



Bangko Sentral ng Pilipinas

MAYNILA, PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 341
Series of 2002

Pursuant to Monetary Board Resolution No. 1055 dated 25 July 2002, the following guidelines shall be observed in implementing Section 56 of the General Banking Law of 2000 or Republic Act No. 8791:

Section 1. Whether a particular activity may be considered as conducting business in an unsafe or unsound manner, all relevant facts must be considered. An analysis of the impact thereof on the banks/quasi-banks/trust entities' operations and financial conditions must be undertaken, including evaluation of capital position, asset condition, management, earnings posture and liquidity position.

In determining whether a particular act or omission, which is not otherwise prohibited by any law, rule or regulation affecting banks, quasi-banks or trust entities, may be deemed as conducting business in an unsafe or unsound manner, the Monetary Board, upon report of the head of the supervising or examining department based on findings in an examination or a complaint, shall consider any of the following circumstances:

- a. The act or omission has resulted or may result in material loss or damage, or abnormal risk or danger to the safety, stability, liquidity or solvency of the institution;
- b. The act or omission has resulted or may result in material loss or damage or abnormal risk to the institution's depositors, creditors, investors, stockholders or to the Bangko Sentral or to the public in general;
- c. The act or omission has caused any undue injury, or has given unwarranted benefits, advantage or preference to the bank or any party in the discharge by the director or officer of his duties and responsibilities through manifest partiality, evident bad faith or gross inexcusable negligence; or
- d. The act or omission involves entering into any contract or transaction manifestly and grossly disadvantageous to the bank, quasi-bank or trust entity, whether or not the director or officer profited or will profit thereby.

ITAGUYOD ANG PHILIPPINES 2000



MAG-IMPOK SA BANGKO

Attached for guidance is a list of activities which may be considered unsafe and unsound. (Annex A) The Monetary Board may consider any other acts/omissions as unsafe and unsound practices.

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 Republic Act No. 7653 and Section 56 of Republic Act No. 8791, whenever a bank, quasi-bank or trust entity conducts business in an unsafe and unsound manner:

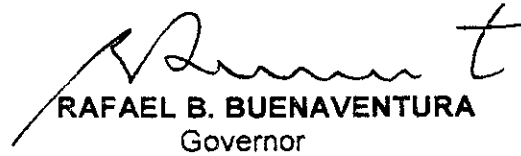
- a. Issue an order requiring the institution to cease and desist from conducting business in an unsafe and unsound manner and may further order that immediate action be taken to correct the conditions resulting from such unsafe or unsound practice;
- b. Fines in amounts as may be determined by the Monetary 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 the attendant circumstances, such the gravity of the act or omission and the size of the bank, quasi-bank or trust entity, to be imposed on the bank, quasi-banks or trust entities, their directors and/or responsible officers;
- c. Suspension of interbank clearing privileges/immediate exclusion from clearing;
- 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;
- g. Revocation of quasi-banking license; and/or
- h. Receivership and liquidation under Section 30 of RA 7653.

All other provisions of Sections 30 and 37 of R.A. 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. 7653.

This Circular shall take effect immediately.

FOR THE MONETARY BOARD:



RAFAEL B. BUENAVENTURA
Governor

6 August 2002

List of Activities Which May Be Considered Unsafe and Unsound
Banking Practices

The activities enumerated herein are considered only as guidelines and are not irrebutably presumed to be unsafe or unsound. Conversely, not all practices which might under the circumstances be termed unsafe or unsound are mentioned here. The Monetary Board may consider any other acts/omissions as unsafe or unsound practices.

- a. Operating with management whose policies and practices are detrimental to the bank, quasi bank or trust entity and jeopardize the safety of its deposits/deposit substitutes/trust accounts.
- b. Operating with total adjusted capital and reserves that are inadequate in relation to the kind and quality of the assets of the bank, quasi-bank or trust entity.
- c. Operating in a way that produces a deficit in net operating income.
- d. Operating with a serious lack of liquidity, especially in view of the asset and deposit/deposit substitute/liability structure of the bank, quasi-bank or trust entity.
- e. Engaging in speculative and hazardous investment policies.
- f. Paying excessive cash dividends in relation to the capital position, earnings capacity and asset quality of the bank, quasi-bank or trust entity.
- g. Excessive reliance on large, high-interest or volatile deposits/borrowings.
- h. Excessive reliance on letters of credit either issued by the bank or accepted as collateral to loans advanced.
- i. Excessive amounts of loan participations sold.
- j. Paying interest on participations without advising participating institution that the source of interest was not from the borrower.
- k. Selling participations without disclosing to the purchasers of those participations material, non-public information known to the bank
- l. Failure to limit, control and document contingent liabilities.
- m. Engaging in hazardous lending and lax collection policies and practices, as evidenced by:
 - 1) An excessive volume of loans subject to adverse classification;
 - 2) An excessive volume of loans without adequate documentation, including credit information;
 - 3) Excessive net loan losses;
 - 4) An excessive volume of loans in relation to the total assets and deposits/deposit substitutes/trust liabilities of the bank, quasi-bank or trust entity;
 - 5) An excessive volume of weak and self-serving loans to persons connected with the bank, quasi-bank or trust entity, especially if a significant portion of these loans are adversely classified;

- 6) Excessive concentrations of credit, especially if a substantial portion of this credit is adversely classified,
 - 7) Indiscriminate participation in weak and undocumented loans originated by other institutions;
 - 8) Failing to adopt written loan policies;
 - 9) An excessive volume of past due or non performing loans;
 - 10) Failure to diversify the loan portfolio/asset mix of the institution; and
 - 11) Failure to make provision for an adequate reserve for possible loan losses.
- n. Permitting officers to engage in lending practices beyond the scope of their position.
 - o. Operating the bank, quasi-bank or trust entity with inadequate internal controls.
 - p. Failure to keep accurate and updated books and records.
 - q. Operating the institution with excessive volume of out-of-territory loans.
 - r. Excessive volume of non-earning assets.
 - s. Failure to heed warnings and admonitions of the supervisory authorities of the institution.
 - t. Continued and flagrant violation of any laws, rules, regulations or written agreements between the institution and the Bangko Sentral ng Pilipinas.
 - u. Any action likely to cause insolvency or substantial dissipation of assets or earnings of the institution or likely to seriously weaken its condition or otherwise seriously prejudice the interest of its depositors/investors/clients.