

## AMENDMENTS IN THE PDIC RULES AND REGULATIONS

*PDIC REGULATORY ISSUANCE NO. 92-3, September 14, 1992*

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The PDIC Board of Directors, in its Resolution No. 92-08-058 dated 26 August 1992 approved amendments in the PDIC Rules and Regulations in accordance with the provisions of RA 7400 (An Act Further Amending RA 3591, as amended, otherwise known as the PDIC charter).

### 1. Section 1.01 of PART I DEFINITION OF TERMS —

"a. Bank and Banking Institution - shall be synonymous and interchangeable and shall include banks, commercial banks, savings banks, mortgage banks, rural banks, development banks, cooperative banks, stock savings and loan associations, and branches and agencies in the Philippines of foreign banks and all other corporations authorized to perform banking functions in the Philippines."

"b. Receiver - includes a receiver, commission, person, or other agency charged by law with the duty to take charge of the assets and liabilities of a bank which has been forbidden from doing business in the Philippines, as well as the duty to gather, preserve, and administer such assets and liabilities for the benefit of the depositors and creditors of said bank, and to continue into liquidation whenever authorized under R.A. 3591, as amended, or other laws, and to dispose of the assets and to wind up the affairs of such bank."

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"f. Insured Deposit - means the net amount due to any depositor for deposits in an insured bank (after deducting offsets) less any part thereof which is in excess of one hundred thousand pesos (P100,000.00). such net amount shall be determined according to such regulations as the Board of Directors may prescribe and in determining such amount due to any depositor, there shall be added together all deposits in the bank maintained in the same capacity and the same right for his benefit either in his own name or in the name of others: Provided, that the provisions of any law to the contrary notwithstanding, no owner/holder of any negotiable certificate of deposit shall be recognized as a depositor entitled to the rights provided in R.A. 3591, as amended, unless his name is registered as owner/holder thereof in the books of the issuing bank."

### 2. Section 1.01 (j), (k), (l), (m), (n), and (o) are repealed.

### 3. Section 2.01 of "PART II - COVERAGE OF DEPOSIT INSURANCE"

"Sec. 2.01 Coverage of Deposit Insurance – The deposit institution which is engaged in the business of receiving deposits as herein defined, or which hereafter may engage in the business of receiving deposits shall be insured with the PDIC."

### 4. Section 3.01 of "PART III - ASSESSMENTS"

"Sec. 3.01. Assessment Rate - Each insured bank shall pay to PDIC assessments for insurance coverage of the bank's deposits at the rate fixed by the Board of Directors but which shall not exceed one fifth (1/5) of one per centum per annum on its assessment base. The semi-annual assessment for each insured bank shall be the amount of the product of one-half (1/2) the annual assessment rate multiplied by the assessment base but in no case shall it be less than the amount of two hundred fifty (P250.00) pesos."

5. "Sec. 3.02 Assessment Base - The assessment base shall be the amount of the liability of the bank for deposits according to the definition of the term "deposit" pursuant to Section 3 (l) of R.A. 3591, as amended, and Section 1.01 (e) of these Rules and Regulations without any deduction for indebtedness of depositors.

The semi-annual assessment base for the semi-annual assessment ending June 30 shall be the average of the assessment base of the bank as of the close of business on September 30 and December 31 and the semi-annual assessment base for the semi-annual assessment ending December 31 shall be the average of the assessment base as of the close of business on March 31, and June 30.

In case a bank which is incorporated under the laws of the Philippines and which maintains a branch outside the Philippines elects to include for insurance its deposit obligations payable only at such branch, it shall include such deposit obligations as part of the 'deposits' subject to assessment.

Deposits maintained in foreign currencies in an insured bank shall form part of the total deposit obligations of said bank. For assessment purposes, such deposits shall be converted to their equivalent amount in pesos on the basis of the interbank rate obtaining on the applicable base day/s."

6. Section 3.03 and 3.04 are repealed.

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7. "Sec. 3.06 Maintenance of Assessment Records - Each insured bank shall maintain such records as will readily permit verification of the correctness of the assessment base."

8. "Sec. 3.07 Time and Manner of Payment of Assessments - Each insured bank shall pay to the PDIC the amount of the semi-annual assessment required under Sec. 3.01 of these rules and regulations at the time of filing its certified statement. The assessment shall be paid in such manner as the Board of Directors shall prescribe."

9. "Sec. 3.08 Filing of Certified statements - The Certified Statements required to be filed by insured banks in accordance with Section 6(b) of R.A. 3591, as amended, shall be filed with PDIC upon the forms, and in the manner prescribed by the Board of Directors of PDIC. The certified statement form shall be reproduced by the banks themselves and filed with PDIC as follows:

a. PDIC Form No. 202 - First Certified Statement - This form shall be accomplished by the newly opened, reopened, or rehabilitated bank and filed with PDIC upon the expiration of the first semi-annual period in which it becomes an insured bank. This form shows the deposit liabilities for only one base day, either June 30 or December 31, whichever date is applicable. When any of said base days is a holiday or a non-business day, the preceding business day shall be used. The form also shows the computation of the assessment base and the amount of the assessment due the PDIC. It must be signed under oath by an authorized officer of the bank, two copies, one of which is the original copy, forwarded to PDIC on or before July 31 or January 31, as the case may be, and a copy or copies retained in the bank's files."

b. PDIC Form No. 201 - Regular Certified Statement - This form shall be accomplished and filed with PDIC on or before January 31 and July 31 of each year by every insured bank, except newly insured banks which must submit their First Certified Statement on PDIC Form No. 202. PDIC Form No. 201 shows the deposit liabilities for the two base days in each semi-annual period. The base days are March 31 and June 30 for the six (6) month period ending June 30, and September 30 and December 31 for the six (6) month period ending December 31. When any of said base days is a non-business day or a holiday, the preceding business day shall be used. The form shows the computation of the assessment base and the amount of the assessment due the PDIC. It must be signed under oath by an authorized officer of the bank, the original and a copy forwarded to PDIC, and a copy or copies retained in the bank's files."

## 10. "PART IV PAYMENT OF INSURED DEPOSITS"

"Sec. 4.04 Payment not to exceed P100,000.00 to Each Depositor — Each depositor of a closed insured bank shall be entitled to payment covering the net amount due him from such bank for deposits (after deducting offsets) not in excess of P100,000.00. In establishing the amount due to any depositor, there shall be added together all deposits maintained in the said closed insured bank in the same capacity and in the same right for his benefit either in his own or in the name of others."

### 11. Section 4.06 is hereby amended to read as follows:

"Sec. 4.06 Subrogation of PDIC to all Rights of Depositors Upon Payment of Insured Deposits — Upon payment of the insured deposits, PDIC shall be subrogated to all rights of the depositor against a closed insured bank to the extent of such payment. Such subrogation shall include the right on the part of PDIC to receive the same dividends and payments from the proceeds of the assets of such closed bank and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for insured deposit, but such depositor shall retain his claim for any uninsured portion of his deposit: Provided, That all payments by PDIC of insured deposits in closed banks partake of the nature of public funds, and as such, must be considered a preferred credit similar to taxes due to the National Government in the order of preference under Article 2244 of the New Civil Code; Provided, further, that this preference shall be likewise effective upon liquidation proceedings already commenced and pending as of the approval of R.A 7400, where no distribution of assets has been made."

### 12. All of PART V is amended to read:

"PART V. ISSUANCE OF CEASE AND DESIST ORDER"

"5.01 Whenever upon examination by the examination departments into the condition of any insured bank, it shall be disclosed that an insured bank or its directors or Agents have committed, are committing or about to commit unsafe or unsound practices in conducting the business of the bank; or have violated, are violating or about to violate any provisions of any law or regulation to which the insured bank is subject; or have violated or are violating or about to violate the provisions of R.A. 3591, as amended, or any order, rule or instruction issued by the Corporation, or any written condition imposed by the Corporation in connection with any transaction with or grant by the Corporation, the Board of Directors shall give notice to the insured bank of such finding so that appropriate actions may be taken by said bank. The notice shall state the actions or undertakings to be done by the bank within a period of not less than fifteen (15) days.

If no appropriate action has been taken by the bank after the notice mentioned the preceding paragraph within the period stated in the notice, a report of the examination shall be submitted to the Monetary Board to secure corrective action thereon. If no such corrective action is taken by the Monetary Board within sixty (60) days from the submission of the report, the Board of Directors shall, *motu proprio* institute corrective action which it deems necessary.

The Board of Director may a cease and desist order and require the bank or its directors or agents concerned to correct the practices or violations within sixty (60) days. However, if the practice or violation is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to seriously prejudice the interest of the depositors and the corporation, the period to take corrective action shall not be more than fifteen (15) days.

The cease and desist order may include the imposition of fines provided in section 16(f) of R.A. 3591, as amended.

The Board of Director shall duly inform the Monetary Board of the Central Bank of the Philippines of the action

taken by PDIC.”

13. A new “PART V – A. TERMINATION OF INSURED STATUS OF BANKS”

“Sec. 5.01 (A) Termination of Insured Status Due to Violation of Cease and Desist Order or Failure to Correct Practices or Violations – Should the insured bank violate the cease and desist order or fail to correct the practices or violations as required within the period prescribed in the order, the Board of Directors shall terminate the insured status of the bank. The order of termination shall be final and executory until set aside, modified, or suspected by the Board of Directors.”

“Sec. 5.02 (A) Termination of Insured Status Due to Failure or Refusal to Pay Assessment – Should the insured bank fail or refuse to pay assessment required to be paid by such bank under any provision of R.A. 3591, as amended, and should the bank not correct such failure or refusal within thirty (30) days after written notice has been given by the Corporation to an officer of the bank, citing Section 6(h) of said law, and stating that the bank has failed or refused to pay as required, the Board of Directors shall terminate the insured status of such bank: Provided that, after the lapse of thirty (30) days from the date when the written notice has been sent by registered mail, whether or not such notice has been actually received by the bank, the Corporations shall terminate the insured status of the bank. The order of termination shall be final and executory until set aside, modified, or suspended by the Board of Directors.”

“Sec. 5.03 (A) Notice to the Bank and the Depositors of the Termination of Insured Status – The Corporation shall give notice to the bank of the order of termination of its insured status by such mode of service as may be expeditious and efficient. Immediately upon receipt of such order, the bank shall give written notice of such termination to each of the depositors at his last address of record on the books of the bank. The PDIC, shall cause the publication of the notice of termination in three (3) consecutive days in a newspaper of general and/or local circulation. The cost of such publication shall be chargeable t the bank.

Failure of the bank for whatever reason to give written notice to the depositors as provided above shall not affect the validity and effectivity of the order of termination of insured status against the depositors of the bank provided that the required publication has been complied with.

“Sec. 5.04 (A) Extension of Deposit Insurance After Termination of Insured Status of the Bank – After the termination of the insured status of a bank, the insured deposits of each depositor in the bank on the date of such termination, less all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of ninety (90) days from date of first publication of the order of termination mentioned in the preceding paragraph. No additions to any such deposits and no new deposits in such bank after date of first publication by PDIC of the order of termination of insured status, shall be insured by PDIC. The bank shall not adverse or hold itself out as having insured deposits unless in the same connection, the bank shall state with equal prominence that such additions to the insured deposits and new deposits after such termination are nor insured. In the event that such bank shall be closed on account of insolvency within the period of ninety (90) days mentioned, the Corporation shall have the same powers and rights with respect to such bank as in the case of an insured bank.”

“Sec. 5.05 (A) Resumption of Insured Status – the bank whose insured status has been terminated may request for the resumption of its insured status by means of written application filed with the Corporation, and the Board of Directors may, upon finding that the cause or causes for termination of insured status has/have been corrected or remedied, approve such application.”

14. "PART VII PENAL PROVISIONS" is amended to read as follows:

"PART VII. LEGAL REMEDIES/PENAL PROVISIONS"

"Sec. 7.01. Legal Remedies/Penal Provisions — The Corporation may avail of the legal remedies and/or impose the penalties provided for under sections 6(f) and (h); Section 9(c); 16(a), (b), (e) (f) and (g); and section 17 of

R.A. 3591, as amended, without prejudice to the right of PDIC to avail itself of other remedies under other existing laws."

Please be guided accordingly.

Adopted: 14 Sept. 1992

(SGD.) VITALIANO N. NAÑAGAS II  
President

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