



Bangko Sentral ng Pilipinas

OFFICE OF THE GOVERNOR

CIRCULAR NO. 617
Series of 2008

Subject: Amendment of existing regulations on penalties that shall be imposed on banks/non-bank financial institutions (NBFIs) with authority to engage in trust and/or investment management activities and/or officers for non-compliance with the basic security deposit for the faithful performance of trust, investment management and other fiduciary duties

The Monetary Board, in its Resolution No. 907 dated 18 July 2008, approved the amendment of the Manual of Regulations for Banks (MORB) and the Manual of Regulations for Non-Bank Financial Institutions (MORNBFI) as follows:

Section 1. Subsection X405.4 of the MORB and Subsection 4405Q.4 of the MORNBFI, on the compliance period of, and sanctions that may be imposed on the bank/QB, its trust officer and/or other officer(s) responsible for any deficiency in the basic security deposit for the faithful performance of trust and other fiduciary duties, are hereby amended to read as follows:

“§ X405.4/§ 4405Q.4 **Compliance period; sanctions.** The trustee or fiduciary shall have thirty (30) **calendar** days after the end of every calendar quarter within which to deposit with the BSP the securities required under this Section.

The following sanctions shall be imposed for any deficiency in the basic security deposit for the faithful performance of trust, and other fiduciary **duties**:

PANANALAPING MATATAG, BANSANG PANATAG

a. On the bank/quasi-bank (QB):

i. Monetary penalty/ies:

Trust Asset Size Offense	Penalty per Calendar Day					
	TBs/RBs with Limited Trust Authority	UBs/KBs/TBs/QBs with Full Trust Authority and with Trust Assets of				
		Up to ₱ 500 million	Above ₱ 500 million but not exceeding ₱ 1 billion	Above ₱ 1 billion but not exceeding ₱ 10 billion	Above ₱ 10 billion but not exceeding ₱ 50 billion	Above ₱ 50 billion
First	₱ 300.00	₱ 600.00	₱ 1,000.00	₱ 2,000.00	₱ 5,000.00	₱ 8,000.00
Second	₱ 400.00	₱ 700.00	₱ 1,250.00	₱ 3,000.00	₱ 6,000.00	₱ 9,000.00
Third and subsequent offense(s)	₱ 500.00	₱ 800.00	₱ 1,500.00	₱ 4,000.00	₱ 7,000.00	₱ 10,000.00

- ii. Non-monetary penalty beginning with the third offense (all banks/QBs) - Prohibition against the acceptance of new trust and other fiduciary accounts, and from renewing expiring trust and other fiduciary contracts up to the time the violation is corrected.

b. On the trust officer and/or other officer(s) responsible for the deficiency/non-compliance:

- (1) First offense – warning that subsequent violations shall be dealt with more severely;
- (2) Second offense - written reprimand with a stern warning that subsequent violations shall be subject to suspension;
- (3) Third offense - thirty (30) calendar day-suspension without pay; and
- (4) Subsequent offense(s) - sixty (60) calendar day-suspension without pay.

For purposes of determining the frequency of the violation, the bank's/QB's compliance profile for the immediately preceding three (3) years or twelve (12) quarters will be reviewed: *Provided*, That for purposes of determining appropriate penalty on the trust officer and/or other responsible officer(s), any offense committed outside the preceding three (3) year or twelve (12) quarter-period shall be

considered as the first offense: *Provided, further*, That in the case of trust officer, all offenses committed by him in the past as trust officer of other institution(s) shall also be considered: *Provided, finally*, That if the offense cannot be attributed to any other officer of the bank, the trust officer shall be automatically held responsible since the ultimate responsibility for ensuring compliance with the regulation rests upon him, as evidence may warrant.

Section 2. The foregoing sanctions shall likewise apply to –

- a. Banks and QBs for non-compliance or deficiency in the required basic security deposit for the faithful performance of investment management duties by reason of which Subsection X415.4 of the MORB and Subsection 4415Q.4 of the MORNBFI are hereby amended accordingly; and
- b. NBFIs not performing quasi-banking functions but with authority to engage in trust and/or investment management activities.

Section 3. *Effectivity.* This Circular shall take effect fifteen (15) days after its publication either in the Official Gazette or in a newspaper of general circulation.


AMANDO M. TETANGCO, JR.
Governor

30 July 2008