NATIONAL ADMINISTRATIVE REGISTER · JULY 30, 2008

AMENDMENT OF EXISTING REGULATIONS ON PENALTIES THAT SHALL BE IMPOSED ON BANKS/NON-BANK FINANCIAL INSTITUTIONS (NBFIS) WITH AUTHORITY TO ENGAGE IN TRUST AND/OR INVESTMENT MANAGEM...

BSP CIRCULAR NO. 617 SERIES OF 2008, July 30, 2008

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The Monetary Board, in its Resolution No. 907 dated 18 July 2008, approved the amendment of the Manual of Regulations for Banks (MORB) and the Manual of Regulations for Non-Bank Financial Institutions (MORNBFI) as follows:

Section 1. Subsection X405.4 of the MORB and Subsection 4405Q.4 of the MORNBFI, on the compliance period of, and sanctions that may be imposed on the bank/QB, its trust officer and/or other officer(s) responsible for any deficiency in the basic security deposit for the faithful performance of trust and other fiduciary duties, are hereby amended to read as follows:

> "§ X405.4/§ 4405Q.4 Compliance period; sanctions. The trustee or fiduciary shall have thirty (30) calendar days after the end of every calendar quarter within which to deposit with the BSP the securities required under this Section.
>
> The following sanctions shall be imposed for any deficiency in the basic security deposit for the faithful performance of trust, and other fiduciary duties:
>
> a. On the bank/quasi-bank(QB):
>
> i. Monetary penalty/ies:
>
> Penalty per Calendar Day
>
> Trust
>
> UBs/KBs/TBs/QBs with Full Trust Authority and
>
> /with Trust Assets of
>
> Asset

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Size

TBs/RBs with

Up to

Above P500

Above PI

Above P1O

? Above

Limited Trust

P500 Million

million but

billion

billion but

P50

not exceeding

but not

not exceeding

million

Offense

P1 billion

exceeding

P50 billion

P10 billion

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first

P 300.00

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Second

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P 700.00

P 1,250.00

P 3,000.00

P 6,000.00

P 9,000.00

Third and

subsequent

offense(s)

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ii. Non-monetary penalty beginning with the third offense (ail banks/GBs) - Prohibition against the acceptance of new trust and other fiduciary accounts, and from renewing expiring trust and other fiduciary contracts up to the time the violation is corrected.

b. On the trust officer 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 bank's/QB'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 trust officer 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 in the case of trust officer, all offenses committed by him in the past as trust officer of other institution(s) shall also be considered: Provided, finally, That if the offense cannot be attributed to any other officer of the bank, the trust officer shall be automatically held responsible since the ultimate responsibility for ensuring compliance with the regulation rests upon him, as evidence may warrant.

Section 2. The foregoing sanctions shall likewise apply to -

a. Banks and QBs for non-compliance or deficiency in the required basic security deposit for the faithful performance of investment management duties. Subsection X415 4 of the MORBand Subsection 4415Q 4 of the MORNBFl are thereby amended; and

b. NBFIs not performing quasi-banking functions but with authority to engage in trust and/ or investment management activities.

SECTION 3. Effectivity - This Circular shall take effect fifteen (15) days after its publication either in the Official Gazette or in a newspaper of general circulation.

Adopted: 30 July 2008

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

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