



Bangko Sentral ng Pilipinas

OFFICE OF THE GOVERNOR

Circular No. 421
Series of 2004

Pursuant to Monetary Board Resolution No. 1070.b dated 31 July 2003 and Monetary Board Resolution No. 132 dated 05 February 2004, 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. Subsections X143.4 and 4143Q.4 of the MORB and MORNBFI, respectively, 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 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 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. X143.1/4143Q.1 and X143.2/4143Q.2, THE DIRECTOR OR OFFICER CONCERNED SHALL BE NOTIFIED THROUGH REGISTERED MAIL WITH REGISTRY RETURN RECEIPT CARD AT HIS/HER LAST KNOWN ADDRESS BY THE APPROPRIATE SUPERVISING AND EXAMINING DEPARTMENT OF THE SUPERVISION AND EXAMINATION SECTOR (SES) OF THE BANGKO SENTRAL NG PILIPINAS (BSP) OF THE EXISTENCE OF THE GROUND FOR HIS/HER DISQUALIFICATION AND SHALL BE

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ALLOWED TO SUBMIT WITHIN FIFTEEN (15) DAYS FROM RECEIPT OF SUCH NOTICE AN EXPLANATION ON WHY HE/SHE SHOULD NOT BE DISQUALIFIED AND INCLUDED IN THE WATCHLISTED FILE. THE HEAD OF SAID DEPARTMENT MAY ALLOW AN EXTENSION ON MERITORIOUS GROUND.

- c. The director/officer concerned shall thus be afforded the opportunity to defend/clear himself/herself and to SUBMIT evidence IN SUPPORT OF HIS/HER POSITION TO THE APPROPRIATE SUPERVISING AND EXAMINING DEPARTMENT WHICH SHALL THEN EVALUATE THE CASE AND SUBMIT THE RECOMMENDATIONS TO THE MONETARY BOARD.
- d. FAILURE OF THE DIRECTOR/OFFICER CONCERNED TO REPLY WITHIN THE PRESCRIBED PERIOD SHALL BE CONSIDERED A WAIVER AND THE SUPERVISING AND EXAMINING DEPARTMENT SHALL PROCEED TO EVALUATE THE CASE AND SUBMIT RECOMMENDATIONS TO THE MONETARY BOARD.
- 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) 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. IF THE DISQUALIFICATION IS BASED ON ANY OF THE GROUNDS FOR PERMANENT DISQUALIFICATION ENUMERATED UNDER ITEMS "1" TO "4" OF SUBSECS. X143.1(a)/4143Q.1(a), THE DISQUALIFICATION AND WATCHLISTING OF THE CONCERNED DIRECTOR/OFFICER SHALL BE ELEVATED TO THE MONETARY BOARD FOR APPROVAL SUBJECT TO THE SAME PROCEDURES PROVIDED IN PARAGRAPHS A, B AND C ABOVE.
- g. Upon approval by the Monetary Board, the concerned director/officer shall be informed by the appropriate SES department 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.

- h. 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 supervising and examining department the action taken by the board ON THE DIRECTOR/OFFICER INVOLVED.
- i. 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 SUBSECTIONS X143.1 AND X143.2 OF THE MORB AND SUBSECTIONS 4143Q.1 AND 4143Q.2 OF THE MORNBFI SHALL BE AFFORDED THE PROCEDURAL DUE PROCESS PRESCRIBED ABOVE.
- j. 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 concerned supervising and examining department of the BSP 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. Subsections X143.5 and 4143Q.5 of the MORB and MORNBF, respectively, on **Watchlisting** are hereby amended to read as follows:

"To provide the BSP with a central information file to be used as reference in passing upon and reviewing the qualifications of persons elected or appointed as director or officer of a bank, quasi-bank or trust entity, the Supervision and Examination Sector shall maintain a watchlist of PERSONS DISQUALIFIED TO BE A DIRECTOR OR OFFICER OF SUCH ENTITIES UNDER ITS SUPERVISION under the following procedures:

- a. **Watchlist categories.** Watchlisting shall be categorized as follows:

1. Disqualification File "A" (Permanent) – Directors/officers/employees permanently disqualified by the Monetary Board from holding a director/officer position.
 2. Disqualification File "B" (Temporary) – Directors/officers/employees temporarily disqualified by the Monetary Board from holding a director/officer position.
- b. **Inclusion of directors/officers/employees in the watchlist.** DIRECTORS/OFFICERS/EMPLOYEES DISQUALIFIED UNDER SUBSECTIONS X143.4 AND 4143Q.4 SHALL BE INCLUDED IN THE WATCHLIST DISQUALIFICATION FILES "A" OR "B".
- c. **Confidentiality.** WATCHLIST FILES shall be for internal use only OF THE BSP and may not be accessed or queried upon by outside parties including banks, quasi-banks and trust entities except with the authority of the person concerned and with the approval of the Deputy Governor, SES OR, the Governor or, the Monetary Board.
- d. **Delisting.** All delistings shall be approved by the Monetary Board upon recommendation of the operating departments of SES except in cases of persons known to be dead where delisting shall be automatic upon proof of death and need not be elevated to the Monetary Board. Delisting may be approved by the Monetary Board in the following cases:

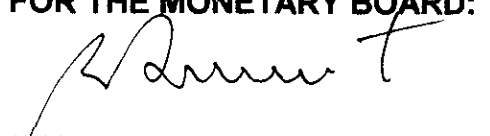
Watchlist – Disqualification File "B" (Temporary) –

- i. After the lapse of the specific period of disqualification;
- ii. When the conviction by the court for crimes involving dishonesty, breach of trust and/or violation of banking law becomes final and executory, in which case the director/officer/employee is relisted to Watchlist – Disqualification File "A" (Permanent); and
- iii. Upon favorable decision or clearance by the appropriate body, i.e., court, National Bureau of Investigation, BSP, bank, quasi-bank, trust entity or such other agency/body where the concerned individual had derogatory record.

Directors/officers/employees delisted from the Watchlist – Disqualification File "B" other than those upgraded to Watchlist – Disqualification File "A" shall be eligible for re-employment with any bank, quasi-bank or trust entity."

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:



RAFAEL B. BUENAVENTURA
Governor

8 March 2004