AMENDED REGULATIONS TO ENHANCE CONSUMER PROTECTION IN THE CREDIT CARD OPERATIONS OF BANKS AND THEIR SUBSIDIARY OR AFFILIATE CREDIT CARD COMPANIES

BSP CIRCULAR NO. 702, S. 2010, December 15, 2010

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Pursuant to Monetary Board Resolution No. 1728 dated 02 December 2010, the provisions of the Manual of Regulations for Banks (MORB) and the Manual of Regulations for Non-Bank Financial Institutions (MORNBFI) are hereby amended, as follows:

Section 1. The second paragraph of Subsection X320.2 of the MORB, and Subsections 4320Q.2 (2008-4337Q.2) and 4301N.2 of the MORNBFI on the requirement for banks/quasi-banks with credit card operations, and their subsidiary or affiliate credit card companies, to have written policies, procedures and internal control guidelines is hereby amended so as to delete Item “d” thereof.

Section 2. The provisions of Subsection X320.3 of the MORB, and Subsections 4320Q.3 (2008-4337Q.3) and 4301N.3 of the MORNBFI on the minimum requirements before issuing credit cards are hereby amended to reads as follows:

> “Banks/Quasi-banks and their subsidiary or affiliate credit card companies shall not issue pre-approved credit cards.
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> “Before issuing credit cards, banks/quasi-banks and/or their subsidiary/affiliate credit card companies must exercise, in accordance with the provisions of Subsection X304.1/4304Q.1 (2008-4312Q.1)/4312N.1, proper diligence by ascertaining that applicants possess good credit standing and are financially capable of fulfilling their credit commitments.
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> “The net take home pay of applicants who are employed, the net monthly receipts of those engaged in trade or business, or the net worth or cash flow inferred from deposits of those who are neither employed nor engaged in trade or business or the credit behavior exhibited by the applicant from his other existing credit cards, or other lifestyle indicators such as, but not limited to, club memberships, ownership and location of residence and motor vehicle ownership shall be determined and used as basis for setting credit limits. The gross monthly income may also be used provided reasonable deductions are estimated for income taxes, premium contributions, loan amortizations and other deductions.
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> “All credit card applications, specifically those solicited by third party representatives/agents, shall undergo a strict credit risk assessment process and the information stated thereon validated and verified by authorized personnel of the banks/quasi-banks and their subsidiary or affiliate credit card companies, other than those handling marketing.”

Section 3. The following paragraph is hereby added as the last paragraph of Subsection X320.4 of the MORB, and Subsections 4320Q.4 (2008-4337Q.4) and 4301N.4 of the MORNBFI on the minimum information that banks/quasi-banks and their subsidiary or affiliate credit card companies must disclose to their cardholders:

> “Banks/Quasi banks 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 the applicable document has more than one page.

"Transitory provisions. Banks/Quasi banks and their subsidiary or affiliate credit card companies shall be given a period of 120 days from the date of the effectivity of this Circular to fully implement the required disclosure requirements."

Section 4. The following paragraph is hereby added as the last paragraph of Subsection X320.14 of the MORB, and Subsections 4320Q.14 (2008-4337Q.14) and 4301N.14 of the MORNBFI on the prohibition against unfair collection practices:

"Banks/quasi-banks and their subsidiary/affiliate credit card companies shall inform their cardholders in writing of the endorsement of the collection of their account to a collection agency/agent, or the endorsement of their account from one collection agency/agent to another, at least seven (7) days prior to the actual endorsement. The notification shall include the full name of the collection agency and its contact details: Provided, That the required notification in writing shall be included in the terms and conditions of the credit card agreement. Banks/quasi-banks 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."

Section 5. The following provisions of the MORB/MORNBFI shall also be made applicable to the other lending operations of all BSP-supervised institutions, other than pawnshops:

1. The provisions of Section 3 of this Circular, except for Item "2" thereof. These requirements are accordingly added as Subsection X304.10 of the MORB, and Subsections/Section 4304Q.10, 4310S and 4312N.12 of the MORNBFI;

2. The regulations against unfair collection practices under Subsection X320.14 of the MORB[1], as amended under Section 4 of this Circular. These regulations are accordingly added as Subsection X304.11 of the MORB, and Subsections/Section 4304Q.11, 4311S and 4312N.11 of the MORNBFI; and

3. The requirements on maintaining the confidentiality of information under Subsection X320.9 of the MORB[2], and are accordingly added as Subsection X304.12 of the MORB, and subsections/Section 4320Q.12, 4312S and 4312N.12 of the MORNBFI.

Section 6. Sanctions. Violations of any provision of this Circular 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.

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b. Second Offense. Disqualification of the bank concerned from the credit facilities of the BSP except as may be allowed under Section 84 of R.A. No. 7653;

c. Subsequent Offense/s:

i. Prohibition on the bank 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.

Section 7. Applicability of Other Laws. In addition to banking laws and BSP regulations, credit card transactions are also covered by other laws such as Republic Act (R.A.) No. 7394, otherwise known as the Consumer Act of the Philippines and R.A. No. 8484, otherwise known as the Access Devices Regulation Act.

Section 8. Effectivity. This Circular shall take effect fifteen (15) days following its publication either in the Official Gazette or in newspaper of general circulation.

Adopted: 15 December 2010

FOR THE MONETARY BOARD:

(SGD.) AMANDO M. TETANGCO, JR.
Governor

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[1] Also found in Subsections 4320Q.14 (2008-4337Q.14) and 4301N of the MORNBFI.

[2] Also found in Subsections 4320Q.9 (2008-4337Q.9) and 4301N.4 of the MORNBFI.

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