



Bangko Sentral ng Pilipinas

MAYNILA, PILIPINAS

OFFICE OF THE GOVERNOR

Circular No. 296
Series of 2001

Pursuant to Monetary Board Resolution No. 994 dated 28 June 2001, the provisions of the Manual of Regulations for Banks and for Non-bank Financial Institutions are hereby amended as follows:

Section 1. Sec. X141 of the Manual of Regulations for Banks and Sec. 4141Q of the Manual of Regulations for Non-Bank Financial Institutions together with their Subsections are hereby amended to read as follows:

Secs. X141 and 4141Q. Definition of directors. Directors shall include : (1) directors who are named as such in the articles of incorporation; (2) directors duly elected in subsequent meetings of the stockholders; and (3) those elected to fill vacancies in the board of directors.

SUBSECS. X141.1 AND 4141Q.1 Limits on the number of the members of the board of directors.

Pursuant to Sections 15 and 17 of R.A. No. 8791, there shall be at least five (5), and a maximum of fifteen (15) members of the board of directors of a bank/quasi-bank/trust entity two (2) of whom shall be independent directors. Provided, That in case of a bank/quasi-bank/trust entity merger or consolidation, the number of directors may be increased up to twenty-one (21).

An independent director shall mean a person who –

1. Is not or has not been an officer or employee of the bank/quasi-bank/trust entity, its subsidiaries or affiliates or related interests during the past three (3) years counted from the date of his election;
2. Is not a director or officer of the related companies of the institution's majority stockholder;

ITAGUYOD ANG PHILIPPINES 2000



MAG-IMPOK SA BANGKO

3. Is not a majority shareholder of the institution, any of its related companies, or of its majority shareholder;
4. Is not a relative within the fourth degree of consanguinity or affinity, legitimate or common-law of any director, officer or majority shareholder of the bank/quasi-bank/trust entity, or any of its related companies;
5. Is not acting as a nominee or representative of any director or substantial shareholder of the bank/quasi-bank/trust entity, any of its related companies or any of its substantial shareholders; and,
6. Is free from any business or other relationship with the institution or any of its major stockholders which could materially interfere with the exercise of his judgement, i.e., has not engaged and does not engage in any transaction with the institution, any of its related companies or any of its substantial shareholders, whether by himself or with other persons or through a firm of which he is a partner or a company of which he is a director or substantial shareholder, other than transactions which are conducted at arms length and could not materially interfere or influence with the exercise of his judgments.

Non-Filipino citizens may become members of the board of directors of a bank/quasi-bank/trust entity to the extent of the foreign participation in the equity of said bank/quasi-bank/trust entity: Provided, That pursuant to Section 23 of the Corporation Code of the Philippines (BP Blg. 68), a majority of the directors must be residents of the Philippines.

The meetings of the board of directors may be conducted through modern technologies such as, but not limited to, teleconferencing and video-conferencing as long as the director who is taking part in said meetings can actively participate in the deliberations on matters taken up therein: Provided, That every member of the board shall be physically present in at least fifty percent of all board meetings in every year.

Subsecs. X141.2 and 4141Q.2 Qualifications of a director

A director shall have the following minimum qualifications:

1. He shall be at least twenty-five (25) years of age at the time of his election or appointment;
2. He shall be at least a college graduate or have at least five (5) years experience in business;

3. He must have attended a special seminar for board of directors conducted or accredited by the BSP: Provided, That incumbent directors as well as those who will be elected after the approval of this circular must attend said seminar within a period of six (6) months from the date of this circular or from the date of their election, as the case may be; and
4. He must be fit and proper for the position of a director of the bank/quasi-bank/trust entity. In determining whether a person is fit and proper for the position of a director, the following matters must be considered:
 - integrity/probity;
 - competence;
 - education;
 - diligence; and
 - experience/training.

The foregoing qualifications for directors shall be in addition to those required or prescribed under R.A. No. 8791 and other existing applicable laws and regulations.

Section 2. Subsec. X142.2 of the Manual of Regulations for Banks and the last paragraph of Sec. 4142Q of the Manual of Regulations for Non-Bank Financial Institutions are hereby amended to read as follows:

Qualifications of an officer

An officer shall have the following minimum qualifications:

1. He shall be at least twenty-one (21) years of age;
2. He shall be at least a college graduate, or have at least five (5) years experience in banking or trust operations or related activities or in a field related to his position and responsibilities, or have undergone training in banking or trust operations acceptable to the appropriate supervising and examining department of the BSP: *Provided*, however, That trust officers shall have at least two (2) years of actual experience or training in trust operations or fund management or other related fields; and
3. He must be fit and proper for the position he is being proposed/appointed to. In determining whether a person is fit and proper for a particular position, the following matters must be considered:
 - integrity/probity;
 - competence;
 - education;

- diligence; and
- experience/training.

The foregoing qualifications for officers shall be in addition to those required or prescribed under R.A. No. 8791 and other existing applicable laws and regulations.

Section 3. Sections X143 and 4143Q of the Manual of Regulations together with their Subsections are hereby amended to read as follows:

Secs. X143 and 4143Q. Disqualification of directors and officers.
The following regulations shall govern the disqualification of bank/quasi-bank/trust entity directors and officers.

Subsecs. X143.1 and 4143Q.1 Persons disqualified to become directors. Without prejudice to specific provisions of law prescribing disqualifications for directors, the following are disqualified from becoming directors:

a. Permanently disqualified

Directors / officers / employees permanently disqualified by the Monetary Board from holding a director position:

1. Persons who have been convicted by final judgement of the court for offenses involving dishonesty or breach of trust such as estafa, embezzlement, extortion, forgery, malversation, swindling and theft;
2. Persons who have been convicted by final judgement of the court for violation of banking laws;
3. Persons who have been judicially declared insolvent, spendthrift or incapacitated to contract; or
4. Directors, officers or employees of closed banks/quasi-banks/trust entities who were responsible for such institution's closure as determined by the monetary board.

b. Temporarily disqualified

Directors/officers/employees disqualified by the Monetary Board from holding a director position for a specific/indefinite period of time. Included are:

1. Persons who refuse to fully disclose the extent of their business interest to the appropriate supervising and examining department when required pursuant to a provision of law or of a circular,

memorandum or rule or regulation of the BSP. This disqualification shall be in effect as long as the refusal persists;

2. Directors who have been absent or who have not participated for whatever reasons in more than fifty percent (50%) of all meetings, both regular and special, of the board of directors during their incumbency, or any twelve (12) month period during said incumbency. This disqualification applies for purposes of the succeeding election;
3. Persons who are delinquent in the payment of their obligations as defined hereunder:
 - a. Delinquency in the payment of obligations means that an obligation of a person with a bank/quasi bank/trust entity where he/she is a director or officer, or at least two obligations with other banks/financial institution, under different credit lines or loan contracts, are past due pursuant to Secs. X306 and 4308Q of the Manual of Regulations;
 - b. Obligations shall include all borrowings from a bank/quasi bank obtained by:
 - i. A director or officer for his own account or as the representative or agent of others or where he/she acts as a guarantor, indorser, or surety for loans from such financial institutions;
 - ii. The spouse or child under the parental authority of the director or officer;
 - iii. Any person whose borrowings or loan proceeds were credited to the account of, or used for the benefit of a director or officer;
 - iv. A partnership of which a director or officer, or his/her spouse is the managing partner or a general partner owning a controlling interest in the partnership; and
 - v. A corporation, association or firm wholly-owned or majority of the capital of which is owned by any or a group of persons mentioned in the foregoing Items (i), (ii) and (iv);

This disqualification shall be in effect as long as the delinquency persists.

4. Persons convicted for offenses involving dishonesty, breach of trust or violation of banking laws but whose conviction has not yet become final and executory;
5. Directors and officers of closed banks/quasi-banks/trust entities pending their clearance by the Monetary Board;
6. Directors disqualified for failure to observe/discharge their duties and responsibilities prescribed under existing regulations. This disqualification applies until the lapse of the specific period of disqualification or upon approval by the Monetary Board on recommendation by the appropriate supervising and examining department of such directors' election/reelection;
7. Directors who failed to attend the special seminar for board of directors required under item 3 of subsecs. X141.2/4141Q.2. This disqualification applies until the director concerned had attended such seminar;
8. Persons dismissed/terminated from employment for cause. This disqualification shall be in effect until they have cleared themselves of involvement in the alleged irregularity;
9. Those under preventive suspension; or
10. Persons with derogatory records with the National Bureau of Investigation (NBI), court, police, interpol and monetary authority (central bank) of other countries (for foreign directors and officers) involving violation of any law, rule or regulation of the Government or any of its instrumentalities adversely affecting the integrity and/or ability to discharge the duties of a bank/quasi bank/trust entity director/officer. This disqualification applies until they have cleared themselves of involvement in the alleged irregularity.

Subsecs. X143.2 and 4143Q.2 Persons disqualified to become officers.

1. The disqualifications for directors mentioned in Subsecs. X143.1 and 4143Q.1 shall likewise apply to officers, except that stated in Items b.2 and b.7.
2. Except as may be authorized by the Monetary Board or the Governor, the spouse or a relative within the second degree of consanguinity or affinity of any person holding the position of Chairman, President, Executive Vice President or any position of equivalent rank, General Manager, Treasurer, Chief Cashier or Chief Accountant is disqualified from holding or being elected or appointed to any of said positions in the same bank/quasi-bank; and the spouse or relative within the second degree of

consanguinity or affinity of any person holding the position of Manager, Cashier, or Accountant of a branch or office of a bank/quasi-bank/trust entity is disqualified from holding or being appointed to any of said positions in the same branch or office.

3. In the case of Universal Banks, Commercial Banks, and Thrift Banks, any appointive or elective officials whether full time or part time, except in cases where such service is incident to financial assistance provided by the government or government-owned or controlled corporations or in cases allowed under existing law.
4. In the case of Cooperative Banks, any officer or employee of the Cooperative Development Authority or any elective public official, except a barangay official.
5. Except as may otherwise be allowed under C.A. No. 108, otherwise known as "The Anti-Dummy Law", as amended, foreigners cannot be officers or employees of banks.

Subsecs. X143.3 and 4143Q.3 Disqualification procedures

1. Upon the establishment of any of the grounds for disqualification mentioned in Subsecs. X143.1/4143Q.1 and X143.2/4143Q.2, the office of the disqualified director or officer shall immediately become vacant, except in the case of delinquency in the payment of obligations wherein the director or officer concerned shall be given a grace period of thirty (30) days after such ground for disqualification has been established.
2. All cases of disqualification shall be immediately reported to the Board of Directors of the institution concerned. If the ground for disqualification is delinquency in the payment of obligations, the report shall be made at the expiry of the thirty-day grace period mentioned in Item "1" above.

The Board shall act on the report 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 name of the director or officer involved, the ground for his disqualification and the action taken by the Board.

3. When the ground for disqualification ceases to exist, the director or officer concerned shall be eligible to become director or officer of any bank, quasi-bank or trust entity only upon prior approval by the Monetary Board.

Subsecs. X143.4 and 4143Q.4 Effect of non-possession of qualification or possession of disqualifications.

Directors/officers elected or appointed without possessing the qualifications above-mentioned or possessing any of the disqualifications as enumerated herein, shall vacate their respective positions immediately."

Subsecs. X143.5 and 4143Q.5 Confirmation of the election/ appointments of directors and officers.

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

Confirming Authority	Position Level
a. Monetary Board	Directors, Senior Vice President and above of universal banks and commercial banks, as well as Directors, President, Chief Executive Officer, Chief Operating Officer 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.
b. A Committee to be composed of: • The Deputy Governor-SES • Managing Directors of SE I and II • Directors of the concerned supervising and examining department of SES	Directors, Senior Vice President and above or equivalent rank of thrift banks, Islamic banks, rural banks, cooperative banks, quasi-banks and trust entities with total assets of less than P1 billion.

It is, however, understood that all cases of disqualification shall be elevated to the Monetary Board.

If after evaluation, the Monetary Board shall find grounds for disqualification, the director/officer so elected/ appointed may be removed from office even if he/she has assumed the position to which he/she was elected.

The election/appointment of all incumbent directors and officers of all types of banks and quasi-banks as of (date of this Circular) not previously approved/confirmed by the Monetary Board shall be submitted to the BSP, through the appropriate supervising and examining departments for confirmation.

Subsections X143.6 and 4143Q.6 Watchlisting.

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 disqualified bank/quasi bank /trust entity directors/officers under the following procedures:

1. **Watchlist categories.** Watchlisting shall be categorized as follows:
 - a. Disqualification File "A" (Permanent) – Directors/officers/employees permanently disqualified by the Monetary Board from holding a director/officer position.
 - b. Disqualification File "B" (Temporary) – Directors/officers/employees temporarily disqualified by the Monetary Board from holding a director/officer position.
2. **Inclusion of directors/officers/employees in the watchlist.** Upon recommendation by the Supervision and Examination Sector, the inclusion of directors/officers/employees in watchlist disqualification files "A" and "B" on the basis of decisions, actions or reports of the courts, banks, quasi banks, Bangko Sentral, National Bureau of Investigation or any other administrative agencies shall first be approved by the Monetary Board.
3. **Notification of directors/officers/employees.** Upon approval by the Monetary Board, the concerned director/officer/employee shall be informed through registered mail, with registry return receipt card, at his/her last known address of his/her inclusion in the masterlist of watchlisted persons disqualified to be a director/officer in any financial institution under the supervision of the BSP.
4. **Confidentiality.** Watchlisting shall be for internal use only 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, the Governor, or the Monetary Board.
5. **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 laws becomes final

and executory, in which case the director/ officer/employee is re-listed to Watchlist – Disqualification File “A” (Permanent);

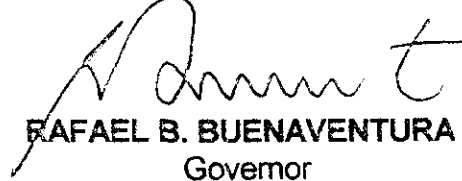
- iii. Upon favorable decision or clearance by the appropriate body, i.e., court, NBI, bank, quasi bank, trust entity or such other agency/body where the concerned individual had derogatory record;

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

Section 4. Subsec. 4143Q.3 of the Manual of Regulations for Non-Bank Financial Institutions is hereby renumbered as Subsection 4143Q.7.

This Circular shall take effect immediately.

FOR THE MONETARY BOARD:



RAFAEL B. BUENAVENTURA
Governor

Sept. 17, 2001