



MANUAL OF REGULATIONS

FOR NON-BANK FINANCIAL INSTITUTIONS

Volume 2

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-March 2016.

AMANDO M. TETANGCO, JR.
Governor

PREFACE

Manual of Regulations for Non-Bank Financial Institutions

The 31 March 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	-	Atty. Mel Georgie B. Racela Officer-in-Charge Office of Supervisory Policy Development (OSPD)
Vice Chairman	-	Atty. Asma A. Panda Deputy Director OGCLS

Members:

Ma. Belinda G. Caraan Director Central Point of Contact Department (CPCD) IV	Betty Christine C. Bunyi Director Examination Department (ED) II
Maria Josefina G. Nabong Deputy Director 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)	Maria Cynthia M. Sison Deputy Director OSPD
Atty. Ma. Corazon Bilgera-Cordero Bank Officer V AMLSG	Celedina P. Garbosa Manager CPCD II
Atty. Lord Eileen S. Tagle Legal Officer III OGCLS	Amelia B. Damian Bank Officer V OSPD
Concepcion A. Garcia Acting Deputy Director Micro, Small and Medium Enterprise Finance Specialist Group	

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

The Bangko Sentral ng Pilipinas

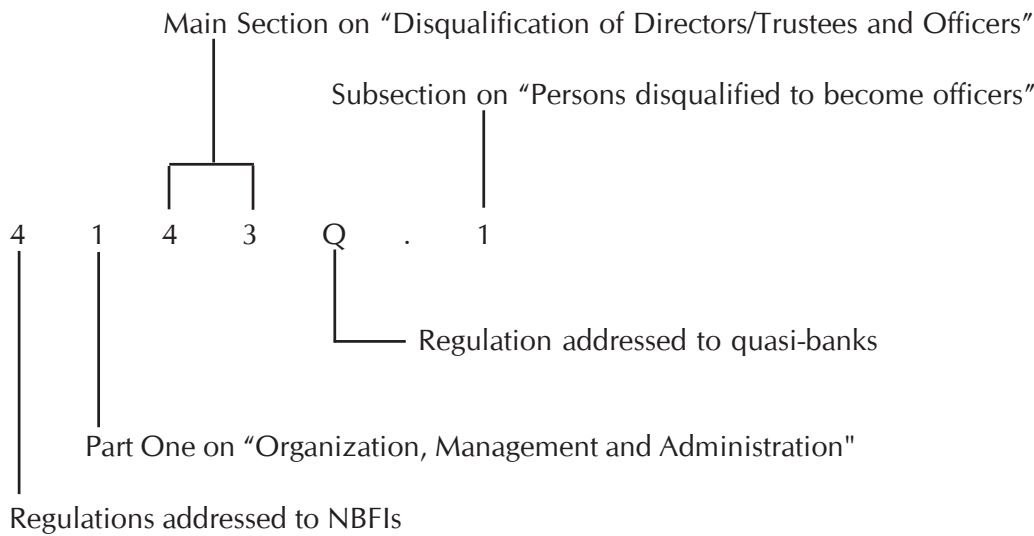
INSTRUCTIONS TO USERS
(31 March 2016 Edition)

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

S REGULATIONS

(Regulations Governing Non-Stock Savings and Loan Associations)

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PART ONE

ORGANIZATION, MANAGEMENT AND ADMINISTRATION

A. SCOPE OF AUTHORITY

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

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

§ 4101S.1 Membership

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

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

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

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

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

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

NSSLAs whose articles of incorporation and by-laws were approved and registered prior to the effectivity of R. A. No. 8367 and which limit and/or allow membership coverage broader or narrower than the

foregoing definition, shall be allowed to continue as such.

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

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

§ 4101S.2 Organizational requirements¹

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

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

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

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

§§ 4101S.2 - 4106S.1
13.12.31

- (2) An itemized statement of the estimated receipts and expenditures of the proposed NSSLA for the first year;
- (3) Filing fee of P1,000; and
- (4) Such other information as the Monetary Board may require.

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

- (1) The NSSLA is being organized for any purpose other than to engage in the business of a legitimate NSSLA;
- (2) The NSSLA’s financial program is unsound;
- (3) The proposed members are adequately served by one (1) or more existing NSSLAs; and
- (4) There exist other reasons which the Monetary Board may consider as sufficient ground for such disapproval.

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

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

Secs. 4102S - 4105S (Reserved)

B. CAPITALIZATION

Sec. 4106S Capital of NSSLAs. A newly organized NSSLA shall have a minimum initial aggregate capital contribution of P1.0 million. Thereafter, an NSSLA shall maintain a minimum capital that would allow it to comply with the capital adequacy ratio requirement as provided under Sec. 4116S.

NSSLAs shall adopt policies to encourage their members to increase their capital contributions which shall be classified by the NSSLA as either fixed/non-withdrawable or withdrawable capital in accordance with the definition provided under Subsec. 4106S.1. Partial withdrawal from the amount paid by a member as withdrawable capital contributions, during his membership, may be allowed unless the by-laws of the NSSLA provide otherwise: *Provided*, That policies allowing the partial withdrawal by a member of his withdrawable capital contributions shall comply with the provisions of Subsec. 4106S.1.

(As amended by Circular Nos.789 dated 28 February 2013 and 573 dated 22 June 2007)

§ 4106S.1 Regulatory treatment of capital contributions of members. An NSSLA shall ensure that monies received representing capital contributions are duly registered in the books of the Association under the name of the member making such contributions.

Capital contributions of members shall be classified by an NSSLA as either fixed/non-withdrawable or withdrawable as herein defined.

a. *Fixed/non-withdrawable capital* refers to the member’s capital contribution in the NSSLA which he must maintain for the duration of his membership thereon.

(1) *Minimum Amount* - Every member of an NSSLA shall be required to maintain a fixed/non-withdrawable capital contribution of at least P1,000.00 unless a higher minimum is prescribed under the NSSLA’s by-laws.

(2) *Ceiling.* An NSSLA shall encourage all its members to increase their fixed/non-withdrawable capital over time beyond the minimum amount prescribed under Item “(1)” hereof.

However, to ensure that control over the affairs of the NSSLA remains

broad-based, the total amount that a member and/or his immediate family may contribute as fixed/non-withdrawable contributions shall be subject to a ceiling which shall be determined by the board of trustees and duly confirmed by the NSSLA's general assembly. The prescribed ceiling shall be applied uniformly to all members: *Provided*, That in cases where the NSSLA is unable to comply with the capital adequacy ratio requirement as provided under Sec. 4116S, any deviation from the uniform application of or setting-up of aforesaid ceiling may be allowed.

b. *Withdrawable capital* refers to the amount of capital contributions which may be withdrawn by a member pursuant to the terms and conditions prescribed under the NSSLA's by-laws, or as approved by the board of trustees and duly confirmed by the NSSLA's general assembly.

(1) *Ceiling*. At no time shall the total withdrawable capital contributions of a member and that of his immediate family, as defined in Subsec. 4101S.1.b(3), exceed ten times (10X) their fixed/non-withdrawable capital contributions.

(2) *Restrictions on withdrawability*. Notwithstanding the capital contributions' withdrawability, the NSSLA shall establish and prescribe the conditions and/or circumstances when the NSSLA may limit the withdrawal of the members' withdrawable capital contributions, such as, when the NSSLA is under liquidity stress or is unable to meet the capital adequacy ratio requirement under Sec. 4116S.

c. *Limit on total capital contributions*. NSSLAs shall prescribe a maximum amount on the total amount of fixed and withdrawable capital contributions that a family group [i.e., member and his immediate family as defined under Subsec. 4101S.1.b(3)] may hold in an NSSLA.

Transitory provisions. An NSSLA shall have one (1) year period reckoned from 22 March 2013 within which to amend the

pertinent provisions of its by-laws and written policies to comply with the foregoing requirements: *Provided*, That amounts held in excess of the prescribed ceiling under Item "b.(1)" hereof as of 22 March 2013 shall be allowed to continue as such but once reduced shall not thereafter be increased beyond the prescribed ceiling.

(As amended by Circular No. 789 dated 28 February 2013)

§§ 4106S.2 - 4106S.6 (Reserved)

§ 4106S.7 *Revaluation surplus*. In cases of both retiring and new members, a revaluation surplus shall be added to their contributions by imputing their respective proportionate shares in the withdrawable share reserve and the reserve for furniture, fixtures, and furnishings.

(As amended by Circular No. 789 dated 28 February 2013)

Secs. 4107S - 4110S (Reserved)

C. (RESERVED)

Secs. 4111S - 4115S (Reserved)

D. CAPITAL-TO-RISK ASSETS RATIO

Sec. 4116S Capital-to-Risk Assets Ratio
Capital-to-risk assets ratio (CAR) is an important tool to measure solvency and effectively manage the risk-taking activities of an NSSLA, determine its capacity to absorb unexpected losses, and adequately provide protection to members and creditors.

The CAR, expressed as a percentage of total capital accounts to total risk assets shall not be less than ten percent (10%).

For purposes of computing CAR, the aggregate amount of withdrawable capital contributions that shall be allowed to form part of an NSSLA's total capital accounts shall be capped at ten times (10X) the aggregate amount of fixed/non-withdrawable capital contributions.

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The total risk asset is defined as total assets minus the following assets:

- a. Cash on hand;
- b. Evidences of indebtedness of the Republic of the Philippines and any other evidences of indebtedness/obligations, the servicing and repayment of which are fully guaranteed by the Republic of the Philippines;
- c. Loans to the extent covered by hold-out on, or assignment of, deposits maintained in the lending NSSLA;
- d. Office premises, depreciated;
- e. Furniture, fixtures and equipment, depreciated;
- f. Real estate mortgage loans guaranteed by the Home Guarantee Corporation to the extent covered by the guarantee; and
- g. Other non-risk items as the Monetary Board may, from time to time, authorize to be deducted from total assets.

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

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

Transitory provisions. An NSSLA which failed to meet the minimum CAR as prescribed above shall have until 30 June 2013 within which to comply.

(As amended by Circular Nos. 789 dated 28 February 2013 and 573 dated 22 June 2007)

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

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

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

- a. The withdrawable share reserve shall be set up from the undivided profits of the NSSLA and shall be funded in the form of cash deposited as a separate account and/or an investment allowed under this Section;
- b. Should there be an increase in the capital contribution, the reserve shall be correspondingly adjusted at the end of each month from undivided profits, if any; and
- c. The reserve shall be adjusted first before the NSSLA shall declare and distribute to its members any portion of its net income at any time of the year.

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

Sec. 4118S Surplus Reserve for Ledger Discrepancies. Whenever an NSSLA has a discrepancy between its general ledger accounts and their respective subsidiary ledgers, the board of trustees of the NSSLA shall set up from the undivided profits of the NSSLA, if any, a surplus reserve, in an

amount equivalent to the amount of the discrepancy, and this reserve shall not be available for distribution to members or for any other purpose unless and until the discrepancy is accounted for. The board of trustees shall also direct the employee responsible for the discrepancy to account for said discrepancy: *Provided*, That the failure of the employee to do so shall constitute as ground for his dismissal if the discrepancy is of serious or recurring nature. (As amended by Circular Nos. 661 dated 01 September 2009 and 573 dated 22 June 2007)

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

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

Sec. 4120S (Reserved)

E. (RESERVED)

Secs. 4121S - 4125S (Reserved)

F. NET INCOME DISTRIBUTION

Sec. 4126S Limitations on Distribution of Net Income

a. *Amount available for income distribution.* An NSSLA may distribute net

income to members out of its adjusted Undivided Profits and the balance of its Surplus Free account as of the calendar year-end or fiscal year-end immediately preceding the date of net income distribution: *Provided*, That in addition to the requirements as provided in this Section, in no case shall the NSSLA distribute any of its net income and/or surplus to its members if its CAR and capital contributions are below the level required under Secs. 4106S and 4116S , respectively.

b. *Basis for participation in profits* Member-contributors of an NSSLA may participate in the profits of the NSSLA on the basis of the balances of their capital contributions as determined by the board of trustees: *Provided*, That an NSSLA shall distribute net income to members only once in a calendar or fiscal year adopted by such NSSLA.

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

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

e. *Other unbooked capital adjustments required by Bangko Sentral, whether or not allowed to be set up on a staggered basis* The unbooked loss reserves and other unbooked capital adjustments required by the Bangko Sentral based on the latest approved Report of Examination of the

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NSSLA, whether or not allowed to be set up on a staggered basis, shall be deducted from the amount of net income available for distribution to members.

f. *Interest and other income earned but not yet collected/received, net of allowance for credit losses.* Accrued interest and other income not yet received but already recorded by an NSSLA from financial assets, net of allowance for credit losses, shall be deducted from the amount of net income available for distribution to members.

(As amended by Circular Nos. 789 dated 28 February 2013 and 573 dated 22 June 2007)

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

Pending verification of abovementioned report by the appropriate department of the SES, the NSSLA concerned shall not make any announcement or communication on the intended distribution of net income or shall any actual distribution be made thereon.

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

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

§ 4126S.2 **Recording of net income for distribution.** The liability for members’ share in the net income distribution shall be taken up in the books upon receipt of Bangko Sentral approval thereof, or if no such approval is received, after twenty (20) business days from the date the required Report on Distributable Net Income was received by the appropriate department of

the SES whichever comes earlier. A memorandum entry may be made to trustees and for full disclosure purposes, the amount of income for distribution may be disclosed in the financial statements by means of a footnote which should include a statement to the effect that the distribution is subject to review by the Bangko Sentral.

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

Secs. 4127S - 4140S (Reserved)

G. TRUSTEES, OFFICERS, EMPLOYEES AND AGENTS

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

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

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

In addition, such person shall have the qualifications and none of the disqualifications as provided in pertinent laws and Bangko Sentral rules. A trustee 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 have at least five (5) years experience in business, or shall have undergone any Bangko Sentral training in NSSLA or banking operations: *Provided, however,* That an undergraduate eligible to be elected as trustee in the NSSLA's by-laws may be allowed as may be approved by the Bangko Sentral: *Provided, further,* That Bangko Sentral approval shall no longer be required for a re-elected college undergraduate who was previously allowed to sit as trustee: *Provided, finally,* That (1) the previous approval was obtained on or after 01 January 2011; and (2) the trustee has had continuous service within the said NSSLA;

(3) He must have attended a special seminar on corporate governance for board of trustees conducted or accredited by the Bangko Sentral; and

(4) He must be fit and proper for the position of a trustee of the NSSLA. In determining whether a person is fit and proper for the position of a trustee, the following matters must be considered: integrity/probity, physical/mental fitness, competence, relevant education/financial literacy/training, diligence and knowledge/experience.

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

(As amended by Circular No. 800 dated 21 June 2013)

§ 4141S.3 Powers/responsibilities and duties of trustees. The corporate powers of an NSSLA shall be exercised, its business conducted and all its property controlled and held by its board of trustees. The powers of the board of trustees as conferred by law are original and cannot be revoked by the members. The trustees hold their office charged with the duty to exercise sound and objective judgment for the best interest of the NSSLA.

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

§ 4141S.4 General responsibility of the board of trustees. The position of an NSSLA trustee is a position of trust. A trustee assumes certain responsibilities to different constituencies or stakeholders, i.e., the NSSLA itself, member-depositors, 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 trustees is primarily responsible for approving and overseeing the implementation of the NSSLA's strategic objectives, risk strategy, corporate governance and corporate values. Further, the board of trustees is also responsible for monitoring and overseein the performance of senior management as the latter manages the day- to- day affairs of the institution.

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

§ 4141S.5 Duties and responsibilities
a. Board of trustees

(1) *To approve and monitor the implementation of strategic objectives* Consistent with the institution's strategic objectives, business plans shall be established for the NSSLA including its trust

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operations, and initiatives thereto shall be implemented with clearly defined responsibilities and accountabilities. These shall take into account the NSSLA’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 NSSLA 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 NSSLA 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 NSSLA’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 NSSLA to significant risks.

(3) *To approve and oversee the implementation of risk management policies.* The board of trustees shall be responsible for defining the NSSLA’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 trustees shall ensure that a robust internal reporting system is in place that shall enable each employee to contribute to the appreciation of the NSSLA’s overall risk exposures.

The board of trustees 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 to internal information.

(4) *To oversee selection and performance of senior management.* It is the primary responsibility of the board of trustees 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 NSSLA’s strategic objectives, and conduct regular review of NSSLA’s policies with the management team.

(a) The board of trustees 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 trustees shall replace members of senior management, when necessary, and have in place an appropriate plan of succession.

(b) The board of trustees 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 NSSLA's strategic objectives and business plans, taking into account the NSSLA's long-term financial interests.

(c) The board of trustees 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 trustees shall set the frequency of meeting with senior management taking into account the size, complexity of operations and risk profile of the NSSLA.

(d) The board of trustees shall regularly review policies, internal controls and self assessment functions (e.g., internal audit, 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 trustees shall set the frequency of review taking into account the size, complexity of operations and risk profile of the NSSLA.

The board of trustees shall ensure that senior management's expertise and knowledge shall remain relevant given the NSSLA'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 trustees 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 trustees shall:

(a) Articulate clear policies on the handling of any transaction with directors, officers, stockholders, and their related interests (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 trustees 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 NSSLA and its stakeholders are captured.

(b) Require the NSSLA's members to confirm by majority vote, in the annual members' meeting, the NSSLA'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 NSSLA 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

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alignment of the NSSLA. The board of trustees 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 NSSLA at all times. Further, the board of trustees 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 trustees 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 NSSLA 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 NSSLA and for its own work and to establish means to ensure that such are followed and periodically reviewed¹ for ongoing improvement.* The board of trustees, 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 NSSLA as seen by both internal and external stakeholders.

(a) The board of trustees shall ensure that the NSSLA'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 trustees and Chief Executive Officer/President.

(b) The board of trustees 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 trustees shall restructure 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 NSSLA 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.

¹ NSSLAs 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 trustees to changes in the policies.
(2) Acknowledgement receipt of copies of specific duties and responsibilities of the board of trustees and of a trustee, and certification that they fully understand the same.

(e) The board of trustees shall establish a system of checks and balances which applies in the first instance to the board itself. Among the members of the board, an effective system of checks and balances must exist. The system shall also provide a mechanism for effective check and control by the board over the chief executive officer and key managers and by the latter over the line officers of the NSSLA. Checks and balances in the board shall be enhanced by appointing a chairperson who is a non-executive, whenever possible.

(f) The board of trustees shall assess at least annually its performance and effectiveness as a body, as well as its various committees, the chief executive officer, the individual trustee, and the NSSLA itself, which may be facilitated by the corporate governance committee or external facilitators. The composition of the board shall also be reviewed regularly with the end in view of having a balanced membership. Toward 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 members are accurately and timely informed. It shall provide all its trustees and to the members a comprehensive and understandable assessment of the NSSLA's performance, financial condition and risk exposures. All trustees 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 trustees shall create committees, the number and nature of which would depend on the size of the NSSLA and the board, the complexity of operations, long-term strategies and risk tolerance level of the institution.

(a) The board of trustees shall approve,

review and update periodically, or the respective charters of each committee or other documents that set out its mandate, scope and working procedures.

(b) The board of trustees 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 trustees, shall appoint independent trustees 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.

(c) The board of trustees 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 dispense of its functions.

(d) The board of trustees shall constitute, at a minimum, the audit committee. The audit committee shall be composed of members with accounting, auditing, or related financial management expertise or experience commensurate with the size, complexity of operations and risk profile of the NSSLA. To the greatest extent possible, the audit committee shall be composed of a sufficient number of non-executive board members. Further, the chief executive officer, chief financial officer and/or treasurer 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

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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, 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 trustee 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.

(8) *To effectively utilize the work conducted by the internal audit and compliance functions and the external auditors.* The board of trustees shall recognize and acknowledge the importance of the assessment of the independent, competent and qualified internal and external auditors and compliance officers in ensuring the safety and soundness of the

operations of an NSSLA on a going-concern basis and communicate the same throughout the NSSLA. 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 committee, in the absence of senior management, with the external auditor and heads of the internal audit and compliance functions.

b. Specific duties and responsibilities of a trustee

(1) *To remain fit and proper for the position for the duration of his term.* A trustee 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 trusteeship 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 trustee is engaged in or intends to pursue as well as the developments in the NSSLA industry including regulatory changes through continuing education or training.

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

(3) *To act honestly and in good faith, with loyalty and in the best interest of the NSSLA , its members, regardless of the amount of their capital contributions, and other stakeholders such as its depositors, investors, borrowers, other clients and the general public.* A trustee must always act in good faith, with the care which an ordinarily prudent man would exercise under similar circumstances. While a trustee should always strive to promote the interest of all members, he 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.* Trustees 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 board of trustees, every trustee should thoroughly evaluate the issues, ask questions and seek clarifications when necessary.

(6) *To contribute significantly to the decision-making process of the board.* Trustees 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 trustee should view each problem/situation objectively. When a disagreement with others occurs, he should carefully evaluate the situation and state his position. He should not be afraid to take a position even though it might be unpopular.

Corollarily, he should support plans and ideas that he thinks will be beneficial to the institution.

(8) *To have a working knowledge of the statutory and regulatory requirements affecting the NSSLA 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 trustee should also keep himself informed of the industry developments and business trends in order to safeguard the institution's competitiveness.

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

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

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

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

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

position of the board who also performs functions of management such as those ordinarily performed by regular officers shall also be considered an officer.

§ 4142S.2 Qualifications of officers

An officer shall have the following minimum qualifications:

- a. He shall be at least twenty-one (21) years of age;
- b. He shall be at least a college graduate or have at least five (5) years experience in NSSLA or banking operations or related activities or in a field related to his position and responsibilities, or have undergone training in NSSLA or banking operations acceptable to the appropriate department of the SES;
- c. He must be fit and proper for the position of an officer of the NSSLA. In determining whether a person is fit and proper for the position of an officer, the following matters must be considered: integrity/probity, competence, education, diligence, and experience/training. The foregoing qualifications for officers shall be in addition to those already required or prescribed by R.A. No. 8367, as amended, and other existing applicable laws and regulations.

§ 4142S.3 Duties and responsibilities of officers

- (a) *To set the tone of good governance from the top.* NSSLA officers shall promote the good governance practices within the NSSLA by ensuring that policies on governance as approved by the board of trustees are consistently adopted across the NSSLA.
- (b) *To oversee the day-to-day management of the NSSLA.* NSSLA officers shall ensure that NSSLA's activities and operations are consistent with the NSSLA's strategic objectives, risk strategy, corporate values and policies as approved by the board

of trustees. They shall establish a NSSLA-wide management system characterized by strategically aligned and mutually reinforcing performance standards across the organization.

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

(d) *To promote and strengthen checks and balances systems in the NSSLA.* NSSLA officers shall promote sound internal controls and avoid activities that shall compromise the effective dispensing 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 Nos. 757 dated 08 May 2012 and 749 dated 27 February 2012)

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

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

- a. *Permanently disqualified.* Trustees/officers/employees permanently disqualified by the Monetary Board from holding a director/trustee position:
 - (1) Persons who have been convicted by final judgment of a court for offenses involving dishonesty or breach of trust such as but not limited to, estafa, embezzlement,

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extortion, forgery, malversation, swindling, theft, robbery, falsification, bribery, violation of B.P. Blg. 22, violation of Anti- Graft and Corrupt Practices Act and prohibited acts and transactions under Section 7 of R.A. No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees);

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

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

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

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

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

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

b. *Temporarily disqualified.* Trustees/officers/employees disqualified by the Monetary Board from holding a trustee

position for a specific/indefinite period of time. Included are:

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

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

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

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

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

(i) A trustee or officer for his own account or as the representative or agent of

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- others or where he/she acts as a guarantor, endorser or surety for loans from such FIs;

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

(iii) Any person whose borrowings or loan proceeds were credited to the account of, or used for the benefit of a trustee or officer;
- (iv) A partnership of which a trustee or officer, or his/her spouse is the managing partner or a general partner owning a controlling interest in the partnership; and

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

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mentioned in the foregoing Items “(i)”, “(ii)” and “(iv)”;

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

(4) Persons who have been convicted by a court for offenses involving dishonesty or breach of trust such as, but not limited to, estafa, embezzlement, extortion, forgery, malversation, swindling, theft, robbery, falsification, bribery, violation of B.P. Blg. 22, violation of Anti-Graft and Corrupt Practices Act and prohibited acts and transactions under Section 7 of R.A. No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees), violation of banking laws, rules and regulations or those sentenced to serve a maximum term of imprisonment of more than six (6) years but whose conviction has not yet become final and executory;

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

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

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

(8) Persons dismissed/terminated from employment for cause. This disqualification shall be in effect until they have cleared themselves of involvement in the alleged irregularity or upon clearance, on their request, from the Monetary Board after

showing good and justifiable reasons, or after the lapse of five (5) years from the time they were officially advised by the appropriate department of the SES of their disqualification;

(9) Those under preventive suspension;

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

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

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

(13) Trustees and officers of banks, QBs

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and trust entities found by the Monetary Board as administratively liable for violation of banking laws, rules and regulations where a penalty of suspension from office or fine is imposed, regardless whether the finding of the Monetary Board is final and executory or pending appeal before the appellate court, unless execution or enforcement thereof is restrained by the court. The disqualification shall be in effect during the period of suspension or so long as the fine is not fully paid.

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

§ 4143S.2 Persons disqualified to become officers

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

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

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 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 an NSSLA or their respective equivalent positions is disqualified from holding or being appointed to any of said positions in the same branch or extension office.

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

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

(As amended by Circular No. 699 dated 17 November 2010)

§ 4143S.3 Disqualification procedures

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

b. On the basis of knowledge and evidence on the existence of any of the grounds for disqualification mentioned in Subsecs. 4143S.1 and 4143S.2, the trustee

or officer concerned shall be notified in writing either by personal service or through registered mail with registry return receipt card at his/her last known address by the appropriate department of the SES of the existence of the ground for his/her disqualification and shall be allowed to submit within fifteen (15) calendar days from receipt of such notice an explanation on why he/she should not be disqualified and included in the watchlisted file, together with the evidence in support of his/her

position. The head of said department may allow an extension on meritorious ground.

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

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

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

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

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

concerned department of the SES shall recommend to the Monetary Board his/her delisting from the masterlist of temporarily disqualified persons and his/her inclusion in the masterlist of permanently disqualified persons.

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

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

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

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j. The board of trustees of the concerned institution shall be immediately informed of cases of disqualification approved by the Monetary Board and shall be directed to act thereon not later than the following board meeting. Within seventy-two (72) hours thereafter, the corporate secretary shall report to the Governor of the Bangko Sentral through the appropriate department of the SES the action taken by the board on the trustee/officer involved.

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

l. Whenever a trustee/officer is cleared in the process mentioned under Item “c” above or, when the ground for disqualification ceases to exist, he/she would be eligible to become trustee or officer of any bank, QB, trust entity or any institution under the supervision of the 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 trustee/officer and his/her delisting from the masterlist of watchlisted persons.

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

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

§ 4143S.5 (Reserved)

§ 4143S.6 Watchlisting. To provide the 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 trustee or officer of an NSSLA, the SES shall maintain a watchlist of disqualified NSSLA trustees/officers under the following procedures:

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

(1) Disqualification File “A” (Permanent)

- Trustees/officers/employees permanently disqualified by the Monetary Board from holding a trustee/officer position in any institution under the supervision/regulation of Bangko Sentral.

(2) Disqualification File “B” (Temporary)

- Trustees/officers/employees temporarily disqualified by the Monetary Board from holding a trustee/officer position in any institution under the supervision/regulation of Bangko Sentral.

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

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

persons disqualified to be a trustee/officer in any FI under the supervision of the Bangko Sentral.

d. *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, trust corporations, NSSLAs, and such institutions under the supervisory and regulatory powers of the Bangko Sentral 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 person 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*.

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

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

Board in the following cases:

(1) Watchlist – Disqualification File “B” (Temporary) –

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

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

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

(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)

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

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

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

c. Receipt or payment of bonuses of trustees, officers or employees if such

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bonuses are based on the profits and not on the volume or number of loans made or on the interest or fees collected thereon.

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

- a. When the NSSLA is found by the Monetary Board to be conducting business in an unsafe or unsound manner;
- b. When the NSSLA is found by the Monetary Board to be in an unsatisfactory financial condition such as, but not limited to, the following cases:

- (1) Its capital is impaired; and
- (2) It has suffered continuous losses from operations for the past three (3) years.

In the presence of any one (1) or more of the circumstances mentioned above, the Monetary Board may impose the following restrictions in the compensation and other benefits of trustees and officers:

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

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

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

§ 4144S.2 Liability for loans contrary to law. No NSSLA shall make or purchase any loan or investment not authorized or

permitted under R.A. No. 8367, and any trustee, officer or employee, who on behalf of any such NSSLA, knowingly makes or purchases any such loan or investment or who knowingly consents thereto shall be personally liable to the NSSLA for the full amount of any such loan or investment.

Sec. 4145S Bonding of Officers and Employees. All officers and employees of an NSSLA who, in the regular discharge of their duties have access to money or negotiable securities shall, before entering upon such duties, furnish to the employing NSSLA a good and sufficient bond and providing for indemnity to the NSSLA against the loss of money or securities, by reason of their dishonesty. The bond of the cashier, assistant cashier, treasurer, and other employees having money accountability shall not be less than their average daily accountability. The bond must be issued by a reputable bonding company duly licensed by the Insurance Commission and approved by the Bangko Sentral. Capital contribution or a cash bond deposited with the NSSLA or with a bank, may also be allowed.

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

Sec. 4147S Bio-data of Trustees and Officers.

- a. NSSLAs shall submit to the appropriate department of the SES a biodata with ID picture of their trustees/officers with rank of senior vice president (SVP) and above (or equivalent ranks) upon every election/re-election/appointment/promotion in a prescribed form and for first-time

trustees/officers with rank of SVP and above (or equivalent ranks) within a particular NSSLA, the duly notarized authorization form per *Appendix Q-45*, within twenty (20) business days from the date of election/re-election of the trustees/meeting of the board of trustees in which the officers are appointed/promoted in accordance with *Appendix S-2*.

The bio-data shall be updated and submitted in case of change of name due to change in civil status, within twenty (20) business days from the date the change occurred.

For other officers below the rank of SVP, the NSSLA shall not be required to submit their bio-data to the Bangko Sentral.

b. The NSSLA shall, however, keep a complete record of the bio-data of all its trustees 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 offsite verification.

c. The NSSLA shall also submit to the appropriate department of the SES a duly notarized list of the incumbent members of the board of trustees and officers (President or equivalent rank, down the line, format attached as *Appendix Q-57b*), within twenty (20) business days from the election of the board of trustees as provided in the NSSLA's by-laws, in accordance with *Appendix S-2*.

(As amended by Circular Nos. 887 dated 07 October 2015 and 758 dated 11 May 2012)

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

Secs. 4149S - 4150S (Reserved)

H. BRANCHES AND OTHER OFFICES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Secs. 4152S - 4155S (Reserved)

I. BUSINESS DAYS AND HOURS

Sec. 4156S *Business Days and Hours.* NSSLAs may, with the prior approval of the appropriate department of the SES, adopt such business days and hours as may be convenient for them. NSSLAs shall be open

for business during business hours and days except when extraordinary instances caused by unforeseen, unavoidable event directly affect the NSSLA's ability to open for business. NSSLAs shall post conspicuously at all times in their place of business their schedule of regular business hours and days.

Secs. 4157S - 4160S (Reserved)

J. REPORTS

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

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

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

Statement of policy. It is the policy of the Bangko Sentral to promote fairness,

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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 Financial Reporting Standards Council (FRSC) to the greatest extent possible.

NSSLAs shall adopt the PFRS and PAS which are in accordance with GAAP in recording transactions and in the preparation of financial statements and reports to 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 all NSSLAs/FIs.

For purposes hereof, the PFRS/PAS shall refer to issuances of the FRSC 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”; and

b. 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. NSSLAs that adopted an accounting treatment other than the foregoing shall consider the adjustment as a change in accounting policy, which shall be accounted for in accordance with PAS 8.

Notwithstanding the exceptions in Items “a” and “b”, the audited financial statements required to be submitted to the Bangko Sentral in accordance with the provisions of *Appendix S-2* 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.

For purposes of preparing solo/separate financial statements, financial allied, non-financial allied and non-allied subsidiaries/ associates/joint ventures, including insurance subsidiaries/associates, shall be accounted for using the equity method, in accordance with PAS 27, as amended.

Non-stock savings and loan associations, 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 non-stock savings and loan associations shall continue to be accounted for in accordance with the provisions of PAS 39.

(As amended by Circular Nos. 915 dated 05 July 2016 and 912 dated 27 May 2016 and 572 dated 22 June 2007)

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

§ 4162S.1 Categories and signatories of reports. For purposes of designating the signatories of reports, certain weekly, monthly, quarterly, semi-annual, and annual statements/reports required to be submitted

to the Bangko Sentral are hereby grouped into *Categories A-1, A-2, A-3* and *Category B*, as enumerated in *Appendix S-3*.

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

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

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

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

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

§ 4162S.2 Manner of filing. The submission of the reports shall be effected by filing them personally with the appropriate department of the SES or with

the BSP Regional Offices or by sending them registered mail or special delivery, unless otherwise specified in the circular or memorandum of the Monetary Board or the BSP.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) *Procedures in imposing the fine*

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

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

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

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

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

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

Sec. 4163S Internal Control Framework.

Internal control is a process designed and effected by the board of trustees, 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.

NSSLAs 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.

(Circular No. 871 dated 05 March 2015)

§ 4163S.1 Management oversight and control culture. Consistent with the principles provided under Subsecs. 4141S.3 and 4142S.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 trustees 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 NSSLA. The board of trustees shall also ensure that the internal audit function has an appropriate stature and authority within the NSSLA and is provided with adequate resources to enable it to effectively carry-out its assignments with objectivity.

Further, the board of trustees shall, on a periodic basis:

(1) conduct discussions with management on the effectiveness of the internal control system;

(2) review of 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 NSSLA'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;

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(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 NSSLA 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 NSSLA; 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 NSSLA 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 NSSLA'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)

§ 4163S.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 NSSLAs' 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 NSSLAs, 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 NSSLAs' 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 NSSLAs activities/groups/units and subsidiaries, in the case of a parent FI. Internal controls shall be revised to address any new or previously uncontrolled or unidentified risks. *(Circular No. 871 dated 05 March 2015)*

§ 4163S.3 Control activities. Control activities shall form part of the daily activities of the NSSLAs and all levels of personnel in the NSSLAs. 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.

NSSLAs 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 noncompliance; 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.* NSSLAs 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, NSSLAs shall conduct independent balancing and reconciliation of records and reports to ensure the integrity of the reported data and balances. NSSLAs 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.* NSSLAs shall adopt policies and practices to safeguard their tangible and information assets. These shall include, but shall not be limited to:

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- (1) identifying officers with authorities to sign for and on behalf of the NSSLA. Signing authorities shall be approved by the board of trustees 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.* NSSLAs 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)

§ 4163S.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. NSSLAs shall have in place a reliable management information system that covers significant activities of the NSSLA and has the capability to generate relevant and quality information to support the functioning of internal control.

NSSLAs 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 trustees, where required. These shall enable them to quickly respond to changing conditions and avoid unnecessary costs.
(Circular No. 871 dated 05 March 2015)

§ 4163S.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 trustees, where necessary, and addressed promptly.

(Circular No. 871 dated 05 March 2015)

Sec. 4164S 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 trustees in protecting the NSSLA 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 NSSLA areas.

a. *Permanency of the internal audit function.* Each NSSLA shall have a permanent internal audit function. In the case of group structures involving a parent NSSLA and subsidiary or affiliate BSFI, the internal audit function shall either be established in each of the BSFI or centrally by the parent NSSLA.

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 NSSLA.

On the other hand, in case the parent NSSLA's internal audit function shall cover the internal audit activities in the subsidiary or affiliate BSFI, the board of directors of the parent NSSLA 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. X162. 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.* NSSLAs 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 trustees of the NSSLA shall remain ultimately responsible for the conduct of effective internal audit: Provided, further, That The internal audit activity shall not be outsourced to the NSSLA's own external auditor/audit firm nor to internal audit service provider that was*

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previously engaged by the NSSLA in the same area intended to be covered by the internal audit activity that will be outsourced, without a one-year “cooling off” period.
(As amended by Circular No. 871 dated 05 March 2015)

§ 4164S.1 (2014 - Status) 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 NSSLA, 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 NSSLA 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)

§ 4164S.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 trustees 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 trustees 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 concerned departments/units.

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 trustees, 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; and

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 NSSLA operations.

(Circular No. 871 dated 05 March 2015)

§ 4164S.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 NSSLA'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-year "cooling off" period has elapsed. The internal audit personnel shall adhere at all times to the NSSLA'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)

§ 4164S.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 trustees or audit committee. It shall have authority to directly access and communicate with any officer or employee, to examine any activity or entity of the NSSLA, 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

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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)

§ 4164S.5 Internal audit charter.
 NSSLAs shall have an internal audit charter approved by the board of trustees. 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 trustees.

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 NSSLA. The charter shall recognize the authority of the internal audit function, to initiate direct communication with any NSSLA personnel; to examine any activity or entity; and to access any records, files, data and physical properties of the NSSLA, 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)

§ 4164S.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;
- 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 NSSLA’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. 4165S - 4170S (Reserved)

K. INTERNAL CONTROL

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

Sec. 4172S Financial Audit. NSSLAs shall cause an annual financial audit by an external auditor acceptable to the Bangko Sentral not later than thirty (30) calendar days after the close of the calendar year or the fiscal year adopted by the NSSLA. Report of such audit shall be submitted to the board of directors and the appropriate department of the SES not later than 120 calendar days after the close of the calendar year or the fiscal year adopted by the NSSLA. The report to the 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 financial audit report and certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the

course of the audit of the NSSLA to the board of directors; and (c) the absence of any direct or indirect financial interest and other circumstances that may impair the independence of the external auditor; (2) reconciliation statement between the AFS and the balance sheet and income statement for NSSLA submitted to the 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 NSSLA to submit to the board of directors, a LOC indicating any material weakness or breach in the institution’s internal control and risk management systems within thirty (30) calendar days after submission of the financial audit report. If no material weakness or breach is noted to warrant the issuance of an LOC, a Certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the NSSLA shall be submitted in its stead, together with the financial audit report.

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

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

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

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

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

NSSLAs under Bangko Sentral supervision which are under the concurrent jurisdiction of the COA shall

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

NSSLAs under the concurrent jurisdiction of the Bangko Sentral and COA shall, however, submit a copy of the AAR of the COA to the appropriate department of the SES 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 income statement of the NSSLA 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

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observations and the names of the directors present and absent, among other things.

NSSLAs as well as external auditors shall strictly observe the requirements in the submission of the financial audit report and reports required to be submitted under Appendix Q-33.

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

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

(As amended by Circular Nos. 911 dated 02 May 2016, 554 dated 22 December 2006 and 540 dated 09 August 2006)

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

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

(Circular No. 540 dated 09 August 2006)

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

(Circular No. 540 dated 09 August 2006)

Sec. 4173S (Reserved)

Sec. 4174S 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 NSSLA 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 NSSLA’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 NSSLA 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 NSSLA’s activities.

Chief Risk Officer (CRO). NSSLA 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 trustees or to the risk oversight committee without any impediment.

The CRO shall have sufficient stature, authority and seniority within the NSSLA. This will be assessed based on the ability of the CRO to influence decisions that affect the NSSLA’s exposure to risk. The CRO shall have the ability, without compromising his independence, to engage in discussion with the board of trustees, 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 trustees. In cases, when the CRO will be replaced, the NSSLA 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 trustees.

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

Secs. 4175S - 4179S (Reserved)

Sec. 4180S Selection, Appointment, Reporting Requirements and Delisting of External Auditors and/or Auditing Firm; Sanction. Pursuant to Section 58, R.A. No. 8791, and the existing provisions of the executed Memorandum of Agreement (MOA) dated 12 August 2009, binding the Bangko Sentral, SEC, PRC - BOA and the IC for a simplified and synchronized accreditation requirements for external auditor and/or auditing firm, following are the revised rules and regulations that shall

govern the selection and delisting by the 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 the 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 S-8*.

Sanctions. The applicable sanctions/penalties prescribed under Sections 36 and 37 of R.A. 7653 to the extent applicable shall be imposed on the covered institutions, its audit committee and the directors approving the hiring of external auditor/auditing firm who/which are not in the Bangko Sentral list of selected auditors for covered institutions or for hiring, and/or retaining the services of the external auditor/auditing firm in violation of any of the provisions of this Section and for non-compliance with the Monetary Board directive under Item “K” in *Appendix S-8*. Erring external auditors/auditing firm may also be reported by the 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)

L. MISCELLANEOUS PROVISIONS

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

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

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

Sec. 4182S Business Name¹. NSSLAs organized or operating under R.A. No. 8367 and licensed by the Bangko Sentral shall include in their names the words “Savings

and Loan Association”. Such NSSLAs shall display in a conspicuous place at their business offices a sign including, among other things, the following words: “Authorized by the Bangko Sentral ng Pilipinas”.

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

Sec. 4183S Prohibitions.

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

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

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

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

Sec. 4184S Rules Governing Prejudicial Acts, Practices or Omissions. In line with the policy of the State to regulate and supervise the activities of NSSLAs through issuance of minimum requirements and standards resulting to judicious utilization of credit; to place their operations on a sound, stable and efficient basis so they may provide for the establishment of additional savings and credit facilities in a fair manner to their members; to curtail or prevent acts, practices or omissions of these NSSLAs

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

which are prejudicial to their members' interest; and to maximize the protection of members of NSSLAs against misfeasance and malfeasance of the trustees and officers thereof, the following rules and regulations on prejudicial acts, practices or omissions are hereby issued.

(Circular No. 933 dated 16 December 2016)

§ 4184S.1 Acts, practices or omissions considered prejudicial to the interest of members.

a. In determining whether a particular act, practice or omission may be deemed as prejudicial to the interest of members, the Monetary Board, upon report of the head of appropriate supervision and examination department, based on the finding in an examination or a complaint, shall consider the following circumstances:

(1) The act, practice or omission is contrary to the generally accepted standards of prudent operation resulting in, or if continued, may result in abnormal risk, damage or loss to the NSSLA; or

(2) The act, practice or omission unduly burdens the members of the NSSLA and/or provide unwarranted benefit to the NSSLA to the advantage or preference of particular parties or groups thereof; or

(3) The act, practice or omission has resulted or may result in material loss, damage or undue injury to members.

b. Acts, practices or omissions which may be considered as prejudicial to the interest of members, include, but are not limited to, the following:

(1) Charging of unreasonably high service fees in the grant of loans;

(2) Recognizing as income unused insurance premiums instead of refunding and/or crediting the same to borrowers;

(3) Non-disclosing of costs related to services rendered by agents/sales representatives and consultants in the financials and management reports;

(4) Limiting the capital contributions of members in a discriminatory manner that has the effect of concentrating control to a family or group of members;

(5) Granting excessive compensation/benefits to trustees and/or officers without due consideration of the NSSLA's financial health, or when neither allowed in the by-laws nor approved by a general assembly called for the purpose, or when not commensurate to the assigned duties and responsibilities;

(6) Granting of loans to borrowers who have insufficient paying capacity or poor credit history;

(7) Continuously deducting loan amortizations from the members' salary even after the loan has been fully paid;

(8) Paying unauthorized disbursements or unsupported expenses; or

(9) Allowing third parties to use the NSSLA's properties or privileges without due compensation.

The Monetary Board may from time to time, consider any other acts, practices or omissions as prejudicial to the interest of members.

(Circular No. 933 dated 16 December 2016)

§ 4184S.2 Enforcement actions. Based on the seriousness and materiality of the prejudicial acts, practices or omissions, the NSSLA, its trustees and officers shall be subject to administrative sanctions under Section 37 of R.A. No. 7653 or "The New Central Bank Act" and/or other applicable enforcement actions. The Monetary Board, pursuant to its authority under Section 22 of R.A. No. 8367 and subject to due

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process, may also order the revocation of an NSSLAs license to operate as such if the prejudicial acts, practices or omissions are found to be persistent and grossly disadvantageous to the interest of the majority of its members.

Moreover, the above is without prejudice to the filing of appropriate criminal charges against culpable persons as provided for under Section 23(c) of R.A. No. 8367.

(Circular No. 933 dated 16 December 2016)

Secs. 4185S - 4189S (Reserved)

Sec. 4190S Guidelines on Outsourcing.

The rules on outsourcing of banking functions as shown in *Appendix Q-37* shall be adopted insofar as they are applicable to NSSLAs.

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

Sec. 4191S (Reserved)

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

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

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

The guidelines set forth the expectation 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 an NSSLAs internal risk management processes are integrated and comprehensive. All NSSLAs should follow the guidance in risk management efforts.

(Circular No. 510 dated 03 February 2006)

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

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

The 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 NSSLAs.

(Circular No. 544 dated 15 September 2006)

Sec. 4195S Liquidity Risk Management The guidelines on liquidity risk management for QBs as shown in *Appendix Q-44* shall govern the liquidity risk management of NSSLAs to the extent applicable.

The guidelines set forth the expectations of the 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. NSSLAs are expected to have an integrated approach to risk management to identify, measure, monitor and control risks. Liquidity risk should be reviewed together with other risks to determine overall risk profile.

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

(Circular No. 545 dated 15 September 2006)

Sec. 4196S 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)

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§ 4196S.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)

§ 4196S.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)

§ 4196S.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 be notified in writing of their classification immediately after 14 September 2013.

(Circular No. 808 dated 22 August 2013)

§ 4196S.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)

§ 4196S.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

Terminology	Definitions
	incorporated or 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 purchased online, among others.

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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 entity external to the corporate group)

Terminology	Definitions
	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.

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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)

§ 4196S.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)

§ 4196S.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

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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 BSI’s 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.

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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

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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.

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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)

§ 4196S.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)

§ 4196S.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 4196S.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)

Secs. 4197S - 4198S (Reserved)

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

PART TWO

DEPOSIT AND BORROWING OPERATIONS

A. DEMAND DEPOSITS

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

Secs. 4202S - 4205S (Reserved)

B. SAVINGS DEPOSITS

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

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

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

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

NSSLAs may limit the number of withdrawals that a depositor may make: *Provided,* That the number of the withdrawals allowed shall not be less than three (3) times a month. A service charge to be determined by the board of trustees of the NSSLA and approved by the BSP,

may be charged by the NSSLA for every withdrawal made in excess of the maximum number allowed in any one (1) month.

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

Secs. 4210S – 4215S (Reserved)

C. (RESERVED)

Secs. 4216S - 4220S (Reserved)

D. TIME DEPOSITS

Sec. 4221S (Reserved)

Sec. 4222S Minimum Term and Size of Time Deposits

- a. *Term* - No time deposit shall be accepted for a term of less than thirty (30) days.
- b. *Minimum Size* - NSSLAs shall not require a minimum amount of time deposit greater than ₱1,000.

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

Secs. 4224S - 4230S (Reserved)

E. - F. (RESERVED)

Secs. 4231S - 4240S (Reserved)

G. INTEREST ON DEPOSITS

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

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

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

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

Secs.4243S - 4250S (Reserved)

H. (RESERVED)

 Secs. 4251S – 4260S (Reserved)

I. SUNDRY PROVISIONS ON DEPOSIT OPERATIONS

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

§ 4261S.1 *Who may open deposit accounts.* Only members who have contributed P1,000 or more to the capital of the NSSLA may open deposit accounts with NSSLAs. A natural person, although lacking capacity to contract, may nevertheless open a savings or time

deposit account for himself, provided he has sufficient discretion. However, he cannot withdraw therefrom, except through, or with the assistance of a guardian authorized to act for him. Parents may deposit for their minor children, and guardians for their wards.
 Notwithstanding the provisions of the preceding paragraph, the cashier, bookkeeper and their assistants, and other employees of an NSSLA whose duties entail the handling of cash or checks are prohibited from opening savings deposit accounts with the head office or branch of the NSSLA in which they are assigned as such.

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

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

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

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

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

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

Secs. 4262S - 4280S (Reserved)

J. (RESERVED)

Secs. 4281S - 4285S (Reserved)

K. OTHER BORROWINGS

Sec. 4286S Borrowings. An NSSLA may borrow money or incur such obligation up to not more than twenty percent (20%) of the total assets of the NSSLA, from any

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

Secs. 4287S - 4298S (Reserved)

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

PART THREE

LOANS AND INVESTMENTS

A. LOANS IN GENERAL

Section 4301S Lending Policies. It shall be the responsibility of the board of trustees of NSSLAs to formulate written policies on the extension of credit. Well-defined lending policies and sound credit risk management practices are essential if NSSLAs are to perform their lending function effectively and minimize the risk inherent in any extension of credit. The responsibility should be approached in a way that will provide assurance to the members, other stakeholders and the supervisory authority that timely and adequate action will be taken to maintain the quality of the loan portfolio.
(As amended by Circular No. 789 dated 28 February 2013)

§ 4301S.1 (2012-4301S) Authority; loan limits; maturity of loans. The board of trustees of NSSLAs shall be responsible for the design of appropriate loan products in accordance with the Association’s business strategies and its members’ requirements. The board of trustees shall ensure that they fully understand all the risks attendant to the Association’s lending activities and shall adopt appropriate risk management policies and practices that are commensurate to the risk attendant to their operations, and which, at a minimum, shall comply with the regulations and standards prescribed herein. NSSLAs deemed to be engaged in hazardous lending practices shall be cited as operating in an unsafe and unsound manner.

a. *Loans products.* NSSLAs may grant loans to members to service the needs of households by providing long term financing for home building and development, for personal finance and for agricultural and entrepreneurial projects. The board of trustees of NSSLAs shall consider, among

other things, the following in the definition of its loan products:

- (1) the nature or purpose of the loan;
- (2) the repayment capacity and circumstances of the member-borrower;
- (3) terms of the loan; and
- (4) normal loan collection cycles.

The definitions and characterization of all loan products shall be embodied in a product manual approved by the board of trustees. The product manual shall, at a minimum, contain the term of the loan, the maturity of which shall in no case exceed the maximum provided under Item “d” of this Subsection, interest rate, net-take home pay requirement vis-a-vis the type of member-borrower, repayment terms, collection scheme, documentary requirements and applicable work-out strategies. The normal collection period, which refers to the normal period of time within which the Association is able to effect the first periodic amortization/salary deduction for amortization of a loan reckoned from loan release date, shall likewise be set by the NSSLA’s board of trustees and shall be based on the recent historical experience of the NSSLA (e.g., last three years) and/or the remittance period specified in contracts entered into with private companies or department/branch/ office of government employing the NSSLA’s members. The NSSLA’s normal collection period and the manner by which it is established shall be set forth in the NSSLA’s loan policies and considered in its overall risk assets review system in order to reflect the true status of loan accounts and ensure that adequate loss reserves are provided. In no case, however, shall the normal collection period exceed six (6) months from the date of release of the loan.

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

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

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

- (1) Amount of cash available for loan purposes;
- (2) Amount of cash which can be readily realized upon the sale or redemption of permissible investments made by NSSLAs; and
- (3) Amount of credit available for loan purposes from government or private FIs.

d. *Maximum loan maturity.* No loan granted by NSSLAs shall have a maturity date of more than five (5) years except loans on the security of unencumbered real estate for the purpose of home building and home development which may be granted with

maturities not exceeding twenty-five (25) years and medium or long-term loans to finance agricultural projects.

(As amended by Circular No. 789 dated 28 February 2013)

Sec. 4302S Basic Requirements in Granting Loans

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

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

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

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

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

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

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

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

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

§§ 4305S.1 - 4305S.2 (Reserved)

§ 4305S.3 Interest in the absence of 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)

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

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

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

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

§ 4305S.6 Method of computing interest. NSSLAs 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.

(Circular No. 754 dated 17 April 2012)

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

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

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

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

b. For loans or receivables payable on installment, the outstanding balance of the loan if a payment has fallen due and remained unpaid;

c. In case of restructured loans as defined in Sec. 4308S, the total outstanding balance of the loan if a payment has fallen due and remained unpaid; and

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

Past due accounts as defined herein are considered non-performing loans (NPL).

(As amended by Circular No. 789 dated 28 February 2013)

§ 4306S.2 Extension/renewal of loans
(Transferred to Section 4309S pursuant to Circular No. 789 dated 28 February 2013)

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

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

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

c. Notice/application for write-off of loans shall be submitted, in the prescribed form to the appropriate department of the SES at least thirty (30) days prior to the intended date of write-off: *Provided*, That no such loans with an aggregate outstanding amount of P15,000 or more, as certified in said notice/application, shall be written-off without the prior approval of:

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

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

§ 4306S.4 Updating of information provided to credit information bureaus

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

(Circular No. 589 dated 18 December 2007)

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

a. Transactions covered

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

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

subsequent to the making of such sale or contract;

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

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

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

b. Transactions not covered

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

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

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

§ 4307S.1 Definition of terms

a. Creditor (who shall furnish the information) means any person engaged in the business of extending credit (including any person who as a regular business practice makes loans or sells or rents property or services on a time, credit, or installment basis, either as principal or as agent), who requires as an incident to the extension of credit, the payment of a finance charge.

The term *creditor* shall include, but shall not be limited to, banks and banking institutions, insurance and bonding companies, savings and loan associations, credit unions, financing companies, installment houses, real estate dealers,

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lending investors, pawnshops, and any other person or entity engaged in the business of extending credit who requires as an incident to the extension of credit, the payment of a finance charge.

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

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

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

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

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

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

h. *Finance charge* includes interest, fees, service charges, discounts, and such other charges incident to the extension of credit.

i. *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 effective annual 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.

(As amended by Circular No. 754 dated April 2012)

§ 4307S.2 Information to be disclosed

The following are the minimum information required to be disclosed to NSSLA borrowers (sample form in *Appendix S-4*):

- 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 effective annual interest rate as described in Item “h” of Subsec. 4307S.1. Effective annual interest rate may also be quoted as a monthly rate in parallel with the quotation of the contractual rate.

NSSLAs 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)

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

§ 4307S.4 (2008 – 4309S.4) Posters NSSLAs 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 S-4*). 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)

§4307S.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 trustees; and
- c. *Subsequent offense/s:*
 - i. Suspension of the erring officer/s and/or entire board of trustees; 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 No. 754 dated 17 April 2012)

Sec. 4308S Restructured Loans; General Policy. Restructured loans are loans the principal terms and conditions of which have been modified for it not to become a problem account, or if already past due, to allow for a better settlement plan to fully pay-off the loan. Restructured loans are supported by 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, installment amortization, 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 suspensions or for new plans of payment approved by the court or the SEC, shall not be classified as restructured loans.

NSSLAs shall have the flexibility to determine the basis for and terms of the loan restructuring, considering, among other things, the paying capacity of the borrowers: *Provided*, That these shall at all times be consistent with sound credit risk management standards.

Loan restructuring shall be subject to the approval of the board of trustees whose

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resolution shall embody, among other things:

- 1. basis of or justification for the approval;
- 2. basis for the determination of the borrower’s capacity to pay; and
- 3. nature and extent of protection of the exposure.

The restructuring of loans granted to trustees and/or officers of an NSSLA should be upon terms not less favorable to the Association than those offered to other members.

In case of loans secured by real estate collateral, such security shall be appraised at the time of restructuring to ensure that current market values are being used.

A second restructuring of a loan may be allowed only if there are reasonable justifications, and after the borrower has paid at least twenty percent (20%) of the principal obligation and updated the payment of all interest accruing to the loan as first restructured.

Restructured loans shall be classified and provided with adequate allowance for probable losses in accordance with Appendix S-9.
(Circular No. 789 dated 28 February 2013)

Sec. 4309S (2012-4306S.2) Renewal of Loans. Loans payable in periodic installments may be renewed for the full or beyond the amount of such loans but within the limit prescribed under Subsec. 4301S.1b

or the NSSLA by-laws, as applicable: *Provided*, That at least thirty percent (30%) of the loan shall have been paid.

(As amended by Circular No. 789 dated 28 February 2013)

Sec. 4310S Minimum Required Disclosure
NSSLAs 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: NSSLAs covered in 4312N.12 - shall be given a period of 120 days from 6 January 2011 to fully

implement the required disclosure requirements.

(Circular No. 702 dated 15 December 2010)

Sec. 4311S Unfair Collection Practices. NSSLAs, 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 Section:

- 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. 4312S;
- 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, application form and billing statement: *Provided further*, That such table of fees, penalties and interest rates shall be printed 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 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.

NSSLAs shall inform their borrower 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. NSSLAs 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. (Circular No. 702 dated 15 December 2010)

Sec. 4312S Confidentiality of Information. NSSLAs 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 NSSLAs 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

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NSSLA in the administration of its lending business; and

f. disclosure to third parties such as insurance companies, solely for the purpose of insuring the NSSLA from borrower default or other credit loss, and the borrower from fraud or unauthorized charges.

(Circular No. 702 dated 15 December 2010)

Sec. 4313S Sanctions. Violations of the provisions of Secs. 4310S to 4312S 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 NSSLA 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:

i. Prohibition on the NSSLA concerned from the extension of additional credit accommodation against personal security; and

ii. Penalties and sanctions provided under Sections 36 and 37 of R. A. No. 7653.

(Circular No. 702 dated 15 December 2010)

Secs. 4314S – 4320S (Reserved)

B. SECURED LOANS

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

a. Mortgages on registered real estate;

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

c. Chattel mortgages on livestock, tools, equipment or machinery, supplies or

materials, merchandise and other personal properties;

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

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

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

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

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

Secs. 4322S - 4335S (Reserved)

C. - D. (RESERVED)

Sec. 4336S (Reserved)

Sec. 4337S Policies on Salary-Based General-Purpose Consumption Loans¹.

Statement of policy. The Bangko Sentral recognizes the helpful role of salary-based, consumer lending schemes in allowing an individual borrower to manage his/her cash flows provided these are granted under sound credit standards and fair consumer practices. The Bangko Sentral likewise encourages competition and transparency to promote efficient and innovative delivery of financial services and fair dealing with customers.

(Circular No. 837 dated 18 June 2014, as amended by Circular Nos. 903 dated 29 February 2016 and 886 dated 08 September 2015)

¹ This Section shall apply to all salary-based general purpose consumption loans as defined herein including those outstanding prior to 26 September 2015. FIs shall be given six (6) months from 08 September 2015 to adopt/amend their policies, procedures and credit risk strategy on salary-based general-purpose consumption loans to comply with the provisions contained herein.

§ 4337S.1 Definition; Transactions covered; Exclusions; Report.

a. *Definition. Salary-based general-purpose consumption loans.* Refer to unsecured loans for a broad range of consumption purposes, granted to individuals mainly on the basis of regular salary, pension or other fixed compensation, where repayment would come from such future cash flows, either through salary deductions, debits from the borrower's deposit account, mobile payments, pay-through collections, over-the-counter payments or other type of payment arrangement agreed upon by the borrower and lender.

b. *Transactions Covered.* Salary-based general-purpose consumption loans may include credit accommodations for education, hospitalization, emergency, travel, household and other personal consumption needs.

c. *Exclusions.* Credit cards, motor vehicles and other personal loans which are covered by other existing applicable regulations are excluded from the coverage of this Section.

d. *Report.* For the purpose of reporting in the Financial Reporting Package, financial assistance under an approved fringe benefit program should be reported/classified according to the purpose of the financial assistance (e.g., housing/real estate, motor vehicle, salary-based general-purpose consumption, etc.)

(Circular No. 837 dated 18 June 2014, as amended by Circular No. 886 dated 08 September 2015)

§ 4337S.2 Credit granting.

a. Policies of financial institutions (FIs) shall be consistent with best practices and sound credit processes prescribed under Bangko Sentral regulations, including a

comprehensive assessment of the borrower's creditworthiness, and shall not be reliant on mere formula such as those automatically granted based on certain multiples of monthly salary or other regular compensation.

b. Individual borrowing capacity should be prudently assessed considering reasonable estimates of total personal and household indebtedness as well as disposable income available for family and personal needs after considering debt servicing.

c. Original loan term shall not exceed three (3) years but may have longer maturity in meritorious cases provided that in no case shall maturity exceed five (5) years;

No loan renewal shall be granted without re-assessing borrowing capacity and establishing continuing creditworthiness. Further, no loan renewal shall be allowed without payment of accrued interest receivable and substantial reduction in principal.

d. In the case of loan "takeout" from another FI, the FI taking out the loan(s) should ensure that the loan from the originating FI has been fully settled. FIs are expected to institute adequate controls over loan "takeout" such as: (a) directly releasing the loan proceeds to the FIs where the loan will be taken out; and (b) obtaining a copy of the official receipt evidencing full settlement of account from the originating FI, among others.

(Circular No. 886 dated 08 September 2015)

§ 4337S.3 Consumer protection. FIs are required to strictly adhere to Bangko Sentral regulations on Financial Consumer Protection as prescribed under Part Four entitled Consumer Protection.

(Circular No. 886 dated 08 September 2015)

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§ 4337S.4 *Sanctions*. The Monetary Board may, at its evaluation and discretion, impose sanctions on an FI and/or its Board, directors and officers, proportionate to the gravity/seriousness of the offense in cases of persistent non-observance of the provisions contained herein.
(Circular No. 886 dated 08 September 2015)

Secs. 4338S - 4355S (Reserved)

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

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

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

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

Secs. 4359S - 4369S (Reserved)

Sec. 4370S Sanctions. The office of any trustee or officer of an NSSLA who violates the provisions of these rules on accommodations granted to trustee and officers shall immediately become vacant and said trustees or officer shall be punished by imprisonment of not more than one (1) year nor more than ten (10) years and by a fine of not less than P5,000 nor more than P50,000 pursuant to Section 15 of R.A. No. 8367.

F. - I. (RESERVED)

Secs. 4371S - 4390S (Reserved)

J. OTHER OPERATIONS

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

a. In bonds and securities in an aggregate amount not exceeding ten percent(10%) of its

total assets; any investment in excess of ten percent (10%) shall require the prior approval of the Bangko Sentral: *Provided*, That NSSLAs may invest available funds in excess of ten percent (10%) of total assets in sound non-speculative enterprise, particularly in readily marketable and high grade commercial papers, bonds and securities issued by the Government of the Philippines or any of its political subsidiaries, instrumentalities or corporations including GOCCs, subject to the following conditions:

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

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

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

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

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

§§ 4391S.1 - 4391S.2 (Reserved)

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

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

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- a. Fines of P2,000/banking day to be imposed on NSSLAs for each violation, reckoned from the date the violation was committed up to the date it was corrected; and
- b. Sanctions to be imposed on concerned officers:
 - (1) First offense – reprimand the officers responsible for the violation; and
 - (2) Subsequent offenses–suspension- of ninety (90) days without pay for officers responsible for the violation.

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

§§ 4391S.4 - 4391S.10 (Reserved)

Sec. 4392S Loan Portfolio and Other Risk Assets Review System. To ensure that timely and adequate management action is taken to maintain the quality of the loan portfolio and other risk assets, and that adequate loss reserves are set-up and maintained at a level sufficient to absorb the loss inherent in the loan accounts and other risk assets, each NSSLA shall establish a system of identifying and monitoring existing or potential problem loans and other risk assets, and of evaluating credit and asset management policies vis-a-vis prevailing circumstances and emerging portfolio trends.

- The board of trustees is responsible for ensuring that the NSSLA has, at a minimum:
- a. A robust risk management that shall

- include, at least, an independent and periodic review of quality of risk assets.
- b. Controls in place, and policies and procedures to determine the adequacy of booked allowance for probable losses on loans and other risk assets, consistent with the Philippine Accounting Standards and the minimum standards required in *Appendix S-9*. The allowance for losses required in the said appendix shall likewise be set-up immediately; and
- c. A robust process to ensure that the board of trustees is informed of the results of independent and periodic reviews, and determination of adequacy of booked loss reserves, and that appropriate actions on such reports are undertaken consistent with the specific duties and responsibilities of the board of trustees as provided under Subsec. 4141S.5.a(7).

(Circular No. 789 dated 28 February 2013)

Secs. 4393S - 4395S (Reserved)

K. MISCELLANEOUS PROVISIONS

Secs. 4396S - 4398S (Reserved)

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

PART FOUR

BSP REGULATIONS ON FINANCIAL CONSUMER PROTECTION

A. CONSUMER PROTECTION
OVERSIGHT FUNCTION

Section 4401S 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)

§4401S.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)

§4401S.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

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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. 4402S 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)

§4402S.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. 4305S.6;

(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;

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(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 November 2015)

§4402S.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

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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)

§4402S.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

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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)

¹The effectivity of the cooling-off provisions shall be deferred to 16 January 2016.

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 complexity of the products or services they sell.

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(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 Nos. 898 dated 14 January 2016 and 890 dated 02 November 2015)

§4402S.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 S-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)

§4402S.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.

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- (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

Section 4403S 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. 4404S - 4499S (Reserved)

PART FIVE

Sections 4501S - 4599S (Reserved)

PART SIX

MISCELLANEOUS

A. OTHER OPERATIONS

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

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

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

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

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

(2) *Transactional offenses/violations* are acts, omissions or transactions entered into in violation of laws, BSP rules and regulations, Monetary Board directives, and orders of the Governor which cannot be corrected/rectified by subsequent acts or transactions. They shall be meted with one

(1)-time monetary penalty on a per transaction basis.

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

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

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

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

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

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

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

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

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

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

Secs. 4602S - 4630S (Reserved)

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

- a. *Suspension of license:*
 - (1) Repeated violations [uncorrected similar examination findings for the last two (2) examinations, regular or special] of any of the provisions of R.A. No. 8367, and/or any rules or regulations promulgated to implement said law, or BSP directives and/or instructions; and
 - (2) Paid-up capital is impaired by continuing losses for the last two (2) fiscal years.

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

- b. *Revocation of license:*
 - (1) When the solvency of the NSSLA is imperiled by losses and irregularities;
 - (2) When the NSSLA willfully violates any provision of R.A. No. 8367, any rule or regulation promulgated to implement said law and BSP directives and/or instructions;
 - (3) When the NSSLA is conducting business in an unsafe and unsound manner;
 - (4) When it is unable to pay its liabilities as they become due in the ordinary course of business;
 - (5) When it has insufficient realizable assets, as determined by the BSP, to meet its liabilities;
 - (6) When it cannot continue in business without involving probable losses to its members or creditors; and
 - (7) When it has willfully violated a cease and desist order of the Monetary Board involving acts or transactions which amount to fraud or a dissipation of assets of the institution.

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

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

Secs. 4632S - 4640S (Reserved)

Sec. 4641S Electronic Services. The guidelines concerning electronic activities, as may be applicable, are found in Sec. 4701Q and its Subsections.

(Circular No. 649 dated 09 March 2009)

Sec. 4642S Issuance and Operations of Electronic Money. The following guidelines shall govern the issuance of electronic

money (e-money) and the operations of electronic money issuers (EMIs).

(Circular No. 649 dated 09 March 2009)

§ 4642S.1 Declaration of policy. It is the policy of the BSP to foster the development of efficient and convenient retail payment and fund transfer mechanism in the Philippines. The availability and acceptance of e-money as a retail payment medium will be promoted by providing the necessary safeguards and controls to mitigate the risks associated in an e-money business.

(Circular No. 649 dated 09 March 2009)

§ 4642S.2 Definitions

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

- a. electronically stored in an instrument or device;
- b. issued against receipt of funds of an amount not lesser in value than the monetary value issued;
- c. accepted as a means of payment by persons or entities other than the issuer;
- d. withdrawable in cash or cash equivalent; and
- e. issued in accordance with this Section.

Electronic money issuer shall be classified as follows:

- a. Banks (hereinafter called EMI-Bank);
- b. NBFIs supervised by the BSP (hereinafter called EMI-NBFI); and
- c. Non-bank institutions registered with the BSP as a money transfer agent under Sec. 4511N of the MORNBFIs (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.

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

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

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

- a. E-money instrument issued shall be subject to aggregate monthly load limit of P100,000 unless a higher amount has been approved by the BSP. In case an EMI issues several e-money instruments to a person (e-money holder), the total amount loaded in all the e-money instruments shall be consolidated in determining compliance with the aggregate monthly load limit;
- b. EMIs shall put in place a system to maintain accurate and complete record of e-money instruments issued, the identity of e-money holders, and the individual and consolidated balances thereof. The system must have the capability to monitor the movement of e-money transactions and link e-money instruments issued to common e-money holders. The susceptibility of a system to intentional or unintentional misreporting of transaction and balances shall be sufficient ground for imposition by the BSP of sanctions, as may be applicable.
- c. E-money may only be redeemed at face value. It shall not earn interest nor rewards and other similar incentives convertible to cash, nor be purchased at a discount. E-money is not considered a deposit, hence, it is not insured with the PDIC.
- d. EMIs shall not ensure that e-money instruments clearly identify the issuer who is ultimately responsible to the e-money holders. This shall be communicated to the client who shall acknowledge the same in writing.

- e. It is the responsibility of EMIs to ensure that their distributors/e-money agents comply with all applicable requirements of the Anti-Money Laundering laws, rules and regulations.
- f. EMIs shall provide an acceptable redress mechanism to address the complaints of its customers.
- g. EMIs shall disclose in writing and its customers shall signify agreement to the information embodied in Item “c” above upon their participation in the e-money system. In addition, it shall provide clear guidance in English and Filipino on consumers’ right of redemption, including conditions and fees for redemption, if any. Information on available redress procedures for complaints together with the address and contact information of the issuer shall also be provided.
- h. Prior to the issuance of e-money, EMIs should ensure that the following minimum systems and controls are in place:
 - (1) Sound and prudent management, administrative and accounting procedures and adequate internal control mechanisms;
 - (2) Properly-designed computer systems which are thoroughly tested prior to implementation;
 - (3) Appropriate security policies and measures intended to safeguard the integrity, authenticity and confidentiality of data and operating processes;
 - (4) Adequate business continuity and disaster recovery plan; and
 - (5) Effective audit function to provide periodic review of the security control environment and critical systems.
- i. EMIs shall provide the SDC quarterly statements containing, among others, information on investments, volume of transactions, total outstanding e-money balances, and liquid assets in such forms as may be prescribed later on.
- j. EMIs shall notify the BSP in writing of any change or enhancement in the e-money facility thirty (30) days prior to implementation. If said change or

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

- (1) Additional capabilities of the e-money instrument/s, like access to new channels (e.g., inclusion of internet channel in addition to merchant Point of Sale terminals);
- (2) Change in technology service providers and other major partners in the e-money business (excluding partner merchants), if any; and
- (3) Other changes or enhancements.

(Circular No. 649 dated 09 March 2009)

§ 4642S.5 Quasi-bank license requirement. EMI-NBFIs and EMI-Others that engage in lending activities must secure a quasi-banking license from the Bangko Sentral.
(Circular No. 649 dated 09 March 2009)

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

Nature of Violation/ Exception	Sanction/Penalties
1. Issuing e-money without prior Bangko Sentral 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

Nature of Violation/ Exception	Sanction/Penalties
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 Bangko Sentral action or imposition of sanctions, whenever applicable.

(Circular No. 649 dated 09 March 2009)

§ 4642S.7 Transitory provisions. EMI-NBFIs granted authority to issue e-money prior to 26 March 2009 may continue to exercise such authority: *Provided*, That it shall submit to the Bangko Sentral, 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 Bangko Sentral approval.

(Circular No. 649 dated 09 March 2009)

§§ 4642S.8 - 4642S.10 (Reserved)

§ 4642S.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-55*.

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Sanctions. Violations committed by EMLs 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. EMLs 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-55* within a six (6)-month period from 20 January 2011.

(Circular 704 dated 22 December 2010)

Secs. 4643S - 4649S (Reserved)

Sec. 4650S Philippine and Foreign Currency Notes and Coins. The rules and regulations that 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 are provided in Section 4950Q.

(Circular No. 829 dated 13 March 2014, M-2009-021 dated 16 June 2009, as amended by Circular No. 890 dated 02 November 2015)

B. SUNDRY PROVISIONS

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

Sec. 4652S Confidential Information. No trustee, officer or employee of NSSLAs or of the Bangko Sentral shall disclose any information relating to member-borrowers and their applications or to the operations of the NSSLAs unless permitted by the Monetary Board

of the Bangko Sentral: *Provided, however,* That in the case of NSSLAs under examination, the head of the appropriate department of the SES may furnish findings of examination to the office or firm where such NSSLAs do business.

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

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

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

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

Sec. 4655S Annual Supervisory Fees. The prescribed rate of annual supervisory fees for an NSSLA, beginning assessable year 2012 shall be one-sixty-fifth of one percent (1/65 of 1%) of its *Average Assessable Assets* (AAA) of the immediately preceding year but shall not exceed the maximum amount provided below:

Total AAA of NSSLA	Maximum Amount of Annual Fees
> P1.0 billion	P500,000.00
> P750.0 million - P1.0 billion	P400,000.00
> P500.0 million - P750.0 million	P200,000.00
> P250.0 million - P500.0 million	P100,000.00
> P100.0 million - P250.0 million	P 50,000.00
Up to P100.0 million	P 10,000.00

Provided, That the minimum amount of annual fees of NSSLAs with AAA of up to P100.0 million shall be P10,000.00.

The annual supervisory fee shall be payable within thirty (30) days from receipt of the billing statement from the Bangko Sentral. Failure to pay the annual fee within the prescribed period shall subject the NSSLA to administrative sanctions.

For purposes of computing the annual supervisory fees, AAA shall be the summation of end-of-quarter total assessable assets (end-of-quarter total assets per balance sheet, after deducting cash on hand and amounts due from banks) divided by the number of quarters in operation during the particular assessment period.

(As amended by Circular No. 789 dated 28 February 2013)

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

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

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

§ 4657S.2 (Reserved)

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

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

§§ 4657S.4 - 4657S.8 (Reserved)

§ 4657S.9 Batas Pambansa Blg. 344 - An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments and Public Utilities to Install Facilities and Other Devices. In order to promote the realization of the rights of disabled persons to participate fully in the social life and the

development of the societies in which they live and the enjoyment of the opportunities available to other citizens, no license or permit for the construction, repair or renovation of public and private buildings for public use, educational institutions, airports, sports and recreation centers and complexes, shopping centers or establishments, public parking places, workplaces, public utilities, shall be granted or issued unless the owner or operator thereof shall install and incorporate in such building, establishment or public utility, such architectural facilities or structural features as shall reasonably enhance the mobility of disabled persons such as sidewalks, ramps, railings, and the like. If feasible, all such existing buildings, institutions, establishments, or public utilities may be renovated or altered to enable the disabled persons to have access to them.

§ 4657S.10. 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 branches and offices of NSSLAs. If the provision of express lanes is logistically impossible in any particular branch or office of any NSSLA, 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 a clearly written notice prominently displayed

in the transaction counters of all NSSLA branches and/or offices.
(Circular No. 805 dated 08 August 2013)

Secs. 4658S - 4659S (Reserved)

Sec. 4660S Disclosure of Remittance Charges and Other Relevant Information
It is the policy of the Bangko Sentral 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 Bangko Sentral 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 Bangko Sentral 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. 4661S - 4690S (Reserved)

Sec. 4691S Anti-Money Laundering Regulations. Covered institutions, including their subsidiaries and affiliates, shall comply with the provisions of Part 8 of Q Regulations, R.A. No. 9160 (Anti-Money Laundering Act of 2001), as amended, and its IRR.
(As amended by Circular Nos. 706 dated 05 January 2011, 661 dated 01 September 2009 and 612 dated 13 June 2008)

§§ 4691S.1 - 4691S.8 (Reserved)

§ 4691S.9 Sanctions and penalties

- a. Whenever a covered institution violates the provisions of Section 9 of R.A.

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

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

Secs. 4692S - 4694S (Reserved)

Sec. 4695S Valid Identification Cards for Financial Transactions. The provisions of Part 8 of the Q Regulations on valid identification documents shall apply.
(Circular No. 564 dated 03 April 2007, as amended by Circular Nos. 792 dated 03 May 2013, 706 dated 05 January 2011, 657 dated 16 June 2009 and 608 dated 20 May 2008)

Secs. 4696S - 4698S (Reserved)

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

**SAFEGUARDS IN BONDING OF NSSLA ACCOUNTABLE
OFFICERS AND EMPLOYEES**
(Appendix to Sec. 4145S)

1. *The Teller.* He should not be allowed to accumulate more than a specific maximum amount to be determined by the association but in no case to exceed P10,000 in cash at any given time while in the performance of his duties. The procedures in this regard are as follows:

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

b. *Checks and Other Cash Items (COCIs).* All COCIs received by a teller should be stamped as “non-negotiable.” The stamping should be made diagonally on the face of the check. Thus, all checks that are received by the tellers lose their further negotiability. There should, however, be an agreement with the association’s depository banks whereby they will accept for deposit only to the account of the association the COCI previously stamped by the tellers as “non-negotiable.” Therefore, only the association and nobody else can further negotiate these checks, and only the association’s

depository bank will accept them and solely for deposit to its account. Thus, even in the remote possibility that someone presents a COCI stolen from the association to one of its depository banks, it will not be accepted for encashment.

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

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

LIST OF REPORTS REQUIRED FROM NON-STOCK SAVINGS AND LOAN ASSOCIATIONS
(Appendix to Sec. 4162S)

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-2	BSP 7-26-02H	4162S (As amended by M-029 dated 09.24.07, Cir. No. 837 dated 06.18.14, Cir. No. 880 dated 05.22.15, Cir. No. 883 dated 07.10.15 and M-028 dated 07.31.15, Cir. No. 886 dated 09.08.15, M-29 dated 09.14.15, M-30 dated 09.14.15, M-31 dated 09.14.15, M-32 dated 09.14.15 and M-33 dated 09.14.15)	Consolidated Statement of Condition	Quarterly	on or before the end of the immediately following month	Original to SDC

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-2	Unnumbered	4691S (Rev. May 2002, as amended by Cir. No. 612 dated 06.03.08)	Report on Suspicious Transactions	As transaction occurs	10th business day from date of transaction/ knowledge	Original and duplicate - Anti-Money Laundering Council (AMLC)
A-2	Unnumbered	4691S	Report on Covered Transactions	-do-	-do-	-do-
A-3	BSP 7-26-03H	4162S (As amended by M-029 dated 09.24.07 and Cir. No. 883 dated 07.10.15)	Consolidated Statement of Income and Expenses	Quarterly	on or before the end of the immediately following month	Original to SDC
A-3	BSP 7-26-18.1H	4358S	Copy of entry in NSSLA records of written approval of majority of directors on credit accommodation to directors and officers with accompanying Certification on Loans Granted to Directors/Officers	As approved	20th business day from date of approval	Original - ISD I
A-3	Unnumbered	4162S (CL-050 dated 10.04.07 and CL-059 dated 11.28.07)	Report on Borrowings of BSP Personnel	Quarterly	15th banking days after end of reference quarter	Original to SDC

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
B		4172S	Audited/Unaudited Financial Statements required in Sec. 4181S accompanied by annual report ¹ (to members, if any)	Annually	120th/60th day after end of fiscal year as required in Sec. 4181S	Original - ISD I
B	SES II Form 15 (NP08-TB)	4147S (As amended by Cir. No. 758 dated 05.11.12, M-024 dated 07.31.08 and Cir. No. 887 dated 10.07.15)	Biographical Data of Trustees/Officers with rank of senior vice president and above with ID picture - If submitted in CD form - Notarized first page of each of the trustees'/officers' Biographical Data saved in CD and control proof list -If sent by electronic mail - Notarized first page of Biographical or Notarized list of names of Trustees/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 or residential address occurs	20th business day from date of election/re-election of the trustees/meeting of the board of trustees in which the officers are appointed/promoted 20th business day from the date the change of name or residential address occurred	Hard copy to appropriate department of the SES

¹ Required of NSSLAs with total resources of ₱ 10 million or more
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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
B		4147S (Circular Nos. 758 dated 05.11.12 and 887 dated 10.07.15)	Duly accomplished and notarized authorization form for querying the Bangko Sentral watchlist files	Upon election/ re-election or appointment/ promotion as first time trustee/ officer within an NSSLA	20th business day from date of election/re-election of the trustees/meeting of the board of trustees in which the officers are appointed/promoted	Hard copy to appropriate department of the SES
B	Unnumbered	4147S (Circular Nos. 758 dated 05.11.12 and 887 dated 10.07.15)	List of Members of the Board of Trustees and Officers	Annually	20th business day from the election of the board of trustees	Hard copy to appropriate department of the SES
B	BSP 7-26-20H	4162S	Report on Crimes/Losses	As crime/ incident occurs	See Annex S-2-a for guidelines on reporting crimes and losses	-do-
		4306S.3	Notice/Application for Write-Off of Loans	As Write-off occurs	30 th day prior to the intended date of write-off	-do-
B		4162S	Board Resolution on NSSLA's signatories to reports submitted to Bangko Sentral	As authorized	3rd day from date of resolution	Electronic mail or diskette form to SDC or if hard copy original to appropriate department of the SES, duplicate to SDC

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
B			General Information Sheet	Annually	30 th day from date of annual stockholders' meeting	Drop Box-SEC Central Receiving Section Original-SEC Duplicate –BSP
B	Form I Schedule 1	<i>M-031 dated 09.11.09 and Cir. No. 649 dated 03.09.09</i>	Report on Electronic Money Transactions Quarterly Statement of E-Money Transactions - Volume and Amount of E-Money Transactions Quarterly Statement of Liquidity Cover Schedules 1 - E-Money Balances	Quarterly	15 banking days after end of reference quarter	e-mail - sdcothers-emoney@ bsp.gov.ph Hardcopy- SDC
	Unnumbered	4196S.8 (Cir. No. 808 dated 08.22.13)	IT Risk Profile Report	Annually	25 calendar days after end of reference year	e-mail at sdcnbfi- itprofile@bsp.gov.ph

REPORTING GUIDELINES ON CRIMES/LOSSES

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

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

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

b. Incidents involving material loss, destruction or damage to the institution’s property/facilities, other than arising from

a crime, when the amount involved per incident is ₱20,000 or more.

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

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

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

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

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

Category A-2 reports of head offices shall be signed by the president, executive vice-presidents, vice-presidents or officers holding equivalent positions. Such reports of other offices/units (such as branches) shall be signed by their respective

managers/officers in-charge. Likewise, the signing authority in this category shall be contained in a resolution approved by the board of directors in the format prescribed in Annex S-3-b.

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

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

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-1 REPORTS

Resolution No. _____

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

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

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

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

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

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

are hereby authorized to sign Category A-1 reports of _____ (Name of 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

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-2 REPORTS

Resolution No. _____

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

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

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

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

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

<i>Name of Officer</i>	<i>Specimen Signature</i>	<i>Position Title</i>	<i>Report No.</i>
_____	_____	_____	_____

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

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

Resolution No. _____

Whereas, it is required under Subsec. 4162S.1 that Categories A-3 and B reports be signed by officers or their alternates;
Whereas, it is also required that aforesaid officers of the institution be authorized under a resolution duly approved by the institution's Board of Directors;
Whereas, we the members of the Board of Directors of _____ (Name of Institution) _____, are conscious that, in designating the officials who would sign said Categories A-3 and B reports, we are actually empowering and authorizing said officers to represent and act for or in behalf of the Board of Directors in particular and _____ (Name of Institution) _____ in general;
Whereas, this Board has full faith and confidence in the institution's authorized signatories and, therefore, assumes responsibility for all the acts which may be performed by aforesaid officers under their delegated authority;
Now, therefore, we, the members of the Board of Directors, resolve, as it is hereby resolved that:

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

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

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

CHAIRMAN OF THE BOARD

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

ATTESTED BY:

CORPORATE SECRETARY

FORMAT OF DISCLOSURE STATEMENT ON
SMALL BUSINESS/RETAIL/CONSUMER CREDIT
[Appendix to Subsec. 4307S.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 P XXX

2. OTHER BANK CHARGES/DEDUCTIONS COLLECTED¹ P XXX
a. Documentary/Science Stamps P
b. Mandatory Credit Insurance
c. Others (Specify)

3. NET PROCEEDS OF LOAN (Item 1 less Item 2) P XXX

4. SCHEDULE OF PAYMENTS
a. Single payment due on (date) P 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 P
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

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 byCircular 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. 4307S.4)

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

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

xxx xxx xxx

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

xxx xxx xxx

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

xxx xxx xxx

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

- (1) the cash price or delivered price of the property or service to be acquired;
- (2) the amounts, if any, to be credited as down payment and/or trade-in;
- (3) the difference between the amounts set forth under clauses (1) and (2);
- (4) the charges, individually itemized, which are paid or to be paid by such person in connection with the transaction but which are not incident to the extension of credit;
- (5) the total amount to be financed;
- (6) the finance charge expressed in terms of pesos and centavos; and

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

xxx xxx xxx

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

xxx xxx xxx

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

xxx xxx xxx

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

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

Approved, 22 June 1963.

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

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

APP. S-6
11.12.31

Annex S-6-a

**CERTIFICATION OF COMPLIANCE
WITH ANTI-MONEY LAUNDERING REGULATIONS**

(Deleted pursuant Circular No. 706 dated 05 January 2011)

APP. S-6
11.12.31

Annex S-6-b

AMLC Resolution No. 292

**RULES ON SUBMISSION OF COVERED TRANSACTION REPORTS AND
SUSPICIOUS TRANSACTION REPORTS BY COVERED INSTITUTIONS¹**
(Annex to Appendix S-6)

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

APP. S-7
11.12.31

**REVISED IMPLEMENTING RULES AND REGULATIONS
R.A. NO. 9160, AS AMENDED BY R.A. NO. 9194
(Appendix to Sec. 4691S)**

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

**GUIDELINES TO GOVERN THE SELECTION, APPOINTMENT, REPORTING
REQUIREMENTS AND DELISTING OF EXTERNAL AUDITORS AND/OR
AUDITING FIRM OF COVERED ENTITIES**
(Appendix to Secs. 4180S and 4190S)

Pursuant to Section 58 of the Republic Act No. 8791, otherwise known as "The General Banking Law of 2000", and the existing provisions of the executed Memorandum of Agreement (hereinafter referred to as the MOA) dated 12 August 2009, binding the Bangko Sentral ng Pilipinas (BSP), Securities and Exchange Commission (SEC), Professional Regulation Commission (IC) - Board of Accountancy (BOA) and the Insurance Commission (IC) for a simplified and synchronized accreditation requirements for external auditor and/or auditing firm, the Monetary Board, in its Resolution No. 950 dated 02 July 2009, approved the following revised rules and regulations that shall govern the selection and delisting by the BSP of covered institution which under special laws are subject to BSP supervision.

A. STATEMENT OF POLICY

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

B. COVERED ENTITIES

The proposed amendment shall apply to the following supervised institution, as categorized below, and their external auditors:

1. *Category A*
 - a. UBs/KBs;
 - b. Foreign banks and branches or subsidiaries of foreign banks, regardless of unimpaired capital; and
 - c. Banks, trust department of qualified banks and other trust entities with additional derivatives authority, pursuant to Sec. X611 regardless of classification, category and capital position.
2. *Category B*
 - a. TBs;
 - b. QBs;
 - c. Trust department of qualified banks and other trust entities;
 - d. National Coop Banks; and
 - e. NBFIs with quasi-banking functions.
3. *Category C*
 - a. RBs;
 - b. NSSLAs;
 - c. Local Coop Banks; and
 - d. Pawnshops.

The above categories include their subsidiaries and affiliates engaged in allied activities and other FIs which are subject to BSP risk-based and consolidated supervision: *Provided*, That an external auditor who has been selected by the BSP to audit covered entities under *Category A* is automatically qualified 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

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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

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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

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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 "1.2.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)

**GUIDELINES IN CLASSIFYING LOANS AND OTHER RISK ASSETS AND
SETTING UP OF ALLOWANCE FOR PROBABLE LOSSES**
(Appendix to Sections 4308S and 4392S)

NSSLAs are responsible for the regular review and assessment of the quality of their loan portfolio and other risk assets. It is the duty of the board and senior management of NSSLAs to ensure that the good quality of these assets is maintained, and that adequate loss reserves are set-up at all times. To achieve these objectives, NSSLAs shall adopt and fully document policies and procedures for an effective internal asset review system and monitoring processes which should, at a minimum, comply with the standards prescribed herein. These policies and procedures should be clearly communicated to all relevant parties in the organization to ensure implementation thereof. Adequate measures should be adopted to see to it that asset review policies and procedures remain relevant and appropriate with due consideration of the design and characteristics of their portfolio, and that enough safeguards to ensure that changes where appropriate are adopted. Failure to conduct this regular assessment and set-up adequate loss reserves shall be considered unsafe and unsound practice.

I. Classification of loans. Loans shall be qualitatively assessed and grouped as unclassified or classified.

A. *Unclassified loans*. These are loans that do not have a greater-than-normal credit risk and do not possess the characteristics of classified loans as defined. The borrower has the apparent ability to satisfy his obligations in full and therefore no loss in ultimate collection is anticipated.

B. *Classified loans*. Their classification and characteristics are detailed as follows:

1. *Loans especially mentioned*. These loans have potential weaknesses which, if left uncorrected, may affect the repayment of the loan. Their characteristics include:

- a. Loans extended to member-borrowers whose paying capacity was not appropriately determined;
- b. Accounts with defects and deficiencies in documentation which may render the collection of the loan difficult, e.g., loans with unsigned promissory notes; and
- c. Accounts which are 1-10 days past due based on the established and approved collection cycle indicated in the product manual of an NSSLA.

2. *Substandard*. These loans have well-defined weakness or weaknesses that jeopardize their repayment/liquidation, including adverse trends or developments that affect willingness or capacity to pay. Basic characteristics include the following:

- a. For secured loans:
 - (1) There is an imminent possibility of foreclosure or acquisition of the collateral because failure of all collection efforts.
- b. For unsecured loans:
 - (1) Loans under litigation; and
 - (2) Loans classified as “Loans Especially Mentioned” in the last examination the weaknesses of which remained uncorrected in the current examination.

In addition, loans which are 11-30 days past due based on the established and approved collection cycle indicated in the product manual of an NSSLA.

3. *Doubtful*. These are loans whose characteristics make collection or liquidation highly improbable and from which substantial loss is probable, such as:

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a. Past due loans secured by real estate mortgage, the title to which is subject to adverse claim or with defect in ownership rendering settlement of the loan through foreclosure doubtful;

b. Past due loans secured by collaterals which have declined in value materially without the borrower offering additional collateral for the loans; and

c. Loans which are 31-90 days past due based on the established and approved collection cycle indicated in the product manual of an NSSLA.

4. *Loss.* These are loans considered uncollectible. Their basic characteristics include the following:

a. The member-borrower's whereabouts is unknown, or he has absconded, is dead or his earning power is permanently impaired and his co-makers or guarantors are insolvent or that their guaranty is not financially supported: *Provided*, That the NSSLA may take into account the outstanding balance of deposits and/or capital contributions of the member-borrower and/or the present realizable value of security offered;

b. Where the collaterals securing the loans are without recoverable values and the member-borrower and his co-makers are insolvent; and

c. Loans which are past due for ninety-one (91) days and beyond based on the established and approved collection cycle indicated in the product manual of an NSSLA.

C. Restructured loans. Upon execution of the restructuring agreement, the classification of a loan prior to restructuring, either "*loans especially mentioned*", or "*substandard*" or "*doubtful*" shall be retained. The upgrading of the loan's classification shall only be effective after a satisfactory track record of three (3) consecutive payments of the required

amortization of principal and/or interest has been established and if such loan meets the criteria of the lower loan classification.

II. Classification of Other Risk Assets

A. Real and Other Properties Acquired (ROPA), Sales Contract Receivable (SCR) and Investments shall be subject to impairment provisions under the Philippine Accounting Standards (PAS) which were adopted by the Bangko Sentral. ROPA exceeding P5.0 million book value shall be appraised by external appraisers acceptable to the Bangko Sentral. An in-house appraisal of all ROPAs shall be made every other year: *Provided*, That immediate re-appraisal shall be conducted on ROPAs which materially decline in value.

While ROPA and SCR are subject to impairment provisions, their classifications status shall be "Substandard". ROPAs are not sound assets because their nature as non-liquid and non-productive. As such their immediate disposal is highly recommended. On the other hand, SCRs come from conversion of ROPA, hence, they shall initially carry the classification of their predecessor. SCRs which meet all the requirements/conditions enumerated below are considered performing assets and not subject to classification:

1. That there has been a down payment or installment payments on the principal of 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 one (1) year; and

4. That there is no installment payment in arrear either on principal or interest:

Provided, That an SCR account shall be automatically classified “substandard” and considered non-performing in case of non-payment of any amortization due: *Provided further*, That an SCR which has been classified “substandard” may only be upgraded to unclassified/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.

The Bangko Sentral however, reserves the right to require that specific provisions on ROPA and SCR be made, if based on its assessment, the NSSLA is unable to make necessary impairment provisioning.

B. *Accounts receivables* shall be classified in accordance with age as follows, unless there is good reason for non-classification:

No. of Days Outstanding	Classification
61-180	Substandard
181-360	Doubtful
Beyond 361	Loss

The classification according to age of accounts receivable shall be used in classifying other risk assets not covered above. However, their classification should be tempered by favorable information gathered in the review.

III. Allowance for Probable Losses. The allowance for losses for classified loans and other risk assets shall be set up immediately in accordance with the following guidelines:

A. *Specific allowance*. Specific minimum allowance shall be immediately set-up based on the qualitative review of loans and accounts receivable, as follows:

Classification	Minimum Specific Allowance (Percent)	
	Loans	Accounts Receivables
	Clean	Fully Secured
Unclassified	0	0
Loans Especially Mentioned (LEM)	10	5
Substandard	25	12.5
Doubtful	50	25
Loss	100	50

Provided, That prudent level of provisioning should be increased beyond the minimum prescribed depending on the estimated realizable net present value of the collateral less transaction costs of realizing its value: *Provided further*, That for purposes of comprehensive estimating the minimum required level of provisioning for the loan portfolio, the Bangko Sentral reserves the right to rely on valid sampling techniques and to group loans with similar characteristics.

B. *General allowance*. In addition to the specific allowance for probable losses under Item “1”, a general provision for loan losses shall also be set-up as follows:

(a) Two percent (2%) of the outstanding balance of unclassified restructured loans; and

(b) One percent (1%) of the outstanding balance of unclassified loans.

3. In addition to the foregoing minimum prudential requirements, NSSLAs are also required to comply with the provisions of the Philippine Accounting Standards (PAS) on the recognition of impairment losses on its financial assets: *Provided*, That NSSLAs are required to meet the Bangko Sentral minimum allowance for losses or the required provisioning under the PAS, whichever is higher.

(Circular No. 789 dated 28 February 2013)

**GUIDELINES AND PROCEDURES GOVERNING THE
CONSUMER ASSISTANCE MANAGEMENT SYSTEM (CAMS)
OF BSP-SUPERVISED FINANCIAL INSTITUTIONS**
[Appendix to Subsec. 4402S.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 Assistance 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.

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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 resolution¹; 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

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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)

MANUAL OF REGULATIONS FOR NON-BANK FINANCIAL INSTITUTIONS

P REGULATIONS
(Regulations Governing Pawnshops)

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PART ONE

ORGANIZATION, MANAGEMENT AND ADMINISTRATION

A. SCOPE OF AUTHORITY

Section 4101P Basic Law Governing Pawnshops. P.D. No. 114, known as the Pawnshop Regulation Act, regulates the establishment and operation of pawnshops.
(Circular No. 656 dated 02 June 2009)

§ 4101P.1 Scope of authority of pawnshops. A duly organized and licensed pawnshop has, in general, the power to engage in the business of lending money on the security of personal property within the framework and limitations of P.D. No. 114 and the following regulations, subject to the regulatory and supervisory powers of the BSP.
(Circular No. 656 dated 02 June 2009)

§ 4101P.2 Form of organization. A pawnshop may be established as a single proprietorship, a partnership or corporation. Only Filipino citizens may establish and own a pawnshop organized as a single proprietorship. A pawnshop established as a single proprietorship by a non-Filipino owner prior to 29 January 1973 may continue as such during the lifetime of the registered owner.

If a pawnshop is organized as a partnership, at least seventy percent (70%) of its capital shall be owned by Filipino citizens. Pawnshops established as partnerships prior to 29 January 1973, with non-Filipino partners whose aggregate holdings amount to more than thirty percent (30%) of the capital may retain the percentage of their aggregate holdings as of 29 January 1973, and said percentage shall not be increased, but may be reduced, and once reduced shall not be increased thereafter beyond thirty

percent (30%) of the capital stock of such pawnshop.

In the case of a pawnshop organized as a corporation, at least seventy percent (70%) of the voting stock therein shall be owned by citizens of the Philippines, or if there be no capital stock, at least seventy percent (70%) of the members entitled to vote shall be citizens of the Philippines.

Pawnshops registered as a corporation with foreign equity participation in excess of thirty percent (30%) of the voting stock, or members entitled to vote, of the pawnshop may retain the percentage of foreign equity as of 29 January 1973, and said percentage shall not be increased, but may be reduced and once reduced, shall not be increased thereafter beyond thirty percent (30%) of the voting stock, or number of members entitled to vote, of such pawnshop.

The percentage of foreign-owned voting stock in a pawnshop corporation shall be determined by the citizenship of its individual stockholders. If the voting stock in a pawnshop corporation is held by another corporation, the percentage of foreign ownership in that pawnshop, shall be computed on the basis of the foreign citizenship of the individuals owning voting stocks in, or members entitled to vote of, the stockholder corporation.
(Circular No. 656 dated 02 June 2009)

§ 4101P.3 Organizational requirements
Any person or entity desiring to establish a pawnshop shall register with the Department of Trade and Industry (DTI), in the case of a single proprietorship; or with the Securities and Exchange Commission (SEC), in the case of a partnership/corporation.

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Pawnshops with foreign equity participation shall also register with the Board of Investments.

After registering with the DTI or with the SEC, the single proprietorship or the partnership/corporation, as the case may be, shall secure a business license from the city or municipality where the pawnshop is to be established and operated, in accordance with the requirements of the pertinent ordinance in that city or municipality.

(Circular No. 656 dated 02 June 2009)

§ 4101P.4 Requirement to register with the Bangko Sentral. Pursuant to Section 6 of P.D. No. 114, which requires pawnbrokers to register with the BSP before commencing actual business operations, every pawnshop shall submit to the BSP an Information Sheet on the entity (using BSP-prescribed form) duly accomplished by the proprietor/managing partner/president under oath that shall be the basis for the issuance by the BSP of an Acknowledgement of Registration (AOR). The Information Sheet shall be accompanied by the following documents:

- a. A Certificate of Registration (COR) of business name from the DTI, in case of a sole proprietorship;
- b. Articles of Partnership/Incorporation and by-laws duly registered with the SEC, in the case of a partnership or a corporation which Articles shall indicate that the primary purpose of the partnership/corporation is to engage in the business of a pawnshop or a pawnbroker;
- c. City/municipal license/business license/mayor’s permit for the current period;
- d. Personal data sheet (using BSP-prescribed form for pawnshops) with passport size picture duly accomplished by the proprietor or partners or directors, president and manager or officer-in-charge of the head office; and
- e. Such other documents that may be required by the BSP that are enumerated in a list attached to the Information Sheet.

No application for registration shall be accepted from a person or entity other than the proprietor, partner, or incorporator of a pawnshop unless the person or entity applying on behalf of the proprietor, partner or incorporator submits a duly executed and notarized special power of attorney authorizing the person or entity to act on behalf of the proprietor, partner, or incorporator. In the case of a corporate applicant, a certified true copy of the board resolution authorizing the person or entity shall likewise be submitted.

A pawnshop shall commence actual operations within six (6) months from the date of issuance of the AOR. Failure to commence actual operations within the aforementioned six (6) months period shall render the BSP AOR as automatically cancelled.

The pawnshop shall notify the BSP in writing of the start of operations within five (5) business days from the actual start of operations.

Any pawnshop that is found operating that does not have a current business permit issued by the city or municipality where it is located and an AOR issued by the BSP is considered operating illegally. Such pawnshop shall be reported to the Office of the Mayor of the concerned city or municipality, for appropriate action, without prejudice to whatever legal action the BSP may pursue under Section 18 of P.D. No. 114 and other applicable laws against the pawnshop, its proprietor, partners, incorporators, stockholders, directors, president and officers.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4101P.5 Pawnshop regulations briefing and Anti-Money Laundering Act seminar. As a prerequisite for the issuance by the BSP of the AOR, the proprietor, partner, director, president as well as manager or officer-in-charge of the head

office and branch shall have attended the: (a) briefing on pawnshop regulations conducted by the Bangko Sentral or any accredited service provider; and (b) seminar on the Anti-Money Laundering Act as prescribed in Subsec.4691P.1.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4101P.6 Processing and annual fees

Every pawnshop head office shall pay a one-time processing fee of P1,000.00 for the initial registration, and P500.00 annual fee upon approval of application for registration. Thereafter, the annual fee shall be paid not later than 31 March of every year.

Transitory provision. The annual fee shall commence for the year 2010. It shall be collected from all pawnshop's head offices and branches registered as of 31 December 2009. The deadline for payment of the annual fee for 2010 is 31 March 2011.

Pawnshop head offices and branches that have paid the registration fee/renewal of registration fee of P3,000.00, pursuant to BSP Circular No. 656, shall be considered to have paid the annual fee for six (6) years starting 2010.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4101P.7 Renewal of the Bangko Sentral registration of pawnshop head office and branches

(Deleted by Circular No. 711 dated 28 January 2011)

§ 4101P.8 Documentary requirements to renew the Bangko Sentral registration

(Deleted by Circular No. 711 dated 28 January 2011)

Sec. 4102P Definition of Terms

a. *Pawnshop* shall refer to a person or entity engaged in the business of lending money on personal property that is physically delivered to the pawnshop

premises as loan collateral. The term shall be synonymous, and may be used interchangeably, with *pawnbroker* or *pawnbrokerage*.

b. *Pawner* shall refer to the borrower from a pawnshop.

c. *Pawnee* shall refer to the pawnshop or pawnbroker.

d. *Pawn* is the personal property delivered by the pawner to the pawnee as security for a loan.

e. *Pawn ticket* is the pawnbroker's receipt for a pawn and shall not be considered as an official receipt for amounts collected.

f. *Property* shall include only such personal property which can be physically delivered to the control and possession of the pawnee.

g. *Voting stock* is that portion of the authorized capital which is subscribed and entitled to vote.

h. *Vital records* shall consist of the Loans Extended/Paid Registers, General Ledger/Journal, that may in electronic form, covering the current and at least the preceding five (5) years of operation, unused accountable forms and permanent records, e.g., articles of incorporation/co-partnership, by-laws, stock certificates, etc.

i. *Bulky pawns* shall refer to household appliances, office machines and the like, which occupy considerable amount of space, i.e., measuring at least 1.5 x 1.5 x 0.5 feet.

j. *Premises* shall refer to the area where the pawnshop conducts its business and maintains office. It includes office or storage spaces maintained and/or used by the pawnshop which are adjacent to the pawnshop's location.

k. *Simple annual rate* is the uniform percentage which represents the ratio between the finance charge and the amount

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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 effective annual 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 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.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 754 dated 17 April 2012)

Secs. 4103P - 4105P (Reserved)

B. CAPITALIZATION

Sec. 4106P Capital of Pawnshops. Every pawnshops shall have a minimum paid-in capital of P100,000.

A pawnshop’s paid-in capital may be in the form of:

- a. Cash;
- b. Tangible properties, including real estate and improvements thereon; and
- c. A combination of cash and tangible properties.

Tangible properties shall be limited to those that are necessary for the conduct of the pawnshop business. They may be valued at fair value which is the amount for which an asset could be exchanged between knowledgeable, willing parties in an arm’s length transaction. The fair

value of land and buildings is usually determined from market-based evidence by appraisal that is normally undertaken by professionally qualified appraisers.

The value of the tangible properties contributed as capital shall not exceed twenty-five percent (25%) of said paid-in capital and surplus/acumulated surplus: For pawnshops existing as at 29 January 1973 whose value of properties exceeds the prescribed ratio, such percentage may be retained or reduced but shall not be increased thereafter. Should the ratio, on the other hand, fall below the prescribed level, it may be increased but not beyond twenty-five percent (25%).

(Circular No. 656 dated 02 June 2009)

§ 4106P.1 Sanctions

(Deleted by Circular No. 711 dated 28 January 2011)

Sec. 4107P Prudential Capital Ratio. The minimum capital ratio of a pawnshop, expressed as a percentage of total capital to pledge loans, shall not be less than fifty percent (50%): *Provided*, That total pledge loans shall not exceed P3.0 million. If and when the pledge loans exceed P3.0 million, additional capital of 30% of pledge loans in excess of P3.0 million shall be required.

For this purpose, the term total capital shall be defined as total assets minus:

- (a) total liabilities;
- (b) deferred tax assets;
- (c) unbooked valuation reserves; and
- (d) other capital adjustments as may be required by the Bangko Sentral.

Any appraisal surplus or appreciation credit as a result of appreciation or an increase in book value of the assets of the pawnshop shall be excluded.

(Circular No. 656 dated 02 June 2009)

§ 4107P.1 *Capital build-up program*

Any pawnshop that fails to comply with the prudential capital requirement shall submit within thirty (30) days from date of notice from the Bangko Sentral, a Letter of Undertaking to implement a capital build-up program for a period not to exceed one (1) year from date of undertaking.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

Secs. 4108P - 4110P (Reserved)

C. - F. (RESERVED)

Secs. 4111P - 4140P (Reserved)

**G. PROPRIETOR/PARTNERS/
DIRECTORS, OFFICERS AND
EMPLOYEES**

Sec. 4141P Safeguarding of Pawnshop Assets. In order to safeguard pawnshop’s assets (pawned items) and mitigate the risk of loss arising from malfeasance or fraudulent practices of their employees, pawnshops shall adopt any of the following measures:

- a. Bonding of accountable officers/ employees with reputable insurance/surety companies accredited by the Insurance Commissioner; or
- b. Equivalent self-insurance mechanism acceptable to Bangko Sentral.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

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§ 4141P.1 Sanctions
(Deleted by Circular No. 711 dated 28 January 2011)

Sec. 4142P Definitions, Qualifications, and Duties and Responsibilities of Proprietor/ Partners/Directors/Officers. For purposes of this Section the following shall be the definitions and qualifications, duties and responsibilities of proprietor/partners/ directors/officers.
(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

- § 4142P.1 Definitions**
- a. *Proprietor* is the person named in the Certificate of Registration issued by the DTI and in the city/municipal license and mayor’s permit as the owner of the business.
 - b. *Partners* are the persons named in the articles of partnership.
 - c. *Incorporators* are those mentioned as such in the articles of incorporation as originally forming and composing the corporation and who are signatories thereof.
 - d. *Directors* – Directors shall include:
 - (1) directors who are named as such in the articles of incorporation;
 - (2) directors duly elected in subsequent meetings of the pawnshop’s stockholders; and
 - (3) those elected to fill vacancies in the board of directors.
- The number of members of the board of directors, pursuant to Section 10 of Batas Pambansa No. 68, shall be at least five (5), and a maximum of fifteen (15) directors.
- e. *Officers* - are those persons whose duties as such are defined in the by-laws (for corporations) or those who are generally known to be the officers of the pawnshop either thru announcement, representation, publication or any kind of communication made by the pawnshop. The term officer shall include, but not limited to the following: the proprietor, managing partner, president, and manager or officer-in-charge of head office or branch.
(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

- § 4142P.2 General qualifications of a proprietor, partner, director, president, and manager or officer-in-charge of head office or branch.** Any person can be a proprietor, partner, director, president, manager or officer-in-charge of a pawnshop’s head office or branch, provided he/she:
- a. Must have undergone a briefing on pawnshop regulations conducted by the BSP or any accredited service provider;
 - b. Must have undergone a briefing on the Anti-Money Laundering Law (AMLA) as prescribed by Subsec. 4691P.1;
 - c. Must not be included in the BSP Watchlist; and
 - d. Must not possess any derogatory information from the National Bureau of Investigation (NBI). The NBI clearance shall be submitted pursuant to Subsecs. 4101P.4 and 4151P.4.
- The NBI clearance shall also be required for any newly elected/appointed director, president, manager or officer-in-charge and newly accepted partner or director of an existing pawnshop.
(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4142P.3 Corporate governance. A corporate pawnshop with total resources of at least P50.0 million shall comply with the SEC requirements on corporate governance, and as proof of compliance, the said corporate pawnshop shall submit to the BSP a notarized certification to that effect.
(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

Sec. 4143P Disqualification of Directors and Officers. The following regulations shall govern the disqualification of pawnshop directors and officers.
(Circular No. 656 dated 02 June 2009)

§ 4143P.1 Persons disqualified from becoming directors. Without prejudice to specific provisions of law prescribing

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disqualifications for directors/trustees, the following are disqualified from becoming directors of pawnshops:

a. *Permanently disqualified*

Directors/trustees/officers/employees permanently disqualified by the Monetary Board from holding a director 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 the 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, officers or employees of closed banks/QBs/trust entities who were found to be culpable for such institution's closure as determined by the Monetary Board;

(6) Directors and officers of banks, QBs, trust entities found by the Monetary Board as administratively liable for violation of banking or other relevant 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 and officers of banks, QBs, trust entities or any person found by the Monetary Board to be unfit for the position of director or officer because they were found administratively liable by another government agency for violation of banking or other relevant 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/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 supervising and examining department when required pursuant to a provision of law or of a circular, memorandum or rule or regulation of the BSP. This disqualification shall be in effect as long as the refusal persists;

(2) Directors who have been absent or who have not participated for whatever reasons in more than fifty percent (50%) of all meetings, both regular and special, of the board of directors during their incumbency, or any twelve (12)-month period during said incumbency. This disqualification applies 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 the institution where he/she is a director or officer, or at least two (2) obligations with other FIs, under different credit lines or loan contracts, are past due pursuant to Secs. X306, 4308Q, 4306S and 4305P;

(b) *Obligations* shall include all borrowings from any FI obtained by:

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

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

(iii) Any person whose borrowings or

loan proceeds were credited to the account of, or used for the benefit of a director/trustee or officer;

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

(v) A corporation, association or firm wholly-owned or majority of the capital of which is owned by any or a group of persons mentioned in the foregoing Items “(i)”, “(ii)” and “(iv)”.

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

(4) Persons 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 institutions under the supervisory and regulatory powers of the BSP pending their clearance by the Monetary Board;

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

(7) Persons dismissed/terminated from employment in the institutions under the supervision of the BSP. This disqualification shall be in effect until they have been cleared themselves of involvement in the alleged

irregularity or upon clearance, on their request, from the Monetary Board after showing good and justifiable reasons;

(8) Those under preventive suspension; and

(9) Persons with derogatory records as certified by, or on the official files of, the judiciary, NBI, PNP, quasi-judicial bodies, other government agencies, international police, monetary authorities and similar agencies or authorities of foreign countries for irregularities or violations of any law, rules and regulations that would adversely affect the integrity of the director/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;

(10) Directors and officers of banks, QBs and trust entities found by the Monetary Board as administratively liable for violation of banking or other relevant 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;

(11) Directors and officers of banks, QBs, and trust entities or any person found by the Monetary Board to be unfit for the position of director or officer because they were found administratively liable by another government agency for violation of banking or other relevant 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; or

(12) Directors and officers of banks, QBs, trust entities found by the Monetary Board as administratively liable for violation of banking or other relevant laws, rules and regulations where a penalty of suspension from office or fine is imposed, regardless whether the finding

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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.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4143P.2 Persons disqualified from becoming officers

a. The disqualifications for directors mentioned in Subsec. 4143P.1 shall likewise apply to officers, except those stated in Items “b(2)”.

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

(Circular No. 656 dated 02 June 2009)

§ 4143P.3 Disqualification procedures

a. The board of directors/trustees and management of every pawnshop shall be responsible for determining the existence of the ground for disqualification of the pawnshop’s directors/trustees/officer or employee and for reporting the same to the BSP. While the concerned pawnshop may conduct its own investigation and impose appropriate sanction/s as are allowable, this shall be without prejudice to the authority of the Monetary Board to disqualify a pawnshop

director/trustee/officer/employee from being elected/appointed as director/ trustee/officer in any FI under the supervision of the BSP. Grounds for disqualification made known to the institution shall be reported to the appropriate department of the SES of the BSP within 72 hours from knowledge thereof.

b. On the basis of knowledge and evidence on the existence of any of the grounds for disqualification mentioned in Subsecs. 4143P.1 and 4143P.2, the director or officer concerned shall be notified in writing either by personal service or through registered mail with registry return receipt card at his/her last known address by the appropriate department of the SES of the existence of the ground for his/her disqualification and shall be allowed to submit within 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 to defend/clear himself/herself.

d. If no reply has been received from the director/trustee/officer concerned upon the expiration of the period prescribed under Item “b” above, said failure to reply shall be deemed a waiver and the appropriate department of the SES shall proceed to evaluate the case based on available records/evidence.

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

watchlisting is elevated to the Monetary Board.

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

g. If the disqualification is based on dismissal from employment for cause, the appropriate department of the SES shall, as much as practicable, endeavor to establish the specific acts or omissions constituting the offense of the ultimate facts which resulted in the dismissal to be able to determine if the disqualification of the director/trustee/officer concerned is warranted or not. The evaluation of the case shall be made for the purpose of determining if disqualification would be appropriate and

not for the purpose of passing judgment on the findings and decision of the entity concerned. The appropriate department of the SES may decide to recommend to the Monetary Board a penalty lower than disqualification (e.g., reprimand, suspension, etc.) if, in its judgment the act committed or omitted by the director/trustee/officer concerned does not warrant disqualification.

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

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

j. The board of directors/trustees of the concerned institution shall be immediately informed of cases of disqualification approved by the Monetary Board and shall be directed to act thereon not later than the following board meeting. Within seventy-two (72) hours thereafter, the corporate secretary shall report to the Governor of the BSP through the appropriate department of the SES the action taken by the board on the director/trustee/officer involved.

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

l. Whenever a director/trustee/officer is cleared in the process mentioned under

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

(Circular No. 656 dated 02 June 2009)

§ 4143P.4 Effect of possession of disqualifications. Directors/trustees/officers elected or appointed possessing any of the disqualifications as enumerated herein, shall vacate their respective positions immediately.

(Circular No. 656 dated 02 June 2009)

§ 4143P.5 (Reserved)

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

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

(1) Disqualification File “A” (Permanent) - Directors/trustees/officers/employees permanently disqualified by the Monetary Board from holding a director/trustee/officer position.

(2) Disqualification File “B” (Temporary) - Directors/trustees/officers/employees temporarily disqualified by the Monetary Board from holding a director/trustee/officer position.

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

recommendation by the appropriate department of the SES, the inclusion of directors/trustees/officers/employees in watchlist disqualification files “A” and “B” on the basis of decisions, actions or reports of the courts, institutions under the supervisory and regulatory powers of the BSP, NBI or other administrative agencies shall first be approved by the Monetary Board.

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

d. *Confidentiality.* Watchlisting shall be for internal use only and may not be accessed or queried upon by outside parties including such institutions under the supervisory and regulatory powers of the BSP, except with the authority of the person concerned and with the approval of the Deputy Governor, SES, the Governor, or the Monetary Board.

The BSP will disclose information on its watchlist files only upon submission of a duly accomplished and notarized authorization from the concerned person and approval of such request by the Deputy Governor, SES or the Governor or the Monetary Board. The prescribed authorization form to be submitted to the concerned department of the SES is in *Appendix Q-45*.

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

e. *Delisting.* All delistings shall be approved by the Monetary Board upon

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

(1) Watchlist - Disqualification File “B” (Temporary) -

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

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

(c) Upon favorable decision or clearance by the appropriate body, i.e., court, NBI, institutions under the supervisory and regulatory powers of the BSP, or such other agency/body where the concerned individual had derogatory record.

Directors/trustees/officers/employees delisted from the Watchlist - Disqualification File “B” other than those upgraded to Watchlist - Disqualification File “A” shall be eligible for re-employment with any institution under the supervisory and regulatory powers of the BSP.
(Circular No. 656 dated 02 June 2009)

§ 4143P.7 Applicability of Section 4143P to the proprietor and managing partner of a pawnshop (in the case of a sole proprietorship/partnership). The foregoing disqualification and watchlisting provisions of this Section shall apply, where practicable, to the managing proprietor or managing partner of a pawnshop that is a sole proprietorship or partnership, in which case, the BSP shall initiate the disqualification proceedings against the managing proprietor/managing partner. For purposes of this subsection, a managing proprietor or managing partner shall refer to a person directly involved in the operation of a pawnshop business.

In case the disqualification shall cause the dissolution of the proprietorship or partnership, the AOR and AO, if any, shall be cancelled and the pawnshop shall be removed from the BSP List of Registered Pawnshops as prescribed in Subsec. 4183P.2.

(Circular No. 656 dated 02 June 2009)

Secs. 4144P - 4150P (Reserved)

H. BRANCH OFFICES

Sec. 4151P Establishment of Branch Offices

In line with Section 6 of P.D. No. 114 which requires pawnshops to register with the BSP before commencing actual business operations, no pawnshop shall open, maintain or operate a branch office without first applying for and obtaining from the BSP, through the appropriate department of the SES, an Authority to Operate (AO) such branch which shall be processed in accordance with the following guidelines. A new pawnshop applying for an AOR that has complied with the minimum paid-in capital of P100,000.00 may open one (1) branch if it so desires, subject to compliance with the applicable branching requirements.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4151P.1 Definition of branch office

As used in these rules, the term “branch office” refers to any place of business outside the head or main office of a pawnshop where pawnshop operations and transactions are conducted under the control and supervision of the head or main office.

(Circular No. 656 dated 02 June 2009)

§ 4151P.2 Operations and functions

The operations and transactions of a branch office shall likewise be subject to the provisions of P.D. No. 114 governing operations and transactions of a head or main office, as well as by other pertinent laws, BSP rules and regulations.

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The primary purpose of branching is to provide additional source of credit to small borrowers not served by the banks and other Fls.

(Circular No. 656 dated 02 June 2009)

§ 4151P.3 Basis for establishment
Branch offices shall be allowed on the basis of the head office’s ability to conduct operations in accordance with P.D. No. 114 and BSP rules and regulations. The BSP department concerned shall not process an application for branching of a pawnshop if any of the following conditions:

- a. has an approved but unopened branch;
- b. has unpaid annual fee or penalty assessed by the BSP;
- c. has not complied with the required prudential capital ratio as prescribed in Sec. 4107P; or
- d. has not submitted any of the periodic reports listed in Appendix P-2.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4151P.4 Documentary requirements. A pawnshop that intends to open a branch office shall submit to the BSP an application (using a BSP-prescribed form) duly accomplished and signed by the proprietor/managing partner/president under oath that shall be the basis for the issuance by the BSP an Authority to Operate (AO). The following documents shall be submitted together with every application for a branch office:

- a. Duly notarized certification from the head office as to its compliance with the minimum amount of capital under Secs. 4106P and 4107P;
- b. Certified true copy of the board resolution authorizing the establishment of the branch (in case of corporation);
- c. City/municipal license/business license/mayor’s permit from the city or

municipality where the pawnshop branch is to be established;

d. Personal data sheet (using BSP-prescribed form for pawnshops) with passport size picture duly accomplished by the proposed branch manager or officer-in-charge; and

e. Such other documents that may be required by the BSP for the evaluation of the branch application as enumerated in a list attached to the application form.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4151P.5 Processing and annual fees. Every branch of a pawnshop shall pay a one-time processing fee of P1,000.00 and P500.00 annual fee upon approval of application for registration. Thereafter, the annual fee shall be paid not later the 31 March of every year.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4151P.6 Date of opening for business. The pawnshop branch shall commence actual operations within six (6) months from the date of issuance of the AO. Failure to commence actual operations within the aforementioned six (6) months period shall render the BSP AO as automatically cancelled.

The pawnshop head office shall notify the BSP in writing of the start of operations of the branch within five (5) business days from the actual start of the operations of the branch.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4151P.7 Pawnshop branches without business permit and authority to operate considered operating illegally
Any pawnshop branch that is found operating that does not have a current business permit issued by the city or municipality where it is located and an AO issued by the BSP is

considered operating illegally. Such pawnshop shall be reported to the Office of the Mayor of the concerned city or municipality, for appropriate action, without prejudice to whatever legal action the Bangko Sentral may pursue under Section 18 of P.D. No. 114 and other applicable laws against the pawnshop, its proprietor, partners, stockholders, directors and president or officer of equivalent rank.
(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

Secs. 4152P - 4155P (Reserved)

I. BUSINESS DAYS AND HOURS

Sec. 4156P Business Days and Hours. Pawnshops, including their branches, shall transact business at a minimum of five (5) days a week, for a minimum of six (6) hours a day, both to be selected by them. They may, at their discretion, remain open beyond the aforesaid requirement as they deem it necessary.

The business hours and business days shall be printed on the face of the pawn ticket and shall be posted together with the original Bangko Sentral AOR/AO conspicuously at all times within the premises of the pawnshop, preferably at the window or door that is clearly visible to the pawning public.

Pawnshops shall only transact business in the pawnshops’ registered place of business or premises of the head office and branches, if any. Transacting business outside the pawnshops’ registered place of business or premises shall be a ground for cancellation of pawnshop’s AOR or AO, as the case may be.

During business days and hours, the pawnshop head office and every branch shall have at least one (1) personnel, (manager or officer-in-charge, if any) that has attended the briefing on pawnshop regulations and AMLA seminar mentioned in Subsec. 4101P.5.
(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

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Secs. 4157P - 4160P (Reserved)

J. RECORDS AND REPORTS

Sec. 4161P Records. The accounting period of pawnshops shall be on the calendar year basis.

The accounting records of pawnshops shall consist of records of original entry and books of final entry.

The records of original entry shall consist of pawn tickets, official receipts, vouchers and other supporting documents. The books of final entry shall consist of the general ledger, subsidiary ledgers and registers of loans extended and loans paid.

Pawnshops may use any form of loans extended and loans paid registers as long as they contain spaces and columns for information enumerated in Section 11 of P.D. No. 144.

A pawnshop that uses a computerized system may record its loan transactions in individual loan extended vouchers which shall contain the same information necessary to comply with Section 11 of P.D. No. 114 in lieu of the loan extended and loans paid registers. Such pawnshops shall periodically compile or bind the loan extended vouchers and shall be made available for Bangko Sentral examination upon request.

The Description of Loan Registers of Pawnshops provided in *Appendix P-1* shall be followed.
(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4161P.1 Uniform system of accounts. Pawnshops shall strictly adopt/ implement the Uniform System of Accounts prescribed for pawnshops in the recording of daily transactions including reportorial requirements.

The Uniform Chart of Accounts for Pawnshops is provided in *Appendix P-1*.
(Circular No. 656 dated 02 June 2009)

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§ 4161P.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 Philippine Financial Reporting Standards (PFRS) and Philippine Accounting Standards (PAS) issued by the Financial Reporting Standards Council (FRSC) to the greatest extent possible.

Pawnshops 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) options are allowed or certain minimum limits are prescribed by the PFRS/PAS, the option or limit prescribed by Bangko Sentral regulations shall be adopted by all banks FIs.

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

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

- a. In preparing consolidated financial statements, only investments in financial allied subsidiaries except insurance subsidiaries shall be consolidated on a line-by-line basis; while insurance and non-financial allied subsidiaries shall be accounted for using the equity method. Financial/non-financial allied/non-allied associates shall be accounted for using equity method in accordance with the provisions of PAS 28 “Investments in Associates”; and
 - b. FIs shall be required to meet the Bangko Sentral recommended valuation reserves.
- Notwithstanding the exceptions in Items

“a” and “b”, the audited financial statements required to be submitted to the Bangko Sentral in accordance with the provisions of *Appendix P-2* 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.

For purposes of preparing solo/ separate financial statements, financial allied, non-financial allied and non-allied subsidiaries/joint ventures, including insurance subsidiaries/associates, shall be accounted for using the equity method, in accordance with PAS 27, as amended.

Pawnshops, 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 pawnshops shall continue to be accounted for in accordance with the provisions of PAS 39.

(Circular Nos. 915 dated 05 July 2016, 912 dated 27 May 2016 and 656 dated 02 June 2009)

§ 4161P.3 *Accounting for pawnshops premises; other fixed assets.* Pawnshop premises, furniture, fixtures and equipment shall be accounted for using the cost model under PAS 16 “Property, Plant and Equipment”.

(Circular No. 656 dated 02 June 2009)

§ 4161P.4 *Retention of records.* Pawnshop records, ledgers, books and documents (including those in electronic media):

- (a) shall not be destroyed or disposed of for at least five (5) years;
- (b) shall have backup hard and/or soft copy to allow reconstruction of records in

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case of loss or destruction due to fire and other fortuitous events; and

(c) shall be made available for Bangko Sentral examination upon request.

A pawnshop that does not have records, ledgers, registers, books or documents or that refuses to permit access to its records, ledgers, registers, books or documents to an authorized Bangko Sentral officer/

examiner may be considered as refusal to permit an examination.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

Sec. 4162P Reports. Pawnshops shall submit to the appropriate department of the SES the reports listed in *Appendix P-2* in the forms as may be prescribed by the Deputy Governor (DG), SES.

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Any change in, or amendment to, the articles of incorporation/co-partnership, 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 document to the appropriate department of the SES within fifteen (15) days following such change.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 821 dated 06 December 2013)

§ 4162P.1 Categories of and signatories to 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 P-2*.

Appendix P-3 prescribes the signatories for each report category and the requirements on signatory authorization. Reports submitted in computer media shall be subject to the same requirements.

A report submitted to the 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 submitted.

(Circular No. 656 dated 02 June 2009)

§ 4162P.2 Manner of filing. The submission of the reports shall be effected by filing them personally with the appropriate department of the SES or with the 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.

(Circular No. 656 dated 02 June 2009)

§ 4162P.3 Definition relevant to reports to Bangko Sentral

Definition of terms. For purposes of these rules, the following definitions shall apply:

a. *Report* shall refer to any report or statement required of a pawnshop to be submitted to the Bangko Sentral periodically or within a specified period.

b. *Faulty report* shall refer to an inaccurate/improperly accomplished report.

c. *Willful delay or default in the submission of reports* shall refer to the failure of a pawnshop to submit a report on time. Failure to submit a report on time due to fortuitous events, such as fire and other natural calamities and public disorders, including strike or lockout affecting a pawnshop as defined in the Labor Code or a national emergency affecting operations of pawnshops, shall not be considered as willful delay.

d. *False statement* shall refer to any untruthful data or information or falsehoods made in a report to the Bangko Sentral or its authorized agents, with intent to deceive or mislead. Any false statement which tends to favor the pawnshop submitting the report shall be *prima facie* evidence of intent to deceive or mislead.

e. *Repeated violation* shall mean the commission of the same offense for at least two (2) times.

f. *Persistent violation* shall mean the commission of the same offense for at least three (3) times.

g. *Offense* shall refer to submission of faulty report, willful delay in submission of reports, or making of false statements in reports.

h. *Continuing offenses/violations* are acts, omissions or transactions entered into, in violations 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.

i. *Transactional offenses/violations* are acts, omissions or transactions entered into in violation of laws, Bangko Sentral rules and regulations, Monetary Board directives, and

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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.

j. *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.

k. *Transactional penalty* refers to a one-time penalty imposed on transactional offense/violation.

(As amended by Circular Nos. 711 dated 28 January 2011, 662 dated 09 September 2009 and 656 dated 02 June 2009)

Sec. 4163P Report on Crimes/Losses
 Pawnshops shall submit a report on crimes and losses in accordance with *Appendix P-2* together with the following:

- a. Notarized list of lost pawned articles, indicating the pawn ticket number, name of the pawner, date loan granted, brief description of pawn, and amount of loan;
- b. Police report on the investigation of the fire/robbery incident;
- c. Proof of notification in writing to all concerned pawners about the incident; and
- d. Plan of settlement of pawners’ claim for lost pawned items, if any.

Should a crime or loss result in a deficiency in the minimum capital and/or prudential capital required under Secs. 4106P and 4107P, the pawnshop shall submit a capital build up program in accordance with Subsec. 4107P.1.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

Sec. 4164P Audited Financial Statements/Annual Report of Pawnshops. Pawnshops shall submit a copy of the AFS, as duly received by the BIR, to the BSP not later than 30 June following the reference calendar year. This requirement will apply only to pawnshops whose total asset is at

least P50.0 million as of reference year.
 (Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4164P.1 Financial audit
 (Deleted by Circular No. 711 dated 28 January 2011)

§ 4164P.2 Disclosure of external auditor’s adverse findings to the Bangko Sentral
 (Deleted by Circular No. 711 dated 28 January 2011)

§ 4164P.3 Sanction
 (Deleted by Circular No. 711 dated 28 January 2011)

§ 4164P.4 Selection, appointment, reporting requirements and delisting of external auditors and/or auditing firm; sanction. Pursuant to Section 58, R.A. No. 8791, and the existing provisions of the executed MOA dated 12 August 2009, binding the BSP, SEC, PRC – BoA and the IC for a simplified and synchronized accreditation requirements for external auditor and/or auditing firm, following are the revised rules and regulations that shall govern the selection and delisting by the BSP of covered institutions which under special laws are subject to BSP supervision.

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

a. *Rules and regulations.* The revised rules and regulations that shall govern the selection and delisting by the BSP of covered

institutions which under special laws are subject to BSP supervision are shown in *Appendix P-9*.

Sanctions. The applicable sanctions/penalties prescribed under Sections 36 and 37 of R.A. 7653 to the extent applicable shall be imposed on the covered institutions, its audit committee and the directors approving the hiring of external auditors/auditing firm who/which are not in the BSP list of selected auditors for covered institutions or for hiring, and/or retaining the services of the external auditor/auditing firm in violation of any of the provisions of this Section and for non-compliance with the Monetary Board directive under Item “K” in *Appendix P-9*. Erring external auditors/auditing firm may also be reported by the BSP to the PRC for appropriate disciplinary action.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 660 dated 25 September 2009)

Sec. 4165P General Information Sheet
(Deleted by Circular No. 711 dated 28 January 2011)

Secs. 4166P - 4170P (Reserved)

K. INTERNAL CONTROL

Sec. 4171P Internal Control System. The following provisions are the minimum internal control standards for pawnshops to help promote effective control system.or safe but within the pawnshop premises.
(Circular No. 656 dated 02 June 2009)

§ 4171P.1 Proper accounting records

- a. All pawnshops shall maintain proper and adequate accounting records which include reconciliation of due to/from head office/branches, if the pawnshop has several offices.
- b. Records should be kept up-to-date and shall contain sufficient detail so that an audit trail is established.
(Circular No. 656 dated 02 June 2009)

§ 4171P.2 Number control

The following are the forms, instruments and accounts that shall be number controlled:
(1) Pawn tickets;
(2) Official receipts; and
(3) Expense vouchers.
(Circular No. 656 dated 02 June 2009)

§ 4171P.3 Safekeeping of records and insurance of premises.

Vital records for the current year must be kept inside the safe or vault when not in use. Vital records are pawn ticket duplicates, loan paid and loan extended registers or loan paid and extended vouchers. Other pawnshop records/documents may be placed in filing cabinets/shelves outside the vault or safe but within the pawnshop premises.
For this purpose, a pawnshop’s vault, i.e., its walls, ceiling and floor shall be made of steel-reinforced concrete or such other equally safe materials/specifications. Vault doors shall be made of steel or other drill and torch-resistant materials.

Safes should be sufficiently heavy or be securely anchored to the floor of the premises.
Vital records kept in electronic media including back-up copies thereof shall be kept in safes or vaults designed to protect them from damage due to fire or other fortuitous events.

The pawnshop premises and furniture, fixtures and equipment of pawnshops must be insured against fire.
(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4171P.4 Miscellaneous. Every pawnshop shall adopt minimum internal control measures to safeguard the assets of the pawnshop. Such measures may include but is not limited to, dual control, check and balance and internal audit. No employee shall be permitted to process a transaction affecting his own account.
(Circular No. 656 dated 02 June 2009)

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Sec. 4172P Separation of Pawnshop Business from Other Businesses. A pawnshop that is at the same time engaged in another business not directly related to the business of a pawnshop, shall keep such business distinct and separate from the pawnshop operation.

Allowable corollary business activities of pawnshops shall include acting as foreign exchange dealer/money changer and/or as remittance agent, acting as bills payment agent for utility companies and other entities and such other activities as may be allowed by the BSP.

A pawnshop must secure the necessary business permit from the city or municipality for the corollary business. A pawnshop that will engage in the business of a foreign exchange dealer/money changer or act as a remittance agent shall register with the BSP before engaging in such business pursuant to Sec. 4511N.

The pawnshop should be able to show in its financial statements the appropriate accounts as well as the income or loss pertaining to the corollary business.

(Circular No. 656 dated 02 June 2009)

Secs. 4173P - 4180P (Reserved)

L. MISCELLANEOUS PROVISIONS

Sec. 4181P Registered/Business Name The registered name of a pawnshop shall refer to the name appearing in the Certificate of Registration (COR) of business name from the DTI, in the case of a sole proprietorship, or in the Articles of Partnership Incorporation and By-Laws duly registered with the SEC, in the case of a partnership or corporation.

In case, the registered name shall include the word “pawnshop” to reflect the nature of business it is engaged in.

Conversely, no person or entity shall advertise, use signage or hold itself out as being engaged in the business of a pawnshop or use in its business name the words

“pawnshop”, “pawnbrokerage”, or words of similar import, or transact in any manner the business of a pawnshop without having first complied with the provisions of P.D. No. 114 and these regulations.

A pawnshop that shall use/uses a name that is different from its registered name with DTI or SEC shall cause to have such name to also appear parenthetically under its registered name in the certificate of registration with DTI or articles of partnership/incorporation and by-laws with SEC, as well as in the business permit issued by the city or municipality.

(Circular No. 656 dated 02 June 2009)

§ 4181P.1 Change of registered/business name. A pawnshop shall not change its registered/business name without submitting the following documents to the appropriate department of the SES:

- a. Certificate of Registration from DTI or SEC, as the case may be, indicating the new business/registered name;
- b. Mayor’s/municipal license/permit; and
- c. Original BSP Acknowledgement of Registration of Head Office (AOR) and/or Authority to Operate (AO) issued under the old name.

A new BSP AOR and/or AO shall be issued indicating the new registered/business name of the pawnshop.

(Circular No. 656 dated 02 June 2009)

§ 4181P.2 Use of registered business name in signage, pawn tickets and other forms. The following regulations shall be observed with respect to the use of the business/registered name in the signage, pawn ticket and other forms of a pawnshop:

- a. As a general rule, the registered name appearing in the Certificate of Registration from the DTI or SEC, as the case may be, shall be used consistently in the pawnshop’s signage and in all documents including pawn tickets, official

receipts, stationery and other similar documents of the pawnshop.

b. A pawnshop that uses or will use a name that is different from its registered name as mentioned in Sec. 4181P above or that uses or will use a name already registered and being used by another pawnshop shall indicate parenthetically under such name, the registered name of the pawnshop with the DTI or SEC, as the case may be, with the words “*owned and operated by*” before the registered name in the pawnshop’s pawn tickets, official receipts, stationery and other similar documents.

c. A pawnshop that is a subsidiary or affiliate of another pawnshop shall likewise indicate such relationship in the pawn tickets, official receipts, stationery and other similar documents.

A subsidiary is a corporation more than fifty percent (50%) of the voting stock of which is owned by another corporation; while an affiliate is a corporation less than fifty (50%) of the voting stock of which is owned by another corporation.

d. The exact address of the pawnshop shall be indicated consistently in all pawnshop documents (e.g., pawn tickets, official receipts, stationery and other similar documents) and in the business permit issued by the city or municipality.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4181P.3 Sanctions

(Deleted by Circular No. 711 dated 28 January 2011)

Sec. 4182P Transfer/Relocation of Business
The following shall govern the transfer/relocation of pawnshops.

No pawnshop shall transfer or relocate its place of business within three (3) months following the maturity of any loan or pledge, or before any pawn shall have been sold or disposed of as provided under existing regulations. A notice of transfer shall be

submitted to the appropriate department of the SES within ten (10) days before the effectivity of such transfer.

A pawnshop may transfer its place of business from one location to another within the territorial limits of the city or municipality upon compliance with the following requirements:

a. Notice of transfer shall be published in English and in Filipino or in the local dialect in two (2) daily newspapers of general circulation in the city or municipality where the pawnshop is closing business, and posted in English and Filipino or in the local dialect for one (1) month after date of publication in a conspicuous place in the premises to be vacated and to be transferred to;

b. The notice shall be published for at least three (3) consecutive days, the last day of which shall be five (5) days before the actual transfer; and

c. Notice shall contain the following information:

- (1) Date of transfer;
- (2) Address of the premises to be vacated; and
- (3) Address of the premises to which pawnshop intends to transfer.

In remote areas where newspapers are not available, the publication requirement shall be complied with by posting notices at the city hall or municipal building of the city or municipality where the pawnshop has its place of business.

(Circular No. 656 dated 02 June 2009)

§ 4182P.1 Documentary requirements for transfer within the same city/municipality. The following documents shall be filed with the appropriate department of the SES in connection with transfer of location within the same city or municipality:

a. A certification signed by the proprietor/managing partner/president

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informing the appropriate department of the SES of the intended transfer and that the requirements prescribed under Sec. 4182P have been complied with;

- b. Copy of notice of transfer duly acknowledged by the DTI and by the licensing authority of the locality where the pawnshop is operating;
- c. Sample copy of the pawn ticket bearing the new address;
- d. Sketch of pawnshop’s new location;
- e. Original BSP AOR and/or AO issued to the pawnshop, or an affidavit in case of loss;
- f. Board resolution authorizing the transfer of the pawnshop (in case of corporations)

(Circular No. 656 dated 02 June 2009)

§ 4182P.2 Documentary requirements for transfer outside the city/municipality
A pawnshop that intends to transfer/relocate its business outside the city or municipality where it is located shall comply with the following:

- (1) requirements on closure of business under Sec. 4183P; and
- (2) requirements for the establishment and registration of a new pawnshop or branch under Subsecs. 4101P.4 and 4151P.4, respectively, where applicable.

(Circular No. 656 dated 02 June 2009)

Sec. 4183P Closure of Pawnshops. The following rules shall govern the closure of pawnshops:

(Circular No. 656 dated 02 June 2009)

§ 4183P.1 Voluntary closure
Voluntary closure of a pawnshop may be effected only after three (3) months following the maturity of any loan or pledge, or before any pawn shall have been sold or disposed of and after it has complied with the following requirements:

(1) Submission of the following documentary requirement within thirty calendar (30) days after the provision of Subsec. 4183P.1:

- a. Notarized statement stating that:
 - (i) The pawnshop’s books of accounts, reports, records and documents shall be preserved for at least five (5) years from date of last entry;
 - (ii) All unused accountable forms have been destroyed to prevent their unauthorized use;
 - (iii) Proprietor/partners/president of the pawnshop shall be held liable for present or future claims arising from its pawnbroking transactions; and
 - (iv) All outstanding pawns have been redeemed/sold at public auction, or otherwise disposed of, in accordance with law.
- b. Copy of the pawnshop’s application for retirement of business approved by the licensing authority of the city or municipality where the pawnshop operated.
- c. Original BSP AOR and/or AO issued to the pawnshop.

(2) Remittance of penalties or BSP assessments on the pawnshop, if any, such as for non-submission/delayed submission of required reports.

(Circular No. 656 dated 02 June 2009)

§ 4183P.2 Delisting of pawnshops/ involuntary closure

(Deleted by Circular No. 711 dated 28 January 2011)

§ 4183P.3 Other grounds for delisting
(Deleted by Circular No. 711 dated 28 January 2011)

Sec. 4184P Transfer of Ownership. No pawnshop proprietor/partners/stockholders shall transfer ownership over the pawnshop business without securing prior BSP approval.

(Circular No. 656 dated 02 June 2009)

§ 4184P.1 Requirements for transfer of ownership.

The owner(s) shall file the following documents ten (10) days before transferring the ownership of the pawnshop:

(1) Notarized statement by owner/managing partner/president or its equivalent rank stating that:

a. The pawnshop’s books of accounts, records and documents shall be preserved for five (5) years from date of last entries before the transfer of ownership;

b. All unused accountable forms such as official receipts and pawn tickets have been destroyed to prevent their unauthorized use.

c. The owner/managing partner/president shall be held accountable for present and future claims arising from transactions of the pawnshop under the former owner (new owner may assume this liability, in which case, he/she shall submit a notarized statement to that effect).

d. All outstanding pawns have been redeemed or sold at public auction, or otherwise disposed of in accordance with law; or the owners of outstanding pawns have been notified by registered mail on the transfer of ownership of the pawnshop.

(2) Copy of pawnshop’s notice of retirement of business acknowledged by the licensing authority where the pawnshop operated.

(3) Original Bangko Sentral AOR and/or AO issued to the pawnshop, or an affidavit in case of loss.

(4) Payment of Bangko Sentral assessment on the pawnshop, if any, such as for non-submission or delayed submission of required reports.

If the vendee shall continue the operation of the pawnshop, he shall comply with the provisions of Subsecs. 4101P.3 and 4142P.2. The vendee shall also submit a copy of the duly executed contract affecting the transfer of ownership.

(Circular No. 656 dated 02 June 2009)

§ 4184P.2 Processing and annual fees

A pawnshop that is the subject of change of ownership shall be subject to the Bangko Sentral processing and annual fees under Subsec. 4101P.6.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

Sec. 4185P Processing Fee for Replacement of Acknowledgement of Registration of Head Office/Authority to Operate.

A non-refundable processing fee of P300.00 shall be collected from each pawnshop that will request for a replacement AOR or AO due to:

- (a) loss of AOR/AO;
- (b) change of business/registered name under Subsec. 4181P.1; and
- (c) transfer of location or address under Subsec. 4182P.

(Circular No. 656 dated 02 June 2009)

Secs. 4186P - 4189P (Reserved)

Sec. 4190P Guidelines on Outsourcing. The rules on outsourcing of banking functions as shown in *Appendix Q-37* shall be adopted insofar as they are applicable to Pawnshops.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 764 dated 03 August 2012)

Sec. 4191P (Reserved)

Sec. 4192P Prompt Corrective Action Framework. The framework for the enforcement of prompt corrective action (PCA) on banks which is in *Appendix Q 40*, shall govern the PCA taken on pawnshops to the extent applicable, or by analogy.

(Circular No. 664 dated 15 September 2009)

Sec. 4193P 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

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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)

§ 4193P.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)

§ 4193P.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)

§ 4193P.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 be notified in writing of their classification immediately after 14 September 2013.

(Circular No. 808 dated 22 August 2013)

§ 4193P.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)

§ 4193P.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 established outside the 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

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Terminology	Definitions
	credit card data, computer hacking, electronic identity theft, phishing scams, ATM skimming and non-delivery of merchandise purchased online, among others.
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

Terminology	Definitions
	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.
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.

Terminology	Definitions
	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.
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

Terminology	Definitions
	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 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

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Terminology	Definitions	Terminology	Definitions
	disruption associated with the use of or reliance on computer hardware, software, devices, systems, applications and networks.		core supporting applications such as collaboration systems and report processing tools.
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.	Project Management	Planning, monitoring and controlling an activity.
IT Risk Management System	Risk management system that enables a BSI to identify, measure, monitor and control IT-related risks.	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.
Management Information System (MIS)	A general term for the computer systems in an institution that provide information about its business operations.	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, 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.
Network	Two (2) or more computer systems that are grouped together to share information, software and hardware.	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
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-		

Terminology	Definitions
	with second key, and the resulting cipher text is again encrypted with a third key.

(Circular No. 808 dated 22 August 2013)

§ 4193P.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

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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.

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§ 4193P.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

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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*)

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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

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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

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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)

§ 4193P.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)

§ 4193P.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 4193P.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)

Secs. 4194P - 4198P (Reserved)

Sec. 4199P General Provision on Sanctions

Unless otherwise provided, violations of any provision hereof may subject a pawnshop, its proprietor, directors, trustees, partners, president, managers or officer-in-charge, where applicable, to sanctions which may include the following:

- a. Warning/reprimand;
- b. Suspension of AOR/AO;
- c. Suspension of branching privilege;
- d. Disqualification of proprietor, partner, director, president, manager or officer-in-charge;
- e. Monetary penalty not to exceed P1,000.00 per violation, per office, per day; and
- f. Revocation of AOR/AO.

The imposition of the above sanctions is without prejudice to whatever legal action the Bangko Sentral may pursue under Sec. 18 of P.D. 114 (Pawnshop Regulation Act), and other applicable laws against the pawnshop, its proprietor, partners, incorporators, stockholders, directors, president and officers.

A pawnshop whose AOR/AO is suspended or revoked shall be reported to the office of the mayor of the concerned city or municipality, for appropriate action. It is understood that in case the AOR of a head office is revoked, the AO of all branches of said pawnshop are likewise revoked.

Any pawnshop that is found operating as a foreign exchange dealer/money changer and or remittance agent that does not have a COR issued by the Bangko Sentral for such activity is considered operating such activities illegally and shall be reported to the office of the mayor in accordance with the rules above.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

PART TWO
BORROWING OPERATIONS

A. - J. (RESERVED)

Sections 4201P - 4284P (Reserved)

K. OTHER BORROWINGS

Sec. 4285P Securities and Exchange Commission Registration of Borrowing
Borrowing by any pawnshop through the issuance of any instrument shall be subject to the registration provisions of Section 8 of the Securities Regulation Code (SRC) and the applicable implementing rules and regulations of the Securities and Exchange Commission (SEC). While borrowing from nineteen (19) individuals or less is exempt from the registration requirement under Section 10 of the SRC, Rule 10-1 of the SEC implementing rules and regulations still requires SEC to be

notified of the issuance of the debt instrument.
(Circular No. 656 dated 02 June 2009)

Sec. 4286P Borrowings Constituting Quasi-Banking Functions. Borrowing from twenty (20) or more lenders for the purpose of relending or purchase of receivables or other obligations constitutes quasi-banking. A pawnshop cannot engage in quasi-banking unless it meets the pre-qualification requirements under the MORNBFI-QBs and obtains authority or a separate license to engage in quasi-banking from the BSP.
(Circular No. 656 dated 02 June 2009)

Secs. 4287P - 4298P (Reserved)

Sec. 4299P General Provision on Sanctions
(Deleted by Circular No. 711 dated 28 January 2011)

PART THREE
LOANS AND INVESTMENTS

A. LOANS IN GENERAL

Section 4301P Grant of Loans. The following regulations shall be observed in the grant of loans by pawnshops.
(Circular No. 656 dated 02 June 2009)

§ 4301P.1 General guidelines. A pawnshop shall extend a loan only if such is secured by personal property that could be physically delivered to the control and possession of the pawnshop.

Before accepting articles as pawn, the pawnshop must ascertain whether the pawner is the true owner of the article offered as pawn. In the conduct of business, a pawnshop shall be guided by the standard of diligence that is expected of “a good father of a family”, ensuring always that there is no ground to suspect that the article/s offered as pawn was an object of robbery or theft.
(Circular No. 656 dated 02 June 2009)

§ 4301P.2 Prohibitions. Pawnshop owners/managers/officers/directors employees shall not:

- a. Use pawned articles for themselves or allowing employees to use said articles for any purpose without the express consent or authority of the pawner unless continued use is necessary to preserve the pawn;
- b. Grant loans to minors or incompetent persons; or
- c. Re-pledge/re-pawn the pawned article.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4301P.3 Know your pawner
Pawnshops who transact with any pawner for the first time shall require the pawner to present the original and submit a clear copy of at least one (1) valid photo bearing

identification document (ID) issued by an official authority.

The valid ID should indicate the address where the pawner resides, otherwise, pawner shall be required to present, together with the valid ID, a barangay certification or a copy of a billing statement that indicates the address where the pawner resides. Further, the provisions of Part 8 of the Q Regulations on valid identification documents shall apply.

Pawnshops shall post excerpts of the above requirements conspicuously in its principal place of business and branches. The poster (shown as *Appendix 7*) shall not be smaller than 8.5 x 11 inches.

Every pawnshop shall maintain records containing all the information required under this Subsection and Section 11 of P.D. No. 114 for each of their clients.

(Circular No. 656 dated 02 June 2009, as amended by Circular Nos. 711 dated 28 January 2011, 706 dated 05 January 2011 and 657 dated 16 June 2009)

§ 4301P.4 Sanctions

(Deleted by Circular No. 711 dated 28 January 2011)

Sec. 4302P Loan Limit. Pawnshops may grant such amount of loans as may be agreed upon between the parties. The amount of loan shall in no case be less than thirty percent (30%) of the appraised value of the security offered, unless the pawner manifests in writing that he is applying for a lesser amount. Pawnshops shall not under appraise the security offered for the loan to circumvent the restriction prescribed by this Section.

(Circular No. 656 dated 02 June 2009)

§ 4302P.1 Sanctions

(Deleted by Circular No. 711 dated 28 January 2011)

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Sec. 4303P Interest and Surcharges. The rate of interest including surcharges on any loan or forbearance of money extended by a pawnshop shall not be subject to any ceiling. However, pursuant to a decision of the Supreme Court (case of Medel, et al vs Court of Appeals, GR No. 131622 dated 27 November 1998) the interest rate shall not be iniquitous, unconscionable, or contrary to morals, if not against the law as may be determined by the Court.

No pawnshop shall collect interest on loans in advance for a period longer than the original term agreed upon as indicated in the pawn ticket.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4303P.1 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.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 799 dated 21 June 2013)

§ 4303P.2 Other charges. In addition to interest, pawnshops may impose a maximum service charge of five pesos (P5.00), but in no case to exceed one percent (1%) of the principal loan. No other charges, such as but not limited to insurance premium for the safekeeping and conservation of the pawned item, shall be collected.

(Circular No. 656 dated 02 June 2009)

§ 4303P.3 Method of computing interest Pawnshops 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)

§ 4303P.4 Posters. Pawnshops shall post in conspicuous places in their principal place of business and branches, the annual effective interest rate in percent, specifying therein if such interest rate is yearly or monthly, as well as other charges, if any, to be paid by the pawner.

(Circular No. 754 dated 17 April 2012)

§ 4303P.5 (2011 - 4303P.4) Sanctions and penal provisions. Any pawnshop that violates the foregoing provisions as determined by Bangko Sentral in the spot checking of pawnshops or whenever a complaint brought to the attention of Bangko Sentral is found to be true, shall be imposed the following sanctions:

- a. Fine of P500.00 for each of the first three (3) offenses;
- b. Fine of P1,000.00 for the next three (3) offenses;
- c. For subsequent violation, cancellation of Bangko Sentral Acknowledgement of Registration (AOR) or Authority to Operate (AO) issued to the pawnshop head office or branch, as the case may be, and issuance of a letter to the concerned city or municipality advising them of the cancellation of the Bangko Sentral AOR/AO and recommending the revocation of their business/mayor’s permit(s). It is understood that if the AOR of the HO is cancelled, the AO of the branch/es is/are likewise cancelled; and
- d. Such other sanctions as the Monetary Board may deem warranted.

Non-compliance with the provisions pursuant to Subsecs. 4303P.3 and 4303P.4 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 No. 754 dated 17 April 2012)

Sec. 4304P (Reserved)

Sec. 4305P Past Due Accounts; Renewal
 A loan may be renewed for such amount and period as may be agreed upon between the pawnshop and the pawner, subject to the same conditions provided in this Part for new loans.

No loan shall be renewed or its maturity date extended unless a new pawn ticket as defined in Sec. 4102P shall be issued indicating the new term of the loan agreed upon by the pawnshop and the pawner.
(Circular No. 656 dated 02 June 2009)

§ 4305P.1 Right of pawner to redeem pawn within ninety (90) days from maturity

A pawner who fails to pay or renew his loan with a pawnshop on the date it falls due shall have ninety (90) days from the date of maturity of the loan within which to redeem the pawn by paying the principal amount of the loan plus the amount of interest that shall have accrued thereon. The amount of interest due and payable after the maturity date of the loan shall be computed upon redemption based on the sum of the principal loan and interest earned as of the date of maturity. The procedures to be followed in case the pawner fails to redeem his pawn are prescribed in Sec. 4324P.

If the maturity date of the loan or expiry date of redemption period falls on the pawnshop’s non-business day, a regular holiday or a special non-working holiday in the locality, then the maturity date of the loan or expiry date of redemption period shall be on the next business day.

If the pawnshop is closed on the maturity date of the loan or expiry of the redemption period, with or without prior notice to the pawner, then the maturity date of the loan or expiry of redemption period shall be on the next business day and the pawnshop shall not charge additional interest or surcharge to the pawner.

If the pawnshop is closed due to a robbery, then the maturity date of the pledge or expiry of redemption period shall be on the next business day when the pawnshop opens for business and the pawnshop shall not charge additional interest or surcharge to the pawners.

(Circular No. 656 dated 02 June 2009)

§ 4305P.2 Sanctions

(Deleted by Circular No. 711 dated 28 January 2011)

Sec. 4306P Interest Accrual on Past Due Loans. Interest income on past due loans arising from discount amortization (and not from the contractual interest of the account) shall be accrued as provided in PAS 39.

(Circular No. 656 dated 02 June 2009)

Secs. 4307P - 4320P (Reserved)

B. LOAN COLLATERAL/SECURITY

Sec. 4321P Acceptable Security and Safekeeping of Pawns. Only personal property that is capable of being physically delivered to the control and possession of the pawnshop shall be accepted as security for loans. Certain specified chattels, such as guns, knives, or similar weapons, whose reception in pawn is expressly prohibited

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by other laws, decrees, or regulations, shall not be accepted by pawnshops as security for loans.

Except for bulky pawns, pawns shall be placed in a tamper-proof sealed plastic envelop or bag which must be kept inside the safe or concrete vault. Bulky pawns may be placed outside the safe or vault but within the pawnshop premises. All pawns, except those which are kept inside the vault or safe, must be insured against fire.

Pawnshop owners shall be liable for any pawned item lost or destroyed arising out of their negligence, fault, delay in delivery or willful violation of the loan agreement. *(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)*

Sec. 4322P Redemption of Pawns. A pawnshop shall not release any pawn without first requiring the pawner to present and surrender the corresponding pawn ticket. If the pawn ticket was lost and could not be presented or surrendered, the pawnshop shall require the owner-pawner to execute and submit an affidavit of loss and shall ascertain the identity of the pawner, to ensure that the pawned item is released only to the owner-pawner.

The pawnshop shall return the pawn in the same condition when they were first pawned by pawner, upon full settlement of the loan. *(Circular No. 656 dated 02 June 2009)*

§ 4322P.1 Sanctions
(Deleted by Circular No. 711 dated 28 January 2011)

Sec. 4323P Pawn Ticket¹. Pawnshops shall, at the time of the loan, deliver to each pawner a pawn ticket which shall contain the following:

- a. The business/registered name, address, telephone number, tax identification number, business days and

hours, of the pawnshop. The business name indicated in the pawn ticket shall be in accordance with the provision of Subsec. 4181P.2;

- b. Name of pawner;
 c. Pawner’s residential address;
 d. Pawner’s contact number;
 e. Date the loan was granted;
 f. Amount of the principal loan and net proceeds;
 g. Effective interest rate in percent, indicating if monthly or annually;
 h. Interest in absolute amount;
 i. Service charge in amount;
 j. Penalty interest in percent, if any;
 k. Appraised value of pawn;
 l. Period of maturity;
 m. Description of the pawn;
 n. Expiry date of the redemption period;
 o. Signature of the pawnshop’s authorized representative;
 p. Signature or thumbmark of the pawner; and
 q. ID presented.

No other document or instrument shall be used/issued by a pawnshop for any loan granted by it to a pawner/borrower.

(Circular No. 656 dated 02 June 2009, as amended by Circular Nos. 787 dated 20 February 2013, 754 dated 17 April 2012 and 711 dated 28 January 2011)

§ 4323P.1 Stipulations in pawn ticket
 The contents of the standard pawn ticket, prescribed for pawnshops pursuant to the requirements of P.D. No. 114, and the “Standard Terms and Conditions” thereof, are in *Appendices P-4* (front) and *P-4a* (back).

Additional stipulations/information enumerated under Appendix P-4b, which pawnshops may wish to incorporate in their pawn tickets, may be included without prior approval from the Bangko Sentral.

The font size for the stipulations at the back of the pawn ticket shall not be smaller than “Arial Narrow 8”. Additional

¹ A pawnshop may use pawn tickets bearing a rubber-stamp of its registered and trade name on the pawn ticket until 30 June 2011. Starting 01 July 2011, all pawnshops shall only use pre-printed pawn tickets in accordance with these rules.

stipulations which may be included at the back of the pawn ticket shall also be printed in the prescribed font size.

Pawn ticket shall not be smaller than 8 inches x 5 inches. The size of the pawn ticket may have to be larger to accommodate additional stipulations that should also be printed not smaller than “Arial Narrow 8”.

Pawn tickets shall at least be in duplicate. The first copy shall contain the word “Original” which shall be given to the pawner when the loan is granted and surrendered upon redemption of pawn, while the second copy shall be marked “Duplicate” which shall remain on file with the pawnshop.

Pawn tickets shall be serially numbered.

Pawnshops may choose the color or quality of the paper used as pawn ticket.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4323P.2 Sanctions

(Deleted by Circular No. 711 dated 28 January 2011)

Sec. 4324P Notices to the Pawner and to the Public

a. On or before the expiration of the ninety (90)-day grace period a pawnshop shall notify a pawner in writing that the pawn shall be sold or otherwise disposed of in the event the pawner fails to redeem the pawn within the ninety (90)-day grace period, specifying in the same notification the date, hour and place where the sale shall take place.

The notice shall be sent through the mode of notification agreed upon by the pawner and the pawnshop as indicated at the back of the pawn ticket at the time the loan was granted which may be through text/SMS message, electronic mail, fax or by mail to the residential address. If sent through text/SMS, the pawnshop shall obtain a report from the appropriate Telecommunications Company (TELCO) indicating that a text/SMS message was sent to the mobile phone

number given by the pawner. The report of the TELCO shall be made available to Bangko Sentral upon request.

In case no specific mode of notification is agreed upon and indicated at the back of the pawn ticket, the mode of notification shall be by ordinary mail. Pawnshops shall exert reasonable effort to notify the pawner and put on record if it is unable to do so. Pawnshops shall maintain proof of the notice to pawner.

b. If upon the expiration of the ninety (90)-day grace period, the pawner fails to redeem his pawn, the pawnshop may sell or dispose of the pawn only after it has published a notice of public auction of unredeemed articles held as security for loans in at least two (2) newspapers circulated in the city or municipality where the pawnshop has its place of business, six (6) days prior to the date set for the public auction.

The notice shall be in English, and in either Filipino or the local dialect and shall contain the following:

- a. Name and address of the owner of the pawnshop; and
- b. Date, hour and place of the auction sale.

In remote areas where newspapers are neither published nor circulated, the publication requirement shall be complied with by posting notices at the city hall or municipal building of the city or municipality and in two (2) other conspicuous public places where the pawnshop has its place of business.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

§ 4324P.1 Poster. Pawnshops shall post conspicuously at the principal place of business and branches an abstract (*Appendix P-8*) which shall be not be smaller than 8.5 x 11 inches.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

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§ 4324P.2 *Sanctions*
 (Deleted by Circular No. 711 dated 28 January 2011)

Sec. 4325P Public Auction of Pawns. No pawnshop shall sell or otherwise dispose of any article or thing received as security for a loan except by public auction at any of the following places:

- a. Pawnshop’s place of business; or
- b. Any public place within the territorial limits of the municipality or city where the pawnshop conducts its business.

The auction shall be conducted under the control and direction of a duly licensed auctioneer. In cities and municipalities where there is no duly licensed auctioneer, the public auction may be conducted by a notary public of the city or province where the pawnshop has its place of business.

The Auction Sheet/Book containing entries of auctioned pawned articles duly signed by the auctioneer or notary public under oath shall be maintained by the pawnshop.

(Circular No. 656 dated 02 June 2009)

§ 4325P.1 Auction of pawned items covered by a single pawn ticket. If one (1) pawn ticket covers two (2) or more pledged articles, and only one of the articles was sold during the auction, the pawnshop shall allocate the loan value for each article based on their appraised value.

(Circular No. 656 dated 02 June 2009)

Secs. 4326P - 4335P (Reserved)

C. - J. (RESERVED)

Secs. 4336P - 4395P (Reserved)

K. MISCELLANEOUS

Secs. 4396P - 4398P (Reserved)

Sec. 4399P General Provisions on Sanctions. Unless otherwise provided, violations of any provision hereof may subject a pawnshop, its proprietor, directors, trustees, partners, president, managers or officers-in-charge, where applicable, to sanctions which may include the following:

- a. warning/reprimand;
- b. suspension of AOR/AO;
- c. suspension of branching privilege;
- d. disqualification of proprietor, partner, director, president, manager or officer-in-charge;
- e. monetary penalty not to exceed P1,000.00 per violation, per office, per day; and
- f. revocation of AOR/AO.

The imposition of the above sanctions is without prejudice to whatever legal action the Bangko Sentral may pursue under Section 18 of P.D. No. 114 (Pawnshop Regulations Act), and other applicable laws against the pawnshop, its proprietor, partners, incorporators, stockholders, directors, president and officers.

A pawnshop whose AOR/AO is suspended or revoked shall be reported to the Office of the Mayor of the concerned city or municipality, for appropriate action. It is understood that in case the AOR of a head office is revoked, the AO of all branches of said pawnshop are likewise revoked.

Any pawnshop that is found operating as a foreign exchange dealer/money changer and/or remittance agent that does not have a COR issued by the Bangko Sentral for such activity is considered operating such activities illegally and shall be reported to the Office of the Mayor in accordance with the rules above.

(Circular No. 656 dated 02 June 2009, as amended by Circular No. 711 dated 28 January 2011)

PART FOUR

BSP REGULATIONS ON FINANCIAL CONSUMER PROTECTION

A. CONSUMER PROTECTION
OVERSIGHT FUNCTION

Section 4401P 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)

§4401P.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)

§4401P.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

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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. 4402P 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)

§4402P.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. 4303P.3;

(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;

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(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)

§4402P.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

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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)

§4402P.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

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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.

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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 Nos. 898 dated 14 January 2016 and 890 dated 02 November 2015)

§4402P.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 P-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)

§4402P.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.

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(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. 4403P 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. 4404P - 4499P *(Reserved)*

PART FIVE

Sections 4501P - 4599P (Reserved)

PART SIX
MISCELLANEOUS

A. (RESERVED)

Sections 4601P - 4640P (Reserved)

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

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

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

§ 4642P.2 Definitions

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

- a. electronically stored in an instrument or device;
- b. issued against receipt of funds of an amount not lesser in value than the monetary value issued;
- c. accepted as a means of payment by persons or entities other than the issuer;
- d. withdrawable in cash or cash equivalent; and

e. issued in accordance with this Section.

Electronic money issuer shall be classified as follows:

- a. Banks (hereinafter called EMI-Bank);
- b. NBFIs supervised by the BSP (hereinafter called EMI-NBFI); and
- c. Non-bank institutions registered with the BSP as a monetary transfer agent under Sec. 4511N of the MORNBFIs (hereinafter called EMI-Others).

For purposes of this Section:

- a. *Electronic instruments or devices* shall mean cash cards e-wallets accessible via mobile phones or other access device, stored value cards, and other similar products.
- b. E-money issued by QBs shall not be considered as deposits.

(Circular No. 649 dated 09 March 2009)

§ 4642P.3 Prior Bangko Sentral approval. Pawnshops planning to be an EMI-NBFI shall comply with the requirements of Sec. 4632P and Sec. 4190Q, when applicable.
(Circular No. 649 dated 09 March 2009)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

j. EMIs shall notify BSP in writing of any change or enhancement in the e-money facility thirty (30) days prior to implementation. If said change or enhancement requires prior BSP approval, the same shall be evaluated accordingly. Any change or enhancement that shall expand the scope or change the nature of the e-money instrument shall be subject to prior approval of the Deputy Governor, SES. These changes or enhancements may include the following:

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

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

(3) Other changes or enhancements.

(Circular No. 649 dated 09 March 2009)

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

(Circular No. 649 dated 09 March 2009)

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

Nature of Violation/ Exception	Sanction/Penalties
1. Issuing e-money without prior Bangko Sentral 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 Bangko Sentral action or imposition of sanctions, whenever applicable.
(Circular No. 649 dated 09 March 2009)

§ 4642P.7 Transitory provisions. An EMI-NBFI granted an authority to issue e-money prior to 26 March 2009 may continue to exercise such authority: *Provided*, That it shall submit to the Bangko Sentral, 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 Bangko Sentral approval.
(Circular No. 649 dated 09 March 2009)

§§ 4642P.8 - 4642P.10 (Reserved)

§ 4642P.11 Outsourcing of services by Electronic Money Issuers (EMIs) to Electronic Money Network Service Providers (EMNSP). The guidelines on outsourcing of services by EMIs to EMNSP are shown in *Appendix Q-55*.

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-55* within a six-month period from 20 January 2011.
(Circular No. 704 dated 22 December 2010)

Secs. 4643P - 4649P (Reserved)

Sec. 4650P Philippine and Foreign Currency Notes and Coins. The rules and regulations that 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 are provided in Section 4950Q.
(Circular No. 829 dated 13 March 2014, M-2009-021 dated 16 June 2009, as amended by Circular No. 890 dated 02 November 2015)

B. SUNDRY PROVISIONS

Sec. 4651P Supervisory Powers of the Bangko Sentral. The head of the appropriate

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department of the SES and his duly designated representatives are authorized to conduct an examination, inspection, or investigation of books, records, business affairs, administration, and financial condition of any pawnshop, whenever said official deems it necessary for the effective implementation of P.D. No. 114, and other pertinent rules and regulations. Said official and his duly designated representatives may administer oaths to any director, officer, or employee of the pawnshop.

If, upon such examination, inspection, or investigation, the official or his deputies shall establish that the pawnshop is violating or is not complying with the requirements of P.D. No. 114 and of the provisions of other pertinent rules and regulations, said official shall immediately inform the Monetary Board of his findings and recommendations, and the Monetary Board shall take appropriate action to stop such violation or non-compliance, and punish the pawnshop and/or the persons responsible.

Any business establishment which represents itself as a pawnshop and/or regularly grants loans against pawns/collaterals physically delivered to the establishment or is suspected to be a pawnshop may be subject to the visitatorial authority of the Bangko Sentral to determine whether the establishment is engaged in the business of a pawnshop or in pawnbrokering.

Any establishment that is found to be operating as a pawnshop illegally shall be reported to the office of the city or municipal mayor where the establishment is located, for appropriate action, without prejudice to whatever legal action that the Bangko Sentral may take against the owners and operators of the establishment.

(Circular No. 656 dated 02 June 2009)

§ 4651P.1 Refusal to permit examination. Refusal to permit examination shall mean any act or omission which impedes, delays or obstructs the duly authorized 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 and the act of refusing to present pawnshop’s vital records referred to in Sec. 4102P upon request by any officer/examiner/employee of the Bangko Sentral.

(Circular No. 656 dated 02 June 2009)

§ 4651P.2 Sanctions.

(Deleted by Circular No. 711 dated 28 January 2011)

Secs. 4652P - 4656P (Reserved)

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

(Circular No. 656 dated 02 June 2009)

Sec. 4658P 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 pawnshops, including all their branches and other offices. If the provision of express lanes is logistically impossible in any particular branch or office of any pawnshop, 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 a clearly written notice prominently displayed in the transaction counters of all pawnshop branches and/or offices.
(As amended by Circular No. 805 dated 08 August 2013)

Secs. 4659P - 4690P (Reserved)

Sec. 4691P Anti-Money Laundering Regulations. 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 Bangko Sentral supervision and/or regulation, including their subsidiaries and affiliates shall comply with the provisions of Part 8 of Q Regulations, R.A. No. 9160 (Anti-Money Laundering Act of 2001), as amended, and its IRR.
(Circular No. 656 dated 02 June 2009, as amended by Circular Nos. 706 dated 05 January 2011 and 661 dated 01 September 2009)

§ 4691P.1 Required seminar/training
Pawnshop personnel directly involved in pawnshop operations shall attend a seminar on the requirements of the anti-money laundering law, particularly on customer identification, record keeping and reporting of covered and suspicious transactions, to

be conducted by the Anti-Money Laundering Council (AMLC) or by any of its recognized accredited service providers. The provisions of this subsection shall also apply to officer(s) of the branch(es).
The officer(s) in-charge and the personnel who have attended the required seminar may echo the said training to all employees within thirty (30) calendar days from such attendance or as new employees are hired.

In case of pawnshops belonging to the same group of related companies, the training/seminars may be cascaded to other pawnshops within the group, subject to the following conditions:

- (1) training officers shall have attended the AMLA lectures conducted by the AMLC;
- (2) lecture materials to be used by training officers should be approved by the AML Examination Group of the Bangko Sentral; and
- (3) training officers shall submit to the Bangko Sentral, the list, under oath, of pawnshop personnel who have attended the lectures.

(Circular No. 656 dated 02 June 2009)

§ 4691P.2 Anti-money laundering program. Every pawnshop is required to formulate a Money Laundering and Terrorist Financing Prevention Program as provided in Part 8 of Q Regulations.
(Circular No. 656 dated 02 June 2009, as amended by Circular Nos. 711 dated 28 January 2011 and 706 dated 05 January 2011)

§§ 4691P.3 - 4691P.8 (Reserved)

§ 4691P.9 Sanctions and penalties
(Deleted by Circular No. 711 dated 28 January 2011)

Secs. 4692P - 4698P (Reserved)

Sec. 4699P Administrative Sanctions
(Deleted by Circular No. 711 dated 28 January 2011)

CHART OF ACCOUNTS AND DESCRIPTION
OF LOAN REGISTER OF PAWNSHOPS
(Appendix to Sec. 4161P)

- A. *General Ledger*. The General Ledger is the controlling record of all subsidiary ledger accounts. The general ledger accounts shall be grouped as follows:
- (1) *Assets* - Asset accounts shall consist of the following:
- (a) Cash on hand and in banks;
 - (b) Pledge loans;
 - (c) Land;
 - (d) Building;
 - (e) Furniture and fixtures;
 - (f) Office equipment;
 - (g) Leasehold improvements;
 - (h) Investment in securities; and
 - (i) Other assets.
- Other assets* shall include all assets not included in any of the above classification, such as prepaid expenses, advances, accounts receivables.
- (2) *Liabilities* - Liabilities represent obligations of the pawnshop, such as:
- (a) Loans payable;
 - (b) Accounts payable; and
 - (c) Other liabilities.
- Other liabilities* are liabilities not included in the above classification, such as SSS premiums and medicare, tax withheld, accruals.
- (3) *Capital* - Capital at the end of the year is the excess of assets over liabilities, or the sum of paid-in capital, surplus or retained earnings accounts and net income for the year. The accounts under this group shall consist of the following:
- (a) Capital/capital stock;
 - (b) Drawings;
 - (c) Retained earnings; and
 - (d) Net income for the year.
- (4) *Income* - This account represents the "general ledger control" account for all income of the pawnshop. An "Income Subsidiary Ledger" shall be maintained and the total of this ledger shall equal the balance of "Income Control" account of the general ledger at all times.
- The "Income Subsidiary Ledger" shall contain the following accounts:
- (a) Interests - pledge loans;
 - (b) Service charges;
 - (c) Gain or loss at auction sale;
 - (d) Interests on securities; and
 - (e) Other income
- (5) *Expenses* - The expenses account shall include the following:
- (a) Salaries and allowances;
 - (b) Interest on borrowed money;
 - (c) Rental;
 - (d) Depreciation;
 - (e) Light and water;
 - (f) Taxes and licenses;
 - (g) SSS contribution;
 - (h) Costs of telephone, postage and/or telegram;
 - (i) Stationery and/or supplies; and
 - (j) Miscellaneous expenses.
- B. *Registers*. The following registers shall be maintained to trace loan transactions.
- (1) *Loans Extended Register* - Every pawnbroker shall keep a "Loans Extended Register" in which shall be entered in ink, at the time of each loan or pledge transaction, an accurate account and description in English, with corresponding translation in the local dialect, the following minimum data:
- (a) Date of transaction;
 - (b) Number of pawn ticket;

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- (c) Amount of money loaned or principal;
- (d) Rate of interest to be paid, in percent;
- (e) Service charge collected;
- (f) Description of pawn;
- (g) Appraised value of pawn;
- (h) Name of pawn;
- (i) Address of pawn;
- (j) Description of the pawn, including:
 - (i) Nationality;
 - (ii) Sex; and
 - (iii) General appearance; and
- (k) Signature or thumbmark of the pawn and the name of the pawn written by and signature of the witness to the thumbmarking.

(2) *Loans Paid Register* - A "Loans Paid Register" shall be maintained in which shall be entered in ink, the principal and interest

payments of loans. It shall contain the following minimum data:

- (a) Date of payment;
- (b) Number of pawn ticket;
- (c) Name of pawn;
- (d) Principal amount;
- (e) Amount of interest paid; and
- (f) Signature or thumbmark of the pawn and the name of the pawn written by and signature of the witness to the thumbmarking.

A pawnshop that uses a computerized system may record its loan transactions in individual loan extended vouchers which shall contain the same information enumerated above in lieu of the loan extended and loans paid registers. Such pawnshops shall periodically compile or bind the loan extended vouchers and shall be made available for BSP examination upon request.

(As amended by Circular No. 656 dated 02 June 2009)

LIST OF REPORTS REQUIRED FROM PAWNSHOPS
(Appendix to Sec. 4162P)

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-2	BSP 7-26-02C	4161P (As amended by Cir. No. 821 dated 12.06.13 and CL-079 dated 12.17.09)	Statement of Condition (SOC) (Head office with no branch)	Annually	30-Apr	SDC
			Consolidated Statement of Condition (Head office and branches) - List of Branches	-do-	-do-	-do-
A-3	BSP 7-26-03C	4161P (As amended by Cir. No. 821 dated 12.06.13 and CL-079 dated 12.17.09)	Statement of Income and Expenses (Head office with no branch)	-do-	-do-	-do-
			Consolidated Statement of Income and Expenses (Head office and branches)			
B	Unnumbered (no prescribed form)	4164P	Audited Financial Statement (AFS) for the previous year ended prepared by an external auditor together with actions taken on the financial audit report. For pawnshops with assets of P50 million and above.	-do-	June 30 of the following reference year	Appropriate department of the SES
B	Unnumbered	4163P	Report on Crimes/Losses	As crime or incident occurs	10th business day from knowledge of crime/incident	Original – SDC Duplicate – BSP Security coordinator c/o Director, Security Investigation and Transport Department

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-2	Unnumbered	4691P	Report on Suspicious Transactions	As transaction occurs	10th business day from date of transaction/knowledge	Anti- Money Laundering Council
A-2	Unnumbered	4691P	Report on Covered Transactions	As transaction occurs	10th business day from date of transaction/knowledge	Anti- Money Laundering Council
A-3	Unnumbered	4162P (CL-059 dated 11.28.07 and CL-050 dated 10.04.07)	Report on Borrowings of BSP Personnel	Quarterly	15 banking days after end of reference quarter	Original - SDC
B	Forms I and II Schedule 1	M-031 dated 09.11.09 and Cir. No. 649 dated 03.09.09	Report on Electronic Money Transactions Quarterly Statement of E-Money Balances and Activity - Volume and Amount of E-Money Transactions Quarterly Statement of Liquidity Cover Schedules 1 - E-Money Balances	-do-	-do-	E-mail - sdcothers-emoney@bsp.gov.ph Hard copy - SDC
	Unnumbered	4193P.8 (Cir. No. 808 dated 08.22.14)	IT Risk Profile Report	Annually	25 calendar days after end of reference year	e-mail at sdcnbfi-itprofile@bsp.gov.ph

REPORTING GUIDELINES ON CRIMES/LOSSES
(Annex to App. P-2)

1. Pawnshops shall report on the following matters through the appropriate department of the SES:

a. Crimes whether consummated, frustrated or attempted against pawned articles/property/facilities (such as robbery, theft, swindling or estafa, forgery and other deceits) and other crimes involving loss/destruction of pawn/property of the pawnshop: *Provided*, That if no pawned article is involved, the amount involved in each crime is P20,000 or more.

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

b. Incidents involving material loss, destruction or damage to the institution's pawned articles/property/facilities, other

than arising from a crime: *Provided*, That if no pawned article is involved, the amount involved per incident is P20,000 or more.

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

a. The report shall be prepared in two (2) copies and shall be submitted within ten (10) business days from knowledge of the crime or incident, the original to the appropriate department of the SES and the duplicate to the BSP Security Coordinator, thru the Director, Security Investigation and Transport Department.

b. Where a thorough investigation and evaluation of facts is necessary to complete the report, an initial report submitted within the ten (10) business day deadline may be accepted: *Provided*, That a complete report is submitted not later than fifteen (15) business days from termination of investigation.

(As amended by Circular No. 656 dated 02 June 2009)

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

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

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

Categories A-3 and B reports shall be signed by officers or their alternates, who

shall be duly designated in a resolution approved by the board of directors in the format as prescribed in *Annex P-3-c*.

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

In the case of pawnshops organized as single proprietorship or partnership, the reports shall be signed by the proprietor or managing partner, as the case may be, in place of chief executive officer or president. Other signatories shall be authorized by the proprietor/managing partner in a letter of authority to be submitted to the appropriate department of the SES indicating the names, positions and specimen signatures of the designated signatories as well as the reports they are to sign.

(As amended by Circular No. 656 dated 02 June 2009)

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-1 REPORTS

Resolution No. _____

Done in the City of _____Philippines, this _____day of _____, 20_____.

CHAIRMAN OF THE BOARD

DIRECTOR

DIRECTOR

DIRECTOR

DIRECTOR

DIRECTOR

DIRECTOR

ATTESTED BY:

CORPORATE SECRETARY

(As amended by Circular No. 656 dated 02 June 2009)

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-2 REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4162P.1 of the revised Manual of Regulations for Non-Bank Financial Institutions - Pawnshops, that Category A-2 reports be signed by the president, executive vice-presidents, vice-presidents or officer holding equivalent position, and that such reports of other offices be signed by the respective manager/officers-in-charge;

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

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

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

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

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

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

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

CHAIRMAN OF THE BOARD

DIRECTOR

DIRECTOR

DIRECTOR

DIRECTOR

DIRECTOR

DIRECTOR

ATTESTED BY:

CORPORATE SECRETARY

(As amended by Circular No. 656 dated 02 June 2009)

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

Resolution No. _____

Whereas, it is required under Subsec. 4162P.1 of the revised BSP Manual of Regulations for Non-Bank Financial Institutions (Pawnshops), that Categories A-3 and B reports be signed by officers or their alternates;

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

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

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

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

<u>Name of Authorized Signatory/Alternate</u>	<u>Specimen Signature</u>	<u>Position Title</u>	<u>Report No.</u>
1. Authorized (Alternate)			
2. Authorized (Alternate)			

are hereby authorized to sign the Category A-3 and B reports of _____ (Name of Pawnshop) _____.

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

CHAIRMAN OF THE BOARD

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

ATTESTED BY:

CORPORATE SECRETARY

(As amended by Circular No. 656 dated 02 June 2009)

STANDARD PAWN TICKET FORMAT
(Appendix to Subsec. 4323P.1)

BUSINESS/REGISTERED NAME
Address
Taxpayer Identification Number
Business Days and Hours

Serial No.:001

Principal	
Interest in absolute amount ¹	
Service Charge in amount	
Net Proceeds	

¹ Formula (Principal x Rate x Time)

Original

Amount of Loan	
Date Loan Granted	
Maturity Date	
Expiry Date of Redemption	
Effective Interest Rate in percent: _____	
Per annum <input type="checkbox"/> Per Month <input type="checkbox"/> (Others) <input type="checkbox"/>	
Penalty interest in percent, if any	

Description of the Pawn	Appraised Value

Information of the Pawner			
Name		Sex	
Complete Residential Address		Date of Birth	
Telephone/Mobile Phone No.		Nationality	
E-mail address, if any:		Height	
Preferred Mode of notification:		Weight	
<input type="checkbox"/> Mail to above address <input type="checkbox"/> Text/SMS <input type="checkbox"/> E-Mail		ID Presented	

TERMS AND CONDITIONS OF STANDARD PAWN TICKET

1. The pawner hereby accepts the pawnshop’s appraisal as proper.
2. The pawnshop hereby agrees not to collect advance interest for a period of more than one (1) year.
3. The service charge is equivalent to one percent (1%) of the principal loan, but shall not exceed five pesos (P5.00). No other charges shall be collected.
4. This loan is renewable for such amount and period as may be agreed upon between the pawnshop and the pawner subject to the same requirements for a new loan.
5. Upon maturity of this loan, as indicated above, the pawner still has ninety (90) days from maturity date within which to redeem the pawn by paying the principal loan plus the interest that shall have accrued thereon.
6. The amount of interest due and payable after the maturity date of the loan up to the redemption period shall be computed upon redemption at the rate of interest provided

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- above based on the sum of the principal loan and interest earned as of the date of maturity. Any additional penalty and/or interest shall also be computed in the same manner.
7. The pawnshop shall notify the pawner of any change in its business address/location.
 8. The pawner shall advise the pawnshop of any change of address/contact number/ e-mail address.
 9. The pawnshop shall send a reminder to the pawner in the preferred mode of notification given above, or at the new address/mobile phone number or e-mail address, if such was provided by the pawner before the expiration of the ninety (90) day grace period. The pawnshop shall have the right to sell or dispose of the pawn if the pawner fails to redeem it within the ninety (90) day grace period.
 10. This ticket shall be surrendered at maturity date upon payment of the loan. In case of loss or destruction of this ticket, the pawner hereby undertakes to personally present an affidavit to the pawnshop before the redemption period expires. The pawnshop has two (2) days to decide whether to accept (1) the affidavit in place of the original pawn ticket; or (2) to issue a substitute pawn ticket, thereby cancelling the original.
 11. The pawner shall not assign, sell or in any other way alienate the pawn securing this loan without prior written consent of the pawnshop. If the pawnshop agrees, the terms and conditions of this contract remain enforceable.
 12. In case of pre-payment of this loan by pawner, the interest collected in advance shall accrue in full to the pawnshop.
 13. The pawner shall not be entitled to the excess of the public auction sale price over the amount of principal, interest and service fee; neither shall the pawnshop be entitled to recover the deficiency from the pawner.

(Signature or Thumb mark)
Pawner

(Signature)
Pawnshop's Authorized Representative

(As amended by Circular Nos. 754 dated 17 April 2012 and 656 dated 02 June 2009)

Alternative No. 1

Use of Rubber Stamp in the Pawn Ticket¹

FRONT PAGE

Serial No._____

Original

Name of Pawnshop
Address and Telephone Number
Taxpayer Identification Number
Business Days and Hours

Date Loan Granted: _____

Maturity Date: _____

Mr./Ms. _____ a resident of _____ for a loan of PESOS _____

(No./Street/Barangay/Town or City/Province)

_____ (P _____) with an interest of _____ percent (_____ %) for (_____ days/month), has pledged to this Pawnee, as security for the loan, article(s) described below appraised at PESOS _____ (P _____) subject to the terms and conditions stated on the reverse side hereof. Penalty interest, if any: _____.

Description of the Pawn

Principal
Interest
Service Charge
Net Proceeds

P _____

P _____

Effective interest Rate in
Percent
Please check:
Per annum ☐ Per month ☐ (Others) ☐

ID presented: _____

Contact Number: _____

(Signature or Thumbmark of Pawner)

(Signature of Pawnshop's Authorized Representatives)

PAWNER IS ADVISED TO READ AND UNDERSTAND THE TERMS AND CONDITIONS ON THE REVERSE SIDE HEREOF

¹ Pawnshops are allowed for a period of one (1) year starting 22 February 2013 to stamp on their existing inventory of pawn tickets, or print on a separate sheet of paper to be attached to said pawn tickets, the information about the effective interest rate (EIR), as an alternative compliance with the requirements of Section 4323P. (Circular No. 787 dated 20 February 2013)

Annex B

Alternative No. 2
Use of a separate sheet to be attached in the Pawn Ticket

Attachment for Pawn Ticket Serial No.

Interest in absolute amount _____
(Formula = Principal x Rate x Time)
Effective Interest Rate in Percent
Please check:
Per annum ☐ Per Month ☐ Others ☐

Signature or Thumbmark of Pawner

Signature of Pawnshop's Authorized Representative

(As amended by Circular Nos. 787 dated 20 February 2013, 754 dated 17 April 2012 and 656 dated 02 June 2009)

FORMAT OF STATEMENT OF UNDERSTANDING ON
PAWNSHOP TRANSACTION
(Appendix to Subsec. 4323P.1)

(Business Name of Pawnshop)

STATEMENT OF UNDERSTANDING

I ACKNOWLEDGE THAT I UNDERSTAND AND FULLY AGREE TO THE TERMS AND CONDITIONS OF THIS CONTRACT OF PLEDGE/PAWNSHOP TRANSACTION, AND TO THE FOLLOWING:

- 1. **Agreement as to Interest Rates.** The parties are generally free to agree in writing on the interest rates to be imposed in loans secured by pledge/pawned properties. In case of dispute, the regular courts of law have the vested power to determine the reasonableness and legality of interest rates.
- 2. **Degree of Diligence Required of a Pawnshop.** In accordance with Republic Act No. 386, as amended, the Civil Code of the Philippines, pawnshops shall take care of the thing pawned by exercising reasonable care and caution that an ordinary prudent person would as to his own property.
 - a. **Accountability in case of Fire.** The office building/premises and all pawns in the pawnshop, except those which are kept inside a fireproof vault, are insured against fire in accordance with the pertinent regulations of the Bangko Sentral ng Pilipinas (BSP). The amount of indemnity shall be dependent on the insurance policy agreement between the pawnshop and the insurance company.
 - b. **Accountability in case of robbery and other fortuitous events.** Any claim for restitution by pawners in case of loss, destruction or defect of the pawn due to robbery and other fortuitous event, with or without the fault or negligence of the pawnshop, its officers and directors, are cognizable by the regular courts.

I DECLARE UNDER THE PENALTY OF THE ANTI-FENCING LAW THAT I AM THE OWNER OF THE PROPERTY SUBJECT OF THIS AGREEMENT.

(Signature of Pawner over Printed Name)
Date: _____

(As amended by Circular No. 656 dated 02 June 2009)

STANDARD ADDITIONAL STIPULATIONS IN PAWN TICKETS
(Appendix to Subsec. 4323P.1)

On Face of Pawn Ticket

1. Member: Chamber of Pawnbrokers of the Philippines

On Reverse Side of Pawn Ticket

1. I hereby authorize M_____, whose signature appears below, to redeem (or renew¹) my pawn covered by this pawn ticket.

Signature of Representative
(Signed in the presence of pawner)

Signature of Pawner

Received by: _____
Pawner/Authorized Representative
(Signed in the presence of pawnshop owner/employee)

2. Pinahihintulutan ko si G_____, na may lagda sa ibaba, para tubusin (o mapanibago*) ang aking sangla na binanggit sa papel na ito.

Lagda ng Kinatawan
(Nilagdaan sa harap ng nagsangla)

Lagda ng Nagsangla

Tinatanggap ko ang bagay/mga bagay na binanggit sa papel na ito:

Lagda ng Tumanggap

3. Received the article(s) in the same condition when pawned and redeemed.

Pawner

4. Acknowledgment: I hereby declare that the above-mentioned article(s) are my personal property and are free from liens and encumbrances.

Pawner

¹ As pawnshop may opt to allow/include in the pawn ticket.

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5. Venue of all judicial and administrative cases or proceedings and other legal incidents arising out of or in connection with this contract shall solely and exclusively be brought before appropriate courts, departments, offices or agencies of the government situated in (locality of pawnshop head office).
6. The authorized representative must present valid identification papers.
7. Upon expiration of the redemption period, the pawnshop has the right to open the sealed pawn for purposes of public auction.
8. For purposes of computing the amount of interest for pledge loans paid after maturity date, a fraction of (less than) a month shall be considered as one whole month.
9. Any one of the following:
 - a. In case this loan is not paid on maturity date, the pawner hereby agrees to pay in addition to accrued interest, two percent (2%) per month of the principal, as liquidated damages. For purposes of computing the amount of liquidated damages, a fraction of a month shall be considered as one (1) full month.
 - b. The pawnshop may at its sole option, allow redemption of pawn after expiration of the 90-day grace period. Provided the pawner shall pay the principal plus interest due at the rate prescribed herein and liquidated damages of two percent (2%) per month on the principal, counted after grace period. For purposes of computing the amount of liquidated damages, a fraction of a month shall be considered as one (1) full month.
 - c. In case this loan is not paid on maturity date, the pawner hereby agrees to pay in addition to accrued interest, two percent (2%) per month of the principal, as liquidated damages. For purposes of computing the amount of liquidated damages, a fraction of a month shall be considered as one (1) full month. The pawnshop may, at its sole option, allow redemption of pawn after expiration of the 90-day grace period upon payment by the pawner of the loan principal plus interest due and liquidated damages at the rates and manner of computation herein prescribed.
10. The pawner shall hereby notify the pawnshop of his/her intention to redeem the pawn twenty-four (24) hours prior to actual redemption.

(As amended by Circular No. 656 dated 02 June 2009)

STIPULATIONS NOT ALLOWED IN STANDARD PAWN TICKETS
(Appendix to Subsec. 4323P.1)

- 1. Advertisements such as “highest appraisal in town, dependable, honest”, or other similar terms.
- 2. Facsimile signature of authorized pawnshop representative.
- 3. “Terms and conditions accepted and payment received.”
- 4. “By ordinary or registered mail” in standard Term and Condition No. 9.
- 5. “Letter of authorization”, as title of third-party redemption/authorization feature.
- 6. Additional features such as “demand for receipt”, “authorized by the Bangko Sentral ng Pilipinas” and heading of ticket as “pawnshop receipt”.

(As amended by Circular No. 656 dated 02 June 2009)

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

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

CERTIFICATION OF COMPLIANCE
WITH ANTI-MONEY LAUNDERING REGULATIONS

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

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AMLC Resolution No. 292

**RULES ON SUBMISSION OF COVERED TRANSACTION REPORTS AND
SUSPICIOUS TRANSACTION REPORTS BY COVERED INSTITUTIONS**

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

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**REVISED IMPLEMENTING RULES AND REGULATIONS
R.A. NO. 9160, AS AMENDED BY R.A. NO. 9194
(Appendix to Sec. 4691P)**

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

“Know-Your-Pawner” Policy
(Appendix to Subsection 4301P.3)

A pawner who transacts with a pawnshop for the first time shall be required to present the original and submit a clear copy of at least one (1) valid photo-bearing identification document (ID) issued by an official authority.

The valid ID should indicate the pawner’s residential address, otherwise, he she is also required to present the original and submit a clear copy of a certification from the barangay where the pawner resides or a billing statement that indicates his/her residential address.

Valid IDs include the following:

- Passport, including those issued by foreign governments;
- Driver’s License;
- Professional Regulation Commission (PRC) ID;
- National Bureau of Investigation (NBI) Clearance;
- Police Clearance;
- Postal ID;
- Voter’s ID;
- Tax Identification Number,
- Barangay Certification;
- Government Service Insurance System (GSIS) e-Card;
- Social Security System (SSS) Card;
- Senior Citizen Card;
- Overseas Workers Welfare Administration (OWWA) ID;
- OFW ID;

- Seaman’s Book;
- Alien Certification of Registration/ Immigrant Certificate of Registration;
- Government Office and GOCC ID, [e.g. Armed Forces of the Philippines (AFP ID), Home Development Mutual Fund (HDMF ID)];
- Certification from the National Council for the Welfare of Disabled Persons (NCWDP);
- Department of Social Welfare and Development (DSWD) Certification;
- Integrated Bar of the Philippines (IBP) ID;
- Company IDs issued by private entities or institutions registered with or supervised or regulated either by the Bangko Sentral ng Pilipinas, Securities and Exchange Commission or Insurance Commission.

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.

The copy of the ID, barangay certificate or billing statement shall be kept by the pawnshop for convenience of the pawner who continues to transact with the pawnshop but said documents should be updated at least every three (3) years.

(As amended by Circular Nos. 706 dated 05 January 2011, 656 dated 02 June 2009)

ABSTRACT OF “SECTION 13 AND 14 OF P.D. NO. 114”
(PAWNSHOP REGULATION ACT)
(Appendix to Subsection 4324P.1)

Redemption of Pawn Items

A pawner who fails to pay his obligation has ninety (90) days from maturity date to redeem the pawn by paying the principal and interest.

Disposition of Unredeemed Pawn Items

- Unredeemed pawn items shall be sold/disposed of only through public auction;
- Pawner shall be notified of the public auction at least thirty (30) days before the expiration of the ninety (90)-day grace period through his/her preferred mode of notification;
- The notice to pawner shall contain the date, hour and place where the public auction shall be conducted;

- A pawnshop shall publish a notice of public auction in at least two newspapers circulated in the city or municipality where the pawnshop has its place of business six (6) days prior to the date of public auction. In remote areas where newspapers are neither published nor circulated, notice by newspaper publication shall be complied with by posting notices at the city or municipal hall and in two (2) other conspicuous public places where the pawnshop has its place of business;
- Pawner may participate in the said public auction.

(Circular No. 656 dated 02 June 2009)

**GUIDELINES TO GOVERN THE SELECTION, APPOINTMENT, REPORTING
REQUIREMENTS AND DELISTING OF EXTERNAL AUDITORS AND/OR
AUDITING FIRM OF COVERED ENTITIES
(Appendix to Sec. 4190P and Subsec. 4164P.4)**

Pursuant to Section 58 of the Republic Act No. 8791, otherwise known as "The General Banking Law of 2000", and the existing provisions of the executed Memorandum of Agreement (hereinafter referred to as the MOA) dated 12 August 2009, binding the Bangko Sentral ng Pilipinas (BSP), Securities and Exchange Commission (SEC), Professional Regulation Commission (IC) - Board of Accountancy (BOA) and the Insurance Commission (IC) for a simplified and synchronized accreditation requirements for external auditor and/or auditing firm, the Monetary Board, in its Resolution No. 950 dated 02 July 2009, approved the following revised rules and regulations that shall govern the selection and delisting by the BSP of covered institution which under special laws are subject to BSP supervision.

A. STATEMENT OF POLICY

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

B. COVERED ENTITIES

The proposed amendment shall apply to the following supervised institution, as categorized below, and their external auditors:

1. *Category A*
 - a. UBs/KBs;
 - b. Foreign banks and branches or subsidiaries of foreign banks, regardless of unimpaired capital; and
 - c. Banks, trust department of qualified banks and other trust entities with additional derivatives authority, pursuant to Sec. X611 regardless of classification, category and capital position.
2. *Category B*
 - a. TBs;
 - b. QBs;
 - c. Trust department of qualified banks and other trust entities;
 - d. National Coop Banks; and
 - e. NBFIs with quasi-banking functions.
3. *Category C*
 - a. RBs;
 - b. NSSLAs;
 - c. Local Coop Banks; and
 - d. Pawnshops.

The above categories include their subsidiaries and affiliates engaged in allied activities and other FIs which are subject to BSP risk-based and consolidated supervision: *Provided*, That an external auditor who has been selected by the BSP to audit covered entities under *Category A* is automatically qualified to audit entities under *Category B* and *C* and if selected by the BSP to audit covered entities under *Category B* is automatically qualified to audit entities under *Category C*.

C. DEFINITION OF TERMS

The following terms shall be defined as follows:

1. *Audit* – an examination of the financial statements of any issuer by an external auditor in compliance with the rules of the BSP or the SEC in accordance with then applicable generally accepted auditing and accounting principles and standards, for the purpose of expressing an opinion on such statements.

2. *Non-audit services* – any professional services provided to the covered institution by an external auditor, other than those provided to a covered institution in connection with an audit or a review of the financial statements of said covered institution.

3. *Professional Standards* - includes: (a) accounting principles that are (1) established by the standard setting body; and (2) relevant to audit reports for particular issuers, or dealt with in the quality control system of a particular registered public accounting firm; and (b) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards that the BSP or SEC determines (1) relate to the preparation or issuance of audit reports for issuers; and (2) are established or adopted by the BSP or promulgated as SEC rules.

4. *Fraud* – an intentional act by one (1) or more individuals among management, employees, or third parties that results in a misrepresentation of financial statements, which will reduce the consolidated total assets of the company by five percent (5%). It may involve:

- a. Manipulation, falsification or alteration of records or documents;
- b. Misappropriation of assets;
- c. Suppression or omission of the effects of transactions from records or documents;

d. Recording of transactions without substance;

e. Intentional misapplication of accounting policies; or

f. Omission of material information.

5. *Error* - an intentional mistake in financial statements, which will reduce the consolidated total assets of the company by five percent (5%). It may involve:

a. Mathematical or clerical mistakes in the underlying records and accounting data;

b. Oversight or misinterpretation of facts; or

c. Unintentional misapplication of accounting policies.

6. *Gross negligence* - wanton or reckless disregard of the duty of due care in complying with generally accepted auditing standards.

7. *Material fact/information* - any fact/information that could result in a change in the market price or value of any of the issuer’s securities, or would potentially affect the investment decision of an investor.

8. *Subsidiary* - a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by a bank, QB, trust entity, NSSLA or pawnshop.

9. *Affiliate* - a corporation, not more than fifty percent (50%) but not less than ten percent (10%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with power to vote by a bank, QB, trust entity, NSSLA or pawnshop and a juridical person that is under common control with the bank, QB, trust entity, NSSLA or pawnshop.

10. *Control* - exists when the parent owns directly or indirectly more than one half of the voting power of an enterprise unless, in exceptional circumstance, it can be clearly demonstrated that such ownership does not constitute control.

Control may also exist even when ownership is one half or less of the voting power of an enterprise when there is:

- a. Power over more than one half of the voting rights by virtue of an agreement with other stockholders;
- b. Power to govern the financial and operating policies of the enterprise under a statute or an agreement;
- c. Power to appoint or remove the majority of the members of the board of directors or equivalent governing body; or
- d. Power to cast the majority votes at meetings of the board of directors or equivalent governing body.

11. *External auditor* - means a single practitioner or a signing partner in an auditing firm.

12. *Auditing firm* – includes a proprietorship, partnership limited liability company, limited liability partnership, corporation (if any), or other legal entity, including any associated person of any of these entities, that is engaged in the practice of public accounting or preparing or issuing audit reports.

13. *Associate* – any director, officer, manager or any person occupying a similar status or performing similar functions in the audit firm including employees performing supervisory role in the auditing process.

14. *Partner* - all partners including those not performing audit engagements.

15. *Lead partner* – also referred to as engagement partner/partner-in-charge/managing partner who is responsible for signing the audit report on the consolidated financial statements of the audit client, and where relevant, the individual audit report of any entity whose financial statements form part of the consolidated financial statements.

16. *Concurring partner* - the partner who is responsible for reviewing the audit report.

17. *Auditor-in-charge* – refers to the team leader of the audit engagement.

D. GENERAL CONSIDERATION AND LIMITATIONS OF THE SELECTION PROCEDURES

1. Subject to mutual recognition provision of the MOA and as implemented in this regulation, only external auditors and auditing firms included in the list of BSP selected external auditors and auditing firms shall be engaged by all the covered institutions detailed in Item "B". The external auditor and/or auditing firm to be hired shall also be in-charge of the audit of the entity's subsidiaries and affiliates engaged in allied activities: *Provided*, That the external auditor and/or auditing firm shall be changed or the lead and concurring partner shall be rotated every five (5) years or earlier: *Provided further*, That the rotation of the lead and concurring partner shall have an interval of at least two (2) years.

2. Category A covered entities which have engaged their respective external auditors and/or auditing firm for a consecutive period of five (5) years or more as of 18 September 2009 shall have a one (1)-year period from said date within which to either change their external auditors and/or auditing firm or to rotate the lead and/or concurring partner.

3. The selection of the external auditors and/or auditing firm does not exonerate the covered institution or said auditors from their responsibilities. Financial statements filed with the BSP are still primarily the responsibility of the management of the reporting institution and accordingly, the fairness of the representations made therein is an implicit and integral part of the institution's responsibility. The independent certified public accountant's responsibility for the financial statements required to be filed with the BSP is confined to the expression of his opinion,

or lack thereof, on such statements which he has audited/examined.

4. The BSP shall not be liable for any damage or loss that may arise from its selection of the external auditors and/or auditing firm to be engaged by banks for regular audit or non-audit services.

5. Pursuant to paragraph (5) of the MOA, SEC, BSP and IC shall mutually recognize the accreditation granted by any of them for external auditors and firms of Group C or D companies under SEC, Category B and C under BSP, and insurance brokers under IC. Once accredited/selected by any one (1) of them, the above-mentioned special requirements shall no longer be prescribed by the other regulators.

For corporations which are required to submit financial statements to different regulators and are not covered by the mutual recognition policy of this MOA, the following guidance shall be observed:

a. The external auditors of UBs which are listed in the Exchange, should be selected/accredited by both the BSP and SEC, respectively; and

b. For insurance companies and banks that are not listed in the Exchange, their external auditors must each be selected/accredited by BSP or IC, respectively. For purposes of submission to the SEC, the financial statements shall be at least audited by an external auditor registered/accredited with BOA.

This mutual recognition policy shall however be subject to the BSP restriction that for banks and its subsidiary and affiliate bank, QBs, trust entities, NSSLAs, their subsidiaries and affiliates engaged in allied activities and other FIs which under special laws are subject to BSP consolidated supervision, the individual and consolidated financial statements thereof shall be audited by only one (1) external auditor/auditing firm.

6. The selection of external auditors and/or auditing firm shall be valid for a period of three (3) years. The SES shall make an annual assessment of the performance of external auditors and/or auditing firm and will recommend deletion from the list even prior to the three (3)-year renewal period, if based on assessment, the external auditors' report did not comply with BSP requirements.

E. QUALIFICATION REQUIREMENT

The following qualification requirements are required to be met by the individual external auditor and the auditing firm at the time of application and on continuing basis, subject to BSP's provisions on the delisting and suspension of accreditation:

- 1. Individual external auditor
 - a. General requirements

(1) The individual applicant must be primarily accredited by the BOA. The individual external auditor or partner in-charge of the auditing firm must have at least five (5) years of audit experience.

- (2) Auditor's independence.

In addition to the basic screening procedures of BOA on evaluating auditor's independence, the following are required for BSP purposes to be submitted in the form of notarized certification that:

(a) No external auditor may be engaged by any of the covered institutions under Item "B" hereof if he or any member of his immediate family had or has committed to acquire any direct or indirect financial interest in the concerned covered institution, or if his independence is considered impaired under the circumstances specified in the Code of Professional Ethics for CPAs. In case of a partnership, this limitation shall apply to the partners, associates and the auditor-in-charge of the engagement and members of their immediate family;

(b) The external auditor does not have/ shall not have outstanding loans or any

credit accommodations or arranged for the extension of credit or to renew an extension of credit (except credit card obligations which are normally available to other credit card holders and fully secured auto loans and housing loans which are not past due) with the covered institutions under Item "B" at the time of signing the engagement and during the engagement. In the case of partnership, this prohibition shall apply to the partners and the auditor-in-charge of the engagement; and

(c) It shall be unlawful for an external auditor to provide any audit service to a covered institution if the covered institution's CEO, CFO, Chief Accounting Officer (CAO), or comptroller was previously employed by the external auditor and participated in any capacity in the audit of the covered institution during the one-year preceding the date of the initiation of the audit;

(3) Individual applications as external auditor of entities under *Category A* above must have established adequate quality assurance procedures, such consultation policies and stringent quality control, to ensure full compliance with the accounting and regulatory requirements.

b. Specific requirements

(1) At the time of application, regardless of the covered institution, the external auditor shall have at least five (5) years experience in external audits;

(2) The audit experience above refers to experience required as an associate, partner, lead partner, concurring partner or auditor-in-charge; and

(3) At the time of application, the applicant must have the following track record:

(a) For *Category A*, he/she must have at least five (5) corporate clients with total assets of at least P50.0 million each.

(b) For *Category B*, he/she must have had at least three (3) corporate clients with total assets of at least P25.0 million each.

(c) For *Category C*, he/she must have had at least three (3) corporate clients with total assets of at least P5.0 million each;

2. Auditing firms

a. The auditing firm must be primarily accredited by the BOA and the name of the firm's applicant partner's should appear in the attachment to the certificate of accreditation issued by BOA. Additional partners of the firm shall be furnished by BOA to the concerned regulatory agencies (e.g. BSP, SEC and IC) as addendum to the firm's accreditation by BOA.

b. Applicant firms to act as the external auditor of entities under *Category A* in Item "B" must have established adequate quality assurance procedures, such consultation policies and stringent quality control, to ensure full compliance with the accounting and regulatory requirements.

c. At the time of application, the applicant firm must have at least one (1) signing practitioner or partner who is already selected/accredited, or who is already qualified and is applying for selection by BSP.

d. A registered accounting/auditing firm may engage in any non-auditing service for an audit client only if such service is approved in advance by the client's audit committee. Exemptions from the prohibitions may be granted by the Monetary Board on a case-by-case basis to the extent that such exemption is necessary or appropriate in the public interest. Such exemptions are subject to review by the BSP.

e. At the time of application, the applicant firm must have the following track record:

(1) For *Category A*, the applicant firm must have had at least twenty (20) corporate clients with total assets of at least P50.0 million each;

(2) For *Category B*, the applicant firm must have had at least five (5) corporate clients with total assets of at least P20.0 million each;

(3) For *Category C*, the applicant firm must have had at least five (5) corporate clients with total assets of at least P5.0 million each.

F. APPLICATION FOR AND/OR RENEWAL OF THE SELECTION OF INDIVIDUAL EXTERNAL AUDITOR

1. The initial application for BSP selection shall be signed by the external auditor and shall be submitted to the appropriate department of the SES together with the following documents/information:

- a. Copy of effective and valid BOA Certificate of Accreditation with the attached list of qualified partner/s of the firm;
- b. A notarized undertaking of the external auditor that he is in compliance with the qualification requirements under Item "E" and that the external auditor shall keep an audit or review working papers for at least seven (7) years in sufficient detail to support the conclusion in the audit report and making them available to the BSP's authorized representative/s when required to do so;
- c. Copy of Audit Work Program which shall include assessment of the audited institution's compliance with BSP rules and regulations, such as, but not limited to the following:

- (1) capital adequacy ratio, as currently prescribed by the BSP;
- (2) AMLA framework;
- (3) risk management system, particularly liquidity and market risks; and
- (4) loans and other risk assets review and classification, as currently prescribed by the BSP rules and regulations.

d. If the applicant will have clients falling under *Category A*, copy of the Quality Assurance Manual which, aside from the basic elements as required under the BOA basic quality assurance policies and procedures, specialized quality assurance procedures should be provided consisting of, among other, review asset quality,

adequacy of risk-based capital, risk management systems and corporate governance framework of the covered entities.

e. Copy of the latest AFS of the applicant's two (2) largest clients in terms of total assets.

2. Subject to BSP's provision on early deletion from the list of selected external auditor, the selection may be renewed within two (2) months before the expiration of the three (3)-year effectivity of the selection upon submission of the written application for renewal to the appropriate department of the SES together with the following documents/information:

- (a) copy of updated BOA Certificate of Accreditation with the attached list of qualified partner/s of the firm;
- (b) notarized certification of the external auditor that he still possess all qualification required under Item "F.1.b" of this Appendix;
- (c) list of corporate clients audited during the three (3)-year period of being selected as external auditor by BSP. Such list shall likewise indicate the findings noted by the BSP and other regulatory agencies on said AFS including the action thereon by the external auditor; and
- (d) written proof that the auditor has attended or participated in trainings for at least thirty (30) hours in addition to the BOA's prescribed training hours. Such training shall be in subjects like international financial reporting standards, international standards of auditing, corporate governance, taxation, code of ethics, regulatory requirements of SEC, IC and BSP or other government agencies, and other topics relevant to his practice, conducted by any professional organization or association duly recognized/accredited by the BSP, SEC or by the BOA/PRC through a CPE Council which they may set up.

The application for initial or renewal accreditation of an external auditor shall be accomplished by a fee of P2,000.00.

G. APPLICATION FOR AND/OR RENEWAL OF THE SELECTION OF AUDITING FIRMS

1. The initial application shall be signed by the managing partner of the auditing firm and shall be submitted to the appropriate department of the SES together with the following documents/information:

- a. copy of effective and valid BOA Certificate of Accreditation with attachment listing the names of qualified partners;
- b. notarized certification that the firm is in compliance with the general qualification requirements under Item "E.2" and that the firm shall keep an audit or review working papers for at least seven (7) years insufficient detail to support the conclusions in the audit report and making them available to the BSP's authorized representative/s when required to do so;
- c. copy of audit work program which shall include assessment of the audited institution's compliance with BSP rules and regulations, such as, but not limited to the following:
 - (1) capital adequacy ratio, as currently prescribed by the BSP;
 - (2) AMLA framework;
 - (3) risk management system, particularly liquidity and market risks; and
 - (4) loans and other risk assets review and classification, as currently prescribed by the BSP rules and regulations.

d. If the applicant firm will have clients falling under *Category A*, copy Quality Assurance Manual where, aside from the basic elements as required under the BOA basic quality assurance policies and procedures, specialized quality assurance procedures should be provided relative to, among others review asset quality, adequacy of risk-based capital, risk management systems and corporate governance framework of covered entities;

e. Copy of the latest AFS of the applicant's two (2) largest clients in terms of total assets; and

f. Copy of firm's AFS for the immediately preceding two (2) years.

2. Subject to BSP's provision on early deletion from the list of selected auditing firm, the selection may be renewed within two (2) months before the expiration of the three (3)-year effectivity of the selection upon submission of the written application for renewal to the appropriate department of the SES together with the following documents/information:

- a. a copy of updated BOA Certificate of Registration with the attached list of qualified partner/s of the firm;
- b. amendments on Quality Assurance Manual, inclusive of written explanation on such revision, if any; and
- c. notarized certification that the firm is in compliance with the general qualification requirements under Item "G.1.b" hereof;

The application for initial or renewal accreditation of an auditing firm shall be accompanied by a fee of P5,000.00.

H. REPORTORIAL REQUIREMENTS

1. To enable the BSP to take timely and appropriate remedial action, the external auditor and/or auditing firm must report to the BSP within thirty (30) calendar days after discovery, the following cases:

- a. Any material finding involving fraud or dishonesty (including cases that were resolved during the period of audit);
- b. Any potential losses the aggregate of which amounts to at least one percent (1%) of the capital;
- c. Any finding to the effect that the consolidated assets of the company, on a going concern basis, are no longer adequate to cover the total claims of creditors; and

d. Material internal control weaknesses which may lead to financial reporting problems.

2. The external auditor/auditing firm shall report directly to the BSP within fifteen (15) calendar days from the occurrence of the following:

a. Termination or resignation as external auditor and stating the reason therefor;

b. Discovery of a material breach of laws or BSP rules and regulations such as, but not limited to:

- (1) CAR; and
- (2) Loans and other risk assets review and classification.

c. Findings on matters of corporate governance that may require urgent action by the BSP.

3. In case there are no matters to report (e.g. fraud, dishonesty, breach of laws, etc.) the external auditor/auditing firm shall submit directly to BSP within fifteen (15) calendar days after the closing of the audit engagement a notarized certification that there is none to report.

The management of the covered institutions, including its subsidiaries and affiliates, shall be informed of the adverse findings and the report of the external auditor/auditing firm to the BSP shall include pertinent explanation and/or corrective action.

The management of the covered institutions, including its subsidiaries and affiliates, shall be given the opportunity to be present in the discussions between the BSP and the external auditor/auditing firm regarding the audit findings, except in circumstances where the external auditor believes that the entity's management is involved in fraudulent conduct.

It is, however, understood that the accountability of an external auditor/auditing firm is based on matters within

the normal coverage of an audit conducted in accordance with generally accepted auditing standards and identified non-audit services.

I. DELISTING AND SUSPENSION OF SELECTED EXTERNAL AUDITOR/AUDITING FIRM

1. An external auditor's duly selected pursuant to this regulation shall be suspended or delisted, in a manner provided under this regulation, under any of the following grounds:

a. Failure to submit the report under Item "H" of this Appendix or the required reports under Subsec. X190.1;

b. Continuous conduct of audit despite loss of independence as provided under Item "E.1" or contrary to the requirements under the Code of Professional Ethics;

c. Any willful misrepresentation in the following information/documents;

- (1) application and renewal for accreditation;
- (2) report required under Item "H"; and

(3) Notarized certification of the external auditor and/or auditing firm.

d. The BOA found that, after due notice and hearing, the external auditor committed an act discreditable to the profession as specified in the Code of Professional Ethics for CPAs. In this case, the BOA shall inform the BSP of the results thereof;

e. Declaration of conviction by a competent court of a crime involving moral turpitude, fraud (as defined in the Revised Penal Code), or declaration of liability for violation of the banking laws, rules and regulation, the Corporation Code of the Philippines, the Securities Regulation Code (SRC); and the rules and regulations of concerned regulatory authorities;

f. Refusal for no valid reason, upon lawful order of the BSP, to submit the requested documents in connection with an ongoing investigation. The external auditor should however been made aware of such investigation;

g. Gross negligence in the conduct of audits which would result, among others, in non-compliance with generally accepted auditing standards in the Philippines or issuance of an unqualified opinion which is not supported with full compliance by the auditee with generally accepted accounting principles in the Philippines (GAAP). Such negligence shall be determined by the BSP after proper investigation during which the external auditor shall be given due notice and hearing;

h. Conduct of any of the non-audit services enumerated under Item "E.1" for his statutory audit clients, if he has not undertaken the safeguards to reduce the threat to his independence; and

i. Failure to comply with the Philippine Auditing Standards and Philippine Auditing Practice Statements.

2. An auditing firms; accreditation shall be suspended or delisted, after due notice and hearing, for the following grounds:

a. Failure to submit the report under Item "H" or the required reports under Sec. X190.1.

b. Continuous conduct of audit despite loss of independence of the firm as provided under this regulation and under the Code of Professional Ethics;

c. Any willful misrepresentation in the following information/ documents;

(1) Application and renewal for accreditation;

(2) Report required under Item "H"; and

(3) Notarized certification of the managing partner of the firm.

d. Dissolution of the auditing firm/ partnership, as evidenced by an Affidavit of Dissolution submitted to the BOA, or upon findings by the BSP that the firm/partnership is dissolved. The accreditation of such firm/ partnership shall however be reinstated by the BSP upon showing that the said dissolution was solely for the purpose of admitting new partner/s have complied with the requirements of this regulation and thereafter shall be reorganized and re-registered;

e. There is a showing that the accreditation of the following number or percentage of external auditors, whichever is lesser, have been suspended or delisted for whatever reason, by the BSP:

(1) at least ten (10) signing partners and currently employed selected/accredited external auditors, taken together; or

(2) such number of external auditors constituting fifty percent (50%) or more of the total number of the firm's signing partners and currently selected/accredited auditors, taken together.

f. The firm or any one (1) of its auditors has been involved in a major accounting/ auditing scam or scandal. The suspension or delisting of the said firm shall depend on the gravity of the offense or the impact of said scam or scandal on the investing public or the securities market, as may be determined by the BSP;

g. The firm has failed reasonably to supervise an associated person and employed auditor, relating to the following:

(1) auditing or quality control standards, or otherwise, with a view to preventing violations of this regulations;

(2) provisions under SRC relating to preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto;

(3) the rules of the BSP under this Appendix; or

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(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 "1.2.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)

**GUIDELINES AND PROCEDURES GOVERNING THE
CONSUMER ASSISTANCE MANAGEMENT SYSTEM (CAMS)
OF BSP-SUPERVISED FINANCIAL INSTITUTIONS**
[Appendix to Subsec. 4402P.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 Assistance 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

¹all periods are reckoned from receipt of complaint.

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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 resolution¹; 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

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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)

MANUAL OF REGULATIONS FOR NON-BANK FINANCIAL INSTITUTIONS

N REGULATIONS

(Regulations Governing Other Non-Bank Financial Institutions)

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N Regulations
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Section 4101N Applicable Regulations on Trust and Other Fiduciary Activities. Trust operations and investment management activities of NBFIs not performing quasi-banking functions shall be subject to the applicable regulations on such activities of NBFIs performing quasi-banking functions in Part IV of the Q Regulations of this Manual, to the regulations in the other parts of the Q Regulations addressed also to trust entities and to the regulations implementing the Truth in Lending Act in Sec. 4307Q.

§ 4101N.1 Sanctions. Pursuant to Section 91 of R.A. No. 8791, the Monetary Board may impose sanctions and monetary penalty for any violation of the provisions of Part IV of the Q Regulations, of the regulations in the other parts of the Q Regulations addressed also to trust entities, and of the regulations implementing the Truth in Lending Act in Sec. 4309Q. This is without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted that may include the suspension or revocation of an institution’s authority to engage in trust and other fiduciary business or in investment management activities, and such other sanctions as may be provided by law. If the offender is a director or officer of the trust entity, the Monetary Board may also suspend or remove such director or officer. If the violation is committed by a corporation, such corporation may be dissolved by *quo warranto* proceedings instituted by the Solicitor General.

The guidelines for the imposition of monetary penalty shown in *Appendix Q-39*

shall govern the imposition of monetary penalty for violations/offenses with administrative sanctions falling under Section 37 of R.A. No. 7653 on NBFIs not performing quasi-banking functions, their directors and/or officers.

(Circular No. 673 dated 10 December 2009)

Sec. 4102N Minimum Capital for Investment Houses. Investment houses not performing quasi-banking functions shall also be subject to the minimum capital requirement in Sec. 4112Q of this Manual.

Sec. 4103N Prior Bangko Sentral Authority on Quasi-Banking Functions. Borrowing by NBFIs from twenty (20) or more lenders for the purpose of relending or purchase of receivables or other obligations, which constitutes quasi-banking functions, shall be subject to prior BSP authority on performance of quasi-banking functions under BSP regulations.

§ 4103N.1 Quasi-banking functions
Quasi-banking functions shall consist of the following:

- a. Borrowing funds for the borrower’s own account;
- b. Twenty (20) or more lenders at any one (1) time;
- c. Methods of borrowing: issuance, endorsement, or acceptance of debt instruments of any kind, other than deposits, such as:
 - (1) acceptances;
 - (2) promissory notes;
 - (3) participations;
 - (4) certificates of assignment or similar instruments with recourse;

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- (5) trust certificates;
- (6) repurchase agreements; and
- (7) such other instruments as the Monetary Board may determine; and
- d. Purpose:
 - (1) relending, or
 - (2) purchasing receivables or other obligations.

As used in the definition of *quasi-banking functions*, the following terms and phrases shall be understood as follows:

Borrowing shall refer to all forms of obtaining or raising funds through any of the methods and for any of the purposes provided in Item "c" and "d", above whether the borrower's liability thereby is treated as real or contingent.

For the borrower's own account shall refer to the assumption of liability in one's own capacity and not in representation, or as an agent or trustee, of another.

Purchasing of receivables or other obligations shall refer to the acquisition of claims collectible in money, including interbank borrowings or borrowings between FIs, or of securities, of any amount and maturity, from domestic or foreign sources.

Relending shall refer to the extension of loans by an institution with antecedent borrowing transactions. Relending shall be presumed in the absence of express stipulation, when the institution is regularly engaged in lending.

Regularly engaged in lending shall refer to the practice of extending loans, advances, discounts or rediscounts as a matter of business, i.e., continuous or consistent lending as distinguished from isolated lending transactions.

The following guidelines shall govern lender count on borrowings or funds mobilized by NBFIs not performing quasi-banking functions:

1. For purposes of ascertaining the number of lenders/placers to determine whether or not an NBFIs is engaged in quasi-banking functions, the names of

payees on the face of each debt instrument shall serve as the primary basis for counting the lenders/placers except when proof to the contrary is adduced such as the official receipts or documents other than the debt instrument itself. In such case the actual/real lenders/placers as appearing in such proof, shall be the basis for counting the number of lenders/placers.

In a debt instrument issued to two (2) or more named payees under an *and/or* and *or* arrangement, the number of payees appearing on the instrument shall be the basis for counting the number of lenders/placers: *Provided, however,* That a debt instrument issued in the name of a husband and wife followed by the word *spouses*, whether under an *and*, *and/or* or *or* arrangement or in the name of a designated payee under an *in trust for* (ITF) arrangement shall be counted as one borrowing/ placement.

2. Each debt instrument payable to bearer shall be counted as one (1) lender/ placer, except when the NBFIs can prove that there is only one (1) owner for several debt instruments so payable.

3. Two (2) or more debt instruments issued to the same payee, irrespective of the date and amount shall be counted as one (1) borrowing or placement.

4. Debt instruments underwritten by investment houses or traded by securities dealers/brokers whether on a firm, standby or best efforts basis shall be counted on the basis of the number or purchasers thereof and shall not be treated as having been issued solely to the underwriter or trader: *Provided, however,* That in case of unsold debt instruments in a firm commitment underwriting, the underwriter shall be counted as a lender.

5. Each buyer, assignee, and/or indorsee shall be counted in determining the number of lenders/placers of funds mobilized through sale, assignment, and/or indorsement of securities or

receivables on a without recourse basis whenever the terms and/or attendant documentation, practice, or circumstances indicate that the sale, assignment, and/or indorsement thereof legally obligates the NBFIs not performing quasi-banking functions to repurchase or reacquire the securities/receivables sold, assigned, indorsed or to pay the buyer, assignee, or indorsee at some subsequent time.

6. Funds obtained by way of advances from stockholders, directors, or officers, regardless of nature, shall be considered borrowed funds or funds mobilized and such stockholders, directors or officers shall be counted in determining the number of lenders/placers.

§ 4103N.2 Transactions not considered quasi-banking. The following shall not constitute quasi-banking:

a. Borrowing by commercial, industrial and other non-financial companies, through the means listed in Subsec. 4103N.1 for the limited purpose of financing their own needs or the needs of their agents or dealers; and

b. The mere buying and selling without recourse of instruments mentioned in Subsec. 4103N.1: *Provided*, That:

(1) The institution selling without recourse shall indicate or stamp in conspicuous print on the instrument/s, as well as on the confirmation of sale, the phrase *without recourse* or *sans recourse* and the following statement:

(Name of non-bank) assumes
no liability for the payment,
directly or indirectly, of
this instrument.

(2) In the absence of the phrase *without recourse* or *sans recourse* and the

above-required accompanying statement, the instrument so issued, endorsed or accepted shall automatically be considered as falling within the purview of the rules on quasi-banking:

Provided, further, That any of the following practices or practices similar and/or tantamount thereto in connection with a without recourse transaction renders such transaction as with recourse and within the purview of the rules on quasi-banking.

(a) Issuance of postdated checks by a financial intermediary, whether for its own account or as an agent of the debt instrument issuer, in payment of the debt instrument sold, assigned or transferred without recourse;

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

(c) Payment with the funds of the financial intermediary which assigned, sold or transferred the debt instrument without recourse, unless the financial intermediary can show that the issuer has with the said financial intermediary funds corresponding to the amount of the obligation.

Any investment house violating the provisions of this Subsection shall be subject to the sanctions provided in Sections 12 and 16 of P.D. No. 129, as amended.

§ 4103N.3 Delivery of securities.

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 (NBFIs)/other entity authorized by the Bangko Sentral to perform

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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 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 RoSS are in *Appendix Q-38a*.

Sanctions. Violation of any of the provisions of *Appendix Q-38* shall be subject to the sanctions/penalties under Subsec. 4144N.29.

(As amended by 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)

§ 4103N.4 *Securities custodianship operations.*

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

Sec. 4104N Anti-Money Laundering Regulations. Covered institutions, including their subsidiaries and affiliates, shall comply with the provisions of Part 8 of Q Regulations, R.A. No. 9160 [Anti-Money Laundering Act (AMLA) of 2001], as amended, and its Implementing Rules and Regulations (IRR).

(As amended by Circular Nos. 706 dated 05 January 2011 and 612 dated 13 June 2008)

§§ 4104N.1 - 4104N.8 *(Reserved)*

§ 4104N.9 Sanctions and penalties. The provisions of Part 8 of the Q Regulations on sanctions and penalties are applicable for violation of the provisions of the AMLA.

(As amended by Circular No. 706 dated 05 January 2011)

Secs. 4105N - 4109N (Reserved)

SS 4109N.1 - 4109N.15 (Reserved)

§ 4109N.16 Qualification and accreditation of non-bank financial institutions acting as trustee on any mortgage or bond issuance by any municipality, GOCC, or any body politic.

a. *Applicability.* NBFIs duly accredited by the Bangko Sentral may act as trustee on any mortgage or bond issued by any municipality, GOCC, or any body politic.

b. *Application for accreditation.* An NBFI desiring to act as trustee on any mortgage or bond issued by any municipality, GOCC, or any body politic shall file an application for accreditation with the appropriate department of the SES. The application shall be signed by the president or officer of equivalent rank of the NBFI and shall be accompanied by the following documents:

(1) certified true copy of the resolution of the institution's board of directors authorizing the application; and

(2) a certification signed by the president or officer of equivalent rank that the institution has complied with all the qualification requirements for accreditation.

c. *Qualification requirements.* An NBFI applying for accreditation to act as trustee on any mortgage or bond issued by any municipality, GOCC, or any body politic must comply with the requirements in *Appendix N-6*.

d. *Independence of the trustee.* An NBFI is prohibited from acting as trustee of a mortgage or bond issuance if any elective or appointive official of the LGU, GOCC, or body politic which issued said mortgage or bond and/or his related interests own such number of shares of the NBFI that will

allow him or his related interests to elect at least one (1) member of the board of directors of such NBFI or is directly or indirectly the registered or beneficial owner of more than ten percent (10%) of any class of its equity security.

e. *Investment and management of the funds.* A domestic NBFI designated as trustee of a mortgage or bond issuance may hold and manage, in accordance with the provisions of the trust indenture or agreement, the proceeds of the mortgage or bond issuance and such assets and funds of the issuing municipality, GOCC, or body politic as may be required to be delivered to the trustee under the trust indenture/agreement, subject to the following conditions/restrictions:

(1) Pending the utilization of such funds pursuant to the provisions of the trust indenture/agreement, the same shall only be (i) deposited in any bank authorized to accept deposits from the Government or government entities: *Provided*, That the depository bank is not a subsidiary or affiliate of the trustee NBFI, or (ii) invested in peso-denominated treasury bills acquired/purchased from any securities dealer/entity, other than the trustee or any of its unit/department, its subsidiary or affiliate.

(2) Investments of funds constituting or forming part of the sinking fund created as the primary source for the payment of the principal and interests due the mortgage or bonds shall also be limited to deposits in any bank authorized to accept deposits from the Government or government entities and investments in government securities that are consistent with such purpose which must be acquired/purchased from any securities dealer/entity, other than the trustee or any of its unit/department, its subsidiary or affiliate.

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f. *Waiver of confidentiality.* An NBF 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.* An NBF authorized by the Bangko Sentral 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 R.A. No. 7653, violation of any provision of this Subsection shall be subject to the following sanctions/penalties depending on the gravity of the offense:

(1) *First offense –*

(a) Fine of up to P10,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and

(b) Reprimand for the directors/officers responsible for the violation.

(2) *Second offense –*

(a) Fine of up to P20,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected;

(b) Suspension for ninety (90) days without pay for directors/officers responsible for the violation; and

(c) Revocation of the authority to act as trustee on any mortgage or bond issuance by any municipality, GOCC, or body politic.

(3) *Subsequent offense* –

(a) Fine of up to P30,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected;

(b) Suspension or revocation of the trust license;

(c) Suspension for 120 days without pay of the directors/officers responsible for the violation.

Secs. 4110N - 4139N (Reserved)

Sec. 4140N Interlocking Directorships and/or Officerships. In order to safeguard against the excessive concentration of economic power, unfair competitive advantage or conflict of interest situations to the detriment of others through the exercise by the same person or group of persons of undue influence over the policymaking and/or management functions of similar FIs while at the same time allowing banks, QBs and NBFIs without quasibanking functions to benefit from organizational synergy or economies of scale and effective sharing of managerial and technical expertise, the following regulations shall govern interlocking directorships and/or officerships within the financial system consisting of banks, QBs and NBFIs.

For purposes of this Section, QBs shall refer to investment houses, finance companies, trust entities and all other QBs while NBFIs shall refer to investment houses, finance companies, trust entities, insurance companies, securities dealers/brokers, credit card companies, NSSLAs, holding companies, investment companies, government NBFIs, asset management companies, insurance agencies/brokers, venture capital corporations, FX dealers, money

changers, lending investors, pawnshops, fund managers, mutual building and loan associations, remittance agents and all other NBFIs without quasi-banking functions.

a. *Interlocking directorships.*

While concurrent directorship may be the least prejudicial of the various relationships cited in this Section to the interests of the FIs involved, certain measures are still necessary to safeguard against the disadvantages that could result from indiscriminate concurrent directorship.

(1) Except as may be authorized by the Monetary Board or as otherwise provided hereunder, there shall be no concurrent directorships between QBs or between a QB and a bank; and

(2) Without the need for prior approval of the Monetary Board, concurrent directorships between entities not involving an investment house shall be allowed in the following cases:

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

(b) A QB and an NBFI.

For purposes of the foregoing, a husband and his wife shall be considered as one (1) person.

b. *Interlocking directorships and officerships.*

In order to prevent any conflict of interest resulting from the exercise of directorship coupled with the reinforcing influence of an officer's decision-making and implementing powers, the following rules shall be observed.

(1) Except as may be authorized by the Monetary Board or as otherwise provided hereunder, there shall be no concurrent directorship and officership between QBs, or between a QB and a bank, and between a QB and an NBFI.

(2) Without the need for prior approval of the Monetary Board, concurrent directorship and officership between a bank and one (1) or more of its subsidiary

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bank/s, QB/s, and NBFI/s, other than investment house/s, shall be allowed.

c. Interlocking officerships.

A concurrent officership in different FIs may present more serious problems of self-dealing and conflict of interest. Multiple positions may result in poor governance or unfair competitive advantage. Considering the full-time nature of officer positions, the difficulties of serving two (2) offices at the same time, and the need for effective and efficient management, the following rules shall be observed:

As a general rule, there shall be no concurrent officerships, including secondments, between QBs or between a QB and a bank or between a QB and an NBFI. For this purpose, *secondment* shall refer to the transfer/detachment of a person from his regular organization for temporary assignment elsewhere where the seconded employee remains the employee of the home employer although his salaries and other remuneration may be borne by the host organization.

However, subject to prior approval of the Monetary Board, concurrent officerships, including secondments, may be allowed in the following cases:

(1) Between a QB, other than an investment house, and not more than two (2) of its subsidiary bank/s, QB/s, and NBFI/s, other than investment house/s;

(2) Between two (2) QBs, or between a QB, other than an investment house, and a bank, or between a QB and an NBFI: *Provided*, That at least twenty percent (20%) of the equity of each of the banks, QBs or NBFIs is owned by a holding company or a QB/bank and the interlocking arrangement is necessary for the holding company or the QB/bank to provide technical expertise or managerial assistance to its subsidiaries/affiliates;

(3) Between a QB and not more than two (2) of its subsidiary QB/s, and NBFI/s;

(4) Between a bank and not more than two (2) of its subsidiary bank/s, QB/s, and NBFIs, other than investment house/s;

(5) Between a bank and not more than two (2) of its subsidiary QB/s, and NBFI/s.

Aforementioned concurrent officerships may be allowed, subject to the following conditions:

(a) that the positions do not involve any functional conflict of interests;

(b) that any officer holding the positions of president, chief executive officer, chief operating officer or chief financial officer may not be concurrently appointed to any of said positions or their equivalent;

(c) that the officer involved, or his spouse or any of his relatives within the first degree of consanguinity or affinity or by legal adoption, or a corporation, association or firm wholly- or majority-owned or controlled by such officer or his relatives enumerated above, does not own in his/its own capacity more than twenty percent (20%) of the subscribed capital stock of the entities in which the QB has equity investments; and

(d) that where any of the positions involved is held on full-time basis, adequate justification shall be submitted to the Monetary Board; or

(6) Concurrent officership positions in the same capacity which do not involve management functions, i.e., internal auditors, corporate secretary, assistant corporate secretary and security officer, between a QB and one (1) or more of its subsidiary QB/s and NBFI/s, or between a bank and one (1) or more of its subsidiary 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 NBFIs or between bank/s, QB/s and NBFIs, 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 and senior management. When a director or officer has multiple positions, the Committee should determine whether or not said director or officer is able to and has been adequately carrying out his/her duties and, if necessary, recommend changes to the board based upon said performance/review.

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

§ 4140N.1 Representatives of government. The provisions of this Section shall apply to persons appointed to such positions as representatives of the government or government-owned or controlled entities unless otherwise provided under existing laws.

(Circular No. 592 dated 28 December 2007)

Secs. 4141N - 4142N (Reserved)

Sec. 4143N Disqualification of Directors and Officers. The following regulations shall govern the disqualification of directors and

officers of institutions under the supervisory and regulatory powers of the Bangko Sentral other than banks, QBs, NSSLAs and pawnshops.

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

a. Permanently disqualified

Directors/trustees/officers/employees permanently disqualified by the Monetary Board from holding a director/trustee position:

(1) Persons who have been convicted by final judgment of the court for offenses involving dishonesty or breach of trust such as estafa, embezzlement, extortion, forgery, malversation, swindling and theft;

(2) Persons who have been convicted by final judgment of the court for violation of banking laws;

(3) Persons who have been judicially declared insolvent, spend thrift or incapacitated to contract; or

(4) Directors, trustees, officers or employees of closed institutions under the supervisory and regulatory powers of the Bangko Sentral who were responsible for such institutions’ closure as determined by the Monetary Board.

b. Temporarily disqualified

Directors/trustees/officers/employees disqualified by the Monetary Board from holding a director/trustee position for a specific/indefinite period of time. Included are:

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

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(2) Directors who have been absent or who have not participated for whatever reasons in more than fifty percent (50%) of all meetings, both regular and special, of the board of directors during their incumbency, or any twelve (12)-month period during said incumbency. This disqualification applies for purposes of the succeeding election;

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

(a) *Delinquency in the payment of obligations* means that an obligation of a person with the institution where he/she is a director or officer, or at least two (2) obligations with other FIs, under different credit lines or loan contracts, are past due pursuant to Secs. X306, 4306Q, 4306S and 4303P;

(b) *Obligations* shall include all borrowings from any FI obtained by:

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

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

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

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

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

“(i)”, “(ii)” and “(iv)”;

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

(4) Persons convicted for offenses involving dishonesty, breach of trust or violation of banking laws but whose conviction has not yet become final and executory;

(5) Directors, trustees and officers of closed institutions under the supervisory and regulatory powers of the Bangko Sentral pending their clearance by the Monetary Board;

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

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

(8) Those under preventive suspension; and

(9) Persons with derogatory records with the NBI, court, police, Interpol and monetary authority (central bank) of other countries (for foreign directors and officers) involving violation of any law, rule or regulation of the Government or any of its instrumentalities adversely affecting the integrity and/or ability to discharge the duties of a director/trustee/officer. This

disqualification applies until they have cleared themselves of involvement in the alleged irregularity.
(As amended by Circular No. 584 dated 28 September 2007)

§ 4143N.2 *Persons disqualified to become officers*
a. The disqualifications for directors

mentioned in Subsec. 4143N.1 shall likewise apply to officers, except those stated in Item “b(2)”.
b. The spouses or relatives within the second degree of consanguinity or affinity are prohibited from holding officership positions across the following functional categories within an NBF:

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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 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 an NBFIs 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)

§ 4143N.3 Disqualification procedures

a. The board of directors and management of every institution shall be responsible for determining the existence of the ground for disqualification of the institution’s director/officer or employee and for reporting the same to the BSP. While the concerned institution may conduct its own investigation and impose appropriate sanction/s as are allowable, this shall be without prejudice to the authority of the Monetary Board to disqualify a director/officer/employee from being elected/appointed as director/officer in any FI under the supervision of the BSP. Grounds for

disqualification made known to the institution shall be reported to the appropriate department of the SES within seventy-two (72) hours from knowledge thereof.

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

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

d. If no reply has been received from the director/officer concerned upon the expiration of the period prescribed under Item “b” above, said failure to reply shall be deemed a waiver and the appropriate department of the SES shall proceed to evaluate the case based on available records/evidence.

e. If the ground for disqualification is delinquency in the payment of obligation, the concerned director or officer shall be given a period of thirty (30) calendar days within which to settle said obligation or, restore it to its current status or, to explain why he/she should not be disqualified and

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included in the watchlisted file, before the evaluation on his disqualification and watchlisting is elevated to the Monetary Board.

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

g. If the disqualification is based on dismissal from employment for cause, the appropriate department of the SES shall, as much as practicable, endeavor to establish the specific acts or omissions constituting the offense or the ultimate facts which resulted in the dismissal to be able to determine if the disqualification of the director/officer concerned is warranted or not. The evaluation of the case shall be

made for the purpose of determining if disqualification would be appropriate and not for the purpose of passing judgment on the findings and decision of the entity concerned. The appropriate department of the SES may decide to recommend to the Monetary Board a penalty lower than disqualification (e.g., reprimand, suspension, etc.) if, in its judgment the act committed or omitted by the director/officer concerned does not warrant disqualification.

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

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

j. The board of directors of the concerned institution shall be immediately informed of cases of disqualification approved by the Monetary Board and shall be directed to act thereon not later than the following board meeting. Within seventy-two (72) hours thereafter, the corporate secretary shall report to the Governor of the BSP through the appropriate department of the SES the action taken by the board on the director/officer involved.

k. Persons who are elected or appointed as director or officer in any of the BSP-supervised institutions for the first

time but are subject to any of the grounds for disqualification provided for under Subsecs. 4143N.1 and 4143N.2, shall be afforded the procedural due process prescribed above.

I. Whenever a director/officer is cleared in the process mentioned under Item “c” above or, when the ground for disqualification ceases to exist, he/she would be eligible to become director or officer of any bank, QB, trust entity or any institution under the supervision of the 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/officer and his/her delisting from the masterlist of watchlisted persons.

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

§ 4143N.4 Effect of possession of disqualifications. Directors/officers elected or appointed possessing any of the disqualifications as enumerated herein, shall vacate their respective positions immediately.

§ 4143N.5 (Reserved)

§ 4143N.6 Watchlisting. To provide the 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 trustee or officer of an institution under the supervisory and regulatory powers of the Bangko Sentral, the SES shall maintain a watchlist of disqualified directors/trustees/officers under the following procedures:

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

(1) Disqualification File “A” (Permanent)
–Directors/trustees/officers/employees

permanently disqualified by the Monetary Board from holding a director/trustee/officer position.

(2) Disqualification File “B” (Temporary)
– Directors/trustees/officers/employees temporarily disqualified by the Monetary Board from holding a director/trustee/officer position.

b. *Inclusion of directors/trustees/officers/employees in the watchlist.* Upon recommendation by the appropriate department of the SES, the inclusion of directors/trustees/officers/employees in watchlist disqualification files “A” and “B” on the basis of decisions, actions or reports of the courts, institutions under the supervisory and regulatory powers of the Bangko Sentral, NBI or any other administrative agencies shall first be approved by the Monetary Board.

c. *Notification of directors/trustees/officers/employees.* Upon approval by the Monetary Board, the concerned director/trustee/officer/employee shall be informed through registered mail, with registry return receipt card, at his last known address of his inclusion in the masterlist of watchlisted persons disqualified to be a director/trustee/officer in any institution under the supervisory and regulatory powers of the Bangko Sentral.

d. *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 QBs, NBFIs with trust authority, trust corporations and such institutions under the supervisory and regulatory powers of the Bangko Sentral, 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,

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or the Monetary Board.

The Bangko Sentral will disclose information on the person 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*.

Fls 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. Fls must obtain the said authorization on an individual basis.

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

(1) Watchlist - Disqualification File “B” (Temporary) -

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

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

(c) Upon favorable decision or clearance by the appropriate body, i.e.,

court, NBI, institutions under the supervisory and regulatory powers of the Bangko Sentral, or such other agency/body where the concerned individual had derogatory record.

Directors/trustees/officers/employees delisted from the Watchlist –

Disqualification File “B” other than those upgraded to Watchlist – Disqualification File “A” shall be eligible for re-employment with any institution under the supervisory and regulatory powers of the Bangko Sentral.

(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)

Sec. 4144N Securities Custodianship and Securities Registry Operations¹. The following rules and regulations shall govern securities custodianship and securities registry operations of 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. 4144N.29.

(As amended by Circular Nos. 873 dated 25 March 2015 and 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)

§ 4144N.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.

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. NBFIs 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.

§ 4144N.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 to maintain the stock and transfer book for shares of stock.

§ 4144N.3 *Prior Bangko Sentral approval.* NBFIs under Bangko Sentral supervision may act as securities custodian and/or registry only upon prior Monetary Board approval.

§ 4144N.4 *Application for authority*
A BSP-supervised entity desiring to act as securities custodian and/or registry

shall file an application with the appropriate department of the SES. The application shall be signed by the highest ranking officer of the NBFI and shall be accompanied by a certified true copy of the resolution of the NBFI's board of directors authorizing the NBFI to engage in securities custodianship and/or registry.

§ 4144N.5 *Pre-qualification requirements for a securities custodian/registry*

a. The securities custodian must be a NBFI 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 NBFI 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 P 300.0 million or such amounts as may be required by the Monetary Board in the future;

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c. It must have a CAMELS composite rating of at least “4” (as rounded off) in the last regular examination;

d. It must have in place a comprehensive risk management system approved by its board of directors appropriate to its operations characterized by a clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal control and complete, timely and efficient risk reporting systems. In this connection, a manual of operations (which includes custody and/or registry operations) and other related documents embodying the risk management system must be submitted to the appropriate department of the SES at the time of application for authority and within thirty (30) days from updates;

e. It must have adequate technological capabilities and the necessary technical expertise to ensure the protection, safety and integrity of client assets, such as:

(1) It can maintain an electronic registry dedicated to recording of accountabilities to its clients; and

(2) It has an updated and comprehensive computer security system covering system, network and telecommunication facilities that will:

- (a) limit access only to authorized users;
- (b) preserve data integrity; and
- (c) provide for audit trail of transactions.

f. It has complied, during the period immediately preceding the date of application, with the following:

(1) ceilings on credit accommodation to DOSRI; and

(2) single borrower’s limit.

g. It has no reserve deficiencies during the eight (8) weeks immediately preceding the date of application;

h. It has set up the prescribed allowances for probable losses, both general and specific, as of date of application;

i. It has not been found engaging in unsafe and unsound practices during the last six (6) months preceding the date of application;

j. It has generally complied with laws, rules and regulations, orders or instructions of the Monetary Board and/or BSP Management;

k. It has submitted additional documents/ information which may be requested by the appropriate department of the SES, such as, but not limited to:

(1) Standard custody/registry agreement and other standard documents;

(2) Organizational structure of the custody/registry business;

(3) Transaction flow; and

(4) For those already in the custody or registry business, a historical background for the past three (3) years;

l. It shall be conducted in a separate unit headed by a qualified person with at least two (2) years experience in custody/registry operations; and

m. It can interface with the clearing and settlement system of any recognized exchange in the country capable of achieving a real time gross settlement of trades.

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 duly-licensed lending agent registered with the SEC.

(As amended by Circular No. 714 dated 10 March 2011)

§ 4144N.6 Functions and responsibilities of a securities custodian. A securities custodian shall have the following basic functions and responsibilities:

a. Safekeeps the securities of the client;

b. Holds title to the securities in a nominee capacity;

c. Executes purchase, sale and other instructions;

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- 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 pre-qualification requirements under Item “n” of Subsec. 4144N.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)

§ 4144N.7 *Functions and responsibilities of a securities registry.*

- a. Maintains an electronic registry book;
- b. Delivers confirmation of transactions and other documents within agreed trading periods;
- c. Issues registry confirmations for transfers of ownership as it occurs;

- d. Prepares regular statement of securities balances at such frequency as may be required by the owner on record but not less frequent than every quarter; and
- e. Follows appropriate legal documentation to govern its relationship with the Issuer.

§ 4144N.8 *Protection of securities of the customer.* A custodian must incorporate the following procedures in the discharge of its functions in order to protect the securities of the customer:

- a. 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)

§ 4144N.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. An NBFIs 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 NBFIs 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 NBFIs is designated as custodian or sub-custodian or by a direct

custody agreement with features at par with the standards set under this Subsection drawn or prepared by the parent company owning more than fifty percent (50%) of the capital stock of the purchaser and executed by the purchaser itself and its custodian.

Purchases by non-residents and insurance companies that are exempted from the independence requirement of this Subsection shall, however, be subject to all other provisions of this Subsection.
(As amended by Circular No. 873 dated 25 March 2015)

§ 4144N.10 Registry of Scripless Securities of the Bureau of the Treasury. The RoSS, operated by the Bureau of the Treasury, which is acting as a registry for government securities is deemed to be automatically accredited for purposes of this Section and is likewise exempted from the independence requirement under Subsec. 4144N.9. 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)

§ 4144N.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.

§ 4144N.12 Compliance with anti-money laundering laws/regulations. For purposes of compliance with the requirements of R.A. No. 9160, otherwise known as the “Anti-Money Laundering Act of 2001,” as amended, particularly the provisions regarding customer

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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 NBFIs up to the original maturity of the loan or full payment thereof, whichever comes earlier.

§ 4144N.13 *Basic security deposit.* Securities held under custodianship whether booked in the Trust Department or carried in the regular books of the NBFIs shall be subject to a security deposit for faithful performance of duties at the rate of 1/25 of one percent (1%) of the total face value or P500,000 whichever is higher.

However, securities held under custodianship where the custodian also performs securities 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)

§ 4144N.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.

§§ 4144N.15 - 4144N.28 (Reserved)

§ 4144N.29 *Sanctions.* Without prejudice to the penal and administrative sanctions provided for under Sections 36 and 37, respectively, of the R.A. No. 7653, violation of any provision of this Section shall be subject to the following sanctions penalties:

- a. First offense –
 - (1) Fine of up to P10,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and
 - (2) Reprimand for the directors/officers responsible for the violation.
- b. Second offense -
 - (1) Fine of up to P20,000 a day for the institution for each violation reckoned from the date the violation was committed up to the date it was corrected; and
 - (2) Suspension for ninety (90) days without pay of directors/officers responsible for the violation.
- c. Subsequent offenses–
 - (1) Fine of up to P30,000 a day for the institution for each violation from the date the violation was committed up to the date it was corrected;
 - (2) Suspension or revocation of the authority to act as securities custodian and/or registry; and
 - (3) Suspension for 120 days without pay of the directors/officers responsible for the violation.

Secs. 4145N *Bio-data of Directors and Officers.*

- a. FIs shall submit to the appropriate department of the SES a bio-data with ID picture of their directors/officers with rank of senior vice president (SVP) and above (or

equivalent ranks) upon every election/re-election/appointment/promotion in a prescribed form and for first-time directors/officers with rank of senior vice president and above (or equivalent ranks) within a particular FI, 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 N-1*.

The bio-data shall be updated and submitted in cases 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.

For other officers below the rank of SVP, the FI shall not be required to submit their bio-data to the Bangko Sentral.

b. The FI 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. The FI 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 N-10*), within twenty (20) business days from the annual election of the board of directors as provided in the FI's by-laws, in accordance with *Appendix N-1*.

(As amended by Circular Nos. 887 dated 07 October 2015 and 758 dated 11 May 2012)

Secs. 4146N – 4149N (Reserved)

Sec. 4150N Rules of Procedure on Administrative Cases Involving Directors and Officers of Trust Entities. The rules of procedure on administrative cases involving directors and officers of QBs in Sec. 4150Q shall apply to directors and officers of trust entities.

Secs. 4151N – 4156N (Reserved)

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Sec. 4157N Batas Pambansa Blg. 344 –An Act To Enhance The Mobility Of Disabled Persons By Requiring Certain Buildings, Institutions, Establishments And Public Utilities To Install Facilities And Other Devices. In order to promote the realization of the rights of disabled persons to participate fully in the social life and the development of the societies in which they live and the enjoyment of the opportunities available to other citizens, no license or permit for the construction, repair or renovation of public and private buildings for public use, educational institutions, airports, sports and recreation centers and complexes, shopping centers or establishments, public parking places, workplaces, public utilities, shall be granted or issued unless the owner or operator thereof shall install and incorporate in such building, establishment or public utility, such architectural facilities or structural features as shall reasonably enhance the mobility of disabled persons such as sidewalks, ramps, railings and the like. If feasible, all such existing buildings, institutions, establishments, or public utilities may be renovated or altered to enable the disabled persons to have access to them.

Sec. 4158N 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 branches and offices of NBFIs. If the

provision of express lanes is logistically impossible in any particular branch or office of any NBFi, 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 a clearly written notice prominently displayed in the transaction counters of all NBFi branches and/or offices.
(Circular No. 805 dated 08 August 2013)

Secs. 4159N - 4160N (Reserved)

Sec. 4161N 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 Financial Reporting Standards Council (FRSC) to the greatest extent possible.

Other NBFIs not performing quasi-banking functions shall adopt the PFRS and PAS which are in accordance with generally accepted accounting principles in recording transactions and in the preparation of financial statements and reports to 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 the NBFIs.

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

Accounting treatment for prudential reporting. For prudential reporting, FIs shall

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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”; and

b. 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” and “b”, the audited financial statements required to be submitted to the Bangko Sentral in accordance with the provisions of Sec. 4172N 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.

For purposes of preparing solo/ separate financial statements, financial allied, non-financial allied and non-allied subsidiaries/associates/joint ventures, including insurance subsidiaries/ associates, shall be accounted for using the equity method, in accordance with PAS 27, as amended.

NBFIs, 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 NBFIs shall continue to be accounted for in accordance with the provisions of PAS 39.

(As amended by Circular Nos. 915 dated 05 July 2016, 912 dated 27 May 2016, 572 dated 22 June 2007 and 494 dated 20 September 2004)

Sec. 4162N Reports. NBFIs without quasi-banking functions but are subsidiaries/ affiliates of banks and QBs and investment houses without quasi-banking functions but with trust operations shall submit to the appropriate department of the SES the reports listed in *Appendix N-1* in the forms as may be prescribed by the Deputy Governor, SES.

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.

(As amended by Circular No. 880 dated 22 May 2015)

§ 4162N.1 Categories and signatories of reports. Reports required to be submitted to the Bangko Sentral are classified into *Categories A-2* and *B* reports as indicated in the list of reports required to be submitted to the Bangko Sentral in *Appendix N-1*.

Appendix N-2 prescribes the signatories for each report category and the requirements on signatory authorization. Reports submitted by NBFIs in computer media shall be subject to the same requirements.

A report submitted to the 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.

§ 4162N.2 Manner of filing. The submission of the reports shall be effected by filing them personally with the appropriate department of the SES or with the 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.

§ 4162N.3 Sanctions in case of willful delay in the submission of reports.

a. *Definition of terms.* For purposes of this Subsection, the following definitions shall apply:

(1) *Report* shall refer to any report or statement required of an NBFIs 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 an NBFIs to submit a report on time. Failure to submit a report on time due to fortuitous events, such as fire and other natural calamities and public disorders, including strike or lockout affecting an NBFIs as defined in the Labor Code or national emergency affecting operations of NBFIs, shall not be considered as willful delay.

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

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- I.

For Categories A-2 reports

Per day of default

until the report is filed

P300
- II.

For Category B reports

Per day of default

until the report is filed

P 60

Delay or default shall start to run on the day following the last day required for the submission of reports. However, should the last day of filing fall on a non-working day in the locality where the reporting FI is situated, delay or default shall start to run on the day following the next working day. The due date/deadline for submission of reports to Bangko Sentral as prescribed under Sec. 4162N governing the frequency and deadlines indicated in *Appendix N-1* shall be automatically moved to the next business day whenever a half-day suspension of business operations in government offices is declared due to an emergency such as typhoon, floods, etc.

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

c. *Manner of payment or collection of fines* – NBFIs shall, within fifteen (15) calendar days from receipt of the statement of account from the appropriate department of the Bangko Sentral, pay the fines imposed thereon for willful delay on the submission of reports.
(As amended by Circular No. 585 dated 15 October 2007)

Sec. 4163N 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.

FIs 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.

(Circular No. 871 dated 05 March 2015)

§ 4163N.1 Management oversight and control culture. Consistent with the principles provided under Subsecs. X141.3 and X142.3 of the MORB, 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 FI. The board of directors shall also ensure that the internal audit function has an appropriate stature and authority within the FI 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:

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(1) conduct discussions with management on the effectiveness of the internal control system;

(2) review of 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 FI’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 FI 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 FI; 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 FI 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 FI'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)

§ 4163N.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 FI'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 FI, 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 FI'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 FI activities/groups/units and subsidiaries, in the case of a parent FI. Internal controls shall be revised to address any new or previously uncontrolled or unidentified risks.

(Circular No. 871 dated 05 March 2015)

§ 4163N.3 Control activities. Control activities shall form part of the daily activities of the FI and all levels of personnel in the FI. 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.

FIs 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 noncompliance; 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

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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.* FIs 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, FIs shall conduct independent balancing and reconciliation of records and reports to ensure the integrity of the reported data and balances. FIs 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.* FIs 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 FI. 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. FIs 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)

§ 4163N.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. FIs shall have in place a reliable management information system that covers significant activities of the FI and has the capability to generate relevant and quality information to support the functioning of internal control.

FIs 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)

§ 4163N.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)

Sec. 4164N 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 FI 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 FI areas.

a. *Permanency of the internal audit function.* Each FI shall have a permanent internal audit function. In the case of group structures involving a parent bank and subsidiary or affiliate BSFI, the internal audit

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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 Bangko Sentral-supervised financial institution 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 institution, 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. X162. 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.* FIs may outsource, in accordance with the Bangko Sentral regulations on outsourcing, internal audit activities covering all areas of its operations: *Provided*, That the board of directors of the FI shall remain ultimately responsible for the conduct of effective internal audit: *Provided*,

further, That the internal audit activity shall not be outsourced to the FI’s own external auditor/audit firm nor to internal audit service provider that was previously engaged by the FI in the same area intended to be covered by the internal audit activity that will be outsourced, without a one-year “cooling off” period.

(As amended by Circular No. 871 dated 05 March 2015)

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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 FI, 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 FI 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)

§ 4164N.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 concerned departments/units;

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; and

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 FI’s operations.

(Circular No. 871 dated 05 March 2015)

§ 4164N.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 FI’s operations. The skill set of the internal audit staff shall be complemented

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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-year “cooling off” period has elapsed. The internal audit personnel shall adhere at all times to the FI’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)

§ 4164N.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 activity or entity of the bank, 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)

§ 4164N.5 Internal audit charter. FIs 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 FI. The charter shall recognize the authority of the internal audit function, to initiate direct communication with any FI personnel; to examine any activity or entity; and to access any records, files, data and physical properties of the FI, 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)

§ 4164N.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;
- 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 bank’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. 4165N - 4171N (Reserved)

Sec. 4172N Financial Audit. FIs 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 FI. Report of such audit shall be submitted to the board of directors and the appropriate department of the SES not later than 120 calendar days after the close of the calendar year or the fiscal year adopted by the FI. The report to the 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 financial audit report and certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the FI to the board of directors; and (c) the absence of any direct or indirect financial interest and other

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circumstances that may impair the independence of the external auditor; (2) reconciliation statement between the AFS and the balance sheet and income statement for FI and trust department submitted to the 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 FI to submit to the board of directors, a LOC indicating any material weakness or breach in the institution's internal control and risk management systems within thirty (30) calendar days after submission of the financial audit report. If no material weakness or breach is noted to warrant the issuance of an LOC, a Certification under oath stating that no material weakness or breach in the internal control and risk management systems was noted in the course of the audit of the FI shall be submitted in its stead, together with the financial audit report.

Material weakness shall be defined as a significant control deficiency, or combination of deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be detected or prevented by the entity's internal control. A material weakness does not mean that a material misstatement has occurred or will occur, but that it could occur. A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles. The term more than remote likelihood shall mean that

future events are likely to occur or are reasonably possible to occur.

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

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

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

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

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FIs under the concurrent jurisdiction of the Bangko Sentral and COA shall, however, submit a copy of the AAR of the COA to the appropriate department of the SES 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 income statement of the FI 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.

FIs as well as external auditors shall strictly observe the requirements in the submission of the financial audit report and reports required to be submitted under *Appendix Q-33*.

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

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

Subsec. 4162N.3
(As amended by Circular Nos. 911 dated 02 May 2016, 554 dated 22 December 2006 and 540 dated 09 August 2006)

§4172N.1 Audited financial statements of non-bank financial institutions. The following rules shall govern the utilization and submission of AFS of NBFIs.

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

(Circular No. 540 dated 09 August 2006)

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

(Circular No. 540 dated 09 August 2006)

Secs. 4173N – 4179N (Reserved)

Sec. 4180N Selection, Appointment, Reporting Requirements and Delisting of External Auditors and/or Auditing Firm; Sanction.

a. *Rules and regulations.* The revised rules and regulations that shall govern the selection, appointment, reporting requirements and delisting of external auditors and auditing firms by the Bangko Sentral of covered institutions which under special laws are subject to Bangko Sentral supervision are shown in *Appendix N-5*.

b. *Sanctions.* The applicable sanctions/penalties prescribed under Sections 36 and 37 of R.A. No. 7653 to the extent applicable shall be imposed on the covered institution, its audit committee and the directors approving the hiring of external auditors/auditing firm who/which are not in the Bangko Sentral list of selected auditors for covered institutions or for hiring, and/or retaining the services of the external auditor/auditing firm in violation of any of the provisions of this Section and for non-compliance with the Monetary Board directive under Item “K” in *Appendix N-5*. Erring external auditors/auditing firm may also be reported by the 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. 4181N Publication Requirements. The quarterly CSOC of a trust entity and its subsidiaries and affiliates shall be published side by side with the statement of condition of its head office and its branches/other offices as of such dates as the 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.
(As amended by Circular No. 494 dated 20 September 2004)

Secs. 4182N - 4189N (Reserved)

Sec. 4190N Guidelines on Outsourcing. The rules on outsourcing of banking functions as shown under Sec. X162 of the MORB and *Appendix Q-37* shall likewise apply to NBFIs.
(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 11 January 2008, 548 dated 25 September 2006 and 543 dated 08 September 2006)

Sec. 4191N (Reserved)

Sec. 4192N Prompt Corrective Action Framework. The framework for the enforcement of PCA on banks which is in *Appendix Q-40*, shall govern the PCA taken on FIs to the extent applicable, or by analogy.
(Circular No. 523 dated 31 March 2006, as amended by Circular No. 664 dated 15 September 2009)

Sec. 4193N Supervision by Risks. The guidelines on supervision by risk in *Appendix Q-42* which provide guidance on how QBs should identify, measure, monitor and control risks shall govern the supervision by risks of FIs to the extent applicable.
The guidelines set forth the expectations of the 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 an FI’s internal risk management processes are integrated and comprehensive. All FIs should follow the guidance in risk management efforts.
(Circular No. 510 dated 03 February 2006)

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Sec. 4194N Market Risk Management

The guidelines on market risk management for QBs as shown in *Appendix Q-43* shall govern the market risk management of FIs to the extent applicable.

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

The 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 FIs.

(Circular No. 544 dated 15 September 2006)

Sec. 4195N Liquidity Risk Management. The guidelines on liquidity risk management for QBs as shown in *Appendix Q-44* shall govern

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the liquidity risk management of FIs to the extent applicable.

The guidelines 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. FIs are expected to have an integrated approach to risk management to identify, measure, monitor and control risks. Liquidity risk should be reviewed together with other risks to determine overall risk profile.

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

(Circular No. 545 dated 15 September 2006)

Sec. 4196N 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)

§ 4196N.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)

§ 4196N.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,

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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)

§ 4196N.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 be notified in writing of their classification immediately after 14 September 2013.
(Circular No. 808 dated 22 August 2013)

§ 4196N.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)

§ 4196N.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 established outside the

Terminology	Definitions
	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 purchased online, among others.
Electronic Products and Services	The delivery of banking and financial products and services

Terminology	Definitions
	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 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.
Encryption	A data security technique used to

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Terminology	Definitions
	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,

Terminology	Definitions
	disruption, modification or destruction in order to provide confidentiality, integrity and availability.
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.

Terminology	Definitions	Terminology	Definitions
IT Operations	Encompasses all processes and services that are provisioned by an IT Unit to internal and external clients.	IT Risk Management System	Risk management system that enables a BSI to identify, measure, monitor and control IT-related risks.
IT Outsourcing	An arrangement under which another party (either an affiliated entity within a corporate group or an 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.	Management Information System (MIS)	A general term for the computer systems in an institution that provide information about its business operations.
		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.
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.	Project Management	Planning, monitoring and controlling an activity.
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.	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.

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Terminology	Definitions
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, 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)

§ 4196N.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)

§ 4196N.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

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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

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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

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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

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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)

§ 4196N.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)

§ 4196N.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 4196N.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. 4197N Credit Risk Management; Statement of Policy¹. 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

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.

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 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)

§ 4197N.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:

- Understands, measures, monitors and controls the risk assumed;
- Adopts risk management practices whose sophistication and effectiveness are commensurate to the risk being taken; 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 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:

- a. The FI’s business strategies, operating environment, and the competencies of its officers and personnel; and
- b. 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

§ 4197N.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 FIs’ 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

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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)

§ 4197N.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.

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§ 4197N.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.

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§ 4197N.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

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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.

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B. OPERATING UNDER A SOUND CREDIT GRANTING PROCESS

§ 4197N.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.

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§ 4197N.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 obligor¹ 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

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.

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.

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

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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)

§ 4197N.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.
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§ 4197N.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.

· 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);

· 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);

· Individual industry sectors;
· Geographic regions or countries;
· Loan structure, collateral, and tenor;
and

· 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.

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§ 4197N.10 Credits granted to related parties. Consistent with sound corporate governance practices, the board and senior management shall articulate and implement

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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**

§ 4197N.11 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.

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§ 4197N.12 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

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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 loss¹ 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 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.

¹This 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.

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) Includes 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 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.

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§ 4197N.13 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

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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.

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§ 4197N.14 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.

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**D. MAINTAINING AN
APPROPRIATE CREDIT CONTROL
PROCESS**

§ 4197N.15 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.

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§ 4197N.16 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

¹ Other credit accommodations include other credits such as accounts receivables, sales contract receivables, accrued interest receivables and advances

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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 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

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(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 losses¹ (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

(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

¹ ACL represents the aggregate amount of individual and collectively assessed probable credit losses.

classification, collateral type, geographical location and past-due status.

Estimated credit losses shall reflect consideration of the FI's historical net charge-off rate¹ 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 management² 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:

(i) Experienced credit judgments shall be subject to established policies and procedures;

(ii) With approved and documented analytical framework for assessing loan quality applied consistently over time;

(iii) Estimates shall be based on reasonable and verifiable assumptions and supported by adequate documentation; and

(iv) 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 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;

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.

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- 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 N-11*, 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)

§ 4197N.17 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.

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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)

§ 4197N.18 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)

§ 4197N.19 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 4197N 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)

Secs. 4198N Operational Risk Management; Policy Statement¹. 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 supervised financial institutions (BSFIs). 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 standards² and best practices. Bangko Sentral expects its BSFIs 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)

§ 4198N.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 risk. 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)

§ 4198N.2 Duties and responsibilities.

a. *Board of directors.* Consistent with the principles embodied under Subsec. X141.3, the duties and responsibilities of the board of directors in relation to the effective management of risk include the

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¹ BSFIs 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 BSFI 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. 4198N as well as Subsec. 4198N.1 to 4198N.11.

² Embodied in the relevant documents issued by the Basel Committee on Banking Supervision.

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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: 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 BSFI’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 BSFI is exposed to;

(2) Approve the operational risk management framework which shall form part of the BSFI’s enterprise-wide risk management system and shall cover all business lines and functions of the BSFI, 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. 4198N.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 BSFI’s overall business objectives. Relative to this, the board should set and provide clear guidance on the BSFI’s operational risk appetite (i.e., the level of operational risk the BSFI 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 BSFI’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 BSFI, 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 BSFI'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 BSFI'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

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(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 BSFI’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 BSFI, 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 BSFI 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 BSFI’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 BSFI’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 BSFI;

(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 BSFI’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 BSFI’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)

§ 4198N.3 Roles and Functions.

a. *Operational Risk Management Function.* BSFIs 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 NBFIs and trust corporations 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;

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- (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. BSFIs 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)

§ 4198N.4 **Operational risk management framework.** BSFIs 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 BSFI 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 BSFI 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) BSFIs 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 BSFI'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) BSFIs 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 BSFI 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 BSFI;

(b) *Internal loss data collection and analysis* – Internal operational loss data provides meaningful information for assessing BSFI'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. BSFIs 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 risk may also relate to operational issues and should be segmented in order to obtain a more comprehensive view of the BSFI's operational risk exposure;

(c) *Risk Self Assessments (RSA)/Risk Control Self Assessments (RCSA)* – RSA is a tool to assess processes underlying BSFI's operations against a library of potential

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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 BSFI'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 BSFI'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 BSFIs 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 BSFI's operational risk profile.

Comparison of external loss data, if available, such as industry experiences, vis-à-vis BSFI's internal loss data can also be made to explore possible weaknesses in the financial institution's control environment and enable it to consider previously unidentified risk exposures.

In choosing among these tools, each BSFI must carefully consider what is proportionate to its size, risk profile, and complexity of operations. Data/information gathered from these tools should enable BSFIs to make a thorough causal analysis, identify control gaps, and consequently adopt appropriate corrective actions.

BSFIs 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) BSFIs 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, BSFIs shall also gather potential loss or near-misses¹. 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. BSFIs 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 BSFI's reputation); and
- (l) Action(s) taken.

BSFIs 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. BSFIs shall ensure that the choice of threshold should not adversely impact the credibility and accuracy of operational risk measurement.

(4) BSFIs 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) BSFIs 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 BSFI'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
- (e) Results of internal assessment of risks and controls.

(6) BSFIs 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

¹ Potential loss is an initial estimate of the loss that the bank 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.

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problem BSFIs to rapidly increase branch network during a short period of time. BSFIs 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 BSFI'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.* BSFIs 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 BSFI'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 BSFI'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 BSFI (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 BSFI's operational risk policy and likely or actual breaches in pre-defined 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, BSFIs are expected to adhere to the standards set forth under pertinent provisions of Secs. 4163N and 4164N on Internal Control and Internal Audit.

BSFIs 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, BSFIs may seek to transfer the risk to another party such as through insurance. Relative thereto, the board shall determine the maximum loss exposure the BSFI is willing to take and has the capacity to assume, and should perform an annual review of the BSFI's risk and insurance management program.

BSFIs, 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)

§ 4198N.5 Management of human resource-related risk. One of the major sources of operational risk is "people risk". In this regard, BSFIs shall embed in their enterprise-wide risk management framework measures to identify, measure, monitor, and control human resource related risks. BSFIs 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 BSFI'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 of 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

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remuneration and compensation policies that can be used by the institution to attract/recruit and retain highly qualified workplace. 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)

§ 4198N.6 Management of information technology-related risk. BSFIs shall refer to Sec. 4196N for the management of information technology-related risk.

(Circular No. 900 dated 18 January 2016)

§ 4198N.7 Management of integrity of prudential reports or reports submitted to Bangko Sentral. BSFI 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. BSFIs 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)

§ 4198N.8 Management of legal risk exposures. BSFIs 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 BSFI’s rights and obligations in contractual relationships and in ensuring that all agreements/contracts entered into by the BSFI 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 BSFI 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)

§ 4198N.9 Management of operational risk arising from financial inclusion initiatives. BSFIs 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. BSFIs 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, BSFIs 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 BSFI’s business model and ensure sustained delivery of financial services to the unserved and underserved sector.
(Circular No. 900 dated 18 January 2016)

§ 4198N.10 Notification/Reporting to Bangko Sentral. BSFIs 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 event¹ 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 BSFI to submit a report detailing 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)

§ 4198N.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

¹ As enumerated under Section 4198N.4.a.(1).

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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 BSFI, among others. Sanctions may likewise be imposed on a BSFI and/or its directors, officers and/or employees.

(Circular No. 900 dated 18 January 2016)

Secs. 4199N- 4200N (Reserved)

Secs. 4201N - 4300N (Reserved)

Sec. 4301N 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 subsidiary/affiliate credit card companies of banks/QBs, aligned with global best practices.

- § 4301N.1 Definition of terms.

a. Credit card. Means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor or services on credit.
 b. Credit card receivables. Represents the total outstanding balance of credit cardholders arising from purchases of goods and services, cash advances, annual membership/renewal fees as well as interest, penalties, insurance fees, processing/service fees and other charges.
 c. Minimum amount due or minimum payment required. Means the minimum amount that the credit cardholder needs to pay on or before the payment due date for a particular billing period/cycle as defined under the terms and conditions or reminders

stated in the statement of account/billing statement which may include: (1) total outstanding balance multiplied by the required payment percentage or a fixed amount whichever is higher; (2) any amount which is part of any fixed monthly installment that is charged to the card; (3) any amount in excess of the credit line; and (4) all past due amounts, if any.

d. Default or delinquency. Shall mean non-payment of, or payment of any amount less than, the “Minimum Amount Due” or “Minimum Payment Required” within two (2) cycle dates, in which case, the “Total Amount Due” for the particular billing period as reflected in the monthly statement of account may be considered in default or delinquent.

e. Acceleration clause. Shall mean any provision in the contract between the bank and the cardholder that gives the bank the right to demand the obligation in full in case of default or non-payment of any amount due or for whatever valid reason.

f. Subsidiary refers to a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with the power to vote by a bank or other FI.

g. Affiliate refers to an entity linked directly or indirectly to a bank or other FI through any one (1) or a combination of any of the following:

- (1) Ownership, control or power to vote, whether by permanent or temporary proxy or voting trust, or other similar contracts, by a bank or other FI of at least ten percent (10%) or more of the outstanding voting stock of the entity, or vice-versa;
 (2) Interlocking directorship or officership, except in cases involving independent directors as defined under existing regulations;
 (3) Common stockholders owning at least ten percent (10%) of the outstanding voting stock of each FI and the entity; or
 (4) Management contract or any arrangement granting power to the bank or other FI to direct or cause the direction of

management and policies of the entity, or vice-versa.

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 upfront deductions to principal.

For loans with terms different from the above assumptions, the effective annual 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.

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 N-10* 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)

§ 4301N.2 Risk management system.

To safeguard their interests, subsidiary/affiliate credit card companies of banks/QBs are required to establish an appropriate system for managing risk exposures from credit card operations which shall be documented in a complete and concise manner. The risk management system shall cover the organizational setup, 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

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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)

§ 4301N.3 Minimum requirements.
NBFIs and their subsidiary or affiliate credit cards companies shall not issue pre-approved credit cards as provided under *Appendix N-10*, notwithstanding any contrary stipulations in the contract.

(As amended by Circular Nos. 845 dated 15 August 2014 and 702 dated 15 December 2010)

§ 4301N.4 Information to be disclosed.
Subsidiary/affiliate credit card companies of banks/QBs shall disclose to each person to whom the credit card privilege is extended in the agreement, contract or any equivalent document governing the issuance or use of the credit card or any amendment thereto or in such other statement furnished the cardholder from time to time, prior to the imposition of the charges and to the extent applicable, the following information:

- a. 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 effective annual interest rate, as described in Item “h” of Subsec. 4301N.1. Effective annual 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 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 mark-up, if any) including conversion commission; and/or other currency conversion charges and costs arising from the purchase by the card company of foreign currency to settle the customer’s transactions shall also be disclosed.

NBFIs 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. NBFIs and their subsidiary or affiliate credit card companies shall be given a period of 120 days from the 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)

§ 4301N.5 Interest accrual on past due loans. Interest income on past due loans arising from discount amortization (and not from the contractual interest of the accounts) shall be accrued as provided in PAS 39.

§ 4301N.6 Method of computing interest. Subsidiary/affiliate credit card companies of banks/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. Towards this end, all loan-related documents shall show repayment schedules

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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)

§ 4301N.7 (2011 - 4301N.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)

§ 4301N.8 (2011 - 4301N.7) Deferral charges. The bank and the cardholder may, prior to the consummation of the transaction, agree in writing to a deferral of all or part of one or more unpaid installments and the bank may collect a deferral charge which shall not exceed the rate previously disclosed pursuant to the provisions on disclosure.
(As amended by Circular No. 754 dated 17 April 2012)

§ 4301N.9 (2011 - 4301N.8) Late payment/penalty fees. No late payment or penalty fee shall be collected from cardholders unless the collection thereof is fully disclosed in the contract between the issuer and the cardholder: *Provided*, That late payment or penalty fees shall be based on the unpaid minimum amount due or a prescribed minimum fixed amount: *Provided, further*, That said late payment or penalty fees may be based on the total outstanding balance of the credit card obligation, including amounts payable under installment terms or deferred payment schemes, if the contract between the issuer and the cardholder contains an “*acceleration clause*” and the total outstanding balance of the credit card is classified and reported as past due.
(As amended by Circular No. 754 dated 17 April 2012)

§ 4301N.10 (2011 - 4301N.9) Confidentiality of information. Subsidiary/ affiliate credit card companies of banks/QBs shall keep strictly confidential the data on the cardholder or consumer, except under the following circumstances:

- a. disclosure of information is with the consent of the cardholder or consumer;
- b. release, submission or exchange of customer information with other FIs, credit information bureaus, credit card issuers, their subsidiaries and affiliates;
- c. upon orders of court of competent jurisdiction or any government office or agency authorized by law, or under such conditions as may be prescribed by the Monetary Board;
- d. disclosure to collection agencies, counsels and other agents of the bank or card company to enforce its rights against the cardholder;
- e. disclosure to third party service providers solely for the purpose of assisting or rendering services to the bank or card company in the administration of its credit card business; and
- f. disclosure to third parties such as insurance companies, solely for the purpose of insuring the bank from cardholder default or other credit loss, and the cardholder from fraud or unauthorized charges.

(As amended by Circular No. 754 dated 17 April 2012)

§ 4301N.11 (2011 - 4301N.10) Suspension, termination of effectivity and reactivation. Subsidiary/ affiliate credit card companies of banks/QBs shall formulate criteria or parameters for suspension, revocation and reactivation of the right to use the card and shall include in their contract with cardholders a provision authorizing the issuer to suspend or terminate its effectivity, if circumstances warrant.
(As amended by Circular no. 754 dated 17 April 2012)

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§ 4301N.12 (2011 - 4301N.11) *Inspection of records covering credit card transactions.* Subsidiary/affiliate credit card companies of banks/QBs shall make available for inspection or examination by the appropriate department of the SES complete and accurate files on card applicant/ cardholder to support the consideration for approval of the application and determination of the credit limit which shall be in accordance with the verified debt repayment ability and/or net worth of the card applicant/cardholder.

(As amended by Circular No. 754 dated 17 April 2012)

§ 4301N.13 (2011 - 4301N.12) *Offsets* For purposes of transparency and adequate disclosure, the credit card issuer shall inform/notify the credit cardholder in the agreement, contract or any equivalent document governing the issuance or use of the credit card that, pursuant to the provisions of Articles 1278 to 1290 of the New Civil Code of the Philippines, as amended, the use of his credit card will subject his deposit/s with the bank to offset against any amount/s due and payable on his credit card which have not been paid in accordance with the terms of the agreement/ contract.

(As amended by Circular No. 754 dated 17 April 2012)

§ 4301N.14 (2011 - 4301N.13) *Handling of complaints.* Subsidiary/affiliate credit card companies of banks/QBs shall give cardholders at least twenty (20) calendar days from statement date to examine charges posted in his/her statement of account and inform the credit card company in writing of any billing error or discrepancy. Within ten (10) calendar days from receipt of such written notice, the credit card company shall send a written acknowledgement to the cardholder unless the action required is taken within such ten (10)-day period.

Not later than two (2) billing cycles or two (2) months which in no case shall exceed ninety (90) days after receipt of the notice and prior to taking any action to collect the contested amount, or any part thereof, banks/subsidiary credit card companies shall make appropriate corrections in their records and/or send a written explanation or clarification to the cardholder after conducting an investigation. Nothing in this Subsection shall be construed to prohibit any action by the bank/subsidiary credit card company to collect any amount which has not been indicated by the cardholder to contain a billing error or apply against the credit limit of the cardholder the amount indicated to be in error.

(As amended by Circular No. 754 dated 17 April 2012)

§ 4301N.15 (2011 - 4301N.14) *Unfair collection practices.* Subsidiary/affiliate credit card companies of banks/QBs, collection agencies, counsels and other agents may resort to all reasonable and legally permissible means to collect amounts due them under the credit card agreement: *Provided*, That in the exercise of their rights and performance of duties, they must observe good faith and reasonable conduct and refrain from engaging in unscrupulous or untoward acts. Without limiting the general application of the foregoing, the following conduct is a violation of this Subsection:

- a. the use or threat of violence or other criminal means to harm the physical person, reputation, or property of any person;
- b. the use of obscenities, insults, or profane language which amount to a criminal act or offense under applicable laws;
- c. disclosure of the names of credit cardholders who allegedly refuse to pay debts, except as allowed under Subsec. 4301N.9;

d. threat to take any action that cannot legally be taken;

e. communicating or threat to communicate to any person credit information which is known to be false, including failure to communicate that a debt is being disputed;

f. any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a cardholder; and

g. making contact at unreasonable/inconvenient times or hours which shall be defined as contact before 6:00 A.M. or after 10:00 P.M., unless the account is past due for more than sixty (60) days or the cardholder has given express permission or said times are the only reasonable or convenient opportunities for contact.

NBFIs and their subsidiary/affiliate credit card companies shall inform their cardholder 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. NBFIs 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 No. 754 dated 17 April 2012 and 702 dated 15 December 2010)

§ 4301N.16 (2011 - 4301N.15)
Sanctions and penal provisions. Violations of the provisions of Subsecs. 4301N.1, 4301N.5, and 4301N.7 to 4301N.14 shall be subject to any or all of the following

sanctions depending upon their severity:

a. Disqualification of the NBFI concerned from the credit facilities of the Bangko Sentral except as may be allowed under Section 84 of R.A. No. 7653;

b. Prohibition on the NBFI 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. 4301N.2 to 4301N.4, 4301N.6 and 4301N.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)

§ 4301N.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, NBFIs 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 Nos. 812 dated 23 September 2013, 754 dated 17 April 2012 and 702 dated 15 December 2010)

Sec. 4302N Classification of Credit Card Receivables.

(Deleted by Circular No. 855 dated 29 October 2014)

Sec. 4303N Updating of Information Provided to Credit Information Bureaus.

FIs which have provided adverse information, such as the past due or litigation status of loan accounts, to credit information bureaus, or any organization performing similar functions, shall submit

monthly reports to these bureaus or organizations on the full payment or settlement of the previously reported accounts within five (5) business days from the end of the month when such full payment was received. For this purpose, it shall be the responsibility of the reporting FIs to ensure that their disclosure of any information about their borrowers/clients is with the consent of borrowers/clients concerned.

(Circular No. 589 dated 18 December 2007)

Secs. 4304N – 4310N (Reserved)

Sec. 4311N 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)

Sec. 4312N Grant of Loans and Other Credit Accommodations. In addition to the principles and standards provided under Section 4197N, 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)

§ 4312N.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 spurious or incorrect in 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 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, 622 dated 16 September 2008 and 549 dated 09 October 2006)

§ 4312N.2 Purpose of loans and other credit accommodations.

(Deleted by Circular No. 855 dated 29 October 2014)

§ 4312N.3 Prohibited use of loan proceeds. NBFIs are prohibited from requiring their borrowers to acquire shares of stock of the lending NBFI out of the loan or other credit accommodation proceeds from the same NBFI.

(Circular No. 622 dated 16 September 2008)

§ 4312N.4 Signatories. NBFIs shall require that loans and other credit accommodations be made under the signature of the principal borrower and, in the case of unsecured loans and other credit accommodations to an individual borrower, at least one (1) co-maker, except that a

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co-maker is not required when the principal borrower has the financial capacity and a good track record of paying his obligations.
(As amended by Circular No. 622 dated 16 September 2008)

§ 4312N.5 Sanctions

(Renumbered as 4312N.15 by Circular No. 702 dated 15 December 2010)

§ 4312N.6 *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*.

(Circular No. 855 dated 29 October 2014)

§§ 4312N.7 - 4312N.9 (Reserved)

§ 4312N.10 Minimum required disclosure. NBFIs 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 interest, 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: NBFIs 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)

§ 4312N.11 *Unfair collection practices.* NBFIs, 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. 4312N.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.

NBFIs 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 (1) 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. NBFIs 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)

§ 4312N.12 Confidentiality of Information. NBFIs 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 NBFIs 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 NBFI in the administration of its lending business; and

f. disclosure to third parties such as insurance companies, solely for the purpose of insuring the NBFI from borrower default or other credit loss, and the borrower from fraud or unauthorized charges.

§§ 4312N.13 - 4312N.14 (Reserved)

§ 4312N.15 Sanctions. Any violation of the provisions of Subsecs. 4312N.1 to 4312N.4 shall be subject to the sanctions provided under Sections 36 and 37 of R.A. No. 7653.

Violation of the provisions of Subsecs. 4312N.10 to 4312N.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 NBFI 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:*
 - i. Prohibition on the NBFI concerned from the extension of additional credit accommodation against personal security; and
 - ii. Penalties and sanctions provided under Sections 36 and 37 of R. A. No. 7653.
- (Circular No. 702 dated 15 December 2010)

Sec. 4313N Bank DOSRI Rules and Regulations Applicable to Government Borrowings in Government-Owned Or - Controlled Financial Institutions. The provisions of Secs. X326 to X337 of the Manual of Regulations for Banks (MORB), to the extent applicable, shall also apply to loans, other credit accommodations, and guarantees granted to the National

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Government or Republic of the Philippines, its political subdivisions and instrumentalities as well as GOCCs, subject to the following clarifications:

a. Loans, other credit accommodations, and guarantees to the Republic of the Philippines and/or its agencies/departments/bureaus shall be considered: (1) non-risk; and (2) not subject to any ceiling;

b. Loans, other credit accommodations, and/or guarantees to: (1) GOCCs; and (2) corporations where the Republic of the Philippines, its agencies/departments/bureaus, and/or GOCCs own at least twenty percent (20%) of the subscribed capital stock shall be considered indirect borrowings of the Republic of the Philippines and shall form part of the individual ceiling as well as the aggregate ceiling: *Provided*, That the following loans, other credit accommodations, and/or guarantees to GOCCs and corporations where the Republic of the Philippines, its agencies/departments/bureaus, and/or GOCCs own at least twenty percent (20%) of the subscribed capital stock, shall be excluded from the thirty percent (30%) ceiling on unsecured loans under Secs. X330 and X331 of the MORB:

(1) Loans, other credit accommodations, and/or guarantees for the purpose of undertaking priority infrastructure projects consistent with the Medium-Term Development Plan/Medium-Term Public Investment Program of the National Government, duly certified as such by the Secretary of Socio-Economic Planning;

(2) Loans, other credit accommodations, and/or guarantees granted to participating financial institutions (PFIs) in the lending programs of the government wherein the funds borrowed are intended for relending to other PFIs or end-user borrowers; and

(3) Loans, other credit accommodations, and/or guarantees granted for the purpose of providing (i) wholesale and retail loans

to the agricultural sector and MSMEs; and/or (ii) rediscounting and guarantee facilities for loans granted to the said sector or enterprises;

c. Loans, other credit accommodations, and/or guarantees granted to state universities and colleges (SUCs) shall be excluded from the thirty percent (30%) ceiling on unsecured loans under Secs. X330 and X331 of the MORB;

d. In view of the fiscal autonomy granted under R.A. No. 7653 and the independence prescribed under the Constitution, the 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/departments/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

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deliberation as well as in the determination of majority of the directors in cases of loans, other credit accommodations, and guarantees to the Republic of the Philippines and/or its agencies/departments/bureaus; and

h. A director of the lending institution shall be excluded in the deliberation as well as in the determination of majority of the directors in cases of loans, other credit accommodations, and guarantees to the borrowing government entity other than the Republic of the Philippines, its agencies, departments or bureaus where said director is also a director, officer or stockholder under existing DOSRI regulations.

(Circular No. 514 dated 06 March 2006 as amended by Circular Nos. 635 dated 10 November 2008, 616 dated 30 July 2008, and 580 dated 09 September 2007)

Sec. 4314N Loans Against Personal Security.

(Deleted by Circular No. 855 dated 29 October 2014)

Secs. 4315N- 4349N (Reserved)

Sec. 4350N Agricultural Value Chain Financing Framework; Statement of Policy¹.

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. 4179N. *(Circular No. 908 dated 14 March 2016)*

§ 4350N.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 N-14*; 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)

§ 4350N.2 Features of agricultural value chain financing program. Consistent with existing provisions on sound credit risk

¹ The following provisions in Subsecs. 4350N.1 to 4350N.3 covering the agricultural value chain financing framework shall be implemented in consonance with Sec. 4197N.

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 BSFIs 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

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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)

§ 4350N.3 *Regulatory incentives.* To encourage BSFIs to engage in agricultural value chain financing, the following incentives shall apply; provided, Subsec. 4350N.2 is 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 a period of three (3) years starting 02 April 2016¹, subject to review after said period.

(Circular No. 908 dated 14 March 2016)

Secs. 4351N- 4390N (Reserved)

Sec. 4391N Investments in Debt and Marketable Equity Securities. The classification, accounting procedures, valuation, sales and transfers of investments in debt securities and marketable equity securities shall be in accordance with the guidelines in *Appendices Q-20 and Q-20- a.*

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

a. Fines of P2,000/day to be imposed on NBFIs for each violation, reckoned from the date the violation was committed up to the date it was corrected; and

b. Sanctions to be imposed on concerned officers:

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

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

(Circular No. 476 dated 16 February 2005 as amended by Circular Nos. 628 dated 31 October 2008, 626 dated 23 October 2008 and 585 dated 15 October 2007)

¹ Effectivity date of Circular No. 908 dated 14 March 2016.

	<p>§§ 4392N - 4511N.1 15.12.31</p>
<p>Secs. 4392N - 4400N (Reserved)</p>	<p>regulations shall govern the registration and operations of foreign exchange dealers (FXDs)/money changers (MCs) and/or remittance agents:</p>
<p>Secs. 4401N - 4459N (Reserved)</p>	
<p>Sec. 4460N Personal Equity and Retirement Account (PERA) Market Participants and PERA Investment Products. The guidelines on the qualification/accreditation of PERA Market Participants and PERA Investment Products which are being 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) are provided in Sec. 4960Q. <i>(Circular No. 860 dated 28 November 2014, as amended by Circular No. 890 dated 02 November 2015)</i></p>	<p>§ 4511N.1 Registration. Qualified persons or non-bank institutions wishing to act as FXDs/MCs and/or remittance agents are required to register with the Bangko Sentral before they can operate as such.</p> <p>For this purpose, the term <i>money changers</i>, interchangeably referred to as <i>foreign exchange dealers</i>, shall refer to those regularly engaged in the business of buying and/or selling foreign currencies.</p> <p><i>Remittance agents</i>, on the other hand, shall refer to persons or entities that offer to remit, transfer or transmit money on behalf of any person to another person and/or entity. These include money or cash couriers, money transmission agents, remittance companies and the like.</p>
<p>Secs. 4461N - 4500N (Reserved)</p>	
<p>Secs. 4501N - 4510N (Reserved)</p>	
<p>Sec. 4511N Foreign Exchange Dealers/ Money Changers and/or Remittance Agents Operations. The following rules and</p>	

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§ 4511N.2 Application for registration

The application for a certificate of registration to act as FXD/MC and/or remittance agent, in the prescribed form (Item “A”, Appendix N-8), must be duly supported by the following documents:

a. Incorporation papers duly authenticated by the SEC (for corporation/partnership); or copy of the certificate of registration duly authenticated by the Department of Trade and Industry (DTI) (for single proprietorship);

b. Copy of business license/permit from the city or municipality having territorial jurisdiction over the place of establishment and operation;

c. List of stockholders/partners/proprietor/directors/principal officers as the case maybe;

d. Notarized Deed of Undertaking (Item “B”, Appendix N-8) to strictly comply with the requirements of all relevant laws, rules and regulations, signed either by the owner, partner, president or officer of equivalent rank; and

e. Any additional document which the BSP may require from time to time. FXDs/MCs and remittance agents existing prior to 12 May 2005 (effectivity date of Circular 471 dated 24 January 2005) may continue to operate as such: *Provided*, That an application for registration supported by documents mentioned above has been filed within ninety (90) calendar days from 12 May 2005.

A certificate of registration to act as FXD/MC or remittance agent shall be issued by the BSP and shall become the basis for an electronic registry of all BSP registered FXDs/MCs and remittance agents in the country.

§ 4511N.3 Applicability of other laws/regulations. FX dealers, money changers, and remittance agents are subject to the provisions of R.A. No. 7653, R.A. No. 9160

(Anti-Money Laundering Act of 2001), as amended, its IRR, and Part 8 of Q Regulations.

(As amended by Circular No. 706 dated 05 January 2011)

§ 4511N.4 Required seminar/training

Prior to the issuance of the certificate of registration, the officer(s) as well as the personnel directly involved in foreign exchange operations shall attend a seminar on the requirements of the Anti-Money Laundering Act (AMLA) particularly on customer identification, record keeping and reporting of covered and suspicious transactions, to be conducted by the AMLC or by any of its recognized or accredited service providers. The provisions of this Section shall also apply to officers appointed after the issuance of the certificate of registration.

The officer(s)-in-charge and the personnel who attended the required seminar shall echo the said training to all employees within thirty (30) calendar days from such attendance or as new employees are hired.

§ 4511N.5 Sale and purchase of foreign currencies by FXDs/MCs. The following minimum procedures shall be observed on sale and purchase of foreign currencies by FXDs/MCs:

a. Official receipts, in case of sales, and accountable forms in case of purchases, shall be issued in numerical order to evidence sale/purchase of foreign currencies;

b. The amount of foreign currencies sold shall be indicated in the official receipts both in words and in figures. The staff serving the particular transaction as well as the person buying/selling foreign currency shall sign in their usual signatures on the receipt;

c. A daily record of foreign exchange transactions shall be maintained where all foreign exchange sale and purchase

transactions shall be posted chronologically. The daily record shall be kept on file at the FXD/MC premises and shall be available for AMLC inspection/examination any time;

d. All copies of cancelled receipts shall be marked and stamped “CANCELLED” for internal control purposes; and

e. Foreign exchange transactions shall be conducted only at the entity’s principal place of business and other authorized branches.

§ 4511N.6 Application to sell/purchase foreign currencies by FXDs/MCs. FXDs/MCs shall require the seller or buyer of foreign currency to fill up and sign an application form, which shall contain the following minimum data and information:

- a. *For individual customers -*
- (1) Date;
 - (2) Printed name and signature of customer;
 - (3) Present address;
 - (4) Permanent address;
 - (5) Date and place of birth;
 - (6) Telephone number;
 - (7) Nationality;
 - (8) Amount and currency sold/purchased in words and figures; and
 - (9) Source of foreign currency/ies or purpose of purchase

b. *For corporate/juridical customers -* In addition to a signed application containing the applicable information in Item “a” above, photocopies of the following documents shall be required:

- (1) Articles of incorporation/partnership;
- (2) By-Laws;
- (3) Official address or principal business address;
- (4) List of directors/partners/principal stockholders; and

(5) Authority and identification of the person purporting to act in behalf of the client.

For subsequent transactions with the same corporate client, FXDs/MCs need not require submission of additional documents enumerated in Item “b” above unless there are changes thereto.

As a means of further identification, FXDs/MCs shall require the presentation of a government-issued identification document such as SSS/GSIS/voter’s ID, driver’s license or passport.

A sample of application to sell/purchase foreign currencies is shown in Item “C”, Appendix N-8.

§ 4511N.7 Additional requirement FXDs/MCs shall require an accomplished application form and submission/presentation of supporting documents listed in Item “D” of Appendix N-8 for the sale of foreign exchange in the amount exceeding US\$10,000 or its equivalent for non-trade current account purposes. For the sale of foreign exchange for all other purposes, FXDs/MCs shall require submission of an accomplished application form and supporting documents listed in Items “B”, “C” and “D” of Appendix N-8, regardless of the amount involved.

(As amended by Circular No. 652 dated 05 May 2009)

§ 4511N.8 Requirements for remittance agents. RAs shall maintain accurate and meaningful originator information on funds transferred/remitted by requiring the sender/remitter to fill up and sign an application form, which shall contain the following minimum data and information:

- a. *For individual customers -*
- (1) Date;
 - (2) Printed name and signature of remitter;
 - (3) Present address;

- (4) Permanent address;
- (5) Date and place of birth;
- (6) Telephone number;
- (7) Nationality;
- (8) Amount and currency to be remitted;
- (9) Source of foreign currency; and
- (10) Name of and relationship with beneficiary/ies.

b. *For corporate/juridical customers*
In addition to a signed application containing the applicable information in Item "a", a photocopy of the authority and identification of the person purporting to act in behalf of the client shall be required.

As a means of further identification, RAs shall require the presentation of a government-issued identification document such as SSS/GSIS/voter’s ID, driver’s license or passport.

For purposes of compliance with the requirements, an RA may rely on the referral of its office/correspondent bank abroad: *Provided*, That the RA maintains a record of such referral together with the minimum identification, information documents required under the law and its implementing rules and regulations.

§ 4511N.9 *Anti-Money Laundering Council Reportorial Requirements.* FXDs/MCs and RAs are required to submit to the AMLC a report on covered transactions and suspicious transactions in accordance with the applicable provisions of Part 8 of Q Regulations.
(As amended by Circular No. 706 dated 05 January 2011)

§ 4511N.10 - 4511N.14 (Reserved)

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§ 4511N.15 *Sanctions.* Monetary penalties and other sanctions for the following violations committed by erring FXDs/MCs and RAs may be imposed:

Nature of Violation/ Exception	Sanctions/Penalties
a. Operating without prior BSP registration	Applicable penalties under Section 36 of R.A. No. 7653; Watchlisting of partners/principal officers
b. Violation of any of the provisions of R.A. No. 9160, amended and its IRR	Applicable penalty prescribed under as the Act
c. Other violations of the provisions/ requirements in this Section	Penalties and sanctions which may be imposed by the AMLC

§ 4511N.16 *Industry association*
Membership in an existing association of BSP-registered FXDs/MCs as well as RAs is encouraged.

Secs. 4512N - 4600N (Reserved)

Sec. 4601N *Fines and Other Charges.* The following regulations shall govern imposition of monetary penalties on NBFIs, their directors and/or officers and the payment of such penalties or fines and other charges by these entities.
(Circular No. 585 dated 15 October 2007)

§ 4601N.1 *Guidelines on the imposition of monetary penalties; payment of penalties or fines.* The following are the guidelines on the imposition of monetary

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penalties on NBFIs, their directors and/or officers and the payment of such penalties or fines and other charges by these entities:

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

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

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

(3) *Continuing penalty* refers to the monetary penalty imposed on continuing

offenses/violations on a per calendar day basis reckoned from the time the offense/violation occurred or was committed until the same was corrected/rectified.

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

b. *Basis for the computation of the period or duration of penalty.* The computation of the period or duration of all penalties shall be based on calendar days. For this purpose the terms “per banking day”, “per business day”, “per day” and/or “a day” as used in this Manual, and other BSP rules and regulations shall mean “per calendar day” and/or “calendar day” as the case may be.

c. Additional charge for late payment of monetary penalty. Late payment of monetary penalty shall be subject to an additional charge of six percent (6%) per annum to be reckoned from the business day immediately following the day said penalty becomes due and payable up to the day of actual payment. The penalty approved by the Governor/MB to be imposed on the NBFIs, its directors and/or officers shall become due and payable fifteen (15) calendar days from receipt of the Statement of Account from the BSP. For banks which maintain DDA with the BSP, penalties which remain unpaid after the lapse of the

fifteen (15) day period shall be automatically debited against their corresponding DDA on the following business day without additional charge. If the balance of the concerned NBFI’s DDA is insufficient to cover the amount of the penalty, said penalty shall already be subject to an additional charge of six percent (6%) per annum to be reckoned from the business day immediately following the end of said fifteen (15)-day period up to the day of actual payment.

d. *Appeal or request for reconsideration*
 A one (1)-time appeal or request for reconsideration on the monetary penalty approved by the Governor/Monetary Board to be imposed on the NBFI, its directors and/ or officers shall be allowed: *Provided*, That the same is filed with the appropriate department of the SES within fifteen (15) calendar days from receipt of the Statement of Account billing letter. The appropriate department of the SES shall evaluate the appeal or request for reconsideration of the NBFI individual and make recommendations thereon within thirty (30) calendar days from receipt thereof. The appeal or request for reconsideration on the monetary penalty approved by the Governor/Monetary Board shall be elevated to the Monetary Board for resolution/decision. The running of the penalty period in case of continuing penalty and/or the period for computing additional charge shall be interrupted from the time the appeal or request for reconsideration was received by the appropriate department of the SES up to the time that the notice of the Monetary Board decision was received by the NBFI/ individual concerned.

(Circular No. 585 dated 15 October 2007, as amended by Circular No .662 dated 09 September 2009)

Sec. 4602N (Reserved)

Sec. 4603N **Non-Bank BSP Supervised Entities.** NBBSEs that may subsequently be authorized to engage in FX forwards and swaps as dealers shall be covered by the

provisions under Subsecs. 4625Q to 4625Q.9, and 4625Q.14.

(Circular No. 591 dated 27 December 2007)

Secs. 4604N - 4640N (Reserved)

Sec. 4641N **Electronic Services.** The guidelines concerning electronic activities as may be applicable, are found in Sec. 4701Q and its Subsections.

(Circular No. 649 dated 09 March 2009)

Sec. 4642N **Issuance and Operations of Electronic Money.** The following guidelines shall govern the issuance of electronic money (e-money) and the operations of electronic money issuers (EMIs).

(Circular No. 649 dated 09 March 2009)

§ 4642N.1 **Declaration of policy.** It is the policy of the BSP to foster the development of efficient and convenient retail payment and fund transfer mechanisms in the Philippines. The availability and acceptance of e-money as a retail payment medium will be promoted by providing the necessary safeguards and controls to mitigate the risks associated in an e-money business.

(Circular No. 649 dated 09 March 2009)

§ 4642N.2 **Definitions**

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

- a. electronically stored in an instrument or device;
- b. issued against receipt of funds of an amount not lesser in value than the monetary value issued;
- c. accepted as a means of payment by persons or entities other than the issuer;
- d. withdrawable in cash or cash equivalent; and
- e. issued in accordance with this Section.

Electronic money issuer shall be classified as follows:

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- a. Banks (hereinafter called EMI-Bank);
 - b. NBFI supervised by the BSP (hereinafter called EMI-NBFI); and
 - c. Non-bank institutions registered with the BSP as a money transfer agent under Section 4511N of the MORNBFI (hereinafter called EMI-Others).
- For purposes of this Section:
- a. *Electronic instruments or devices* shall mean cash cards e-wallets accessible via mobile phones or other access device, stored value cards, and other similar products.
 - b. E-money issued by NBFIs shall not be considered as deposits.
- (Circular No. 649 dated 09 March 2009)*

§ 4642N.3 Prior Bangko Sentral approval. NBFIs planning to be an EMI-NBFI shall comply with the requirements of Sec. 4641N and Sec. 4190N, when applicable.

NBFIs planning to be an EMI-Others shall register with the BSP as a money transfer agent in accordance with the provisions of Sec. 4511N. To qualify for registration, they have to comply with the following requirements:

- a. They must be a stock corporation with a minimum paid-up capital of P100 million;
- b. They shall engage only in the business of e-money and other activities related or incidental to the business of e-money, such as money transfer/remittance. An existing entity engaged in activities not related to the business of e-money but wishing to act as EMI-Others must do so through a separate entity duly incorporated exclusively for such purpose;
- c. They shall not engage in the extension of credit, unless they comply with the provisions of Subsec. 4633N.5;
- d. To further protect the e-money holders and ensure that e-money redemptions are adequately met at all times,

the entity should have sufficient liquid assets equal to the amount of outstanding e-money issued. The liquid assets should remain unencumbered and may take any of the following forms:

- (1) bank deposits separately maintained for liquidity purposes;
- (2) government securities set aside for the purpose; and
- (3) such other liquid assets as the BSP may allow.

Records pertaining to the above liquid assets shall be made available for inspection by BSP at any time and the confidentiality of bank deposits and government securities shall be waived.

e. The BSP shall be allowed access to review the e-money systems and databases of the entity. Whenever the circumstances warrant, such access shall extend to the agents, partners, service providers or outsourced entities of the EMI-Others in view of their participation in the e-money business; and

f. EMI-Others shall submit to the SDC, its AFS within thirty (30) days from date of report of its external auditors.

In case the NBFI is already registered with the BSP as a money transfer agent, it is required to meet the additional requirements mentioned above to qualify as EMI-Others.

(Circular No. 649 dated 09 March 2009)

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

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

e-money holders, and the individual and consolidated balances thereof. The system must have the capability to monitor the movement of e-money transactions and link e-money instruments issued to common e-money holders. The susceptibility of a system to intentional or unintentional misreporting of transaction and balances shall be sufficient ground for imposition by the Bangko Sentral 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. EMLs shall not ensure that e-money instruments clearly identify the issuer who is ultimately responsible to the e-money holders. This shall be communicated to the client who shall acknowledge the same in writing.

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

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

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

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

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

(3) Other changes or enhancements.
(Circular No. 649 dated 09 March 2009)

§ 4642N.5 *Quasi-bank license requirement.* EMI-NBFIs and EMI-Others that engage in lending activities must secure a quasi-banking license from the Bangko Sentral. *(Circular No. 649 dated 09 March 2009)*

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

Nature of Violation/Exception	Sanction/Penalties
1. Issuing e-money without prior Bangko Sentral 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 Bangko Sentral action or imposition of sanctions, whenever applicable. *(Circular No. 649 dated 09 March 2009)*

§ 4642N.7 *Transitory provisions.* An EMI-NBFI and EMI-Other granted an authority to issue e-money prior to 26 March 2009 may continue to exercise such authority: *Provided*, That it shall submit to the Bangko Sentral, within one (1) month from the 26 March 2009 a certification

signed by the President or Officer with equivalent rank and function that it is in compliance with all the applicable requirements of this Section. Otherwise, they are required to submit within the same period the measures they will undertake, with the corresponding timelines, to conform to the provisions that they have not complied with subject to Bangko Sentral approval. *(Circular No. 649 dated 09 March 2009)*

§§ 4642N.8 - 4642N.10 *(Reserved)*

§ 4642N.11 *Outsourcing of services by Electronic Money Issuers (EMIs) to Electronic Money Network Service Providers (EMNSP).* The guidelines on outsourcing of services by EMIs to EMNSP are shown in *Appendix Q-55*.

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 sanction 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-55* within a six (6)-month period from 20 January 2011. *(Circular 704 dated 22 December 2010)*

Secs. 4643N - 4649N *(Reserved)*

Sec. 4650N *Philippine and Foreign Currency Notes and Coins.* The rules and regulations that 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 are provided in Section 4950Q.
(Circular No. 829 dated 13 March 2014, M-2009-021 dated 16 June 2009, as amended by Circular No. 890 dated 02 November 2015)

Secs. 4651N - 4652N (Reserved)

Sec. 4653N Accounting for Financial Institution Premises; Other Fixed Assets. FI premises, furniture, fixture and equipment shall be accounted for using the cost model under PAS 16 “Property, Plant and Equipment.”
(Circular No. 494 dated 20 September 2004)

Secs. 4654N - 4659N (Reserved)

Sec. 4660N Disclosure of Remittance Charges and Other Relevant Information. It is the policy of the Bangko Sental 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 Bangko Sentral 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 Bangko Sentral reference/guiding rate and the exchange conversion rate;
- d. *Other currency conversion charges* - commissions or service fees, if any;
- e. *Other related charges* - e.g., surcharges, postage, text message or telegram;
- f. *Amount/currency paid out in the recipient country* - exact amount of money the recipient should receive in local currency or foreign currency; and
- g. *Delivery time to recipients/beneficiaries* - delivery period of remittance to beneficiary stated in number of days, hours or minutes.

Non-bank remittance service providers shall likewise post said information in their respective websites and display them prominently in conspicuous places within their premises and/or remittance/service centers.
(Circular No. 534 dated 26 June 2006)

Secs. 4661N - 4694N (Reserved)

Sec. 4695N Valid Identification Cards for Financial Transactions. The provisions of Part 8 of the Q Regulations on valid identification documents shall apply to all types of financial ransactions by NBFIs, including financial transactions involving OFWs.
(Circular No. 564 dated 03 April 2007, as amended by Circular Nos. 792 dated 03 May 2013, 706 dated 05 January 2011, 657 dated 16 June 2009 and 608 dated 20 May 2008)

Secs. 4696N - 4698N (Reserved)

Sec. 4699N General Provision on Sanctions. Any violation of the preceding provisions shall be subject to Section 36 of R.A. No. 7653.

Secs. 4700N (Reserved)

A. CONSUMER PROTECTION
OVERSIGHT FUNCTION

Section 4701N 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)

§4701N.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)

§4701N.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

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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 dsted 02 November 2015)

**B. CONSUMER PROTECTION
STANDARDS OF CONDUCT FOR BSFIS**

Sec. 4702N 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)

§4702N.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. 4301N.6;

(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

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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)

§4702N.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

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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)

§4702N.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.

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(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 period¹

(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

¹ The effectivity of the cooling-off provisions shall be deferred to 16 January 2016.

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 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

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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 Nos. 898 dated 14 January 2016 and 890 dated 02 November 2015)

§4702N.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 N-12* 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)

§4702N.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

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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. 4703N 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. 4704N- 4799N (Reserved)

Secs. 4800N - 4900N (Reserved)

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TRUST CORPORATION
(Stand-Alone Trust)

Sections 4901N - 4999N (Reserved)
(Superseded by Circular No. 884 dated 22 July 2015)

LIST OF REPORTS REQUIRED FROM NON-BANK FINANCIAL INSTITUTIONS
(Appendix to Sec. 4162N)

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-1		4162N (Cir. No. 708 dated 01.10.11)	Report on Financial Assets Designated/ Mandatorily Measured at Fair Value Through Profit or Loss	Monthly	15 business days after end of reference month	SDC
A-1		4162N (Cir. No. 708 dated 01.10.11)	Reports Relative to the Initial Adoption of PFRS 9	One-time	15 business days after end of calendar/fiscal year from the date of initial application of PFRS 9	-do-
			Supplementary Report on Early Adoption of PFRS 9	Monthly	15 business days after end of reference month	
A-2	BSP-7-26-02-A	4162N (M-008 dated 02.14.08 and Cir. No. 880 dated 05.22.15, Cir. 883 dated 07.10.15, M-28 dated 07.31.15, M-29 dated 09.14.15, M-30 dated 09.14.15, M-31 dated 09.14.15, M-32 dated 09.14.15 and M-33 dated 09.14.15)	Consolidated Statement of Condition (CSOC)	-do-	15 business days after end of reference month	Email to SDC @ sdcnbfi@bsp.gov.ph
	BSP-7-26-03B		Consolidated Statement of Income and Expenses (CSIE)	-do-	-do-	-do-
			Control Prooflist	-do-	-do-	SDC

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-2	BSP-7-26-02 Schedule 1 (IHs only)	4162N (Cir. No. 883 dated 07.10.15)	Schedule of Loans/Receivables, Trading Account Securities (TAS) - Loans and Underwritten Debt Securities	-do-	-do-	Original – Appropriate department of the SES Duplicate to SDC or e-mail Separate report for Head Office and each Branch; and a Consolidated report for Head Office and Branches
A-2	BSP-7-26-02 Schedule 1	4162N	Schedule of Loans/Receivables and Trading Account Securities - Loans	Monthly	15th business days from end of reference month	Original – Appropriate department of the SES Duplicate - SDC or e-mail Separate report for Head Office and each Branch; and a Consolidated Report for Head Office and Branches
A-2	BSP-7-26-02 Schedule 2 (FCs only)	4162N	Schedule of Trading Account Securities - Investments, Available for Sale Securities and Investment in Bonds and Other Debt Instruments (IBODI)	-do-	-do-	-do-
A-2	BSP-7-26-02 Schedule 3	4162N	Interest Rates and Maturities Matching	-do-	-do-	-do-
A-2	BSP-7-26-02 Schedule 4	4162N	Remaining Maturities of Selected Accounts	-do-	-do-	Original - Appropriate department of the SES Duplicate - SDC or e-mail

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<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-2	BSP-7-26-02 Schedule 5	4162N	Schedule of Bills Payables and Bonds	-do-	-do-	Original – Appropriate department of the SES Duplicate – SDC or e-mail
A-2	BSP-7-26-02 Schedule 6 (FCs only)	4162N	Data on Firm's Businesses	-do-	-do-	Original – Appropriate department of the SES Duplicate – SDC or e-mail
A-2	BSP-7-26-03	4162N	Statement of Income and Expenses	-do-	-do-	-do-
A-2	BSP-7-26-24	4162N (Rev. Aug. 2003 per CL dated 08.06.03)	Credit and Equity Exposures to Individuals/Companies/Groups Aggregating ₱ 1.0 Million and above	Quarterly	15th business day from end of reference quarter	Electronic submission/ diskette - SDC Fax to SDC
A-2	Unnumbered (no prescribed form) (Entities with Trust/Fund Management Only)	4101N	Report on required and available reserves on Peso-denominated Common Trust Funds (CTFs), such other managed peso funds and TOFA-Others	Weekly	3rd business day following reference week	Original - Appropriate department of the SES Duplicate - SDC or cc:mail/electronic transmission
A-2	Unnumbered	4101N (Rev. May 2002 as amended by Cir. No. 612 dated 06.03.08)	Report on Suspicious Transactions	As transaction occurs	10th business day from date of transaction/knowledge	Original and duplicate - Anti-Money Laundering Council (AMLC)
			Report on Covered Transactions	As transaction occurs	10th business day from date of transaction/knowledge	-do-

[illegible]

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-3	Unnumbered	4162N (CL-2007-050 dated 10.04.07 and CL-2007-059 dated 11.28.07)	Report on Borrowings of Bangko Sentral Personnel	Quarterly	15th business day after end of reference quarter	Original to SDC
A-3	Unnumbered	4301N.16 (Cir. No. 812 dated 09.23.13, M-060 dated 12.10.13 and M-002 dated 03.10.16)	Credit Card Business Activity Report	Quarterly	15th banking day of reference quarter	sdccbar@bsp.gov.ph
B	SES II Form 15 (NP08-TB)	4145N (Cir. Nos. 758 dated 05.11.12, M-2008-024 dated 07.31.08 and 887 dated 10.07.15)	Biographical data of Directors/Officers with ID picture - If submitted in CD form - Notarized first page of each of the directors'/officers' Biographical Data saved in CD and control prooflist - If sent by electronic mail - Notarized first page of Biographical 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 or residential address occurs	20th business day from date of election of the directors/meeting of the board of directors in which the officers are appointed/promoted 20th business day from date the change of name or residential address occurred	Hard copy to appropriate department of the SES
B		4145N (Cir. Nos. 758 dated 05.11.12 and 887 dated 10.07.15)	Duly accomplished and notarized authorization form for querying the Bangko Sentral watchlist files	Upon election or appointment/promotion as first time director/officer within an FI	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

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
B	Unnumbered	4145N (Circular No. 758 dated 05.11.12 and Cir. No. 887 dated 10.07.15)	List of Members of the Board of Directors and Officers	Annually	20th business day from annual election of the board of directors	Appropriate department of the SES
B	Unnumbered	4162N	Board Resolution on NBFIs signatories of reports submitted to Bangko Sentral	As authorized	3rd business day from date of resolution	
B			General Information Sheet	Annually	30th business day from annual stockholders' meeting	Drop Box - SEC Central Receiving Section Duplicate – Bangko Sentral
B	Forms I and II Schedules 1 to 3	M-031 dated 09.11.09 and Cir. No. 649 dated 03.09.09	Report on Electronic Money Transactions Quarterly Statement of E-Money Balances and Activity - Volume and Amount of E-Money Transactions Quarterly Statement of Liquidity Cover Schedules 1 - E-Money Balances 2 - Bank Deposits 3 - Government Securities and Others	Quarterly	15th business day after end of reference quarter	e-mail -sdcothers-emoney@bsp.gov.ph hard copy -SDC
	Unnumbered	4196N.8 (Cir. No. 808 dated 08.22.13)	IT Risk Profile Report	Annually	25 calendar days after end of reference year	e-mail at sdcnbf- itprofile@bsp.gov.ph

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

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

Category B reports shall be signed by officers or their alternates, who shall be duly designated in a resolution approved by the board of directors in the format as prescribed in Annex N-2-b.

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

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY A-2 REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4162N.1 that Category A-2 reports of head offices be signed by the president, executive vice-presidents, vice-presidents or officers holding equivalent positions, and that such reports of other offices be signed by the respective managers/officers-in-charge;

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

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

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

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

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

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

Done in the City of _____, Philippines, this _____ day of _____, 20__ .

CHAIRMAN OF THE BOARD

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

ATTESTED BY:

CORPORATE SECRETARY

FORMAT OF RESOLUTION FOR SIGNATORIES OF CATEGORY B REPORTS

Resolution No. _____

Whereas, it is required under Subsec. 4162N.1 that Category B reports be signed by officers or their alternates;

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

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

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

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

	Name of Authorized Signatory/Alternate	Specimen Signature	Position Title	Report No.
1. Authorized (Alternate)	_____	_____	_____	_____
2. Authorized (Alternate)	_____	_____	_____	_____
etc.	_____	_____	_____	_____

are hereby authorized to sign the Category B reports of _____.
(Name of Institution)

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

CHAIRMAN OF THE BOARD

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

ATTESTED BY:

CORPORATE SECRETARY

ANTI-MONEY LAUNDERING REGULATIONS
(Appendix to Section 4104N)

(Deleted pursuant to Circular No. 706 date 05 January 2011)

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Annex N-3-a

**CERTIFICATION OF COMPLIANCE WITH
ANTI-MONEY LAUNDERING REGULATIONS**

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

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Annex N-3-b

AMLC Resolution No. 292

**RULES ON SUBMISSION OF COVERED TRANSACTION REPORTS AND
SUSPICIOUS TRANSACTION REPORTS BY COVERED INSTITUTIONS**

(Deleted pursuant to Circular No. 706 dated 05 January 2011)

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**REVISED IMPLEMENTING RULES AND REGULATIONS
R.A. NO. 9160, AS AMENDED BY R.A. NO. 9194
(Appendix to Sec. 4104N)**

(Deleted by Circular No. 706 dated 05 January 2011)

**GUIDELINES TO GOVERN THE SELECTION, APPOINTMENT, REPORTING
REQUIREMENTS AND DELISTING OF EXTERNAL AUDITORS AND/OR
AUDITING FIRM OF COVERED ENTITIES**
(Appendix to Secs. 4180N and 4190N)

Pursuant to Section 58 of the Republic Act No. 8791, otherwise known as "The General Banking Law of 2000", and the existing provisions of the executed Memorandum of Agreement (hereinafter referred to as the MOA) dated 12 August 2009, binding the Bangko Sentral ng Pilipinas (BSP), Securities and Exchange Commission (SEC), Professional Regulation Commission (IC) - Board of Accountancy (BOA) and the Insurance Commission (IC) for a simplified and synchronized accreditation requirements for external auditor and/or auditing firm, the Monetary Board, in its Resolution No. 950 dated 02 July 2009, approved the following revised rules and regulations that shall govern the selection and delisting by the BSP of covered institution which under special laws are subject to BSP supervision.

A. STATEMENT OF POLICY

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

B. COVERED ENTITIES

The proposed amendment shall apply to the following supervised institution, as categorized below, and their external auditors:

1. *Category A*
 - a. UBs/KBs;
 - b. Foreign banks and branches or subsidiaries of foreign banks, regardless of unimpaired capital; and
 - c. Banks, trust department of qualified banks and other trust entities with additional derivatives authority, pursuant to Sec. X611 regardless of classification, category and capital position.
2. *Category B*
 - a. TBs;
 - b. QBs;
 - c. Trust department of qualified banks and other trust entities;
 - d. National Coop Banks; and
 - e. NBFIs with quasi-banking functions.
3. *Category C*
 - a. RBs;
 - b. NSSLAs;
 - c. Local Coop Banks; and
 - d. Pawnshops.

The above categories include their subsidiaries and affiliates engaged in allied activities and other FIs which are subject to BSP risk-based and consolidated supervision: *Provided*, That an external auditor who has been selected by the BSP to audit covered entities under *Category A* is automatically qualified 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,

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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

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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;

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(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 "1.2.g" above, if:

(1) There have been established in and for that firm procedures, and a system for applying such procedures, that comply with applicable rules of BSP and that would reasonably be expected to prevent and detect any such violation by such associated person; and

(2) Such person or auditor has reasonably discharged the duties and obligations incumbent upon that person by reason of such procedures and system, and had no reasonable cause to believe that such procedures and system were not being complied with.

f. The BSP shall discipline any selected external auditor that is suspended or delisted from being associated with any selected auditing firm, or for any selected auditing firm that knew, or in the exercise or reasonable care should have known, of the suspension or delisting of any selected external auditor, to permit such association, without the consent of the Monetary Board.

g. The BSP shall discipline any covered institution that knew or in the exercise of reasonable care should have known, of the suspension or delisting of its external auditor or auditing firm, without the consent of the Monetary Board.

h. The BSP shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the duration of stay of any such disciplinary action pending review of any disciplinary action of the BSP under this Section.

J. SPECIFIC REVIEW

When warranted by supervisory concern, the Monetary Board may, at the expense of the covered institution require the external auditor and/or auditing firm to undertake a specific review of a particular aspect of the operations of these institutions. The report shall be submitted to the BSP and the audited institution simultaneously, within thirty (30) calendar days after the conclusion of said review.

K. AUDIT BY THE BOARD OF DIRECTORS

Pursuant to Section 58 of RA. No. 8791, otherwise known as “The General Banking Law of 2000” the Monetary Board may also direct the board of directors of a covered institution or the individual members thereof, to conduct, either personally or by a committee created by the board, an annual balance sheet audit of the covered institution to review the internal audit and the internal control system of the concerned entity and to submit a report of such audit to the Monetary Board within thirty (30) calendar days after the conclusion thereof.

L. AUDIT ENGAGEMENT

Covered institutions shall submit the audit engagement contract between them, their subsidiaries and affiliates and the external auditor/auditing firm to the appropriate department of the SES within fifteen (15) calendar days from signing thereof. Said contract shall include the following provisions:

- 1. That the covered institution shall be responsible for keeping the auditor fully informed of existing and subsequent changes to prudential regulatory and statutory requirements of the BSP and that both parties shall comply with said requirements;
- 2. That disclosure of information by the external auditor/auditing firm to the BSP as required under Items “H” and “J” hereof, shall be allowed; and
- 3. That both parties shall comply with all the requirements under this Appendix.

(As amended by Circular No. 660 dated 25 August 2009)

**QUALIFICATION REQUIREMENTS
FOR A BANK/NON-BANK FINANCIAL INSTITUTION APPLYING FOR
ACCREDITATION TO ACT AS TRUSTEE ON ANY MORTGAGE OR BOND
ISSUED BY ANY MUNICIPALITY, GOVERNMENT-OWNED OR
CONTROLLED CORPORATION, OR ANY BODY POLITIC
(Appendix to Subsec. 4109N.16)**

A bank/NBFI applying for accreditation to act as trustee on any mortgage or bond issued by any municipality, government-owned or controlled corporation, or any body politic must comply with the following requirements:		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;	
a. It must be a bank or NBFI under BSP supervision;		f. The by-laws of the institution shall include among others, provisions on the following:	
b. It must have a license to engage in trust and other fiduciary business;		(1) The organization plan or structure of the department, office or unit which shall conduct the trust and other fiduciary business of the institution;	
c. It must have complied with the minimum capital accounts required under existing regulations, as follows:		(2) The creation of a trust committee, the appointment of a trust officer and subordinate officers of the trust department; and	
UBs and KBs	The amount required under existing regulations or such amount as may be required by the Monetary Board in the future	(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.	
Branches of Foreign Banks	The amount required under existing regulations	g. The bank's operation during the preceding calendar year and for the period immediately preceding the date of application has been profitable;	
Thrift Banks	P650.0 million or such amounts as may be required by the Monetary Board in the future	h. It has not incurred net weekly reserve deficiencies during the eight (8) weeks period immediately preceding the date of application;	
NBFIs	Adjusted capital of at least P300.0 million or such amount as may be required by the Monetary Board in the future.	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:	
d. Its risk-based capital adequacy ratio is not lower than twelve percent (12%) at the time of filing the application;		(1) election of at least two (2) independent directors;	
e. The articles of incorporation or governing charter of the institution shall		(2) attendance by every member of the board of directors in a special seminar for board of directors conducted or accredited by the BSP;	

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- (3) the ceilings on credit accommodations to DOSRI;
- (4) liquidity floor requirements for government deposits;
- (5) single borrower’s loan limit; and
- (6) investment in bank premises and other fixed assets.
- j. It maintains adequate provisions for probable losses commensurate to the quality of its assets portfolio but not lower than the required valuation reserves as determined by the BSP;
- k. It does not have float items outstanding for more than sixty (60) calendar days in the “Due From/To Head Office/Branches/Other Offices” accounts and the “Due from Bangko Sentral” account exceeding one percent (1%) of the total resources as of date of application;

- l. It has established a risk management system appropriate to its operations characterized by clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system;
 - m. It has a CAMELS Composite Rating of at least "3" in the last regular examination with management rating of not lower than "3"; and
 - n. It is a member of the PDIC in good standing (for banks only).
- Compliance with the foregoing as well as with other requirements under existing regulations shall be maintained up to the time the trust license is granted. A bank that fails in this respect shall be required to show compliance for another test period of the same duration.

FORMAT CERTIFICATION
[Appendix to Subsec. 4211N.2]

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

REGISTRATION AND OPERATIONS OF FOREIGN EXCHANGE DEALERS/
MONEY CHANGERS AND REMITTANCE AGENTS
(Appendix to Sec. 4511N)

A. Application for Registration

Name of Applicant

Address

Telephone No./Fax No.

Date

Bangko Sentral ng Pilipinas
A. Mabini St., Malate, Manila

Gentlemen:

We hereby apply for authority to act as foreign exchange dealer/money changer or remittance agent. We are currently engaged in this business since _____ (if applicable).

In support of this application, we submit the following documents:

- Incorporation papers duly authenticated by the Securities and Exchange Commission (for corporation or partnership);
- Copy of the Certificate of Registration with the Department of Trade and Industry (for single proprietorship);
- Copy of business license/permit from the city or municipality having territorial jurisdiction over the place of establishment and operation;
- List of stockholders/partners/proprietor/directors/principal officers as the case maybe;
- Notarized Deed of Undertaking to strictly comply with the requirements of all relevant laws, rules and regulations, signed by the owner, partner, president or officer of equivalent rank.

Very truly yours,

(Signature of authorized officer over printed name)

Designation

B. Deed of Undertaking

Name of Applicant

Address

Telephone No./Fax No.

DEED OF UNDERTAKING

I, (name and designation), of legal age and under oath, declare the following:

1. That I have been duly authorized by (name of institution) and its Board of Directors/ Partners/Owners to bind (name of institution) to strictly comply with all the requirements, rules and regulations of the Bangko Sentral ng Pilipinas regarding the registration and operations of foreign exchange dealers/money changers/remittance agents as well as the provisions of the Anti-Money Laundering Act of 2001 (R.A. No. 9160, as amended by R.A. No. 9194) and its implementing rules and regulations.
2. That I certify that (name of institution) undertakes to strictly comply with all the requirements, rules and regulations of the Bangko Sentral ng Pilipinas regarding the licensing and operations of foreign exchange dealers/money changers/remittance agents as well as with all the provisions of the Anti-Money Laundering Act of 2001 (R.A. No. 9160) and its implementing rules and regulations.
3. That I certify that (name of institution), through and with full knowledge and agreement of its Board of Directors/Partners/Owners, understands and accepts that in case of violations of any of the aforementioned laws, rules and regulations, (name of institution) and its Board of Directors/Partners/Owners/Stockholders/Officers/employees responsible for such violation/s shall be subject to the administrative sanctions prescribed under Section 36 of R.A. No. 7653, otherwise known as the “New Central Bank Act” and other applicable laws, rules and regulations.

(Signature over printed name)

Designation

Subscribed and sworn to before me this ____ of _____, 20 ____, affiant exhibiting to me his/her Community Tax Certificate No. _____ issued at _____ on _____.

NOTARY PUBLIC

C. Application to Sell/Purchase Foreign Currency

Name of Foreign Exchange Dealer/Money Changer/Remittance Agent

Address

APPLICATION TO SELL/PURCHASE FOREIGN CURRENCY

1. Date : _____
2. Printed Name of Customer : _____
3. Signature : _____
4. Present Address : _____
5. Date and Place of Birth : _____
6. Telephone Number : _____
7. Nationality : _____
8. Currency Sold/Purchased : US Dollar _____ Others (specify)
9. Amount Sold/Purchased : In figures _____
In words _____
10. Source of Foreign Currency : _____

- _____ OFW/Balikbayan/Returning Resident
- _____ Tourist
- _____ Expatriate based in the Philippines
- _____ Foreign Currency Deposit Account
- _____ Holder
- _____ Domestic Resident – Excess Travel
- _____ Funds
- _____ Others (please specify)

11. Purpose of Purchase : _____

D. Minimum Documentary Requirements for the Sale of Foreign Currencies

A. Sale of foreign exchange for non-trade current account purposes exceeding USD10,000	
Purposes	Documents Required (All originals except as indicated)
1. Foreign travel funds	Applicant's passport and passenger ticket
2. Educational expenses/student maintenace abroad	Photocopy of proof of enrolment with, or billing statement from, school abroad
3. Correspondence studies	Photocopy of proof of enrolment with, or billing statement from, school abroad
4. Medical Expenses	Photocopy of billing statement (for services rendered/expenses incurred abroad) or certification issued by doctor/hospital abroad indicating cost estimate (on the treatment to be administered)
5. Emigrants' assets (including inheritance, legacies, and income from properties)	<div>a. Photocopies of:<div><div>i. Emigrant's visa or proof of residence of emigrant abroad</div><div>ii. Notarized Deed of Sale covering assets (e.g., real estate, vehicles, machineries/equipment, etc.) and;</div><div>iii. Proof of income received from properties in the Philippines.</div></div><div>b. In the absence of the emigrant, a notarized Special Power of Attorney (SPA) for emigrant's representative/ agent. If SPA was executed abroad, original of SPA authenticated by Philippine consulate abroad.</div></div>
6. Salary/bonus/dividend/other benefits of foreign expatriates (including peso savings)	<div>a. Employment contract/Certification of employer on the amount of compensation paid to the foreign national during the validity of the contract stating whether the same had been paid in foreign exchange or in pesos, and if in foreign exchange, proof that the foreign exchange was previously sold for pesos to AABs;</div> <div>b. ACR I-Card and DOLE Alien Employment Permit of the foreign national;</div>

Purposes	Documents Required (All originals except as indicated)
	<div><div>c. Applicant's notarized certification that the FX remitted is net of local expenses incurred or net of previous transfers abroad; and</div><div>d. If amount to be remitted comes from sources other than salaries, information regarding the sources supported by appropriate documents should be submitted.</div></div>
7. Foreign nationals' income taxes due to foreign governments	<div><div>a. ACR-I Card and DOLE Alien Employment Permit; and</div><div>b. Photocopy of income tax return covering the income tax payment sought to be remitted.</div></div>
8. Sales proceeds of domestic assets by foreign expatriates	<div><div>a. ACR I-Card; and</div><div>b. Photocopy of proof of sale of asset/s.</div></div>
9. Producers' share in movie revenue/TV film rentals	<div><div>1. Statement of remittable share rental or rental; and</div><div>2. Copy of contract/agreement.</div></div>
10. Commissions on exports due foreign agents	<div><div>a. Billing statement from non-resident agent; and</div><div>b. Photocopy of contract/agreement.</div></div>
11. Freight charges on exports/imports	<div><div>a. Billing statement; and</div><div>b. Photocopy of contract/agreement.</div></div>
12. Charters and leases of vessels/aircrafts	<div><div>a. Billing statement from non-resident lessor/owner of vessel/aircraft; and</div><div>b. Photocopy of contract/agreement.</div></div>
13. Port disbursements abroad for aircraft and vessels of Philippine registry or chartered by domestic operators and salvage fees	<div><div>a. Billing statement; and</div><div>b. Photocopy of contract/agreement.</div></div>
14. Satellite and other telecommunication services	<div><div>a. Billing Statement; and</div><div>b. Photocopy of contract/agreement.</div></div>
15. Other services such as advertising, consultancy, IT, fees for other professional services	<div><div>a. Billing statement; and</div><div>b. Photocopy of contract/agreement.</div></div>

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Purposes	Documents Required (All originals except as indicated)
16. Share in head office expenses (including reimbursements)	a. Audited schedules of allocation of expenses for the periods covered; b. Certification from the head office that the share in head office expenses remain unpaid and outstanding; and c. Audited financial statements of the Philippine branch.
17. Insurance/Reinsurance premium due to foreign insurance companies	Billings/Invoices of insurance companies/brokers abroad.
18. Claims against domestic insurance companies by brokers abroad	Billings/Invoices from foreign insurer/reinsurer.
19. Net Peso revenues of foreign airlines/shipping companies	a. Statement of Net Peso Revenues (Peso revenues less expenses) certified by authorized officer of airline/shipping company; and b. Photocopy of contract/agreement.
20. Royalty/Copyright/Franchise/Patent/Licensing fees	a. Statement/Computation of the royalty/copyright/franchise/patent/licensing fee; and b. Photocopy of contract/agreement.
21. Net peso revenues of embassies/consulates of foreign countries	Statement of net peso revenues (Peso revenues less expenses) certified by the Embassy's/Consulate's authorized officer.
22. FX obligations of Philippine credit card companies to international credit card companies/non-resident merchants	Summary billings
23. Support of dependents abroad	a. Consular certificate or its equivalent documents to prove that the dependent is permanently residing abroad not earlier than one (1) year from FX application date; and b. Certified true copy of birth certificate, marriage contract, adoption papers, whichever is applicable.

Purposes	Documents Required (All originals except as indicated)
24. Subscriptions to foreign magazines or periodicals	a. Billing statement
25. Membership dues and registration fees to associations abroad	a. Proof of membership; and b. Billing statement
26. Mail fees	a. Copy of contract or agreement; and b. Billing statement

B. Sale of foreign exchange for payment of foreign/foreign currency loans, regardless of amount	
Purposes	Documents Required (All originals except as indicated)
Foreign/foreign currency loan payments	Billing statement from creditor. Amounts that may be purchased shall be limited to maturing amounts on scheduled due dates. Remittance of FX purchased shall coincide with the due dates of the obligations to be serviced. FX-selling entity shall stamp "FX SOLD", date of sale and the amount/s sold on the original billing statement.
Payments related to guarantees and similar arrangements including risk take over arrangements Resulting FX liabilities arising from guarantees and similar arrangements including Risk Take Over Arrangements (RTO) not involving foreign/FCDU loans	Copies of: a. Arrangements/contracts covered by the guarantee/similar arrangement; b. Standby Letter of Credit (SLC) or guarantee contract/agreement; c. Proof/notice of original obligor's default and creditor's call on the guarantee; and d. Billing statement from the non-resident or local bank guarantor
Payments related to Build-Operate-Transfer and similar financing schemes with transfer arrangements	

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Purposes	Documents Required (All originals except as indicated)
Regular Fees	Copies of: a. Covering arrangements/contracts; and b. Billing statement from private sector project company/proponent

C. Sale of foreign exchange for capital repatriation/remittance of dividends/profits/earnings, outward investments and residents' investments in foreign currency-denominated bonds/ notes issued by the Republic of the Philippines and other Philippine entities, regardless of amount	
Purposes	Documents Required (All originals except as indicated)
1. Capital repatriation of: a. Portfolio investments in: i. PSE-listed securities ii. Peso government securities iii. Money market instruments (MMI) iv. Peso bank deposits b. Foreign direct equity investments	Broker's sales invoice Confirmation of purchase for peso government securities Matured contract for MMI Proof of withdrawal of deposit or matured certificate of deposit, as applicable a. Photocopy of proof of sale or relevant documents showing the amount to be repatriated; in case of dissolution/ capital reduction, proof of distribution of funds/assets such as statement of net assets in liquidation; b. Detailed computation of the amount applied for in the attached format (Attachment 2) prepared by the selling stockholder's representative; and c. Photocopy of pertinent audited financial statements
2. Remittance of dividends/profits/earnings/ interests	a. Photocopy of PSE-cash dividends notice and Phil. Central Depository (PCD) printout of cash dividend payment or computation of interest earned issued by MMI issuer or bank;

Purposes	Documents Required (All originals except as indicated)
	<div>b. Photocopy of secretary's sworn statement on the board resolution covering the dividend declaration;</div> <div>c. Photocopy of latest audited financial statements or interim financial statements covering the dividend declaration period (for direct foreign equity investments)</div>
<div>3. Residents' outward investment</div> <div>a. Direct equity investments</div> <div></div> <div>b. Portfolio investments</div>	<div>a. Photocopy of investment proposal/agreement, or subscription agreement; and</div> <div>b. Photocopy of deed of sale or assignment of the investments</div> <div>a. Photocopy of subscription agreement, or bond/stock offering;</div> <div>b. Swift payment order instruction from the counterparty/broker/trader indicating the name of payee and type kind of investment authenticated by the broker/trader; and</div> <div>c. Photocopy of investor's order to broker/trader to buy the securities</div>
4. Residents' investments in FX-denominated bonds/notes issued by the Republic of the Philippines and other Philippine entities	<div>a. Photocopy of subscription agreement or bond offering;</div> <div>b. Swift payment order instruction from the counterparty/broker/trader indicating the name of payee and type/kind of investment authenticated by the broker/trader; and</div> <div>c. Photocopy of investor's order to broker/trader to buy the securties</div>

D. Sale of foreign exchange for payment of importations, regardless of amount	
Purposes	Documents Required (All originals except as indicated)
Payment of merchandise imports	<div>a. Bill of lading or airway bill covering the merchadise imports; and</div> <div>b. Commercial invoice</div>

(As amended by Circular No. 652 dated 05 May 2009)

COMPUTATION SHEET

Name of FX FXD/MC: _____ Date of FX Sale: _____

TYPE OF INWARD FOREIGN INVESTMENT TRANSACTION

- ☐ Remittance of Cash Dividends/Profits
- ☐ Repatriation of Capital

Name of Investee Firm: _____

Name of Investor: _____

REMITTANCE OF CASH DIVIDENDS/PROFITS

Record Date: _____

Payment Date: _____

Amount of Dividends/Share
or Rate of Profits: _____

Base Shares (Php)	Dividends/Profits per Share	Total Amount (Php)
_____	_____	_____
_____	_____	_____
	A. Gross Peso Amount Remittable	_____
	B. Less: Taxes/Charges	_____
	C. Net Peso Amount Remittable	_____
	D. Foreign Exchange Applied for Remittance (C/FX rate ^{1/})	_____

REPATRIATION OF CAPITAL

Total Amount/ No. of Shares	Outstanding Balance Before This Repatriation	Amount/No. of Shares Applied for Repatriation
_____	_____	_____
_____	_____	_____
	A. Total No. of Shares/Amount Applied For Repatriation	_____
	B. Selling Price/Share (if applicable)	_____
	C. Gross Peso Amount Repatriable (A x B)	_____
	D. Taxes/Charges	_____
	E. Net Peso Amount Repatriable (C - D)	_____
	F. Foreign Exchange Applied for Repatriation (E/FX rate ^{1/})	_____

Prepared by:

Signature over Printed Name
of Authorized Representative
of Applicant

Company Affiliation of
Investor’s Representative

Date

^{1/} To be supplied by FX Selling Bank

THE GUIDELINES FOR THE IMPOSITION OF MONETARY PENALTY FOR
VIOLATIONS/OFFENSES WITH SANCTIONS FALLING UNDER SECTION 37 OF
R. A. NO. 7653 ON TRUST CORPORATIONS, DIRECTORS AND/OR OFFICERS
(Appendix to Sec. 4999N)

(Superseded by Circular No. 884 dated 22 July 2015 ; incorporated in Appendix T-2)

**ACTS TANTAMOUNT TO THE ACT OF ISSUING
PRE-APPROVED CREDIT CARDS**
(Appendix to Subsections 4301N.1 and 4301N.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)

BASIC GUIDELINES IN SETTING UP OF ALLOWANCE FOR CREDIT LOSSES
(Appendix to Subsec. 4197N.16)

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 Accommodations¹

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. 4197N.16 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 Loans¹ 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/ 1 st restructuring	Substandard	25%
61 - 90 days	Doubtful	50%
91 days and over/ 2 nd restructuring	Loss	100%

* PAR for microfinance loans

For secured loans and other credit accommodations²:

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 08August 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. 4311N

**GUIDELINES AND PROCEDURES GOVERNING THE
CONSUMER ASSISTANCE MANAGEMENT SYSTEM (CAMS)
OF BSP-SUPERVISED FINANCIAL INSTITUTIONS**
[Appendix to Subsec. 4702N.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 Assistance 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.

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14.12.31

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 resolution¹; 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

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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)

AGRICULTURE VALUE CHAIN - BUSINESS MODELS
(Appendix to Subsec. 4350N.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)

MANUAL OF REGULATIONS FOR NON-BANK FINANCIAL INSTITUTIONS

T REGULATIONS
(Regulations Governing Trust Corporations)

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LIST OF APPENDICES

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POWER OF THE BANGKO SENTRAL TO EXAMINE
TRUST CORPORATIONS

Section 4001T Examination by the Bangko Sentral. The Bangko Sentral ng Pilipinas (Bangko Sentral) shall have supervision over, and conduct periodic or special examinations of trust corporations (TC).

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 TCs, 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 and regulations.

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:

- a. Appraisal of the overall quality of corporate governance;
- b. 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;

- c. Review of the institution’s operations and overall risk profile;
- d. Evaluation of financial performance, capital adequacy, asset quality and liquidity; and
- e. 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 Monetary Board 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 by the Monetary Board.

(Circular 884 dated 22 July 2015, as amended by Circular No. 903 dated 29 February 2016)

Secs 4002T - 4008T (Reserved)

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Section 4009T 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 regulations¹ 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 intergral to a 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.

¹Section 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)

(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 problems are not addressed by the FI within prescribed timelines.

d. Categories of Enforcement Actions

The three 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.

1. 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:

a. 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.

b. 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 Monetary Board (MB), to make a written commitment to undertake a specific positive action or refrain from performing a particular activity within 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.

2. 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:

a. FIs

- Restrictions on Activities and Privileges
- Suspension of Authorities, Privileges and Other Activities
- Divestment and/or Unwinding
- Monetary Sanction - Penalties/Fines Against the FI

b. Directors and officers

- Reprimand
- Restriction on Compensation and Benefits
- Divestment
- Suspension

¹Prevalence 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.

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- 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.
3. Other Supervisory Actions
- Subject to prior MB approval, the Bangko Sentral, when warranted, may deploy other supervisory actions such as:
- (a) Initiation into the PCA Framework;
 - (b) Issuance of a cease and desist order (CDO) against the FI as well as its directors and officers;

- (c) Conservatorship; and
 - (d) 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 No. 903 dated 29 February 2016)*

PART ONE

ORGANIZATION, MANAGEMENT AND ADMINISTRATION

Section 4101T Applicable Regulations on Trust Corporations. Trust operations and investment management activities of trust corporations shall be subject to the applicable Q Regulations of the Manual of Regulations for Non-Bank Financial Institutions (MORNBFI), as referred to and unless otherwise specified by the provisions of this Manual.

(Circular No. 884 dated 22 July 2015)

A. SCOPE OF AUTHORITY

Section 4102T Statement of Policy. It is the policy of the Bangko Sentral to promulgate rules and regulations necessary for the proper conduct and development of trust, other fiduciary business and investment management activities. Towards this end, authority to engage in trust, other fiduciary business and investment management activities shall be granted to all qualified trust corporations which meet the requirements provided herewith.

(Circular No. 884 dated 22 July 2015)

§ 4102T.1 Definitions. For purposes of regulating the operations of a trust corporation, unless the context clearly connotes otherwise, the following shall have the meaning indicated:

a. *Trust entity* shall refer to a: (a) bank or non-bank financial institution (NBFI), 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 Republic Act (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. A *trust corporation (TC)* shall be a stock corporation created, and duly authorized by the Monetary Board, to engage primarily in trust, other fiduciary business and investment management activities, which shall act as trustee or administer any trust or hold property in trust or on deposit for the use and benefit of others, and/or as financial consultant, investment adviser or portfolio manager.

A TC may be a subsidiary or an affiliate of a bank and/or an NBFI: *Provided*, That the investing bank and/or NBFI cannot engage in trust, other fiduciary business and investment management activities through its separate and distinct department or other similar unit in the bank or NBFI and through a TC.

c. *Trust business* shall refer to any activity resulting from a trustor-trustee relationship (trusteeship) involving the appointment of a trustee by the 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.

d. *Other fiduciary business* shall refer to any activity resulting from a contract or agreement whereby the TC 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. 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.

e. *Investment management activity* shall refer to any activity resulting from a contract

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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.

f. *Investment management account* shall refer to an account where transactions arising from investment management activities are kept and recorded.

g. *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 trust or for the benefit of a beneficiary.

h. *Trust agreement* is an instrument in writing covering the terms and conditions of the trust.

i. *Trustee* is any person who holds legal title to the funds and/or property of a trust.

j. *Trustor* is any person who creates a trust.

k. *Beneficiary* is any person for whose benefit a trust is created.

l. *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.

m. *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.

n. *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.

o. *Agent* shall refer to a person who acts in representation or on behalf of another person with the latter's authority.

p. *President* shall refer to the chief executive officer of the TC or to any other position of equivalent rank or position.

q. *Unit Investment Trust Fund (UITF)* shall refer to an open-ended pooled trust fund denominated in pesos or any acceptable currency, which are operated and administered by a trust entity and made available by participation. The term *Unit Investment Trust Funds* is synonymous to common trust funds. As an open-ended fund, participation or redemption is allowed as often as stated in its plan rules.

r. *Assets under management (AUM)* shall represent all funds, properties and securities, denominated in peso and other foreign currency, which the TC, acting as trustee, fiduciary and agent, shall manage, administer, hold, and/or take custody, for the use and/or benefit of persons other than the TC. In the performance of its trust, other fiduciary business and investment management activities (IMA), the assets under management of the TC shall be kept separate and distinct from the proprietary assets of the TC as well as from the general or other business owned and operated by its parent company, subsidiaries and related interest including all other funds, properties, and assets owned by such TC.

s. *Proprietary assets* shall refer to all assets, excluding assets under management, owned by the TC for the purpose of engaging in the business of trust, other fiduciary and investment management activities and maintaining the minimum capital requirement.
(Circular No. 884 dated 22 July 2015)

§ 4102T.2 Powers and scope of authority. A TC, with prior approval of the Monetary Board, shall engage in trust and other fiduciary business under Chapter IX of R.A. No. 8791 (The General Banking Law of 2000).

A TC may accept peso and foreign currency denominated accounts: *Provided*, That in the case of foreign currency denominated accounts, all relevant laws,

rules and regulations issued by local regulatory agencies on such are complied with.
(Circular No. 884 dated 22 July 2015)

§ 4102T.3 Limitations. Except for escrow services, property administratorship, safekeeping, collection and payment services, and other similar legitimate activities, a TC shall not accept and administer funds or property of any bank and/or quasi-bank, and/or act as trustee, fiduciary, financial consultant, investment adviser, or portfolio manager of such funds or property. It shall not, in any manner, allow itself to be a party to any transaction by which a bank or quasi-bank circumvent laws, rules and regulations. Moreover, a TC cannot engage in quasi-banking functions, particularly the borrowing of funds from the public for the purpose of relending the said funds. The TC, however, retains the right to borrow as is inherent to any duly registered corporate entity: *Provided*, however, That borrowing of a TC from its managed or trusted accounts shall be prohibited.
(Circular No. 884 dated 22 July 2015)

B. ESTABLISHMENT AND ORGANIZATION

Sec. 4103T Establishment and Organization. A TC shall administer the funds or property under its custody with the diligence that a prudent man would exercise in the conduct of an enterprise of a like character with similar aims.
The TC must have suitable shareholders, adequate financial strength, a legal structure in line with its operations, and a management that is fit and proper to operate the corporation. Where the proposed owner or parent organization is a foreign-regulated financial institution, the prior consent of its home country supervisor should be obtained.
The incorporators/subscriber must be persons of integrity and of good credit

reputation in the business community. The subscribers must have adequate and legitimate financial capacity to pay for their proposed subscriptions in the TC.
In addition, the incorporators/subscribers must not have been convicted of any crime involving moral turpitude, and unless otherwise allowed under the provisions of existing laws, are not officers or employees of a government agency, instrumentality, department or office charged with the supervision of, or the granting of credit to trust entities.
A TC shall ensure that it upholds consumer protection practices that adhere to the highest level of service standards, and observes fair and responsible dealings in the conduct of its trust business. In this regard, a TC shall adopt a board-approved consumer protection framework that is appropriate to its corporate structure, operations and risk profile.
(Circular No. 884 dated 22 July 2015)

§ 4103T.1 Basic guidelines in establishing TCs. No person or entity shall be allowed to operate as a TC without prior authority from the Bangko Sentral.
a. *Organizational requirements.*
(1) Articles of incorporation and by-laws. The articles of incorporation and by-laws of any TC, or any amendment thereto, shall not be registered with the Securities and Exchange Commission (SEC) unless accompanied by a certificate of authority to register issued by the Monetary Board.
(2) Application for authority to establish the TC. The incorporators/directors of the proposed TC shall file and submit to the Monetary Board through the appropriate supervising and examining department of the Bangko Sentral an application for authority to establish a TC to primarily engage in trust, other fiduciary business and investment management activities, which shall be duly signed by all incorporators/directors, together with the following documents:

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(a) Accomplished biographical data of each incorporator, subscriber, proposed director and officer;

(b) Certificate of net worth as of a date not earlier than ninety (90) days prior to the filing of the application of each of the subscriber. Such certificate shall indicate a minimum net worth that will demonstrate the certifying person’s financial capacity to invest in the TC. A waiver of rights under R.A. No. 1405, as amended, shall also be submitted for purposes of verification of the declared net worth;

(c) Certified photocopies of Income Tax Returns (ITRs) for the last two (2) calendar years of each incorporator, subscriber, proposed director and officer or similar document from the home country in the case of non-Filipino citizens;

(d) Clearance from the National Bureau of Investigation (NBI) of each of the incorporator, subscriber, proposed director and officer or similar document from the home country in the case of non-Filipino citizens;

(e) For corporate subscribers, the following additional documents shall be submitted:

(i) Copy of the board resolution authorizing the corporation to invest in such TC and designating the person who will represent the corporation in connection therewith;

(ii) Copy of the latest articles of incorporation and by-laws duly stamped received by the SEC;

(iii) Updated list of directors and principal officers;

(iv) Current list of substantial or major shareholders, indicating the citizenship and the number, amount and percentage of the voting and non-voting shares held by them.

For this purpose, 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 TC, or who is directly or indirectly the registered or beneficial owner of more than ten percent (10%) of any class of its equity security;

(v) A copy each of the corporation’s audited financial statements for the last two (2) years prior to the filing of the application;

(vi) A copy of the corporation’s annual report to the stockholders for the year immediately preceding the date of filing of the application;

(vii) Certified photocopies of the corporation’s ITRs and BIR clearance for the last two (2) calendar years; and

(viii) For foreign corporations, in addition to Items “(e)i” to “(e)vi”, it shall also submit (1) a certification from its home country’s supervisory authority that it has no objection to the investment of such company in a TC in the Philippines and that adequate information on such foreign corporation shall be provided to the Bangko Sentral to the extent allowed under existing laws; (2) certification from the foreign bank/entity applicant’s corporate secretary or any officer holding equivalent position that the bank/entity is established, reputable and financially sound; and (3) if the proposed ownership represents controlling interest¹ in the TC, certification from the foreign bank/entity applicant’s corporate secretary or any officer holding equivalent position containing the information that the bank/entity is widely-owned and publicly-listed, duly authenticated by the Philippine Consulate;

¹ 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) Detailed plan of operation and economic justification for establishing a TC. The plan should describe and analyze the industry and the market area from which the TC expects to draw majority of its trust business and establish a strategy for its ongoing operation. It should also describe how the TC will be organized and controlled internally. Further, the plan should cover the marketing and distribution arrangements to be adopted by the TC which shall comply with Sections 4152T and 4153T;

(g) Projected financial statements for the first five (5) years together with assumptions. These should be consistent with its proposed plan of operation and would show sufficient capital to support its strategy and operations;

(h) Detailed plan on how the subscribers would put up the required capitalization for the proposed TC; and

(i) Such other information that the Bangko Sentral may require.

In case of banks and NBFIs that decide to spin-off their trust department to a TC, in addition to the articles of incorporation, by-laws and the application for establishment of the proposed TC, the documentary requirements are as follows:

(i) Updated biographical data of each incorporator, subscriber, proposed director and officer;

(ii) Certificate of net worth as of a date not earlier than ninety (90) days prior to the filing of the application of each of the subscriber. Such certificate shall indicate a minimum net worth that will demonstrate the certifying person's financial capacity to invest in the TC. A waiver of rights under R. A. No. 1405, as amended, shall also be submitted for purposes of verification of the declared net worth;

(iii) Certified photocopies of ITRs for the last two (2) calendar years of each incorporator, subscriber, proposed director and officer or similar document from the home country in the case of non-Filipino citizens;

(iv) Clearance from the NBI of each of the incorporator, subscriber, proposed director and officer or similar document from the home country in the case of non-Filipino citizens. However, the applicant may instead submit a certification that the incorporator, subscriber, proposed director and officer concerned has already undergone prior approval/confirmation by the Bangko Sentral as director and/or officer of a Bangko Sentral-supervised entity;

(v) Copy of the board resolution authorizing the trust department to spin-off into a TC and designating the person who will represent the corporation in connection therewith;

(vi) In addition to the detailed plan of operation and economic justification for establishing a TC required under Item "(2)(f)", the plan shall include specific actions and timelines for the smooth transition of its operations including timelines for ample notification to clients;

(vii) Detailed plan on how the bank/NBFI would put up the required capitalization for the proposed TC;

(viii) For trust departments of foreign banks/foreign bank branches, it shall also submit a certification from its home country's supervisory authority that it has no objection to the spin-off of the trust department of said bank/foreign branches into a TC and that adequate information shall likewise be provided to the Bangko Sentral to the extent allowed under existing laws; and

(ix) Such other information that the Bangko Sentral may require.

Application for establishment of a TC shall be subject to the following fees:

(aa) Filing fee - A filing fee of P25,000.00 shall be charged upon filing of the application and is non-refundable;

(bb) Processing fee - A processing fee of P100,000.00 shall be charged for accepted applications regardless whether the application is approved or denied. Processing fee shall be inclusive of the filing fee; and

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(cc) Licensing fee - A licensing fee of P500,000.00 shall be charged upon approval of the application. Licensing fee shall be inclusive of the processing fee.

In submitting its application, the applicant shall include a written authorization in favor of the Bangko Sentral giving consent to the conduct of verification/validation of the documents or representations stated in the application for the establishment of a TC.

The application shall be considered filed and submitted on a first-come, first-served basis: *Provided*, That all required documents are complete and properly accomplished. Otherwise, the application shall be returned unacted.

b. *Grounds for disapproval of application.* The Monetary Board may deny the application to organize a TC on the basis of any of the findings that:

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

(2) The TC's detailed plan of operations is against the law, Bangko Sentral rules and regulations, and public policy; and

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

c. *Requirements for the issuance of the certificates of authority to register and to operate.*

(1) Within thirty (30) days from receipt of advice of approval by the Monetary Board of its application for authority to establish a TC, the applicant shall pay a non-refundable license fee, as stated above, to the Bangko Sentral.

(2) Within sixty (60) days from receipt of advice of approval by the Monetary Board of their application for authority to establish a TC, the incorporators shall:

(a) Submit seven (7) copies of the articles of incorporation, treasurer's sworn statement and by-laws which shall include

provisions on the appointment of a president, equivalent position/officer, and other subordinate officers, and a clear definition of their duties and responsibilities; and

(b) Deposit with any universal/commercial bank the initial paid-up capital of the proposed TC.

(3) Within thirty (30) days after the articles of incorporation and by-laws had been cleared by the Bangko Sentral, and the corresponding certificate of authority to register had been issued, the incorporators shall effect the filing and registration of said documents with the SEC.

(4) Within six (6) months from receipt of advice of approval by the Monetary Board of their application for authority to establish a TC, the incorporators shall secure the certificate of authority to operate the trust, other fiduciary business and investment management activities and submit to the appropriate supervising and examining department of the Bangko Sentral the following:

(a) Proof of registration of articles of incorporation and by-laws;

(b) Certification of compliance with the conditions of approval duly signed by the incorporators, including the set-up of the required basic security deposit;

(c) Names and positions of individuals designated as chairman and members of the board of directors, president and other subordinate officers of the TC with their respective bio-data and statement of duties and responsibilities;

(d) Organizational chart which shows the names of departments/units with respective functions and responsibilities and designations of officers/employees including responsibilities of personnel within the said departments/units. The organizational chart should show clear accountability of the management structure and should provide for independent check and balance by the board of directors;

(e) Risk Management Manual, Manual on Consumer Protection Framework and Operations Manual embodying the policies, systems, and operating procedures of each department/unit in the organization, together with the certification of the president of the TC that the manuals were prepared and aligned with existing Bangko Sentral rules and regulations on risk management, consumer protection and trust, other fiduciary and investment management activities, and that the policies, systems and operating procedures in the manuals shall be implemented. A TC is expected to have in place, a risk management system that is appropriate to the nature and complexity of the TC's fiduciary activities and to ensure that the policies, systems and operating procedures in the manuals shall be implemented;

(f) Excerpts of the minutes of the organizational/director's meetings confirming all organizational and pre-opening transactions relative to activities undertaken by the TC to operate the trust, other fiduciary business and investment management activities (e.g., appointment of officers, and approval of authorized signatories);

(g) Alphabetical list of all stockholders with the number and percentage of voting stocks owned/held;

(h) List of natural persons/stockholders certified by the corporate secretary, owning voting stocks in the TC and are related to other identified stockholders within the first degree of consanguinity or affinity, indicating the combined percentage of voting stocks held by these persons in the particular TC, as well as juridical persons, including corporations that are wholly-owned or a majority of the stock of which is owned by any of such persons, including their wholly- or majority-owned subsidiaries;

(i) Certification by the president that no person who is the spouse or relative within the second degree of consanguinity or affinity of any person holding the position of chairman, president, chief executive officer, chief operating officer, executive vice-president, senior vice president or any position of equivalent rank, general manager treasurer, chief cashier, or chief accountant will be appointed to any of said positions in the TC; and

(j) Other documents/papers which may be required.

(Circular No. 884 dated 22 July 2015, as amended by Circular No. 903 dated 29 February 2016)

§ 4103T.2 Commencement of trust, other fiduciary business and investment management activities. The authority to establish a TC shall be automatically revoked if the TC is not organized and opened for business within one (1) year from date of approval by the Monetary Board of their application for authority to operate a TC. A final extension may be granted upon presentation of justifiable reason for failure to open the TC within the prescribed period, and proof that the TC can be opened within the extension period.

In the case of spun-off trust departments of banks/NBFIs, it is understood that upon receipt of the certificate of authority to operate a TC, the trust license of the trust department shall be automatically revoked.

The TC shall submit a written notice to the appropriate supervising and examining department of the Bangko Sentral of the actual date of commencement of trust, other fiduciary and investment management operations not later than ten (10) days from such operation.

(Circular No. 884 dated 22 July 2015)

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Sec. 4104T Unauthorized Conduct of Trust and Other Fiduciary Business. 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 may proceed against such entity and/or its board of directors, and/or principal officers and/or majority stockholders 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 investment management accounts to duly incorporated and licensed entities of choice by 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.

TCs may be allowed to adopt any name that is not offensive or confusing to the public: *Provided*, That the words trust, trust corporation, trust company or words of similar import, is affixed in its business name.

(Circular No. 884 dated 22 July 2015)

Secs. 4105T - 4107T (Reserved)

C. MERGER AND CONSOLIDATION

Sec. 4108T Authority Resulting from Merger or Consolidation. In the merger of financial institutions (FI), one of which is a

TC, the authority to engage in trust, other fiduciary business and investment management activities shall continue to be in effect if the surviving institution has such authority and the same has not been withdrawn or revoked by the Bangko Sentral. In case the surviving institution does not have previous authority, it shall secure the prior approval of the Monetary Board to engage in trust 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 TCs where the resulting entity is an entirely new one, it shall secure from the Monetary Board an authority to engage in trust, other fiduciary business and investment management activities before it may engage in such business.

Mergers and consolidations including the terms and conditions thereof shall comply with the provisions of applicable law and are subject to approval by the Bangko Sentral.

The guidelines and procedures in the application for merger/consolidation as shown in *Appendix Q -50* of the MORNBFI shall be observed by TCs.

Rules on exchange of shares. As a general rule, the ratio of exchange of shares between or among the participants in a financial institution (FI) merger or consolidation shall be based on mutual agreement of the parties concerned. However, any appraisal increment reserve (revaluation reserve) arising from the revaluation of the fixed assets, as may be agreed upon by the parties shall be limited to premises, improvement, and equipment which are necessary for its immediate accommodation in the transaction of the FI’s business. Such revaluation should be based on fair

valuation of the property which shall be subject to review and approval by the Bangko Sentral.

(Circular No. 884 dated 22 July 2015)

Secs. 4109T - 4110T (Reserved)

D. CAPITALIZATION

Sec. 4111T Minimum Required Capital. A TC shall have an unimpaired combined capital accounts of P300 million or 0.10% of the total book value of its AUM, whichever is higher: *Provided*, That the minimum paid-in capital shall be at least P300 million.

(Circular No. 884 dated 22 July 2015)

§ 4111T.1 Capital build-up program. Upon incorporation/establishment, a TC may have an initial minimum paid-in capital of P100 million and shall be allowed to build-up capital over a period of 5 years: *Provided*, That the minimum paid-in capital after 5 years shall be at least P300 million: *Provided, further*, That the minimum capital during the capital build-up phase shall be determined as follows:

Calendar Year	Capital Requirement
Year 0- Upon incorporation/ At inception	P100 million
End of Year 1	P140 million or 0.10% of AUM whichever is higher
End of Year 2	P180 million or 0.10% of AUM whichever is higher
End of Year 3	P220 million or 0.10% of AUM whichever is higher
End of Year 4	P260 million or 0.10% of AUM whichever is higher
End of Year 5 and onwards	P330 million or 0.10% of AUM whichever is higher

The assets under management, for this purpose, shall be computed based on the average of the quarter-end balances of AUM for the calendar year.

For purposes of this Section, *combined capital accounts* shall mean the total capital stock, retained earnings, and profit and loss summary, net of (a) valuation reserves on the allowable proprietary assets; (b) appraisal surplus or appreciation credit as a result of appreciation or an increase in book value of the assets of the TC, if applicable; and (c) such other capital adjustments as may be required by the Bangko Sentral.

(Circular No. 884 dated 22 July 2015)

§ 4111T.2 Sanctions. Whenever the paid-in or the combined capital accounts of the TC are deficient with respect to the preceding paragraphs, the TC may be subject to the sanctions/penalties provided under existing laws and Bangko Sentral rules and regulations. Moreover, the Monetary Board, after considering the report of the appropriate supervisory and examining department of the Bangko Sentral, shall require the TC to institute necessary corrective action(s) to address its capital deficiency. Until the TC complies with the minimum capital requirement, the Monetary Board may restrict the ability of the TC, to declare dividends and/or expand its business.

The Monetary Board may revoke the license of the TC which fails to comply with the minimum capital requirement within the remedial period.

(Circular No. 884 dated 22 July 2015)

E. BASIC SECURITY DEPOSIT

Sec. 4112T Security for the Faithful Performance of Trust and Other Fiduciary Business and Investment Management Activities.

(Circular No. 884 dated 22 July 2015)

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§ 4112T.1 *Basic security deposit.* TCs duly authorized by the Monetary Board, shall deposit with the Bangko Sentral eligible government securities as security for the faithful performance of trust and other fiduciary duties and investment management activities equivalent to 0.05% of the total book value of the AUM: *Provided*, That at no time shall the basic security deposit be less than P500,000.00. *Provided, further*, That after the first year of operation, the basic security deposit shall be based on the trust rating of the most recent report of examination of the TC, as shown in the table below:

Trust Rating	Required Basic Security Deposit
4	P500,000 or 0.03% of the total book value of the AUM, whichever is higher.
3	P500,000 or 0.05% of the total book value of the AUM, whichever is higher.
2	P500,000 or 0.10% of the total book value of the AUM, whichever is higher.
1	P500,000 or 0.20% of the total book value of the AUM, whichever is higher.

The basic security deposit shall be in the form of securities acceptable to the Bangko Sentral, earmarked in favor of the Bangko Sentral: *Provided*, That the TC shall not withdraw, transfer or replace such earmarked securities without prior written approval of the Bangko Sentral.

Scripless securities under the Registry of Scripless Securities (RoSS) System of the Bureau of the Treasury (BTr) may be used as basic security deposit for trust and other fiduciary duties using the guidelines enumerated in *Appendix Q-21* of the MORNBFI.

The security for the faithful performance of Personal Equity and Retirement Account (PERA) Administrator shall be separately calculated as prescribed under Section 4960Q and *Appendix Q-21a* of the MORNBFI.

(Circular No. 884 dated 22 July 2015)

§ 4112T.2 *Eligible securities.* Government securities which shall be deposited in compliance with the above basic security deposit 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 of deposit with the Bangko Sentral.

(Circular No. 884 dated 22 July 2015)

§ 4112T.3 *Valuation of securities and basis of computation of the basic security deposit requirement.* For the valuation of securities and basis of computation of the basic security deposit requirement, the provisions of Subsection 4405Q.3 of the MORNBFI shall apply.

(Circular No. 884 dated 22 July 2015)

§ 4112T.4 *Compliance period.* The TC shall have thirty (30) calendar days after the end of every calendar quarter within which to deposit with the Bangko Sentral additional securities required due to increase in the average AUM. In cases of changes in the trust rating, the reckoning period of the thirty (30) days shall be the quarter-end from receipt of the Report of

Examination. Appropriate sanctions provided below shall be imposed on the TC and/ or the erring officer for failure to deposit the required securities within said period or for incurring any deficiency during a particular quarter due to failure to replace matured and/or withdrawn securities deposits.

(Circular No. 884 dated 22 July 2015)

§ 4112T.5 Sanctions. Without prejudice to the imposition of sanctions for capital deficiency, the following sanctions shall be imposed for any deficiency in the basic security deposit for the faithful performance of trust and other fiduciary duties and investment management activities:

a. On the TC

(1) Daily monetary penalty of P1,000.00 or one tenth of one percent (1/10 of 1%) per day on the amount of the deficiency, whichever is higher but not to exceed P10,000.00 per day, shall be assessed on the TC, reckoned after thirty (30) days from the occurrence of the deficiency until the same is rectified.

(2) Non-monetary penalty beginning with the third offense – Prohibition against the acceptance of new trust and other fiduciary accounts, introduction of new trust products or UITF, and/or from renewing expiring trust and other fiduciary contracts up to the time the violation is corrected.

b. On the president 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 TC’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 president 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 if the offense cannot be attributed to any other officer of the TC, the president shall be held responsible, as evidence may warrant.

(Circular No. 884 dated 22 July 2015)

F. RESERVED

Secs. 4113T - 4120T (Reserved)

G. ALLOWABLE PROPRIETARY ASSETS

Sec. 4121T Allowable Proprietary Assets.

Assets owned by the TC shall be for the purpose of engaging in the business of trust, other fiduciary and investment management activities and for maintaining the minimum capital requirement. The TC shall not engage in any manner in proprietary trading and speculative investing activities. The allowable proprietary assets shall include eligible government securities deposited with the Bangko Sentral in compliance with the basic security deposit requirement provided under Section 4112T.

The allowable proprietary assets shall consist of:

a. Investments in eligible government securities earmarked as basic security deposits as defined under Subsection 4112T.2;

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b. Investments in securities issued by or guaranteed by the Philippine government, or the Bangko Sentral;

c. Investments in bank deposits, and highly liquid and investment grade securities, including: (1) money market instruments, (2) those issued by central governments and central banks of foreign countries with the highest credit quality given by any two (2) internationally accepted rating agencies, and (3) securities issued by any supranational entity;

d. Loans and other credit accommodations: (1) secured by obligations of the Philippine Government or of the Bangko Sentral; (2) fully guaranteed by the Philippine Government as to the payment of principal and interest; (3) secured by highly liquid and investment grade securities; (4) to the extent covered by the hold-out on or assignment of, bank deposits held in the Philippines; and (5) which the Monetary Board may from time to time specify as non-risk items;

e. Real and other properties, including building, furniture and fixtures, safes, equipment, and other fixed assets, utilized/ to be utilized by the TC in the conduct of its trust, other fiduciary business and investment management activities; and

f. Other assets, not inconsistent with the provisions of paragraphs "a" to "d" hereof, which are deemed to be readily realizable and available for the payment of liabilities, losses or claims at values to be determined in accordance with existing Bangko Sentral guidelines.

For purposes of investing the allowable assets, the TC shall not: (a) commingle their proprietary funds or assets with the AUM and (b) invest the same in their own UITF or other trust products.

The TC is expected to adopt policies and processes that will address relevant exposures as well as potential conflict of

interest in the administration of fiduciary business.

(Circular No. 884 dated 22 July 2015)

Secs. 4122T - 4125T (Reserved)

H. STOCK, STOCKHOLDERS AND DIVIDENDS

Sec. 4126T Shares of Stocks of TCs. The following shall govern transactions affecting shares of stock of TCs and limits on stockholdings in a single TC.

(Circular No. 884 dated 22 July 2015)

§ 4126T.1 Limits of stockholdings in a single TC. The stockholdings in any TC shall be subject to the limits as prescribed below:

a. Domestic stockholders

(1) Banks may own stockholdings of a TC: *Provided*, That the acquisition or investment in the equity of a TC shall be subject to all relevant laws, rules and regulations on equity investment of banks in a financial allied enterprise.

(2) Regulated non-bank entities engaged in finance, insurance, asset management and other similar activities acceptable to the Bangko Sentral may own up to 100% of the TC’s stockholdings unless otherwise provided in their respective governing laws, charters and regulations.

(3) Filipino individuals and non-regulated domestic entities may each own up to forty percent (40%) of the voting stock of a TC. There shall be no ceiling on the aggregate ownership by Filipino individuals and non-regulated domestic entities in a TC.

b.Foreign stockholders may own stockholdings in a TC, subject to the limits as stated below:

(1) Unless otherwise provided by laws, charters and regulations, foreign banks and regulated foreign non-bank entities engaged in finance, insurance, asset management, and

other similar activities acceptable to the Bangko Sentral may own more than forty percent (40%) up to 100% of the voting stock of a TC, subject to the following factors:

- (a) Strategic trade and investment relationships between the Philippines and the home country of the foreign bank/entity;
- (b) Relationship between the applicant foreign bank/entity and the Philippines;
- (c) Demonstrated capacity, global reputation for financial innovations and stability in a competitive environment of the applicant foreign bank/entity;
- (d) Reciprocity enjoyed by Philippine banks and other financial institutions in the applicant's country; and
- (e) Willingness to share technology.

(2) Others, such as individuals and other entities not identified above may own up to forty percent (40%) of the voting stock of a TC: *Provided*, That the aggregate voting stock owned by foreign individuals and other entities not identified above shall not exceed forty percent (40%) of the outstanding voting stock of the TC.

The limits as stated above are further subject to the limits imposed by the respective laws/regulations in the home country of investing companies or country of origin.

A foreign bank or non-bank entity seeking to operate in the Philippines shall satisfy the criteria in Item No. "b(1)(c)" above, i.e., demonstrated capacity, global reputation for financial innovations and stability in a competitive environment of the applicant foreign bank/entity. *Provided*, That if it has controlling interest in the TC, it must be widely-owned and publicly-listed in the country of origin, unless the foreign bank/entity is owned and controlled by the government of its country of origin.

The determination of whether a foreign bank/entity is widely-owned and publicly listed, established, reputable, and financially sound shall be based on the

information derived from submitted documents. Further, if the foreign bank/entity is owned/controlled by a holding company, this requirement may apply to the holding company.

Moreover, the reciprocity rights enjoyed by Philippine banks and other financial institutions in the applicant's country shall be considered.

c. An individual and a non-regulated entity or entities which are wholly-owned, or a majority of the voting stock of which is owned, by him, may own only up to a combined forty-percent (40%) of the voting stock of a TC.

d. Stockholdings of family groups or related interests. Individuals related to each other within the fourth degree of consanguinity or affinity, whether legitimate, illegitimate or common-law, shall be considered family groups or related interests but may each own up to forty percent (40%) of the voting stock of a TC: *Provided*, That said relationship must be fully disclosed in all transactions by such individuals or family groups or related interests.

e. Two (2) or more corporations owned or controlled by the same family group or same group of persons shall be considered related interests but may each own up to forty percent (40%) of the voting stock of a TC: *Provided*, That said relationship must be fully disclosed in all transactions by such corporations or related groups of persons with the TC.

f. Determination of foreign-owned voting stock and citizenship of corporate stockholders in a TC as well as the relationship of stockholders of a TC.

(1) The percentage of foreign-owned voting stock in a TC should be based on citizenship of individual stockholders, including beneficial owners¹ of shares being held by nominees, custodians and other

¹ *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.

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vehicles; and

(2) The citizenship of the corporation, which is a stockholder of a TC, shall follow the citizenship of the controlling stockholders of the corporation. For purposes hereof, the term “controlling stockholders” shall refer to stockholders holding more than fifty percent (50%) of the voting stock of the corporate stockholders of the TC.

(3) The relationship of individuals who are stockholders of a TC shall be determined in accordance with the provisions of Articles 963 to 966 of the Civil Code of the Philippines.

(Circular No. 884 dated 22 July 2015, as amended by Circular No. 903 dated 29 February 2016)

§ 4126T.2 *Transactions involving voting shares of stocks.* The provisions relevant to the transactions involving voting shares of stocks as provided under Subsection X126.2 of the Manual of Regulations for Banks (MORB), in so far as applicable to TCs, shall apply.

(Circular No. 884 dated 22 July 2015)

Secs. 4127T - 4135T – (Reserved)

Sec. 4136T **Dividends.** No TC shall declare dividends greater than its accumulated net profits then on hand, deducting therefrom its losses. At the time of declaration, the TC shall have complied with the following:

- a. Minimum capitalization;
- b. Basic security deposit;
- c. No net losses from operations in any one of the two calendar or fiscal years immediately preceding the date of dividend declaration; and
- d. Has not committed any of the following major violations:
 - (1) Unsafe and unsound practices as defined under existing Bangko Sentral regulations;
 - (2) Uncorrected major violations/exceptions cited in the previous examination;

(3) Engaging in activities without the required prior approval or license from the Bangko Sentral such as, but not limited to derivatives; and

(4) Refusal to permit examination into the affairs of the institution or any willful making of a false or misleading statement to the Monetary Board or to the appropriate department of the SES.

The provisions under Subsections 4136Q.1, 4136Q.2.b, 4136Q.4, 4136Q.5 and 4136Q.7 of the MORNBFI shall be adopted relative to dividends declaration of a TC.

(Circular No. 884 dated 22 July 2015)

Secs. 4137T - 4140T (Reserved)

I. DIRECTORS, OFFICERS AND EMPLOYEES

Sec. 4141T **Definition; Qualifications; Powers; Responsibilities and Duties of Board of Directors.** Unless otherwise provided specifically, the provisions of Section 4141Q, and its Subsections, of the MORNBFI, in so far as applicable, shall be adopted.

(Circular No. 884 dated 22 July 2015)

§ 4141T.1 (Reserved)

§ 4141T.2 *Qualifications of a director.* In addition to the provisions of Subsection 4141Q.2 of the MORNBFI, the members of the Board are expected to be familiar with Philippine laws, rules and regulations, and best practices on trust business, as well as uphold at all times, ethical and good governance standards. Accordingly, the members of the board of directors shall possess the necessary technical expertise and relevant experience in such trust 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.
- (Circular No. 884 dated 22 July 2015)

§ 4141T.3 Powers/responsibilities and duties of board of directors. In addition to the provisions prescribed under Subsection 4141Q.3 of the MORNBFi, the board of directors shall conduct regular meetings at least once every quarter, or more frequently as necessary, depending on the size and complexity of the fiduciary business.

(Circular No. 884 dated 22 July 2015)

§ 4141T.4 – 4141T.9 (Reserved)

Sec. 4142T Definition; Qualifications; and Duties and Responsibilities of Officers. The definition, qualifications and duties of officers provided under Section 4142Q of the MORNBFi, shall be adopted for TC, unless otherwise provided herein.

Moreover, in line with the fit and proper criterion of the abovementioned Section, the president who shall be appointed shall also possess the following qualifications:

- a. At least five (5) years of actual management experience in trust, other fiduciary and investment management operations; or
- b. At least five (5) years of actual experience as officer of a bank, NBFi or related field: *Provided, That* said officer passed the training program in trust, other fiduciary and investment management operations acceptable to the Bangko Sentral.

Officers of the TC with position of senior vice president and up, shall at least possess the requirement in Item “(b)” above.

The foregoing qualifications for officers shall be in addition to those required or prescribed under R. A. No. 8791, the Corporation Code of the Philippines (Batas Pambansa Blg. 68) and other existing applicable laws and regulations.

(Circular No. 884 dated 22 July 2015)

§ 4142T.1 - 4142T.2 (Reserved)

§ 4142T.3 Duties and responsibilities of officers. The president shall have general supervision and direction of the business affairs of the TC; he/she shall be responsible in the management of the day-to-day activities of the TC. In this regard, the president shall provide supervision and direction in the following areas:

- a. Adherence to the basic standards in the administration of trust, other fiduciary and investment management accounts pursuant to *Appendix Q-48* of the MORNBFi;
- b. Development and implementation of relevant policies and procedures on fiduciary activities;
- c. Observance of sound risk management practices and maintenance of necessary controls to protect assets under custody and held in trust or other fiduciary capacity;
- d. Implementation of investment and other fiduciary activities in accordance with agreements with clients and parameters set by the board of directors;
- e. Regular reportorial requirements to the board of directors on business performance and other matters requiring its attention;
- f. Maintenance of adequate books, records and files for each trust or other fiduciary account and provision of timely and regular disclosures to clients on the status of their accounts; and

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g. Submission of periodic reports to regulatory agencies on the conduct of the trust operations.

The other duties and responsibilities for officers as provided under Subsection 4142Q.3 of the MORNBFI shall likewise apply to the officers of the TC.

(Circular No. 884 dated 22 July 2015)

§ 4142T.4 *Prohibitions to become officer.* No appointive or elective public official, whether full-time or part-time, shall at the same time serve as officer of the TC.

(Circular No. 884 dated 22 July 2015)

Sec. 4143T Disqualification of Directors and Officers. In so far as applicable, Section 4143Q of the MORNBFI shall be adopted by the TC. In addition, Subsections 4143Q.1 and 4143Q.2 of the MORNBFI as well as the following shall also be considered grounds for disqualification of directors and officers:

a. Negligence in the performance of the duties and responsibilities stipulated in the contract creating the trust, other fiduciary and investment management account and which directly or indirectly caused material loss/impairment of the managed trust, other fiduciary and investment management assets;

b. Entering into an arrangement or scheme which will compromise or prejudice the interest, rights and privileges of the trustor, principal and/or beneficiaries; and

c. Other grounds as may be approved by the Monetary Board.

The foregoing grounds for disqualification for directors shall be in addition to those prescribed under the Corporation Code of the Philippines (Batas Pambansa Blg. 68) and other existing applicable laws and regulations.

(Circular No. 884 dated 22 July 2015)

§§ 4143T.1 - 4143T.5 (Reserved)

Sec. 4144T Bio-data of Directors and Officers. The applicable provisions of Section 4144Q of the MORNBFI shall be adopted by the TC.

(Circular No. 884 dated 22 July 2015)

Sec. 4145T Interlocking Directorship/Officership.

a. Interlocking directorship between a TC and another FI shall be allowed.

b. No interlocking directorship and officership, and interlocking officership and secondments, shall be allowed between TCs and between a TC and any FI except, with prior approval of the Monetary Board, on concurrent officership position in the same capacity which do not involve management functions such as internal auditor, corporate secretary, assistant corporate secretary, and security officer, within a group. 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.

(Circular No. 884 dated 22 July 2015)

§ 4145T.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.

(Circular No. 884 dated 22 July 2015)

Secs. 4146T - 4148T (Reserved)

Sec. 4149T Conducting Business in Unsafe/Unsound Manner. Section 4408Q, and its Subsections, of the MORNBFI on unsafe and unsound practices shall be adopted for TCs.

(Circular No. 884 dated 22 July 2015)

Sec. 4150T Rules of Procedure on Administrative Cases Involving Directors and Officers of TC. Section 4150Q of the MORNBFI on the rules of procedure on administrative cases involving directors and officer of QBs shall likewise be adopted for TCs.
(Circular No. 884 dated 22 July 2015)

J. BRANCHES/MARKETING OFFICES

Sec. 4151T Establishment of Branches/Marketing Offices. TCs may establish branch(es) only upon prior approval of the Monetary Board. However, it shall carry out its trust and other fiduciary business only at the place of business specified in its articles of incorporation. In the case of marketing office(s), it may be established subject to prior notification to the Bangko Sentral: *Provided, That* the marketing activities is in accordance with the provisions stated under Section 4152T of this Manual.
For purposes of this Section, a *branch* shall refer to any permanent office or place of business other than the head office and maintains a complete set of books of accounts. A *marketing office* shall refer to any permanent office or place of business other than the head office which engages only in non-transactional activities such as marketing of its products. *Marketing* shall only include the promotion and presentation of the TC’s trust products to clients or prospective clients and shall not involve the actual opening of trust/fiduciary account, and the receiving or dealing with client’s money and/or property. The account opening shall be strictly undertaken by the TC in accordance with the Basic Standards set forth in *Appendix Q-48* of the MORNBFI.
(Circular No. 884 dated 22 July 2015)

§§ 4151T.1 to 4151T.2 (Reserved)

§ 4151T.3 Prerequisites for the grant of authority to establish a branch/marketing office. TCs may establish a branch/marketing office subject to the following pre-qualification requirements:

- a. Capital adequacy and solvency;
- b. No uncorrected findings of unsafe and unsound practices;
- c. It has complied with the required basic security deposits for the preceding four (4) quarters prior to application;
- d. It has established a risk management system appropriate to its operations, characterized by clear delineation of responsibility for risk management, adequate risk measurement system, appropriately structured risk limits, effective internal control system and complete, timely and efficient risk reporting system; and
- e. It has no major supervisory concerns outstanding on safety and soundness immediately preceding the date of application.

(Circular No. 884 dated 22 July 2015)

§ 4151T.4 Prohibition. No application for establishment of new branch(es) shall be accepted if the TC has approved but unopened branch(es).
(Circular No. 884 dated 22 July 2015)

§ 4151T.5 Documentary requirements.

- a. All branch applications shall be supported by the following documents:
 - (1) Certification that a TC has the ability to conduct operations from the head office as not to be a cause for delayed submission of reports to the Bangko Sentral and/or recording of transactions in the head office;
 - (2) Certified true copy of the board resolution authorizing the establishment of a branch;
 - (3) Areas to be served;

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(4) Business and/or economic justification (including data) for the establishment of the branch; and

(5) Certification/Undertaking signed by the president that the TC has complied or will comply, as the case maybe, with the prerequisites for the grant of authority to establish a branch under Subsection 4151T.3.

b. For marketing office(s), the notice shall be supported with Items “(2), (3)” and “(5)” of the above documentary requirements.

(Circular No. 884 dated 22 July 2015)

§ 4151T.6 Filing/processing fee. A non-refundable filing fee of P2,000.00 shall be paid for each branch application. Moreover, a processing fee of P25,000.00 shall be paid for each branch application processed, regardless of the final decision of the Bangko Sentral.

(Circular No. 884 dated 22 July 2015)

§ 4151T.7 Date of opening. Approved branch(es) shall be opened within six (6) months from the date of approval thereof and shall not be subject to any extension.

(Circular No. 884 dated 22 July 2015)

§ 4151T.8 Requirement for opening branch(es)/marketing office(s). Not later than five (5) banking days from date of opening, the TC shall notify the appropriate department of the SES of the actual date of opening of its branch/marketing office.

(Circular No. 884 dated 22 July 2015)

§ 4151T.9 Relocation/closure of branch(es)/marketing office(s). Relocation/closure of branch(es)/marketing office/s may be effected only with prior notification to the Bangko Sentral in accordance with the following procedures:

1. Notice of the relocation/closure of the branch/marketing office signed by the president of the TC, together with a certified

true copy of the resolution of the TC’s board of directors authorizing said relocation/closure and stating the justifications/reasons thereof, shall be submitted by the TC to the appropriate department of the SES;

2. Upon receipt of “no objection notice” from the Bangko Sentral but at least forty-five (45) calendar days prior to the closure, notice of relocation/closure shall be sent by the TC to the trustors’ and other creditors’ last known addresses by registered mail service of the Philippine Postal Corporation (Philpost) or delivery service of other mail couriers or electronic mail, and posters shall also be displayed in conspicuous places in the premises of the branch to be closed. Proofs of receipt of notice by the trustors and other creditors shall be kept on file and made available upon request of the Bangko Sentral; and

3. Within five (5) banking days from the date of relocation/closure of the branch/marketing office, a notice of such relocation/closure signed by the compliance officer with the rank of a vice president or equivalent rank, or by a higher ranking officer, together with a certification that the notification requirement in Item “2” above has been complied with, shall be submitted to the appropriate department of the SES.

(Circular No. 884 dated 22 July 2015)

§ 4151T.10 Sanctions. Any violation of the provisions of Subsections 4151T.1 to 4151T.9 depending on the materiality or seriousness of the violation, may constitute a ground for considering the same as unsafe and unsound practice and may be a ground for cancellation of the franchise and closure of said branch/marketing office established herein without prejudice to the imposition of applicable criminal and administrative sanctions prescribed under Sections 36 and 37, respectively of R.A. No. 7653; and if any part of any certification submitted by the TC

as required in this Section is found to be false, the following sanctions shall be imposed:

a. *On the TC.* Suspension for one (1) year of the privilege to establish and/or open approved branches/marketing office, and/or relocate branches/marketing office.

b. *On the certifying officer.* A fine of P5,000 per day from the time the certification was made up to the time the certification was found to be false for each branch/marketing office opened, relocated, or closed without prejudice to the sanctions under Section 35 of R.A. No. 7653.

(Circular No. 884 dated 22 July 2015)

K. MARKETING

Sec. 4152T General Policy. TCs shall put in place sound policies and procedures covering its marketing arrangement giving primary consideration in upholding consumer protection in accordance with the Consumer Protection Framework of the Bangko Sentral. Such policies and procedures shall be embodied in a marketing plan and in case of significant changes to be made thereon, TCs shall notify the appropriate department of the SES within thirty (30) calendar days prior to the implementation of such change.

(Circular No. 884 dated 22 July 2015)

§ 4152T.1 Governance in marketing. In marketing its trust products, TCs shall:

1. Establish policies and procedures covering the marketing of its trust products such as, but not limited to, verification and handling of client information, disclosures of key features of trust products, extent of authority of marketing personnel, and risk disclosures;

2. Be responsible for the conduct and regular training of its marketing personnel. For purposes of this Section, marketing personnel shall mean any person performing marketing functions for the TC;

3. Establish proper customer feedback and complaint-handling mechanisms; and

4. Comply with all laws and regulations applicable in the Philippines including labor laws, anti-money laundering rules, outsourcing and those governing the trust activities/services performed by the marketing personnel on the TC’s behalf.

(Circular No. 884 dated 22 July 2015)

§ 4152T.2 Marketing personnel. TCs shall ensure that its marketing personnel are fit and proper, act within the bounds of their functions, and adhere to the Code of Ethics and Professional Standards required under Section 4401T. Accordingly, TCs shall establish policies and procedures covering the following:

a. Duties and responsibilities of its marketing personnel;

b. Conduct of due diligence check on the fitness and propriety of its marketing personnel which includes monitoring and reviewing on an ongoing basis their performance; and

c. Conduct of continuing training and education especially on updates relative to the TC’s trust products.

With respect to the marketing personnel themselves, they shall be required to:

1. Undergo training program on trust, other fiduciary and investment management activities. This training program may be conducted by their respective trust entities or by the Trust Officers Association of the Philippines (TOAP) or any training provider acceptable to the Bangko Sentral. However, if the training is conducted by the trust entities, such training program shall be regularly reviewed/validated by TOAP. It is understood that all training materials shall be made available for review and/or validation, whenever necessary;

2. Continuously update themselves on the features and characteristics of the trust products they are selling; and

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3. Conduct themselves with integrity, honesty and with proper representation to the clients of the TC.

(Circular No. 884 dated 22 July 2015)

§ 4152T.3 Marketing materials. TCs shall ensure that its marketing materials give a fair and balanced view of the trust product being offered. Marketing materials may be considered fair and balanced when they are clear and easily understood; highlight the purpose and risks of the product; and do not omit any material information that would cause the marketing materials to be misleading. All marketing materials should specify (a) that the same is a trust product and therefore not insured nor governed by the Philippine Deposit Insurance Corporation (PDIC); (b) that any loss/income is for the account of the client/investor; and (c) that the TC is not liable for losses unless upon willful default, bad faith or gross negligence.

Subsection 4410Q.7 of the MORNBFI, on the minimum disclosure requirements shall be adopted by the TC, in so far as applicable to the trust product.

(Circular No. 884 dated 22 July 2015)

§ 4152T.4 Complaints resolution. TCs, in the marketing and distribution of its products, shall establish systems and controls regarding the recording and handling of complaints. The provisions on Consumer Protection Framework of the Bangko Sentral shall apply.

(Circular No. 884 dated 22 July 2015)

§ 4152T.5 Reports. TCs shall submit on an annual basis a certification signed by the president and the compliance officer that:

- a. The appointed marketing personnel are fit and proper and has undergone the requisite training; and
b. The TC has a policy on handling and ensuring the accountability, as well as a

system of monitoring the activities and performance of its marketing personnel.

Said certification shall be submitted on or before 30 January of the following year and shall be considered a Category A-2 report.

(Circular No. 884 dated 22 July 2015)

L. DISTRIBUTION OF TRUST PRODUCTS

Sec. 4153T Distribution of Trust Products. TCs shall adopt a distribution arrangement that is consistent with its strategic plan of operation. Such arrangement shall be conducted in a manner that is not prohibited by laws, rules and regulations. Further, a TC shall only be allowed to distribute its own products, otherwise, outsourcing should be taken into consideration as provided under Section 4162T of this Manual.

(Circular No. 884 dated 22 July 2015)

Secs. 4154T - 4155T (Reserved)

M. BUSINESS DAYS AND HOURS

Sec. 4156T Business Days and Hours. TCs may adopt such business days and hours as they deem proper in the conduct of their operations: Provided, That such business days and hours are properly disclosed to clients/investor: Provided, further, That TCs shall post conspicuously at all times in their place of business their schedule of regular business days and hours.

(Circular No. 884 dated 22 July 2015)

Secs. 4157T - 4159T (Reserved)

N. TRUST CORPORATION PREMISES

Sec. 4160T Trust Corporation Premises; Other Fixed Assets. The regulations under Section 4160Q of the MORNBFI and its Subsections (except Subsection 4160Q.3

Reclassification of real and other properties acquired to QB premises, furniture, fixture and equipment; Sanction) shall be adopted for the premises and other fixed assets of the trust corporations.

(Circular No. 884 dated 22 July 2015)

O. MANAGEMENT CONTRACTS AND OUTSOURCING OF OTHER FUNCTIONS

Sec. 4161T Management Contracts. Subject to existing laws and regulations, all agreements whereby the affairs or operations of a trust corporation will be carried out by another corporation, person or group of persons, shall be subject to prior Bangko Sentral approval.

The agreements referred to in the preceding paragraph shall not be entered into for a period longer than five (5) years.

(Circular No. 884 dated 22 July 2015)

Sec. 4162T Duties and Responsibilities of TCs and their Directors/Officers in All Cases of Outsourcing of Other Functions. Only trust corporations with trust composite rating of at least “2” and a Management rating of not lower than “3” shall be allowed to outsource designated activities without prior Bangko Sentral approval. Otherwise, the trust corporation must secure approval from the appropriate supervising department of the Bangko Sentral whose evaluation shall be based on the trust corporation's ability to manage risk attendant to outsourcing. The trust corporation shall likewise ensure that outsourcing of activities will not compromise confidentiality or access to (client) sensitive information. Moreover, no trust corporation shall outsource inherent trust functions such as but not limited to managing of risk exposures and strategic decision-making activities. The rules on outsourcing of services as shown under

Sec. X162 and *Appendix Q-37*, of the MORNBFI, in so far as applicable, shall apply.

(Circular No. 884 dated 22 July 2015)

Secs. 4163T - 4172T (Reserved)

P. RISK MANAGEMENT GUIDELINES

Sec. 4173T Risk Management Guidelines. Risk management guidelines for trust and other fiduciary business and investment management activities shall be governed by the applicable regulations under Secs. 4174Q, 4175Q, 4176Q and 4177Q, MORNBFI, and by *Appendix Q-48a* of the MORNBFI-Risk Management Guidelines for Trust and Other Fiduciary Business and Investment Management Activities.

(Circular No. 884 dated 22 July 2015)

Secs. 4174T –4177T (Reserved)

Sec. 4178T Credit Risk Management. The guidelines on sound credit risk management practices as provided under Sec. 4178Q and the following Subsections of the MORNBFI shall apply in so far as applicable to trust corporations:

- 4178Q.1 Evaluation of credit risk management system
- 4178Q.2 Role of the Board and Senior Management
- 4178Q.3 Credit risk management structure
- 4178Q.4 Credit risk strategy
- 4178Q.5 Credit policies, processes and procedures

(Circular No. 884 dated 22 July 2015)

Sec. 4179T Operational Risk Management; Policy Statement¹. It is the thrust of the Bangko Sentral to promote the adoption of effective risk management systems to sustain

¹ Trust Corporations 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 trust corporation 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. 4179T as well as Subsec. 4179T.1 to 4179T.11.

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the safe and sound operations of its trust corporations. 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 standards¹ and best practices. Bangko Sentral expects trust corporations 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)

§ 4179T.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 risk. 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)

§ 4179T.2 Duties and responsibilities.
 a. *Board of directors.* Consistent with the principles embodied under Subsec. 4141T.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 trust corporation'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 trust corporation is exposed to;
- (2) Approve the operational risk management framework which shall form part of the trust corporation's enterprise-wide risk management system and shall cover all business lines and functions of the trust corporation, 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. 4179T.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 trust corporation's overall business objectives. Relative to this, the board should set and provide clear guidance on the trust corporation's operational risk appetite (i.e., the level of operational risk the trust corporation 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 trust corporation's financial condition and strategic direction;
 - (b) Approve appropriate thresholds or

¹ Embodied in the relevant documents issued by the Basel Committee on Banking Supervision.

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 trust corporation, 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 trust corporation'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

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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 trust corporation’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 trust corporation’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 trust corporation, 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 trust corporation 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 BSFI’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 trust corporation'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 trust corporation;

(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 trust corporation'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 trust corporation'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

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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)

§ 4179T.3 Roles and functions.

a. *Operational Risk Management Function.* Trust corporations 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 trust corporations 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. Trust corporations 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)

§ 4179T.4 Operational risk management framework. Trust corporations 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 trust corporation 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 trust corporation 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) Trust corporations 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 trust corporation’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) Trust corporations 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

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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 trust corporation 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 trust corporation;

(b) *Internal loss data collection and analysis* – Internal operational loss data provides meaningful information for assessing trust corporation'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. Trust corporations 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 risk may also relate to operational issues and should be segmented in order to obtain a more comprehensive view of the trust corporation's operational risk exposure;

(c) *Risk Self Assessments (RSA)/Risk Control Self Assessments (RCSA)* – RSA is a

tool to assess processes underlying trust corporation's 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 the key steps in business processes, activities, and organizational functions as well as the key risk points in the trust corporation'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 trust corporation'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 trust corporations 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 trust corporation’s operational risk profile.

Comparison of external loss data, if available, such as industry experiences, vis-à-vis trust corporation’s internal loss data can also be made to explore possible weaknesses in the financial institution’s control environment and enable it to consider previously unidentified risk exposures.

In choosing among these tools, each trust corporation must carefully consider what is proportionate to its size, risk profile, and complexity of operations. Data/information gathered from these tools should enable trust corporations to make a thorough causal analysis, identify control gaps, and consequently adopt appropriate corrective actions.

Trust corporations, 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) Trust corporations 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, trust corporations shall also gather potential loss or near-misses¹. 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. Trust corporations 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 trust corporation’s reputation); and
- (l) Action(s) taken.

Trust corporations 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

¹ Potential loss is an initial estimate of the loss that the bank 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.

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exposure and for effective risk management. Trust corporations shall ensure that the choice of threshold should not adversely impact the credibility and accuracy of operational risk measurement.

(4) Trust corporations 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) Trust corporations 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 trust corporation’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
- (e) Results of internal assessment of risks and controls.

(6) Trust corporations 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 trust corporations to rapidly increase branch network during a short period of time. Trust corporations 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 trust corporation'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.* Trust corporations 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 trust corporation’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 trust corporation'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 trust corporation (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 trust corporation'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, trust corporations are expected to adhere to the standards set forth under pertinent provisions of Secs. 4185T and 4186T on Internal Control and Internal Audit.

Trust corporations 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, trust corporations may seek to transfer the risk to another party such as through insurance. Relative thereto, the board shall determine the maximum loss exposure the trust corporation is willing to take and has the capacity to assume, and should perform an annual review of the trust corporation's risk and insurance management program.

Trust corporations, 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)

§ 4179T.5 Management of human resource-related risk. One of the major sources of operational risk is "people risk". In this regard, trust corporations shall

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embed in their enterprise-wide risk management framework measures to identify, measure, monitor, and control human resource related risks. Trust corporations 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 trust corporation'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 of 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)

§ 4179T.6 Management of information technology-related risk. Trust corporations shall refer to Sec. 4177Q for the management of information technology-related risk.
(Circular No. 900 dated 18 January 2016)

§ 4179T.7 Management of integrity of prudential reports or reports submitted to Bangko Sentral. Trust corporation 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. Trust corporations 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)

§ 4179T.8 Management of legal risk exposures. Trust corporations 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 trust corporation’s rights and obligations in contractual relationships and in ensuring that all agreements/contracts entered into by the trust corporation 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 trust corporation 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)

§ 4179T.9 Management of operational risk arising from financial inclusion initiatives. Trust corporations 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

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number of personnel or from the use of technology-based platform to effectively and efficiently deliver financial services. Trust corporations 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, trust corporations 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 trust corporation's business model and ensure sustained delivery of financial services to the unserved and underserved sector.

(Circular No. 900 dated 18 January 2016)

§ 4179T.10 Notification/Reporting to Bangko Sentral. Trust corporations 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 event¹ 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 trust corporation to submit a report detailing 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)

§ 4179T.11 Supervisory Enforcement Actions. Consistent with Sec. 4009T, 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 trust corporation, among others. Sanctions may likewise be imposed on a trust corporation and/or its directors, officers and/or employees.

(Circular No. 900 dated 18 January 2016)

Sec. 4180T Compliance System. The applicable provisions under Sec. 4180Q and its Subsections shall be adopted by the trust corporations.

(Circular No. 884 dated 22 July 2015)

Secs. 4181T - 4184T (Reserved)

Sec. 4185T Internal Control System. The applicable provisions under Sec. 4185Q and its Subsections shall be adopted by the trust corporations.

(Circular No. 884 dated 22 July 2015)

Sec. 4186T Internal Audit Function. Internal audit is an independent, objective assurance and consulting function established to examine, evaluate and improve the effectiveness of risk management, internal control, and governance processes of an organization.

The board of directors, in a resolution entered in its minutes, may adopt a suitable continuous audit system to supplement and/ or replace the performance of an 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

¹ As enumerated under Sec. 4179T.4.a.(1).

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. The report of the audit, together with the actions thereon, shall be noted in the minutes of the trust corporation’s board of directors. Other applicable provisions of Sec. 4186Q and its Subsecstions shall likewise be adopted by the trust corporation.

(Circular No. 884 dated 22 July 2015)

Secs. 4187T - 4188T (Reserved)

Sec. 4189T Selection, Appointment, Reporting Requirements and Delisting of External Auditors and/or Auditing Firm; Sanction. The provisions under Sec. 4189Q of the MORNBFi shall be adopted in so far as applicable to the trust corporations.

(Circular No. 884 dated 22 July 2015)

Sec. 4190T Audited Financial Statements of trust corporations; Financial Audit. The trust corporation’s operation shall be subject to financial audit by an external auditor acceptable to the Bangko Sentral not later than thirty (30) calendar days after the close of the calendar or the fiscal year adopted by the trust corporation. Such audit, which shall cover among others, the trust corporation’s operation, practices and policies, audit and internal control system, shall be subject to auditing standards to the

extent necessary to express an opinion on the financial statements. Report of such audit shall be submitted to the board of directors and the appropriate department of the SES not later than one hundred twenty (120) calendar days after the close of the calendar year or the fiscal year adopted by the trust corporation and shall contain, among other things, the complete set of financial statements and other information required by Bangko Sentral to be submitted under Sec. 4190Q of the MORNBFi: *Provided*, That a reconciliation of the balance sheet in the Audited Financial Statement (AFS) and the Financial Reporting Package for Trust Institutions (FRPTI) shall also 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-33* of the MORNBFi.

The report of the audit, together with the actions thereon, shall be noted in the minutes of the board of directors of the trust corporations. Other provisions of Sec. 4190Q of the MORNBFi in so far as applicable shall likewise be adopted by the trust corporations.

(Circular No. 884 dated 22 July 2015)

§ 4190T.1 Audited financial statements of TCs. The trust corporations shall submit two (2) sets of AFS: AFS of the trust corporations proper and AFS covering trust operations. The provisions of Sec. 4190Q and its Subsections, and Subsec.

4425Q.3 of the MORNBFi shall be adopted in so far as applicable to the TC.

(Circular No. 884 dated 22 July 2015)

§§ 4190T.2 - 4190T.3 (Reserved)

§ 4190T.4 *Disclosure requirements in the notes to the audited financial statements.* TCs 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 (computed pursuant to Subsection 4190Q.4, MORNBFi) and percentage of total trust fees to total AUM;
- b. Total outstanding investment, loans and other credit exposures to TC’s DOSRI and related parties with breakdown and name of DOSRI/related parties;
- c. Nature and amount of contingencies and commitments arising from off-balance sheet items, if any;
- d. Provisions and allowances for losses and how these are determined;
- e. Aggregate amount of secured liabilities and assets pledged as security; and
- f. 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.

(Circular No. 884 dated 22 July 2015)

Sec. 4191T Records. TCs shall have a true and accurate account, record or statement of their daily transactions. The TC shall also keep books and records on trust, other fiduciary and IMAs separate and distinct from the books

and records of its proprietary accounts and shall strictly follow and implement the FRPTI prescribed by the Bangko Sentral.

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. Other provisions of Sections 4191Q and 4421Q of the MORNBFi shall be adopted in so far as applicable to the TC.

(Circular No. 884 dated 22 July 2015)

Sec. 4192T Reports/Manner of Filing. The applicable provisions of Section 4192Q of the MORNBFi shall be adopted by the TC, except that, instead of *Appendix Q-3*, the applicable reports for TCs are those enumerated under *Appendix T-3*.

The TC, if a subsidiary/affiliate of a bank, is required to submit a quarterly report to the appropriate supervising department of the Bangko Sentral on its financial transactions with the bank within twenty (20) calendar days after the end of the reference quarter.

(Circular No. 884 dated 22 July 2015)

Q. PROMPT CORRECTIVE ACTION
FRAMEWORK

Sec. 4193T Prompt Corrective Action Framework. The framework for the enforcement of prompt corrective action (PCA) on banks which is in *Appendix 69* of the MORB, shall govern the PCA taken on TCs to the extent applicable, or by analogy.

(Circular No. 884 dated 22 July 2015)

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Sec. 4194T (Reserved)

R. LIQUIDATION AND
RECEIVERSHIP

Sec. 4195T Voluntary Liquidation. A TC which intends to surrender its trust license 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 TC’s trust, other fiduciary business and investment management activities. If the TC 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 revocation of the institution’s authority to engage in trust and other fiduciary management activities.

TCs shall adopt the provisions of *Appendix Q-58* of the MORNBFI on the guidelines on voluntary liquidation.
(Circular No. 884 dated 22 July 2015)

Sec. 4196T Receivership and Involuntary Liquidation. The Monetary Board, after considering the report of the appropriate department of the SES, may revoke the TC’s authority to engage in trust, other fiduciary business and investment management activities in accordance with Section 37 of R.A. No. 7653. Upon revocation of the trust, other fiduciary and investment management license, the TC shall be required to wind down and liquidate its trust, other fiduciary business and investment management activities, and distribute proceeds thereof to its clients.

It shall be unlawful for any such TC to thereafter perform or engage in trust, other fiduciary business and investment management activities.

Whenever a receiver is appointed by the Monetary Board for a TC, 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 of banks found in Section X198 and its Subsections of the MORB, shall apply to the placement of a trust corporation under receivership or liquidation, to the extent possibly, or by analogy.

In case of a TC which license has been revoked by the Monetary Board, any director or officer thereof

- a. who refuses to turn over the corporation’s records and assets under management to the appointed successor-trustee(s), or
- b. who tampers with the corporation’s records, or
- c. who appropriates for himself for another party or destroys or causes the misappropriation and destruction of the TC’s assets under management, or
- d. who receives or permits or causes to be received in said corporation any part or all of the assets under management, or
- e. who pays out or permits or causes to be transferred any part thereof,

shall be subject to the penal provisions of the R.A. No. 7653.
(Circular No. 884 dated 22 July 2015)

Sec. 4197T - 4198T (Reserved)

S. GENERAL PROVISION ON
SANCTIONS

Sec. 4199T General Provisions on Sanctions. Pursuant to Section 91 of R. A. No. 8791, the Monetary Board may impose sanctions and monetary penalty for any violation of the provisions of this Part. This is without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted that may include the suspension or revocation of a TC’s authority to engage in trust, other fiduciary business and investment management activities and

such other sanctions as may be provided by law and existing regulations. If the offender is a director or officer of the TC, the Monetary Board may also suspend or remove such director or officer. If the violation is committed by a corporation, such corporation may be dissolved by quo warranto proceedings instituted by the Solicitor General.

The guidelines for the imposition of monetary penalty shown in *Appendix T-2* shall govern the imposition of monetary penalty for violations/offenses with administrative sanctions falling under Section 37 of R.A. No. 7653 on TCs, their directors and/or officers.

(Circular No. 884 dated 22 July 2015)

PART TWO

Sections 4201T - 4299T (Reserved)

PART THREE

ASSET MANAGEMENT OPERATIONS

Sec. 4301T Management of Risk Assets/ Minimum Guidelines on Investment Operations. It shall be the responsibility of the board of directors of a TC to formulate written policies on credit and investment activities, and risk diversification and to set the guidelines for evaluation of proprietary and fiduciary assets. Sound credit and investment processes are essential if a TC is to perform its asset management function effectively and minimize the risk inherent in any credit and investment activity. The responsibility should be approached in a way that will provide assurance to the client, the stockholders and supervisory authorities that timely and adequate action will be taken to maintain the quality of the loan and investment portfolio and other fiduciary assets.
(Circular No. 884 dated 22 July 2015)

Sec. 4302T Loan Portfolio and Other Risk Assets Review System. The following provisions of Section 4178Q of the MORNBFi on operating under a sound credit granting process shall be adopted, in so far as applicable to the TC:

- 4178Q.6 Credit approval process
- 4178Q.7 Credit granting and loan evaluation/analysis process and underwriting standards
- 4178Q.8 Renewal or extension of maturity date of credits
- 4178Q.10 Country and Transfer Risks
- 4178Q.12 Credit Administration
- 4178Q.13 Credit Risk Measurement, Validation and Stress Testing
- 4178Q.14 Credit Risk Management Information and Reporting Systems

- 4178Q.15 Credit Monitoring
- 4178Q.16 Credit Review Process
- 4178Q.17 Credit Classification and Provisioning
- 4178Q.18 Credit Workout and Remedial Management of Problem Credits
- 4178Q.19 Writing off problem credits
- 4178Q.20 Enforcement Actions

(Circular No. 884 dated 22 July 2015)

Sec. 4303T Large Exposures. TCs are expected to adopt policies and processes that will identify, measure, monitor and control large exposures as well as potential conflict of interest in the administration of fiduciary business.

Large exposures should be kept under regular review to ensure quality and controls thereof to safeguard against credit risk concentrations.

Large exposures shall refer to exposures to counterparty or a group of related counterparties equal or greater than five percent (5%) of TC’s combined capital account as defined under Section 4111T of the MORNBFi.
(Circular No. 884 dated 22 July 2015)

Sec. 4304T Applicable Regulations on Credit and Investment Operations. Unless otherwise provided herein, the following regulations in Part Three of the MORNBFi shall be adopted, in so far as applicable to the TC:

Sec. 4304Q Grant of Loans and Other Credit Accommodations, and its Subsections (except for Subsection 4304Q.2 which is now renumbered as 4178Q.7)

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- Sec. 4305Q Interest and Other Charges, and its Subsections
 - Sec. 4306Q Past Due Accounts, and Subsections 4306Q.1, 4306Q.2 and 4306Q.7
 - Sec. 4307Q Truth in Lending Act Disclosure Requirement, and its Subsections
 - Sec. 4309Q Non-Performing Loans, and its Subsections
 - Sec. 4327Q Transactions Covered
 - Sec. 4334Q Procedural Requirements
 - Sec. 4388Q Purchase of Receivables and Other Obligations
 - Sec. 4394Q Acquired Assets in Settlement of Loans (except Subsections 4394Q.10 Transfer/Sale of Non-Performing Assets to a Special Purpose Vehicle or to an individual; 4394Q.15 Joint Venture of QBs with Real Estate Development Companies)
- (Circular No. 884 dated 22 July 2015)

Secs. 4305T - 4325T (Reserved)

Sec. 4326T Loans/Credit Accommodations to Directors, Officers, Stockholders and their Related Interests (DOSRI) and Related Parties. Dealings of a TC with any of its DOSRI and related parties¹ shall be in the regular course of business and upon terms not less favorable to the TC and/or its clients than those offered to others. DOSRI shall be defined in accordance with the definitions under Subsection 4326Q.1 of the MORNBFI and Sections 12 and 13 of R.A. 8791 on related interests.

The TC is expected to clearly articulate policies and procedures on the handling of any transaction with DOSRI and other related parties ensuring that there is appropriate disclosure and effective compliance with existing laws, rules and regulations at all times and no stakeholder is unduly disadvantaged.

(Circular No. 884 dated 22 July 2015)

Sec. 4327T (Reserved)

Sec. 4328T Transactions Not Covered. The provisions under Section 4328Q of the MORNBFI (except its Subsections) shall be adopted by the TC.

(Circular No. 884 dated 22 July 2015)

§ 4328T.1 - 4328T.5 (Reserved)

Sec. 4329T Reports. The TC shall submit a report to the appropriate supervising department covering transactions of the TC with its DOSRI and related parties within twenty (20) calendar days from end of the reference quarter. Moreover, TC’s records on monitoring large exposures and loans to DOSRI and its related parties 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 TC in relation to its large exposures and credit risk concentrations.

(Circular No. 884 dated 22 July 2015)

Secs. 4330T - 4398T (Reserved)

Sec. 4399T General Provision on Sanctions. Pursuant to Section 91 of R. A. No. 8791, the Monetary Board may impose sanctions and monetary penalty for any violation of the provisions of this Part. This is without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted that may include the suspension or revocation of a TC’s authority to engage in trust, other fiduciary business and investment management activities and such other sanctions as may be provided by law. If the offender is a director or officer of the TC, the Monetary Board may also suspend or remove such director or officer. If the violation is committed by a corporation, such corporation may be

¹ As defined under Subsec. 4141Q.3.c.5.a of the MORNBFI

dissolved by quo warranto proceedings instituted by the solicitor general.

The guidelines for the imposition of monetary penalty shown in *Appendix T-2* shall govern the imposition of monetary

penalty for violations/offenses with administrative sanctions falling under Section 37 of R.A. No. 7653 on TCs, their directors and/or officers.

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PART FOUR

**TRUST, OTHER FIDUCIARY BUSINESS
AND INVESTMENT MANAGEMENT ACTIVITIES**

Section 4401T 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 TC. 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 TC.

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 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 Section 4421Q of the MORNBF. Likewise, all material facts within the knowledge or reasonably discoverable by the TC, 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* of MORNBF) and risk management guidelines for trust, other fiduciary business and investment management activities (*Appendix Q-48a* of MORNBF).

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

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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.

The TC shall formulate and adhere to a Code of Ethics and Professional Standards (Code and Standards), duly approved by the board of directors, that defines the ethical principles and professional conduct of fiduciary functions with the clients’ best interest in mind. It shall be the responsibility of the board of directors of the TC to ensure strict conformance with the Code and Standards by all its directors, officers and personnel. To this end, the board of directors shall incorporate compliance procedures in its Code and Standards.

(Circular No. 884 dated 22 July 2015)

Sec. 4402T Applicable Regulations on Trust and Other Fiduciary Activities. In addition to the provisions in the “T” regulation of the MORNBFI, trust operations and other fiduciary activities, including investment management shall be subject to the following regulations provided under Part Four of the MORNBFI, in so far as applicable to the TC:

- a. Section 4407Q Non-Trust, Non-Fiduciary and/or Non-Investment Management Activities
- b. Section 4409Q Trust and Other Fiduciary Business (except Subsections 4409Q.4 Ceiling on Loans; 4409Q.8 Tax-exempt Individual Trust Accounts)
- c. Section 4410Q Unit Investment Trust Funds
- d. Section 4411Q Investment Management Activities (except on the required pre-numbered contractual

agreement form; and except Subsections 4411Q.7 Ceilings on Loans; 4411Q.10 Tax-Exempt Individual IMA)

- e. Section 4413Q Required Retained Earnings Appropriation
- f. Section 4422Q Custody of Assets
- g. Section 4423Q Fees and Commissions
- h. Section 4424Q Taxes
- i. Section 4425Q.1 Reports Required to Trustor, Beneficiary, Principal;
- j. Section 4499Q Sanctions (For this purpose the guidelines for the imposition of monetary penalty as shown under *Appendix T-2* shall be used by TCs)

(Circular No. 884 dated 22 July 2015, as amended by Circular No. 903 dated 29 February 2016)

Secs. 4403T - 4409T (Reserved)

§§ 4409T.1 - 4409T.16 (Reserved)

§ 4409T.17 Trust fund of pre-need companies. The rules and regulations on the acceptance, management and administration of trust funds of pre-need companies by TCs shall be governed by Chapter VIII of the Pre-need Code of the Philippines (Republic Act No. 9829).

(Circular No. 884 dated 22 July 2015)

Secs. 4410T - 4411T (Reserved)

Sec. 4412T Foreign Currency Denominated Trust, Other Fiduciary and Investment Management Account. A TC may accept foreign currency-denominated (FCD) trust, other fiduciary and IMA accounts in any acceptable foreign currency.

For purposes of this Section, “acceptable foreign exchange” comprise those foreign currencies which are acceptable to and exchangeable at the Bangko Sentral and which form part of the international reserves of the country.

(Circular No. 884 dated 22 July 2015)

§ 4412T.1 Applicability of rules and regulations. Unless otherwise revised by the provisions of this Section, the rules and regulations governing the administration of trust, other fiduciary or investment management accounts, including UITFs, shall be observed.

(Circular No. 884 dated 22 July 2015)

§ 4412T.2 Allowable loans and investments. FCD accounts may be invested in loans and investments as allowed under the written contract between the TC and its clients: *Provided*, That the loans and investments are allowed under existing Bangko Sentral regulations and are properly disclosed to trustors/ principals/fund participants: *Provided further*, That the pertinent rules and regulations in the Manual of Regulations on Foreign Exchange Transactions (Part V of MORB) are complied with.

The TC shall adopt a written policy on the determination of the level of liquid assets appropriate to each client after considering the client’s mandate/s or objective/s, given constraints and unique needs and circumstances. The Investment Policy Statement of each client shall show the basis for the client’s liquidity requirement.

(Circular No. 884 dated 22 July 2015)

§ 4412T.3 Accounting. TCs shall maintain a separate accounting for these foreign currency transactions that will enable preparation of the Balance Sheet and Income Statement covering said funds. FCD assets and accountabilities shall be recorded at their foreign currency amounts and their local currency equivalent using the Philippine Dealing System (PDS) Peso/US Dollar closing rate and the New York US Dollar/ Third Currencies closing rate. For purposes

of preparing the FCD financial statements, the TC shall use the US dollar (USD) as its functional currency. However, for purposes of consolidating the FCD financial statements with the Peso financial statements, these shall be translated into the presentation currency, i.e. Philippine Peso (PHP).

The TC shall also prepare financial reports to clients as required under Section 4425Q of the MORNBFi, reflecting dollar denominated assets and accountabilities and consolidated reports reflecting the peso and foreign currency (translated into Philippine Peso) denominated assets and accountabilities.

(Circular No. 884 dated 22 July 2015)

Secs. 4413T - 4440T (Reserved)

Sec. 4441T Securities Custodianship and Securities Registry Operations. The provisions under Section 4441Q of the MORNBFi, and its Subsections, shall be adopted for TC with the following changes:

(Circular No. 884 dated 22 July 2015)

§§ 4441T.1 to 4441T.4 (Reserved)

§ 4441T.5 Pre-qualification requirements for a securities custodian/registry. The pre-qualification requirements for a securities custodian/registry under Subsection 4441Q.5 of the MORNBFi shall apply, except for items a (QB requirement); and c (CAMELS composite rating requirement), of said Subsection. In addition to the said requirements, TC must have a Trust Composite Rating of at least “3” in the last regular examination.

(Circular No. 884 dated 22 July 2015)

§§ 4441T.6 - 4441T.14 (Reserved)

§ 4441T.15 Trust Rating System and Rating downgrade. In the event that the TC’s trust rating of “3” is downgraded during a

**§§ 4441T.15 - 4499T
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particular examination, the TC has one (1) examination cycle from date of receipt of the report of examination, which shall serve as notice of downgrade, within which to correct/address the cause of the downgrade, otherwise sanction will be imposed which include, but is not limited to: (1) suspension of custodianship authority and limiting the TC’s

custodianship accounts to the level immediately prior to the downgrade until such time the rating is restored to “3”; or (2) revocation of the custodianship authority.
(Circular No. 884 dated 22 July 2015)

§§ 4441T.16 - 4441T.29 (Reserved)

Secs. 4442T - 4499T (Reserved)

PART FIVE

Sections 4501T - 4599T (Reserved)

PART SIX

Sections 4601T - 4699T (Reserved)

PART SEVEN

Sections 4701T - 4799T (Reserved)

PART EIGHT

Sections 4801T - 4899T (Reserved)

PART NINE
MISCELLANEOUS

A. SUNDRY PROVISIONS

Section 4901T (Reserved)

§ 4901T.1 Annual supervision fees. TCs shall pay to the Bangko Sentral an annual supervision fee of 0.01% of the average monthly balance of assets under management for the first three (3) years of the TC’s operations. However, a supervision fee of 0.02% of the average monthly balance of assets under management shall be imposed on the 4th year and onwards. Securities held under custodianship shall be exempt from annual fees. The average monthly balance shall refer to the sum of the twelve (12) month-end balances of the preceding calendar year divided by a factor of twelve (12). Said annual supervision fee shall be paid by the TCs on or before end-February of every year. Non-payment of the supervisory fee within the prescribed period shall subject the concerned TC to the sanctions prescribed under Section 37 of R.A. No. 7653.

(Circular No. 884 dated 22 July 2015)

Sec. 4902T Payment of Fines and Other Charges. The provisions of Section 4902Q of the MORNBFI shall apply to TCs.

(Circular No. 884 dated 22 July 2015)

Sec. 4903T (Reserved)

Sec. 4904T Applicable Regulations on TCs. Trust operations and investment management activities of TCs shall be subject to the applicable regulations in Parts Five (Foreign Exchange Operations), Six

(Treasury and Money Market Operations), Seven (Electronic Operations and Other Services) and Eight (Anti-Money Laundering Operations) of the MORNBFI, unless otherwise provided in this Manual.

(Circular No. 884 dated 22 July 2015)

Sec. 4905T Transitory Provision. TCs spun off from trust departments of banks/NBFIs, may continue to operate as a trust department within a reasonable period of time, to be determined by the Bangko Sentral, after the grant of the Authority to Operate as TC. Necessary documentations and transfer of resources may be done during this period: *Provided*, That new services and/or products to be offered by the TC during this period shall be rendered by the newly incorporated TC: *Provided, further*, That all necessary arrangements, notices to clients/investors/creditors shall be made by the TC immediately after receipt of approval from the Bangko Sentral of its Authority to Establish as a TC.

(Circular No. 884 dated 22 July 2015)

Secs. 4906T - 4998T
(Reserved)

Sec. 4999T General Provision on Sanctions. Pursuant to Section 91 of R. A. No. 8791, the Monetary Board may impose sanctions and monetary penalty for any violation of the provisions of this Part. This is without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted that may include the suspension or revocation of a TC’s authority to engage in trust, other fiduciary business and investment management

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activities and such other sanctions as may be provided by law. If the offender is a director or officer of the TC, the Monetary Board may also suspend or remove such director or officer. If the violation is committed by a corporation, such corporation may be dissolved by quo warranto proceedings instituted by the solicitor general.

The guidelines for the imposition of monetary penalty shown in *Appendix T-2* shall govern the imposition of monetary penalty for violations/offenses with administrative sanctions falling under Section 37 of R.A. No. 7653 on TCs, their directors and/or officers.
(Circular No. 884 dated 22 July 2015)

List of Appendices of MORB/Q Regulations Applicable
to Trust Corporations

Appendix		Reference in T Regulations
MORB		
4	Format of Affidavit on Transactions Involving Voting Shares of Stocks	Subsec. 4126T.2 Transactions Involving Voting Shares of Stocks
69	Prompt Corrective Action Framework	Sec. 4193T Prompt Corrective Action Framework
Q Regulations		
Q-3-c (Annex)	Reporting Guidelines on Crimes/ Losses	Sec. 4192T Reports/Manner of Filing
Q-4	Guidelines on Prescribed Reports Signatories and Signatory Authorization	Sec. 4192T Reports/Manner of Filing
Q-5	Minimum Internal Control Standards for Quasi-banks	Sec. 4185T Internal Control System (<i>same standards is required for TCs</i>)
Q-10	Guidelines in Identifying and Monitoring Problem Loans and Other Risk Assets and Setting-Up of Allowance for Probable Losses	Sec. 4302T Loan Portfolio and Other Risk Assets Review System (as amended by Circular No. 855 dated 29 October 2014)
Q-11	Format of Disclosure Statement of Loan/Credit Transaction	Sec. 4304T Applicable Regulations on Credit and Investment Operations
Q-12	Abstract of "Truth in Lending Act" (Republic Act No. 3765)	
Q-14	Sample Investment Management Agreement	Sec. 4402T Applicable Regulations on Trust and Other Fiduciary Activities Sec. 4411Q Investment Management Activities (<i>except on the required pre-numbered contractual agreement form; and except Subsections 4411Q.7 Ceilings on Loans; 4411Q.10 Tax-Exempt Individual IMA</i>)
Q-15	Risk Management Guidelines for Derivatives	Sec. 4904T Applicable Regulations on TCs
Q-16	Sales and Marketing Guidelines for Derivatives	
Q-16a	Sample Risk Disclosure Statement for Derivatives Activities	
Q-20	Classification, Accounting Procedures, Valuation and Sales and Transfers of Investments in Debt Securities and Marketable Equity Securities	Sec. 4304T Applicable Regulations on Credit and Investment Operations Sec. 4388Q Purchase of Receivables and Other Obligations

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Appendix		Reference in T Regulations
20a	Establishing the Market Benchmarks/ Reference Prices and Computation Method Used to Mark-to-Market Debt and Marketable Equity Securities	
Q-21	Guidelines on the Use of Scripless Securities (RoSS) as Security Deposit for the Faithful Performance of Trust Duties	Subsec. 4112T.1 Basic Security Deposit
Q-22	Procedures on Collection of Fines/ Penalties from Quasi-banks and/or Directors/Officers of QBs	Sec. 4902T Payment of Fines and Other Charges
Q-22a	Pro-Forma Payment Form	
Q-23	(Reserved)	
Q-24	Activities which may be Considered Unsafe and Unsound Practices	Sec. 4149T Conducting Business in Unsafe/Unsound Manner
Q-29	Guidelines and Minimum Documentary Requirements for Foreign Exchange Forward and Swap Transactions	Sec. 4904T Applicable Regulations on TCs
Q-30	Guidelines to Govern the Selection, Appointment, Reporting Requirements and Delisting of External Auditors and/ or Auditing Firm of Covered Entities	Sec. 4189T Selection, Appointment, Reporting Requirements and Delisting of External Auditors and/or Auditing Firm; Sanction
Q-31	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	Sec. 4402T Applicable Regulations on Trust and Other Fiduciary Activities Section 4409Q Trust and Other Fiduciary Business (except Subsections 4409Q.4 Ceiling on Loans; 4409Q.8 Tax-exempt Individual Trust Accounts)
Q-33	Checklist of BSP Requirements in the Submission of Financial Audit Report, Annual Audit Report and Reports Required Under Appendix Q-30	Sec. 4190T Audited Financial Statements of TCs; Financial Audit
Q-34	Key Information and Investment Disclosure Statement (pursuant to Circular No. 852 dated 21 October 2014)	Sec. 4402T Applicable Regulations on Trust and Other Fiduciary Activities
Q-34a	Unit Investments Trust Funds Risk Disclosure Statement	Section 4410Q Unit Investment Trust Funds
Q-35	Bangko Sentral Rules of Procedure on Administrative Cases Involving Directors and Officers of Quasi-banks and Trust Entities	Sec. 4150T Rules of Procedure on Administrative Cases Involving Directors and Officers of TC
Q-37	Documents Required Under the Revised Outsourcing Framework for Non-Banks	Sec. 4162T Duties and Responsibilities of TCs and their Directors/ Officers in All Cases of Outsourcing of Other Functions

	Appendix	Reference in T Regulations
Q-38	Implementation of the Delivery by the Seller of Securities Directly to the Buyer or to his Designated Securities Custodian/Central Securities Depository	Sec. 4441T Securities Custodianship and Securities Registry Operations
Q-38a	Delivery of Government Securities to the Investor's Principal Securities Account with the Registry of Scripless Securities	
Q-39	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	Replaced by Appendix T-2 (Guidelines for the Imposition of Monetary Penalty for Violations/Offenses with Sanctions Falling Under Section 37 of R.A. No. 7653 on TCs, Directors and/or Officers)
Q-42	Guidelines on Supervision by Risk	Sec. 4173T Risk Management Guidelines
Q-43	Guidelines on Market Risk Management	
Q-44	Guidelines on Liquidity Risk Management	
Q-45	Authorization Form for Querying the Bangko Sentral Watchlist Files for Screening Applicants and Confirming Appointments of Directors and Officials	Sec. 4143T Disqualification of Directors and Officers
Q-47	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)	Sec. 4402T Applicable Regulations on Trust and Other Fiduciary Activities
Q-47a	Access of Trust Departments/Entities which are Counterparties in the Term Deposit Facility (TDF) and the Overnight Deposit Facility (ODF) of the Bangko Sentral	Sec. 4409Q Trust and Other Fiduciary Business (except Subsections 4409Q.4 Ceiling on Loans; 4409Q.8 Tax-exempt Individual Trust Accounts)
Q-48	Basic Standards in the Administration of Trust, Other Fiduciary and Investment Management Accounts	Subsec. 4142T.3 Duties and responsibilities of officers Sec. 4401T Statement of Principles
Q-48a	Risk Management Guidelines for Trust and Other Fiduciary Business and Investment Management Activities	Sec. 4173T Risk Management Guidelines Sec. 4401T Statement of Principles

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Appendix		Reference in T Regulations
Q-49	Guidelines for Days Declared as Public Sector Holidays	Sec. 4904T Applicable Regulations on TCs
Q-50	Guidelines on the Submission of Application for Merger and Consolidation	Sec. 4108T Authority Resulting from Merger or Consolidation
Q-56	Guidelines Governing the Implementation/Early Adoption of Philippine Financial Reporting Standards (PFRS 9) Financial Instruments	Sec. 4191T Records
Q-57	List of Documentary Requirements- Confirmation of the Election/ Appointment of the Members of the Board of Directors/SVPs and Above or Equivalent Ranks of Non-Banks with Quasi-Banking Functions	Sec. 4141T Definition; Qualifications; Powers; Responsibilities and Duties of Board of Directors
Q-57b	List of Members of the Board of Directors and Officers	
Q-58	Guidelines on Receivership and Liquidation Proceedings of Non-Banks with Quasi-Banking Functions and Trust Entities	Sec. 4195T Voluntary Liquidation Sec. 4196T Receivership and Involuntary Liquidation
Q-59a	IT Risk Management Standards and Guidelines Area: IT Audit	Sec. 4173T Risk Management Guidelines
Q-59b	IT Risk Management Standards and Guidelines Area: Information Security	
Q-59c	IT Risk Management Standards and Guidelines Area: Project Management/Development, Acquisition and Change Management	
Q-59d	IT Risk Management Standards and Guidelines Area: IT Operations	
Q-59e	IT Risk Management Standards and Guidelines Area: IT Outsourcing/ Vendor Management	
Q-59f	IT Risk Management Standards and Guidelines Area: Electronic Banking, Electronic Payment, Electronic Money and Other Electronic Products and Services	
Q-60	Report on Breach in Information Security	

(Circular No. 884 dated 22 July 2015, as amended by Circular No. 913 dated 02 June 2016)

The Guidelines for the Imposition of Monetary Penalty for
Violations/Offenses with Sanctions Falling Under
Section 37 of R.A. No. 7653 on Trust Corporations,
Directors and/or Officers

The schedule of penalty, categorized based on: (1) the nature of offenses such as minor, less serious, and/or serious, and (2) the size of the assets under management of the trust corporation, shall be as follows:

A. For Serious Offense

Assets Under Management Size	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
Penalty Range						
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

Assets Under Management Size	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
Penalty Range						
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

Assets Under Management Size	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
Penalty Range						
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

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For purposes of this Regulation, the following definition of terms shall mean:

1. **Serious Offense** - This refers to unsafe or unsound practice. An unsafe or unsound practice is one in which there has been some conduct, whether act or omission, which is contrary to accepted standards of prudent fiduciary activities, and trust business/operation, and may result to the exposure of the trust corporation and its shareholders to abnormal risk or loss.

In determining the acts or omissions included under the unsafe or unsound practice, an analysis of the impact thereof on the trust corporations’ 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 creditors, investors, trust/other fiduciary/investment management clients, 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 trust corporation 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 trust corporation, 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 of the MORNBFI.

2. **Less Serious Offense** - These include major acts or omissions defined as trust corporation/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 material¹ impact on trust corporation’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 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 trust corporation. 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 Appendix T-2a)

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.

(Circular No. 884 dated 22 July 2015)

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 Bangko Sentral rules and regulations as well as non-compliance with Bangko Sentral/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 trust corporations 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 Supervision and Examination 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 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 trust corporation officers purposely complicates the transaction to make it difficult to uncover or refuse to provide information/ documents that would support the violation/offense committed.

Inasmuch 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 trust corporation- In assessing this factor, “*potential loss*” refers to any time at which the trust corporation was in danger of sustaining a loss.

(1) Substantial actual loss – The trust corporation 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 trust corporation/

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individual may have substantial/serious violations that could impact the reputation and earnings of the trust corporation.

(2) Minimal actual loss or substantial risk of loss – The trust corporation 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 trust corporation 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 trust corporation.¹

(3) Minimal risk of loss – The risk exposure on earnings or capital is minimal. Trust corporation 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 trust corporation or its financial condition. The risk of loss aggregating to less than one percent (1%) of the capital of the trust corporation will fall under this classification.

f. Impact to trust/asset or investment management industry– In assessing this factor, it is appropriate to consider any possible negative impact or harm to the trust corporation (e.g., a violation of law involving insider abuse may result in adverse publicity for the institution, possibly causing a sudden mass redemption/withdrawal of trust investments or termination of trust, other fiduciary or investment management accounts and affecting the trust corporation’s trust business). Resulting effect on the trust/asset or investment management industry on the violation/offenses committed by the trust corporation, if any, will also be considered.

¹ Item H 1 (b) Appendix Q-30 provides that external auditors of trust entities must report to Bangko Sentral, among others, any potential losses the aggregate of which amounts to at least one percent (1%) of the capital to enable the Bangko Sentral to take timely and appropriate remedial action.

Sources of data may come from news reports.

(1) Substantial impact on trust corporation. No impact on trust/asset or investment management industry. This may involve reputational risk of the trust corporation as a result of negative publicity generated, for example, by involvement of trust corporation’s director/officer in activities not acceptable to the regulatory bodies. This may also involve insider abuse of authority/power. However, the trust/asset or investment management industry is not affected for this isolated case.

(2) Moderate impact on trust/asset or investment management industry or on public perception of trust/asset or investment management industry. This may involve poor corporate governance and mismanagement of trust corporation that may result to erosion of public confidence.

(3) Substantial impact on trust/asset or investment management industry or on public perception of trust/asset or investment management industry. This is a worst-case scenario. The violations/irregular activities of the trust corporation may totally erode the trust and confidence of the investing public resulting to a nationwide mass redemption/withdrawal of trust investments or termination of trust, other fiduciary or investment management accounts. Pessimistic perception of the investing public on the trust/asset or investment management 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.

(1) Full Cooperation - This is determined by the actions of the individual and/or trust corporation towards the regulators after or even before notification of the offense and/or omission. Assistance rendered by the

trust corporation 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 trust corporation/individual.

(2) With positive measures/action undertaken although not corrected immediately. The trust corporation is willing to remedy/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 trust corporation has started to rectify the infraction by instituting reforms in their operations or systems.

(3) Voluntary disclosure of offense - Voluntary disclosure of the trust corporation of the offense committed before it is discovered by Bangko Sentral examiners in the regular/special examination or in the supervisory work (e.g., submission of reports to the Bangko Sentral disclosing the violation committed by the trust corporation 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 trust corporation/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.

(Circular No. 884 dated 22 July 2015, as amended by Circular No. 917 dated 08 July 2016)

LIST OF REPORTS REQUIRED FROM TRUST CORPORATIONS

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-1		4192T/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	Report on Outstanding Derivatives Contracts	Monthly	15th business day from end of reference month	-do-
A-1	Unnumbered	4611Q.5	Report on Trading Gain/(Loss) on Financial Derivatives	Monthly	15th business day from end of reference month	-do-
A-2	BSP 7-16-11	X126.2/4126T.2	Consolidated List of Stockholders and Their Stockholdings	Annual/quarterly when any changes occur	12th business day after the end of the calendar year and if there are changes, 12th business day after the end of the reference quarter	-do-
A-2	Unnumbered (no prescribed form)	4141Q.9	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 TC	10th business day from date of election	-do-
A-2		4152T.5	Certification on the Fitness and Propriety of marketing personnel and the existence of policy on the handling of TCs' marketing personnel. (NEW REPORT)	Annual	On or before 30 January of the following year	-do-

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	BSP-7-26-02-A	4192T	Consolidated Statement of Condition	Monthly	15th business day from end of reference month	Separate report for Head Office and each branch; Email to SDC
A-2	BSP-7-26-02-A (Schedule 1)	4192T	Schedules: Loans/Receivables and Trading Account Securities			Separate report for Head Office and each branch; Email to SDC
A-2	BSP-7-26-02-A (Schedule 4)	4192T	Remaining Maturities of Selected Accounts Interest Rate and Maturity Matching			-do-
A-2	BSP-7-26-02-A (Schedule 3)	4192T	Interest Rate and Maturity Matching			-do-
A-2	BSP-7-26-02-A (Schedule 2)	4192T	Underwritten Securities, Trading Account Securities-Investments, Available for Sale Securities and Investments in Bonds & Other Debt Instruments			-do-
A-2	BSP-7-26-03-A	4192T	Consolidated Statement of Income and Expenses	Monthly	15th business day of the following end of reference month	Separate report for Head Office and each branch; Email to SDC
A-2	BSP-7-26-24	4192Q	Credit and Equity Exposures to Individuals/Companies/Groups Aggregating P1 million & above	Quarterly	15th business day from end of reference quarter	Electronic submission-SDC
			Notarized Control Prooflist	Quarterly	15th business day from end of reference quarter	Fax to SDC
A-2	Unnumbered	4801Q	Report on Suspicious Transaction	As transaction occurs	10th business day from date of transaction/knowledge	Original and duplicate Anti-Money Laundering Council (AMLC)

<u>Category</u>	<u>Form No.</u>	<u>MOR Ref.</u>	<u>Report Title</u>	<u>Frequency</u>	<u>Submission Deadline</u>	<u>Submission Procedure</u>
A-2	Unnumbered	4801Q	Report on Covered Transactions	As transaction occurs	10th business day from date of transaction/knowledge	Original and duplicate Anti-Money Laundering Council (AMLC)
A-2	Unnumbered	4191T (As amended by Circular No. 913 dated 06.05.16 and M-009 dated 06.23.16)	Financial Reporting Package for Trust Institutions (FRPTI)	Quarterly	20th business day after end of reference quarter	SDC
			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			
			D to D2 Wealth/Asset/Fund Management-UITF			
			E-Fiduciary Accounts			
			E1 to E1B – Other Fiduciary Services-UITF			
			Income Statement			
			Control Prooflist	Quarterly	20th business day after end of reference quarter	SDC
A-3		4328Q.5/4326T	Transmittal of Board Resolution/Written Approval on Credit Accommodations to Affiliates	As loans to affiliate is approved	20th business day after date of approval	Original and duplicate to appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
A-3	BSP-7-26-18.1	4329T	Credit Accommodations to Directors, Officers, Stockholders and Their Related Interests	Quarterly	20 calendar days from end of reference quarter	Appropriate department of the SES
A-3	Unnumbered	4334Q/4326T	Copy of Written Approval on 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
B	Unnumbered	4103T.1	Documentary requirements/information on organizational structure and operational policies	Upon submission of application to engage in TC		-do-
				As changes occur	15th calendar day from change/issuance	-do-
B		4141Q.4	Notice of Election/Appointments of Members of Board of Directors and Committees	As changes occur	10th day from election/assumption of office	-do-
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	-do-
B	Indicate the for no. (for QB – SES II Form 15 (NP08-TB)	4144Q	Biographical Data of Directors/Officers 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	Upon every election/re-election or appointment/promotion or if change in name occurs, or if requesting approval for interlocks.	10th business day from the date of the meeting of the board of directors/officers are elected or appointed/promoted 10th business day from the 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
			Directors/Officers whose Biographical Data were submitted thru electronic mail to be faxed to SDC			
B	Unnumbered	4144Q	List of Members of the Board of Directors and Officers	Annually	10th business day from the annual election of the board of directors	Hard copy to appropriate department of the SES
B		4144Q	Duly accomplished and notarized authorization form for querying the BSP watchlist files	Upon election or appointment/promotion as first time director/officer within a TC	10th business day from date of election of the directors/meeting of the board of directors in which the officers are appointed/promoted	-do-
B	Unnumbered (no prescribed form)	4190T/4190T.1/4190Q	Audited Financial Statements (two (2) sets of AFS: AFS of the TC proper and AFS covering trust operations) for Previous Year Prepared by the External Auditor and the corresponding Auditor's Letter of Comments	Annually	120th calendar day after the end of reference year	Appropriate department of the SES
B		4192Q	Certification under oath of 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	10th business day from the date of election	Hard copy to appropriate department of the SES
B		4192Q/4141Q.9	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	10th 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

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
B		4192T	Report on Intra-Group Transaction	Quarterly	20 calendar days after the end of reference quarter	-do-
B	BSP 7-26-26	4192Q.3	Statement of Condition for Publication	Quarterly	20th business day from receipt of call	Appropriate department of the SES
			Control Prooflist duly signed by the authorized officer of the institution			
B		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	4192Q	Report on Crimes/Losses for Head Office/Branches	As crime or incident occurs	Within five (5) business days from knowledge of the crime or incident; 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.	In two (2) copies: 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	Unnumbered	4192Q	Board Resolution on trust corporation's signatories of report submitted to BSP	As authorized	3rd day from date of resolution	Appropriate department of the SES

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
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	BSP 7-26-13	4306Q	Past Due Receivables, Loans and/or Commercial Papers/Private Securities	Quarterly	15th calendar day after end of reference quarter	-do-
B	SES Form 6H (CBP-7-16-21), revised	4306Q.5	Notice of Write-offs of Loans, Other Credit Accommodations, 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	-do-
B		4409Q.16	Waiver of Confidentiality of Information under Sections 2 and 3 of R.A. No. 1405, as amended	As transaction occurs		Appropriate department of the SES
B	Unnumbered	4625Q.9	Report on FX Swaps with Customers' where 1st leg is a Purchase of FX Against Pesos (For TCs with derivative license)	Monthly	5th business day after end of reference month	IOD @ e-mail: iod@bsp.gov.ph cc: mail SDC
B	Unnumbered	4625Q.9	Report on Cancellations, Roll-overs and Non-delivery of FX Forwards Purchase-Sales Contracts and Forward Leg of Swap Contracts (for TC with derivatives license)	Monthly	5th business day after end of reference month	IOD @ e-mail: iod@bsp.gov.ph cc: mail SDC

Category	Form No.	MOR Ref.	Report Title	Frequency	Submission Deadline	Submission Procedure
		M-019 dated 05.05.08	Report on NDF transactions with non- resident	Weekly	2nd business day after end of reference week	Email to SDC
			Control Prooflist			Fax to SDC
B	SEC Form	MAB dated 09.02.05	General Information Sheet	Annually or as changes occurs	30th day from date of Annual Stockholders' meeting or if changes occur, 7th day from date of change.	Appropriate department of the SES
	Unnumbered	4177Q.8	IT Risk Profile Report	Annually	25 calendar days after end of reference year	Electronically to the SDC