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UNSAFE AND/OR UNSOUND BANKING PRACTICES

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Pursuant to its authority to prescribe and issue rules and regulations under Section 2(d)(1) of Republic Act No. 3591 (the PDIC Charter), as amended, the PDIC Board of Directors, by virtue of Resolution No. 2010-12-159 dated 15 December 2010, hereby promulgates the following rules and regulations on unsafe and/or unsound banking practices in relation to Sections 4(f)(3), 7(a), 8(8), and 21(f)(10) of the PDIC Charter.

I. Statement of Policy

The State, through the PDIC, safeguards the interests of the depositing public by ensuring the safety and soundness of banking institutions. To protect the country's banking system and the depositing public, the PDIC shall regulate banking practices, acts, or omissions, which are likely to have adverse effects on the condition of banks, prejudice the interests of the depositing public or the Deposit Insurance Fund, or which are likely to result in violations of any law, rule, or regulation.

II. Unsafe and/or Unsound Banking Practices

The PDIC hereby adopts the general principles and guidelines in Bangko Sentral ng Pilipinas (BSP) Circular No. 341 (series of 2002), as amended by BSP Circular No. 640 (series of 2009), relating to the determination of activities that may be considered unsafe and/or unsound banking practices.

III. Principles in the Determination of Unsafe and/or Unsound Deposit-Related Practices

In addition to the banking practices the PDIC may deem unsafe and/or unsound under Section II hereof, the PDIC shall deem a deposit-related practice, activity, transaction, or omission committed or being committed by banks or its directors, officers and employees or agents to be an unsafe and/or unsound banking practice when it has resulted or may result in:

1. Unreasonable delay in the processing or determination of the validity of deposit claims in the event of bank closure; or
2. Material loss or damage or abnormal risk to the bank's depositors, creditors, shareholders, or to the PDIC; or
3. Material loss or damage or abnormal risk or danger to the safety, stability, liquidity, or solvency of the bank.

IV. Unsafe and/or Unsound Deposit-Related Practices

The following may be considered unsafe and/or unsound deposit-related practices:

1. Performance of any deposit-related practice, activity, or transaction without the requisite approvals or without adequate controls, as mandated by existing laws, rules, and regulations, which may result to unaccounted, undocumented and/or unrecorded deposits.

2. Failure to keep bank records (printed and/or electronic) within the bank premises especially deposit documents such as, but not limited to, signature cards, depositor information files, and deposit ledgers.

For purposes of this section, "premises" shall refer to places where a bank has a legal right to stay or occupy to

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conduct its operations and/or keep its records. It includes, but is not limited to, lands and buildings, warehouses, storerooms, online storage, and offsite or backup sites owned or leased by a bank. For those not owned by the bank, it must be covered by a contract showing the bank's legal right to stay or occupy therein.

3.Granting high interest rates when the bank has: (i) negative unimpaired capital and (ii) either a liquid assets-to-deposits ratio of less than 10% or an operating loss.

A bank is deemed offering high interest rates on deposits if the interest rate is over 50% of the prevailing comparable market median rate for similar bank categories.

Liquid assets refer to the sum of Cash, Due from BSP/Banks and Financial Assets, net of allowance for credit losses.

4. Non-compliance with PDIC Regulatory Issuances.

5. Other deposit-related practices, activities, and transactions which the PDIC may identify through approriate issuances.

Attached for guidance is a list of specific activities which the PDIC may consider to be unsafe and/or unsound banking practices (Annex A[*]). The PDIC may hereafter consider other acts or omissions as unsafe and/or unsound pursuant to the general principles and guidelines in this Regulatory Issuance.

V. Consequences of Unsafe and/or Unsound Practices

The commission of unsafe and/or unsound practices as defined in this Regulatory Issuance may have these consequences:

1. Deposit accounts and all information related thereto may be inquired into or examined by PDIC upon the finding of unsafe and/or unsound banking practices, notwithstanding any provisions of law to the contrary. (Section 8, 8th par., PDIC Charter)

2. The PDIC Board of Directors may issue a cease and desist order, and require the bank or its directors or agents concerned to desist and/or correct the practices or violations. (Section 7, PDIC Charter)

3. Deposit insurance on deposit accounts or transactions constituting, and/or emanating from, unsafe and/or unsound banking practice/s as determined by the PDIC Board shall not be paid, after due notice and hearing, and publication of a directive to cease and desist from engaging in the cited unsafe and/or unsound practice/s. (Section 4(f), PDIC Charter)

The foregoing shall be without prjudice to the criminal, civil, and administrative actions that may be instituted against, or fines imposed upon, the bank and its responsible directors, officers, employees, or agents, pursuant to the provisions of the PDIC Charter, PDIC Regulatory Issuances, and other pertinent laws.

VI. Separability Clause

Sections of this Regulatory Issuance shall be deemed severable, and should any section, subsection, paragraph, sentence, or phrase of this Issuance be declared by a court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, such decision shall not affect the validity of the Issuance as a whole, or any part thereof, other than the part so declared to be invalid, unenforceable, or unconstitutional.

VII. Effectivity

This Regulatory Issuance shall take effect fifteen (15) days after publication in the Official Gazette or in any newspaper of general circulation.

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For strict compliance.

Date Filed: 04 March 2011

(SGD.) JOSE C. NOGRALES
President

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[*] Text Available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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