



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 988

Series of 2017

Subject : Revised Guidelines on the Imposition of Monetary Penalties on Bangko Sentral ng Pilipinas-Supervised Financial Institutions, their Directors/ Trustees and/or Officers for Violations with Sanctions Falling under Section 37 of Republic Act No. 7653 (The New Central Bank Act) and Other Applicable Laws

The Monetary Board, in its Resolution No. 1923 dated 16 November 2017, approved the Revised Guidelines on the Imposition of Monetary Penalties on Bangko Sentral Supervised Financial Institutions (BSFIs), their Directors/Trustees and/or Officers (DTOs) for Violations with Sanctions Falling under Section 37 of Republic Act (R.A.) No. 7653 (The New Central Bank Act) and Other Applicable Laws.

This Circular covers the imposition of monetary penalties on BSFIs, particularly, banks and quasi-banks (QBs) including their subsidiaries and affiliates engaged in allied activities¹, non-stock savings and loan associations (NSSLAs)², other non-bank institutions with trust license, and/or their DTOs, for violations falling under Section 37 of R.A. No. 7653 and other applicable laws and Bangko Sentral regulations. It does not apply to those instances where specific monetary penalties have been provided under applicable laws or other Bangko Sentral rules and regulations.

This Circular also covers guidelines on appeal/request for reconsideration, collection and payment of monetary penalties arising from all types of violations including those covered by specific monetary penalties found in applicable laws or other Bangko Sentral rules and regulations.

Section 1. Section X902 of the Manual of Regulations for Banks (MORB) is hereby amended as follows:

"Sec. X902 Payment of Monetary Penalties and Other Charges. The following regulations shall govern the payment of monetary penalties and other charges by banks, and/or their directors and/or officers."

¹ Section 25, R.A. No. 7653

² Section 28 of R.A. No. 8367 and Memorandum to All NSSLAs dated 30 March 2006 noting Department of Justice Opinion No. 34 dated 10 August 2005 affirming Bangko Sentral's administrative authority over NSSLAs, specifically the imposition of other administrative sanctions under Section 37 of R.A. No. 7653 on NSSLAs and/or their erring officers/trustees.

Section 2. Subsection X902.1 of the MORB is hereby amended as follows:

"Subsec. X902.1 Guidelines on the imposition of monetary penalties.

a. Statement of Policy

The Bangko Sentral recognizes the need to impose monetary penalties as one of the possible sanctions to hold banks, and/or their directors and/or officers accountable for their conduct and to deter the future commission of violations.

This Subsection sets forth the guidelines in the imposition of monetary penalties as may be warranted under the circumstances based on the following general principles laid down in the Bangko Sentral Supervisory Enforcement Policy provided under Section X009 of the MORB taking into consideration their impact on the bank's financial condition:

- (1) Root cause diagnosis;
- (2) Consistently matching the severity of enforcement action to the supervisory issue;
- (3) Successive or simultaneous deployment of enforcement actions;
- (4) Monitorability and follow-through; and
- (5) Escalation of enforcement actions.

Accordingly, the Bangko Sentral may impose monetary penalties, singly or together with non-monetary sanctions, if appropriate, even at the outset or as an escalated sanction.

b. The following are the guidelines on the imposition of monetary penalties on banks, and/or their directors and/or officers and the payment of such monetary penalties and other charges:

- (1) Banks, and/or their directors and/or officers shall be imposed the monetary penalties prescribed under applicable laws or other Bangko Sentral rules and regulations.

In the absence of provision on monetary penalty for the violation/offense, banks and/or their directors and/or officers may be imposed a maximum monetary penalty of P30,000.00 per calendar day for each violation/offense in accordance with the following schedule:

Asset Size \ Penalty Level ³	Up to P200 million	Above P200 million but not exceeding P500 million	Above P500 million but not exceeding P1 billion	Above P1 billion but not exceeding P10 billion	Above P10 billion but not exceeding P50 billion	Above P50 billion
High	5,000	10,000	15,000	20,000	25,000	30,000
Low	2,500	5,000	7,500	10,000	12,500	15,000

The Bangko Sentral may use a penalty rate prescribed under the next higher range of asset size after considering the following attendant circumstances: (a) the harm caused or potential harm caused to the bank and/or its stakeholders; (b) the seriousness of the violation or irregularity; and (c) the intentionality and frequency; *Provided*, That the resulting penalty will have no adverse impact on the BSFI's operations, liquidity and/or capitalization.

If the monetary penalty is less than the gain derived or loss avoided by the bank and/or director and/or officer in committing the violation/s, the Bangko Sentral may assess total monetary penalties equivalent to the gain derived or loss avoided.

The appropriate supervising department shall notify the bank/director or officer concerned of the violation and the corresponding amount of monetary penalty, together with a directive for the bank/director or officer concerned to explain within fifteen (15) banking/business days from receipt of the letter why the assessed monetary penalty should not be imposed against it/him/her. The recommendation to impose monetary penalties shall be approved by the Governor or the Monetary Board, as the case may be. The decision of the Governor/Monetary Board shall be communicated to the bank/director or officer concerned.

However, the Bangko Sentral is not precluded from imposing non-monetary sanctions along with monetary penalties if circumstances so warrant.

- (2) *Basis for the computation of the period or duration of penalty.* xxx
- (3) *Request for Reconsideration or Appeal.* A request for reconsideration on the monetary penalty approved by the Governor/Monetary Board is allowed. The bank/director or officer concerned shall be notified of the decision of the Governor/Monetary Board thereon. An appeal from the decision of the Governor on the request for reconsideration may be made to the Monetary Board.

³ **"High" penalty level** is generally imposed on serious offenses/ violations such as unsafe or unsound practices; fraudulent acts; and major acts or omissions defined as the bank's/individual's failure to comply with the requirements of banking laws, rules and regulations, as well as Monetary Board directives/instructions which have/may have a material adverse impact on bank's solvency, liquidity or profitability. This penalty level may also be imposed as an escalated monetary penalty to violations previously meted with "low" penalty level.

"Low" penalty level is imposed on all other acts or omissions that cannot be classified under serious offenses/violations as described above.

A request for reconsideration or appeal shall be filed within fifteen (15) calendar days from receipt of the notice of the decision of the Governor/Monetary Board.

- (4) *Payment of Monetary Penalties.* Banks, and/or their directors and/or officers shall pay the monetary penalties within fifteen (15) calendar days from receipt of the notice of the decision of the Governor/Monetary Board or receipt of the notice of the decision denying the appeal or request for reconsideration, where applicable.

In the case of banks, penalties which remain unpaid after due date shall be automatically debited against their corresponding demand deposit account (DDA) with the Bangko Sentral.

In the case of directors and/or officers, their employer bank shall advance the payment of the penalty to the Bangko Sentral in their behalf on or before due date through automatic debit of its DDA with the Bangko Sentral. In case the director and/or officer is no longer connected with the bank, payment thereof shall be for the account of the director and/or officer who shall pay directly to the Bangko Sentral in the form of cash or check or such other acceptable means of payment and in accordance with the provisions of Subsec. X902.4.

For uniform implementation of the above regulations, the procedural guidelines embodied in *Appendix 29*, MORB shall be observed.

- (5) *Additional Charge for Late Payment of Monetary Penalty.* Late payment of monetary penalty shall be subject to an additional charge of six percent (6%) per annum to be computed from the time said penalty becomes due and payable up to the time of actual payment.

Section 3. Applicability to non-bank financial institutions (NBFIs). The provisions under Sections 1 and 2 above shall likewise apply to QBs, NSSLAs, and other NBFIs with trust license as follows:

1. The amendment to Section X902 of the MORB under Section 1 above shall also be adopted under Sections 4902Q of the Manual of Regulations for Non-Bank Financial Institutions (MORNBFi).
2. The amendment to Subsection X902.1 of the MORB under Section 2 above shall be adopted under Subsections 4601S.1 and 4902Q.1 of the MORNBFi, taking into consideration the following modifications:
 - a) Subsections 4601S.1 and 4902Q.1 of the MORNBFi shall cite the reference of the Bangko Sentral Supervisory Enforcement Policy to Section 4009Q of the MORNBFi instead of Section X009 of the MORB;

- b) Subsection 4601S.1 of the MORNBFi shall use the term “trustees” instead of “directors”;
- c) Subsection 4601S.1c of the MORNBFi shall cite that monetary penalties are approved only by the Monetary Board;
- d) Subsection 4902Q.1d shall cite that QBs shall, within fifteen (15) calendar days from receipt of the notice of decision of the Governor/Monetary Board, pay the fines for reserve deficiency, reportorial delay/deficiency, refusal to permit examination, or failure to comply with, or violation of, any law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor;
- e) Subsection 4601S.1d shall cite that all NSSLAs and their trustees and/or officers shall pay the penalties in the form of cash or check or such other acceptable means of payment and in accordance with the provisions of Subsection 4902Q.4 of the MORNBFi; and
- f) Subsections 4601S.1d and 4902Q.1d shall cite the reference of the procedural guidelines to Appendix Q-22 of the MORNBFi instead of Appendix 29 of the MORB.

Section 4. Item 6 of Appendix 29 of the MORB and Q-22 of the MORNBFi are hereby amended as follows:

“For uniform implementation of the regulations on payment of monetary penalties from banks/QBs and/or their directors and/or officers, the following procedures shall be observed:

xxx

“6. In the case of penalty/ies imposed on bank/QB directors and/or officers, the employer bank/QB and said directors and/or officers shall be advised by the appropriate supervising department concerned that the employer bank/QB’s DDA with the Bangko Sentral shall be debited for the amount of the penalty as advance payment in behalf of the director and/or officer within fifteen (15) calendar days from receipt of the notice of the decision of the Governor/Monetary Board. In case the director and/or officer is no longer connected with the bank/QB, payment thereof shall be for the account of the director and/or officer who shall pay directly to the Bangko Sentral in the form of cash or check or such other acceptable means of payment and in accordance with the provisions of Subsec. X902.4/4902Q.4 of the MORB/MORNBFi. The procedures under Items “2”, “3” and “4” hereof shall likewise apply.”

Section 5. Subsections X902.2 of the MORB and 4902Q.2 of the MORNBFi are hereby deleted.

Section 6. In addition, the following Sections/Subsections of the MORB/MORNBFI are hereby amended:

- a. Sections X199, X299, X399, X699, X799 and X999 of the MORB, as follows:

“Except as otherwise indicated, any violation of the provisions of this Part shall be subject to Sections 36 and 37 of Republic Act No. 7653.

The guidelines for the imposition of sanctions falling under Section 37 of Republic Act No. 7653 on banks, and/or their directors and/or officers are shown in Section X009 and Subsection X902.1 of the MORB.”

- b. Sections 4199Q, 4299Q, 4399Q, 4599Q, 4699Q, 4799Q and 4999Q of the MORNBFI, as follows:

“Except as otherwise indicated, any violation of the provisions of this Part shall be subject to Sections 36 and 37 of Republic Act No. 7653.

The guidelines for the imposition of sanctions falling under Section 37 of Republic Act No. 7653 on QBs, and/or their directors and/or officers are shown in Section 4009Q and Subsection 4902Q.1 of the MORNBFI.”

Section 7. Appendices 67 of the MORB, Q-39, T-2 and T-2a of the MORNBFI are hereby deleted. However, the guidelines in the imposition of monetary penalties under Circular No. 496 dated 29 September 2005 shall continue to apply insofar as pawnshops are concerned.

Section 8. Considering the deletion of the appendices mentioned in Section 7 above, the phrases in certain provisions of the MORB and MORNBFI making reference to the deleted appendices are amended/deleted accordingly as shown in Annex 1.

Section 9. Effectivity

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

FOR THE MONETARY BOARD:


NESTOR A. ESPENILLA, JR.
Governor

20 December 2017

The following phrases in the following provisions are hereby amended/deleted, as follows:

Section/Subsection/Appendix	Existing Phrase	Amended/Deleted Phrase
X115.9 a. X118 c.1.(a) App. 63c – Part VIII A.1	considered as a serious offense for purposes of determining the appropriate monetary penalty	subject to the appropriate monetary penalties under Subsection X902.1/4902Q.1
X115.9 b. X118 c.2.(a) X190.7 App. 63c – Part VIII B.2 4190Q.7	considered as a serious offense for purposes of determining the appropriate penalty	subject to the appropriate monetary penalties under Subsection X902.1/4902Q.1
X234.6 4101Q.6	shall be considered a less serious offense and	Deleted
1176.3ai(3)	penalties applicable to serious offenses under Appendix 67	monetary penalties under Subsection X902.1
1176.3b	penalties provided applicable to serious offenses under Appendix 67	monetary penalties under Subsection X902.1
X148.9a1	monetary penalties under Appendix 67	appropriate monetary penalties under Subsection X902.1
X148.9a1(a) X148.9a1(b) X148.9b1 X148.9b2 X192.3c1(b) X192.3c2(a) X192.3c2(b) 1192.3b1(b) 1192.3b2(a) 1192.3b2(b)	monetary penalties applicable to less serious offenses under Appendix 67	appropriate monetary penalties under Subsection X902.1
X307.5 X320.16.c	shall be regarded at least as a less serious offense	may be subject to appropriate monetary penalties under Subsection X902.1
X341.15.a.(1).(b)	monetary penalties applicable to less serious offenses for willful delay in the submission of the agri-agra report under Appendix 67	appropriate monetary penalties for willful delay in the submission of agri-agra report under Subsection X902.1
X341.15.a.(1).(c)	monetary penalties applicable to less serious offenses for willful making of a false or misleading	appropriate monetary penalties for willful making of a false or misleading statement under Subsection X902.1

Section/Subsection/Appendix	Existing Phrase	Amended/Deleted Phrase
	statement under Appendix 67	
X341.15.b	monetary penalties provided under Appendix 67 applicable to less serious offenses	appropriate monetary penalties under Subsection X902.1
X160.3.1.a 4160Q.3.1.a	monetary penalties under Appendix 67/Q-39	the appropriate monetary penalties under Subsection X902.1/4902Q.1
X160.3.1.a.1) X160.3.1.a.2) X160.3.2.a X160.3.2.b 4160Q.3.1.a.1) 4160Q.3.1.a.2) 4160Q.3.2.a 4160Q.3.2.b	monetary penalties applicable to minor offenses under Appendix 67/Q-39	the appropriate monetary penalties under Subsection X902.1/4902Q.1
4115Q.9a/4115Q.9b	will/shall be considered as a serious offense for purposes of determining the appropriate monetary penalty	shall be subject to the appropriate monetary penalty under Subsection 4902Q.1
X780.11	Appendix 67	Subsection X902.1
X499	in Appendix 67	under Subsection X902.1
4780Q.11 Appendix Q-55, Part IX 4642S.11	monetary penalties as graduated under Appendix Q-39	appropriate monetary penalties under Subsection 4902Q.1
4499Q 4101N.1	in Appendix Q-39	under Subsection 4902Q.1
4642N.11	monetary penalties as graduated under Appendix Q-39	appropriate monetary penalties under Subsection 4902Q.1
4307Q.5 4320Q.16c 4307S.5 4301N.16c	regarded at least as a less serious offense	subject to the appropriate monetary penalties under Subsection 4902Q.1
4199T, 4399T and 4999T	Appendix T-2	Subsection 4902Q.1
Section 87, Manual of Regulations for Foreign Exchange Transactions	Appendix 67	Subsection X902.1

Section/Subsection/Appendix	Existing Phrase	Amended/Deleted Phrase						
Appendix T-1	<table><tr><td>Q-39</td><td><u>The Guidelines for the Imposition of Monetary Penalty for Violations/Offenses with Sanctions Falling Under Section 37 of R.A. No. 7653 on Quasi-Banks, Directors and/or Officers</u></td><td>xxx</td></tr></table>	Q-39	<u>The Guidelines for the Imposition of Monetary Penalty for Violations/Offenses with Sanctions Falling Under Section 37 of R.A. No. 7653 on Quasi-Banks, Directors and/or Officers</u>	xxx	<table><tr><td><u>4902Q.1</u></td><td><u>Guidelines on the Imposition of Monetary Penalties</u></td><td>xxx</td></tr></table>	<u>4902Q.1</u>	<u>Guidelines on the Imposition of Monetary Penalties</u>	xxx
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<u>4902Q.1</u>	<u>Guidelines on the Imposition of Monetary Penalties</u>	xxx						