



Bangko Sentral ng Pilipinas

MAYNILA, PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 584
Series of 2007

Subject: **Procedures for disqualifying directors/officers of closed banks and financial institutions under BSP supervision as well as those who were dismissed from employment for cause**

Pursuant to Monetary Board Resolution No. 785 dated 13 July 2007 and Monetary Board Resolution No. 1023 dated 13 September 2007, the provisions of the Manual of Regulations for Banks (MORB) and the Manual of Regulations for Non-Bank Financial Institutions (MORNBFI), are hereby amended to read as follows:

Section 1. Subsecs. 11 of the MORB and MORNBFI, on disqualification procedures are hereby amended to read as follows:

- a. The board of directors and management of every institution shall be responsible for determining the existence of the ground for disqualification of the institution's director/officer or employee and for reporting the same to the Bangko Sentral ng Pilipinas (BSP). While the concerned institution may conduct its own investigation and impose appropriate sanction/s as are allowable, this shall be without prejudice to the authority of the Monetary Board to disqualify a director/officer/employee from being elected/appointed as director/officer in any financial institution under the supervision of the BSP. Grounds for disqualification made known to the institution shall be reported to the appropriate supervising and examining department of the Supervision and Examination Sector (SES) of the BSP within seventy-two (72) hours from knowledge thereof.
- b. On the basis of knowledge and evidence on the existence OF any of the grounds for disqualification mentioned in Subsecs. 21 and 31, the director or officer concerned shall be notified **IN WRITING EITHER BY PERSONAL SERVICE OR** through registered mail with registry return receipt card at his/her last known address by the appropriate supervising and examining department of SES of the existence of the ground for his/her disqualification and shall be allowed to submit within fifteen (15) calendar days from receipt of such notice an explanation on why he/she should not be disqualified and included in the watchlisted file, **TOGETHER WITH THE EVIDENCE IN SUPPORT OF HIS/HER POSITION.** The head of said department may allow an extension on meritorious ground.

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- c. UPON RECEIPT OF THE REPLY/EXPLANATION OF THE DIRECTOR/OFFICER CONCERNED, THE APPROPRIATE DEPARTMENT OF SES SHALL PROCEED TO EVALUATE THE CASE. THE DIRECTOR/OFFICER CONCERNED SHALL BE AFFORDED THE OPPORTUNITY TO DEFEND/CLEAR HIMSELF/HERSELF.
- d. If no reply has been received from the director/officer concerned upon the expiration of the period prescribed under Item "b" above, said failure to reply shall be deemed a waiver and the appropriate department of SES shall proceed to evaluate the case based on available records/evidence.
- e. If the ground for disqualification is delinquency in the payment of obligation, the concerned director or officer shall be given a period of thirty (30) calendar days within which to settle said obligation or, restore it to its current status or, to explain why he/she should not be disqualified and included in the watchlisted file, before the evaluation on his disqualification and watchlisting is elevated to the Monetary Board.
- f. FOR DIRECTORS/OFFICERS OF CLOSED BANKS, THE CONCERNED DEPARTMENT OF SES SHALL MAKE APPROPRIATE RECOMMENDATION TO THE MONETARY BOARD CLEARING SAID DIRECTORS/OFFICERS WHEN THERE IS NO PENDING CASE/COMPLAINT OR EVIDENCE AGAINST THEM. WHEN THERE IS EVIDENCE THAT A DIRECTOR/OFFICER HAS COMMITTED IRREGULARITY, THE APPROPRIATE DEPARTMENT OF SES SHALL MAKE RECOMMENDATION TO THE MONETARY BOARD THAT HIS/HER CASE BE REFERRED TO THE OFFICE OF SPECIAL INVESTIGATION (OSI) FOR FURTHER INVESTIGATION AND THAT HE/SHE BE INCLUDED IN THE MASTERLIST OF TEMPORARILY DISQUALIFIED PERSONS UNTIL THE FINAL RESOLUTION OF HIS/HER CASE. DIRECTORS/OFFICERS WITH PENDING CASES/COMPLAINTS SHALL ALSO BE INCLUDED IN SAID MASTERLIST OF TEMPORARILY DISQUALIFIED PERSONS UPON APPROVAL BY THE MONETARY BOARD UNTIL THE FINAL RESOLUTION OF THEIR CASES. IF THE DIRECTOR/OFFICER IS CLEARED FROM INVOLVEMENT IN ANY IRREGULARITY, THE APPROPRIATE DEPARTMENT OF SES SHALL RECOMMEND TO THE MONETARY BOARD HIS/HER DELISTING. ON THE OTHER HAND, IF THE DIRECTOR/OFFICER CONCERNED IS FOUND TO BE RESPONSIBLE FOR THE CLOSURE OF THE INSTITUTION, THE CONCERNED DEPARTMENT OF SES SHALL RECOMMEND TO THE MONETARY BOARD HIS/HER DELISTING FROM THE MASTERLIST OF TEMPORARILY DISQUALIFIED PERSONS AND HIS/HER INCLUSION IN THE MASTERLIST OF PERMANENTLY DISQUALIFIED PERSONS.
- g. IF THE DISQUALIFICATION IS BASED ON DISMISSAL FROM EMPLOYMENT FOR CAUSE, THE APPROPRIATE DEPARTMENT OF SES SHALL, AS MUCH AS PRACTICABLE, ENDEAVOR TO ESTABLISH

THE SPECIFIC ACTS OR OMISSIONS CONSTITUTING THE OFFENSE OR THE ULTIMATE FACTS WHICH RESULTED IN THE DISMISSAL TO BE ABLE TO DETERMINE IF THE DISQUALIFICATION OF THE DIRECTOR/OFFICER CONCERNED IS WARRANTED OR NOT. THE EVALUATION OF THE CASE SHALL BE MADE FOR THE PURPOSE OF DETERMINING IF DISQUALIFICATION WOULD BE APPROPRIATE AND NOT FOR THE PURPOSE OF PASSING JUDGMENT ON THE FINDINGS AND DECISION OF THE ENTITY CONCERNED. THE APPROPRIATE DEPARTMENT OF SES MAY DECIDE TO RECOMMEND TO THE MONETARY BOARD A PENALTY LOWER THAN DISQUALIFICATION (E.G. REPRIMAND, SUSPENSION, ETC.) IF, IN ITS JUDGMENT THE ACT COMMITTED OR OMITTED BY THE DIRECTOR/OFFICER CONCERNED DOES NOT WARRANT DISQUALIFICATION.

- h. ALL OTHER CASES OF DISQUALIFICATION, WHETHER PERMANENT OR TEMPORARY SHALL BE ELEVATED TO THE MONETARY BOARD FOR APPROVAL AND SHALL BE SUBJECT TO THE PROCEDURES PROVIDED IN PARAGRAPHS A,B,C AND D ABOVE.
- i. Upon approval by the Monetary Board, the concerned director/officer shall be informed by the appropriate department of SES IN WRITING EITHER BY PERSONAL SERVICE OR through registered mail with registry return receipt card, at his/her last known address of his/her disqualification from being elected/appointed as director/officer in any financial institution under the supervision of BSP and/or of his/her inclusion in the master list of watchlisted persons so disqualified.
- j. The board of directors of the concerned institution shall be immediately informed of cases of disqualification approved by the Monetary Board and shall be directed to act thereon not later than the following board meeting. Within seventy-two (72) hours thereafter, the corporate secretary shall report to the Governor of the BSP through the appropriate department of SES the action taken by the board on the director/officer involved.
- k. Persons who are elected or appointed as director or officer in any of the BSP-supervised institutions for the first time but are subject to any of the grounds for disqualification provided for under Subsec. 2/ and 3/, shall be afforded the procedural due process prescribed above.
- l. Whenever a director/officer is cleared in the process mentioned under Item "c" above or, when the ground for disqualification ceases to exist, he/she would be eligible to become director or officer of any bank, quasi-bank, trust entity or any institution under the supervision of the BSP only upon prior approval by the Monetary Board. It shall be the responsibility of the appropriate department of SES to elevate to the Monetary Board the lifting of the disqualification of the concerned director/officer and his/her delisting from the master list of watchlisted persons.

Section 2. Subsecs. 4/ of the MORB and MORNBFi are hereby amended to read as follows:

"Persons dismissed from employment for cause. This disqualification shall be in effect until they have cleared themselves of involvement in the alleged irregularity or upon clearance, on their request, from the Monetary Board after showing good and justifiable reasons, OR AFTER THE LAPSE OF FIVE (5) YEARS FROM THE TIME THEY WERE OFFICIALLY ADVISED BY THE APPROPRIATE DEPARTMENT OF SES OF THEIR DISQUALIFICATION."

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

FOR THE MONETARY BOARD:


AMANDO M. TETANGCO, JR.
 Governor

28 September 2007

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- 1/ Subsections X143.4 of the MORB and 4143Q.4; 4143S.3; 4143P.3; and 4143N.3 of the MORNBFi
 - 2/ Subsections X143.1 of the MORB and 4143Q.1; 4143S.1; 4143P.1 and 4143N.1 of the MORNBFi
 - 3/ Subsections X143.2 of the MORB and 4143Q.2; 4143S.2; 4143P.2 and 4143N.2 of the MORNBFi
 - 4/ Subsections X143.1b(8) of the MORB and 4143Q.1b(8); 4143S.1b(8); 4143P.1b(7) and 4143N.1b(7) of the MORNBFi, as amended by Circular No. 513 dated 10 February 2006