



CIRCULAR NO. 434
Series of 2004

The election/appointment of directors and officers of banks/quasi-banks/trust entities shall be subject to confirmation by the:

Confirming Authority	Position Level
a. Monetary Board	Directors, Senior Vice Presidents and above of universal banks and commercial banks as well as the Directors, President, Chief Executive Officer, Chief Operating Officer, Senior Vice Presidents or equivalent rank of thrift banks, Islamic banks, rural banks, cooperative banks, quasi-banks and trust entities with total assets of at least P1 billion.

"x x x

x x x

x x x"

Section 3. Section 2 of Circular No. 341 dated August 6, 2002 is hereby amended to read as follows:

"Section 2. The Monetary Board may, at its discretion and based on the seriousness and materiality of the acts or omissions, impose any or all of the following sanctions provided under Section 37 of R.A. No. 7653 and Section 56 of R.A. No. 8791, whenever a bank, quasi-bank or trust entity conducts business in an unsafe and unsound manner:

For Banks	For Non-Banks
a. Issue an order requiring the institution to cease and desist from conducting business in an unsafe and unsound manner and may further order that immediate action be taken to correct the conditions resulting from such unsafe or unsound practice;	a. Issue an order requiring the NBQB/trust entity to cease and desist from conducting business in an unsafe and unsound manner and may further order that immediate action be taken to correct the conditions resulting from such unsafe or unsound practice;
b. Fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed Thirty Thousand pesos (P30,000.00) a day on a per transaction basis taking into consideration	b. Fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed P30,000 a day on a per transaction basis taking into consideration the attendant circumstances,

the attendant circumstances, such as the gravity of the act or omission and the size of the bank, to be imposed on the bank, their directors and/or responsible officers;	such as the gravity of the act or omission and the size of the NBQB/trust entity, to be imposed on the NBQB/trust entity, their directors and/or responsible officers;
c. Suspension of interbank clearing privileges/immediate exclusion from clearing;	c. Suspension of lending or foreign exchange operations or authority to accept new deposit substitutes and/or new trust accounts or to make new investments;
d. Suspension of rediscounting privileges or access to Bangko Sentral credit facilities;	—
e. Suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;	—
f. Suspension of responsible directors and/or officers;	d. Suspension of responsible directors and/or officers;
g. Revocation of quasi-banking license; and/or	e. Revocation of quasi-banking license and/or trust authority; and/or
h. Receivership and liquidation under Section 30 of R.A. No. 7653.	f. Receivership and liquidation under Section 30 of R.A. No. 7653.

All other provisions of Sections 30 and 37 of R.A. No. 7653 whenever appropriate shall also be applicable on the conduct of business in an unsafe or unsound manner.

The imposition of the above sanctions is without prejudice to the filing of appropriate criminal charges against culpable persons as provided in Sections 34, 35 and 36 of R.A. No. 7653.

Section 4. Item "c", Section 2 of Circular No. 246 dated June 1, 2000, as amended, on Restructured Loans shall apply to NBQBs and amends Subsection 4351Q.1 as follows:

"Subsec. 4351Q.1 *Definition; when to consider performing/non-performing.*

"x x x

x x x

x x x

"A loan which is restructured shall be considered non-performing except:

"(1) When the loan is current and performing (i.e., with updated principal and interest payments) on the date of restructuring, in which case, the loan shall retain its performing status; and

"(2) Fully secured by real estate with loan value of up to sixty percent (60%) of the appraised value of the real estate security and the insured improvements thereon, and such other first class collaterals as may be deemed appropriate by the Monetary Board: *Provided*, That a restructured loan, with or without capitalized interest, must be yielding a rate of interest equal to or greater than

"The restoration to a performing loan shall only be effective after a *satisfactory track record* of payments of the required amortizations of principal and/or interest has been established.

"A restructured loan which has been restored to a performing loan status shall be immediately considered non-performing in case of default of any principal or interest payment in accordance with Sec. 4308Q."

Section 5. Item "b(3)(c)" of Section 1, Circular No. 297 dated September 17, 2001 is hereby amended to include compliance with the required reserves on "TOFA-Others" and liquidity reserves on government deposits as a prerequisite for engaging in derivatives transactions and shall read as follows:

"Subsection _____ Scope and pre-qualification requirements. The following provisions shall govern the scope and pre-qualification requirements for the grant of authority to engage in derivatives activities.

"b. For regular derivatives authority

'3) *Other requirements.* BSP shall evaluate bank's/NBQB's and other BSP supervised FI's financial soundness and track record of compliance with major prudential requirements, such as, but not limited to:

“(b) Minimum applicable capital adequacy ratio;

"(d) xxx xxx xxx

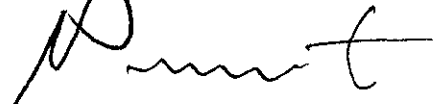
"XXX XXX XXX"

Section 6. Subsections X415.2/4415Q.2 is hereby amended to read as follows:

"Subsecs. X415.2/4415Q.2 Eligible securities. Securities enumerated in Subsecs. X405.2/4405Q.2 shall be eligible as security deposit for faithful performance of investment management activities."

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

FOR THE MONETARY BOARD:

A handwritten signature in black ink, appearing to read 'R. Buenaventura', is written over the printed name.

RAFAEL B. BUENAVENTURA
Governor

May 18, 2004