

GUIDELINES FOR BANKS FAILING TO COMPLY WITH THE MINIMUM CAPITAL REQUIREMENTS

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The Monetary Board, in its Resolution No. 1503 dated October 28, 1998, approved the following policy guidelines for banks failing to comply with the minimum capital requirements set forth under existing laws and regulations, as follows:

1. The adoption of the Memorandum of Understanding (pro-forma shown in Annexes "A" to "A-3") between the bank and the Bangko Sentral ng Pilipinas;
2. The implementation of the Prompt Corrective Action Program as detailed below:

Capital Deficiency(under existing laws and regulations) Prompt Corrective Action

Undercapitalized

Up to 20% - Require the bank to execute a Memorandum of Understanding (MOU) with the BSP, binding itself, among others, to implement a viable capital restoration plan acceptable to the BSP within 30 days from date of notice.

- Require the intensified monitoring by BSP of bank's financial condition
- BSP to conduct a special examination of the bank.

Significantly Undercapitalized

Up to 60% - BSP to call a meeting with bank directors/principal officers to discuss and agree on remedial measures to be taken and the timetable for implementation

- Intensify monitoring by the SES of the bank's financial condition
- BSP to conduct immediately an extensive on-site examination
- Require the bank to execute a Memorandum of Understanding (MOU) with the BSP, binding itself, among others, to implement a viable capital restoration plan acceptable to the BSP within 30 days from date of discussion. Among the options to be considered are:
 - a. disposition of a majority shareholder's interest
 - b. sale of assets
 - c. issuance of additional stocks/capital infusion
 - d. sale of bank to highest bidder subject to terms set by BSP
 - e. merger (assisted or unassisted) or consolidation with a stronger bank
- Require the creation of a separate unit in the bank — remedial asset management group which will take care of bank's bad assets and make progress reports to the BSP.

- Appoint an external auditor at the expense of the bank to perform a financial or operational audit under the terms of reference provided by the BSP

- If necessary, appoint a consultant specialist to diagnose the problem and to recommend the appropriate remedial measures (i.e. introduce new profit opportunities, improve internal and accounting controls, etc.) to restore bank's viability

Critically Undercapitalized

More than 60% - Place the bank under Prompt Corrective Action Unit since this would require more than normal bank supervision

- BSP to call a meeting with bank's principal shareholders/directors

- BSP to conduct immediately an extensive on-site examination

- BSP to conduct an intensive monitoring of bank's financial condition

- Require the bank to execute a Memorandum of Understanding (MOU) with the BSP, binding itself, among others, to implement a viable capital restoration plan acceptable to the BSP within 30 days from date of meeting. Among the options to be considered are:

- a. disposition of a majority shareholder's interest

- b. sale of assets

- c. issuance of additional stock/capital infusion

- d. sale of bank to highest bidder subject to terms set by BSP

- e. merger (assisted or unassisted) or consolidation with a stronger bank

- Create a BSP Ad Hoc Committee to oversee the implementation of the action plan

- Require the creation of a separate unit in the bank — remedial asset management group to take care of bank's bad assets and make progress reports to the BSP

- Appoint an external auditor at the expense of the bank to perform financial or operational audit under the terms of reference of the BSP

- If bank's condition further deteriorates to the extent that depositors and creditors protection is at stake and its capital base is already deficient by more than 80%, appoint/assign a resident examiner/comptroller or conservator, if legally feasible, to oversee/take over management of the bank.

- If necessary, appoint a consultant specialist to diagnose the problem and to recommend the appropriate remedial measures (i.e. introduce new profit opportunities, improve internal and accounting controls, etc.) to restore bank's viability

This Circular shall take effect immediately.

Adopted: 14 Nov. 1998

(SGD.) GABRIEL C. SINGSON

Governor

Annex "A"

MEMORANDUM OF UNDERSTANDING

_____ (Name of Bank) _____, and the Bangko Sentral ng Pilipinas (BSP) wish to protect the interest of the depositors, creditors, shareholders and the public in general and toward that end, wish the Bank to operate safely and soundly and in accordance with all applicable banking laws, rules and regulations.

In consideration of the above premise, the BSP, through its authorized deputies, and the Bank, by and through its duly elected Board of Directors (Board), do hereby agree that the Bank shall at all times operate in compliance with the articles of this Memorandum of Understanding.

ACTION PLAN

Within thirty (30) days, the Board shall adopt and implement a capital restoration plan detailing the Board's perception of what needs to be done to improve the Bank's capital position, specifying how the Board will implement the plan and setting forth a timetable for the implementation of the plan.

Upon completion of the plan, the Bank shall submit the plan to the appropriate supervising and examining department of the BSP for review. The Board shall establish appropriate procedures for the implementation of the plan.

In the event the BSP recommends changes to the action plan, the Board shall immediately incorporate those changes into the plan.

The plan shall be implemented pursuant to the time frames set forth within the plan unless events dictate modifications to the plan are required. Where the Board considers modifications appropriate, those modifications shall be submitted to BSP for approval.

Annex "A-1"

CAPITAL PROGRAM

The Bank shall achieve by _____ (date) _____ and thereafter maintain the following capital levels:

- a. At least equal to 10% of its risk assets;
- b. At least equal to the following amounts (in million pesos):

Existing Requirement Compliance Period 12/24/98 12/31/99 12/31/2000

Expanded KBs 3,500 4,500 4,950 5,400

Non-Expanded KBs 1,625 2,000 2,400 2,800

Thrift Banks

Within Metro Manila

200 250 325 400

Outside Metro Manila 40 40 52 64

Rural Banks

Within Metro Manila 20 20 26 32

Cities of Cebu & Davao 10 10 13 16

1st/2nd/3rd class cities &
1st class municipalities 5 5 6.5 8

4th/5th/6th class cities &
2nd/3rd/4th class mun. 3 3 3.9 4.8

5th/6th class municipalities 2 2 2.6 3.2

Within thirty (30) days, the Board shall develop a three year capital program. The program shall include, as may be necessary:

- a. Specific plans for the maintenance of adequate capital that should not be less than the requirements stated above;
- b. Projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets and off-balance sheet activities;
- c. Projections of sources and timing of additional capital to meet the Bank's current and future needs;
- d. The primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs; and
- e. Contingency plans that identify alternative methods should the primary source(s) be not available.

Annex "A-2"

COMPLIANCE/PROGRESS REPORTS

The Compliance Officer shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Memorandum of Understanding. The Compliance Officer shall submit a written progress report to the Board on a (Monthly/Quarterly) basis setting forth in detail:

- a. Actions taken to comply with each article of this Memorandum; and
- b. The results of those actions

The Board shall submit (monthly/quarterly) progress reports to the appropriate supervising and examining department of the BSP containing the above-mentioned details.

FORMAL AGREEMENT

Although the Board has by this Memorandum of Understanding consented to submit certain proposed actions and programs for the review and approval of the BSP, the Board has the ultimate responsibility for proper and sound management of the Bank.

It is expressly and clearly understood that if, at any time, BSP deems it appropriate in fulfilling the responsibilities placed upon him by laws of the Republic of the Philippines to undertake any action affecting the Bank, nothing in this Memorandum of Understanding shall in any way inhibit, estop, bar, or otherwise prevent him from so doing.

Any time requirements specified in this Memorandum of Understanding shall begin from the effective date of this Memorandum. Such time requirements may be extended by the BSP for good cause upon written application of the Board.

This Memorandum of Understanding shall be effective upon execution by the parties hereto, and its provisions shall continue in full force and effect until such time as they shall be amended by mutual consent of the parties to

this Memorandum or excepted, waived, terminated by BSP.

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