquidator may use the sample bid forms and conditions of bid as shown in Annexes B-3 and B-4, respectively. In the case of partnerships/corporations, the bid form shall be accompanied by an authority/resolution that shall indicate the designated person who shall make a bid and bind the partnership/corporation.

In any case, the higher price obtainable should govern the sale of the assets of the NBQB/Trust Entity.

4.10. Prospective bidders are allowed to examine the documents covering the real estate properties and their improvements and to inspect the property and improvements at their site, if desired.

4.11. The condition of the bid with respect to the real estate properties and improvements shall form part of the conditions for the sale of such assets.

4.12. All bids shall be in Philippine currency and shall be written in words and in figures. In case of conflict between words and figures, the words shall prevail.

4.13. Bid proposals together with the minimum 20% of the bid tender in cash or manager's check shall be submitted to the Liquidator in sealed envelopes. Sample Invitation to Bid is shown in Annex B-2. Bidders of real property shall be those qualified to own real property under existing laws.

4.14. The Deed of Sale shall be made and executed after the winning bidder pays the entire bid price of the property.

4.15. The winning bidder of the real estate property shall be responsible for instituting eviction proceedings against any former owner or present occupant or possessor, if any.

4.16. Real and personal properties that cannot be sold shall be subject to such disposition as may be determined by the Liquidator and with the approval of the Liquidation Court.

5. Processing of Claims Against the Insolvent NBQB/Trust Entity.

Processing of claims against the NBQB/Trust Entity shall only start after submission to the Monetary Board of the inventory of assets and liabilities.

The Liquidator shall observe the following procedures/guidelines in the processing of claims:

5.1. Posting in the premises of closed NBQB and publication of a "Notice to Creditors" in a newspaper of general circulation once a week for two (2) consecutive weeks advising all creditors to file their claims against the entity. (See Annex B-5 for sample of Notice to Creditors.)

5.2. Distribution of claim forms for creditors to accomplish. (See Sample Claim Form in Annex B-6)

The claimant shall accomplish Claim Form as shown in Annex B-6. In the case of partnerships/corporations, the claim form shall be accompanied by an authority/ resolution that shall indicate the designated person who shall make a claim and bind the partnership/corporation. Claims received shall be stamped "Received", dated and numbered consecutively and recorded in the registry of claims. A copy of the claim received shall be given to the claimant.

5.3. Verification of claims received against the records and books of accounts of the NBQB to ascertain authenticity, determine whether claimants have outstanding liabilities to the NBQB/Trust Entity and whether settlement of the claims shall be in full or pro-rata depending on whether the claim is preferred or ordinary.

5.4. Preparation of an adjustment and verification sheet for each claim. (See Annex B-7)

5.5. Preparation of a Liquidation Certificate (sample is shown in Annex B-8) embodying the conclusive findings arrived at on the adjustment/verification sheet. The order shall be served on the claimant by registered mail with return card/personal service.

6. Payment of Claims

6.1. The net proceeds of the sale may be paid to creditors of the NBQB, taking into consideration the rules on preference of credits. A proposal to this effect shall be submitted to the Liquidation Court, copy furnished the Monetary Board.

6.2. Prepare and submit to the Court for approval a Project of Distribution, in case of 6.1, or Final Distribution (Sample in Annex B-9) as the case may be, which must show, among others, the following:

- Cash
- Assets to be realized
- Cost of liquidation/recoveries, including reasonable expenses and fees of the Liquidator
- List of credits/claims to be paid in accordance with the provisions on preference of credits under Articles 2241 to 2246 of the Civil Code

A copy of the Project of Distribution submitted to the Liquidation Court shall be provided to the Monetary Board for information with the following recommendations:

1. That an authority be secured from the liquidation court, through engaged counsel of the Liquidator, on the disposition of the remaining cash/unclaimed checks;
2. That the report be approved and the court issue an order terminating liquidation proceedings and discharging the Liquidator from his duties; and
3. That in case the NBQB/Trust Entity has remaining non-cash assets, the Liquidator shall seek the Court's approval to turn over said assets to a trustee appointed by the court for proper disposition in accordance with law.

6.3. Individual notices to the claimants as well as Claim for Payment forms shall be sent by way of registered mail. (Samples are shown in Annexes B-10 and B-11).

6.4. Distribute the check payments to claimants in accordance with the Project of Distribution approved by the Court.

a. Claims shall be paid in check. Claimants shall execute an affidavit proving their right to be paid and an indemnity undertaking (Sample is shown in Annex B-12) to save the Liquidator from any claim or loss that might be caused by reason of such payment.

b. Remaining assets shall be distributed in accordance with law.

6.5. A final report on liquidation shall be submitted by the Liquidator to the Liquidation Court for approval, showing among others, the following:

a. Summary of the total cash realized and paid out by the Liquidator to approved claimants;

b. Statement of remaining cash/ unclaimed checks; and

The Liquidator shall also submit a copy of the final report to the Monetary Board for information. Likewise, the Liquidator shall inform the MB of the action taken by the Court on the final report.

(Circular No. 719 dated 06 May 2011)

Annex B-1

NEGOTIATED OFFER TO PURCHASE FORM

____
Date

The Liquidator

____
____

Dear Sir/Madam:

This is to submit my/our offer to purchase the following property/ies of ____Name of Entity____on an "**AS-IS, WHERE-IS"** basis:

TCT No.	**Location/Description**
______________________	___________________________________
______________________	___________________________________

Under the following terms:

Offer Price ₱ ___________________

Deposit/Downpayment _____ % ₱ ___________________

Terms of Payment: Balance payable in _____ months

To be filled up after payment of Deposit: OR No. ______________

Amount ₱ _________________ Date ________________

With this offer, I/we bind myself/ourselves to comply with the attached Negotiated Sale Rules and Procedures, which I/we have read, fully comprehended, and signed on each and every page.

Upon approval of my/our offer to purchase, the deposit/downpayment shall form part of the purchase price and the balance shall be paid in accordance with the terms and conditions specified in the Notice of Approval.

My/Our failure to pursue the approved offer to purchase or comply with the conditions thereof would mean forfeiture in favor of the____Name of Entity____ of 50 % of my/our deposit/downpayment.

Should my/our offer be disapproved, I/we am/are entitled to the return of the deposit/downpayment, without interest.

Very truly yours,

____
Name/Company Name, if corporate account

Broker authorized to negotiate with the Liquidator:

____
Signature over Printed Name of
Authorized Signatory

Signature:___________________
Name: ______________________
License No. _________________

____
Address/Tel. No./Fax No./E-Mail

____
Community Tax Certificate No./TIN No.

Annex B-1.1

NEGOTIATED SALE RULES AND PROCEDURES
(Attachment to Negotiated Offer to Purchase Form)

I. GENERAL PROVISIONS

In the event of a failure of bidding which shall be announced on the scheduled auction date, the Liquidator may accept within 10 calendar days from the date of announcement of failure of bidding, negotiated offers to purchase in the prescribed form with the required downpayment. Thereafter, the Liquidator shall evaluate the offers and conclude the negotiated sale with the complying offeror.

a. The property shall be sold on "As-Is, Where-Is" basis. The offeror shall acknowledge that he has been given the opportunity to investigate, inspect, and verify the property for sale to ascertain its actual condition and the status of the title to the property before making an offer. The offeror shall also accept the (Name of Entity/Liquidator)'s disclaimer of any warranty, implied or otherwise, that the assets conform precisely to the description indicated in the list of properties for sale.

b. The buyer shall be responsible, at his own expense, for the eviction of squatters and/or occupants, if any, on the property subject of sale.

c. Any and all claims, liens, assessments, liabilities and/or damages whatsoever arising from any suit or litigation involving the property shall solely be assumed and borne by the buyer, accruing from the date of signing of the sale documents.

d. The Liquidator of (Name of Entity) does not warrant (implied or express) that the property conforms precisely to the description indicated in the published list of Properties Available for Sale.

e. Offers to purchase (Name of Entity) properties are subject to the approval of the Liquidator.

(Signature of Buyer)

II. PUBLISHED SELLING PRICE

The published Selling Price of the (Name of Entity) property is subject to change without prior notice to conform with the prevailing fair market value of the property. The Liquidator has the discretion to accept or reject an offer already received that was based on an earlier published Selling Price.

III. TERMS OF SALE

a. The basic terms and conditions of the sale are as follows:

	Cash	**Installment**
Minimum Deposit/Down Payment	10 % of the offer Price	10% of the offer price upon submission of the offer to purchase.
Payment Terms	Full payment shall be made within 30 calendar days from date of receipt of the Notice of Approval (NOA)	The balance shall be paid in six (6) equal monthly installments without need of demand. The first installment shall commence not later than fifteen (15) days from receipt of the NOA while succeeding installments shall be paid every month thereafter. In case of failure to pay two (2) monthly installments, the remaining balance of the contract price becomes due and demandable within ten (10) days from receipt of notice. In case of failure to pay the same after said period, the Liquidator shall have the right to rescind the contract. Fifty percent (50%) of all payments made shall be forfeited in favor of the entity.
Interest Rate	None	In case of default of any installment, an interest rate of 12% p.a. shall be imposed on the amount due from day of default until full payment. In the case of properties (e.g., EPZA, Socialized Housing, CARPER) covered by special laws, no interest shall be charged if selling price is fully paid within sixty (60) days from receipt of the NOA. Otherwise, any unpaid installment shall be subject to interest at the rate prescribed by their respective special laws.

b. The acceptance of the initial deposit shall not bind the (Name of Entity) to the offer until after receipt by the offeror of the Notice of Approval of the sale from the Liquidator.

c. The deposit shall be in the form of cash or manager's/cashier's check payable to the (Name of Entity).

(Signature of Buyer)

IV. SUBMISSION OF OFFER

a. The offeror shall submit in duplicate the following forms:

1. Negotiated Offer to Purchase Form; and
2. Negotiated Sale Rules and Procedures, ***signed on all pages***.

b. The original copy of the forms shall be submitted to the (Name and Address of Entity). The duplicate copy shall be given back to the offeror properly stamped "RECEIVED" by the Office of the Liquidator.

c. If the offeror is a representative of an individual, corporation, partnership or any form of entity, the representative must submit together with the required forms, a written authority to represent the individual or Secretary's Certificate for juridical entities.

V. OFFERS COURSED THROUGH BROKERS

(Signature of Buyer)

a. Offers coursed through licensed brokers shall be accepted, provided the broker named and so designated in the Negotiated Offer to Purchase Form submitted, has a valid authority issued by the Liquidator. No broker shall be recognized, even if with a valid authority to sell issued by the Liquidator, if the initial negotiation for the purchase of the property was made by the offeror with the Liquidator or any of his deputies without the assistance of a broker.

b. Real estate brokers are **not** authorized to collect or receive any payment in behalf of the Liquidator. Any payment made to a broker shall be under the sole and exclusive responsibility and risk of the offeror.

VI. EVALUATION OF OFFERS

a. The Liquidator shall evaluate the acceptability of offers received.

b. Acceptance of negotiation offer shall always be for the best interest of the (Name of Entity)/creditors.

c. Where there are two or more offers for the same property,which shall be opened at the same time after ten (10) days from the date of announcement of failure of bidding, the best offer shall be determined in accordance with the following order of priority:

1. The first priority shall be the highest offered price;

2. In case the same offered price is received, the next consideration shall be the highest down payment;

3. In case the offers received have the same offer price and the same down payment, the shortest payment period shall be accepted;

4. In case offers received have the same offer price, same down payment and same payment period, the offerors concerned shall be asked to resubmit on a designated date and time improved sealed offers to the Liquidator or his representative.

The best offer in accordance with the foregoing shall be announced right after the opening of the offers. Each offeror shall be required to complete the minimum deposit requirement based on the new offer price either in cash or manager's/cashier's check drawn payable to the (Name of Entity), which shall serve as earnest money in case he submits the best offer. The Liquidator shall receive the deposit or earnest money of the best offeror.

VII. NOTICE

a. A Notice of Approval shall be sent to the buyer whose offer is deemed acceptable to the Liquidator.

b. The deposit shall form part of the purchase price and the balance shall be paid in accordance with the terms and conditions indicated in the Notice of Approval.

c. Notice of Disapproval shall be given to those whose offers were rejected and their deposits shall be returned without interest.

The Notice of Approval/Disapproval shall be distributed within seven (7) days from the date the Liquidator has decided on the offers.

VIII. DOCUMENTATION AND RELEASE OF TITLE

a. If the buyer opts to pay the purchase price in full, a Deed of Absolute Sale shall be executed in favor of the buyer.

   The owner's duplicate copy of the Transfer Certificate of Title (CCT or TD) shall thereafter be released to the buyer upon receipt of payment from the buyer of the capital gains tax due and reimbursement of taxes and insurance premium, mentioned in paragraph c, if applicable.

b. If the buyer opts to pay in installment, a Contract to Sell shall be executed to document the approved offer to purchase.

   Upon full payment of the purchase price, a Deed of Absolute Sale shall be executed in favor of the buyer. The owner's duplicate copy of the Transfer Certificate of Title (CCT or TD) shall thereafter be released to the buyer upon receipt of payment from the buyer of the capital gains tax due and reimbursement of taxes and insurance premium, mentioned in paragraph c, if applicable.

(Signature of Buyer)

However, in case of failure to pay two (2) monthly installments, the remaining balance of the contract price becomes due and demandable within ten (10) days from receipt of notice. In case of failure to pay the same after said period, the Liquidator shall have the right to rescind the Contract to Sell.

c. The real estate taxes and insurance premiums paid by the (Name of Entity) shall be assumed by the buyer on a pro rata basis, thus, entitling the (name of entity) to reimbursement of the real estate taxes and insurance premium paid for the remaining days of the year.

Payment of foregoing reimbursement shall be made upon the execution of deed of absolute sale or contract to sell.

IX. OTHER CONDITIONS

a. Withdrawal of Accepted Offer –

Withdrawal of an offer already accepted by the Liquidator shall mean forfeiture in favor of the (Name of Entity) of 50% of the deposit as penalty.

b. Possession and Improvements –

The buyer may be allowed to take physical possession of the property upon downpayment and execution of Contract to Sell. The buyer may be allowed to make or introduce any improvement on the property prior to the full payment with the written consent and subject to the requirements of the Liquidator. Any improvement made contrary to this provision or upon rescission of the contract shall be forfeited in favor of the (Name of Entity) or may be removed without substantial damage to the property, at the expense of the defaulting buyer.

c. Transfer of Rights –

The buyer shall not sell, assign, encumber or in any way dispose of his rights and obligations under the Contract to Sell without prior written consent of the Liquidator.

X. PAYMENT OF TAXES AND FEES

a. The payment of capital gains tax (CGT) shall be subject to agreement by the parties. In case the (Name of Entity) shoulders the CGT, the buyer shall, in addition to the purchase price, assume payment of CGT due on the difference between the zonal value and the selling price, in case the zonal value is higher than the selling price.

(Signature of Buyer)

The amount of CGT which the buyer shall pay or assume shall be delivered to the (Name of Entity) through the Office of the Liquidator.

b. All other taxes and fees incidental and necessary to the sale and transfer of title shall be assumed by the buyer.

C O N F O R M E:

____
Name of Offeror
(Signature over Printed Name)

( ) Individual ( ) Partnership* ( ) Corporation*
*Authorization on the designation of representative attached.
Date: ____________________

Annex B-2

NAME OF ENTITY
OFFICE OF LIQUIDATOR

INVITATION TO BID

Sealed bids will be accepted by the Liquidator for the sale of properties of (Name of Entity) on "As-is, Where-is" basis. Prospective buyers are enjoined to inspect the following listed properties before participating in the public bidding.

CODE/ PROPERTY NO.	DESCRIPTION	LOCATION	TITLE/TD/Cert. of Reg. for motor vehicles, where applicable	MIN. BID PRICE

Sealed bids shall be received by the Liquidator or his authorized representative not later than _______ (am/pm) on ___________. The opening of the bids to determine the winning bidder shall take place at ________ (am/pm) on the same day.

Interested parties may obtain List of Personal Properties not itemized above, Bid Form/s and Conditions of the Bid from the Liquidator at _______________________.

____
Liquidator

____
(Name of Entity)

Annex B – 3

BID FORM

No.____________ ________________
Date

THE LIQUIDATOR
(Name of NBQB)
(Address)

I am/we are pleased to submit my/our bid for the property */ described below:

Code/ Property No.	*Description*	*Location*	*Title/TD/Certificate of Registration for motor vehicles, where applicable*	*Amount of Bid*	*Bid Deposit (At least 20% of amt. of bid)*

*/ In case of personal properties (except motor vehicles), bids for several items shall be contained in one bid form.

I/we have carefully read the Conditions of the Bid and I/we submit this bid with the full understanding that I am/we are in conformity with the terms and conditions stipulated therein.

____
*Signature Over Printed **FULL** Name of Bidder or Bidder's Representative*

COMPLETE Address ___________________________________

____

______ Individual
______ Partnership
______ Corporation
______ Others *(pls. specify)*
____

Telephone Number _______________________________ Civil Status ___________

Attachments: ____ Duly signed Conditions of the Bid
____ Written authority to bid *(In case of authorized representatives for individual bidders)*
____ Secretary's Certificate of Authority to Bid or equivalent *(In case of partnerships, corporations, etc.)*
____ Bid Deposit *(please give details below)*
____ Cash
____ Manager's Check/Demand Draft/Cashier's Check
Drawee Bank _____________________ Check No. _____________

Tax Identification Number

For Liquidator Use Only	
OR No.	Amount Paid

Annex B - 4

CONDITIONS OF THE BID

I. GENERAL PROVISIONS

a. The property shall be sold on "As-is, Where-is" basis. The (Name of Entity) sells only whatever rights, interests and participation it has in the properties and the bidder is charged with full knowledge of the nature and extent of these rights, interests and participation.

b. The offeror acknowledges that he was given the opportunity to investigate, inspect, and verify the property for sale to ascertain its actual condition and the status of the title to the property before making an offer. The offeror also accepts the (Name of Entity)'s disclaimer of any warranty, implied or otherwise, that the assets conform precisely to the description indicated in the list of properties for sale.

c. The sealed envelope system shall be adopted in the bidding.

d. No bid documents will be accepted after the deadline set for the acceptance of bids.

e. All quotations shall be in Philippine pesos.

f. A bidder may be allowed to withdraw a bid tender before the time of opening of bids, which shall be returned, unopened.

g. The (Name of Entity) reserves the right to withdraw before the date and time of bidding any or all of the properties offered or to postpone or reset the date of opening of bids without prior notice.

h. Non-compliance with any of the requirements prescribed hereunder will constitute a ground for disqualification.

(Signature of Bidder)

II. SUBMISSION OF BIDS

a. Bid Form –

1. A bidder shall accomplish a Bid Form for every item or lot as shown in the published "Invitation to Bid", clearly indicating the following, among others:

   - The bid price for the item/lot in figures and in words;
   - In case of discrepancy between the amount in figures and in words, the amount in words shall prevail;
   - Name and signature of bidder;
   - Business or residence address of the bidder; and
   - Business license number, CTC number, or TIN of the bidder

   In case of personal properties except motor vehicles, bids for several items shall be contained in one bid form.

2. The bidder shall accomplish the Bid Form, in duplicate, preferably typewritten. In case of partnerships, corporations, etc., a Secretary's Certificate of Authority to bid or equivalent is also required. All forms should be properly signed. Erasures or corrections should be avoided and if unavoidable should be duly initialed by the bidder.

3. The Bid Form shall be sealed in an envelope with the Code/Property No. as shown in the published "Invitation to Bid" written on the face of the envelope.

4. The envelope shall contain only one bid form. At the discretion of the Liquidator, he may accept a bid form containing multiple items/lots with their corresponding bid offer prices published in the "Invitation to Bid". It shall also contain all bid documents issued by the (Name of Entity) (i.e., Bid Form and Conditions of the Bid), the Bid Deposit, and other attachments, as may be required.

5. All documents shall bear the bidder's signature on each and every page. The signature of the bidder on the original bid form and other bid documents shall constitute acceptance of all conditions embodied therein.

6. The envelope shall be deposited in the designated box on or before the opening of bids.

b. Bid Deposit

1. A Bid Deposit of at least 20% of the bid tender shall be required for every bid.

2. The Bid Deposit shall be in the form of cash, manager's check or cashier's check payable to the (Name of Entity) , and should be placed in a sealed envelope separate from all the other required bid documents. Such envelope shall be opened ahead of the bid form.

The submission of the Bid Deposit is a sign of the acceptance of the terms and conditions of the purchase and as a guarantee that the offeror shall, within fifteen (15) calendar days after receipt of the Notice of Award, pay the balance of the bid price.

4. Failure to submit the Bid Deposit in the sealed envelope shall automatically disqualify the bid concerned.

(Signature of Bidder)

III. OPENING OF BIDS

a. All bids shall be opened at the time, date and place set in the published "Invitation to Bid" (ITB) under the direction of the Liquidator or his authorized representative. No bid shall be accepted after the set deadline. Every bidder, or his authorized representatives, shall have the right to witness the opening of the bids.

b. When two or more complying bidders make identical offers constituting the highest bids, public auction viva voce between those who submitted identical bids shall be resorted to at a price not lower than the offered bids.

c. The Bid Deposit of the highest bidder shall be paid to, and receipted by the Liquidator/Representative.

d. Bids that are not in the prescribed form, unsigned, or those not accompanied or guaranteed by Bid Deposits at the time of opening of bids are considered defective bids and shall be automatically disqualified. In case there is only one bidder, the Liquidator may accept the lone bid even if defective, subject to correction of the defects.

e. A bidding may be declared a failure in any of the following cases:

1. There is no bidding participant; or

2. All bidders fail to comply with the terms and conditions prescribed in the ITB.

f. Announcement of bidding results shall be done immediately after the opening of bids.

g. In the event of a failure of bidding on the scheduled auction date, the Liquidator may accept within 10 calendar days from the date of announcement of failure of bidding, negotiated offers to purchase in the prescribed form with the required downpayment. Thereafter, the Liquidator shall evaluate the offers and conclude the negotiated sale with the highest complying offeror.

IV. RIGHT TO REJECT

a. The Liquidator reserves the right to reject any or all bids, as well as to waive any defect or infirmity in the bids, and to accept such offers as may be considered most advantageous to the ____(Name of Entity)____. Failure to comply with any of the terms and conditions mentioned above may cause the rejection of the bid.

b. The Liquidator also assumes no obligation whatsoever to compensate or indemnify the bidders for any expense, loss or damage that they may incur in the preparation of the bids nor does it guarantee that any award will be made.

V. PAYMENT AND CLAIM OF AWARD

a. The award to the highest complying bidder shall be subject to the approval of the Liquidator.

b. The Notice of Award shall be issued to the winning bidders immediately after approval.

c. The balance of the bid price shall be paid in the form of cash or manager's check payable to the (Name of Entity)____, within fifteen (15) days from the date of receipt of Notice of Award.

d. In case of the awardee's failure to pay the full amount within the prescribed period or accept the award or comply with the terms and conditions listed in the Notice of Award, the award shall be cancelled and the Bid Deposit forfeited in favor of the ____(Name of Entity)____.

(Signature of Bidder)

VI. TAXES AND OTHER EXPENSES

a. The winning bidder shall, in addition to the purchase price, assume payment of the capital gains tax due on the difference between the zonal value and the selling price (in case the zonal value is higher than the selling price), transfer taxes to the City/Municipal Treasurer, and registration fees to the Register of Deeds as well as documentary stamp taxes and all other assessments or charges that the Republic of the Philippines may impose on the properties from the execution of Deed of Absolute Sale.

b. The capital gains tax due from the awardee shall be paid to the Liquidator who in turn shall pay the capital gains tax directly to the Bureau of Internal Revenue.

c. The awardee shall likewise defray all expenses to be incurred in connection with the execution of the sale documents, including notarial fees, and such other expenses that may be necessary for the validity of the instrument and/or other documents that may be executed to implement the sale.

d. The ____(Name of Entity)____. shall also be refunded for unexpired portion of real estate taxes and insurance premiums paid for the transaction year computed from the date of execution of the Deed of Absolute Sale.

VII. DOCUMENTATION AND RELEASE OF TITLE

The ___(Name of Entity)___ shall execute a Deed of Absolute Sale upon full payment to the Liquidator of the purchase price and the capital gains tax, if applicable, and shall release the transfer certificate of title of the property to the winning bidder.

VIII. OTHER CONDITIONS

a. The buyer shall be responsible, at his own expense, for the eviction of squatters and/or occupants, if any, on the property subject of sale.

b. Any and all claims, liens, assessments, liabilities and/or damages whatsoever arising from any suit or litigation involving the property shall be assumed and borne by the buyer.

c. The ___(Name of Entity/Liquidator)___ does not warrant (implied, express or otherwise), that the property conforms precisely to the description indicated in the published list of Properties Available for Sale.

C O N F O R M E :

____
Name of Bidder
(Signature over Printed Name)

( ) Individual ( ) Partnership* ( ) Corporation*
*Authorization on the designation of representative attached.

Date: _________________________

Annex B – 5

NOTICE TO ALL CREDITORS OF NAME OF NBQB/TRUST ENTITY

Notice is hereby given that in an Order dated _______________, the Regional Trial Court, Branch ___________, ____(City/Town)____ gave due course to the Petition for Assistance in the Liquidation of ***(Name of closed Entity)*** (Spec. Proc. No. _________) filed by the Liquidator.

All creditors, investors and other parties with claims against ***(Name of closed Entity)*** may file their claims on or before _____________ with the Liquidation Court or its Liquidator at _______________________________.

Liquidator
(Name of Entity)

Annex B – 6

In re: Liquidation of **NAME OF NBQB/TRUST ENTITY**

CLAIM

Pursuant to Order dated ______________ of the Regional Trial Court, Branch __________, ______City/Town___ I/we, the undersigned claimant/s do hereby certify that the NBQB/Trust Entity is justly indebted to me/us in the sum of **PESOS:** ____(₱____________) for the following:

which is/are due and payable to me/us, since I/we have not assigned the same or any part thereof. I/we further declare that I/we have no knowledge of any set-off or other legal or equitable defense to my/our claim/s or any part thereof.

My/our claim/s is/are evidenced by the following documents, copies of which are hereto attached, the original of which will be produced upon demand:

Community Tax Certificate No. ____________
Issued at ______________________________
On __________________________________

____
Claimant's Name

____
Claimant's Address

------------------------------ (to be filled up by the Liquidator) ----------------------------

Received by : _________________

Date : _________________ Claim No.: _______

(to be accomplished in duplicate)

Annex B – 7

____
(Name of NBQB/Trust Entity Under Liquidation)

ADJUSTMENT AND VERIFICATION SHEET

1. Name of Claimant: ___________________________
2. Claim No.: ___________________________
3. Date of Claim: ___________________________
4. Nature of Claim:
   a. Investment/Placement ₱ _________
   b. Interest on Investment/Placement _________
   c. Others: - _______________ _________
   - _______________ _________
   - _______________ _________
   ____

   Total Claims ₱ _________

5. Adjustments:
   a. Additions
      1. Interest up to NBQB/Trust Entity closure ₱ __________
      2. Others: - ________________ __________
      - ________________ __________
      - ________________ __________
      ____

      Total Additions ₱ __________

   b. Deductions
      1. Withholding tax on interest on investments/placements (per item no. 4.b) ₱ _________
      2. Withholding tax on interest up to closure (per item no. 5.a.1) _________
      3. Interest paid in advance _________
      4. Others: - _________
      - _________
      - _________
      ____

      Total Deductions ₱ _________

      ADJUSTED VERIFIED CLAIMS ₱ _________

6. Proofs (per NBQB/Trust Entity records):
   - GL

Evidence submitted by Claimant:
- Assessment Notice dated ____________
- Warrant of Distraint of Personal Property
- Warrant of Levy on Real Property
- Others

____

Adjusted and verified by:

_________________ _____________
(Deputy Liquidator) Date

Approved by:

_________________ _____________
(Liquidator) Date

Annex B – 8

(Name of Entity)
OFFICE OF THE LIQUIDATOR

In re: Petition for Assistance in the Liquidation of the ___________________________________
_________________– Liquidator
Civil Case No. _____________, RTC Branch __________, City/Town
____

LIQUIDATION CERTIFICATE

Name of Claimant ______________________________ Claim No. _________

Address ______________________________________
____

This refers to your claim against the (NBQB/Trust Entity) which you filed pursuant to the Order of the Court dated _______________ in the above-entitled case, in the amount of ₱ ___________________, computed as follows:

Date	Particulars	Amount
Claim:		
__________________	______________________________	₱ _________
__________________	______________________________	_________
__________________	______________________________	_________
__________________	______________________________	_________
__________________	______________________________	_________
	Total Claim - ₱ _________	
Liability of Claimant to NBQB/Trust Entity:		
__________________	______________________________	₱ _________
__________________	______________________________	_________
__________________	______________________________	_________
	Total Liability of Claimant to NBQB/Trust Entity -	₱ _________
NET CLAIM ----------------------		₱ _________

Please be advised that the foregoing claim shall be used as basis, along with other similar claims and in determining whether settlement of your claim will be in full or pro-rata, depending on whether it is preferred or an ordinary claim, subject to the availability of funds/assets.

Very truly yours,

____
Liquidator

Annex B-9

___________(NBQB/Trust Entity)___________
PARTIAL/FINAL PROJECT OF DISTRIBUTION
As of ___________________

I. Assets to be realized:

A.	Cash in bank	₱ ___________
B.	Government securities/treasury bills	___________
C.	Remaining assets to be realized (at realizable value)	___________
	Total Assets	₱ ___________

II. Liabilities to be settled

A.	Cost, expenses & fees of Liquidation Team under Section 30, R.A. No. 7653, as amended	₱ ___________
B.	Provision for future/winding-up expenses	___________
C.	Claims/creditors with priority – see attached list	___________
D.	Ordinary claims – see attached list	___________
	Total Liabilities to be settled	₱ ___________

III.

Remaining assets realizable	₱ ___________
Less: Cost and expenses of BSP	___________
Assets available to creditors	₱ ___________
Less: Claims with priority	___________
Assets available to ordinary creditors	₱ ___________
Ordinary claims	___________
Deficiency to ordinary claims/creditors	₱ ___________

IV. Distribution

Proposed partial/final liquidating dividend:

1. ____________ to creditors/claim with priority
2. ____________ to ordinary claims

	Amount	1st Liquidating Dividend Rate		Balance
Claims with priority -	₱ ______ -	₱______/P1.00 -	₱ ______	₱ _________
Ordinary claims -	₱ _____ -	₱______/P1.00 -	₱ ______	₱ _________

Annex B-10

____
(Name of Entity)
OFFICE OF THE LIQUIDATOR

____
____
____

Sir/Madam:

____
(Court and Case Number)

This is to inform you that your claim has been approved pursuant to the Court Order dated _______________.

Accordingly the check in the amount of P__________ representing your share in the liquidation of <u>(Name of Entity)</u> will be available for release on ____________ at <u>(Liquidator's address)</u>

We enjoin you or your authorized representative to claim your check within six (6) months from date of this letter by presenting the following documents:

1. Any valid ID with picture (GSIS ID/SSS ID/Driver's License/Passport/ Voter's ID/Postal ID/Company ID/Senior Citizen ID)
2. Copy of Adjudication Order (if available)
3. Duly Accomplished Indemnity Undertaking (form attached)
4. Duly Accomplished Claim for Payment (form attached)

____
Liquidator

Annex B-11

(Name of Entity)
OFFICE OF THE LIQUIDATOR

CLAIM FOR PAYMENT
(In Triplicate)

Claim No. ____________

I. DATA ON CLAIM:

1. Name of Claimant ______________________________________
(Please print) (Surname) (First Name) (Middle Initial)

2. Age ___________________ Civil Status ____________________

3. Residence ____

4. Office/Business Address __________________________________

5. Filed –

a) In person ____
(Authorized Signature)

b) By mail ____
(Attach letter and state date)

c) Thru representatives/heirs ____________________________
(Letter of Authority/Supporting Documents)

6. Date Filed ____

7. Type of Claim: Amount

_______________________________________ ₱
____
____
____

Others (Specify)

____
_______________________________________ __________

T o t a l . . . . ₱__________

DO NOT FILL – FOR USE OF LIQUIDATOR

II. Computation of Liquidating Dividend Due Claimant:

Amount Claimed . . . . ₱

Percentage . . . . _____%_____

Liquidating Dividend . . . . ₱__________

III. Verification and findings

Approved:

____
Liquidator

Annex B-12

INDEMNITY UNDERTAKING

KNOW ALL MEN BY THESE PRESENTS:

This Indemnity Undertaking made this ____ day of _________, 20___ by the ______________________________, represented by _____________________, Filipino, of legal age and with business/residential address at ________________________________, hereinafter referred to as **CLAIMANT/s,** in favor of _________________________________, hereinafter referred to as the **LIQUIDATOR:**

WITNESSETH THAT:

WHEREAS, the Regional Trial Court of ___________, Branch____, (City/Town), per its Order dated ______________________ in SP. PROC. No. ________ (In re: Petition for Assistance in Liquidation of __Name of Entity__, _____________________, Petitioner), authorized the payment of the approved claim against the ___Name of Entity___;

WHEREAS, CLAIMANT/s appears in the list of claims approved pursuant to the said Order of the Court and that the particulars of this claim are as follows:

Claim No.	Claimant/s	Amount of Claim	Payment and/or Set-off	Balance

WHEREAS, the Liquidator is now paying the CLAIMANT/s the amount of its claim in full, and thus LIQUIDATOR shall be free from any claim(s) and/or loss(es) that might be caused by reason of such payment.

NOW, THEREFORE, the CLAIMANT/s, hereby agree/s to hold the LIQUIDATOR free and harmless from any claim(s) and/or loss(es) that might be caused by reason of such payment, by obligating himself/themselves to refund to the LIQUIDATOR upon demand the amount paid to the CLAIMANT/s and/or indemnify the LIQUIDATOR for whatever losses or damages caused to the latter by reason of such payment to the CLAIMANT/s.

IN WITNESS WHEREOF, CLAIMANT/s ______________________________ ______________________________ has executed and signed this Indemnity Undertaking this ____ day of _______ 20___ at ______________, Philippines.

By:

____
Claimant /s

SIGNED IN THE PRESENCE OF:

_________________________ _________________________

A C K N O W L E D G M E N T

REPUBLIC OF THE PHILIPPINES) S.S.
City of ________)

BEFORE ME, a Notary Public for and in ______________, on this ______ day of ____________, 20___, appeared the following:

NAME	Community Tax Certificate No.	Date/Place of Issue

known to me to be the same person who executed the foregoing instrument and acknowledged to me that the same is his/her free act and voluntary deed as well as _______________ is duly authorized for the purpose.

WITNESS MY HAND AND SEAL on the date and place first above written.

NOTARY PUBLIC

Doc. No. ______
Page No. ______
Book No. ______
Series of 20 _____

IT RISK MANAGEMENT STANDARDS AND GUIDELINES
Area: IT Audit
[Appendix to Subsecs. 4177Q.2, 4177Q.7, 4196S.2, 4196S.7, 4193P.2, 4193P.7, 4196N.2 and 4196N.7]

1. Introduction

1.1. BSIs must plan, manage and monitor rapidly changing technologies to enable them to deliver and support new products, services, and delivery channels. The rate of these changes and the increasing reliance on IT make the inclusion of IT audit coverage essential to an effective overall audit program. The audit program should address IT risk exposures throughout the organization, including the areas of IT management and strategic planning, IT operations, client/server architecture, local and wide-area networks, telecommunications, physical and information security, electronic products and services, systems development and acquisition, and business continuity planning. IT audit should also focus on how management determines the risk exposure from its operations and controls or mitigates identified risks.

1.2. A well-planned, properly structured audit program[1] is essential to evaluate risk management practices, internal control systems and compliance with policies concerning IT-related risks at BSIs of every size and complexity. Effective audit programs are risk-focused, promote sound IT controls, ensure the timely resolution of audit deficiencies and inform the Board of Directors of the effectiveness of risk management practices. An effective IT audit function may also allow regulators to place substantial reliance on and reduce the time spent reviewing areas of the BSIs during examinations. Ideally, the audit program should consist of a full-time, continuous program of internal audit which may be further supported by a well-planned external audit program.

2. ROLES AND RESPONSIBILITIES

2.1. **Board of Directors (Board) and Senior Management.** The BSI's Board or its Audit Committee has the overall responsibility for establishing and maintaining an independent, competent and effective IT audit function commensurate with the complexity of its IT risk profile. In order to properly oversee the IT audit function, the Board or its Audit Committee should:

a. Assign responsibility for IT audit function to an internal audit department or individual with sufficient audit expertise, knowledge base and skill level;

b. Ensure that IT audit maintains its professional and organizational independence[2]; and

c. Approve and review an audit program that would guide IT audit engagements.

Senior management is responsible for supporting IT audit by providing sufficient resources, establishing programs defining and requiring compliance with IT planning practices, operating policies and internal controls. Likewise, senior management should not, in any manner, diminish or interfere with the candor of the audit findings and recommendations.

2.2. **Audit Management and Audit Staff** The internal audit manager is responsible for implementing the Board-approved audit directives. The manager oversees the audit function and provides leadership and

[1] **Audit program** encompasses audit policies, procedures, and strategies that govern the audit function, including IT audit.

[2] **Independence** means self-governance, freedom from conflict of interest and undue influence. The IT auditor should be free to make his or her own decisions, not influenced by the organization being audited, or by its managers and employees.

direction in communicating and monitoring audit policies, practices, programs, and processes. He should establish clear lines of authority and reporting responsibility for all levels of audit personnel and activities. The internal audit manager should also ensure that members of the audit staff possess the necessary independence, experience, education, training, and skills to properly conduct assigned activities. This can be undertaken by providing auditors with an effective program of continuing education and development. As the information systems of a BSI become more sophisticated or as more complex technologies evolve, the auditor may need additional training.

The primary role of the internal IT audit staff, on the other hand, is to assess independently and objectively the controls, reliability, and integrity of the BSI's IT environment. Internal auditors should evaluate IT plans, strategies, policies, and procedures to ensure adequate management oversight. They should assess the day-to-day IT controls to ensure that transactions are recorded and processed in compliance with acceptable accounting methods and standards and are in compliance with policies set forth by the Board and senior management. Auditors also perform operational audits, including system development audits, to ensure that internal controls are in place, policies and procedures are effective, and employees operate in compliance with approved policies. Auditors should identify weaknesses, provide meaningful recommendations and review management's plans for addressing those weaknesses, monitor their resolution, and report to the Board material weaknesses, as necessary.

2.3 **Operating Management.** Operating management should formally and effectively respond to IT audit or examination findings and recommendations. The audit procedures should clearly identify the methods for following up on noted audit or control exceptions or weaknesses. Operating management is responsible for correcting the root causes of the audit or control exceptions, not just treating the exceptions themselves. Response times for correcting noted deficiencies should be reasonable and may vary depending on the complexity of the corrective action and the risk of inaction.

3. INDEPENDENCE OF THE IT AUDIT FUNCTION

3.1. The ability of the internal audit function to achieve desired objectives depends largely on the independence of audit personnel. Hence, the placement of the internal audit function in relation to the BSI's management structure should be carefully assessed. The degree of auditors' independence, objectivity and impartiality entails the following key elements:

a. Direct reporting of audit results to the Board or its Audit Committee;

b. Full authority vested by the Board to the IT Audit Department/IT auditor to access all records and staff necessary to conduct the audit and require management to address significant findings in a timely manner. Said authority must be clearly specified in an Internal Audit Charter or Audit Program duly approved by the Board or Audit Committee;

c. Non-involvement of IT audit personnel in management/operational activities that may compromise or appear to compromise their independence; and

d. The Board or Audit Committee should decide on audit personnel performance evaluation and compensation matters.

4. INTERNAL IT AUDIT PROGRAM

4.1. A formal audit program or manual consisting of policies and procedures governing the IT audit function should be adopted commensurate with the BSI's size, complexity, scope of activities and risk profile. The audit program should, at a minimum, encompass the following components:

a. A mission statement or audit charter[1] outlining the purpose, objectives, organization, authorities, and responsibilities of the internal auditor, audit staff, audit management, and the audit committee;

b. A risk assessment process to describe and analyze the risks inherent in a given line of business and drive the scope and frequency of audits. Auditors should update the risk assessment at least annually, or more frequently if necessary, to reflect changes to internal control or work processes;

c. An annual audit plan detailing IT audit's budgeting and planning processes to include audit goals, schedules, staffing needs and reporting;

d. An audit cycle that identifies the frequency of audits which should be based on a sound risk assessment process;

e. Well-planned and properly structured audit work programs[2] that set out the required scope and resources, including the selection of audit procedures, extent of testing and the basis for conclusions for each audit area;

f. Audit report preparation standards that require the use of an approved audit rating system;

g. Requirements for audit work paper documentation to ensure clear support for all audit findings and work performed, including work paper retention policies;

h. Follow-up processes that require internal auditors to determine the disposition of management actions to correct significant deficiencies;

i. Policies on outsourcing of some or all of IT audit function, including technical/ highly specialized reviews, to external third parties; and

j. Professional development programs for audit staff/personnel to maintain the necessary technical expertise.

Additionally, the BSI should consider conducting its internal audit activities in accordance with professional standards, such as the *Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors (IIA), and those issued by the Standards Board of the Information Systems Audit and Control Association (ISACA), whenever possible.

5. IT AUDIT PHASES

5.1. **Audit Planning.** The BSI should develop an overall audit plan[3] for all the audit assignments/engagements covering at least twelve (12) months to ensure adequate coverage of IT risks. The plan should be defined by combining the results of the risk assessments and the resources required to yield the timing and frequency of planned internal audits. The audit plan must be realistic and should cover a time budget for other assignments and activities such as specific examination, consulting/advisory

[1] **Audit charter** is a document approved by the Board of Directors that defines the IT audit function's responsibility, authority and accountability.

[2] **Work program** is a series of specific, detailed steps to achieve an audit objective.

[3] **Audit plan** is a description and schedule of audits to be performed in a certain period of time (ordinarily a year). It includes the areas to be audited, the type of work planned, the high-level objectives and scope of the work and includes other items such as budget, resource allocation, schedule dates, and type of report issued.

services, training and provision for audit personnel leave of absences.

The audit plan must be formally approved and regularly reviewed by the Board or Audit Committee. The internal auditors should report the status of the planned versus actual audits and any revisions to the annual audit plan on a periodic basis.

For each audit assignment, an audit work program detailing the objectives, scope, nature and extent of audit procedures and outline of audit work should be prepared. This is to ensure that appropriate attention is devoted to important areas of the audit, potential problems are identified and resolved on a timely basis, and the audit engagement is properly organized and managed to be performed in an effective and efficient manner.

5.2. **Risk Assessment.** The use of an appropriate risk assessment technique or approach is critical in developing the overall IT audit plan and in planning specific audits. An effective risk assessment methodology should be defined to provide the Board or its Audit Committee with objective information in determining audit priorities for the effective allocation of IT audit resources. The risk assessment for IT audit planning should:

a. Identify the BSI's data, application[1] and operating systems[2], technology, facilities, and personnel;

b. Identify the business activities and processes within each of those categories;

c. Include profiles of significant business units, departments, and product lines, or systems, and their associated business risks and control features, resulting in a document describing the structure of risk and controls throughout the BSI; and

d. Use a measurement or scoring system that ranks and evaluates business and control risks for significant business units, departments, and products.

The results of the risk assessments, in support of the audit plan, must be presented to the Board or Audit Committee for review and approval. A process must be in place to ensure regular monitoring of the results of the risk assessment and updating it at least annually for all significant business units, departments, and products or systems.

A risk scoring model or system may be adopted to provide a sound basis for the risk assessment. Among the major risk factors that may be used in scoring systems include the following: a) Adequacy of internal controls; b) Nature of transactions and operating environment; c) Age of the system or application; d) Physical and logical security of information, equipment, and premises; e) Adequacy of operating management oversight and monitoring; f) Previous regulatory examination and audit results and management's responsiveness in addressing issues; g) Human resources, including the experience of management and staff, turnover, technical competence, management's succession plan, and the degree of delegation; and h) Senior management oversight.

Written guidelines on the use of risk assessment tools and risk factors should be approved and reviewed by the Board or its Audit Committee. IT auditors should use the guidelines to grade or assess major risk areas and to define the range of scores or assessments (e.g. groupings such as high, medium or low risk or numeric risk ratings). At a minimum, the written assessment guidelines should specify the following

[1] **Application system** is an integrated set of computer programs designed to serve a well-defined function and having specific input, processing, and output activities (e.g., CASA, general ledger, loans and treasury systems).
[2] **Operating system** is the program that manages all the basic functions and programs in a computer.

elements: a) Maximum length for audit cycles based on the risk scores; b) Timing of risk assessments for each department or activity; c) Documentation requirements to support scoring decisions; and d) Guidelines for overriding risk assessments in special cases and the circumstances under which they can be overridden.

5.3. **Performance of Audit Work** Depending on the complexity of IT risk profile, IT auditors may perform all or a combination of any of the following IT audit procedures:

a. **IT General Controls Review** - This entails the review of the adequacy of general controls[1] in place to ensure proper management and monitoring of IT risks/ environment and the effective functioning of the BSI's IT systems and infrastructure. The following areas should be covered, among others: a) IT management and strategic planning; b) IT operations; c) Client/server architecture; d) Local and wide-area networks; e) Telecommunications; and f) Physical and information security.

IT general controls review may be carried out through the audit of each IT unit or department in the institution (e.g. IT Operations, Network and Communications, etc.).

b. **Application Systems Review** - The purpose of this review is to identify, document, test and evaluate the application controls[2] that are implemented to ensure the confidentiality, integrity and accuracy of the system processing and the related data. The application-level risks to the system and data addressed by this review are the following, among others: a) System availability risks relating to the lack of system operational capability; b) System security risks relating to unauthorized access to systems and/or data; c) System integrity risks relating to incomplete, inaccurate, untimely or unauthorized processing of data; d) System maintainability risks relating to inability to update the system when required in a manner that continues to provide for system availability, security and integrity; and e) Data risks relating to its completeness, integrity, confidentiality, privacy and accuracy.

c. **Technical Reviews** - BSIs with complex IT risk profile such as those providing electronic products and services and web-enabled facilities, also require IT auditors to perform highly technical/ specialized reviews such as the conduct of periodic internal vulnerability assessment and penetration testing, computer forensics and review of emerging technologies, e.g. cloud computing, virtualization, mobile computing.

IT auditors frequently use computer-assisted audit techniques (CAATs) to improve audit coverage by reducing the cost of testing and sampling procedures that otherwise would be performed manually. CAATs include many types of tools and techniques, such as generalized audit software, utility software, test data, application software tracing and mapping, and audit expert systems. These tools and techniques can also be used effectively to check data integrity by testing the logical

[1] **General controls** are controls, other than application controls, that relate to the environment within which application systems are developed, maintained, and operated, and that are therefore applicable to all the applications at an institution. Like application controls, general controls may be either manual or automated. Examples of general controls include the development and implementation of an IT strategy and an IT security policy, the organization of IT staff to separate conflicting duties and planning for disaster prevention and recovery.

[2] **Application controls** are controls related to transactions and data within application systems. Application controls ensure the completeness and accuracy of the records and the validity of the entries made resulting from both programmed processing and manual data entry. Examples of application controls include data input validation, agreement of batch totals and encryption of data transmitted.

processing of data "through" the system, rather than by relying only on validations of input and output controls.

Audit software programs should remain under the strict control of the audit department. For this reason, all documentation, test material, source listings, source and object program modules, and all changes to such programs, should be strictly controlled. Computer programs intended for audit use should be carefully documented to define their purpose and to ensure their continued usefulness and reliability.

All audit procedures forming part of the assignment should be documented in working papers. These must reflect the examinations that have been made and emphasize the evaluations formulated in the report. The working papers must be drawn up according to a well-determined method. Such method must provide sufficient information to verify whether the assignment was duly performed and to enable others to check the manner in which it was performed.

5.4. **Reporting.** A written audit report of each assignment is to be issued to the auditee and Audit Committee within a reasonable timeline. The audit report should state the scope, objectives, period of coverage and the nature, timing and extent of the audit work performed. It should state the findings, conclusions and recommendations and any reservations, qualifications or limitations in scope that the IT auditor has with respect to the audit. The IT audit should discuss the draft report contents with management in the subject area prior to finalization and release of the final report. This should be signed, dated and distributed according to the terms of the audit charter/audit program or engagement letter.

5.5. **Post-closing/Monitoring Activities** Senior management should ensure that the internal audit department's concerns are appropriately addressed. Therefore, they should approve a procedure established by the internal audit department to ensure the consideration and, if appropriate, timely implementation of audit recommendations.

The IT audit department should monitor the implementation of management's corrective actions for proper disposition of its findings/recommendation. The status of the recommendations is communicated at least on a quarterly basis to the Board or Audit Committee.

6. OTHER IT AUDIT ACTIVITIES/ PARTICIPATION

6.1. **Development, Acquisition, Conversions and Testing.** The BSI's Board-approved audit policy should include guidelines detailing what involvement internal audit will have in the development, acquisition, conversion, and testing of major applications. This includes describing the monitoring, reporting, and escalation processes (when internal controls are found to be insufficient or when testing is found to be inadequate). For acquisitions with significant IT impacts, participation of IT audit may be necessary early in the due diligence stage.

It is necessary that audit's participation in the development process be independent and objective. Auditors can determine and should recommend appropriate controls to project management. However, such recommendations do not necessarily "pre-approve" the controls, but instead guide the developers in considering appropriate control standards and structures throughout their project.

6.2. **Review of Technology Service Providers (TSP)**. The BSI should effectively manage its relationships with key TSPs through review and assessment of adequacy of IT controls employed by such TSPs. When circumstances warrant, the BSI's internal audit function may be utilized to directly audit TSP's operations and controls. In some instances, the services of external auditors may be employed. A BSI using external audit to complement its own coverage should ensure that the independent auditor is qualified to perform the review, that the scope satisfies its own audit objectives and that any significant reported deficiencies are corrected.

7. OUTSOURCING OF IT AUDIT FUNCTIONS

7.1. The Board and senior management of a BSI that outsources its internal IT audit function should ensure that the structure, scope and management of the outsourcing arrangement provides for an adequate evaluation of the system of internal controls. Management should ensure that there are no conflicts of interest and that the use of these services does not compromise independence.

7.2. When negotiating the outsourcing arrangement with a service provider, the BSI should carefully consider its current and anticipated business risks in setting each party's internal audit responsibilities. To clearly define the BSI's duties and those of the audit provider, it should have a written contract, often referred to as an engagement letter[1].

8. COMPLIANCE WITH EXISTING BANGKO SENTRAL RULES AND REGULATIONS

8.1. The provisions of the IT audit guidelines prescribe in detail the essentials and elements of an effective IT audit which complement and are consistent with Subsection X185.9 Independence of the Internal Auditor. Likewise, the IT audit-related tasks of the Audit Committee are in addition to the tasks prescribed under 4141Q.3 Powers/responsibilities and duties of directors.

(Circular No. 808 dated 22 August 2013)

[1] In general, the contract between the institution and the audit provider may or may not be the same as the engagement letter.

IT RISK MANAGEMENT STANDARDS AND GUIDELINES
Area: Information Security
[Appendix to Subsecs. 4177Q.2, 4177Q.7, 4196S.2, 4196S.7, 4193P.2, 4193P.7, 4196N.2 and 4196N.7]

1. INTRODUCTION

1.1. Information is one of the most important assets of all BSIs. Timely and reliable information is necessary to process their transactions and support critical decisions. Protection of information assets is also necessary to establish and maintain trust between the BSIs and their customers, maintain compliance with laws and regulations and protect reputation. Likewise, effective management of information risks and exposures—as well as opportunities—can directly affect the BSIs' profitability and overall value.

1.2. Information security (IS) has become a critical business function and an essential component of governance and management affecting all aspects of the business environment. Effective IS controls are necessary to ensure the confidentiality, integrity and availability of IT resources and their associated data. These assets should be adequately protected from unauthorized access, deliberate misuse or fraudulent modification, insertion, deletion, substitution, suppression or disclosure. To achieve these objectives, BSIs should establish an IS program to manage the risks identified through their assessment, commensurate with the sensitivity of the information and the complexity of their IT risk profile. Management may consider a variety of policies, procedures, and technical controls and adopt measures that appropriately address identified risks.

2. ROLES AND RESPONSIBILITIES

2.1. **Board of Directors (Board) and Senior Management.** The Board, or an appropriate Board committee, is responsible for overseeing the development, implementation, and maintenance of the BSI's IS program, and making senior management accountable for its actions. The Board should approve written IS policies and receive periodic report on the effectiveness of the IS program. The IS policy should be communicated to all employees and relevant external parties and be reviewed at planned intervals to ensure its continuing suitability, adequacy and effectiveness. The policy should include a formal disciplinary process and the corresponding actions for those who have committed security violations.

Senior management should appoint an information security officer (ISO) who will be responsible and accountable for the organization-wide IS program. The duly appointed ISO should have sufficient knowledge, background, and training, as well as organizational position, to enable him to perform assigned tasks. To ensure appropriate segregation of duties, the ISO should report directly to the Board or to senior management and have sufficient independence to perform his mandate. The ISO should perform the tasks of a risk manager and not a production resource assigned to the IT department. In the case of BSIs with simple IT risk profile, The ISO function may be assigned to an existing independent officer who meets the above qualifications.

3. INFORMATION SECURITY STANDARDS

3.1. **IS Risk Assessment.** The BSI should conduct periodic security risk assessment to identify and understand risks on confidentiality, integrity and availability of information and IT systems based on a current and detailed knowledge of the BSI's operating and business environments. The risk assessment should include an identification of information and IT resources to be protected and their potential threats and vulnerabilities. An effective risk assessment process involves three phases, namely: information gathering, analysis, and prioritizing responses. Vendor concerns add additional elements to the process.

Once the risks associated with threats and vulnerabilities have been assessed, probabilities assigned, and risks rated, the BSI should segregate the risks into those the BSI is willing to accept and those that should be mitigated. Once the BSI identifies the risks to mitigate, it can begin to develop its risk mitigation strategy which should be an integral component of the IS program.

3.2. **Security Controls Implementation**

3.2.1. **Asset Classification and Control** The BSI should maintain an inventory of all information assets and identify the information owner who shall be responsible in ensuring confidentiality, integrity and protection of these assets. Management should implement an information classification strategy in accordance with the degree of sensitivity and criticality of information assets to the BSI. To ensure consistent protection of information and other critical data throughout the system, the BSI should develop guidelines and definitions for each classification and define an appropriate set of controls and procedures for information protection in accordance with the classification scheme.

Protection of information confidentiality should be in place regardless of the media[1] (including paper and electronic media) in which the information is maintained. The BSI should ensure that all media are adequately protected, and establish secure processes for disposal and destruction of sensitive information in both paper and electronic media.

3.2.2. **Physical and Environmental Protection.** Physical security measures should be in place to protect computer facilities and equipment from damage or unauthorized access. Critical information processing facilities should be housed in secure areas such as data centers and network equipment rooms with appropriate security barriers and entry controls. Access to these areas should be restricted to authorized personnel only and the access rights should be reviewed and updated regularly. Buildings should give minimum indication of their purpose, with no obvious signs identifying the presence of information processing facilities.

The BSI should fully consider the environmental threats (e.g. proximity to dangerous factories) when selecting the locations of its data centers.

Moreover, physical and environmental controls should be implemented to monitor environmental conditions which could adversely affect the operation of information processing facilities (e.g. fire, explosives, smoke, temperature, water and dust). Equipment and facilities should be protected from power failures and electrical supply interference by, for example, installing uninterruptible power supply (UPS) and a backup generator.

3.2.3. **Security Administration and Monitoring.** A security administration function and a set of formal procedures should be established for administering the allocation of access rights to system resources[2] and application systems, and monitoring the use of system resources to detect any unusual or unauthorized activities.

Proper segregation of duties within the security administration function or other

[1] **Media** are physical objects that store data, such as paper, hard disk drives and compact disks.
[2] **System resources** are capabilities that can be accessed by a user or program either on the user's machine or across the network. Capabilities can be services, such as file or print services, or devices, such as routers.

compensating controls (e.g. peer reviews) should be in place to mitigate the risk of unauthorized activities being performed by the security administration function. In those cases where complete segregation of duties is impractical, management should use mitigating controls, such as ensuring a knowledgeable third-party conducts appropriate independent reviews of security administration activities. In smaller institutions, a manager or senior officer who is not involved in the security administration function may conduct this independent review.

Management should employ the "least privilege" principle throughout IT operations. The principle provides that individuals should only have privileges on systems and access to functions that are required to perform their job function and assigned tasks. Individuals with systems and security administrator roles and privileges should have minimal transactional authority. Independent employees should monitor the system and security administrator activity logs for unauthorized activity. Management at smaller institutions should establish compensating controls in these circumstances.

3.2.4. **Authentication[1] and Access Control.** Access rights and system privileges must be based on job responsibility and the necessity to have them to fulfill one's duties. No person by virtue of rank or position should have any intrinsic right to access confidential data, applications, system resources or facilities. Only employees with proper authorization[2] should be allowed to access confidential information and use system resources solely for legitimate purposes.

The BSI should have an effective process to manage user authentication and access control. Appropriate user authentication mechanism commensurate with the classification of information to be accessed should be selected. The grant, modification and removal of user access rights should be approved by the information owner prior to implementation. A user access re-certification process should be conducted periodically to ensure that user access rights remain appropriate and obsolete user accounts have been removed from the systems.

Users who can access internal systems should be required to sign an acceptable-use policy (AUP) before using a system. An AUP is a key control for user awareness and administrative policing of system activities which details the permitted system uses and user activities and the consequences of non-compliance.

The BSI should implement effective password rules to ensure that easy-to-guess passwords are avoided and passwords are changed on a periodic basis. Stronger authentication methods should be adopted for transactions/activities of higher risk (e.g. payment transactions, financial messages and mobile computing).

Default user accounts to new software and hardware should either be disabled, or the authentication to the account should be changed. Additionally, access to these default accounts should be monitored more closely than other accounts. In the same manner, authorization for privileged access should be tightly controlled as it gives the user the ability to override system or application controls. Extra care should be exercised when controlling the use of and

[1] **Authentication** involves verification of identity by a system based on the presentation of unique credentials to that system

[2] **Authorization** is the process of giving access to parts of a system, typically based on the business needs and the role of the individual within the system

access to privileged and emergency IDs. The necessary control procedures include:

a. Granting of authorities that are strictly necessary to privileged and emergency IDs;

b. Formal approval by appropriate personnel prior to being released for usage;

c. Monitoring of activities performed by privileged and emergency IDs (e.g. peer reviews of activity logs);

d. Proper safeguard of privileged and emergency IDs and passwords (e.g. kept in a sealed envelope and locked up inside the data center); and

e. Change of privileged and emergency IDs' passwords immediately upon return by the requesters

3.2.5. **System Security.** The following control procedures and baseline security requirements should be developed to safeguard operating systems, system software and databases[1], among others:

a. Clear definition of a set of access privilege for different groups of users and access to data and programs is controlled by appropriate methods of identification and authentication of users together with proper authorization;

b. Secure configuration of operating systems, system software, databases and servers to meet the intended uses with all unnecessary services and programs disabled or removed. Use of security tools should be considered to strengthen the security of critical systems and servers;

c. Periodic checking of the integrity of static data (e.g. system parameters) to detect unauthorized changes;

d. Clear establishment of responsibilities to ensure that the necessary patches and security updates developed from time to time by relevant vendors are identified, assessed, tested and applied to the systems in a timely manner;

e. Adequate documentation of all configurations and settings of operating systems, system software, databases and servers; and

f. Adequate logging and monitoring of system and user activities to detect irregularities and logs are securely protected from manipulation.

3.2.6. **Network Security.** Networks provide system access and connectivity between business units, affiliates, service providers, business partners, customers, and the public. This increased connectivity requires additional controls to segregate and restrict access between various groups and information users. The BSI must evaluate and implement appropriate controls relative to the complexity of its network. An effective approach to adequately secure system and data within the network involves the following, among others:

a. Grouping of network servers, applications, data, and users into security domains (e.g., untrusted external networks, external service providers, or various internal user systems);

b. Establishment of appropriate access requirements within and between each security domain;

c. Implementation of appropriate technological controls to meet access requirements consistently; and

d. Monitoring of cross-domain access for security policy violations and anomalous activity.

The BSI should consider the following factors in determining the network security controls appropriate to the institution and each of the security domain, among others:

a. Criticality of the application and the user group within the domain;

b. Access points to the domain through various communication channels;

c. Network protocols and ports used by the applications and network equipment deployed within the domain;

d. Performance requirement or benchmark;

[1] **Database** is an organized collection of information stored on one or more electronic files.

e. Nature of domain (i.e. production or testing, internal or external);

f. Connectivity between/among various domains; and

g. Trustworthiness of the domain.

3.2.7. **Remote Access.** Controls over remote access are required to manage risk brought about by external connections to the BSI's network and computing resources. In protecting information, the BSI should establish control procedures covering:

a. Approval process on user requests;

b. Authentication controls for remote access to networks, host data and/or systems;

c. Protection (e.g. against theft and malicious software) of equipment and devices;

d. Logging and monitoring all remote access communications; and

e. Provision of more stringent security controls (i.e. data encryption, two-factor authentication process).

3.2.8. **Encryption.** The BSI should adopt industry-accepted cryptographic solutions and implement sound key management practices to safeguard the associated cryptographic keys. Sound practices of key management generally include the following, among others:

a. Provision of a secure control environment for generation, distribution, storage, entry, use and archiving of cryptographic keys to safeguard against modification and unauthorized disclosure. In particular, the use of tamper-resistant storage is recommended to prevent the disclosure of the cryptographic keys; and

b. Adequate off-site back-up and contingency arrangements for cryptographic keys which are subject to the same security controls as the production cryptographic keys.

3.2.9. **Malicious Code[1] Prevention.** The BSI should provide protection against the risk of malicious code by implementing appropriate controls at the host and network level to prevent and detect malicious code, as well as engage in appropriate user education. Procedures and responsibilities should be established to detect, prevent, and recover from attacks. The BSI should put in place adequate controls, such as:

a. Prohibiting the download and use of unauthorized files and software, and access to doubtful web sites;

b. Installation and timely update of anti-virus software[2] provided by reputable vendors;

c. Disallowing the download of executable files and mobile codes, especially those with known vulnerabilities (e.g. through the use of corporate firewalls[3] and proper configuration of the browser software); and

d. Prompt and regular virus scanning of all computing devices and mobile users' computers, and procedures for recovering from virus infections.

3.2.10. **Personnel Security.** The BSI should have a process to verify job application information on all new employees. Screening procedures, including verification and background checks, should be developed for recruitment of permanent and temporary IT staff, and contractors, particularly for sensitive IT-related jobs or access level.

[1] **Malicious code** refers to any code in any part of a software or script that is intended to cause undesired effects, security breaches or damage to a system. It describes a broad category of system security terms that includes attack scripts, viruses, worms, Trojan horses, backdoors and malicious active content.

[2] **Antivirus software** is a computer program that offers protection from viruses by making additional checks of the integrity of the operating system and electronic files. Also known as virus protection software.

[3] **Firewall** is a hardware and/or software that prevents unauthorized data from entering or leaving a secure network. Firewalls can also be used to isolate or protect a particular segment of a network.

Management should obtain signed confidentiality, non-disclosure and authorized use agreements before granting new employees and contractors access to IT systems. Such agreements put all parties on notice that the BSI owns its information,expects strict confidentiality, and prohibits information sharing outside legitimate business needs.

All employees of the organization and, where relevant, contractors and third-party users, shall receive appropriate IS awareness training and regular updates in organizational policies and procedures relevant to their job function. Security training and awareness promotes a security conscious environment and strengthens compliance with BSI's security policies, standards, and procedures.

3.2.11. **Systems Development, Acquisition and Maintenance.** A framework should be in place describing the tasks and processes for development or acquisition of new systems, assignment and delineation of responsibilities and accountabilities for system deliverables and project milestones. User functional requirements, systems design and technical specifications and service performance expectations should be adequately documented and approved at appropriate management levels.

The BSI's development, acquisition, and audit policies should include guidelines describing the involvement of internal audit and information security personnel in the development or acquisition activities as a means of independently verifying the adequacy of the control and security requirements as they are developed and implemented.

Besides business functionalities, security requirements relating to system access control, authentication, transaction authorization, data integrity, system activity logging, audit trail, security event tracking and exception handling should be clearly specified. The information and/or process owners should conform to the security requirements for each new system or system acquisition, accept tests against the requirements, and approve implementation of systems in the production environment.

The BSI should have an effective process to introduce application and system changes into its respective environments. The process should encompass development, implementation, and testing of changes to both internally developed software and acquired software. Weak procedures can corrupt applications and introduce new security vulnerabilities.

3.2.12. **Insurance.** While insurance coverage is an effective method to transfer risks from the BSI to insurance carriers, the same is not a substitute for an effective IS program. When considering supplemental insurance coverage for security incidents, the BSI should assess the specific threats in light of the impact these incidents will have on its financial, operational, and reputation risk profiles. The BSI should carefully evaluate the extent and availability of coverage in relation to the specific risks they are seeking to mitigate. In case the BSI contracts for additional coverage, it should ensure that it is aware of and prepared to comply with any required security controls both at inception of the coverage and over the term of the policy.

3.3. **Security Process Monitoring and Updating**

3.3.1. **Activity Monitoring.** The BSI should gain assurance of the adequacy of its risk mitigation strategy and implementation by monitoring network and host activity to identify policy violations and anomalous behavior. The BSI's security monitoring should, commensurate with the risk, be able to identify control failures before a security incident occurs, detect an intrusion or other security incident in sufficient time to enable an effective and timely response, and support post-event forensics activities.

The analysis and response to activity and condition monitoring is performed differently at BSIs of different IT risk profile. A simple BSI may assign operational personnel to the analysis and response function while a complex BSI may maintain a security response center that receives and analyzes the data flows as activity occurs. Additionally, BSIs, regardless of IT risk profile, may outsource various aspects of the analysis and response function, such as activity monitoring. Outsourcing does not relieve the BSI of the responsibility for ensuring that control failures are identified before a security incident occurs, an intrusion or other security incident is detected in sufficient time to enable an effective and timely response, and post event forensics activities are supported.

3.3.2. **IS Incident Management.** The BSI should establish incident response and reporting procedures to handle IS-related incidents. All employees, contractors and third party users shall be required to note and report any observed or suspected security weaknesses in systems. An effective incident response program includes the following components, among others:

a. A mechanism to log, monitor and quantify the nature, criticality and estimated cost of IS incidents.

b. Assessment of the nature and scope of the incident and identification of what information has been accessed or misused;

c. Measures to contain and control the incident to prevent further unauthorized access to or misuse of information, while preserving records and other evidence;

d. Prompt notification to Bangko Sentral of any confirmed IT-related fraud cases or major security breaches, consistent with existing regulations;

e. Notification to appropriate law enforcement authorities in situations involving criminal violations requiring immediate attention; and

f. Notification to customers when warranted.

Log files are critical to the successful investigation and prosecution of security incidents and can potentially contain sensitive information. Therefore, the BSI should strictly control and monitor access to log files whether on the host or in a centralized logging facility.

Where a follow-up action against a person or organization after an IS incident involves legal action, evidence shall be collected, retained, and presented to conform to the rules for evidence laid down in the relevant jurisdiction.

3.3.3. **Ongoing risk assessment.** The BSI should continuously gather and analyze information regarding new threats and vulnerabilities, actual attacks on the institution or others, and the effectiveness of the existing security controls. It should evaluate the information gathered to determine the extent of any required adjustments to the various components of the IS program. Depending on the nature of changing environment, the BSI needs to reassess the risk and make changes to its security process (e.g. security strategy, controls implementation or security monitoring requirements).

The BSI should adjust its IS program to reflect the results of ongoing risk assessment and the key controls necessary to safeguard customer information and ensure the proper disposal of customer information. It should adjust the program to take into account changes in IT, sensitivity of its customer information, internal or external threats, and the BSI's own changing business arrangements such as mergers, acquisitions, alliances and joint ventures, outsourcing arrangements, and changes in customer information systems.

4. ROLES OF IT AUDIT AND SECURITY SPECIALISTS

4.1. **Audit and Compliance Reviews.** IT auditors are usually charged to assess, on a regular basis, the effectiveness of a BSI's IS security program. To fulfill this task, they must have an understanding of the protection schemes, the security framework and the related issues, including compliance with applicable laws and regulations.

The BSI should engage independent security specialists to assess the strengths and weaknesses of critical applications, systems and networks prior to initial implementation.

For BSIs providing electronic and similar services, annual vulnerability assessment[1] and penetration testing[2] should be performed by an external party to provide early identification of threats and vulnerabilities so that appropriate security measures can immediately be implemented.
(Circular No. 808 dated 22 August 2013)

[1] **Vulnerability assessment** (also known as vulnerability analysis) is a process that defines, identifies, and classifies the security flaws (vulnerabilities) in a computer, network, or communications infrastructure. In addition, vulnerability assessment can forecast the effectiveness of proposed countermeasures and evaluate their actual effectiveness after they are put into use.

[2] **Penetration test** is the process of using approved, qualified personnel to conduct real-world attacks against a system so as to identify and correct security weaknesses before they are discovered and exploited by others.

IT RISK MANAGEMENT STANDARDS AND GUIDELINES
Area: Project Management/Development, Acquisition and Change Management
[Appendix to Subsecs. 4177Q.2, 4177Q.7, 4196S.2, 4196S.7, 4193P.2, 4193P.7, 4196N.2 and 4196N.7]

1. INTRODUCTION

1.1. Because technology is constantly evolving, Management of BSIs should periodically assess their uses of IT as part of overall business planning. Such an enterprise-wide and ongoing approach should be formalized in the IT strategic plan to help ensure that all major IT projects are consistent with its overall strategic goals.

1.2. As part of their strategic goals, BSIs may need to constantly introduce new or enhanced products and services, improve systems and processes and implement updates and innovations in IT to secure and manage voluminous information and maintain their competitive position. This necessity may oftentimes result to initiating IT projects[1]; which may be in the form of internal or external development of software applications or systems, acquisition and/or implementation of new or enhanced hardware, software, infrastructure or services with or without the help of third party providers.

1.3. IT projects, when managed improperly, often result in late deliveries, cost overruns, or poor quality applications. Inferior applications can result in underused, unsecure, or unreliable systems. Retrofitting functional, security, or automated-control[2] features into applications is expensive, time consuming, and often results in less effective features. Therefore, BSIs should carefully manage IT-related projects to ensure they meet organizational needs on time and within budget.

2. ROLES AND RESPONSIBILITIES

2.1. The size and complexity of a project dictates the required number and qualifications of project personnel. Duties may overlap in smaller organizations or lower-risk projects; however, all projects should include appropriate segregation of duties or compensating controls.

2.2. **Board of Directors (Board) and Senior Management.** The BSI's Board and senior management should review, approve, and monitor IT projects that may have significant impact on its operations, earnings or capital. They are responsible to ensure that IT projects support business objectives and adequate resources are available to complete these projects. Consequently, they should establish adequate policies and strategies to achieve these and ensure that risks related to IT projects are managed appropriately.

Senior management is expected to have more knowledge and involvement in the day-to-day operations of these IT projects to critically evaluate the design and oversee the related operation and activities. They should ensure that IT projects are coordinated and undertaken in adherence to appropriate policies, standards, and risk management controls. They should periodically inform the Board and/or IT Steering Committee of the IT initiatives and the related risks that these may pose to the BSI. They should also review, approve, document and report deviations from established policies and standards.

2.3. **Quality Assurance.** An independent party (e.g. the quality assurance function, the TRM function or the technology audit team), who is not involved in the

[1] An **IT project** is a task involving the acquisition, development or maintenance of a technology product.
[2] **Automated controls** are software routines designed into programs to ensure the validity, accuracy, completeness and availability of input, processed and stored data.

project development, should conduct a quality assurance review of major IT-related projects, with the assistance of the legal and compliance functions, if necessary. This review is to ensure compliance with the project life cycle[1] methodology, other internal policies, control requirements, regulations and applicable laws.

3. PROJECT MANAGEMENT STANDARDS AND METHODOLOGY

3.1. **Project Management.** The BSI should establish a general framework for management of major technology-related projects. This framework should, among other things, specify the project management methodology to be adopted and applied to these projects. The methodology should cover, at a minimum, allocation of responsibilities, activity breakdown, budgeting of time and resources, milestones, check points, key dependencies, quality assurance, risk assessment and approvals.

A BSI that needs to coordinate multiple IT projects should establish standards for coordinating and managing the projects from an enterprise-wide perspective. The standards should, at a minimum, include guidelines for project prioritization, resource coordination and progress reporting.

3.2. **Project Methodology.** The BSI should adopt and implement a full project life cycle methodology governing the process of developing, implementing and maintaining major computer systems. In general, this should involve phases of project initiation, feasibility study, requirement definition, system design, program development, system and acceptance testing, training, implementation, operation and maintenance.

The project life cycle methodology should define clearly the roles and responsibilities for the project team and the deliverables[2] from each phase. It also needs to contain a process to ensure that appropriate security requirements are identified when formulating business requirements, built during program development, tested and implemented.

4. PROJECT PLANNING AND INITIATION

4.1. A formal project committee, to ensure the development of well-structured applications, should be established with clear details of its terms and reference. The committee should at least consist of the following representatives:

a. Senior management, to provide strategic direction and ensure full commitment;

b. User departments, to ensure that the application design meets their requirements;

c. Internal audit department, to act as in independent party to ensure adequate controls are diligently applied at all times. However, internal audit participation should only be on an advisory capacity; and

d. IT department, to provide technical knowledge and skills.

4.2. A feasibility study should be performed to identify the expected costs and benefits of developing a system, and also to decide either to utilize internal resources or to outsource to a vendor. In case of outsourcing, the responsibility of senior management does not diminish in ensuring that a well-designed application is developed. Senior management maintains the responsibility for ensuring that minimum controls are in place and are in accordance with the BSI's standards.

4.3. When management proposes a new hardware, software or IT solution and/or changes to existing ones, it should ensure that functional, operational and regulatory requirements are accurately identified and clearly detailed in request for proposals

[1] **Project life cycle** refers to a logical sequence of activities to accomplish a project's goals or objectives.
[2] **Deliverables** are project goals and expectations. They include broadly-defined, project or phase requirements and specifically-defined tasks within project phases.

(RFP[1]) or invitations-to-tender (ITT) that it distributes to vendors or third-party service providers (TSP) in the bid solicitation process. Moreover, relevant security requirements should be clearly specified before a new system is developed or acquired. A review should also be conducted to ensure an appropriate balance between security and other objectives (ease-of-use, operational simplicity, ability to upgrade, acceptable cost, etc.) is achieved.

4.4. During the development and acquisition of new systems or other major IT projects, project plans should address issues such as – a) business requirements for resumption and recovery alternatives; b) information on back-up and storage; c) hardware and software requirements at recovery locations; d) BCP and documentation maintenance; e) disaster recovery testing; and f) staffing and facilities. Likewise, during maintenance, where there are changes to the operating environment, business continuity considerations should be included in the change control process and implementation phase.

4.5. Proper planning should be employed to ensure IT projects meet their objectives. Project control systems should be employed to monitor specific target completion dates for each task of systems development against original targets. Periodic reports to senior management such as, project priorities and status, resource allocations, target deviations and budgets, should be in place to measure project effectiveness.

5. SYSTEMS DEVELOPMENT

5.1. Development projects involve the creation of applications, integrated application systems and other critical softwares. Software development projects are completed in-house, through outsourcing, or by a combined approach. To manage this type of projects, the BSI should establish development standards that, at a minimum, address project management, system control, and quality assurance issues. Project management standards should address issues such as project management methodologies, risk management procedures, and project approval authorities.

System control standards should address items such as an application's functional, security, and automated control features. Quality assurance standards should address issues such as the validation of project assumptions, adherence to project standards, and testing of a product's performance.

5.2. Development standards should also include procedures for managing internally developed spreadsheets and database reports. BSIs often rely on the spreadsheets and reports to make important budgeting and asset/liability decisions, but fail to implement adequate testing, documentation, and change-control procedures. Management's reliance on the spreadsheets and reports should dictate the formality of their development procedures, change controls, and backup techniques.

5.3. Programming standards should be designed to address issues such as the selection of programming languages and tools, the layout or format of scripted code, interoperability between systems, and the naming conventions of code routines and program libraries. These will enhance the BSI's ability to decrease coding defects and increase the security, reliability, and maintainability of application programs.

6. SYSTEM ACQUISITION

6.1. Software package acquisition is an alternative to in-house systems development and should be subject to broadly similar controls as the project life cycle. A proper software selection analysis should be

[1] **RFP** is a document that a BSI sends to a vendor inviting the vendor to submit a bid for hardware, software, services, or any combination of the three. An institution typically issues the RFP in order to assess competing bids.

conducted to ensure that user and business requirements are met. In particular, the process should involve detailed evaluation of the software package and its supplier (e.g. its financial condition, reputation and technical capabilities). If financial stability is in doubt, alternatives should be developed to reduce the adverse impact from loss of a vendor's service.

6.2. The contract agreement between the BSI and vendor should be legally binding. The BSI should ensure all contract agreements outline all expected service levels and are properly executed to protect its interest. It is also important to ensure that vendor technicians and third-party consultants are subjected to at least, or preferably more stringent policies and controls compared to the in-house staff. In the case where contract personnel are employed, written contracts should also be in effect.

7. CHANGE MANAGEMENT

7.1. Change management is the process of planning, scheduling, applying, distributing and tracking changes to application systems, system software (e.g. operating systems and utilities), hardware, network systems, and other IT facilities and equipment. The change management procedures should be formalized, enforced and adequately documented. Authorization and approval are required for all changes and the personnel responsible for program migration should be identified. For the purpose of accountability, proper sign-off should be adequately implemented where formal acknowledgement is obtained from all related parties.

7.2. An effective change management process helps to ensure the integrity and reliability of the production environment. To ensure IT-related modifications are appropriately authorized, tested, documented, implemented and disseminated, the change manage process should include the following:

a. Classification and prioritization of changes and determination of the impact of changes;

b. Roles and responsibilities of each relevant party, including IT functions and end-user departments, with adequate segregation of duties. This is to ensure that no single person can effect changes to the production environment without the review and approval of other authorized personnel;

c. Program version controls and audit trails;

d. Scheduling, tracking, monitoring and implementation of changes to minimize business disruption;

e. Process for rolling-back changes to re-instate the original programs, system configuration or data in the event of production release problems; and

f. Post implementation verification of the changes made (e.g. by checking the versions of major amendments).

7.3. Requested changes should be screened before acceptance to determine alternate methods of making the changes, the cost of changes and time requirements for programming activity. System analysts should assess the impact and validity of the proposed changes and all critical change requests should be set as priority.

7.4. The actual cause that led to the request for change should be identified and adequately documented. Formal reports on analysis for problems raised and status of change requests (including closed and outstanding) should be reported to senior management on a periodic basis.

7.5. Audit trail of all change requests should be maintained. Programmers' activities should be controlled and monitored, and all jobs assigned should also be closely monitored against target completion dates.

7.6. To enable unforeseen problems to be addressed in a timely and controlled manner, the BSI should establish formal procedures to manage emergency changes. Emergency changes should be approved by the information owner (for application system or production data-related changes) and other relevant parties at the time of change. If the change needs to be introduced as a matter of urgency and it is impracticable to seek the approval of the information owner, endorsement should be sought from the information owner after the implementation as soon as practicable (e.g. on the following business day).

7.7. Emergency changes should be logged and backed up (including the previous and changed program versions and data) so that recovery of previous program versions and data files is possible, if necessary. Emergency changes need to be reviewed by independent personnel to ensure that the changes are proper and do not have an undesirable impact on the production environment. They should be subsequently replaced by proper fixes through the normal acceptance testing and change management procedures.

7.8. Management should ensure that vendors permitted remote access to network resources are properly authorized. System logs showing activity on the system should be reviewed to ensure that unauthorized remote access has not taken place. Management may institute time of day restrictions for remote access, to limit the duration of time a user can access the network remotely (e.g. only during business hours). Vendors utilizing dial in access should be verified through call back procedures and/or through the use of a modem that can be turned on when authorization has been granted by the system administrator.

7.9. Data patching could severely compromise the integrity of the database in production systems and should strictly be avoided. The BSI should adequately ensure the accuracy and reliability of its database and the integrity of its data. Good project management discipline requires validation of data input, data integrity testing, user sign-off, impact analysis and escalation of decision to senior management should be adopted to ensure accuracy and validity of data before live implementation.

8. SYSTEMS TESTING

8.1. A formal acceptance process should be established to ensure that only properly tested and approved systems are promoted to the production environment. System and user acceptance testing should be carried out in an environment separate from the production environment. Production data should not be used in development or acceptance testing unless the data has been desensitized (i.e. not disclosing personal or sensitive information) and prior approval from the information owner has been obtained. Performance testing should also be performed before newly developed systems are migrated to the production environment.

8.2. Sufficient testing is important to ensure that design and overall reliability of the application systems are in accordance with original specifications. Tests should be conducted using documented test plans that should encompass all predetermined data or processing problems and business scenarios.

8.3. User acceptance testing should be performed in a separate environment. All related users are responsible to ensure that adequate test scenarios are formulated and sufficiently tested. Successful test activities should be formally confirmed and accepted by users, before the modified programs can be transferred to the production environment.

9. SYSTEMS MIGRATION

9.1 A secured library for program pending migration to the production environment should be established. The secured library or quarantine area for all amended programs should only be accessible by the personnel who performed the migration process and restricted from the application programmers. This is to mitigate the risk of programmers changing the modified programs after user acceptance testing, but prior to the program migration.

9.2. Source compare procedure should be in place to verify changes and to ensure no unauthorized changes have been made. Modified programs should be compared to the authorized change documents to determine that only approved specification changes were implemented.

9.3. Updates or a version control for all applications should be maintained. Old versions of source codes[1] should be archived as contingency measure, with a clear indication of the precise date, time and all necessary information while the latest version of the source codes and databases should be strictly protected. Version controls may also be implemented to ensure only authorized programs are migrated to quarantine and production environments.

10. SOURCE CODE CONVERSION AND MAINTENANCE

10.1. Conversion of source codes into object codes[2] should be adequately controlled in order to mitigate the risks of unauthorized changes and to ensure accurate and complete results. The conversion process should only be performed by designated personnel. In the case where the compiler programs or other systems development tools are used, it should be placed under restricted control and the access and execution rights are strictly monitored.

10.2. In cases where core applications are developed by vendors but the source codes were not released to the BSI, the institution's interest should be protected in the form of a written agreement. The agreement, generally known as escrow agreement, should allow the BSI to access the source programs under conditions, such as, but not limited to, discontinued product support or financial insolvency by the vendor. A third-party entity should be appointed to retain these programs and documents in escrow. However, it is important for the BSI to periodically determine that the source code maintained in escrow is up-to-date. If the BSI decides not to go into a source code escrow agreement, appropriate controls or contingency plans should be established as necessary, to continue adequate operation of the business or process the acquired program is supporting in case it becomes problematic, obsolete, or ceases to function.

11. SYSTEMS DOCUMENTATION

11.1 All standards and procedures on systems development and documentation on user manuals should be formally established and properly maintained to ensure consistency of approach. Accessibility to these documents should be strictly confined only to those who are authorized to receive such information in order for them to effectively discharge their duties.

11.2 Management should identify the type and level of documentation personnel must produce during each project phase. Project documentation of major IT projects, especially development and acquisition, should include project requests, feasibility studies, project plans, testing plans, etc. System documentation, which focuses on

[1] **Source codes** are software program instructions written in format (language) readable by humans.

[2] **Object codes** are software program instructions compiled (translated) from source code into machine-readable formats.

system analysis and design, should include system concept narratives, data flow charts, and database specifications. Application documentation should include application descriptions, programming flowcharts, and operations and user instructions. The documentation should be revised as needed throughout the project life cycle.

11.3 Documentation standards should identify primary documentation custodians and detail document authoring, approving, and formatting requirements. Personnel should document all changes to system, application, and configuration documentation according to prescribed standards. Additionally, management should control access to documentation libraries with appropriate library and version controls.

11.4 All standards and documentation should be kept secured to prevent unauthorized access. The BSI should maintain a central storage (of either hardcopy or softcopy) of all standards and documentation onsite as well as in an offsite premise for contingency purposes. In the case where the application is developed by a vendor, management should ensure that adequate training and manuals are provided as part of the package, stated in writing and clearly understood by all parties. The BSI should also ensure complete and updated system documentation is provided.

12. POST-IMPLEMENTATION REVIEW

12.1. A post implementation review should be conducted at the end of a project to validate the application's operational performance, after it has begun to operate. The relative success of the project should be gauged by comparing planned and actual cost, benefits and completion time. If the planned objectives do not materialize, reasons should be reviewed and documented in a post implementation evaluation report that should be presented to senior management highlighting any operational or project management deficiencies noted.

12.2. The responsibilities for conducting post-implementation review can be assigned to the BSI's IT audit function. In larger IT organizations, formal quality assurance or change management groups may have primary responsibility for post-implementation reviews. In such cases, the IT auditor may choose not to perform a separate review but instead to participate in establishing the test criteria and evaluating results of any other independent reviews.

13. DISPOSAL

13.1. The BSI may sometimes need to remove surplus or obsolete hardware, software, or data. Primary tasks include the transfer, archiving, or destruction of data records. Management should transfer data from production systems in a planned and controlled manner that includes appropriate backup and testing procedures. The BSI should maintain archived repository of data in accordance with applicable record retention requirements and system documentation to facilitate reinstallation of a system into production, when necessary. Management should destroy data by overwriting old information or degaussing (demagnetizing) disks and tapes.

14. ROLE OF AUDIT, INFORMATION SECURITY AND QUALITY ASSURANCE OFFICERS

14.1 **Audit**. The BSI's auditors assist user departments, project managers, and system designers in identifying system control requirements and testing the controls during development and after implementation. Please refer to Item 6.1 of *Appendix Q-59a* for the detailed guidelines on audit's participation in the development, acquisition, and maintenance of major systems.

14.2 **Information Security**. The BSI should ensure that systems are developed, acquired and maintained with appropriate security controls. To do this, management should ensure that – a) systems are developed and implemented with necessary security features enabled and based on established security control requirements; b) software is trustworthy by implementing appropriate controls in the different project phases; and c) appropriate configuration management and change control processes exist, including an effective patch management process. Management should establish security control requirements based on their risk assessment process evaluating the value of the information at risk and the potential impact of unauthorized access, damage or other threats.

14.3 **Quality Assurance**. Independent quality assurance function is a critical part of well-managed IT projects. Comprehensive quality assurance, risk management, and testing standards provide the best means to manage project risks and ensure IT projects, especially software, include expected functionality, security, and operability, as applicable.

(Circular No. 808 dated 22 August 2013)

IT RISK MANAGEMENT STANDARDS AND GUIDELINES
Area: IT Operations
[Appendix to Subsecs. 4177Q.2, 4177Q.7, 4196S.2, 4196S.7, 4193P.2, 4193P.7, 4196N.2 and 4196N.7]

1. INTRODUCTION

1.1. The evolving role IT plays in supporting the business function has become increasingly complex. IT operations – traditionally housed in a computer data center with user connections through terminals – have become more dynamic and include distributed environments, integrated applications, telecommunication options, internet connectivity, and an array of IT operating platforms[1]. With the advent of technology, even small BSIs have now become increasingly reliant on IT to achieve operational efficiency and deliver innovative products and services. Although some of these BSIs have developed their products and services in-house, many have relied on vendors and service providers to develop and operate these products and services.

1.2. The increasing dependency to IT of BSIs has consequently resulted to heightened risk exposures arising from their reliance on a variety of IT solutions and services and third-party relationships as well. It is also emphasized that risks involve more than IT and that controls include sound processes and well-trained people. To many BSIs, effective support and delivery from IT operations has become vital to the performance of most of their critical business lines. This necessitates the adoption of risk management processes that promote sound and controlled operation of IT environments to ensure that IT operations process and store information in a timely, reliable, secure, and resilient manner.

2. ROLES AND RESPONSIBILITIES

2.1. **Board of Directors (Board) and Senior Management.** The BSI's Board and senior management are responsible for overseeing a safe, sound, controlled and efficient IT operating environment that supports the institution's goals and objective. Although they can delegate implementation and oversight of daily operations to IT management, final responsibility for these activities remains with the Board and senior management. Consequently, the Board and senior management are responsible for understanding the risks associated with existing and planned IT operations, determining the risk tolerance of the BSI, and establishing and monitoring policies for risk management.

On the other hand, IT operations management is primarily responsible in ensuring the BSI's current and planned infrastructure is sufficient to accomplish the strategic plans of senior management and the Board. To accomplish this objective, operations management should ensure the BSI has sufficient personnel (in knowledge, experience, and number), system capacity and availability, and storage capacity to achieve strategic objectives. Operations management should select or recommend IT solutions that can meet strategic requirements with reduced resources to control capital expenditures and operating costs.

[1] **IT operating platform** includes the underlying computer system on which application programs run. A platform consists of an operating system, the computer system's coordinating program, which in turn is built on the instruction set for a processor or microprocessor, and the hardware that performs logic operations and manages data movement in the computer.

3. IT OPERATIONS STANDARDS

3.1. **Technology Inventory.** To effectively identify, assess, monitor, and manage the risks associated with IT operations, management should have a comprehensive understanding of the BSI's operations universe. Regardless of size, BSI management should perform and maintain an inventory of all its IT resources, recognize interdependencies of these systems and understand how these systems support the associated business lines. Management should ensure the inventory is updated on an on-going basis to reflect the BSI's IT environment at any point in time.

Appropriate documentation of infrastructure and data flow should be in place to facilitate risk identification, application of controls, and ongoing maintenance of information systems. At a minimum, said documentation should include among others, the following components:

a. Hardware - Inventory should be comprehensive to include BSI's owned assets and equipment owned by other parties but located within the environment. To the extent possible, hardware items should be marked with a unique identifier, such as a bar code, tamper-proof tag, or other label.

b. Software - There are at least three major categories of software the BSI should include in the software inventory: operating systems, application software, and back-office and environmental applications.

c. Network Components and Topology[1]- Network management should develop and maintain high-level topologies that depict local area networks (LANs[2]), metropolitan area networks (MANs[3]) and wide area networks (WANs[4]). The topologies should have sufficient detail to facilitate network maintenance and troubleshooting, facilitate recovery in the event of a disruption and plan for expansion, reconfiguration, or addition of new technology.

d. Data Flow Diagram - Management should also develop data flow diagrams to supplement its understanding of information flow within and between network segments as well as across the BSI's perimeter to external parties. Data flow diagrams are also useful for identifying the volume and type of data stored on various media. In addition, the diagrams should identify and differentiate between data in electronic format, and in other media, such as hard copy or optical images.

e. Media - Descriptive information should identify the type, capacity, and location of the media. It should also identify the location, type, and classification (public, private, confidential, or other) of data stored on the media. Additionally, management should document source systems, data ownership, back up frequency and methodology (tape, remote disk, compact disc (CD), or other), and the location of back-up media if other than at the primary off-site storage facility.

[1]A **network** is a group of two or more computers that are linked together. For example, networks allow users at different branches or different workstations to access the Internet, send and receive email, and share printers, applications, and data. A **network topology** pictorially describes the arrangement or architecture of a network, including its workstations and connecting communication lines.

[2] A **LAN** is a network that connects workstations in a relatively small geographic area, such as a building. Computers connected in a LAN are usually connected by cables, but they can also be connected wirelessly.

[3] A **MAN** is a network that usually spans a city or a large campus. A MAN usually interconnects a number of LANs using a high-capacity backbone technology, such as fiber-optical links, and provides up-link services to WAN and the internet.

[4] A **WAN** is a network that connects other networks together. WANs are typically complicated networks covering broad areas (i.e., any network that links across metropolitan, regional, or national boundaries) and allowing many computers and other devices to communicate and share data.

3.2. **Risk Assessment.** Once inventory is complete, management should employ a variety of risk assessment techniques to identify threats and vulnerabilities to its IT operations, covering among others, the following:

a. Internal and external risks;

b. Risks associated with individual platforms, systems, or processes as well as those of a systemic nature; and

c. The quality and quantity of controls.

The risk assessment process should be appropriate to the BSI's IT risk profile. To the extent possible, the assessment process should quantify the probability of a threat or vulnerability and the financial consequences of such an event.

After the BSI identifies and analyzes the universe of risks, management should prioritize risk mitigation actions based on the probability of occurrence and the financial, reputational or legal impact to the institution. Management should prioritize the risk assessment results based on the business importance of the associated systems. The probability of occurrence and magnitude of impact provide the foundation for establishing or expanding controls for safe, sound, and efficient operations appropriate to the risk tolerance of the BSI.

3.3. **Risk Mitigation & Control Implementation**

3.3.1. **Policies, Standards and Procedures.** Board and management should enact policies, standards and procedures sufficient to address and mitigate the risk exposure of the BSI. The BSI should adopt minimum IT standards to establish measurable controls and requirements to achieve policy objectives. Procedures describe the processes used to meet the requirements of the BSI's IT policies and standards. Management should develop written procedures for critical operations which procedures should be updated and reviewed regularly. The scope of required procedures depends on the size, complexity and the variety of functions performed by the BSI's IT operations.

3.3.2. **Controls Implementation**

3.3.2.1. **Environmental Controls.** IT equipment should have a continuous uninterruptible power supply (UPS[1]). Management should configure the UPS to provide sufficient electricity within milliseconds to power equipment until there is an orderly shutdown or transition to the back-up generator. The back-up generator should generate sufficient power to meet the requirements of mission critical IT and environmental support systems. Similarly, IT operations centers should have independent telecommunication feeds from different vendors. Wiring configurations should support rapid switching from one provider to another without burdensome rerouting or rewiring.

Even small IT operations centers with modest IT equipment can contain a significant amount of computer cabling. Management should physically secure these cables to avoid accidental or malicious disconnection or severing. In addition, management should document wiring strategies and organize cables with labels or color codes to facilitate easy troubleshooting, repair, and upgrade.

Every operations center should have adequate heating, ventilation, and air conditioning (HVAC) systems in order for personnel and equipment to function properly. Organizations should plan their HVAC systems with the requirements of their IT systems in mind. Also, operations personnel should be familiar with written

[1] **UPS** is a device that allows computer to keep running for at least a short time when the primary power source is lost. A UPS may also provide protection from power surges. A UPS contains a battery that "kicks in" when the device senses a loss of power from the primary source allowing the user time to save any data they are working on and to exit before the secondary power source (the battery) runs out. When power surges occur, a UPS intercepts the surge so that it doesn't damage the computer.

emergency procedures in the event of HVAC system disruption.

Water leaks can cause serious damage to computer equipment and cabling under raised floors. For this reason, operations centers should be equipped with water detectors under raised flooring to alert management of leaks that may not be readily visible. Management should also consider installing floor drains to prevent water from collecting beneath raised floors or under valuable computer equipment.

A variety of strategies are available for fire suppression. Ideally, the fire suppression system should allow operators time to shut down computer equipment and cover it with waterproof covers before releasing the suppressant.

Lastly, Management should consider using video surveillance and recording equipment in all or parts of the facility to monitor activity and deter theft. Management should also use inventory labels, bar codes, and logging procedures to control the inventory of critical and valuable equipment.

3.3.2.2. **Preventive Maintenance.** All maintenance activities should follow a predetermined schedule. A record of all maintenance activities should be maintained to aid management in reviewing and monitoring employee and vendor performance. Management should schedule time and resources for preventive maintenance and coordinate such schedule with production. During scheduled maintenance, the computer operators should dismount all program and data files and work packs, leaving only the minimum software required for the specific maintenance task on the system. If this is impractical, management should review system activity logs to monitor access to programs or data during maintenance. Also, at least one computer operator should be present at all times when the service representative is in the computer room.

In case a vendor performs computer maintenance online, operators should be aware of the online maintenance schedule so that it does not interfere with normal operations and processing. Operators and information security personnel should adhere to established security procedures to ensure they grant remote access only to authorized maintenance personnel at predetermined times to perform specific tasks.

Operators should maintain a written log of all hardware problems and downtime encountered between maintenance sessions. A periodic report on the nature and frequency of those problems is a necessary management tool, and can be valuable for vendor selection, equipment benchmarking, replacement decisions, or planning increased equipment capacity.

3.3.2.3. **Change Management[1] & Control.** Complex BSIs should have a change management policy that defines what constitutes a "change" and establishes minimum standards governing the change process. Simple BSIs may successfully operate with less formality, but should still have written change management policies and procedures.

All changes should flow through the oversight function, which may include appropriate representation from business lines, support areas, IT management, information security, and internal audit. In establishing a framework for managing change, a policy should be present describing minimum standards and including such factors as notification, oversight, and control. Control standards should address risk, testing, authorization and approval, timing of implementation, post

[1] **Change management** refers to the broad processes for managing organizational change. Change management encompasses planning, oversight or governance, project management, testing and implementation.

installation validation, and back-out or recovery.

3.3.2.4. **Patch Management[1].** Management should establish procedures to stay abreast of patches, to test them in a segregated environment, and to install them when appropriate. Change management procedures should require documentation of any patch installations. Management should develop a process for managing version control of operating and application software to ensure implementation of the latest releases. Management should also maintain a record of the versions in place and should regularly monitor the Internet and other resources for bulletins about product enhancements, security issues, patches or upgrades, or other problems with the current versions of the software.

3.3.2.5. **Conversions.** Conversions involve major changes to existing systems or applications, or the introduction of systems or data sets which may span multiple platforms. Consequently, they have a higher level of risk requiring additional, specialized controls. Conversions, if improperly handled, may result to corrupt data; hence, strong conversion policies, procedures, and controls are critical. Likewise, since the ramifications of conversion span IT operations, it is important for management to periodically re-evaluate all operations processes and consider the appropriateness of process re-engineering.

3.3.2.6. **Network Management Controls.** Network standards, design, diagrams and operating procedures should be formally documented, kept updated, communicated to all relevant network staff and reviewed periodically. Communications facilities that are critical to continuity of network services should be identified. Single points of failure should be minimized by automatic re-routing of communications through alternate routes should critical nodes or links fail.

The network should be monitored on a continuous basis to reduce the likelihood of network traffic overload and detect network intrusions. Powerful network analysis and monitoring tools, such as protocol analyzers, network scanning and sniffer tools, are normally used for monitoring network performance and detecting potential or actual intrusions. These powerful network tools should be protected from unauthorized usage (e.g. viewing of unencrypted sensitive information). The use of network tools should also be tightly restricted to authorized staff only and be subject to stringent approval and review procedures.

3.3.2.7. **Disposal of Media.** Management should have procedures for the destruction and disposal of media containing sensitive information. These procedures should be risk-based relative to the sensitivity of the information and the type of media used to store the information. Furthermore, disposal procedures should recognize that records stored on electronic media, including tapes, and disk drives present unique disposal problems in that residual data can remain on the media after erasure. Since data can be recovered, additional disposal techniques should be applied to remove sensitive information.

3.3.2.8. **Imaging.** Management should ensure there are adequate controls to protect imaging processes, as many of the traditional

[1] A **patch** is a piece of software designed to fix problems with, or update a computer program or its supporting data. This includes fixing security vulnerabilities and other bugs, and improving the usability or performance. Though meant to fix problems, poorly designed patches can sometimes introduce new problems. In some special cases, updates may knowingly break the functionality, for instance, by removing components for that the update provider is no longer licensed. **Patch Management** is the process of using a strategy and plan of what patches should be applied to which systems at a specified time.

audit and controls for paper-based systems may be reduced. Management should also consider issues such as converting existing paper storage files, integration of the imaging system into the organization workflow, and business continuity planning needs to achieve and maintain business objectives.

3.3.2.9. **Event/Problem Management.** Management should ensure appropriate controls are in place to identify, log, track, analyze, and resolve problems that occur during day-to-day IT operations. The event/ problem management process should be communicated and readily available to all IT operations personnel. Management should ensure it trains all operations personnel to act appropriately during significant events. Employees should also receive training to understand event response escalation procedures.

Operations personnel should be properly trained to recognize events that could trigger implementation of the business continuity plan. Although an event may not initially invoke the plan, it may become necessary as conditions and circumstances change. Management should train and test BSI personnel to implement and perform appropriate business continuity procedures within the timeframes of the BCP. Operations personnel should properly log and record any events that trigger BCP response and document their ultimate resolutions.

3.3.2.10. **User Support/Help Desk.** User support processes and activities should ensure end users continuously have the resources and services needed to perform their job functions in an efficient and effective manner. In complex BSIs, the help desk function provides user support, which typically consists of dedicated staff trained in problem resolution, equipped with issue tracking software, and supported with knowledge-based systems that serve as a reference resource to common problems. In simple BSIs, user support may consist of a single person, a very small group, or a contract with a support vendor.

The help desk should record and track incoming problem reports, whether handled by live operators or automated systems.

Documentation in the tracking system should include such data as user, problem description, affected system (platform, application, or other), prioritization code, current status toward resolution, party responsible for resolution, root cause (when identified), target resolution time, and a comment field for recording user contacts and other pertinent information. The help desk should evaluate and prioritize issues to ensure the most critical problems receive prompt attention.

Help desk functions may also be supported by knowledge based-systems that provide support staff with action responses to common problems. Strong support functions continually update the knowledge based-systems with information obtained from vendors and from the experiences of help desk staff. Because attrition rates in the help desk function can be high, a knowledge based-system can ensure the BSI retains knowledge and facilitates the training and development of new employees.

Proper authentication of users is critical to risk management within the user support function. If the help desk uses a single authentication standard for all requests, it should be sufficiently rigorous to cover the highest risk scenarios. However, the BSI may choose to use different levels of authentication depending upon the problem reported, the type of action requested, or the platform, system, or data involved. If the help desk function is outsourced, management should determine the service provider's information access level, assign the functions it will perform, and ensure that security and confidentiality remain in place.

3.3.2.11. **Scheduling.** The BSI should implement policies and procedures for creating and changing job schedules and should supplement them with automated tools when cost effective. Sound scheduling practices and controls prevent degraded processing performance that can affect response time, cause delays in completing tasks, and skew capacity planning. Automated scheduling tools are necessary for large, complex systems to support effective job processing. Smaller and less complex IT systems generally have a standard job stream with little need for change.

3.3.2.12. **Systems and Data Back-up** The BSI should ensure that sufficient number of backup copies of essential business information, software and related hardcopy documentations are available for restoration or critical operations. A copy of these information, documentation and software should also be stored in an off-site premise or backup site and any changes should be done periodically and reflected in all copies.

The BSI should back-up and store its data and program files in a secure off-site location to allow restoration of systems, applications, and associated data in the event normal processing is disrupted by a disaster or other significant event. A full system backup should be periodically conducted and should at least consist of the updated version of the operating software, production programs, system utilities and all master and transaction files. The frequency of backup should depend on its criticality, but should be performed after critical modification or updates. Management should implement a storage solution that is manageable from an administrative perspective and usable and accessible from the customer and end-user perspectives to enable them to receive current, complete and accurate data. Storage solutions should be appropriately scalable to allow for future growth.

Written standards should document back-up methodologies, delineate responsibilities of appropriate personnel, and ensure uniform performance throughout the institution. Management should maintain inventories of back-up media stored off-site and periodically perform physical inventories to ensure all required back-up materials are available. Procedures should include verifying adherence to the back-up schedule and reviewing actual back-up copies for readability. Similarly, management should periodically test back-up copies by actually using them to restore programs and data.

All backup media should be properly labeled using standard naming conventions. Management should develop a rotation scheme that addresses varying storage durations as well as transportation and storage of multiple formats of media at the off-site storage location. Transportation to the backup site should be done in controlled and secured manner with proper authorization and record. Procedures for disposal of backup media should also be in place.

3.3.2.13. **Systems Reliability, Availability and Recoverability**

a. **System Availability**

BSIs should achieve high systems availability (or near zero system downtime) for critical systems which is associated with maintaining adequate capacity, reliable performance, fast response time, scalability and swift recovery capability. Built-in redundancies for single points of failure should be developed and contingency plans should be tested so that business and operating disruptions can be minimized.

b. **Technology Recovery Plan**

Business resumption very often relies on the recovery of IT resources that include applications, hardware equipment and network infrastructure as well as electronic records. The technology requirements that are needed during recovery for individual business and support functions should be specified when the recovery strategies for the functions are determined.

Appropriate personnel should be assigned with the responsibility for technology recovery. Alternate personnel needs to be identified for key technology recovery personnel in case of their unavailability to perform the recovery process.

As unavailability of systems may result to disruptive impact on its operations, the BSI should develop an IT disaster recovery plan to ensure that critical application systems and technology services can be resumed in accordance with the business recovery requirements. In formulating an effective recovery plan, scenario analysis should be included to identify and address various types of contingency scenarios. Scenarios such as major system outages which may be caused by system faults, hardware malfunction, operating errors or security incidents as well as a total inaccessibility of the primary data centre should be considered. To strengthen recovery measures relating to large scale disruptions and to achieve risk diversification, rapid operational and backup capabilities at the individual system or application cluster level should be implemented. Recovery and business resumption priorities must be defined accordingly. Specific recovery objectives including recovery time objective[1] (RTO) and recovery point objective[2] (RPO) should be established for systems and applications.

c. **Alternate sites for technology recovery**

The BSI should make arrangements for alternate and recovery sites[3] for their business functions and technology in the event the business premises, key infrastructure and systems supporting critical business functions become unavailable. A recovery site geographically separate from the primary site must be established to enable the restoration of critical systems and resumption of business operations should a disruption occur at the primary site. The required speed of recovery will depend on the criticality of resuming business operations, the type of services and whether there are alternative ways and processing means to maintain adequate continuing service levels to satisfy customers. Recovery strategies and technologies such as on-site redundancy and real-time data replication could be explored to enhance the BSI's recovery capability.

The recovery site could either be an in-house backup premise that has a redundant hardware system located away from the computer center, or a third-party recovery facility provider that requires formal subscription to its service, or a combination of both solutions. The recovery facility should be at a distance that would protect it from damage from any incident occurring at the primary site. Ideally, it should be on different electrical power and telecommunication switches, and free from the same disaster. The BSI should ensure that the IT systems at the recovery sites are:

a. Compatible with the BSI's primary systems (in terms of capacity and capability) to adequately support the critical business functions; and

b. Continuously updated with current version of systems and application software to reflect any changes to the BSI's system configurations (e.g. hardware or software upgrades or modifications).

In case where a third-party recovery facility is used, there should be a written contract agreement that is legally binding.

[1] **RTO** refers to the required time taken to recover an IT system from the point of disruption.
[2] **RPO** refers to the acceptable amount of data loss for an IT system should a disaster occur.
[3] **Recovery site** is an alternate location for processing information (and possibly conducting business) in an emergency.

The agreement should specifically identify the conditions under which the recovery facility may be used and specify how customers would be accommodated if simultaneous disaster conditions occur to several customers of the recovery facility provider. The recovery facility should allow the BSI to use its services until it achieves a full recovery from the disaster and resumption of activity at the BSI's own facility.

The BSI which outsources critical systems to offshore service providers is heavily dependent on the stability and availability of cross-border network links. To minimize impact to business operations in the event of a disruption (e.g. due to earthquake), cross-border network redundancy with strategies such as engagement of different network service providers and alternate network paths may be instituted.

d. **Disaster Recovery Testing**

The BSI should always adopt pre-determined recovery actions that have been tested and endorsed by management. The effectiveness of recovery requirements and the ability of BSI's personnel in executing or following the necessary emergency and recovery procedures should be tested and validated at least annually.

Various scenarios which include total shutdown or inaccessibility of the primary data center, as well as component failure at the individual system or application cluster level should be included in disaster recovery tests. Inter-dependencies between and among critical systems should be included in the tests. BSIs whose networks and systems are linked to specific service providers and vendors, should consider conducting bilateral or multilateral recovery testing.

Business users should be involved in the design and execution of comprehensive test cases so as to obtain assurance that recovered systems function accordingly. The BSI should also participate in disaster recovery tests of systems hosted overseas. Periodic testing and validation of the recovery capability of backup media should be carried out and assessed for adequacy and effectiveness. Backup tapes and disks containing sensitive data should be encrypted before they are transported offsite for storage.

3.4. **Risk Monitoring**

3.4.1. **Service Level Agreement (SLA).** BSI Management of IT functions should formulate an SLA with business units which will measure the effectiveness and efficiency of delivering IT services. Measurable performance factors include system availability and performance requirements, capacity for growth, and the level of support provided to users, resource usage, operations problems, capacity, response time, personnel activity, as well as business unit and external customer satisfaction. Adequate procedures should be in place to manage and monitor delivery of committed services.

3.4.2. **Control Self-Assessments[1] (CSAs).** The BSI may consider the conduct of periodic CSAs to validate the adequacy and effectiveness of the IT control environment. They also facilitate early identification to allow management to gauge performance, as well as the criticality of systems and emerging risks. Depending on the complexity of the BSI's IT risk profile, the content and format of the CSAs may be standardized and comprehensive or highly customized, focusing on a specific process, system, or functional area. IT operations management may collaborate with the internal audit function in creating the templates used. Typically, the CSA form combines narrative responses with a checklist. The self-assessment form should identify the system, process, or functional area reviewed, and the person(s) completing

[1] **CSA** is a technique used to assess risk and control strength and weaknesses against a control framework.

and reviewing the form. CSA's however, are not a substitute for a sound internal audit program. Management should base the frequency of CSA the risk assessment process and coordinate the same with the internal audit plan.

3.4.3. **Performance Monitoring.** The BSI should implement a process to ensure that the performance of IT systems is continuously monitored and exceptions are reported in a timely and comprehensive manner. The performance monitoring process should include forecasting capability to enable problems to be identified and corrected before they affect system performance. Monitoring and reporting also support proactive systems management that can help the BSI position itself to meet its current needs and plan for periods of growth, mergers, or expansion of products and services.

BSI Management should also conduct performance monitoring for outsourced IT solutions as part of a comprehensive vendor management program. Reports from service providers should include performance metrics, and identify the root causes of problems. Where service providers are subject to SLAs, management should ensure the provider complies with identified action plans, remuneration, or performance penalties.

3.4.4. **Capacity Planning.** Management should monitor IT resources for capacity planning including platform processing speed, core storage for each platform's central processing unit, data storage, and voice and data communication bandwidth[1]. Capacity planning should be closely integrated with the budgeting and strategic planning processes. It also should address personnel issues including staff size, appropriate training, and staff succession plans. This process should help the preparation of workload forecasts to identify trends and to provide information needed for the capacity plan, taking into account planned business initiatives. Capacity planning should be extended to cover back-up systems and related facilities in addition to the production environment.

4. ROLE OF IT AUDIT

4.1. The BSI's IT audit function should regularly assess the effectiveness of established controls within the IT operations environment through audits or other independent verification. Audits provide independent assessments rendered by qualified individuals regarding the effective functioning of operational controls.

(Circular No. 808 dated 22 August 2013)

[1] Bandwidth is a terminology used to indicate the transmission or processing capacity of a system or of a specific location in a system (usually a network system) for information (text, images, video, sound). It is usually defined in bits per second (bps)

IT RISK MANAGEMENT STANDARDS AND GUIDELINES
Area: IT Outsourcing / Vendor Management
[Appendix to Subsecs. 4177Q.2, 4177Q.7, 4196S.2, 4196S.7, 4193P.2, 4193P.7, 4196N.2 and 4196N.7]

1. INTRODUCTION

1.1. With globalization and advancement in IT, BSIs increasingly rely on services provided by other entities to support an array of IT-related functions. The ability to outsource IT systems and process enables a BSI to manage costs, obtain necessary expertise, expand customer product offerings, and improve services. While outsourcing offers a cost-effective alternative to in-house capabilities, it does not reduce the fundamental risks associated with IT or the business lines that use it. Risks such as loss of funds, loss of competitive advantage, damaged reputation, improper disclosure of information and regulatory action remain. Because the functions are performed by an organization outside the BSI, the risks may be realized in a different manner than if the functions were inside resulting in the need for well-structured process to properly manage risks and ensure that the interest of customers will not be compromised.

2. ROLES AND RESPONSIBILITIES

2.1. **Board of Directors (Board) and Senior Management.** The responsibility for the oversight and management of outsourcing activities and accountability for all outsourcing decisions continue to rest with the BSI's Board and senior management. They should establish and approve enterprise-wide policies, appropriate to the IT risk profile of the institution. This framework should govern the end-to-end perspective of outsourcing process and shall provide the basis for management to identify, measure, monitor, and control the risks associated with IT-related outsourcing arrangements.

3. IT OUTSOURCING / VENDOR RISK MANAGEMENT PROGRAM

3.1 **Risk Assessment.** Prior to entering into an outsourcing plan, the BSI should clearly define the business requirements for the functions or activities to be outsourced, assess the risk of outsourcing those functions or activities and establish appropriate measures to manage and control the identified risks. Risk assessment should take into consideration the criticality of the services to be outsourced, the capability of the technology service provider (TSP)[1] and the technology it will use in delivering the outsourced service. Such assessment should be made periodically on existing arrangements as part of the outsourcing program and review process of the BSI.

3.2 **Service Provider Selection.** Before selecting a service provider, the BSI should perform appropriate due diligence of the provider's financial soundness, reputation, managerial skills, technical capabilities, operational capability and capacity in relation to the services to be outsourced. The depth and formality of the due diligence performed may vary depending on the nature of the outsourcing arrangement and the BSI's familiarity with the prospective service providers. Contract negotiation should be initiated with the service provider determined to best meet the business requirements of the BSI.

Due diligence undertaken during the selection process should be documented and reviewed periodically, using the most

[1] **TSP**s include a wide range of entities including but not limited to affiliated entities, non-affiliated entities, and alliances of companies providing technology products and services. These services may include but not limited to the following: a) information and transaction processing and settlement activities that support banking functions; b) electronic banking-related services; c) Internet-related services; d) security monitoring; e) systems development and maintenance; f) aggregation services; and g) digital certification services. Other terms used to describe TSPs include vendors and external/outsourced service providers.

recent information, as part of the monitoring and control processes of outsourcing.

3.3 **Outsourcing Contracts.** The contract is the legally binding document that defines all aspects of the servicing relationship and one of the most important controls in outsourcing process. It should be clearly written and sufficiently detailed to provide assurances for performance, reliability, security, confidentiality and reporting. Before signing a contract, management should:

a. Ensure the contract clearly defines the rights and responsibilities of both parties and contains or supported by adequate and measurable service level agreements;

b. Ensure contracts with related entities clearly reflect an arms-length relationship and costs and services are on terms that are substantially the same, or at least as favorable to the BSI, as those prevailing at the time for comparable transactions with non-related third parties;

c. Choose the most appropriate pricing method for the BSI's needs;

d. Ensure service provider's physical and data security standards meet or exceed the BSI's standards. Any breach in security should be reported by the service provider to the BSI;

e. Engage legal counsel to review the contract; and

f. Ensure the contract contains the minimum provisions required under existing Bangko Sentral rules and regulations, like access by Bangko Sentral to systems and databases outsourced, and the same does not include any provisions or inducements that may adversely affect the BSI (i.e. extended terms, significant increases after the first few years, substantial cancellation penalties).

Each agreement should allow for renegotiation and renewal to enable the BSI to retain an appropriate level of control over the outsourcing and the right to intervene with appropriate measures to meet its legal and regulatory obligations. The agreement should also acknowledge Bangko Sentral's supervisory authority over the BSI and the right of access to information on the BSI and the service provider.

Some service providers may contract with third-parties in providing IT services to the BSI. The extent to which subcontractors perform additional services should be limited to peripheral or support functions while the core services should rest with the main service provider. The BSI should retain the ability to maintain similar control over its outsourcing risks when a service provider uses subcontractors in the course of rendering the IT-related services. Agreements should have clauses setting out the rules and limitations on subcontracting. To provide accountability, it may be beneficial for the BSI to include a provision specifying that the contracting service provider shall remain fully responsible with respect to parts of the services which were further outsourced to subcontractors. It should also consider including notification and approval requirements regarding changes to the service provider's significant subcontractors.

An annual review of the outsourcing agreements should be performed to assess whether the agreements should be renegotiated and renewed to bring them in line with current market standards and to cope with changes in their business strategies. When renegotiating contracts, the BSI should ensure that the provider delivers a level of service that meets the needs of the institution over the life of the contract.

3.4 **Service Level Agreement (SLA)** SLAs formalize the performance standards against which the quantity and quality of service should be measured. Management should include SLAs in its outsourcing contracts to specify and clarify performance expectations, as well as establish accountability for the outsourced activity.

The BSI should link SLA to the provisions in the contract regarding incentives, penalties and contract cancellation in order to protect themselves in the event the service provider failed to meet the required level of performance.

Management should closely monitor the service provider's compliance with key SLA provision on the following aspects, among others:

a. Availability and timeliness of services;

b. Confidentiality and integrity of data;

c. Change control;

d. Security standards compliance, including vulnerability and penetration management;

e. Business continuity compliance; and

f. Help desk support.

SLAs addressing business continuity should measure the service provider's contractual responsibility for backup, record retention, data protection, and maintenance and testing of disaster recovery and contingency plans. Neither contracts nor SLAs should contain any extraordinary provisions that would exempt the service provider from implementing its contingency plans (outsourcing contracts should include clauses that discuss unforeseen events for which the BSI would not be able to adequately prepare).

3.5 **Ongoing Monitoring**

3.5.1. **Monitoring Program.** As outsourcing relationships and interdependencies increase in materiality and complexity, the BSI needs to be more proactive in managing its outsourcing relationships. It should establish a monitoring program to ensure service providers deliver the quantity and quality of services required by the contract. The resources to support this program will vary depending on the criticality and complexity of the system, process, or service being outsourced.

The program should employ effective mechanisms to monitor key aspects of the outsourcing relationship and the risk associated with the outsourced activity, particularly the following:

a. contract/SLA performance;

b. material problems encountered by the service provider which may impact the BSI;

c. financial condition and risk profile; and

d. business continuity plan, the results of testing thereof and the scope for improving it.

To increase the effectiveness of monitoring mechanisms, management should periodically classify service provider relationships to determine which service providers require closer monitoring. Relationships with higher risk classification should receive more frequent and stringent monitoring for due diligence, performance (financial and/or operational), and independent control validation reviews.

Personnel responsible for monitoring activities should have the necessary expertise to assess the risks and should maintain adequate documentation of the process and results thereof. Management should use such documentation when renegotiating contracts as well as developing business continuity planning requirements.

Reports on the monitoring and control activities of the BSI should be prepared or reviewed by its senior management and provided to its Board. The BSI should also ensure that any adverse development arising from any outsourced activity is brought to the attention of the senior management, or the Board, when warranted, on a timely basis. Actions should be taken to review the outsourcing relationship for modification or termination of the agreement.

3.5.2. **Financial Condition of Service Providers.** The BSI should have an on-going monitoring of the financial condition of its service providers as financial problems may jeopardize the quality of its service and possibly the integrity of the data in its possession. In the event management recognizes that the financial condition of the provider is declining or unstable, more frequent financial reviews of said provider are warranted.

3.5.3. **General Control Environment of the Service Provider.** The BSI should also implement adequate measures to ensure service providers are only given access to the information and systems that they need in order to perform their function. Management should restrict their access to BSI's systems, and appropriate access controls and monitoring should be in place between the service provider's systems and the BSI.

3.6. **Business Continuity Planning Consideration.** The BSI should integrate the provider's BCP into its own plan, communicate functions to the appropriate personnel, and maintain and periodically review the combined plan. It should ensure that service provider tests its plan annually and notify the institution of any resulting modifications.

3.7. **Compliance with Bangko Sentral Regulations.** The BSI should ensure that appropriate up-to-date records relevant to its outsourcing arrangements are maintained in its premises and kept available for inspection by the Bangko Sentral Examiners. The outsourcing agreement should explicitly provide a clause allowing Bangko Sentral and BSIs' internal and external auditors to review the operations and controls of the service provider as they relate to the outsourced activity.

In addition to the general guidelines on outsourcing contracts stated in Item No. 3.3 of this Appendix, the BSIs intending to outsource must comply with existing Bangko Sentral rules and regulations on outsourcing.

4. EMERGING OUTSOURCING MODELS

4.1. With continued and fast growth of technology, outsourcing of IT-related systems and processes has been a constant theme among BSIs. While outsourcing strategy allows BSIs to achieve growth targets, operational efficiency and cost savings, this also exposes them to various levels and kinds of risks. Potential risk exposures and other significant supervisory concerns are further heightened by the emergence of flexible and innovative outsourcing models (i.e. shared-services, offshoring and cloud computing).

4.2. Due mainly to the perceived implications for greater flexibility and availability at lower cost, cloud computing is a subject that has been receiving a good deal of attention. Currently, the most widely accepted definition of cloud computing is as follows –

A model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources that can be rapidly provisioned and released with minimal management effort or service provider interaction.[1]

4.3. In general, cloud computing is a migration from owned resources to shared resources in which client users receive IT services, on demand, from third-party service providers a.k.a. Cloud Service Providers (CSP) via the Internet "cloud." This emerging model allows BSIs the option to move from a capital-intensive approach to a more flexible business model that lowers operational costs. Cloud computing technologies can be implemented in a wide variety of architectures, under different service and deployment models, and can coexist with other technologies and software design approaches. The four (4) cloud deployment models include the following:

a. **Private Cloud** – A private cloud is operated solely for an institution and is

[1] National Institute of Standards Technology, *The NIST Definition of Cloud Computing: Special Publication 800-145, 2011, www.nist.gov/itl/cloud/*

closely related to the existing IT outsourcing models in the marketplace, but can be an institution's internal delivery model as well.

b. **Public Cloud** – A public cloud is owned and operated by a CSP that delivers services to the general public or a large industry group via the internet or other computer network using a multi-tenant platform.

c. **Community Cloud** – It is a private-public cloud with users having a common connection or affiliation, such as a trade association, the same industry or a common locality. It allows a CSP to provide cloud tools and applications specific to the needs of the community.

d. **Hybrid Cloud** – This model composes two or more clouds (private, community or public). A hybrid cloud leverages on the advantage of the other cloud models, thus, providing a more optimal user experience.

4.4. Cloud computing is perceived to play an increasingly important role in a wide range of development initiatives, including among others, offering small to medium-sized BSIs critical access to infrastructure and computational resources that would otherwise be out of their financial reach or are too complex to manage. While the advantages of adopting an outsourced cloud-based component are undeniable, the fact remains that cloud computing also creates disruptive possibilities and potential risks. Many of the threats identified are not necessarily unique to the cloud environment. In fact, risks such as potential data loss, poor management by a service provider, service interruption and unauthorized access to sensitive data are also applicable to traditional forms of outsourcing. Cloud computing, however, adds new dimensions to the traditional outsourcing risks, thus, the vulnerabilities and the probability of the risk event occurring is amplified. BSIs should be fully aware of the unique attributes and risks associated with cloud computing, particularly in the following areas: (Details are shown in the attached *Annex "A"*)

- o Legal and Regulatory Compliance;
- o Governance and Risk Management;
- o Due Diligence;
- o Vendor Management/Performance and Conformance;
- o Security and Privacy;
- o Data Ownership and Data Location and Retrieval;
- o Business Continuity Planning.

4.5. Among the four (4) cloud models, the private cloud deployment is most similar to traditional outsourcing model, thus, offers the least amount of new risks and security challenges. Implementation of this model is allowed subject to compliance with existing Bangko Sentral rules and regulations on outsourcing. Adoption of community and hybrid cloud deployment models may also be allowed with prior Bangko Sentral approval, subject to the following:

a. Compliance with existing Bangko Sentral rules and regulations on outsourcing;

b. Implementation of more robust risk management systems and controls required for these types of arrangements;

c. Issues set out in the attached *Annex "A"* are properly addressed prior to executing the plans; and

d. Bangko Sentral may be allowed to perform onsite validation prior to implementing the cloud computing arrangement/s.

4.6. However, given the increased probability of risk and exposure to potential issues related to business operations, confidentiality and compliance which are critical in the financial service industry, the Bangko Sentral, at present, would only allow the use of public cloud computing model for non-core operations and business processes (e.g. email, office productivity, collaboration tools, claims and legal management, etc.) which do not directly involve sensitive BSI and customer data. Bangko Sentral approval of public cloud deployment model for non-core operations shall be subject to the same conditions in item 4.5 above. Core operations and business processes whose importance is fundamental in ensuring continuous and undisturbed operation of IT systems used to directly perform banking and financial services (e.g. CA/SA, Loans, Trust and Treasury systems, ATM switch operations, electronic delivery systems and systems used to record banking operations) are not allowed to use public cloud computing service. Distinguishing whether a particular actual operation or business is "core" or "non-core" and classifying the data (e.g. confidential, critical, sensitive, public) associated with the system or application are, therefore, significant considerations in determining permissibility of public cloud model for this type of operation or process.

4.7. BSIs should consult Bangko Sentral before making any significant commitment on cloud computing.

5. ROLE OF IT AUDIT

5.1. The BSI should conduct a regular, comprehensive audit of its service provider relationships. The audit scope should include a review of controls and operating procedures that help protect the BSI from losses due to irregularities and willful manipulations. Such responsibility can be assigned to the BSI's IT audit function. In case the BSI has no technical audit expertise, the non-technical audit methods can provide minimum coverage and should be supplemented with comprehensive external IT audits.

Annex "A"

Despite its many potential benefits, cloud computing also brings with it potential areas of concern, when compared with computing environments found in traditional data centers. Some of the more fundamental concerns include the following:

1. **Legal and Regulatory Compliance**

Important considerations for any BSI before deploying a cloud computing model include clearly understanding the various types of laws and regulations that potentially impact cloud computing initiatives, particularly those involving confidentiality, visibility, data location, privacy and security controls and records management. The nature of cloud computing may increase the complexity of compliance with applicable laws and regulations because customer data may be stored or processed offshore. The BSI's ability to assess compliance may be more complex and difficult in an environment where the Cloud Service Provider (CSP) processes and stores data overseas or comingles the BSI's data with data from other customers that operate under diverse legal and regulatory jurisdictions. The BSI should understand the applicability of local laws and regulations and ensure its contract with a CSP specify its obligations with respect to the BSIs' responsibilities for compliance with relevant laws and regulations. CSP's processes should not compromise compliance with the following, among others:

a. Law on Secrecy of Deposits (R.A. No. 1405);

b. Foreign Currency Deposit System (R.A. 6426)

c. Anti-Money Laundering Act, particularly on data/file retention;

d. Electronic Commerce Act (R.A. 8792);

e. Data Privacy Law;

f. Cybercrime Prevention Act;

g. General Banking Laws (R.A. No. 8791); and

h. Regulations concerning IT risk management, electronic banking, consumer protection, reporting of security incidents and other applicable Bangko Sentral issuances, rules and regulations.

Lastly, the CSP should grant Bangko Sentral access to its cloud infrastructure to determine compliance with applicable laws and regulations and assess soundness of risk management processes and controls in place.

2. **Governance and Risk Management**

The use of outsourced cloud services to achieve the BSI's strategic plan does not diminish the responsibility of the Board of Directors and management to ensure that the outsourced activity is conducted in a safe and sound manner and in compliance with applicable laws and regulations. The BSI Management should consider overall business and strategic objectives prior to outsourcing the specific IT operations to the cloud computing platform. A Board-approved outsourcing policy and rationale for outsourcing to the cloud environment should be in place to ensure that the Board is fully apprised of all the risks identified.

Outsourcing to a CSP can be advantageous to a BSI because of potential benefits such as cost reduction, flexibility, scalability, improved load balancing, and speed. However, assessing and managing risk in systems that use cloud services can be a formidable challenge due mainly to the unique attributes and risks associated with a cloud environment especially in areas of data integrity, sovereignty, commingling, platform multi-tenancy, recoverability and confidentiality as well as legal issues such as regulatory compliance, auditing and data offshoring. Cloud computing may require more robust controls due to the nature of the service. When evaluating the feasibility of outsourcing to a CSP, it is important to look beyond potential benefits and to perform a thorough due diligence and risk assessment of elements specific to the service. Vendor management, information security, audits, legal and regulatory compliance, and business continuity planning are key elements of sound risk management and risk mitigation controls for cloud computing. As with other service provider offerings, cloud computing may not be appropriate for all BSIs.

3. **Due Diligence**

The due diligence in selecting a qualified CSP is of paramount importance to ensure that it is capable of meeting the BSI's requirements in terms of cost, quality of service, compliance with regulatory requirements and risk management. Competence, infrastructure, experience, track record, financial strength should all be factors to consider. When contemplating transferring critical organizational data to the cloud computing platform, it is critical to understand who and where all of the companies and individuals that may touch the BSI's data. This includes not only the CSP, but all vendors or partners that are in the critical path of the CSP. Background checks on these companies are important to ensure that data are not being hosted by an organization that does not uphold confidentiality of information or that is engaging in malicious or fraudulent activity. Business resiliency and capability to address the BSI's requirements for security and internal controls, audit, reporting and monitoring should also be carefully considered.

4. **Vendor Management/Performance and Conformance**

It is always important to thoroughly review the potential CSP's contract terms, conditions and Service Level Agreement (SLA). This is to ensure that the CSP can legally offer what it has verbally committed to and that the cloud risk from the CSP's service offerings is within the determined level of acceptable risk of the BSI. The SLA should ensure adequate protection of information and have details on joint control frameworks. It should also define expectations regarding handling, usage, storage and availability of information, and specify each party's requirements for business continuity and disaster recovery. At a minimum, the SLA should cover the provisions required under existing rules and regulations on outsourcing.

A vendor management process should be in place that proactively monitors the performance of the CSP on an ongoing basis. This is also to guarantee availability and reliability of the services provided and ability to provide consistent quality of service to support normal and peak business requirements. If a BSI is using its own data centre, it can mitigate and prepare for outages. However, if it is using a cloud computing service, it has to put all its trust in the cloud service provider delivering on its SLA. This requires that SLA has sufficient means to allow transparency into the way a CSP operates, including the provisioning of composite services which is a vital ingredient for effective oversight of system security and privacy by the BSI.

Continuous monitoring of information security requires maintaining ongoing awareness of security controls, vulnerabilities, and threats to support risk management decisions. Collection and analysis of available data about the state of the system should be done regularly and as often as needed by the BSI to manage security and privacy risks, as appropriate for each level of the organization involved in decision making. Transition to public cloud services entails a transfer of responsibility to the CSP for securing portions of the system on which the BSI's data and applications operate. To fulfill the obligations of continuous monitoring, the organization is dependent on the CSP, whose cooperation is essential, since critical aspects of the computing environment are under its complete control.

Cloud services that allow CSP to further outsource or subcontract some of its services may also heighten concerns, including the scope of control over the subcontractor, the responsibilities involved (e.g., policy and licensing arrangements), and the remedies and recourse available should problems occur. A CSP that hosts applications or services of other parties may involve other domains of control, but through transparent authentication mechanisms, appear to the BSI to be that of the CSP. Requiring advanced disclosure of subcontracting arrangements, and maintaining the terms of these arrangements throughout the agreement or until sufficient notification can be given of any anticipated changes, should be properly enforced.

Additionally, the complexity of a cloud service can obscure recognition and analysis of incidents. The CSP's role is vital in performing incident response activities, including incident verification, attack analysis, containment, data collection and preservation, problem remediation, and service restoration. Each layer in a cloud application stack, including the application, operating system, network, and database, generates event logs, as do other cloud components, such as load balancers and intrusion detection systems; many such event sources and the means of accessing them are under the control of the cloud provider. It is important that the CSP has a transparent response process and mechanisms to share information with the BSI during and after the incident. Understanding and negotiating the provisions and procedures for incident response should be done before entering into a service contract, rather than as an afterthought. The geographic location of data is a related issue that can impede an investigation, and is a relevant subject for contract discussions. Revising the BSI's incident response plan to address differences between the organizational computing environment and the cloud computing environment is also a prerequisite to transitioning applications and data to the cloud.

Lastly, to effectively monitor services including risk and risk mitigation associated with the use of a CSP, the BSI and the CSP should agree in advance that former shall have accessibility to the CSP to audit and verify the existence and effectiveness of internal and security controls specified in the SLA. The BSI's audit policies and practices may require adjustments to provide acceptable IT audit coverage of outsourced cloud computing. It may also be necessary to augment the internal audit staff with additional training and personnel with sufficient expertise in evaluating shared environments and virtualized technologies. In addition, the parties may also agree on the right to audit clause via external party as a way to validate other control aspects that are not otherwise accessible or assessable by the BSI's own audit staff. Ideally, the BSI should have control over aspects of the means of visibility to accommodate its needs, such as the threshold for alerts and notifications, and the level of detail and schedule of reports.

5. **Security and Privacy**

Security and privacy concerns continue to be a major issue within a cloud computing model. Given the obvious sensitivity of data and the regulated environment within which they operate, BSIs utilizing cloud systems, need to have an assurance that any data exposed on the cloud is well protected. They may need to revise their information security policies, standards, and practices to incorporate the activities related to a CSP. They should also have an understanding of and detailed contracts with SLAs that provide the desired level of security to ensure that the CSP is applying appropriate controls. In certain situations, continuous monitoring of security infrastructure may be necessary for BSIs to have a sufficient level of assurance that the CSP is maintaining effective controls.

It is important that BSIs maintain a comprehensive data inventory and a suitable data classification process, and that access to customer data is restricted appropriately through effective identity and access management. A multi-tenant cloud deployment, in which multiple clients share network resources, increases the need for data protection through encryption and additional controls such as virtualization mechanisms to address the risk of collating organizational data with that of other organizations and compromising confidential information through third-party access to sensitive information. Verifying the data handling procedures, adequacy and availability of backup data, and whether multiple service providers are sharing facilities are important considerations. If the BSI is not sure that its data are satisfactorily protected and access to them is appropriately controlled, entering into a cloud service arrangement may not be suitable.

Storage of data in the cloud could increase the frequency and complexity of security incidents. Therefore, management processes of the BSI should include appropriate notification procedures; effective monitoring of security-related threats, incidents and events on both BSI's and CSP's networks; comprehensive incident response methodologies; and maintenance of appropriate forensic strategies for investigation and evidence collection.

6. **Data Ownership and Data Location and Retrieval**

The BSI's ownership rights over the data must be firmly established in the contract to enable a basis for trust and privacy of data. Ideally, the contract should state clearly that the organization retains exclusive ownership over all its data; that the CSP acquires no rights or licenses through the agreement, to use the BSI's data for its own purposes; and that the CSP does not acquire and may not claim any interest in the data due to security. For these provisions to work as intended, the terms of data ownership must not be subject to unilateral amendment by the CSP.

One of the most common challenges in a cloud computing environment is data location. Use of an in-house computing center allows the BSI to structure its computing environment and to know in detail where data is stored and what safeguards are used to protect the data. In contrast, the dynamic nature of cloud computing may result in confusion as to where information actually resides (or is transitioning through) at a given point in time, since multiple physical locations may be involved in the process. This situation makes it difficult to ascertain whether sufficient safeguards are in place and whether legal and regulatory compliance requirements are being met. One of the main compliance concerns is the possible transborder flows of data which may impinge upon varying laws and regulations of different jurisdictions.

To address the above constraints, the BSI should pay attention to the CSP's ability to isolate and clearly identify its customer data and other information system assets for protection. Technical, physical and administrative safeguards, such as access controls, often apply. Likewise, such concerns can be alleviated if the CSP has some reliable means to ensure that an organization's data is stored and processed only within specific jurisdictions. Lastly, external audits and security certificates can mitigate the issues to some extent.

7. **Business Continuity Planning**

The BCP in a BSI involves the recovery, resumption, and maintenance of the critical business functions, including outsourced activities. Due to the dynamic nature of the cloud environment, information may not immediately be located in the event of a disaster. Hence, it is critical to ensure the viability of the CSP's business continuity and disaster recovery plans to address broad-based disruptions to its capabilities and infrastructure. The plans must be well documented and tested. Specific responsibilities and procedures for availability, data backup, incident response and recovery should be clearly understood and stipulated. Recovery Time Objectives should also be clearly stated in the contract. It is critical for the BSI to understand the existence and comprehensiveness of the CSP's capabilities as well as its level of maturity to ensure that during an intermediate or prolonged disruption or a serious disaster, critical operations can be immediately resumed, and that all operations can be eventually reinstated in a timely and organized manner. Other BCP-related concerns which must be addressed by the BSI and CSP include the following:

a. Prioritization arrangements in case of multiple/simultaneous disasters;

b. Retention of onsite and offsite back-up (Whether to maintain an up-to-date backup copy of data at the BSI's premises or stored with a second vendor that has no common points of failure with the CSP); and

c. Ability to synchronize documents and process data while the client-BSI is offline.

(Circular No. 808 dated 22 August 2013)

IT RISK MANAGEMENT STANDARDS AND GUIDELINES
Area: Electronic Banking, Electronic Payment, Electronic Money and Other Electronic Products and Services

[Appendix to Subsecs. 4177Q.2, 4177Q.7, 4196S.2, 4196S.7, 4193P.2, 4193P.7, 4196N.2 and 4196N.7]

1. INTRODUCTION

1.1. Continuing technological innovation and competition among existing FIs and new entrants have contributed to a wide array of electronic products and services (e-services) available to customers. These products and services have been widely adopted by BSIs in recent years and are now a component of most institutions' business strategy. Electronic delivery of services can have many benefits for BSIs and their customers and can also have implications on financial condition, risk profile, and operating performance. The emergence of e- services may contribute to improving the efficiency of the banking and payment system, reducing the cost of retail transactions nationally and internationally and expanding the target customers beyond those in traditional markets. Consequently, BSIs are therefore becoming more aggressive in adopting electronic capabilities that include sophisticated marketing systems, remote-banking capabilities, and stored value programs.

1.2. Notwithstanding the significant benefits of technological innovation, the rapid development of electronic capabilities carries risks as well as benefits and it is important that these risks are recognized and managed by BSIs in a prudent manner to promote safe and secure e-services and operations. The basic types of risks generated by e-services are not new, the specific ways in which some of the risks arise, as well as the magnitude of their impact may be new for BSIs and supervisors. While existing risk management guidelines remain applicable to e-services, such guidelines must be tailored, adapted and, in some cases, expanded to address the specific risk management challenges created by the characteristics of such activities. As the industry continues to address technical issues associated with e-services, including security challenges, a variety of innovative and cost efficient risk management solutions are likely to emerge. These solutions are also likely to address issues related to the fact that BSIs differ in size, complexity and risk management culture and that jurisdictions differ in their legal and regulatory frameworks.

2. ROLES AND RESPONSIBILITIES

2.1. **Board of Directors (Board) and Senior Management.** The Board is expected to take an explicit, informed and documented strategic decision as to whether and how the BSI is to provide e-services to their customers. The Board and senior management should establish effective management oversight of the risks associated with these activities, including the establishment of specific accountability, policies and controls to manage these risks. Senior management oversight processes should operate on a dynamic basis in order to effectively intervene and correct any material systems problems or security breaches that may occur.

The Board should ensure that plans to offer e-services are consistent and clearly integrated within corporate strategic goals. The BSI should also ensure that it does not offer new e-services or adopt new technologies unless it has the necessary expertise to provide competent risk management oversight. Management and staff expertise should be commensurate with the technical nature and complexity of the

BSI's applications and underlying technologies.

The Board and senior management should ensure that the operational and security risk dimensions of the BSI's business strategies on e-services are appropriately considered and addressed. The provision of e-services may significantly modify and/or even increase traditional business risks. As such management should take appropriate actions to ensure that the BSI's existing risk management, security control, due diligence and oversight processes for outsourcing relationships are appropriately evaluated and modified to accommodate e-services.

BSI management should assess the impact of the implementation and ongoing maintenance of e-services. These areas should be monitored and analyzed on an ongoing basis to ensure that any impact on the BSI's financial condition and risk profile resulting from e-services is appropriately managed and controlled. Management should evaluate e-services acceptance vis-à-vis the performance to its goals and expectations through periodic review of reports tracking customer usage, problems such as complaints and downtime, unreconciled accounts or transactions initiated through the system, and system usage relative to capacity. Insurance policies may also need to be updated or expanded to cover losses due to system security breaches, system downtime, or other risks from e-services.

2.2. **Compliance Officer.** The compliance officer or its equivalent should be aware and informed of all relevant laws and regulatory requirements relative to the offering of e-services, including those of other countries where they also intend to deliver cross-border e-services. BSI management should ensure that these requirements are complied with to minimize legal and compliance risks and other negative implications.

3. RISK MANAGEMENT SYSTEM

3.1. The BSI should carefully evaluate the offering of a new e-service to customers to ensure that Management fully understands the risk characteristics and that there are adequate staffing, expertise, technology and financial resources to launch and maintain the service. A formal business strategy for introducing new service should be in place and form part of the BSI's overall strategy. The BSI should also perform regular assessments to ensure that its controls for managing identified risks remain proper and adequate.

3.2. The underlying risk management processes for e-services should be integrated into the BSI's overall risk management framework and the existing risk management policies and processes should be evaluated to ensure that they are robust enough to cover the new risks posed by current or planned activities. Relevant internal controls and audit as required in BSI's risk management system should also be enforced and carried out as appropriate for its e-services. Regular review of the relevant policies and controls should be performed to ascertain that these remain appropriate to the risks associated with such activities.

3.3. The BSI should adjust or update, as appropriate, its information security program in the light of any relevant changes in technology, the sensitivity of its customer information and internal or external threats to information. The BSI should ensure that the related information security measures and internal control are installed, regularly updated, monitored and are appropriate with the risks associated with their products and services.

4. RISK MANAGEMENT CONTROLS

4.1. **Security Controls.** The BSI should recognize that e-services should be secured to achieve a high level of confidence with both customers and business. It is the responsibility of BSI management to provide adequate assurances that transactions performed and information flowed through the electronic delivery channels are properly protected. For this reason, the BSI should maintain a strong and comprehensive security control system. As such, in addition to the information security standards in *Appendix Q-59b*, the BSI should also provide the following controls specific for e-services:

4.1.1. **Account Origination and Customer Verification.** The BSI should use reliable methods for originating new customer accounts. Potentially significant risks may arise when it accepts new customers through the internet or other electronic channels. Thus, the BSI should ensure that in originating new accounts using electronic channels, the KYC requirement which involves a face-to-face process is strictly adhered to.

4.1.2. **Authentication.** The BSI should use reliable and appropriate authentication methods to validate and verify the identity and authorization of customers. The determination of the appropriate and reasonable authentication methods to be used in specific e-services application should be based on management's assessment of the risk posed by the electronic delivery channels adopted, types and amounts of transactions allowed, the sensitivity and value of customer information and transaction and the ease of using the authentication method.

The use of single factor authentication alone is generally considered not adequate for sensitive communications, high value transactions, third party transfers or privileged user access (i.e., network administrators[1]). Multi-factor techniques are necessary in those cases unless there are adequate security measures, risk mitigating controls (e.g. in some authorized institutions, third-party transfers are restricted to accounts that have been pre-registered) and effective monitoring mechanism to detect suspicious transactions and unusual activities. As authentication methods continue to evolve, the BSI should monitor, evaluate and adopt industry sound practice in this area to ensure appropriate changes are implemented for each transaction type and level of access based on the current and changing risk factors.

The authentication process should be consistent with and support the BSI's overall security and risk management programs. An effective authentication process should have customer acceptance, reliable performance, scalability to accommodate growth and interoperability with existing systems and future plans as well as appropriate policies, procedures and control.

4.1.3. **Non-Repudiation**[2]**.** As customers and merchants originate an increasing number of transactions, authentication and encryption become increasingly important to ensure non-repudiation of transactions. In such cases, the BSI should consider implementing non-repudiation controls in the form of digital signatures, collision-free hash value of the entire transaction or unique authorization code that will provide conclusive proof of participation of both the

[1] **Network administrator** is the individual responsible for the installation, management and control of a network.

[2] **Non-repudiation** is a means of ensuring that a transferred message has been sent and received by the parties claiming to have sent and received the message. Non-repudiation is a way to guarantee that the sender of a message cannot later deny having sent the message and that the recipient cannot deny having received the message.

sender and receiver in an online transaction environment. Public key infrastructure[1], digital signature[2], digital certificate[3] and certification authority[4] arrangements can be used to impart an enhanced level of security, authentication and authorization which can uniquely identify the person initiating transaction, detect unauthorized modifications and prevent subsequent disavowal.

4.1.4. **Authorization Controls and Access Privileges.** Specific authorization and access privileges should be assigned to all individuals, agents or systems, which conduct activities on e-services. No individual agent or system should have the authority to change his or her own authority or access privileges in the e-services authorization database. Any addition of an individual, agent or system or changes to access privileges should be duly authorized by an authenticated source empowered with adequate authority and subject to suitable and timely oversight and audit trails.

All systems that support e-services should be designed to ensure that they interact with a valid authorization database. Appropriate measures should be in place in order to make authorization databases reasonably resistant to tampering. Authenticated e-services sessions should remain secure throughout the full duration of the session. In the event of a security lapse, the session should require re-authentication. Controls should also be in place to prevent changes to authorization levels during e-services sessions and any attempts to alter authorization should be logged and brought to the attention of management.

No person by virtue of rank or position should have any intrinsic right to access confidential data, applications, system resources or facilities. Only employees with proper authorization and whose official duties necessitate access to such data, applications, system resources or facilities should be allowed to access confidential information and use system resources solely for legitimate purposes.

4.1.5. **Confidentiality and Integrity of Information, Transactions and Records.** The BSI should ensure that appropriate measures are in place to ascertain the accuracy, completeness and reliability of e-services transactions, records and information that are either transmitted over the internal and external networks or stored in BSI's internal systems. Common practices used to maintain data integrity include the following:

a. E-services transactions should be conducted in a manner that make them highly resistant to tampering throughout the entire process;

b. E-services records should be stored, accessed and modified in a manner that make them highly resistant to tampering;

c. E-services transaction and record-keeping processes should be designed in a manner as to make it virtually impossible

[1] **Public Key Infrastructure (PKI)** refers to the use of public key cryptography in which each customer has a key pair (i.e. unique electronic value called a public key and a mathematically-related private key). The private key is used to encrypt (sign) a message that can only be decrypted by the corresponding public key or to decrypt message previously encrypted with the public key. The public key is used to decrypt message previously encrypted (signed) using an individual's private key or to encrypt a message so that it can only be decrypted (read) using the intended recipient's private key.

[2] **Digital certificate** is a digital code that can be attached to an electronically transmitted message that uniquely identifies the sender. Like a written signature, the purpose of a digital signature is to guarantee that the individual sending the message really is who he or she claims to be.

[3] **Digital Certificate** is the electronic equivalent of an ID card that authenticates the originator of digital signature.

[4] **Certification Authority (CA)** is the organization that attests using a digital certificate that a particular electronic message comes from a specific individual or system.

to circumvent detection of unauthorized changes.

d. Adequate change control policies, including monitoring and testing procedures, should be in place to protect against any system changes that may erroneously or unintentionally compromise controls or data reliability; and

e. Any tampering with e-services transactions or records should be detected by transaction processing, monitoring and record keeping functions.

The BSI should take appropriate measures to preserve the confidentiality of key e-services information commensurate with the sensitivity of the information being transmitted and/or stored in databases. It should ensure that all intelligent electronic devices that capture information do not expose/store information such as the PIN number or other information classified as confidential and must also ensure that a customer's PIN number cannot be printed for any reason whatsoever. In addition, the BSI must provide safe-to-use intelligent electronic devices and ensure that customers are able to make safe use of these devises at all times.

The BSI should implement appropriate technologies to maintain confidentiality and integrity of sensitive information, in particular customer information. Cryptographic technologies can be used to protect the confidentiality and integrity of sensitive information. The BSI should choose cryptographic technologies that are appropriate to the sensitivity and importance of information and the extent of protection needed and, only those that are making use of internationally recognized cryptographic algorithms where the strengths of the algorithms have been subjected to extensive tests. In cases when the information is transmitted over public network, the BSI should consider the need to apply strong end-to-end encryption to the transmission of sensitive information.

To ensure adequate protection and secrecy of cryptographic keys whether they are master keys, key encrypting keys or data encrypting keys, no single individual should know entirely what the keys are or have access to all the constituents making up these keys. All keys should be created, stored, distributed or changed under the most stringent conditions. Likewise, use of these keys should be logged and provided with timely oversight.

4.1.6. **Application Security.** The BSI should ensure an appropriate level of application security in its electronic delivery systems. In selecting system development tools or programming languages for developing e-services application systems, it should evaluate the security features that can be provided by different tools or languages to ensure that effective application security can be implemented. In selecting an e-services system developed by a third party, the BSI should take into account the appropriateness of the application security of the system. It should test new or enhanced applications thoroughly using a general accepted test methodology in a test environment prior to implementation.

The BSI should consider the need to have customers confirm sensitive transactions like enrolment in a new on-line service, large funds transfers, account maintenance changes, or suspicious account activity. Positive confirmations for sensitive on-line transactions provide the customer with the opportunity to help catch fraudulent activity. The BSI can encourage customer participation in fraud detection and increase customer confidence by sending confirmations of certain high-risk activities through additional communication channels such as the telephone, e-mail, or traditional mail.

Comprehensive and effective validation of input parameters (including user-supplied data and database queries that may be submitted by the users' computers) should be performed on server side. This prevents intentional invalid input parameters from being processed by the e-services system that may result in unauthorized access to data, execution of commands embedded in the parameters or a buffer overflow attack[1]. Moreover, e-services systems should operate with the least possible system privileges.

Error messages generated by the application system for e-services customers should not reveal details of the system which are sensitive. Errors should be appropriately logged. Similarly, the HTML[2] source code on the production web server should not contain sensitive information such as any references or comments that relate to the design features of the web application code.

The mechanism for managing an active e-services session should be secure. Web pages containing sensitive information should not be cached in the temporary files of browsers. The application should ideally prohibit the customers' browsers from memorizing or displaying the user IDs and passwords previously entered by customers and the web pages previously accessed by customers.

When a known vulnerability related to the e-services application system is identified or reported, a review of the relevant program source code should be conducted as appropriate to ensure that the vulnerability is appropriately addressed. A security standard may be defined for the purpose of system development and code review. For third-party developed systems, the patches provided by vendors from time to time should be appropriately applied to these systems.

Hidden directories that contain administrative pages or sensitive information of the web site should either be removed from the production web server or protected by effective authentication and access control mechanisms. Back-up files and common files should be removed from the production servers or the structure of file directories to prevent access by unauthorized users. A periodic security review of the structure of file directories and access controls of the files is necessary to ensure that all sensitive files are appropriately protected and not exposed through the web applications.

4.1.7. **Infrastructure and Security Monitoring.** The BSI should establish an appropriate operating environment that supports and protects systems on e-services. It should proactively monitor systems and infrastructure on an ongoing basis to detect and record any security breaches, suspected intrusions, or weaknesses. The BSI should ensure that adequate controls are in place to detect and protect against unauthorized access to all critical e-services systems, servers, databases, and applications. The attached *Annex "A"* provides for the minimum security measures for e-services facilities.

The BSI should put in place effective monitoring mechanisms to detect in a timely manner suspicious online transactions and unusual activities. A sound monitoring system should include audit features that can assist in the detection of fraud, money laundering, compromised passwords or other unauthorized activities. In particular, the monitoring mechanism for personal e-services should be able to detect cases similar to the following:

a. False or erroneous application information, large check deposits on new e-services accounts, unusual volume or size of funds transfers, multiple new accounts with similar account information or originating from the same internet address, and unusual account activity initiated from a foreign internet address;

[1] **Buffer overflow attack** is a method of overloading a predefined amount of space in a buffer, which can potentially overwrite and corrupt memory in data.
[2] **Hypertext Markup Language (HTML)** is a set of codes that can be inserted into text files to indicate special interfaces, inserted images, and links to the hypertext documents.

b. Multiple online transfers are made to the same unregistered third-party account within a short period of time especially if the amount transferred is close to the maximum amount allowed or the value exceeds a certain amount; and

c. Change of a customer's correspondence address shortly followed by transactions which may indicate potential fraudulent activities such as opening of an e-service account online, a request for important documents (e.g. cheque book, new e-banking password, credit card/ATM PIN) to be mailed to that address, increase of fund transfer limits, or a sudden increase of fund transfers made to unregistered third parties.

The BSI's monitoring staff should be promptly alerted by its monitoring mechanism if suspicious online transfers and unusual activities are initiated. In these cases, the BSI should, as soon as practicable, check with the account holders of these transactions or activities. Consideration should also be given to notifying personal customers immediately through an alternative automated channel (such as messages sent to mobile phones or e-mail accounts of customers) of online transfers made to unregistered third parties, online transfers exceeding certain amount limits, or detected unusual activities related to their accounts.

4.1.8. **Controls Over Fund Transfers.** The BSI that relies solely on single factor authentication for e-services should consider restricting third-party transfer only to accounts that have been pre-registered by the customer. As an alternative, customers may be allowed to register third-party accounts online but the registration should be effected only after a period when a written confirmation is expected to have reached the customer.

To mitigate fraud risk, the BSI may establish amount limits on transactions initiated through the e-services application, or may monitor transactions above specified limits, depending on the type of account (e.g., consumer vs. corporate). Such limits or similar monitoring systems may help detect unusual account activity that may indicate fraudulent transactions or other suspicious activity. Other safeguards to manage the risk of unauthorized third-party transfers include the following, among others:

a. Maximum daily or transaction limits should be imposed on online transfers to unregistered third-parties;

b. A second factor authentication should be employed before a customer can effect online transfers to unregistered third-parties; and

c. Two-factor authentication should be implemented for corporate or institutional e-services that allow transfers to unregistered third-party accounts.

4.1.9. **Audit Trail.** The BSI should ensure that comprehensive logs are maintained to record all critical e-services transactions to help establish a clear audit trail and promote employee and user accountability. Audit logs should be protected against unauthorized manipulation and retained for a reasonable period (e.g. three months) to facilitate any fraud investigation and any dispute resolution if necessary. In instances where processing systems and related audit trails are the responsibility of a third-party service provider, the BSI should ensure that it has access to relevant audit trails maintained by the service provider in accordance with existing standards. In particular, clear audit trails should exist under the following types of e-services transactions:

a. the opening, modification or closing of a customer's account;

b. any transaction with financial consequences;

c. any authorization granted to a customer to exceed a limit; and

d. any granting, modification or revocation of systems access right or privileges.

4.1.10. **Segregation of Duties.** As in any traditional process, segregation of duties is a basic internal control measure designed to reduce the risk of fraud in operational processes and systems. The BSI management should ensure that duties are adequately separated and transaction processes are designed in a manner that no single person could initiate, approve, execute and enter transactions into a system that would enable fraudulent actions to be perpetrated and concealed. Segregation should also be maintained between (a) those developing and those administering the systems; and (b) those initiating static data (including web page content) and those responsible for verifying its integrity. E-services systems should be tested to ensure that segregation of duties cannot be bypassed.

4.1.11. **Website Information and Maintenance.** Because the BSI's website is available on an ongoing basis to the general public, appropriate procedures should be established to ensure accuracy and appropriateness of its information. Key information changes and updates (such as deposit, loan and foreign exchange rates), are normally subject to documented authorization and dual verification. Procedures and controls to monitor and verify website information frequently may help prevent any inadvertent or unauthorized modifications or content that could lead to reputational damage or violations of advertising, disclosure, or other compliance requirements.

In addition, some BSIs provide various tools and other interactive programs to enable customers to submit online application or provide resources for them to research available options associated with BSI's products and services on-line. To protect the BSI from potential liability or reputational harm, it should test or otherwise verify the accuracy and appropriateness of these tools and programs.

The BSI should carefully consider how links to third-party Internet Web sites are presented. "Hyperlinks[1]" may imply an endorsement of third-party products, services, or information that could lead to implicit liability for the BSI. The BSI should provide disclaimers when such links take the customer to a third-party web site to ensure that they clearly understand any potential liabilities arising out of any such cross-marketing arrangements or other agreements with third parties. Any links to sites offering non-deposit, investment or insurance products must comply with existing regulations. Links to other sites should be verified regularly for accuracy, functionality, and appropriateness.

The BSI should manage the risk associated with fraudulent emails or websites which are designed to trick its customers into revealing private details such as account numbers or e-services passwords. To this end, the BSI should consider educating customers the ways to ensure that they are communicating with the official website and that they will not be required to access the BSI's transactional e-services portal through hyperlinks embedded in e-mails unless the website is validated by legitimate digital certificate.

Additionally, the BSI should exercise care in selecting its website name(s) in order to reduce possible confusion with those of other Internet sites. It should periodically scan the Internet to identify sites with similar names and investigate any that appear to be posing as the institution. Suspicious sites should be reported to appropriate law enforcement agencies and regulatory authorities.

[1] **Hyperlink** is an item on a webpage, that, when selected, transfers the user directly to another location in a hypertext document or to another webpage, perhaps on a different machine.

4.2. **Administrative and Management Controls**

4.2.1. **Administration of E-Services Accounts.** The BSI should ensure that adequate controls are in place to minimize the risks of e-services accounts being opened by fraudsters without the knowledge of the real customers. It is recommended that the BSI issues a written confirmation to the customer concerned and prohibit the online transfers to unregistered third parties until the institution is satisfied that the customer has received the confirmation. It should also perform adequate identity checks when customer requests a change in his account information or other contact details.

4.2.2. **Service Availability and Business Continuity.** The BSI should have the ability to deliver e-services to all end-users and be able to maintain such availability in all circumstances within a reasonable system response time in accordance with its terms and conditions and anticipated customer expectations. Performance criteria for each critical e-service should be established and service levels should be monitored against these criteria. Appropriate measures should be taken to ensure that e-services systems and the interfaces with the internal systems can handle the projected transaction volume and future growth in transactions.

Appropriate business continuity and contingency plans for critical e-services processing and delivery systems should be in place and regularly tested. Contingency plans should set out a process for restoring or replacing e-services processing capabilities, reconstructing supporting transaction information, and include measures to be taken to resume availability of critical e-services systems and applications in the event of a business disruption.

4.2.3. **Incident Response and Management.** The BSI should put in place formal incident response and management procedures for timely reporting and handling of suspected or actual security breaches, fraud, or service interruptions of their e-services during or outside office hours. A communication strategy should be developed to adequately address the reported concerns and an incident response team should be established to manage and respond to the incident in accordance with existing standards enumerated in *Appendix Q-59b*.

4.2.4. **Outsourcing Management** Increased reliance upon partners and third party service providers to perform critical e-services functions lessens BSI management's direct control. Accordingly, a comprehensive process for managing the risks associated with outsourcing and other third-party dependencies is necessary to ensure that:

a. The BSI fully understands the risks associated with entering into an outsourcing or partnership arrangement for its e-services systems or applications;

b. An appropriate due diligence review of the competency and financial viability of any third-party service provider or partner is conducted prior to entering into any contract for e-services;

c. The contractual accountability of all parties to the outsourcing or partnership relationship is clearly defined. For instance, responsibilities for providing information to and receiving information from the service provider should be clearly defined;

d. All outsourced e-services systems and operations are subject to risk management, security and privacy policies that meet the BSI's own standards;

e. Periodic independent internal and/or external audits are conducted of outsourced operations to at least the same scope required if such operations were conducted in-house; and

f. Appropriate contingency plans for outsourced e-services activities exist.

Complete guidelines for managing outsourcing relationships and third party dependencies are enumerated in Appendix Q-59e.

4.3. **Consumer Protection**

4.3.1. **Customer Privacy and Confidentiality**. The BSI should take appropriate measures to ensure adherence to customer privacy requirements applicable to the jurisdictions to which the institution is providing electronic products and services. Misuse or unauthorized disclosure of confidential customer data exposes the entity to both legal and reputation risk. To meet these challenges concerning the preservation of privacy of customer information, the BSI should make reasonable endeavours to ensure that:

a. The BSI's customer privacy policies and standards take account of and comply with all privacy regulations and laws applicable to the jurisdictions to which it is providing e-services;

b. Customers are made aware of the BSI's privacy policies and relevant privacy issues concerning use of e-services;

c. Customers may decline ("opt out") from permitting the BSI to share with a third party for cross-marketing purposes any information about the customer's personal needs, interests, financial position or banking activity; and

d. Customer data are not used for purposes beyond which they are specifically allowed or for purposes beyond which customers have authorized. The BSI's standards for customer data use must be met when third parties have access to customer data through outsourcing relationships.

4.3.2. **Information Disclosure for E-Services**. The BSI should comply with all legal requirements relating to e-services, including the responsibility to provide its customers with appropriate disclosures and to protect customer data. Failure to comply with these responsibilities could result in significant compliance, legal, or reputation risk for the BSI.

The BSI should set out clearly in its terms and conditions the respective rights and obligations between the BSI and its customers. These terms and conditions should be fair and balanced to both parties. In addition, it is required to provide its customers with a level of comfort regarding information disclosures or transparencies, protection of customer data and business availability that they can expect when using traditional banking services. To minimize operational, legal and reputational risks associated with e-services activities, the BSI should make adequate disclosures of information and take appropriate measures to ensure adherence to customer privacy and protection requirements. *Annex "B"* provides for the minimum disclosure requirements of BSIs.

4.3.3. **Consumer Awareness** Customer education is a key defense against fraud, identity theft and security breach. Therefore, the BSI should pay special attention to the provision of easy to understand and prominent advice to its customers on security precautions for e-services. To be effective, the BSI should maintain and continuously evaluate its consumer awareness program. Methods to evaluate a program's effectiveness include tracking the number of customers who report fraudulent attempts to obtain their authentication credentials, the number of clicks on information security links on websites, the number of inquiries, etc. *Annex "C"* provides for the minimum Consumer Awareness Program that the BSI should convey to its customers.

4.3.4. **Complaints Resolution.** The BSI may receive customer complaint either through an electronic medium or otherwise, concerning unauthorized transactions, loss or theft in the e-services account. Therefore, it should ensure that controls are in place to review these notifications and that an investigation is initiated as required.

The BSI should also establish procedures to resolve disputes arising from the use of the e-services.

4.4. **Cross-Border E-Banking Activities**

4.4.1. Before a BSI initiates cross-border e-services, its management should conduct appropriate risk assessment and due diligence to ensure that it can adequately manage the attendant risks. It must also comply with any applicable laws and regulations, both the home country as well as those of any foreign country that may assert jurisdiction over e-services that are directed at its residents. Further, the BSI should ensure that it has an effective and ongoing risk management program for its cross-border e-services activities;

4.4.2. Before engaging in transactions involving cross-border e-services with foreign customers, the BSI should ensure that adequate information is disclosed on its Web site to allow potential customers to make a determination of the BSI's identity, home country, and whether it has the relevant regulatory license(s) before it establishes the relationship. This information will help improve transparency and minimize legal and reputational risk associated with the offering of cross border e-services.

5. INDEPENDENT ASSESSMENT

5.1. An appropriate independent audit function is also an important component of a BSI's monitoring mechanisms. The audit coverage should be expanded commensurate with the increased complexity and risks inherent in e-services and should include the entire process as applicable (i.e. network configuration and security, interfaces to legacy systems, regulatory compliance, internal controls, support activities performed by third-party providers etc.).

5.2. The BSI should also make arrangements for independent assessments to be conducted on its systems before the launch of the relevant services or major enhancements to existing services. The person(s) (i.e. the assessor) contracted by the BSI to perform independent assessment should have, and be able to demonstrate, the necessary expertise in the relevant fields. He/she should be independent from the parties that develop or administer the system and should not be involved in the operations to be reviewed or in selecting or implementing the relevant control measures to be reviewed. He/she should be able to report findings freely and directly to the authorized BSI senior management.

5.3. Subsequent to an initial independent assessment, the BSI should conduct risk assessment at least every two years or when there are substantial changes to determine if further independent assessment should be required and the frequency and scope of such independent assessment. Any substantial changes to the risk profile of the services being provided, significant modifications of the network infrastructure and applications, material system vulnerabilities or major security breaches are to be taken into consideration in the risk assessment.

6. APPLICABILITY

6.1. These guidelines are intended for all electronic products and services offered by BSIs to their customers. These are focused on the risks and risk management techniques associated with electronic delivery channels to protect customers and general public. It should be understood, however, that not all the customer protection issues that have arisen in connection with new technologies are specifically addressed in subject guidelines. Additional issuances may be issued in the future to address other aspects of consumer protection as the financial service environment through e-services evolves.

Annex "A"

SECURITY CONTROLS ON SPECIFIC ELECTRONIC SERVICES AND CHANNELS

In providing banking/financial services via electronic channels, such as ATM, internet and mobile devices, the BSI must consider customer's convenience in using the facilities, including the effectiveness of the display on electronic menu, particularly on customer's instructions selection menu in order to avoid any error and loss in transactions. In electronic services which involve physical equipment like ATMs, the BSI must implement physical security control on equipments and rooms from the danger of theft, sabotage and other criminal actions by unauthorized parties. It must perform routine monitoring to ensure security and comfort of customers using electronic service.

Automated Teller Machine (ATM)

1. To minimize/prevent ATM frauds and crimes, the BSI, at a minimum, implement the following security measures with respect to its ATM facilities:

a. Locate ATM's in highly visible areas;

b. Provide sufficient lighting at and around the ATMs;

c. Where ATM crimes (e.g., robbery, vandalism, skimming) are high in a specific area or location, the BSI should install surveillance camera or cameras which shall view and record all persons entering the facility. Such recordings shall be preserved by the BSI for at least thirty (30) days;

d. Implement ATM programming enhancements like masking/non-printing of card numbers;

e. Educate customers by advising them regularly of risks associated with using the ATM and how to avoid these risks;

f. Conduct and document periodic security inspection at the ATM location;

g. Educate BSI personnel to be responsive and sensitive to customer concerns; and

h. Post a clearly visible sign near the ATM facility which, at a minimum, provides the telephone numbers of the BSI as well as other BSIs' hotline numbers for other cardholders who are allowed to transact business in the ATM, and police hotlines for emergency cases.

2. The BSI must study and assess ATM crimes to determine the primary problem areas. Procedures for reporting ATM crimes should also be established. Knowing what crimes have occurred will aid the BSI in recognizing the particular problem and to what degree it exists so that it can implement the necessary preventive measures. In this connection, all BSIs are encouraged to share information involving ATM fraud cases to deter and prevent proliferation of the crime.

Online Internet Financial Services

1. Assurance should be provided that online login access and transactions performed over the internet are adequately protected and authenticated. In addition, customers should be adequately educated on security measures that must be put in place to uphold their interests in the online environment.

2. With internet connection to internal networks, financial systems and devices may now be potentially accessed by anyone from anywhere at any time. The BSI should implement physical and logical access security to allow only authorized personnel to access its systems. Appropriate processing and transmission controls should also be implemented to protect the integrity of systems and data.

3. There should be a mechanism to authenticate official website to protect customers from spoofed or faked websites. The BSI should determine what

authentication technique to adopt to provide protection against these attacks. For wireless applications, it should adopt authentication protocols that are separate and distinct from those provided by the wireless network operator.

4. Monitoring or surveillance systems should be implemented to alert BSI of any erratic system activities, transmission errors or unusual online transactions. A follow-up process should be established to verify that these issues or errors are adequately addressed subsequently. High resiliency and availability of online systems and supporting systems (such as interface systems, backend host systems and network equipment) should be maintained to meet customers' expectations. Measures to plan and track capacity utilization as well as guard against online attacks should be established.

5. As more customers log into BSI's website to access their accounts and conduct a wide range of financial transactions for personal and business purposes, a suite of measures must be established to protect customers' interests in using online systems. Furthermore, customers should be educated on the risks of using online financial services before they subscribe to such services. Ongoing education must be available to raise the security awareness of customers to protect their systems and online transactions.

Mobile and Phone Financial Services

1. For electronic services using mobile phone, the BSIs must ensure the security of transactions by implementing the following, among others:

a. Employment of a SIM Toolkit with end-to-end encryption feature from hand phones to m-banking servers, to protect data transmission in m-banking; and

b. Adoption of dual authentication process (i.e. MPIN) to ensure that the party initiating the transaction is the owner of the device and is authorized to perform such transaction.

2. For phone banking and other financial services, the BSI must ensure the security of transactions, by implementing the following, among others:

a. The service shall not be used for transactions with high value or risk;

b. All IVR conversations shall be recorded, including customer's phone number, transaction detail, etc;

c. The service shall use reliable and secure authentication methods; and

d. The use of customer authentication method such as PIN and password for financial transactions.

Other Mobile Online and Payment Services

1. Mobile online and payment services are extensions of the online financial services which are offered by the BSI and accessible from the internet via computers, laptops and similar devices. Security measures which are similar to those of online financial and payment systems should also be implemented on the mobile online services and payment systems. A risk assessment should be conducted to identify possible fraud scenarios and appropriate measures should be established to counteract payment card fraud via mobile devices.

2. The BSI may require customers to download its mobile online services and payment applications directly from third party repositories (e.g. Apple store, Google Play and Windows Market Place) on to mobile devices. Customers must be able to verify the integrity and authenticity of the application prior to its download. The BSI should also be able to check the authenticity and integrity of the software being used by the customers.

3. As mobile devices are susceptible to theft and loss, there must be adequate protection of sensitive data used for mobile online services and payments. Sensitive data

should be encrypted to ensure the confidentiality and integrity of these data in storage, transmission and during processing.

4. Customers should be educated on security measures to protect their own mobile devices from theft and loss as well as viruses and other errant software which cause malicious damage and harmful consequences.

Point of Sale Devices

1. Point of Sale (POS)/Electronic Data Capture (EDC) enable electronic fund transfer from customer's account to acquirer's or merchant's account for payment of a transaction. The party providing POS terminal must always increase the physical security around the vicinity of such POS terminal and on the POS terminal itself, among others, by using POS terminal that minimizes the possibility of interception on such terminal or in its communication network.

2. The BSI deploying POS devices at merchant locations must familiarize the merchant with the safe operation of the device. The acquiring institution must ensure that the POS devices as well as other devices that capture information do not expose/store information such as the PIN number or other information classified as confidential. It must also ensure that a customer's PIN number cannot be printed at the point of sale for any reason whatsoever.

3. Operators of point of sale devices are encouraged to work towards interoperability of cards from other schemes.

Electronic Payment Cards (ATM, Credit and Debit Cards)

1. Payment cards allow cardholders the flexibility to make purchases wherever they are. Payment cards exist in many forms; with magnetic stripe cards posing the highest security risks. Sensitive payment card data stored on magnetic stripe cards is vulnerable to card skimming attacks. Card skimming attacks can happen at various points of the payment card processing, including payment kiosks and POS terminals. In addition to counterfeit/ skimmed cards, fraudulent activities associated with payment cards include lost/ stolen cards, card-not-received and card-not-present transactions.

2. The BSI providing payment card services should implement adequate safeguards to protect sensitive payment card data. Sensitive payment card data should be encrypted to ensure the confidentiality and integrity of these data in storage, transmission and during processing. Pending the required adoption of EMV chip-cards by 01 January 2017, all BSIs engaged in the payment card business should consider implementing the following measures to mitigate exposure from skimming attacks:

a. Installation of anti-skimming solutions on ATM and POS machines to detect the presence of foreign devices placed over or near a card entry slot;

b. Establishment of detection and alert mechanisms to appropriate personnel for follow-up response and action;

c. Implementation of tamper-resistant keypads to ensure that no one can identify which buttons are being pressed by customers;

d. Implementation of appropriate measures to prevent shoulder surfing of customers' PINs; and

e. Conduct video surveillance of activities at these machines and maintain the quality of CCTV footage.

3. New payment cards sent to customers via courier should only be activated upon obtaining the customer's instruction. Online transactions should only be allowed if authorized by the customers. Authentication of customers' sensitive static information, such as personal identification

number (PIN) or passwords, should be performed by the card issuer and not by third party payment processing service providers. Appropriate security mechanisms should also be implemented for card-not-present transactions via internet to reduce fraud risk associated with this type of transaction.

4. To enhance payment card security, cardholders should be notified promptly via transaction alerts on withdrawals/charges exceeding customer-defined thresholds made on their payment cards. The transaction alert should include information such as source and amount of the transaction to assist customers in identifying a genuine transaction.

5. Fraud detection systems with behavioral scoring and correlation capabilities should be implemented to identify and curb fraudulent activities. Risk management parameters should be calibrated according to risks posed by cardholders, nature of transactions or other risk factors to enhance fraud detection capabilities. Follow-up actions for transactions exhibiting behavior which deviates significantly from a cardholder's usual card usage patterns should be instituted. These transactions should be investigated into and the cardholder's authorization obtained prior to completing the transaction.

Annex "B"

DISCLOSURE REQUIREMENTS

1. General Requirement

BSIs offering electronic products and services (e-services) should adopt responsible privacy policies and information practices. They should provide disclosures that are clear and readily understandable, in writing, or in a form the consumers may print and keep.

BSIs should also ensure that consumers who sign-up for a new e-service are provided with disclosures (e.g. pamphlet) informing him of his rights as a consumer.

At a minimum, the following disclosures should be provided to protect consumers and inform them of their rights and responsibilities:

a. Information on the duties of the BSI and customers;

b. Information on who will be liable for unauthorized or fraudulent transactions;

c. Mode by which customers will be notified of changes in terms and conditions;

d. Information relating to how customers can lodge a complaint, and how a complaint may be investigated and resolved;

e. Disclosures that will help consumers in their decision-making (e.g., PDIC insured, etc.);

f. For internet environment, information that prompt in the BSI's website to notify customers that they are leaving the BSI's website and hence they are not protected by the privacy policies and security measures of the BSI when they hyperlink to third party's website.

2. Disclosure Responsibility

a. Compliance officers should review BSI's disclosure statements to determine whether they have been designed to meet the general and specific requirements set in the regulation;

b. For BSIs that advertise deposit products and services on-line, they must verify that proper advertising disclosures are made (e.g. whether the product is insured or not by the PDIC; fees and charges associated with the product or services, etc.). Advertisements should be monitored to determine whether they are current, accurate, and compliant;

c. For BSIs that issue various products like stored value cards, e-wallets, debit cards and credit cards, they must provide information to consumers regarding the features of each of these products to enable consumers to meaningfully distinguish them. Additionally, consumers would find it beneficial to receive information about the terms and conditions associated with their usage. Example of these disclosures include:

- PDIC insured or non-insured status of the product;
- Fees and charges associated with the purchase, use or redemption of the product;
- Liability for loss;
- Expiration dates, or limits on redemption; and
- Toll-free telephone number for customer service, malfunction and error resolution.

d. Whenever e-services are outsourced to third parties or service providers, the BSI should ensure that the vendors comply with the disclosure requirements of the Bangko Sentral.

Annex "C"

ELECTRONIC SERVICES CONSUMER AWARENESS PROGRAM

To ensure security of transactions and personal information in electronic delivery channels, consumers should be oriented of their roles and responsibilities which, at a minimum, include the following:

1. Internet Products and Services

a) Secure Login ID and Password or PIN

i. Do not disclose Login ID and Password or PIN

ii. Do not store Login ID and Password or PIN on the computer.

iii. Regularly change password or PIN and avoid using easy-to-guess passwords such as names or birthdays. Password should be a combination of characters (uppercase and lowercase) and numbers and should be at least 6 digits in length.

b) Keep personal information private.

i. Do not disclose personal information such as address, mother's maiden name, telephone number, social security number, bank account number or e-mail address — unless the one collecting the information is reliable and trustworthy.

c) Keep records of online transactions.

i. Regularly check transaction history details and statements to make sure that there are no unauthorized transactions.

ii. Review and reconcile monthly credit card and bank statements for any errors or unauthorized transactions promptly and thoroughly.

iii. Check e-mail for contacts by merchants with whom one is doing business. Merchants may send important information about transaction histories.

iv. Immediately notify the BSI if there are unauthorized entries or transactions in the account.

d) Check for the right and secure website.

i. Before doing any online transactions or sending personal information, make sure that correct website has been accessed. Beware of bogus or "look alike" websites which are designed to deceive consumers.

ii. Check if the website is "secure" by checking the Universal Resource Locators (URLs) which should begin with "https" and a closed padlock icon on the status bar in the browser is displayed. To confirm authenticity of the site, double-click on the lock icon to display a security certificate information of the site.

iii. Always enter the URL of the website directly into the web browser. Avoid being re-directed to the website, or hyperlink to it from a website that may not be as secure.

iv. If possible, use software that encrypts or scrambles the information when sending sensitive information or performing e-banking transactions online.

e) Protect personal computer from hackers, viruses and malicious programs.

i. Install a personal firewall and a reputable anti-virus program to protect personal computer from virus attacks or malicious programs.

ii. Ensure that the anti-virus program is updated and runs at all times.

iii. Always keep the operating system and the web browser updated with the latest security patches, in order to protect against weaknesses or vulnerabilities.

iv. Always check with an updated anti-virus program when downloading a program or opening an attachment to ensure that it does not contain any virus.

v. Install updated scanner softwares to detect and eliminate malicious programs capable of capturing personal or financial information online.

vi. Never download any file or software from sites or sources, which are not familiar or hyperlinks sent by strangers. Opening such files could expose the system to a computer virus that could hijack personal information, including password or PIN.

f) Do not leave computer unattended when logged-in.

i. Log-off from the internet banking site when computer is unattended, even if it is for a short while.

ii. Always remember to log-off when e-banking transactions have been completed.

iii. Clear the memory cache and transaction history after logging out from the website to remove account information. This would avoid incidents of the stored information being retrieved by unwanted parties.

g) Check the site's privacy policy and disclosures.

i. Read and understand website disclosures specifically on refund, shipping, account debit/credit policies and other terms and conditions.

ii. Before providing any personal financial information to a website, determine how the information will be used or shared with others.

iii. Check the site's statements about the security provided for the information divulged.

iv. Some websites' disclosures are easier to find than others — look at the bottom of the home page, on order forms or in the "About" or "FAQs" section of a site. If the customer is not comfortable with the policy, consider doing business elsewhere.

h) Other internet security measures:

i. Do not send any personal information particularly password or PIN via ordinary e-mail.

ii. Do not open other browser windows while doing online transactions.

iii. Avoid using shared or public personal computers in conducting financial transactions.

iv. Disable the "file and printer sharing" feature on the operating system if conducting financial transactions online.

v. Contact the concerned BSI to discuss security concerns and remedies to any online e-services account issues.

2. Other Electronic Products/Channels

a) Automated Teller Machine (ATM) and debit cards

i. Use ATMs that are familiar or that are in well-lit locations where one feels comfortable. If the machine is poorly lit or is in a hidden area, use another ATM.

ii. Have card ready before approaching the ATM. Avoid having to go through the wallet or purse to find the card.

iii. Do not use ATMs that appear to have been tampered with or otherwise altered. Report such condition to the BSI.

iv. Memorize ATM PIN and never disclose it with anyone. Do not keep those numbers or passwords in the wallet or purse. Never write them on the cards themselves. And avoid using easily available personal information like a birthday, nickname, mother's maiden name or consecutive numbers.

v. Be mindful of "shoulder surfers" when using ATMs. Stand close to the ATM and shield the keypad with hand when keying in the PIN and transaction amount.

vi. If the ATM is not working correctly, cancel the transaction and use a different ATM. If possible, report the problem to the BSI.

vii. Carefully secure card and cash in the wallet, handbag, or pocket before leaving the ATM.

viii. Do not leave the receipt behind. Compare ATM receipts to monthly statement. It is the best way to guard against fraud and it makes record-keeping easier.

ix. Do not let other people use your card. If card is lost or stolen, report the incident immediately to the BSI.

b) Credit cards

i. Never disclose credit card information to anyone. The fraudulent use of credit cards is not limited to the loss or theft of actual credit cards. A capable criminal only needs to know the credit card number to fraudulently make numerous charges against the account.

ii. Endorse or sign all credit cards as soon as they are received from the BSI.

iii. Like ATM card PINs, secure credit card PINs. Do not keep those numbers or passwords in the wallet or purse and never write them on the cards themselves.

iv. Photocopy both the front and back of all credit cards and keep the copies in a safe and secure location. This will facilitate in the immediate cancellation of the card if lost or stolen.

v. Carry only the minimum number of credit cards actually needed and never leave them unattended.

vi. Never allow credit card to use as reference (credit card number) or as an identification card.

vii. Never give your credit card account number over the telephone unless dealing with a reputable company or institution.

viii. When using credit cards, keep a constant eye on the card and the one handling it. Be aware of the "swipe and theft" scam using card skimmers. A skimmer is a machine that records the information from the magnetic stripe on a credit card to be downloaded onto a personal computer later. The card can be swiped on a skimmer by a dishonest person and that data can then be used to make duplicate copies of the credit card.

ix. Do not leave documents like bills, bank and credit card statements in an unsecure place since these documents have direct access to credit card and/or deposit account information. Consider shredding sensitive documents rather than simply throwing them away. (Some people will go through the garbage to find this information).

x. Notify the BSI in advance of a change in address.

xi. Open billing statements promptly and reconcile card amounts each month.

xii. Do not let other people use your card. If card is lost or stolen, report the incident immediately to the BSI.

c) Mobile Phones/Devices

i. Do not disclose your Mobile Banking Pin (MPIN) to anyone.

ii. Regularly change the MPIN.

iii. Do not let other people use your mobile phone enrolled in a mobile banking service. If the phone is lost or stolen, report the incident immediately to the BSI.

iv. Be vigilant. Refrain from doing mobile banking transactions in a place where you observe the presence of "shoulder surfers".

v. Keep a copy of the transaction reference number provided by the Bank whenever you perform a mobile banking transaction as an evidence that the specific transaction was actually executed.

Since customers may find it difficult to take in lengthy and complex advice, BSIs should devise effective methods and channels for communicating with them on security precautions. They may make use of multiple channels (e.g. BSI websites, alert messages on customers mobile phone, messages printed on customer statements, promotional leaflets, circumstances when BSI's frontline staff communicate with their customers) to enforce these precautionary measures.

(Circular No. 808 dated 22 August 2013)

REPORT ON BREACH IN INFORMATION SECURITY

(Appendix to Subsections 4177Q.8, 4196S.8, 4193P.8 and 4196N.8)

QBs/NBFIs shall report breach in information security, especially incidents involving the use of electronic channels, to the appropriate department of the SES pursuant to the following provisions:

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 QBs/NBFIs property when the amount involved in each crime is P20,000 or more.

Crimes involving QB/NBFI personnel, regardless of whether or not such crimes involve the loss/destruction of QB/NBFI property, even if the amount involved is less than P20,000, shall likewise be reported to the Bangko Sentral.

b. Incidents involving material loss, destruction or damage to the QB/NBFI's property/facilities, other than arising from a crime, when the amount involved per incident is P100,000.00 or more.

c. *Definition of terms.* For the purpose of this regulation, the following definitions shall apply:

(1) *Estafa* - a crime committed by a person who defrauds another causing the latter to suffer damage by means of any of the following:

(a) unfaithfulness or abuse of confidence;

(b) false pretense; or

(c) fraudulent acts/means under Articles 315 to 317 of the Revised Penal Code, as amended.

(2) *Theft* - a crime committed by a person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take personal property of another without the latter's consent pursuant to Article 308 and other pertinent provisions of Chapter III, Title X of the Revised Penal Code, as amended.

(3) *Robbery* - a crime committed by a person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person, or using force upon anything pursuant to Article 295 and other pertinent provisions of Chapter 1, Title X of the Revised Penal Code, as amended.

(4) *Falsification* - a crime committed by a person who falsifies a document by:

(a) Counterfeiting or imitating any handwriting, signature or rubric;

(b) Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

(c) Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;

(d) Making untruthful statements in a narration of facts;

(e) Altering true dates;

(f) Making any alteration or intercalation in a genuine document which changes its meaning;

(g) Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or

(h) Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book and other acts falling under Articles 169, 171 and 172 of the Revised Penal Code, as amended.

(5) *Credit-card related crimes* - crimes arising through the use of credit cards.

(6) *Other crimes that may cause loss to the bank* - crimes committed that cannot be appropriately classified under any of the above classifications.

(7) *Negligence* - the failure to exercise the care which an ordinarily prudent person would use under the circumstances in the discharge of the duty then resting upon him

(People v. Aguilar, 2899-R, 18 October 1949).

(8) *Non-crime related loss* - Incidents that may cause the QB/NBFI to suffer a loss arising from fortuitous events.

(9) *Insider* - persons involved include stockholders, directors, officers and employees of the QB/NBFI.

(10) *Outside*r - persons involved other than insiders.

(11) *Perpetrator* - a person, whether an insider or outsider, who is responsible for the commission of crime either by direct participation, inducement or cooperation, including accomplices and accessories as defined under Articles 18 and 19 of the Revised Penal Code, as amended.

(12) *Victim* - an insider or outsider other than the perpetrator, who is the aggrieved party to the crime and may as a result of the incident, suffered the loss.

(13) *Attempted crime* - a crime is attempted when the perpetrator commences the commission of the crime directly by overt acts but does not perform all of the acts of execution which constitute the crime by reason of some causes or acts other than his own voluntary desistance under Article 6 of the Revised Penal Code, as amended.

(14) *Frustrated crime* - a crime is classified as frustrated, when the perpetrator performs all the acts of execution which should produce the crime as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator under Article 6 of the Revised Penal Code, as amended.

(15) *Consummated crime* - a crime is consummated when all the acts of execution which constitute the crime were performed. As a result, the QB/NBFI may have suffered a loss, the recoverable portion of which should be deducted to arrive at the probable loss incurred by the QB/NBFI.

(16) *Termination of the investigation* - an investigation is said to be terminated when all the material facts/information which are sufficient to support a conclusion relative to the matters involved have already been gathered and a finding/conclusion may be made based on the gathered information.

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

(1) The Branch or Head Office unit's Report on Crimes and Losses shall be submitted to the Bangko Sentral through the QB/NBFI head office unit and shall be certified correct by the compliance officer. The report shall be assigned a prescribed reference number by the QB/NBFI using the format *mm-yyyy-xxx* with *mm* and *yyyy* as numeric code for the month and year of reporting, respectively, and *xxx* as sequence no. (e.g. 01-2007-001) which shall be a continuing series until the end of the year.

The report shall be prepared using the new format SES Form 6G attached as Annex A of Circular No. 587 dated 26 October 2007 in two (2) copies and shall be submitted to the SDC and to the Bangko Sentral Security Coordinator, thru the Director, Security, Investigation and Transport Department (SITD) within ten (10) calendar days from knowledge of the crime/ incident;

(2) Where a thorough investigation and evaluation of facts is necessary to complete the report, an initial report submitted within deadline may be accepted: *Provided,* That a complete report is submitted not later than twenty (20) calendar days from termination of investigation.

Moreover, final reports on crimes and losses with incomplete information as required under SES Form 6G shall be considered erroneous reports and the concerned QB/NBFI shall be required to submit amended reports subject to penalties on late reporting for *Category B* reports under Subsec. 4192Q.2; and

(3) Proof of submission of the report shall be determined by the date of postmark, if the report was sent by mail or by the date received, if handcarried to the SDC and SITD.

(As amended by Circular Nos. 808 dated 22 August 2013 and 587 dated 26 October 2007)

ACTS TANTAMOUNT TO THE ACT OF ISSUING PRE-APPROVED CREDIT CARDS

(Appendix to Subsections 4320Q.1 and 4320Q.3)

i. Sending of credit cards to consumers with no prior application, written request and supporting documents required for prudent credit card evaluation;

ii. Sending of unsolicited supplementary cards and other cards with added features which are not in replacement or substitute to an existing cardholder's initial credit card;

iii. Unsolicited calls by credit card issuers requesting updated information from selected clients in order to be entitled to receive credit card as a reward for his/her continued patronage of the bank's other financial product;

iv. Unsolicited calls by the bank to its depositors informing them that they already have a credit card from the bank's Credit Card Department due to good standing as a depositor;

v. Sending of mails with credit card enclosed which will be deemed accepted upon the receipt of such card by a receiver, whether authorized or not;

vi. Sending to a consumer an unsolicited credit card which is deemed accepted unless a request for termination is promptly instructed by the cardholder to the credit card issuer; and

vii. Sending of credit cards as free offers to consumers who availed themselves of the bank's other financial products.

The acts described above and other similar acts are deemed tantamount to the act of issuing pre-approved credit cards notwithstanding any contrary stipulations in the contract.

(Circular No. 845 dated 15 August 2014)

FRAMEWORK FOR DEALING WITH DOMESTIC SYSTEMICALLY IMPORTANT BANKS
(Appendix to Subsec. 4115Q.5)

Introduction

This document outlines the Bangko Sentral's implementing guidelines on the framework for dealing with domestic systemically important banks (DSIBs) in accordance with the reform packages proposed by the Basel Committee on Banking Supervision (BCBS)[1] and introduced in Basel III: A global regulatory framework for more resilient banks and banking systems.

It is the thrust of the Bangko Sentral to ensure that its capital adequacy framework is consistent with the Basel principles. Hence, the Bangko Sentral is adopting policy measures for DSIBs, which are essentially aligned with the documents issued by BCBS on global systemically important banks (GSIBs) and DSIBs. The broad aim of the policies is to reduce the probability of failure of DSIBs by increasing their going-concern loss absorbency and to reduce the extent or impact of failure of DSIBs on the domestic/real economy.

The guidelines shall apply on a consolidated basis[2] to all UBs and KBs including branches of foreign banks established under R.A. No. 7721 (An Act Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines and for Other Purposes), as amended by R.A. 10641.

Submission of data requirements for the identification of DSIBs shall take effect starting with 2014 data while compliance with the additional higher loss absorbency requirement shall be phased-in from 1 January 2017 with full implementation by 1 January 2019.

Part I. Assessment Methodology

A. Indicator-based measurement approach

1. The systemic importance of a bank is assessed in relation to the impact of its failure on the domestic economy using an indicator-based measurement approach.

2. The impact of a DSIB's failure to the domestic economy shall be assessed based on bank-specific factors, to wit: (a) size; (b) interconnectedness; (c) substitutability/ financial institution infrastructure; and (d) complexity. Ten (10) indicators related to these categories shall be used to identify DSIBs. These indicators reflect the factors or criteria which make a bank significant for the stability of the financial system and the economy.

3. The UBs and KBs operating in the Philippines shall be assessed based on the four categories and on data that relate to the consolidated group (i.e., unit of analysis is the consolidated group). For foreign banks, the computation of systemic importance shall be done on the basis of data that relates to their local consolidated balance sheet. Each category is given an equal weight of twenty five (25%) percent in determining the final score (Table 1). In the case of categories with more than one (1) indicator, the weight of twenty five (25%) percent is equally divided across all indicators within the category.

[1] The Basel Committee on Banking Supervision consists of senior representatives of bank supervisory authorities and central banks from Argentina, Australia, Belgium, Brazil, Canada, China, France, Germany, Hong Kong SAR, India, Indonesia, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, Russia, Saudi Arabia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. It usually meets at the Bank for International Settlements (BIS) in Basel, Switzerland, where its permanent Secretariat is located.

[2] Consolidated basis shall refer to the combined financial statements of parent bank and subsidiaries consolidated on a line by line basis. Only banks with financial allied subsidiaries, excluding insurance subsidiaries, shall submit the report on consolidated basis.

Table 1. Indicator-based measurement approach

Category (and weighting)	Individual Indicator	Indicator Weighting
Size (25%)	Total exposures as defined for use in the Basel III leverage ratio	25.00%
Interconnect-edness (25%)	Intra-financial system assets	8.33%
	Intra-financial system liabilities	8.33%
	Securities outstanding	8.33%
Substitutability/ financial institution infrastructure (25%)	Assets under custody	8.33%
	Payments activity	8.33%
	Underwritten transactions in debt and equity markets	8.33%
Complexity (25%)	Notional amount of over-the-counter (OTC) derivatives	8.33%
	Unquoted debt securities classified as loans and Investments in non-marketable equity securities	8.33%
	Trading and available-for-sale securities, and financial assets designated at fair value through profit or loss	8.33%

4. For each bank, the score for a particular indicator is calculated by dividing the individual bank amount by the aggregate amount for the indicator summed across all banks in the sample. This amount is then multiplied by 10,000 to express the indicator score in terms of basis points. The category score for each bank is determined by taking a simple average of the indicator scores in the category. The overall score for each bank is then calculated by taking a simple average of its four (4) category scores. The maximum total score, i.e., the score that a bank would have if it were the only banking the sample, is 10,000 basis points (i.e., 100 percent).

5. The succeeding paragraphs briefly describe each of the four (4) categories used in the assessment methodology. The specific definition of the indicators can be found in Annex I which sets out the data requirements for the identification of DSIBs.

a. Size

A bank's distress or failure is more likely to damage the local economy or financial markets if its activities comprise a large share of the domestic activity. The larger the bank, the more difficult it is for its activities to be quickly replaced by other banks and for it to be resolved, therefore, the greater the chance that its distress or failure will cause disruption to the financial markets. The distress or failure of a large bank is also more likely to damage confidence in the financial system as a whole. Size is therefore a key measure of systemic importance. One indicator is used to measure size: the measure of total exposures used in the Basel III leverage ratio[1].

b. Interconnectedness

Financial distress at one institution can materially increase the likelihood of distress at other institutions given the network of contractual obligations in which they operate. A bank's systemic impact is

[1] To be computed in accordance with the guidelines to be issued by the Bangko Sentral on leverage ratio.

considered to be positively related to its interconnectedness vis-à-vis other financial institutions. Three (3) indicators are used to measure interconnectedness: (i) intra-financial system assets; (ii) intra-financial system liabilities; and (iii) securities outstanding.

c. Substitutability/Financial Institution Infrastructure

The systemic impact of a bank's distress or failure is expected to be negatively related to its degree of substitutability as both a market participant and client service provider, i.e., it is expected to be positively related to the extent to which the bank provides financial institution infrastructure. At the same time, the cost to the failed bank's customers in having to seek the same service from another institution is likely to be higher for a failed bank with relatively greater market share in providing that service. Three (3) indicators are used to measure substitutability/financial institution infrastructure: (i) assets under custody; (ii) payments activity; and (iii) underwritten transactions in debt and equity markets.

d. Complexity

The systemic impact of a bank's distress or failure is expected to be positively related to its overall complexity – that is, its business, structural and operational complexity. The more complex a bank is, the greater are the costs and time needed to resolve the bank. Three (3) indicators are used to measure complexity: (i) notional amount of over-the-counter (OTC) derivatives; (ii) assets booked under unquoted debt securities classified as loans and investments in non-marketable equity securities; and (iii) trading and available-for-sale securities and financial assets designated at fair value through profit or loss.

B. Bucketing Approach

6. Banks that have a score produced by the indicator-based measurement approach that exceeds a cut-off level determined using cluster analysis shall be classified as DSIBs. Supervisory judgment may also be used when warranted under certain circumstances to add banks to the list of DSIBs. This judgment shall be exercised according to the principles set out in Part I.C.

7. Bangko Sentral shall group DSIBs into different categories of systemic importance using cluster analysis based on the scores produced by the indicator-based measurement approach. DSIBs shall be initially allocated into two (2) buckets with different levels of additional loss absorbency requirements depending on the degree of systemic importance.

8. The thresholds for the buckets shall correspond to the gaps identified by a cluster analysis of the scores. The use of cluster analysis in grouping the DSIBs will ensure a meaningful and objective measurement and classification of the systemic importance of domestic banks.

9. Each year, Bangko Sentral shall run the assessment, and reallocate DSIBs into the categories of systemic importance based on their scores. It should be noted that the number of DSIBs, and their bucket allocations, will evolve over time as banks change their behavior in response to the incentives of the DSIBs framework as well as other aspects of Basel III and Bangko Sentral regulations.

10. An empty bucket shall be added on top of the highest-numbered populated bucket to provide incentives for banks to avoid becoming more systemically important. If the empty bucket becomes populated in the future, a new empty bucket shall be added with a required higher additional loss absorbency level. The size

of the empty bucket shall be determined by the average size of the preceding buckets.

C. Supervisory judgment

11. As stated earlier, supervisory judgment may be used to add banks with scores below the cutoff to the list of DSIBs. It shall be used on exceptional cases and presumed to be rare. The judgment overlay shall comprise well-documented and verifiable quantitative and qualitative information.

12. Qualitative information is intended to capture information that cannot be easily translated or quantified in the form of an indicator. This may include but not limited to the following: major restructuring of a bank's operation; merger; and niche market or other aspects which are unique to the concerned bank. Qualitative judgments shall also be thoroughly explained and supported by verifiable arguments.

D. Periodic review and refinement

13. The assessment methodology provides a framework for periodically reviewing the DSIBs status of a given bank. Thus, banks have incentives to change their risk profile and business models in ways that reduce their systemic spillover effect. The Bangko Sentral does not intend to develop a fixed list of DSIBs. Through the criteria discussed above, banks can migrate in and out of DSIB status, and between categories of systemic importance, over time.

14. The list of DSIBs shall be assessed/ determined annually based on year-end data submitted by each bank and shall be subject to approval of the Monetary Board. The results shall be released every June. Banks identified as DSIBs shall be informed individually, including the bucket they belong to and the individual score for each indicator.

15. The assessment methodology shall be reviewed every three (3) years in order to capture developments in the banking sector and any progress in methods and approaches for measuring systemic importance.

Part II. Higher Loss Absorbency (HLA) and Interaction with Other Elements of Basel III Framework

16. Banks that will be identified as DSIBs shall be required to have higher loss absorbency. The HLA requirement is aimed at ensuring that DSIBs have a higher share of their balance sheets funded by instruments which increase their resilience as a going concern, considering that the failure of a DSIB is expected to have a greater impact on the domestic financial system and economy.

17. The imposition of HLA shall be based on the degree of domestic systemic importance. This is to provide the appropriate incentives to banks which are subject to the HLA requirements to reduce (or at least not increase) their systemic importance over time.

18. The HLA requirement is to be met with Common Equity Tier 1 (CET 1) capital as defined by the Basel III framework and implemented under *Appendix Q-46*. This is to ensure a maximum degree of consistency in terms of effective loss absorbing capacity.

19. The magnitude of additional loss absorbency for the higher populated bucket shall be two and a half percent (2.5%) of risk-weighted assets at all times, with the initial empty bucket at three and a half percent (3.5%) of risk-weighted assets. The magnitude of additional loss absorbency for the lower bucket shall be one and a half percent (1.5%) of risk-weighted assets. Table 2 shows the additional loss absorbency requirement for each bucket.

Table 2. Bucketing Approach

Bucket	Score Range	Minimum additional loss absorbency (common equity as a percentage of risk-weighted assets)
3 (Empty)	B - C	3.5%
2	A - B	2.5%
1	Cut-off point - A	1.5%

20. Although the buckets thresholds are set initially such that bucket 3 is empty, if this bucket should become populated in the future, a new bucket shall be added to maintain incentives for banks to avoid becoming more systemically important. Minimum HLA requirement for the new buckets shall increase in increments of one (1) percent of risk-weighted assets.

21. The HLA requirement shall be on top of the capital conservation buffer (CCB) requirement under *Appendix Q-46*. Table 3 shows the total CET1 capital requirement for banks identified as DSIBs per bucket.

Table 3. Total CET 1 Capital Requirement

Bucket	3 (Empty)	2	1
Minimum CET 1 Requirement (a)	6.0%	6.0%	6.0%
Capital Conservation Buffer (b)	2.5%	2.5%	2.5%
DSIB HLA Requirement (c)	3.5%	2.5%	1.5%
Total Additional CET 1 Requirement (b+c)	6%	5%	4%
Total Required CET 1 (a+b+c)	12.0%	11.0%	10.0%

To help ensure that the banking sector can meet the higher capital requirements through reasonable earnings retention and capital raising activities, while still supporting lending to the economy, transitional arrangements to implement the HLA requirement shall be implemented. Thus, in the case of banks included in the first list of DSIBs (to be released in June 2015 based on December 2014 data), compliance with the HLA requirement shall be phased-in starting 01 January 2017, with full compliance on 01 January 2019 (See Table 4 for the timeline to comply with the HLA requirement). After the phased-in period, banks identified as DSIBs shall be allowed a period of eigtheen (18) months to comply with the required HLA.

Table 4. Timeline of Release of List of DSIBs and Compliance with the HLA Requirement

Date Cut-Off	Release of DSIBs List	Compliance Period
Dec-14	Jun-15	Phased-in implementation starting 01 January 2017 until 01 January 2019
Dec-15	Jun-16	Phased-in implementation starting 01 January 2018 until 01 January 2019
Dec-16	Jun-17	01 January 2019 to 31 December 2019
Dec-17	Jun-18	01 January 2020 to 31 December 2020
Dec-18	Jun-19	01 January 2020 to 31 December 2021

22. To determine banks' compliance with the additional CET1 requirement for DSIBs, the minimum ratio should be complied with by the parent bank and its subsidiary banks and quasi-banks on both solo and consolidated bases.

23. Foreign bank branches operating in the Philippines with head office/consolidated group declared as global systemically important bank (GSIB) but not declared as DSIB will not be required to put up in the Philippine branch the required HLA for GSIB. However, if identified as DSIB in the Philippines, the required HLA for DSIBs shall be complied with locally by the Philippine branch.

24. Capital distribution constraints shall be imposed when capital levels fall within certain range as illustrated in Table 5 below. Conversely, a DSIB shall not be subject to any restriction on distribution if the following conditions are met:

a. Has positive retained earnings as of the preceding quarter and has complied with the requirements on declaration of dividends under Subsec. 4136Q.2;

b. Has CET1 of more than the total required (minimum CET1 ratio of six percent (6%) plus CCB of two and a half (2.5%) percent and DSIBs HLA requirement) before the distribution; and

c. Has complied with the minimum capital ratios (CET1 ratio of six percent (6%), Tier 1 ratio of seven and a half percent (7.5%) and ten percent (10%) CAR) after the distribution.

Table 5. Restriction on Distributions

Restriction on Distributions	Level of CET1 Capital	
	Bucket 1	**Bucket 2**
No distribution (until the minimum CET 1, CCB and more than 50% of DSIB HLA requirements are met; and conditions a and c above are complied with)	< =9.25%	< =9.75%
50% of earnings may be distributed (if the minimum CET1, CCB and more than 50% of the DSIB HLA requirements are met; and conditions a and c above are complied with)	>9.25%- 10.00%	>9.75%- 11.00%

During the phased-in implementation period from 2017 to 2019, the general principle above on restriction on distribution shall likewise be applied. Annex III shows the restriction on distributions by year for each bucket during the phased-in implementation from 2017 to 2019 assuming there is no change in the HLA requirement. In case of change in the HLA requirement during the phased-in period, the required HLA shall be distributed equally over the remaining period until the full implementation in 2019.

25. Elements subject to the restriction on distributions include dividends, share buybacks, discretionary payments on other Tier 1 capital instruments and discretionary bonus payments to directors, officers and staff. Payments which do not result in the depletion of CET1 are not considered capital distributions.

26. Earnings refer to distributable profits calculated prior to the deduction of elements subject to the restriction on distributions. The earnings is computed after the tax which would have been reported had none of the distributable items been paid.

Part III. Intensive Supervisory Approach

27. Banks identified as DSIBs shall include in their ICAAP document concrete and reasonable recovery plans which shall be implemented in case the bank breaches the HLA capital requirement. The recovery plans shall include guidelines and action plans to be taken to restore the DSIB's financial condition to viable level in cases of significant deterioration in certain scenarios. This shall include specific initiatives appropriate to the Bank's risk profile such as capital raising activities, streamlining of businesses, restructuring and disposal of assets, to improve capital position.

28. The banks designated as DSIBs shall be subject to more intensive supervision, which may include but not limited to, greater intensity of offsite supervision and monitoring, more structured interaction with board and senior management, and higher supervisory expectation on controls for significant businesses/operations, data aggregation capabilities and corporate governance.

(Circular No. 856 dated 29 October 2014, as amended by Circular No. 890 dated 02 November 2015)

OPERATIONAL GUIDELINES ON THE ADMINISTRATION OF THE PERSONAL EQUITY AND REQUIREMENT ACCOUNT (PERA)

(Appendix to Subsection 4960Q)

Pursuant to R.A. No. 9505 also known as the Personal Equity and Retirement Account (PERA) Act of 2008 (PERA Act) and its Implementing Rules and Regulations (PERA Rules), the following operational guidelines on the administration of PERA are hereby issued, certain capitalized terms herein used shall have the definitions ascribed to them in the PERA Rules unless the context otherwise requires.

I. ACCOUNT OPENING

A. Eligibility Review and Pre-acceptance Disclosure

1) Only a natural person who has the capacity to contract and has a Tax Identification Number (TIN) can be a contributor.

2) The administrator shall –

(a) Determine the exclusivity of PERA administration through an on-line validation in the PERA contributors' database (PERA System).

(b) Observe the following rules prior to any account opening:

i. A contributor shall designate and maintain only one (1) administrator for all his PERA;

ii. A contributor may create and maintain a maximum of five (5) PERA at any one time; and

iii. Each PERA shall be confined to only one category of investment products. For this purpose, the categories of PERA investment products are as follows:

a. unit investment trust fund;
b. mutual fund;
c. annuity contract;
d. insurance pension product;
e. pre-need pension plan;
f. government securities;
g. stock or other security listed and traded in a local exchange;
h. exchange-traded bond; or
i. any other category of investment product or outlet which the concerned Regulatory Authority may allow for PERA purposes, provided that the product must be non-speculative, readily marketable, and with a track record of regular income payments to investors.

(c) Ensure that the minimum documentary requirements (Annex A) for the proper identification of the Contributor are properly complied with and in adherence with the Anti-Money Laundering (AML) regulations and the PERA Act; and

(d) Fully disclose to the potential contributor the following, using the Pre-Acceptance and General Risk Disclosure Statement (PGRDS) (Annex B):

i. Nature of a PERA, privileges and conditions of its establishment; emphasis must be placed on the long-term nature of PERA, the conditions for tax exemption and penalties for early withdrawal unless the early withdrawal is allowed under the PERA Act;

ii. Category and investor-risk profile classification of PERA investment products available to a Contributor;

iii. Risks associated with each category of PERA investment products which shall form part of the General Risk Disclosure Statement;

iv. Specific obligations and responsibilities of an administrator, investment manager (Advisor) and custodian; and

v. Prerequisite to appoint a cash custodian and an option to elect an investment manager (Advisor).

B. Account Opening Process

1) The administrator shall –

(a) Require the contributor to accomplish a PERA Client Suitability Assessment (PCSA) (Annex C) prior to account opening;

(b) Formulate an Investment Policy Statement (IPS) which shall serve as a frame of reference for investment decisions of the contributor. The administrator shall inform the contributor of the full range of PERA investment products with emphasis on the specific category of products corresponding to the contributor's risk profile classification as borne by the results of PCSA. The administrator, however, shall provide a process for allowing contributor to invest in PERA investment products not falling within his risk profile classification; provided that any such investment may be allowed only upon the prior written instruction of the contributor;

(c) Execute the PERA Administration Agreement (PAA) (Annex E) and furnish the contributor copies of the PAA along with the PGRDS, PCSA and IPS; and

(d) Ensure that the contributor's account opening details are lodged in the PERA System.

2) In addition, the administrator shall facilitate the contributor's appointment of a cash custodian and as necessary, a securities custodian.

3) In the case of a contributor who opts to engage the services of or has engaged an investment manager (Advisor), he shall provide the administrator with a copy of the PERA investment management (Advisory) agreement (Annex F). The said agreement shall set forth at its minimum, the overall investment philosophy, standards, and practices of the investment manager (Advisor) and the validation by the investment manager (Advisor) of the contributor's PCSA and IPS. The investment decisions made by the investment manager (Advisor) for and on behalf of the contributor shall be in accordance with the authority granted by the contributor in their agreement.

4) An entity who is offering a PERA investment product hereinafter referred to as the PERA product provider shall furnish the administrator and/or contributor all relevant documents necessary to facilitate the investment of a contributor in the PERA investment product. Appropriateness of the PERA investment product based on PCSA and IPS of contributor shall be validated by administrator.

II. ACCOUNT ADMINISTRATION

A. Contributions

1) The administrator shall –

(a) Secure proof of income when a contribution is made and ensure that the maximum aggregate contribution per calendar year as follows has not been exceeded. If in case proof of income is already obtained for a contribution made during the calendar year, the same shall no longer be required for subsequent contributions made during the year:

i. P100 thousand or its equivalent in any convertible foreign currency at the prevailing rate for non-overseas Filipino (non-OF); or

ii. P200 thousand or its equivalent in any convertible foreign currency at the prevailing rate for OF;

For this purpose, prior to contribution, the status of an OF shall be validated by securing from the OF a sworn certification on his continuing status as an OF for the calendar year;

(b) Receive and acknowledge all contributions, initial and subsequent, through the PERA contribution and investment instruction form (PCIIF) (Annex G) which shall also contain the investment directives of the contributor or his designated investment manager (Advisor):

i. The administrator shall facilitate and assist the contributor in completing the necessary documents for the chosen PERA investment product/s; and

ii. The contributor shall be provided with the copies of the PERA investment product documents such as, but not limited to, specific risk disclosure statement if not yet provided by the product provider to the contributor;

(c) Ensure that all contributions are directly remitted to the cash custodian;

(d) Maintain a record of all contributions made to the PERA on per account and aggregate basis;

(e) Ensure that the PCSA and IPS are periodically updated or as often as may be necessary, upon notice to the administrator, on account of change in the contributor's personal/financial circumstances or preferences;

(f) Apply for certificate of entitlements or tax credit certificate on behalf of the contributor and likewise receive the same from the BIR.

In the case of employer's contribution:

(g) Accept the contributions of an employer only if:

i. Its employees have already opened a PERA;

ii. Each employee has accomplished a PCIIF; and

iii. The maximum aggregate yearly contribution of the contributor has not been exceeded.

(h) Issue to the employer a certificate of the actual amount of qualified employer's contributions which shall serve as its basis for deduction on its gross income; and

(i) Secure from the employer a certification on the amount of tax not withheld on compensation/fringe benefits as a result of contributing to the PERA of its employees.

2) The cash custodian shall –

(a) Open a PERA cash account for the contributor which shall be governed by a PERA cash custody agreement (Annex H);

(b) Receive and acknowledge all contributions directly remitted by the administrator; and

(c) Custodize all funds of the PERA.

3) In the case of a contributor who has an investment manager (Advisor), the investment manager (Advisor) shall accomplish the investment instructions portion of the PCIIF for and on behalf of the contributor.

B. Choice of PERA Investment Product

1) The administrator shall –

(a) Execute the contributor's or his investment manager (Advisor)'s instruction as indicated in the PCIIF;

(b) Based on the PCIIF, instruct the cash custodian to remit the funds to the chosen PERA product provider;

(c) Instruct the PERA product provider to transfer the securities or evidence of investments to the securities custodian and provide details of the PERA cash account of the contributor for the credit of investment proceeds;

(d) Maintain a record of all investments including earnings and expenses relative to the PERA.

2) The cash custodian shall execute the administrator's instruction as to disposition of the funds.

3) The PERA product provider shall –

(a) Transfer the securities, evidence of deposits or other evidence of investments to the securities custodian chosen by the contributor. In case of self-custody arrangement for securities that are non-transferable, non-negotiable and non-withdrawable, the evidence of investments shall be given to and kept by the contributor;

(b) Credit to the contributor's PERA cash account all cash due to the contributor relative to his PERA investment product.

4) The securities custodian shall –

(a) Open a PERA securities account for the contributor which shall be governed by a PERA securities custody agreement (Annex I);

(b) Receive and acknowledge all evidence of investments; and

(c) Custodize all non-cash assets of the PERA except those under self-custody arrangement.

C. Change of PERA Investment Product

1) PERA investment product/s may be changed provided that the entire PERA assets arising from the sale shall be transferred to another PERA Investment Product/s within two (2) working days from withdrawal thereof.

2) The contributor or his investment manager (Advisor) shall accomplish the PCIIF and submit the same to the administrator.

3) The administrator shall –

(a) Execute the investment instructions of the contributor or his investment manager (Advisor) as indicated in the PCIIF; and

(b) Coordinate with PERA product provider, cash custodian and securities custodian as to disposition of the PERA assets.

D. Suspension or Revocation of Qualification/Accreditation

Common provisions in the event of suspension or revocation of qualification/ accreditation:

1) The administrator, investment manager (Advisor) or custodian, as the case may be, shall –

(a) Notify the contributors by direct written notice to each contributor and through posting of notices in its head office and branches, within three (3) working days from receipt of notice of suspension or revocation from the BSP; and

(b) Institute a mechanism to monitor and ensure that all contributors have received the notice of suspension or revocation.

2) The contributor shall advise the administrator, investment manager (Advisor), or custodian of his choice of a new administrator, investment manager (Advisor), or custodian, as the case may be, within three (3) working days from receipt of the notice of suspension or revocation. Failure of the contributor within the prescribed period to designate a new administrator or custodian shall authorize his current administrator or custodian to appoint its successor that shall assume all its duties and responsibilities to the contributor.

In the event of suspension or revocation of their qualification/accreditation:

1) The former administrator shall –

(a) Effect the transfer of PERA assets to the new administrator chosen by the contributor within two (2) working days from receipt of contributor's advice; otherwise, the former administrator shall be personally liable for the early withdrawal penalties which may be imposed by the BIR; and

(b) Turn-over to the new administrator the complete and updated files and records (in soft and hard copies) of the contributor's PERA.

While the new administrator shall –

(i) Ensure the completeness of PERA files and records turned-over by the former administrator that will enable proper performance of its functions; and

(ii) Follow all the procedures enumerated in *item II* (Account Administration) that are necessary to ensure continuity of the PERA.

2) The former investment manager (Advisor) shall advise the contributor and his administrator within the above prescribed period; however, in the absence of any advice from the contributor on his choice for a new investment manager (Advisor), the former investment manager (Advisor) shall turn over to the administrator all the contributor's PERA records and documents.

3) The former custodian shall advise the contributor and his administrator within the above prescribed period and shall –

(a) Turn over to the new custodian all PERA assets in its custody within two (2) working days from receipt of contributor's advice; and

(b) Submit to the administrator a report on all financial transactions and documents in its custody relative to the transferred PERA assets within the same period.

While the new custodian shall –

(a) Receive and acknowledge the PERA assets turned over by the former custodian; and

(b) Follow all the procedures enumerated in *item II* (account administration) that are necessary to ensure continuity of the PERA.

E. PERA Records and Reports

1) The administrator shall –

(a) Possess adequate systems and technological capabilities to ensure proper recording and tracking of contributor's PERA;

(b) Maintain separate set of books of accounts for all contributions, investments, earnings, expenses, withdrawals and terminations of the PERA;

(c) Retain documentary proof of contribution/income/withdrawal/termination subject to validation of the BIR whenever requested;

(d) Monitor and keep track of the contributor's tax credits, privileges and other entitlements; and

(e) Consolidate and reconcile all transactions/documents with the cash and securities custodians.

2) In addition, the administrator shall submit the following reports:

Recipient	Frequency	Particulars
Contributor	As applicable	Sale and purchase of PERA assets
	Quarterly	Summary of the following information: i. Total contributions and withdrawals for each PERA, indicating therein the total amount of contributions entitled to tax incentives; ii. Total income earned on the contributions, indicating those entitled to income tax exemption; iii. Total fees and charges assessed and paid by the contributor to administrator, investment manager (Advisor), if any, cash and/or securities custodians; iv. Purchase and sale transactions of PERA assets implemented and those pending execution; and v. Valuation of the PERA assets and investments.
Employer of a contributor	Annually	Certification on the actual amount of the qualified employer's contribution in case when the employer made contributions to the PERA of its employees
BSP	Quarterly	Reports on all PERA assets under its administration which shall form part of the financial reporting package (FRP) of banks and trust entities
BIR	As provided	PERA reports as may be required by the BIR

Furthermore, the administrator shall perform periodic uploading of transactions details to the PERA System.

3) The cash and securities custodians shall submit the following reports to –

(a) The contributor and the administrator – a quarterly securities and cash activity report of all financial transactions and documents under their custody within ten (10) days after the end of each quarter; and

(b) The Bangko Sentral – quarterly reports on all PERA assets and documents under their custody which shall form part of the financial reporting package of banks and trust entities.

4) The investment manager (Advisor) shall provide periodic reports to the contributor as stipulated in the PERA investment management (Advisory) agreement.

F. Valuation of PERA Investment Product

Each PERA investment product shall be valued in accordance with the valuation methodology, standards and reporting requirements as prescribed by the concerned regulatory authority of that PERA investment product; *Provided, That* such valuation methods and standards are in accordance with internationally accepted accounting and valuation standards.

G. Accounts Review

1) The administrator shall conduct a periodic administrative review of all PERA under its administration to ensure that –

(a) Transactions involving PERA comply with the contributor's or his investment manager (Advisor)'s instructions, contracts, and applicable laws, rules and regulations;

(b) Investments of the contributor are aligned with his risk profile and/or IPS, and are authorized by the contributor or his investment manager (Advisor);

(c) Books of accounts are correct and updated, and appropriate taxes/penalties are properly accounted and/or paid to the government, when applicable; and

(d) PERA assets are kept separate from other assets of the administrator for the purposes of insolvency.

2) The administrator or the contributor's investment manager (Advisor), if any, shall conduct at least quarterly an investment performance review of all PERA investment products and/or all PERA assets of the contributor. The results of such review shall be reported to the contributor through his quarterly financial statements, or as frequent as necessary.

C. Collection of Fees

1) The administrator, investment manager (Advisor) and cash/securities custodian may charge against the PERA appropriate fees that are commensurate to the services rendered in relation to the contributor's PERA.

2) The investment manager (Advisor) and cash/securities custodian shall provide the contributor's administrator with their respective bills for their investment management services and custodial services.

3) The administrator may –

(a) Correspondingly charge against the PERA of a contributor the appropriate fees such as administration, investment management and custodial fees and report the same to the contributor; and

(b) Instruct the cash custodian to pay the administrator, cash/securities custodian and investment manager (Advisor), if any.

III. ACCOUNT WITHDRAWALS, DISTRIBUTIONS AND TERMINATION

A. Early Withdrawal

1) The following shall not be subject to early withdrawal penalties:

(a) When the contributor had an accident or illness-related hospitalization in excess of thirty (30) days: *Provided, That* there is a notarized doctor's certificate attesting to said event;

(b) When the contributor becomes permanently totally disabled as defined under the Employees Compensation Law, Social Security Law or Government Service Insurance System Law, provided that he has a certification from the pertinent government agency; or

(c) Immediate transfer of assets to another eligible PERA investment product and/or another administrator, who have been disaccredited either by the BIR or the Bangko Sentral, within two (2) working days from withdrawal thereof.

2) All other early withdrawals not mentioned above shall be imposed early withdrawal penalties.

3) The early withdrawal penalties to be imposed shall be those set forth in BIR Revenue Regulations No. 17-2011 and subsequent BIR issuances.

B. Qualified PERA Distributions

The following are considered qualified PERA distributions and shall be exempt from the payment of income taxes or estate tax, if applicable:

1) When the contributor reaches the age of fifty-five (55) years and has made contributions for at least five (5) years:

(a) The contributor has the option to receive his PERA assets in lump-sum, pension for a definite period or lifetime pension;

(b) Notwithstanding this condition, the contributor may opt to continue his PERA and its tax-privileges; or

2) Upon the death of the contributor, provided that a death certificate was presented:

(a) The administrator shall terminate the PERA and release the assets to the contributor's designated beneficiary/ies;

(b) In case when there is/are no designated beneficiary/ies, the administrator shall release the PERA assets to the contributor's estate in accordance with the laws on succession and rules of court.

C. Release of PERA Assets

1) The administrator shall –

(a) Secure from the contributor or his designated beneficiary/ies, when applicable, the duly accomplished PERA Notice of Withdrawal/ Termination Form (PNWTF) and other necessary documents;

(b) Execute the divestment instructions of the contributor or his designated beneficiary/ies;

(c) Instruct the securities custodian to release the evidence of investments to the appropriate parties and remit the divestment proceeds to the cash custodian;

(d) Compute the early withdrawal penalties, if any, in accordance with the rules set forth by the BIR which shall be deducted from the divestment proceeds and instruct the cash custodian to remit the early withdrawal penalties to the BIR;

(e) Report the withdrawal/termination transactions and submit the necessary documents to the BIR; and

(f) Account for the unwithdrawn portion of the PERA, if any.

2) The cash custodian shall –

(a) Release the divestment proceeds, net of early withdrawal penalties if any, to the contributor or his designated beneficiary/ies; and

(b) Remit the early withdrawal penalties to the BIR as instructed by the administrator.

(Circular No. 860 dated 28 November 2014 and M-2014-045 dated 02 December 2014, as amended by Circular No. 890 dated dated 02 November 2015)

ANNEX A

PERSONAL EQUITY AND RETIREMENT ACCOUNT (PERA)
Minimum Documentary Requirements for Account Opening

1) Customer information sheet and identification cards as provided under the rules and regulations on anti-money laundering

2) Signature cards

3) Proof of income earnings for the calendar year or to be earned during the calendar year

(a) For Overseas Filipino (OF) who is working or deriving income from abroad:

i. Overseas Employment Certificate or its equivalent document issued by the Philippine Overseas Employment Authority; and

ii. Any official document showing that he will earn or has earned income in a foreign country in the year of PERA contribution

(b) For an individual who has retained or re-acquired his Philippine citizenship under R.A. 9225 otherwise known as the "Citizenship Retention and Reacquisition Retention Act of 2003":

i. Identification certificate issued by the Bureau of Immigration, to prove his reacquisition of Philippine citizenship; and

ii. Any official document showing that he will earn or has earned income in a foreign country in the year of PERA contribution

4) If the PERA will be opened by spouse or child of the Overseas Filipino (OF) in the name of the OF:

(a) Authorization to open a PERA account issued by the OF;

(b) For the spouse of an OF, Marriage Contract (MC) in security paper issued by the National Statistics Office (NSO) or Certified True Copy of MC issued by the Local Civil Registrar (LCR) and duly authenticated by NSO or Report of Marriage duly authenticated by NSO if married abroad;

(c) For the child of an OF, Birth Certificate (BC) in security paper issued by the National Statistics Office or Certified True Copy of BC issued by the LCR and duly authenticated by NSO or Report of Birth duly authenticated by NSO if born abroad showing that he/she is a child of and is at least eighteen (18) years old; and

(d) Sworn certificate that he is opening account on behalf of his spouse or his parent who has not availed of PERA

5) In case when the contributor appoints an investment manager (Advisor):

(a) PERA investment management (Advisory) agreement;

(b) Details/contact information of investment manager (Advisor);

(c) Board resolution appointing authorized signatories of investment manager (Advisor) (if institutional investment manager (Advisor); and

(d) Signature cards of authorized signatories.

(M-2014-045 dated 02 December 2014, as amended by Circular No. 890 dated 02 November 2015)

GUIDELINES AND PROCEDURES GOVERNING THE CONSUMER ASSISTANCE MANAGEMENT SYSTEM (CAMS) OF BSP-SUPERVISED FINANCIAL INSTITUTIONS

[Appendix to Subsec. 41002Q.4]

I. Statement of Policy

The Bangko Sentral acknowledges the indispensable role of financial consumers in bringing about a strong and stable financial system, their right to be protected in all stages of their transactions with Bangko Sentral- Supervised Financial Institutions (BSFIs), and be given an avenue to air out their grievances in the products and services of BSFIs. Consumer protection is regarded as a core function complementary to Bangko Sentral's prudential regulation and supervision, financial stability, financial inclusion, and financial education agenda. Towards this end, the Bangko Sentral hereby issues the following minimum guidelines institutionalizing consumer assistance mechanism of BSFIs.

II. Applicability and Scope

The CAMS requirements and minimum guidelines on receiving, recording, evaluating, resolving, monitoring, reporting, and giving feedback to consumers shall apply to a BSFI and its branches/other offices. The provisions of these guidelines shall, as far as practicable, also apply to inquiries and requests received from clients and potential clients.

III. Definition of Terms

a. *Complaint*- is an expression of dissatisfaction relative to a financial product or service in which a response or resolution is expected.

b. *Simple complaint/request*- complaint/ request where frontline staff solution or immediate explanation or action can be rendered. A resolution is immediate if it can be resolved without the need of third-party intervention, such as outsource service providers, external auditors, or other banks. Resolution thereof must be achieved within a 7-day period.

c. *Complex complaint/request*- complaint/request which needs assessment, verification, or investigation with third-party intervention. Resolution thereof may ideally be achieved within a 45-day period.

d. *BSFIs*- include banks, quasi-banks, pawnshops, foreign exchange dealers, money changers, remittance agents, electronic money issuers, non-stock savings and loan associations and other Bangko Sentral-Supervised Financial Institutions.

e. *Consumer*- refers to a natural or juridical person who has a complaint, inquiry or request relative to the BSFI's products and services.

IV. Role of the Board and Senior Management

The board of BSFIs shall be responsible for the delivery of effective recourse to its consumers. Pursuant thereto, the board shall:

a. Approve the consumer assistance policies and procedures;

b. Approve risk assessment strategies relating to effective recourse by the consumer;

c. Ensure compliance with consumer assistance policies and procedures;

d. Provide adequate resources devoted to consumer assistance; and

e. Review the consumer assistance policies at least annually.

The BSFI's senior management shall be responsible for the implementation of the consumer assistance policies and procedures.

V. Minimum Requirements

A. *Manual of Consumer Assistance Policies and Procedures*

A BSFI must have a manual of policies and procedures (Manual) in handling consumer complaints, inquiries, and requests from financial consumers. The Manual, as a minimum, provide for the following:

(1) Corporate structure of the group on consumer assistance with specified roles and responsibilities/tasks;

(2) Capability building for customer assistance team;

(3) Consumer assistance process and timeline;

(4) Complaint recording/data management system;

(5) Risk assessment strategies;

(6) Reporting of complaints data to BSFI's board and senior management and Bangko Sentral;

(7) System for evaluating effectiveness of the CAMS; and

(8) Glossary of technical components in the Manual.

B. *Corporate Structure*

A BSFI shall have a consumer assistance officer/independent business unit or group with defined roles and responsibilities in handling consumer concerns. The corporate structure shall depend on the BSFI's asset size, as follows:

Consumer Assistance Group	BSFIs with total assets of at least P1.0 billion
Dedicated Head Consumer Assisstance Officer	BSFIs with total assets of less than P1.0 billion but more than 100 million
Head Consumer Assistance Officer	BSFIs with total assets of less than 100 million

At least one (1) consumer assistance officer per branch, extension office or banking office must be designated to handle consumer concerns.

(1) Consumer assistance officer. The consumer assistance officer shall have the following responsibilities:

(a) Receive and acknowledge consumer concerns;

(b) Record concerns in a Register/ Database;

(c) Make an initial review and investigation of concerns;

(d) Process concerns;

(e) Provide official reply to consumer;

(f) Request client feedback; and

(g) Prepare and submit report to the head consumer assistance officer or consumer assistance group.

(2) Consumer assistance group/head consumer assistance officer. The consumer assistance group/head consumer assistance officer shall, as a minimum, perform the following:

(a) Monitor consumer assistance process;

(b) Keep track, identify, and analyze the nature of complaints and recommend solutions to avoid recurrence;

(c) Report to senior management the complaints received on a monthly basis including reasons for such complaints, the recommended solutions to avoid recurrence, and the suggestions for process or personnel competency needing improvement; and

(d) Ensure immediate escalation of any significant complaint to concerned unit of the BSFI.

C. *Capacity building*

All consumer assistance personnel must be equipped with knowledge on the structure and implementation of the BSFI's consumer assistance mechanism. As a minimum, they shall be provided with periodic trainings on the following:

(1) Solid interpersonal skills/customer service;

(2) Basic and advanced listening skills;

(3) Written and verbal communication skills;

(4) Handling financial consumer feedback;

(5) Dealing with difficult people;

(6) Problem solving and conflict resolution; and

(7) BSFI's corporate structure and products and services.

D. *Publication of Consumer Assistance Management System*

(1) BSFI's shall publish details of their CAMS in a clear and plain language.

(2) Publication shall be made through any two of the following means:

(a) Posting of summary details of the CAMS in conspicuous places within the premises of BSFIs and their branches/other offices;

(b) A leaflet or primer given to all consumers who sign up for new banking service.

(c) Terms and Conditions of a BSFI's product or service;

(d) Posting in the BSFI's website; and

(e) Any analogous manner.

E. *Consumer Assistance Channels*

(1) Consumers may lodge their concerns through any reasonable means, such as, a centralized web-portal, walk-in or personal visit, letter, e-mail, telephone, and facsimile.

(2) A BSFI must maintain a consumer assistance helpdesk or hotline dedicated for customer concerns and service and manned by a consumer assistance group.

(3) A BSFI shall ensure that consumers know how and where to lodge their concerns.

(4) A BSFI is encouraged to provide alternative modes of resolution, such as conciliation, mediation and arbitration, in order to achieve settlement of the issues at the BSFI level.

F. *Consumer Assistance Process and Timelines*

(1) *Complaint/Request*

	SIMPLE[1]	**COMPLEX**[1]
Acknowledgment	Within 2 days	Within 2 days
Processing and resolution (assess, investigate, and resolve)	Within 7 days	Within 45 days
Communication of Resolution	Within 9 days	Within 47 days

(a) Receiving and acknowledging complaints/requests

(i) A BSFI shall obtain and record the following data from the consumer: (1) full name and contact details, (2) nature of complaint or request and its details; (3) resolution requested; (4) signature of the complainant/requester; and (5) name of BSFI personnel directly handling/in-charge of the complaint.

(ii) The consumer assistance officer must be able to explain the consumer assistance process and timelines.

(iii) The acknowledgment shall provide an assurance that the BSFI is dealing with the complaint, request additional documents, if necessary, and that the complainant shall be kept informed of the progress of the measures being taken for the complaint's resolution

(b) Investigating and resolving complaints

(i) A BSFI must establish an institutional approach in assessing and investigating complaints/requests and options in resolving them, considering the peculiarities of the complaints/requests and the desired remedies of the party.

(ii) If assessment and investigation on complex complaints/requests cannot be completed within the timeframe stated above, complainants shall be informed of

[1] all periods are reckoned from receipt of complaint.

the: (aa) reason thereof; (bb) need for extended timeframe; and (cc) date on which the complainant may expect the outcome of the BSFI assessment and/or investigation; Provided, however, that the additional period shall not exceed forty-five (45) days. This will afford the complainants opportunity to seek other means to resolve their complaints.

(iii) Result of assessment, investigation, and BSFI's final response shall be communicated to the complainant in writing in simple and clear language. The BSFI shall likewise inform the complainant of the possible remedies available to the party, including resort to Bangko Sentral consumer assistance mechanism and the courts.

(2) *Inquiries*

A BFSI must respond to inquiries received, at the latest, by the next business day.

G. *Confidentiality*

A BSFI shall not disclose to a third party information acquired from the consumer in all stages of the complaint, except as may be required by the conduct of the BSFI's investigation.

H. *Conflict of interest*

A BSFI shall ensure that complaints are investigated by a consumer assistance officer who is neither directly nor indirectly involved in the matter which is the subject of the complaint.

I. *Consumer Feedback*

(1) Subject to the willingness of the consumer, BSFIs shall ask for feedback on the following matters:

(a) Overall satisfaction (whether satisfied, somewhat satisfied, or dissatisfied);

(b) Processes needing improvement;

(c) Personnel needing improvement; and

(d) Any suggestions for improvement.

(2) Consumer feedback may be obtained through a feedback form/ customer satisfaction survey available for walk-in complainants, in the website, or through a voice logger system.

(3) Customer feedbacks shall be recorded and analyzed to improve the system and to enhance personnel capabilities in handling complaints.

J. *Complaints Recording/Data Management*

(1) A BSFI and its branches/other offices shall maintain copies of the complaints/requests received, including supporting and other relevant documents thereto, within a period of two (2) years from date of resolution.

Microfilms/digital copies of original documents may be maintained by a BSFI in accordance with its management information systems for record keeping.

(2) A BSFI and its branches/other offices shall maintain complaints/requests register which contains the following information:

(a) Name of the complainant;

(b) Subject/nature of the complaint;

The subject/nature of complain may be indicated by classification, such as those related to credit cards, deposits, administrative, foreign exchange, remittances, investments, others;

(c) Name of the personnel directly handling/in-charge of the complaint and officer supervising the resolution of the complaint;

(d) Date of receipt of complaint by the BSFI;

(e) Actions taken on the complaint or request;

(f) Resolution provided;

(g) Date of resolution[1]; and

(h) Other information such as, log and details of phone calls made or received.

(3) The Consumer assistance group/head consumer assistance officer shall maintain:

[1] The complaint register must reveal the reason in case the date of resolution falls outside the regulatory deadline.

(a) A master register of all complaints received by the BSFIs and its branches/ other offices; and

(b) A complaint database to identify the trend of complaints received, potential problems, and risks.

K. *Risk Assessment Strategies*

Pursuant to the BSFI's consumer protection risk management system, the BSFI shall put in place appropriate management controls and take reasonable steps to ensure that in handling complaints/requests, it: (1) identifies and remedies any recurring or systemic problems; and (2) identifies weaknesses in the BSFI's internal control procedure or process. This may be done by:

(a) Analyzing complaints/requests data;

(b) Analyzing causes for complaints/ requests;

(c) Considering whether such identified weaknesses may also affect other processes or products, including those not directly complained of/requested; and

(d) Correcting, whether reasonable to do so, such causes taking into consideration the concomitant costs and other resources.

L. *Complaint Reporting*

(1) Internal Reporting

(a) The consumer assistance officers in the branches, extensions office and other offices of the BSFI shall submit a complaints report to the consumer assistance group / head consumer assistance officer on a monthly basis.

(b) Complaints report shall be submitted on a monthly basis by the consumer assistance group/head consumer assistance officer to the board and senior management.

(c) The report shall include, as a minimum:

(i) General category of complaints received;

(ii) Statistics/frequency of said complaints;

(iii) Aging of complaints or requests;

(iv) Explanations on deviations, if any, from required resolution period; and

(v) General description of resolutions and actions taken to resolve complaints/ requests;

(d) The report shall include recommendation on how to avoid recurring complaints and suggestions for process/ personnel competency improvement, as needed.

(e) The report of the BSFI's compliance and internal audit departments concerning the independent review conducted on the complaints report, policy recommendations, and consumer protection compliance, shall be elevated to Board every quarter.

(f) The BSFI shall include complaints/ requests statistics in its Annual Report.

(2) Reporting to the Bangko Sentral

A BSFI shall submit a consolidated Complaints Report to the Supervisory Data Center (SDC) of the Supervision and Examination Sector on a quarterly basis. Such report shall be submitted in the format required by Bangko Sentral. Submission of the report to the SDC shall not be later than one (1) month after the end of every quarter. A Complaints Report is a *Category B* Report for purposes of applying the appropriate monetary penalty.

M. *Interface with Bangko Sentral*

(1) Pursuant to Bangko Sentral's Consumer Protection Framework, a BSFI shall exhaust all internal remedies available to address the issues raised by the consumers in their complaints/requests.

(2) Consumers dissatisfied with BSFI's response or action may seek assistance with BSP-FCPD (previously FCAG) in accordance with Bangko Sentral Consumer Assistance Mechanism.

(3) Allegations of consumers that the BSFI has not properly and efficiently handled, processed, and responded to their concerns shall be validated, and where

appropriate, considered in FCPD's (previously FCAG) assessment of the BSFI's compliance with Bangko Sentral Consumer Protection regulations. This is without prejudice to the imposition of appropriate enforcement actions. It is presumed that the higher number of complaints received by the Bangko Sentral reflects the non-effectiveness of the BSFI's CAMS.

N. *Outsourcing of Handling Consumer Concerns*

In outsourcing handling of consumer concerns, a BSFI shall:

(1) Conduct due diligence in the selection of the outsourced entity/person;

(2) Be responsible for the performance thereof in the same manner and to the same extent as if performed by itself;

(3) Comply with all laws and regulations governing the consumer assistance activities/services performed by the outsource entity/person in its behalf; and

(4) Manage, monitor, and review on an ongoing basis the performance by the outsource entity/person of the outsourced consumer assistance activities/services.

O. *Accountability and Rewards*

In order to ensure fair treatment and responsible business conduct of personnel engaged in consumer relations, a performance appraisal system which considers the performance of the personnel assigned to manage/handle complaints shall be put in place. The performance appraisal of the personnel shall be linked to their efficiency in handling consumer complaints. This could be done through rewards/ remuneration for excellent behavior.

P. *Consumer Assistance to Persons with Disabilities (PWDs) and non-English Speakers*

As far as practicable, a BSFI shall take into account the needs of PWDs, such as, but not limited to those with learning difficulties, people who are deaf or hard of hearing, the visually impaired, and the non-English speakers, in ensuring that they understand the CAMS.

(Circular No. 857 dated 21 November 2014, as amended by Circular No. 890 dated 02 November 2015)

GUIDELINES ON THE IMPLEMENTATION OF THE BASEL III LEVERAGE RATIO FRAMEWORK

(Appendix to Subsec. 4115Q.6)

The Bangko Sentral will adopt a leverage ratio framework that is designed to act as a credible supplementary measure to the risk-based capital requirements. The leverage ratio intends to:

- Restrict the build-up of leverage in the banking sector to avoid destabilizing deleveraging processes which can damage the broader financial system and the economy; and
- Reinforce the risk-based requirements with a simple, non-risk based "backstop" measure.

This framework is largely based on the document issued by the Basel Committee on Banking Supervision ("Basel Committee" or "BCBS") released in January 2014 entitled "Basel III Leverage Ratio Framework and Disclosure Requirements".

A. Definition, Minimum Requirement and Scope of Application

Leverage ratio is defined as the capital measure (the numerator) divided by the exposure measure (the denominator), expressed as a percentage:

$$\text{Basel III Leverage Ratio (\%)} = \frac{\text{Tier I Capital}}{\text{Exposure Measure}}$$

The leverage ratio shall not be less than 5.0 percent and will be applied to all universal and commercial banks (U/KBs) and their subsidiary banks/quasi-banks (QBs) computed on both solo[1] and consolidated[2] bases, similar with the capital adequacy framework, i.e., computed on a daily basis and reported on a quarterly basis.

1. Capital Measure

The capital measure for the leverage ratio is Tier 1 capital calculated in accordance with *Appendix Q-46*.

Tier 1 capital should be net of regulatory deductions[3] applicable to Tier 1 capital. Items that are deducted completely from capital do not contribute to leverage, hence, should also be deducted from the exposure measure.

2. Exposure Measure

a. General Measurement Principles in respect of the Exposure Measure

U/KBs and their subsidiary banks/QBs should generally follow the accounting value of exposure for the purpose of calculating the Exposure Measure for the leverage ratio, except that:

- On-balance sheet, non-derivative exposures are to be included in the Exposure Measure net of specific provisions; and
- Netting of loans and deposits is not allowed.

U/KBs and their subsidiary banks/QBs must not take account of physical or financial collateral, guarantees or other credit mitigation techniques to reduce the Exposure Measure.

b. Total Exposure Measure

The total Exposure Measure is computed as follows:

[1] Pertains to the reporting entity's head office and branches

[2] Pertains to the reporting entity and its financial allied subsidiaries except insurance companies that are required to be consolidated on a line-by-line basis for the purpose of preparing consolidated financial statements

[3] Refers to Regulatory Adjustments to CET1 Capital (Items A.2.1 to A.2.24) and Regulatory Adjustments to Additional Tier 1 (AT1) Capital (Items A.5.1 to A.5.8) of Part II (Qualifying Capital) of the BASEL III CAR Template (Version 3)

Exposure Measure =	On-balance sheet exposures + Derivative exposures + Securities Financing Transactions (SFT) exposures + Off-balance sheet (OBS) Items

The methods for calculating the Exposure Measure in respect of the above four main exposure categories are described in greater detail below.

1. On-balance sheet

For the purpose of calculating the Exposure Measure, the on-balance sheet exposure must include all on-balance sheet assets, gross of General Loan Loss Provisions (GLLP).

On-balance sheet derivatives and SFT assets are not to be included under On-Balance sheet exposures as they are subject to different treatment.

2. Derivatives

The Exposure Measure for derivative contracts[1] consists of an exposure arising from the underlying of the derivative contract and a counterparty credit risk (CCR) exposure. In general, the Exposure Measure for derivatives is calculated as follows:

Exposure Measure = **for Derivatives**	Replacement Cost (RC) + Potential Future Exposure (PFE) ± Adjustments for Written Credit Derivatives

Where:
RC = Positive mark-to-market value of the contract (or zero if the mark-to-market value is zero or negative);

PFE[2] = This represents an add-on arising from the potential exposure over the remaining life of the contract calculated by multiplying the notional principal amount of the contract to the appropriate potential future credit conversion factor; and

Adjustments for Written Credit Derivatives = effective notional amount[3] referenced by the written credit derivative

In the computation of the PFE, the following add-on factors shall apply to financial derivatives, based on residual maturity:

Residual Maturity	Interest Rate Contract	Exchange Rate Contract	Equity Contract
One (1) year or less	0.0 percent	1.0 percent	6.0 percent
Over 1 year to five (5) years	0.5 percent	5.0 percent	8.0 percent
Over 5 years	1.5 percent	7.5 percent	10.0 percent

For contracts with multiple exchanges of principal, the factors are to be multiplied by the number of remaining payments in the contract. For contracts that are structured to settle outstanding exposure following specified payment dates and where the terms are reset such that the market value of the contract is zero on these

[1] This approach makes reference to the Current Exposure Method (CEM) which is used under the Basel II framework to calculate the CCR exposure amounts associated with derivative exposures. The Basel Committee is considering alternatives to the CEM. If an alternative approach is adopted as a replacement for the CEM, Basel Committee will consider whether that alternative approach is appropriate in the context of the need to capture both types of exposures created by derivatives.
[2] No potential future credit exposure shall be calculated for single currency floating/floating interest rate swaps, the credit exposure on these contracts would be evaluated solely on the basis of their mark-to-market valuation.
[3] For credit derivative contracts where the stated notional amount differs from the effective notional amount, banks/non-banks must use the greater of the effective notional amount and the notional amount. The effective notional amount is obtained by adjusting the notional amount to reflect the true exposure of contracts that are leveraged or otherwise enhanced by the structure of the transaction.

specified dates, the residual maturity would be set equal to the time until the next reset date, and in the case of interest rate contracts with remaining maturities of more than one (1) year that meet these criteria, the potential future CCF is subject to a floor of 0.5 percent.

For credit derivatives, which refer to credit default swaps (CDS), total return swaps (TRS) and credit-linked notes (CLN), two approaches shall be applied, as follows:

a) For single-name credit derivatives, a 5.0 percent add-on factor for the computation of the potential future credit exposure shall be used by both protection buyers and protection sellers if the reference obligation is rated as investment grade by at least two credit rating agencies i.e. rated Baa or higher by Moody's and BBB or higher by Standard & Poor's. A 10.0 percent add-on factor applies to all other reference obligations. However, a protection seller in a CDS shall only be subject to the add-on factor if it is subject to closeout upon the insolvency of the protection buyer while the underlying is still solvent. The add-on in this case should be capped to the amount of unpaid premiums.

b) With regard to multiple name derivatives, where the credit derivative is a first to default transaction, the add-on will be determined by the lowest credit quality underlying in the basket (i.e., if there are any non-investment grade or unrated items in the basket), the 10.0 percent add-on should be used. For second and subsequent nth-to-default transactions, underlying assets should continue to be allocated according to the credit quality (i.e., the second lowest credit quality will determine the add-on for a second or nth-to-default transaction respectively). On the other hand, where the credit derivative is referenced proportionately to multiple obligations, the add-on factor will follow the add-on factor applicable to the obligation with the biggest share. If the protection is equally proportioned, the highest add-on factor should be used.

Written Credit Derivatives

In addition to the CCR exposure arising from the fair value of the contracts, written credit derivatives[1] create a notional credit exposure arising from the creditworthiness of the reference entity. As such, written credit derivatives shall be treated consistently with cash instruments (i.e., loans, bonds) for the purpose of the exposure measure.

In order to capture the credit exposure to the underlying reference entity, the effective notional amount[2] referenced by a written credit derivative is incorporated into the Exposure Measure. However, the effective notional amount of a written credit derivative may be reduced by any negative change in fair value amount that has been incorporated into the calculation of Tier 1 capital with respect to the written credit derivative. The resulting amount may be further reduced by the effective notional amount of a purchased credit derivative on the same reference name[3], *Provided;* That

- The credit protection purchased on a reference obligation which ranks pari passu with or is junior to the underlying reference obligation of the written credit derivative in the case of single name credit derivatives; and
- The remaining maturity of the credit protection purchased is equal to or greater than the remaining maturity of the written

[1] *Written credit derivatives* refer to credit default swaps, total return swaps and credit-link notes where banks act as guarantor.
[2] For credit derivative contracts where the stated notional amount differs from the effective notional amount, banks/non-banks must use the greater of the effective notional amount from the notional amount. The effective notional amount is obtained by adjusting the notional amount to reflect the true exposure of contracts that are leveraged or otherwise enhanced by the structure of the transaction.
[3] Two reference names are considered identical only if they refer to the same legal entity.

credit derivative.

The Exposure Measure of a written credit derivative may be overstated by the inclusion in the Exposure Measure of both (1) PFE representing counterparty credit exposure and (2) effective notional amount representing reference entity exposure. To avoid double counting, a PFE of zero is assigned to a written credit derivative whose effective notional amount is already included in the Exposure Measure. Hence, the total exposure measure for written credit derivatives equals RC and its corresponding effective notional amount.

3. Securities Financing Transactions (SFTs)

SFTs are transactions such as repurchase agreements, reverse repurchase agreements, security lending and borrowing and margin lending transactions, where the value of the transactions depends on market valuation and the transactions are often subject to margin agreements.

a. For bank/non-bank acting as principal, the Exposure Measure calculations for SFTs shall be computed as follows:

Exposure Measure for SFTs = Adjusted SFT Assets + Counterparty Credit Risk Exposure (E)

Where:

Adjusted SFT Assets = the gross SFT assets[1] recognized for accounting purposes (i.e., with no recognition of accounting netting) will be adjusted to exclude the value of any securities received under an SFT, where the bank has recognized the securities as an asset on its balance sheet[2].

Counterparty Credit Risk Exposure (E) = the measure of CCR is calculated as the current exposure (i.e., without PFE) with respect of the SFT.

The current exposure for transactions with a counterparty must be calculated on a transaction by transaction basis: that is, each individual SFT is treated as its own netting set, computed as the difference between the fair value of securities and cash *lent* to a counterparty for a transaction and the fair value of securities and cash *received* to a counterparty for a transaction. In other words, it shall follow the formula:

$$E = \max, \{0, [Ei- Ci]\}$$

Where:

Ei = cash and the fair value of securities lent to a counterparty for a transaction, and

Ci = cash and the fair value of securities received from a counterparty for a transaction.

b. If a bank/non-bank acting as an agent in an SFT provides an indemnity or guarantee to a customer or counterparty for any difference between the value of the security or cash the customer has lent and the value of the collateral the borrower has provided, the bank/non-bank should include in its Exposure Measure only the measure for Counterparty Credit Risk Exposure (E). Otherwise, the treatment when the bank is acting as a principal shall be applied.

4. Off-balance sheet (OBS) Items

The leverage ratio exposure measure for Off-balance sheet (OBS) items is generally calculated by multiplying the notional amount of the OBS item by a credit conversion factor (CCF), as follows:

a. 100 percent CCF - this shall apply to OBS securitization exposures except an eligible liquidity facility or an eligible servicer cash advance facility, direct credit substitutes, e.g., general guarantees of indebtedness (including standby letters of credit serving as financial guarantees for loans and securities) and acceptances

[1] For SFT assets subject to novation, "gross SFT assets recognized for accounting purposes" are replaced by the final contractual exposure, given that pre-existing contracts have been replaced by new legal obligations through the novation process.

[2] Gross SFT assets recognized for accounting purposes must not recognize any accounting netting of cash payables against cash receivables (e.g., under the Philippine Accounting Standards).

(including endorsements with the character of acceptances) as follows:

- Guarantees issued other than shipside bonds/airway bills; and
- Financial standby letters of credit

b. 50 percent CCF - this shall apply to OBS securitization exposures that qualify as eligible liquidity facilities[1] and certain transaction-related contingent items, e.g., performance bonds, bid bonds, warranties and standby letters of credit related to particular transactions) as follows:

- Performance standby letters of credit (net of margin deposits), established as a guarantee that a business transaction will be performed;
- Note issuance facilities (NIFs) and revolving underwriting facilities (RUFs); and
- Other commitments, e.g., formal standby facilities, commitments with an original maturity over one year and Underwritten Accounts Unsold.

c. 20 percent CCF - this shall apply to short-term self-liquidating trade letters of credit arising from the movement of goods[2], e.g., documentary credits collateralized by the underlying shipments, such as:

- Trade-related guarantees:
  - Shipside bonds/airway bills
  - Letters of credit - confirmed
- Sight letters of credit outstanding (net of margin deposit);
- Usance letters of credit outstanding (net of margin deposit);
- Deferred letters of credit (net of margin deposit);
- Revolving letters of credit (net of margin deposit) arising from movements of goods and/or services; and
- Commitments with an original maturity up to one year.

d. 10 percent CCF - this shall apply to commitments that are unconditionally cancellable at any time by the bank without prior notice (i.e., Credit Card Lines), undrawn servicer cash advances or facility[3] or that effectively provide for automatic cancellation due to deterioration in a borrower's creditworthiness.

This shall also apply to those not involving credit risk, as follows:

- Spot foreign exchange contracts (bought and sold);
- Late deposits / payments received;
- Inward bills for collection;
- Outward bills for collection;
- Travelers' checks unsold;
- Deficiency claims receivable; and
- Others.

B. Reporting and Disclosure Requirements

Starting 31 December 2014 and every quarter thereafter until 31 December 2016, banks/QBs concerned shall submit the Basel III Leverage Ratio reporting template on both solo and consolidated bases for monitoring. The report shall use the prescribed forms and shall be submitted to the appropriate department of the SES. For the periods ended 31 December 2014, 31 March 2015 and 30 June 2015, the reports shall be submitted within 30 banking days from 30 June 2015 on both solo and consolidated bases. For the succeeding quarters, the report shall be submitted semi-annually, each submission covering two quarters on both solo and consolidated bases. Report submission shall be 15 banking days and 30 banking days on solo and consolidated bases, respectively, from the end of the most recent reference quarter. The report submission is summarized below:

[1] These OBS securitization exposures must meet the definition and minimum requirements under 4115Q.
[2] Applied to both issuing and confirming banks
[3] Issued under Memorandum M-2014-044 dated 24 November 2014

<table>
<tr><th>Report Date</th><th>Reference Date</th><th>Deadline of Submission</th></tr>
<tr><td>31 December 2014
31 March 2015
30 June 2015</td><td>30 June 2015</td><td>30 banking days on both solo and consolidated bases from end of reference date</td></tr>
<tr><td>30 September 2015
31 December 2015</td><td>31 December 2015</td><td rowspan="3">15 banking days on solo basis from end of reference date and 30 banking days on consolidated basis from end of reference date</td></tr>
<tr><td>3l March 2016
30 June 2016</td><td>30 June 2016</td></tr>
<tr><td>30 September 2016
31 December 2016</td><td>31 December 2015</td></tr>
</table>

Upon migration to a Pillar 1 requirement, the Basel lll Leverage Ratio report shall be submitted along with the Basel lll CAR report (Version 3)[1].

The Basel lll Leverage Ratio reporting template shall be composed of four parts:

- Part I - Calculation of Basel lll Leverage Ratio
- Part ll - Derivative Exposures
- Part lll - Securities and Financing Transactions
- Part lV - Off-Balance Sheet ltems

In addition to the reporting template to be submitted to the Bangko Sentral, banks will be required to publicly disclose their Basel lll leverage ratio on both solo and consolidated bases. The public disclosure requirements include:

- a summary comparison table that provides a banks' total accounting assets amounts and leverage ratio exposures;
- a common disclosure template that provides a breakdown of the main leverage ratio regulatory elements;
- a reconciliation requirement that details the source(s) of material differences between banks' total balance sheet assets in their financial statements and on-balance sheet exposures in the common disclosure template; and
- other disclosures (i.e., material period changes in the leverage ratio from the end of the previous reporting period to the end of the current reporting period).

The public disclosure requirements could be made either through inclusion of the requirements in the bank's published financial statements or, at a minimum, provide a link to the complete disclosures on the banks' websites or publicly available regulatory reports. An ongoing archive of all the reconciliation templates, disclosure templates and explanatory tables relating to prior periods must be made available by banks in their website or through publicly available regulatory reports. lrrespective of the location of the disclosure (bank websites or publicly available regulatory reports), all disclosures must be made according to the defined templates.

At a minimum, three items must be publicly disclosed in the quarterly published balance sheet: (i) the numerator (Tier 1 capital); (ii) the denominator (exposure measure); and (iii) the Basel lll Leverage Ratio.

(Circular No. 881 dated 09 June 2015)

[1] lssued under Memorandum M-2014-044 dated 24 November 2014

EXAMPLES OF MINIMUM INTERNAL CONTROL MEASURES

[Appendix to Subsec. 4185Q.3, 4163S.3 and 4163N.3]

1. Independent balancing

a. Monthly reconciliation of general ledger balances against respective subsidiary and supporting records and documentation by someone other than the bookkeeper or the person handling the records, or the person directly connected with processing the transactions;

b. Irregular and unannounced count of teller's/cashier's cash and checks and other cash items and vault cash including Automated Tellering Machine's (ATM) cash dispensers by the auditor/control officer or by an officer not connected with cash department or its equivalent;

c. Monthly reconciliation of due from banks, cash in bank accounts (domestic and foreign) and due from/to head office/ branches by someone other than the person handling the records or posting the general ledger entries;

d. Periodic verification of securities and collaterals by someone other than their custodian; and

e. Periodic verification of the accuracy of the interest credits to deposit liabilities accounts.

2. Physical handling of transactions

a. A person handling cash shall not be permitted to post the ledger records nor should posting the general ledger be performed by an employee who posts the depositor's/investor's/creditor's subsidiary ledgers;

b. A lending officer shall never be allowed to disburse proceeds of loans, accept payment on loans nor post loan ledgers;

c. The functions of issuing, recording and signing of drafts/checks shall be separated;

d. Checks and other cash items shall be maintained either by an employee not handling cash or by the Rack/Distributing Department provided that adequate control as to custody and disposition of funds are properly maintained;

e. The receipt of statements from depository bank shall be assigned to an employee other than the one connected with the preparation, recording and signing of bank drafts or checks;

f. Custodians of securities shall not be allowed to handle security transactions;

g. Collateral appraisal shall be done by an employee/officer who does not approve loans;

h. Incoming checks and other cash items shall be recorded chronologically in a register by an employee other than the bookkeeper before they are forwarded for posting purposes;

i. Credit reports shall be obtained by someone other than lending officers;

j. Mailing of customers' statements and delinquent notices shall be done by an employee other than the one who granted the loan or the one handling the records; and

k. Dispatching and delivery of current account statements shall be done by someone who is not involved in current account operations.

l. For QBs, paid checks/drafts should be controlled and maintained by an officer/ employee other than the authorized signatory or the cashier.

3. Joint custody

The following shall be under joint custody:

a. Cash on hand or in vault and in ATM cash dispensers;

b. All accountable forms;

c. Collaterals;

d. Securities;

e. Documents of title and/or ownership of properties or fixed assets;

f. Dormant or inactive deposit ledgers/ EDP print-outs and corresponding signature cards including on-line posting of dormant/ inactive accounts;

g. Import documents;

h. Trust receipts;

i. Collection items;

j. Duplicate keys, safe deposit spare locks and keys, and keys to unrented safe deposit boxes;

k. Safekeeping items;

l. Vault door and safe combinations;

m. Unissued specimen signature books;

n. Correspondent's and bank's own telegraphic and/or electronic fund transfer system or cable test keys currently in use;

o. Test key fixed numbers unissued;

p. Unissued and captured ATM cards and similar devices;

q. Access locks and keys to on-line EDP terminals and similar devices; and

r. Access locks and keys to EDP mainframes and peripherals.

4. Dual Control

The following accounts/transactions shall be under dual control:

a. Checks, cashier's/ manager's checks, telegraphic transfers (TTs) and electronic fund transfer system (EFTS) – The signature of at least two (2) officers should be required in the issuance of cashier's/ manager's checks and payment orders (incoming and outgoing) of TTs and EFTS. The board of directors may, however, prescribe a predetermined amount by which one (1) senior officer can sign checks or payment orders, subject to appropriate control measures.

b. Certificates of Time Deposit – The board of directors of a bank is given the discretion to determine the number of signatories for the issuance of certificates of time deposit (CTDs). The internal control measures for the issuance of CTDs include, at a minimum, the following activities:

(1) Joint custody of unissued CTD forms;

(2) Accounting for all issued/ cancelled CTDs;

(3) Signature requirement for the issuance of CTDs;

(4) Counterchecking of issued CTDs against the tellers' proof sheets/validated slips; and

(5) Recording of CTDs transactions.

c. Bank Drafts – The signature of two (2) authorized officers should be required in the issuance of bank draft.

d. Borrowings – The signature of the least two (2) authorized officers should be required.

e. All transactions giving rise to Due to or Due from accounts and all instruments of remittances evidencing these transactions particularly those involving substantial amounts should be approved by two (2) authorized officers.

5. Number Control

The following are the forms, instruments and accounts that shall be number-controlled:

a. Bank drafts;

b. Checks, manager's and cashier's checks;

c. Promissory notes and other commercial papers;

d. Savings deposit accounts;

e. Demand deposit accounts;

f. CTDs;

g. Letters of credit;

h. Collection items;

i. Official and provisional receipts;

j. Certificates of stocks;

k. Loan accounts;

l. Expense vouchers;

m. Payment orders (incoming and outgoing) of TTs and EFTS;

n. Transfer requests through EFT involving bank's accounts abroad;

o. EDP batch transmittal slips of documents; and

p. Due to/from head office/branches tickets.

6. Confirmation of accounts

At least once a year, the internal auditing staff shall confirm by direct verification with bank clients, the following:

a. Balances of loans and credit accommodations of borrowers;

b. Deposit account balances particularly new deposit accounts, inactive or dormant accounts and closed accounts;

c. Outstanding balances of borrowings and other liabilities; and

d. Outstanding balances of receivables/ payables.

e. For QBs, collaterals securing said accounts.

7. Internal control procedures for dormant/inactive accounts

a. Definition of dormant or inactive accounts

(1) Current or checking accounts showing no activity (deposit or withdrawals) for a period of one (1) year.

(2) Savings account showing no activity (deposit or withdrawals) for a period of two (2) years.

b. Procedures for classification. Banks shall review and segregate dormant accounts as herein defined at least once in every semester.

(c) Internal control measures

(1) As a matter of policy, banks shall exert all efforts to prevent checking and savings accounts from becoming dormant. When it becomes apparent that an account is inactive, a short letter should be sent to the depositor encouraging him to use his account. In case of checking accounts, the banks shall ensure that the monthly statement of accounts reach the depositors. If the depositors cannot be located, the following steps should be undertaken:

(a) Check any significant changes or fluctuations in the depositors' account balances over a period of time with emphasis on accounts with decreasing balances;

(b) Verify apparent reactivation entries, represented either by deposit or withdrawal, that appears to have prevented the account from being classified as dormant; and

(c) Investigate any obvious alteration of the ledger records.

(2) Entries to dormant account ledgers shall be verified and approved by a designated officer. His initials shall be placed next to the entry on the ledger sheet.

(3) Dormant accounts shall be segregated from active account ledgers with a separate subsidiary ledger. Segregated dormant accounts shall be placed under joint custody of two (2) responsible officers/ employees.

(4) Signature cards for dormant accounts shall be removed from active files and held under joint custody.

(5) All inquiries on dormant accounts shall be coursed to one officer who should obtain sufficient identification from the inquirer to assure that he is entitled to the information.

(6) A trial balance of dormant account ledgers shall be taken periodically and balances with the general control account by an employee other than the bookkeeper.

(7) Dormant or inactive accounts shall be verified directly with depositors.

(8) All transactions affecting dormant accounts shall be subject to audit by the internal auditor.

(9) A semestral report on deposit accounts transferred to dormant shall be rendered to bank management.

8. Other Internal Control Measures

a. Deposit accounts

(1) All new current accounts shall be approved by a designated officer.

(2) Signature cards and deposit ledger sheets shall be authenticated by some form of validation. Subsequent changes shall also be validated.

(3) Signature cards and deposit ledger sheets shall be accessible only to authorized persons.

(4) Deposit tickets shall be occasionally examined at irregular intervals to determine that postings are made on the actual date deposits are received.

(5) Checks shall be cancelled as soon as they have been paid and posted.

(6) Reports on closed accounts and returned checks shall be prepared daily.

(7) All current account statements shall be mailed or sent electronically via electronic mail (e-mail), or such other electronic means direct to depositors: *Provided,* That banks using the electronic means of sending the current account statements shall have prior Bangko Sentral-approved internet banking service and shall strictly observe the required retention of electronic data messages or electronic documents under Section 13 of R.A. No. 8792, otherwise known as the "Electronic Commerce Act". Undelivered statements shall be retained by an organizational unit not responsible for demand deposit account processing.

(8) An officer shall be designated to attend to customers who report differences on their statements.

(9) Checkbooks shall be issued only against requisition forms signed by an authorized signatory to the account.

(10) Banks shall adopt a system to establish the identity of their depositors.

b. For QBs: Investments

(1) Investment limits and a list of accredited companies as approved by the Board of Directors or by its Credit Committee should be established as a guide for investing in any FI engaged in money market trading.

(2) Investments should be secured by assets approved by the Board of Directors or by its Credit Committee.

(3) Checks representing placements of investments should be released only upon receipt of either the deposit substitute instrument or the underlying securities or documents of title.

c. Miscellaneous

(1) Loan applications and related documents shall be verified to ensure their authenticity particularly the name, residence, employment and current reputation of the borrowers.

(2) Tellers/cashiers paying checks to strangers shall obtain positive identification of the person and the account on which the checks are drawn should be verified.

(3) No employee shall be permitted to process transaction affecting his own account.

(4) Tellers/cashiers and other employees having contact with customers shall be prohibited from preparing deposit ticket, withdrawal slip or other forms for the customer.

(5) All banks shall have a sound recruitment policy.

(6) In the case of TBs, all accountable officers and employees shall be bonded.

(7) All QBs shall secure adequate insurance coverages, fidelity and other indemnity protection.

(Circular No. 871 dated 05 March 2015, as amended by Circular No. 903 dated 29 February 2016)

REGULATORY RELIEF FOR BANKS/NBQBs AFFECTED BY CALAMITIES
(Footnote to Subsec. 4192Q.2 and Secs. 4306Q and 4257Q)

The Monetary Board approved the grant of temporary regulatory relief to banks with head offices and/or branches located in the areas listed in Item *"I"* of Annex A hereof which were devastated by calamities.

The temporary relief shall be in the form of the following whenever applicable:

For TBs/ RBs/Coop Banks/NBQBs

a. During a temporary grace period for payment or upon their restructuring and subject to reporting to Bangko Sentral, exclusion of the loans of borrowers in affected areas, which should have been reclassified as past due under Sec. 4306Q on the dates specified in Item *"II"* of Annex A and those maturing up to the dates indicated in Item *"II"* of Annex A, from computation of past due loan ratio: *Provided*, That Bangko Sentral documentary requirements for restructuring of loans for this purpose are waived and: *Provided, further,* That bank will adopt appropriate and prudent operational controls;

b. Reduction of the five percent (5%) general loan loss provision to one percent (1%) for restructured loans of borrowers in affected areas within the inclusive dates specified in Item *"II"* of Annex A,;

c. Non-imposition of penalties on legal reserve deficiencies of RBs/TBs/Coop Banks/NBQBs with head offices and/or branches in the affected areas incurred within the inclusive dates specified in Item *"II"* of Annex A: *Provided,* These reserve deficiencies can be shown to be calamity related as certified by the bank, rather than due to pre-existing condition;

d. For all types of credits extended to individuals and businesses directly affected by the calamity, allowing, subject to Bangko Sentral prior approval, the booking of allowances for probable losses on a staggered basis over a maximum period of five (5) years on loans outstanding as of dates specified in Item *"II"* of Annex A;

e. Non-imposition of monetary penalties for delays in the submission of all supervisory reports due to be submitted within the inclusive dates specified in Item *"II"* of Annex A;[1]

f. Allowing banks to provide financial assistance to their officers and employees who were affected by the calamity even if not within the scope of the existing Bangko Sentral-approved Fringe Benefit Program (FBP) subject to subsequent submission of request for approval of the amendment to FBP to the appropriate supervision and examination department for regularization[2]; and

g. In the case of El Niño (2016), Moratorium without penalty on monthly payments due to the Bangko Sentral, for a period of one (1) year from declaration date of a state of calamity, for banks with ongoing rehabilitation.

For All Rediscounting Banks

a. Upon application, granting of a 60-day grace period to settle the outstanding rediscounting obligations as of the dates specified in Item *"II"* of Annex A, with the Bangko Sentral of all rediscounting banks with head office, or with branches or with end-user borrowers in the affected areas except those with serious violations or findings with the SES;[1] and

b. In addition to above, allow the rediscounting banks to restructure with the Bangko Sentral, on a case-to-case basis the outstanding rediscounted loans of their end-user borrowers affected by the calamity, subject to the terms and conditions stated in the implementing guidelines provided in Item *"III"* of Annex A.

[1] Not applicable to El Niño (2016)
[2] Item "f" also covers UBs/KBs affected by Luis, Mario, Ruby, Seniang and Lando.

Annex A

LIST OF AREAS COVERED BY THE REGULATORY RELIEF; INCLUSIVE DATES OF COVERAGE; AND IMPLEMENTING GUIDELINES ON THE RESTRUCTURING SCHEME

(Footnote to Secs. 4192Q.2, 4306Q and 4257Q)

I. Areas that were Declared under State of Calamity:

LUIS AND MARIO

a. National Capital Region (NCR): Caloocan City, Las Pinas City, Malabon City, Mandaluyong City, Manila, Marikina City, Pasay City, Pasig City, Quezon City, San Juan City, Valenzuela City, Makati City, Muntinlupa City, Navotas City and Taguig City

b. Region I: Ilocos Norte, Ilocos Sur, La Union and Pangasinan

c. Region II: Cagayan, Isabela and Nueva Vizcaya

d. Region III: Aurora, Bulacan, Nueva Ecija, Pampanga, Tarlac, Zambales and Bataan,

e. Region IV-A: Batangas, Cavite, Laguna and Rizal

f. Region IV-B: Occidental Mindoro

g. Region V: Camarines Norte and Camarines Sur

h. Region VI: Negros Occidental

i. Region VII: Cebu

j. Cordillera Administrative Region (CAR): Abra, Benguet, Apayao, Kalinga, Mt. Province and Ifugao.

RUBY

a. National Capital Region (NCR): Caloocan City, Las Pinas City, Malabon City, Mandaluyong City, City of Manila, Marikina City, Muntinlupa City, Navotas City, Paranaque City, Pasay City, Pasig City, Quezon City, Taguig City, Valenzuela City

b. Region III: Bataan

c. Region IV-A: Batangas, Cavite, Laguna, Quezon, Rizal

d. Region IV-B: Marinduque, Occidental Mindoro, Oriental Mindoro, Palawan, Romblon

e. Region V: Albay, Camarines Norte, Camarines Sur, Catanduanes, Masbate, Sorsogon

f. Region VI: Aklan, Antique, Capiz, Guimaras, Iloilo, Negros Occidental

g. Region VII: Bohol, Cebu, Negros Oriental, Siquijor

h. Region VIII: Biliran, Eastern Samar, Leyte, Northern Samar, Samar (Western Samar), Southern Leyte

i. Region XIII: Agusan del Norte, Agusan del Sur, Dinagat Islands, Surigao del Norte, Surigao del Sur

SENIANG

a. Region IV-B: Occidental Mindoro and Palawan

b. Region VI: Antique, Capiz, Iloilo and Negros Occidental

c. Region VII: Bohol, Cebu and Siquijor

d. Region VIII: Eastern Samar, Leyte, Northern Samar (Western Samar)

e. Region IX: Zamboanga Del Sur

f. Region X: Bukidnon, Camiguin, Lanao Del Norte and Misamis Oriental

g. Region XI: Compostela Valley, Davao Del Norte and Davao Oriental

h. Region XIII: Agusan Del Norte, Agusan Del Sur, Dinagat Islands, Surigao Del Norte, Surigao Del Sur

LANDO

a. Region I: Ilocos Norte, Ilocos Sur, La Union and Pangasinan

b. Region II: Cagayan, Isabela, Nueva Vizcaya and Quirino

c. Region III: Aurora, Bataan, Bulacan, Nueva Ecija, Pampanga, Tarlac and Zambales

d. Region IV-A: Cavite, Batangas, Laguna, Quezon and Rizal

e. Region V: Camarines Norte and Catanduanes

f. Cordillera Administrative Region: Abra, Apayao, Benguet, Ifugao, Kalinga and Mountain Province

EL NIÑO (2016)

NBQBs with head offices and/or branches located in areas which were affected by the El Niño phenomenon: *Provided,* That a declaration of a state of calamity is issued by the National Disaster Risk Reduction Management Council or the local sanggunian, upon the recommendation of the Regional or Local Disaster Risk Reduction and Management Council.

II. Inclusive Dates of the Applicability of Temporary Relief to Banks Affected by Calamities

	For RBs/TBs/Coop Banks/NBQBs						For All Rediscounting Banks
	Exclusion from computation of past due loans ratio	GLL of only 1% for restructured loans	Non-imposition of penalties for late submission of supervisory reports	Non-imposition of penalties on legal reserve deficiencies from reserve week ended / to	Moratorium on monthly payments due to the BSP until	Staggered booking of allowance for loan losses for loans outstanding as of	60-day grace period to pay rediscounting obligations outstanding as of
Luis and Mario	09/14/14 to 09/30/15	09/14/14 to 09/30/15	09/14/14 to 03/31/15	09/19/14 to 03/13/15		09/14/14	09/14/14
Ruby	12/06/14 to 12/31/15	12/06/14 to 12/31/15	12/06/14 to 06/30/15	12/11/14 to 06/11/15		12/06/14	12/06/14
Seniang	12/29/14 to 12/31/15	12/29/14 to 12/31/15	12/29/14 to 06/30/15	01/01/15 to 07/02/15		12/29/14	12/29/14
Lando	10/18/15 to 10/31/16	10/18/15 to 10/31/16	10/18/15 to 04/30/16	10/22/15 to 04/21/16		10/18/15	10/18/15
El Niño (2016)	for a period of one (1) year from declaration date of a state of calamity including those loans becoming past due six (6) months after date of declaration.	for a period of one (1) year from declaration date of a state of calamity	NA	for a period of one (1) year starting from reserve week following the declaration date of a state of calamity	for a period of one (1) year from declaration date of a state of calamity	declaration date of a state of calamity	declaration date of a state of calamity

III. Implementing Guidelines on the Restructuring Scheme Covering the Rediscounting Obligations with the Bangko Sentral of Rediscounting Banks in the Areas Affected by Natural Calamities

A. **Objectives**

The objectives of the loan settlement scheme are, as follows:

a. To support the recovery efforts of rediscounting banks in the areas affected by the calamity;

b. To enable the rediscounting banks to liquidate their loan obligations with the Bangko Sentral by way of restructuring; and

c. To ensure the collection of the rediscounted loans which may become past due in view of the damage caused by the calamity, and maintain if not improve the quality of the loan portfolio of the Bangko Sentral.

B. **Qualified banks**

a. All rediscounting banks with end-user borrowers located in the areas declared as "under state of natural calamity" as enumerated under Item *"I"* hereof;

b. Rediscounting banks with serious violations or findings with the SES, and/or which are currently under investigation or subject to legal action by the Office of Special Investigation shall not qualify to avail of the restructuring scheme.

c. In addition to Item No. *"B.b"*, the DLC shall evaluate each bank to determine if each would qualify for the restructuring.

C. **Terms and conditions**

a. *Maturity*

The restructured loan shall have a maximum term of five (5) years;

b. *Amount to be restructured*

The amount to be restructured shall be equivalent to the following:

(1) *Principal*. Unpaid outstanding balance of the principal obligation in the books of account of the Bangko Sentral; and

(2) *Accrued interest*. Unpaid interest due on the outstanding principal obligation as of the end of the applicable repayment or amortization date, preceding the approval of the loan restructuring.

c. *Interest rate*

The interest rate to be charged against the outstanding principal balance of the restructured loan shall be based on prevailing rediscount rate. The interest shall be re-priced annually.

d. *Maximum bank lending rate*

The restructured interest rate of the bank to its end-user borrowers shall not exceed six percent (6%) over and above the applicable Bangko Sentral interest rate. Moreover, the bank shall not charge interest on accrued interest.

e. *Terms of repayment*

(1) *Settlement Value*. The settlement value shall be paid by the bank in equal monthly amortizations: *Provided,* That the amortization period shall not exceed five (5) years, to wit:

(a) *Principal*. The principal obligation shall be paid in equal monthly amortization plus the applicable rediscount rate; and

(b) *Accrued interest*. The accrued interest on the principal obligation as of the end of the month immediately preceding the approval of the loan settlement scheme shall likewise be paid in equal monthly amortizations. No interest shall be charged on the accrued interest.

(2) *Grace Period*. The bank shall be given a grace period of six (6) months within which to pay the first amortization.

f. *Collaterals*. The following shall be acceptable collaterals:

(1) Restructured promissory notes of end-user borrowers;

(2) Hard collaterals owned by the bank such as bank premises and government securities; and

(3) Other collaterals acceptable to the DLC.

g. Default cause

(1) Failure to pay two (2) or more amortizations shall be considered an event of default and shall render the unpaid balance of the loan, plus accrued interest and penalty charges due thereon, immediately due and demandable;

(2) A penalty charge of twelve percent (12%) per annum shall be assessed on the defaulted amortization payment, reckoned from the amortization due date to date of payment; and

(3) The DLC may exercise the option to refer to the Office of Special Investigation or to an external lawyer for appropriate legal action, without further need for demand or notice to the defaulting bank.

h. Required documents. Qualified banks shall submit the following documents:

(1) Letter of Understanding (LOU), agreeing to the terms and conditions of the restructuring. The LOU shall be executed by the senior officers of the bank, duly designated by its board of directors; and

(2) Surety Agreement, if there is collateral deficiency.

D. **Application procedures**

a. Filing of application

The bank shall file with the DLC an application for restructuring of its outstanding rediscounting loans, supported by the following documents:

(1) Resolution of the board of directors (a) authorizing the bank to enter into a loan settlement arrangement with the Bangko Sentral, and (b) designating authorized senior officers therefor;

(2) The restructured promissory notes of the end-user borrowers and other supporting documents; and

(3) Promissory Note with Trust Receipt Agreement and Deed of Assignment executed by the authorized senior officers of the bank, duly notarized.

b. Notice of approval of application

The DLC shall notify the bank of the approval of its application to avail of the loan settlement scheme. Upon receipt of said advice, the bank shall:

(1) Execute the applicable document under Item No. *"D.a"*; and

(2) Pay the required amortization immediately on the month following the date of approval of the loan restructuring scheme and monthly thereafter until fully paid.

E. **Authorized signatories of the Bangko Sentral**

Transaction	Authorized Bangko Sentral Officer
Approval of the application to avail of the loan restructuring scheme	Director, DLC, or in his/her absence, any of the DLC Deputy Directors
Approval to release the collateral documents	Director, DLC, or in his/her absence, any of the DLC Deputy Directors
Execution of Cancellation of Deeds of Real Estate Mortgage Assignment or Pledge	Deputy Governor, Monetary Stability Sector

F. **Other provisions**

a. Value-Date of the Settlement Scheme

The value–date of the settlement value shall be the end of the month immediately preceding the date of approval of the loan restructuring.

b. Effectivity date

The loan settlement scheme shall be made available, as follows:

a) Luis and Mario - up to 31 March 2015;
b) Ruby- up to 30 June 2015;
c) Seniang- up to 30 June 2015;
d) Lando- up to 30 April 2016; and
e) El Niño (2016)- up to 13 November 2016

(M-2014-039 dated 01 October 2014, as amended by M-2016-006 dated 17 May 2016, M-2015-039 dated 04 November 2015 and M-2015-009 dated 28 January 2015, M- 2015-005 dated 20 January 2015)

FORMAT CERTIFICATION ON COMPLIANCE WITH REQUIREMENTS ON DIVIDEND DECLARATION

(Appendix to Subsec. 4136Q.4)

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Name of QB

CERTIFICATION

We, *(Name of Officer),* President *(or Officer of Equivalent Rank)* and *(Name of Officer)*, Chief Compliance Officer, in behalf of *(Name of QB),* with office address at *(Head/Principal Office)*, after having been duly sworn to in accordance with law, hereby certify that the QB's dividend declaration as of *(date of dividend declaration)*, as approved by the board of directors *(state resolution number and date),* to the bank's stockholders of record as of *(record date)* amounting to *(amount of cash/stock/property dividend declaration)* complies with the provisions of Section 4136Q of the Manual of Regulation for Non-Bank Financial Institutions (MORNBFI).

We further certify that at the time of dividend declaration, the bank has complied with the following:

a. Clearing account with the Bangko Sentral is not overdrawn;

b. Liquidity floor requirement for government funds; *(for banks)*

c. Minimum capitalization requirement and risk-based capital ratios as provided under applicable and existing capital adequacy framework;[1]

d. Capital conservation buffer requirement as defined in Appendix Q-46, Part III of the MORNBFI; *(for U/KBs and their subsidiary banks and QBs)*

e. Higher loss absorbency requirement as provided under 4115Q.5; *(for identified Domestic Systematically Important Banks and their subsidiary banks and QBs)*

f. Has not committed any unsafe or unsound banking practice and/or major acts or omissions as may be determined by the Bangko Sentral;

g. Has accumulated reserves of P______________ for the retirement of the government preferred stock which is at least equal to the amount prescribed in Subsection 3136.2 of the MORB *(for rural and cooperative banks)*;

h. Has complied with the provisions of Article 86 of R.A. No. 9520, its By-Laws and other applicable laws, rules and regulations on the allocation and distribution of net surplus *(for cooperative banks)*;

i. Has complied with the provisions of Section 43 (Power to declare dividends) of The Corporation Code of the Philippines (Batas Pambansa Blg. 68), as may be applicable; and

j. Has complied with the provisions of revised implementing rules and regulations to R.A. No. 7656, 'An Act Requiring Government-Owned and/or Controlled Corporations to Declare Dividends Under Certain Conditions to the National Government, and for Other Purposes" *(for Government-Owned QBs)*

[1] We also certify that the bank/quasi-bank also apply with tthis requirement even after dividend distribution.

To the best of our knowledge, the foregoing statements are true and correct.

______________________	______________________
President	Chief Compliance Officer
TIN:	TIN:
Com. Tax Cert. No.:	Com. Tax Cert. No.:
Issued on:	Issued on:
Issued at:	Issued at:

Subscribed and sworn to before me, this _____ day of ___________ 20___, at ____________ exhibiting his/her respective Community Tax Certificate as indicated above.

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(Circular No. 888 dated 09 October 2015)

AGRICULTURE VALUE CHAIN - BUSINESS MODELS

(Appendix to Subsec. 4350Q.1)

The agriculture value chain business models are characterized by the main driver of the value chain, and its rationale or objectives. The following are the typical organizational models for smallholder production:

Model	Driver of organization	Rationale
Producer-driven (Association)	- small-scale producers, especially when formed into groups such as associations or cooperatives; - large scale farmers	- access to new markets; - obtain higher market price; - stabilize and secure market position
Buyer-driven	- processors; - exporters; - retailers; - traders, wholesalers and other traditional market actors	- assure supply; - increase supply volumes; - supply more discerning customers - meeting market niches and interests
Facilitator-driven	- NGOs and other support agencies; - National and local governments	- 'make markets work for the poor'; - Regional and local development
Integrated	- lead firms; - supermarkets; - multi-nationals	- new and higher value markets; - low prices for good quality; - market monopolies;

Reference:

Miller, C. and Jones, L. 'Agricultural Value Chain Finance, Tools and Lessons'. Published by FAO and Practical Action Publishing, 2010.

(Circular No. 908 dated 14 March 2016)