



Bangko Sentral ng Pilipinas

OFFICE OF THE GOVERNOR

Circular No. 477
Series of 2005

The Monetary Board, in its Resolution No. 194 dated 10 February 2005, approved the following Rules of Procedure on Administrative Cases Involving Directors and Officers of Banks, Quasi-Banks and Trust Entities, pursuant to Section 15 (a) of Republic Act No. 7653 (*The New Central Bank Act*), in relation to Section 37 of the same Act and Sections 16 and 66 of Republic Act No. 8791 (*The General Banking Law of 2000*).

RULE I – GENERAL PROVISIONS

Section 1. **Title.** - These Rules shall be known as the ***Bangko Sentral ng Pilipinas (BSP) Rules of Procedure on Administrative Cases Involving Directors and Officers of Banks, Quasi-Banks and Trust Entities***.

Section 2. **Applicability.** - These Rules shall apply to administrative cases filed with or referred to the Office of Special Investigation (OSI), BSP, involving directors and officers of banks, quasi-banks and trust entities pursuant to Section 37 of Republic Act No. 7653 (*The New Central Bank Act*) and Sections 16 and 66 of Republic Act No. 8791 (*The General Banking Law of 2000*).

The disqualification of directors and officers under Section 16 of R.A. No. 8791 shall continue to be covered by existing BSP rules and regulations.

Section 3. **Nature of Proceedings.** - The proceedings under these Rules shall be summary in nature and shall be conducted without necessarily adhering to the technical rules of procedure and evidence applicable to judicial trials. Proceedings under these Rules shall be confidential and shall not be subject to disclosure to third parties, except as may be provided under existing laws.

RULE II – COMPLAINT

Section 1. **Complaint.** - The complaint shall be in writing and subscribed and sworn to by the complainant. However, in cases initiated by the appropriate department of the BSP, the complaint need not be under oath. No anonymous complaint shall be entertained.

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Section 2. **Where to file.** - The complaint shall be filed with or referred to the OSI.

Section 3. **Contents of the Complaint.** - The complaint shall contain the ultimate facts of the case and shall include:

- a. full name and address of the complainant;
- b. full name and address of the person complained of;
- c. specification of the charges;
- d. statement of the material facts;
- e. statement as to whether or not a similar complaint has been filed with the BSP or any other public office.

The complaint shall include copies of documents and affidavits of witnesses, if any, in support of the complaint.

RULE III – DETERMINATION OF *PRIMA FACIE* CASE AND PROSECUTION OF THE CASE

Section 1. **Action on Complaint.** - Upon determination that the complaint is sufficient in form and substance, the OSI shall furnish the respondent with a copy thereof and require respondent to file within ten (10) days from receipt thereof, a sworn answer, together with copies of documents and affidavits of witnesses, if any, copy furnished the complainant.

Failure of the respondent to file an answer within the prescribed period shall be considered a waiver and the case shall be deemed submitted for resolution.

Section 2. **Preliminary Investigation.** - Upon receipt of the sworn answer of the respondent, the OSI shall determine whether there is a *prima facie* case against the respondent. If a *prima facie* case is established during the preliminary investigation, the OSI shall file the formal charge with the **Supervised Banks Complaints Evaluation Group (SBCEG)**, BSP. However, in the absence of a *prima facie* case, the OSI shall dismiss the complaint without prejudice or take appropriate action as may be warranted.

Section 3. **Formal Charge.** - The formal charge shall contain the name of the respondent, a brief statement of material or relevant facts, the specific charge, and the pertinent provisions of banking laws, rules or regulations violated.

Section 4. **Prosecution.** - The OSI shall prosecute the case. The complainant may be assisted or represented by counsel, who may be deputized for such purpose, under the direction and control of the OSI.

RULE IV – PROCEEDINGS BEFORE THE HEARING PANEL OR HEARING OFFICER

Section 1. **Filing of the Formal Charge.** - The OSI shall file the formal charge before the SBCEG. It shall also furnish the SBCEG with supporting documents relevant to the formal charge.

Section 2. **Hearing Officer and Composition of the Hearing Panel.** - The case shall be heard either by a Hearing Officer or a Hearing Panel, which shall be composed of a Chairman and two (2) members, all of whom shall be designated by the SBCEG. The SBCEG shall determine whether the case shall be heard either by a Hearing Panel or a Hearing Officer.

Section 3. **Answer.** - The Hearing Panel or Hearing Officer shall furnish the respondent with a copy of the formal charge, with supporting documents relevant thereto, and shall require him to submit, within ten (10) days from receipt thereof, a sworn answer, copy of which shall be furnished the prosecution.

The respondent, in his answer, shall specifically admit or deny all the charges specified in the formal charge, including the attachments. Failure of the respondent to comment, under oath, on the documents attached thereto shall be deemed an admission of the genuineness and due execution of said documents.

Section 4. **Waiver.** - In the event that the respondent, despite due notice, fails to submit an answer within the prescribed period, he shall be deemed to have waived his right to present evidence. The Hearing Panel or Hearing Officer shall issue an Order to that effect and direct the prosecution to present evidence *ex parte*. Thereafter, the Hearing Panel or Hearing Officer shall submit a report on the basis of available evidence.

Section 5. **Preliminary Conference.** - Upon receipt of the answer of respondent, the Hearing Panel or Hearing Officer shall set the case for preliminary conference for the parties to consider and agree on the admission or stipulation of facts and of documents, simplification of issues, identification and marking of evidence and such other matters as may aid in the prompt and just resolution of the case. Any evidence not presented and identified during the preliminary conference shall not be admitted in subsequent proceedings.

Section 6. **Submission of Position Papers.** - After the preliminary conference, the Hearing Panel or Hearing Officer shall issue an Order stating therein the matters taken up, admissions made by the parties and issues for resolution. The Order shall also direct the parties to simultaneously submit, within ten (10) days from the receipt of said Order, their respective position papers which shall be limited to a discussion of the issues as defined in the Order.

Section 7. **Hearing.** - After the submission by the parties of their position papers, the Hearing Panel or Hearing Officer shall determine whether or not there is a need for a hearing for the purpose of cross-examination of the affiant(s).

If the Hearing Panel or Hearing Officer finds no necessity for conducting a hearing, he shall issue an Order to that effect.

In cases where the Hearing Panel or Hearing Officer deems it necessary to allow the parties to conduct cross-examination, the case shall be set for hearing. The affidavits of the parties and their witnesses shall take the place of their direct testimony.

RULE V – PROHIBITED MOTIONS

Section 1. ***Prohibited Motions.*** – No motion to dismiss or quash, motion for bill of particulars and such other dilatory motions shall be allowed in the cases covered by these Rules.

RULE VI – RESOLUTION OF THE CASE

Section 1. ***Contents and Period for Submission of Report.*** – Within sixty (60) days after the Hearing Panel or Hearing Officer has issued an Order declaring that the case is submitted for resolution, a report shall be submitted to the Monetary Board. The report of the Hearing Panel or Hearing Officer shall contain clearly and distinctly the findings of facts and conclusions of law on which it is based.

Section 2. ***Rendition and Notice of Resolution.*** – After consideration of the report, the Monetary Board shall act thereon and cause true copies of its Resolution to be served upon the parties.

Section 3. ***Finality of the Resolution.*** – The Resolution of the Monetary Board shall become final after the expiration of fifteen (15) days from receipt thereof by the parties, unless a motion for reconsideration shall have been timely filed.

Section 4. ***Motion for Reconsideration.*** – A motion for reconsideration may only be entertained if filed within fifteen (15) days from receipt of the Resolution by the parties. No second motion for reconsideration shall be allowed.

RULE VII – APPEAL

Section 1. ***Appeal.*** – An appeal from the Resolution of the Monetary Board may be taken to the Court of Appeals within the period and in the manner provided under Rule 43 of the Revised Rules of Court.

RULE VIII – EXECUTION OF RESOLUTION

Section 1. **Resolution Becoming Executory.** - The Resolution of the Monetary Board shall become executory upon the lapse of fifteen (15) days from receipt thereof by the parties or from the receipt of the denial of the motion for reconsideration.

Section 2. **Effect of Appeal.** - The appeal shall not stay the Resolution sought to be reviewed unless the Court of Appeals shall direct otherwise upon such terms as it may deem just.

Section 3. **Enforcement of Resolution.** - When the Resolution orders the imposition of fines, suspension or removal from office of respondent, the enforcement thereof shall be referred to the appropriate department of the BSP.

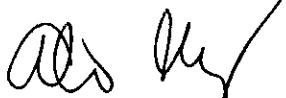
RULE IX – MISCELLANEOUS PROVISIONS

Section 1. **Repeal.** - All existing rules, regulations, orders or circulars or any part thereof inconsistent with these Rules are hereby repealed, amended or modified accordingly.

Section 2. **Separability Clause.** - If any part of these Rules is declared unconstitutional or illegal, the other parts or provisions shall remain valid.

Section 3. **Effectivity.** - These Rules shall take effect after fifteen (15) days following the completion of their publication in the Official Gazette or in a national newspaper of general circulation.

FOR THE MONETARY BOARD:


ARMANDO L. SURATOS
Officer-in-Charge

 February 2005