



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 1013

Series of 2018

Subject: Amendments to the Rules Governing Prejudicial Acts, Practices or Omissions of Non-Stock Savings and Loan Associations

The Monetary Board in its Resolution No. 1465 dated 5 September 2018, approved the following amendments to the provisions in the Manual of Regulations for Non-Bank Financial Institutions (MORNBFI) on the rules governing prejudicial acts, practices or omissions of Non-Stock Savings and Loan Associations.

Section 1. Section 4184S and its Subsections of the Manual of Regulations for Non-Bank Financial Institutions applicable to Non-Stock Savings and Loan Associations (MORNBFI-S Regulations), are hereby amended to read as follows:

Section 4184S Rules Governing Prejudicial Acts, Practices or Omissions. In line with the policy of the State to regulate and supervise the activities of Non-Stock Savings and Loan Associations (NSSLAs) through issuance of minimum requirements and standards resulting in judicious utilization of credit; to place their operations on a sound, stable and efficient basis so they may provide for the establishment of additional savings and credit facilities in a fair manner to their members; to curtail or prevent acts, practices or omissions of these NSSLAs which are prejudicial to their members' interest; and to maximize the protection of members of NSSLAs against misfeasance and malfeasance of the trustees and officers thereof, the following rules and regulations on prejudicial acts, practices or omissions are hereby issued.

Subsection 4184S.1 Acts, practices or omissions considered prejudicial to the interest of members.

- a. In determining whether a particular act, practice or omission is prejudicial to the interest of members, the Monetary Board, upon report of the head of appropriate supervision and examination department, based on the finding in an examination or a complaint, shall consider the following circumstances:
 - (1) The act, practice or omission is contrary to the generally accepted standards of prudent operation resulting in, or may result in abnormal risk, damage or loss to the NSSLA; or

- (2) The act, practice or omission unduly burdens the members of the NSSLA and/or provide unwarranted benefit, advantage or preference to any party; or
 - (3) The act, practice or omission has resulted or may result in material loss, damage or undue injury to members.
- b. Acts, practices or omissions considered prejudicial to the interest of members include, but are not limited to the following:
- (1) Charging of unreasonably high service fees in the grant of loans. For this purpose, service fee is considered unreasonably high if the service fee rate exceeds fifty percent (50%) of the annual nominal interest rate charged on a loan. If the service fee rate is not indicated in the loan document, reference shall be made to the ratio of service fee to the principal loan granted;
 - (2) Recognizing as income unused insurance premiums instead of refunding and/or crediting the same to borrowers;
 - (3) Non-disclosure to borrowers of borrowing costs such as, but not limited to, service fees and costs related to services rendered by agents/sales representatives;
 - (4) Adopting and implementing policies that are discriminatory such as, but not limited to, limiting the capital contributions of members that has the effect of concentrating control to a particular family. For this purpose, a family refers to the employee-member and/or retiree-member and their relatives up to second degree of consanguinity or affinity;
 - (5) Granting of unauthorized compensation, in any form, to trustees and/or officers. Compensation shall be considered unauthorized when not allowed in the By-Laws or not approved by authorized bodies such as the members in a general assembly or the Board of Trustees;
 - (6) Granting new or additional loans to borrowers who have insufficient paying capacity or poor credit history;
 - (7) Collecting payments from members even after full payment of their loans, including failure to refund over-collections to members;
 - (8) Charging and/or paying material unauthorized disbursements, including expenses, or engaging in the practice of charging and/or paying unauthorized disbursements even if not material but when aggregated, result in material financial loss to the NSSLA; or
 - (9) Allowing the use of NSSLA's properties or privileges without due compensation.

The foregoing list is not exclusive. The Monetary Board may consider any other acts, practices, or omissions as prejudicial to the interest of members.

Subsection 4184S.2 Enforcement actions. Based on the seriousness and materiality of the prejudicial acts, practices or omissions, the NSSLA, its trustees and officers shall be subject to administrative sanctions under Section 37 of R.A. No. 7653 or "The New Central Bank Act" and/or other applicable enforcement actions. The Monetary Board, pursuant to its authority under Section 22 of R.A. No. 8367 and subject to due notice and hearing, may order the suspension or revocation of an NSSLA's license to operate as such if the prejudicial acts, practices or omissions amount to willful violation of this

as such if the prejudicial acts, practices or omissions amount to willful violation of this Section, the provisions of R.A. No. 8367 or any other rule or regulation promulgated thereunder.

For this purpose, the act, practice or omission is deemed willful if, despite BSP directive to stop the said act, practice, or omission, the NSSLA and/or its trustees and/or officers, continue to commit the same or related acts. As used herein, the term "related acts" refer to specific acts which result in the same prejudicial act, practice or omission.

Moreover, the above is without prejudice to the filing of appropriate criminal charges against culpable persons as provided for under Section 23(c) of R.A. No. 8367.

Section 2. Effectivity

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

FOR THE MONETARY BOARD:


NESTOR A. ESPENILLA, JR.
Governor

17 September 2018