



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 884

Series of 2015

Subject: Guideline on the Establishment and Operation of Trust Corporations

The Monetary Board in its Resolution Nos. 945 dated 11 June 2015, 961.A dated 18 June 2015 and 1091 dated 9 July 2015 approved the attached Guideline on the Establishment and Operation of Trust Corporations, which shall be incorporated in the Manual of Regulations for Non-Bank Financial Institutions (MORNBFI) as the Regulations Governing Trust Corporations.

This Circular supersedes Part Nine (Sections 4901N-4999N and Appendix N-9) of the MORNBFI-N Regulations governing stand-alone trust corporations.

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

FOR THE MONETARY BOARD:

A handwritten signature in black ink, appearing to read "Amando M. Tetangco, Jr.", is written over the printed name and title.

AMANDO M. TETANGCO, JR.

Governor

22 July 2015

MANUAL OF REGULATIONS FOR NON-BANK FINANCIAL INSTITUTIONS

Regulations Governing Trust Corporations

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POWER OF THE BANGKO SENTRAL TO EXAMINE TRUST CORPORATIONS

Examination by the Bangko Sentral. The Bangko Sentral ng Pilipinas (Bangko Sentral) shall have supervision over, and conduct periodic or special examinations of trust corporations (TC).

The head and examiners of the appropriate department of the Supervision and Examination Sector (SES) are authorized to administer oaths to any director, officer or employee of TCs, and to compel the presentation of all books, documents, papers or records necessary in their judgment to ascertain the facts relative to the true condition of the institution as well as the books and records of persons and entities relative to or in connection with the operations, activities or transactions of the institution under examination, subject to the provision of existing laws and regulations.

The term "examination" shall refer to an investigation of an institution under the supervisory authority of the Bangko Sentral to determine whether the institution is operating on a safe and sound basis, inquire into its solvency and liquidity, and assess the effectiveness of its compliance function to ascertain that it is conducting business in accordance with laws and regulations. Consistent with a risk-based approach to supervision, the scope of examination may include but need not be limited to the following:

- a. Appraisal of the overall quality of corporate governance;
- b. Assessment of risk management system, which shall include the evaluation of the effectiveness of management oversight and self-assessment functions (e.g. internal audit, risk management and compliance), adequacy of policies, procedures, and limits, effectiveness of risk measurement, monitoring and management information system, and robustness of internal control;
- c. Review of the institution's operations and overall risk profile;
- d. Evaluation of financial performance, capital adequacy, asset quality and liquidity; and
- e. Any other activity relevant to the above.

Regular or periodic examination shall be done once a year, with an interval of twelve (12) months from the last date thereof. Special examination may be conducted earlier, or at a shorter interval, when authorized by the Monetary Board by an affirmative vote of five (5) members.

In the full exercise of the supervisory powers of the Bangko Sentral, examination by the Bangko Sentral of institutions shall be complemented by overseeing thereof. In this regard, the term *overseeing* shall refer to a limited investigation of an institution, or any investigation/s that is limited in scope, conducted to inquire into a particular area/aspect of an institution's operations, for the purpose of overseeing that laws and regulations are complied with, inquiring into the solvency and liquidity of the institution, enforcing prompt corrective action, or such other matters requiring immediate investigation: *Provided, That* (i) specific authorizations be issued by the Deputy Governor, SES, and (ii) periodic summary reports on overseeings made be submitted to the Monetary Board.

PART ONE

ORGANIZATION, MANAGEMENT AND ADMINISTRATION

Section 4101T Applicable Regulations on Trust Corporations. Trust operations and investment management activities of trust corporations shall be subject to the applicable Q Regulations of the Manual of Regulations for Non-Bank Financial Institutions (MORNBFII), as referred to and unless otherwise specified by the provisions of this Manual.

A. SCOPE OF AUTHORITY

Sec. 4102T Statement of Policy. It is the policy of the Bangko Sentral ng Pilipinas (Bangko Sentral) to promulgate rules and regulations necessary for the proper conduct and development of trust, other fiduciary business and investment management activities. Toward this end, authority to engage in trust, other fiduciary business and investment management activities shall be granted to all qualified trust corporations which meet the requirements provided herewith.

§ 4102T.1 Definitions. For purposes of regulating the operations of a trust corporation, unless the context clearly connotes otherwise, the following shall have the meaning indicated:

- a. *Trust entity* shall refer to a: (a) bank or a non-bank financial institution, through its specifically designated business unit to perform trust functions, or (b) trust corporation, authorized by the Bangko Sentral to engage in trust and other fiduciary business under Section 79 of Republic Act (R.A.) No. 8791 (The General Banking Law of 2000) or to perform investment management services under Section 53 of R.A. No. 8791.
- b. *A trust corporation (TC)* shall be a stock corporation created, and duly authorized by the Monetary Board, to engage primarily in trust, other fiduciary business and investment management activities, which shall act as trustee or administer any trust or hold property in trust or on deposit for the use and benefit of others, and/or act as financial consultant, investment adviser or portfolio manager.

A TC may be a subsidiary or an affiliate of a bank and/or a non-bank financial institution: *Provided*, That the investing bank and/or non-bank financial institution cannot engage in trust, other fiduciary business and investment management activities through its separate and distinct department or other similar unit in the bank or non-bank financial institution and through a TC.

- c. *Trust business* shall refer to any activity resulting from a trustor-trustee relationship (trusteeship) involving the appointment of a trustee by a trustor for the administration, holding, management of funds and/or properties of the trustor by the trustee for the use, benefit or advantage of the trustor or of others called beneficiaries.

- d. *Other fiduciary business* shall refer to any activity resulting from a contract or agreement whereby the TC binds itself to render services or to act in a representative capacity such as in an agency, guardianship, administratorship of wills, properties and estates, executorship, receivership and other similar services which do not create or result in a trusteeship. Investment management activities, which are considered as among other fiduciary business, shall be separately defined in the succeeding item to highlight its being a major source of fiduciary business.
- e. *Investment management activity* shall refer to any activity resulting from a contract or agreement primarily for financial return whereby the institution (the investment manager) binds itself to handle or manage investible funds or any investment portfolio in a representative capacity as financial or managing agent, adviser, consultant or administrator of financial or investment management, advisory, consultancy or any similar arrangement which does not create or result in a trusteeship.
- f. *Investment management account* shall refer to an account where transactions arising from investment management activities are kept and recorded.
- g. *Trust* is a relationship or an arrangement whereby a person called a trustee is appointed by a person called a trustor to administer, hold and manage funds and/or property of the trust or for the benefit of a beneficiary.
- h. *Trust agreement* is an instrument in writing covering the terms and conditions of the trust.
- i. *Trustee* is any person who holds legal title to the funds and/or property of a trust.
- j. *Trustor* is any person who creates a trust.
- k. *Beneficiary* is any person for whose benefit a trust is created.
- l. *Fiduciary* shall refer to any person or entity engaged in any of the other fiduciary business as herein defined where no trustor-trustee relation exists.
- m. *Agency* shall refer to a contract whereby a person binds himself to render some service or to do something in representation or on behalf of another, with the consent or authority of the latter.
- n. *Principal* shall refer to the person who grants authority to another person called an agent, under a contract to enter into transactions in his behalf.
- o. *Agent* shall refer to a person who acts in representation or on behalf of another person with the latter's authority.
- p. *President* shall refer to the chief executive officer of the TC or to any other position of equivalent rank or position.

- q. *Unit Investment Trust Fund (UITF)* shall refer to an open-ended pooled trust fund denominated in pesos or any acceptable currency, which are operated and administered by a trust entity and made available by participation. The term Unit Investment Trust Funds is synonymous to common trust funds. As an open-ended fund, participation or redemption is allowed as often as stated in its plan rules.
- r. *Assets under management (AUM)* shall represent all funds, properties and securities, denominated in peso and other foreign currency, which the TC, acting as trustee, fiduciary and agent, shall manage, administer, hold, and/or take custody, for the use and/or benefit of persons other than the TC. In the performance of its trust, other fiduciary business and investment management activities, the assets under management of the TC shall be kept separate and distinct from the proprietary assets of the TC as well as from the general or other business owned and operated by its parent company, subsidiaries and related interest including all other funds, properties, and assets owned by such TC.
- s. *Proprietary assets* shall refer to all assets, excluding assets under management, owned by the TC for the purpose of engaging in the business of trust, other fiduciary and investment management activities and maintaining the minimum capital requirement.

§ 4102T.2 Powers and Scope of Authority. A trust corporation, with prior approval of the Monetary Board, shall engage in trust and other fiduciary business under Chapter IX of R.A. No. 8791 (The General Banking Law of 2000).

A TC may accept peso and foreign currency denominated accounts: *Provided*, That in the case of foreign currency denominated accounts, all relevant laws, rules and regulations issued by local regulatory agencies on such are complied with.

§ 4102T.3 Limitations. Except for escrow services, property administratorship, safekeeping, collection and payment services, and other similar legitimate activities, a TC shall not accept and administer funds or property of any bank and/or quasi-bank, and/or act as trustee, fiduciary, financial consultant, investment adviser, or portfolio manager of such funds or property. It shall not, in any manner, allow itself to be a party to any transaction by which a bank or quasi-bank circumvent laws, rules and regulations. Moreover, a TC cannot engage in quasi-banking functions, particularly the borrowing of funds from the public for the purpose of relending the said funds. The TC, however, retains the right to borrow as is inherent to any duly registered corporate entity: *Provided*, however, That borrowing of a TC from its managed or trusted accounts shall be prohibited.

B. ESTABLISHMENT AND ORGANIZATION

Sec. 4103T Establishment and Organization. A TC shall administer the funds or property under its custody with the diligence that a prudent man would exercise in the conduct of an enterprise of a like character with similar aims.

The TC must have suitable shareholders, adequate financial strength, a legal structure in line with its operations, and a management that is fit and proper to operate the

corporation. Where the proposed owner or parent organization is a foreign-regulated financial institution, the prior consent of its home country supervisor should be obtained.

The incorporators/subscribers must be persons of integrity and of good credit reputation in the business community. The subscribers must have adequate and legitimate financial capacity to pay for their proposed subscriptions in the TC.

In addition, the incorporators/subscribers must not have been convicted of any crime involving moral turpitude, and unless otherwise allowed under the provisions of existing laws, are not officers or employees of a government agency, instrumentality, department or office charged with the supervision of, or the granting of credit to trust entities.

A TC shall ensure that it upholds consumer protection practices that adhere to the highest level of service standards, and observes fair and responsible dealings in the conduct of its trust business. In this regard, a TC shall adopt a Board-approved consumer protection framework that is appropriate to its corporate structure, operations and risk profile.

§ 4103T.1 Basic Guidelines in Establishing TCs. No person or entity shall be allowed to operate as a TC without prior authority from the Bangko Sentral.

a. Organizational requirements.

(1) Articles of incorporation and by-laws. The articles of incorporation and by-laws of any TC, or any amendment thereto, shall not be registered with the Securities and Exchange Commission (SEC) unless accompanied by a certificate of authority to register issued by the Monetary Board.

(2) Application for authority to establish the TC. The incorporators/directors of the proposed TC shall file and submit to the Monetary Board through the appropriate supervising and examining department of the Bangko Sentral an application for authority to establish a TC to primarily engage in trust, other fiduciary business and investment management activities, which shall be duly signed by all incorporators/directors, together with the following documents:

(a) Accomplished biographical data of each incorporator, subscriber, proposed director and officer;

(b) Certificate of net worth as of a date not earlier than ninety (90) days prior to the filing of the application of each of the subscriber. Such certificate shall indicate a minimum net worth that will demonstrate the certifying person's financial capacity to invest in the TC. A waiver of rights under Republic Act (R.A.) No. 1405, as amended, shall also be submitted for purposes of verification of the declared net worth;

(c) Certified photocopies of Income Tax Returns (ITRs) for the last two (2) calendar years of each incorporator, subscriber, proposed director and officer or similar document from the home country in the case of non-Filipino citizens;

(d) Clearance from the National Bureau of Investigation (NBI) of each of the incorporator, subscriber, proposed director and officer or similar document from the home country in the case of non-Filipino citizens;

(e) For corporate subscribers, the following additional documents shall be submitted:

- (i) Copy of the board resolution authorizing the corporation to invest in such TC and designating the person who will represent the corporation in connection therewith;
 - (ii) Copy of the latest articles of incorporation and by-laws duly stamped received by the SEC;
 - (iii) Updated list of directors and principal officers;
 - (iv) Current list of substantial or major shareholders, indicating the citizenship and the number, amount and percentage of the voting and non-voting shares held by them. For this purpose, substantial or major shareholder shall mean a person, whether natural or juridical, owning such number of shares that will allow him to elect at least one (1) member of the board of directors of a TC, or who is directly or indirectly the registered or beneficial owner of more than ten percent (10%) of any class of its equity security;
 - (v) A copy each of the corporation's audited financial statements for the last two (2) years prior to the filing of the application;
 - (vi) A copy of the corporation's annual report to the stockholders for the year immediately preceding the date of filing of the application;
 - (vii) Certified photocopies of the corporation's ITRs and BIR clearance for the last two (2) calendar years; and
 - (viii) For foreign corporations, in addition to Items "(e)i" to "(e)vi", it shall also submit (1) a certification from its home country's supervisory authority that it has no objection to the investment of such company in a TC in the Philippines and that adequate information on such foreign corporation shall be provided to the Bangko Sentral to the extent allowed under existing laws; (2) certification from the foreign bank/entity applicant's Corporate Secretary or any officer holding equivalent position that the bank/entity is established, reputable and financially sound; and (3) if the proposed ownership represents controlling interest¹ in the TC, certification from the foreign bank/entity applicant's Corporate Secretary or any officer holding equivalent position containing the information that the bank/entity is widely-owned and publicly-listed, duly authenticated by the Philippine Consulate;
- (f) Detailed plan of operation and economic justification for establishing a TC. The plan should describe and analyze the industry and the market area from which the TC expects to draw majority of its trust business and establish a strategy for its ongoing operation. It should also describe how the TC will be organized and controlled internally. Further, the plan should cover the marketing and distribution arrangements to be adopted by the TC which shall comply with Sections 4152T and 4153T;

¹ Control exists when the parent owns directly or indirectly through subsidiaries more than one-half (1/2) of the voting power of an enterprise unless, in exceptional circumstance, it can be clearly demonstrated that such ownership does not constitute control. Control may also exist even when ownership is one-half (1/2) or less of the voting power of an enterprise when there is: (i) power over more than one-half (1/2) of the voting rights by virtue of an agreement with other stockholders; or (ii) power to govern the financial and operating policies of the enterprise under a statute or an agreement; or (iii) power to appoint or remove the majority of the members of the board of directors or equivalent governing body; or (iv) power to cast the majority votes at meetings of the board of directors or equivalent governing body; or (v) any other arrangement similar to any of the above.

(g) Projected financial statements for the first five (5) years together with assumptions. These should be consistent with its proposed plan of operation and would show sufficient capital to support its strategy and operations;

(h) Detailed plan on how the subscribers would put up the required capitalization for the proposed TC; and

(i) Such other information that the Bangko Sentral may require.

In case of banks and non-bank financial institutions that decide to spin-off their trust department to a TC, in addition to the articles of incorporation, by-laws and the application for establishment of the proposed TC, the documentary requirements are as follows:

(i) Updated biographical data of each incorporator, subscriber, proposed director and officer;

(ii) Certificate of net worth as of a date not earlier than ninety (90) days prior to the filing of the application of each of the subscriber. Such certificate shall indicate a minimum net worth that will demonstrate the certifying person's financial capacity to invest in the TC. A waiver of rights under R. A. No. 1405, as amended, shall also be submitted for purposes of verification of the declared net worth;

(iii) Certified photocopies of ITRs for the last two (2) calendar years of each incorporator, subscriber, proposed director and officer or similar document from the home country in the case of non-Filipino citizens;

(iv) Clearance from the NBI of each of the incorporator, subscriber, proposed director and officer or similar document from the home country in the case of non-Filipino citizens. However, the applicant may instead submit a certification that the incorporator, subscriber, proposed director and officer concerned has already undergone prior approval/confirmation by the Bangko Sentral as director and/or officer of a Bangko Sentral-supervised entity;

(v) Copy of the board resolution authorizing the trust department to spin-off into a TC and designating the person who will represent the corporation in connection therewith;

(vi) In addition to the detailed plan of operation and economic justification for establishing a TC required under Item "(2)(f)", the plan shall include specific actions and timelines for the smooth transition of its operations including timelines for ample notification to clients;

(vii) Detailed plan on how the bank/NBFI would put up the required capitalization for the proposed TC;

(viii) For trust departments of foreign banks/branches, it shall also submit a certification from its home country's supervisory authority that it has no objection to the spin-off of the trust department of said bank/branches into a TC and that adequate information shall likewise be provided to the Bangko Sentral to the extent allowed under existing laws; and

(ix) Such other information that the Bangko Sentral may require.

Application for establishment of a TC shall be subject to the following fees:

(aa) Filing fee - A filing fee of P25,000.00 shall be charged upon filing of the application and is non-refundable;

- (bb) Processing fee - A processing fee of P100,000.00 shall be charged for accepted applications regardless whether the application is approved or denied. Processing fee shall be inclusive of the filing fee; and
- (cc) Licensing fee - A licensing fee of P500,000.00 shall be charged upon approval of the application. Licensing fee shall be inclusive of the processing fee.

In submitting its application, the applicant shall include a written authorization in favor of the Bangko Sentral giving consent to the conduct of verification/validation of the documents or representations stated in the application for the establishment of a TC.

The application shall be considered filed and submitted on a first-come, first-served basis: *Provided*, That all required documents are complete and properly accomplished. Otherwise, the application shall be returned unacted.

b. *Grounds for disapproval of application.* The Monetary Board may deny the application to organize a TC on the basis of any of the findings that:

- (1) The TC is being organized for any purpose other than to engage in the business of a legitimate TC;
- (2) The TC's detailed plan of operations is against the law, Bangko Sentral rules and regulations, and public policy; and
- (3) There exist other reasons, which the Monetary Board may consider as sufficient ground for such disapproval.

c. *Requirements for the issuance of the certificates of authority to register and to operate.*

(1) Within thirty (30) days from receipt of advice of approval by the Monetary Board of their application for authority to establish a TC, it shall pay a non-refundable license fee, as stated above, to the Bangko Sentral.

(2) Within sixty (60) days from receipt of advice of approval by the Monetary Board of their application for authority to establish a TC, the incorporators shall:

(a) Submit seven (7) copies of the articles of incorporation, treasurer's sworn statement and by-laws which shall include provisions on the appointment of a president, equivalent position/officer, and other subordinate officers, and a clear definition of their duties and responsibilities; and

(b) Deposit with any universal/commercial bank the initial paid-up capital of the proposed TC.

(3) Within thirty (30) days after the articles of incorporation and by-laws had been cleared by the Bangko Sentral, and the corresponding certificate of authority to register had been issued, the incorporators shall effect the filing and registration of said documents with the SEC.

(4) Within six (6) months from receipt of advice of approval by the Monetary Board/Governor of their application for authority to establish a TC, the incorporators shall secure the certificate of authority to operate the trust, other fiduciary business and investment management activities and submit to the appropriate supervising and examining department of the Bangko Sentral the following:

- (a) Proof of registration of articles of incorporation and by-laws;
- (b) Certification of compliance with the conditions of approval duly signed by the incorporators, including the set-up of the required basic security deposit;

(c) Names and positions of individuals designated as chairman and members of the board of directors, president and other subordinate officers of the TC with their respective bio-data and statement of duties and responsibilities;

(d) Organizational chart which shows the names of departments/units with respective functions and responsibilities and designations of officers/employees including responsibilities of personnel within the said departments/units. The organizational chart should show clear accountability of the management structure and should provide for independent check and balance by the board of directors;

(e) Risk Management Manual, Manual on Consumer Protection Framework and Operations Manual embodying the policies, systems, and operating procedures of each department/unit in the organization, together with the certification of the President of the TC that the manuals were prepared and aligned with existing Bangko Sentral rules and regulations on risk management, consumer protection and trust, other fiduciary and investment management activities, and that the policies, systems and operating procedures in the manuals shall be implemented. A TC is expected to have in place, a risk management system that is appropriate to the nature and complexity of the TC's fiduciary activities and to ensure that the policies, systems and operating procedures in the manuals shall be implemented;

(f) Excerpts of the minutes of the organizational/director's meetings confirming all organizational and pre-opening transactions relative to activities undertaken by the TC to operate the trust, other fiduciary business and investment management activities (e.g., appointment of officers, and approval of authorized signatories);

(g) Alphabetical list of all stockholders with the number and percentage of voting stocks owned/held;

(h) List of natural persons/stockholders certified by the corporate secretary, owning voting stocks in the TC and are related to other identified stockholders within the first (1st) degree of consanguinity or affinity, indicating the combined percentage of voting stocks held by these persons in the particular TC, as well as juridical persons, including corporations that are wholly-owned or a majority of the stock of which is owned by any of such persons, including their wholly- or majority-owned subsidiaries;

(i) Certification by the President that no person who is the spouse or relative within the second (2nd) degree of consanguinity or affinity of any person holding the position of chairman, president, chief executive officer, chief operating officer, executive vice-president, senior vice president or any position of equivalent rank, general manager treasurer, chief cashier, or chief accountant will be appointed to any of said positions in the TC; and

(j) Other documents/papers which may be required.

§ 4103T.2 Commencement of Trust, Other Fiduciary Business and Investment Management Activities. The authority to establish a TC shall be automatically revoked if the TC is not organized and opened for business within one (1) year from date of approval by the Monetary Board of their application for authority to operate a TC. A final extension may be granted upon presentation of justifiable reason for failure to open the TC within the prescribed period, and proof that the TC can be opened within the extension period.

In the case of spun-off trust departments of banks/NBFIs, it is understood that upon receipt of the certificate of authority to operate a TC, the trust license of the trust department shall be automatically revoked.

The TC shall submit a written notice to the appropriate supervising and examining department of the Bangko Sentral of the actual date of commencement of trust, other fiduciary and investment management operations not later than ten (10) days from such operation.

Sec. 4104T Unauthorized Conduct of Trust and Other Fiduciary Business. If an entity is found to be engaged in unauthorized trust and other fiduciary business and/or investment management activities, whether as its primary, secondary or incidental business, the Monetary Board may proceed against such entity and/or its board of directors, and/or principal officers and/or majority stockholders in accordance with law.

The Monetary Board may take such action as it may deem proper such as, but may not be limited to, requiring the transfer or turnover of any trust and other fiduciary and/or investment management accounts to duly incorporated and licensed entities of choice by the trustor, beneficiary or client, as the case may be.

No entity shall advertise or represent itself as being engaged in trust and other fiduciary business or in investment management activities or represent itself as trustee or investment manager or use words of similar import and/or use in connection with its business title, the words *trust*, *trust corporation*, *trust company*, *trust plan* or words of similar import, without having obtained the required authority to do so.

TCs may be allowed to adopt any name that is not offensive or confusing to the public: *Provided*, That the words trust, trust corporation, trust company or words of similar import, is affixed in its business name.

Secs. 4105T - 4107T (Reserved)

C. MERGER AND CONSOLIDATION

Sec. 4108T Authority Resulting from Merger or Consolidation. In the merger of financial institutions (FI), one of which is a TC, the authority to engage in trust, other fiduciary business and investment management activities shall continue to be in effect if the surviving institution has such authority and the same has not been withdrawn or revoked by the Bangko Sentral. In case the surviving institution does not have previous authority, it shall secure the prior approval of the Monetary Board to engage in trust business as part of its application for merger to enable it to incorporate such among its powers or purpose clause in its articles of incorporation, articles of merger, by-laws and such other pertinent documents. In the consolidation of TCs where the resulting entity is an entirely new one, it shall secure from the Monetary Board an authority to engage in trust, other fiduciary business and investment management activities before it may engage in such business.

Mergers and consolidations including the terms and conditions thereof shall comply with the provisions of applicable law and are subject to approval by the Bangko Sentral.

The guidelines and procedures in the application for merger/consolidation as shown in *Appendix Q -50* of the MORNBFI shall be observed by TCs.

Rules on exchange of shares. As a general rule, the ratio of exchange of shares between or among the participants in a financial institution (FI) merger or consolidation shall be based on mutual agreement of the parties concerned. However, any appraisal increment reserve (revaluation reserve) arising from the revaluation of the fixed assets, as may be agreed upon by the parties shall be limited to premises, improvement, and equipment which are necessary for its immediate accommodation in the transaction of the FI's business. Such revaluation should be based on fair valuation of the property which shall be subject to review and approval by the Bangko Sentral.

Secs. 4109T - 4110T (Reserved)

D. CAPITALIZATION

Sec. 4111T Minimum Required Capital. A TC shall have an unimpaired combined capital accounts of P300 million or 0.10% of the total book value of its AUM, whichever is higher: *Provided*, That the minimum paid-in capital shall be at least P300 million.

§ 4111T.1 Capital build-up program. Upon incorporation/establishment, a TC may have an initial minimum paid-in capital of P100 million and shall be allowed to build-up capital over a period of 5 years: *Provided*, That the minimum paid-in capital after 5 years shall be at least P300 million: *Provided, further*, That the minimum capital during the capital build-up phase shall be determined as follows:

Calendar Year	Capital Requirement
Year 0- Upon incorporation/At inception	P100 million
End of Year 1	P140 million or 0.10% of AUM whichever is higher
End of Year 2	P180 million or 0.10% of AUM whichever is higher
End of Year 3	P220 million or 0.10% of AUM whichever is higher
End of Year 4	P260 million or 0.10% of AUM whichever is higher
End of Year 5 and onwards	P300 million or 0.10% of AUM whichever is higher

The assets under management, for this purpose, shall be computed based on the average of the quarter-end balances of AUM for the calendar year.

For purposes of this Section, combined capital accounts shall mean the total capital stock, retained earnings, and profit and loss summary, net of (a) valuation reserves on the allowable proprietary assets; (b) appraisal surplus or appreciation credit as a result of appreciation or an increase in book value of the assets of the TC, if applicable; and (c) such other capital adjustments as may be required by the Bangko Sentral.

§ 4111T.2 Sanctions. Whenever the paid-in or the combined capital accounts of the TC are deficient with respect to the preceding paragraphs, the TC may be subject to the sanctions/penalties provided under existing laws and Bangko Sentral rules and regulations. Moreover, the Monetary Board, after considering the report of the appropriate supervisory and examining department of the Bangko Sentral, shall require the TC to institute necessary corrective action(s) to address its capital deficiency. Until the TC complies with the minimum capital requirement, the Monetary Board may restrict the ability of the TC, to declare dividends and/or expand its business.

The Monetary Board may revoke the license of the TC which fails to comply with the minimum capital requirement within the remedial period.

E. BASIC SECURITY DEPOSIT

Sec. 4112T Security for the Faithful Performance of Trust and Other Fiduciary Business and Investment Management Activities

§ 4112T.1 Basic Security Deposit. TCs duly authorized by the Monetary Board, shall deposit with the Bangko Sentral eligible government securities as security for the faithful performance of trust and other fiduciary duties and investment management activities equivalent to 0.05% of the total book value of the assets under management: *Provided, That* at no time shall the basic security deposit be less than P500,000.00. *Provided, further, That* after the first year of operation, the basic security deposit shall be based on the trust rating of the most recent report of examination of the TC, as shown in the table below:

Trust Rating	Required Basic Security Deposit
4	P500,000 or 0.03% of the total book value of the assets under management, whichever is higher.
3	P500,000 or 0.05% of the total book value of the assets under management, whichever is higher.
2	P500,000 or 0.10% of the total book value of the assets under management, whichever is higher
1	P500,000 or 0.20% of the total book value of the assets under management, whichever is higher

The basic security deposit shall be in the form of securities acceptable to the Bangko Sentral, earmarked in favor of the Bangko Sentral: *Provided, That* the TC shall not withdraw,

transfer or replace such earmarked securities without prior written approval of the Bangko Sentral.

Scripless securities under the Registry of Scripless Securities (RoSS) System of the Bureau of Treasury (BTr) may be used as basic security deposit for trust and other fiduciary duties using the Guidelines enumerated in *Appendix Q-21* of the MORNBFi.

The security for the faithful performance of PERA Administrator shall be separately calculated as prescribed under Section 4960Q and *Appendix Q-21a* of the MORNBFi.

§ 4112T.2 Eligible Securities. Government securities which shall be deposited in compliance with the above basic security deposit shall consist of evidences of indebtedness of the Republic of the Philippines and of the Bangko Sentral and any other evidences of indebtedness or obligations the servicing and repayment of which are fully guaranteed by the Republic of the Philippines; and such other kinds of securities which may be declared eligible by the Monetary Board: *Provided*, That such securities shall be free, unencumbered, and not utilized for any other purpose: *Provided, further*, That such securities shall have remaining maturities of not more than three (3) years from the date of deposit with the Bangko Sentral.

§ 4112T.3 Valuation of securities and basis of computation of the basic security deposit requirement. For the valuation of securities and basis of computation of the basic security deposit requirement, the provisions of Subsection 4405Q.3 of the MORNBFi shall apply.

§ 4112T.4 Compliance period. The TC shall have thirty (30) calendar days after the end of every calendar quarter within which to deposit with the Bangko Sentral additional securities required due to increase in the average AUM. In cases of changes in the trust rating, the reckoning period of the thirty (30) days shall be the quarter-end from receipt of the Report of Examination. Appropriate sanctions provided below shall be imposed on the TC and/or the erring officer for failure to deposit the required securities within said period or for incurring any deficiency during a particular quarter due to failure to replace matured and/or withdrawn securities deposits.

§ 4112T.5 Sanctions. Without prejudice to the imposition of sanctions for capital deficiency, the following sanctions shall be imposed for any deficiency in the basic security deposit for the faithful performance of trust and other fiduciary duties and investment management activities:

a. On the TC

1. Daily monetary penalty of P1,000.00 or one tenth of one percent (1/10 of 1%) per day on the amount of the deficiency, whichever is higher but not to exceed P10,000.00 per day, shall be assessed on the TC, reckoned after thirty (30) days from the occurrence of the deficiency until the same is rectified.

2. Non-monetary penalty beginning with the third offense – Prohibition against the acceptance of new trust and other fiduciary accounts, introduction of new trust products or unit investment trust fund, and/or from renewing expiring trust and other fiduciary contracts up to the time the violation is corrected.
- b. On the president 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 TC'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 president 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 if the offense cannot be attributed to any other officer of the TC, the president shall be held responsible, as evidence may warrant.

F. RESERVED

Secs. 4113T - 4120T (Reserved)

G. ALLOWABLE PROPRIETARY ASSETS

Sec. 4121T Allowable Proprietary Assets. Assets owned by the TC shall be for the purpose of engaging in the business of trust, other fiduciary and investment management activities and for maintaining the minimum capital requirement. The TC shall not engage in any manner in proprietary trading and speculative investing activities. The allowable proprietary assets shall include eligible government securities deposited with the Bangko Sentral in compliance with the basic security deposit requirement provided under Section 4112T.

The allowable proprietary assets shall consist of:

- a. Investments in eligible government securities earmarked as basic security deposits as defined under Subsection 4112T.2;
- b. Investments in securities issued by or guaranteed by the Philippine government, or the Bangko Sentral;
- c. Investments in bank deposits, and highly liquid and investment grade securities, including: (1) money market instruments, (2) those issued by central governments and central banks of foreign countries with the highest credit quality given by any two (2)

internationally accepted rating agencies, and (3) securities issued by any supranational entity;

d. Loans and other credit accommodations: (1) secured by obligations of the Philippine Government or of the Bangko Sentral; (2) fully guaranteed by the Philippine Government as to the payment of principal and interest; (3) secured by highly liquid and investment grade securities; (4) to the extent covered by the hold-out on or assignment of, bank deposits held in the Philippines; and (5) which the Monetary Board may from time to time specify as non-risk items;

e. Real and other properties, including building, furniture and fixtures, safes, equipment, and other fixed assets, utilized/to be utilized by the TC in the conduct of its trust, other fiduciary business and investment management activities; and

f. Other assets, not inconsistent with the provisions of paragraphs a to d hereof, which are deemed to be readily realizable and available for the payment of liabilities, losses or claims at values to be determined in accordance with existing Bangko Sentral guidelines.

For purposes of investing the allowable assets, the TC shall not: (a) commingle their proprietary funds or assets with the assets under management, and (b) invest the same in their own unit investment trust fund or other trust products.

The TC is expected to adopt policies and processes that will address relevant exposures as well as potential conflict of interest in the administration of fiduciary business.

Secs. 4122T - 4125T (Reserved)

H. STOCK, STOCKHOLDERS AND DIVIDENDS

Sec. 4126T Shares of stocks of TCs. The following shall govern transactions affecting shares of stock of TCs and limits on stockholdings in a single TC.

§ 4126T.1 Limits of stockholdings in a single TC. The stockholdings in any TC shall be subject to the limits as prescribed below:

a. Domestic stockholders

- (1) Banks may own stockholdings of a TC: *Provided*, That the acquisition or investment in the equity of a TC shall be subject to all relevant laws, rules and regulations on equity investment of banks in a financial allied enterprise.
- (2) Regulated non-bank entities engaged in finance, insurance, asset management and other similar activities acceptable to the Bangko Sentral may own up to 100% of the TC's stockholdings unless otherwise provided in their respective governing laws, charters and regulations.
- (3) Filipino individuals and non-regulated domestic entities may each own up to forty

percent (40%) of the voting stock of a TC. There shall be no ceiling on the aggregate ownership by Filipino individuals and non-regulated domestic entities in a TC.

b. Foreign stockholders may own stockholdings in a TC, subject to the limits as stated below:

(1) Unless otherwise provided by laws, charters and regulations, foreign banks and regulated foreign non-bank entities engaged in finance, insurance, asset management, and other similar activities acceptable to the Bangko Sentral may own more than forty percent (40%) up to 100% of the voting stock of a TC, subject to the following factors:

- (a) Strategic trade and investment relationships between the Philippines and the home country of the foreign bank/entity;
- (b) Relationship between the applicant foreign bank/entity and the Philippines;
- (c) Demonstrated capacity, global reputation for financial innovations and stability in a competitive environment of the applicant foreign bank/entity;
- (d) Reciprocity enjoyed by Philippine banks and other financial institutions in the applicant's country; and
- (e) Willingness to share technology.

(2) Others, such as individuals and other entities not identified above may own up to forty percent (40%) of the voting stock of a TC: *Provided*, That the aggregate voting stock owned by foreign individuals and other entities not identified above shall not exceed forty percent (40%) of the outstanding voting stock of the TC.

✓ The limits as stated above are further subject to the limits imposed by the respective laws/regulations of the investing companies.

✓ A foreign bank or non-bank entity seeking to operate in the Philippines shall satisfy the criteria in Item No. b(1)(c) above, i.e. demonstrated capacity, global reputation for financial innovations and stability in a competitive environment of the applicant foreign bank/entity. *Provided*, That if it has controlling interest in the TC, it must be widely-owned and publicly-listed in the country of origin, unless the foreign bank/entity is owned and controlled by the government of its country of origin.

The determination of whether a foreign bank/entity is widely-owned and publicly listed, established, reputable, and financially sound shall be based on the information derived from submitted documents. Further, if the foreign bank/entity is owned/controlled by a holding company, this requirement may apply to the holding company.

Moreover, the reciprocity rights enjoyed by Philippine banks and other financial institutions in the applicant's country shall be considered.

c. An individual and a non-regulated entity or entities which are wholly-owned, or a majority of the voting stock of which is owned, by him, may own only up to a combined forty-percent (40%) of the voting stock of a TC.

- d. Stockholdings of family groups or related interests. Individuals related to each other within the fourth degree of consanguinity or affinity, whether legitimate, illegitimate or common-law, shall be considered family groups or related interests but may each own up to forty percent (40%) of the voting stock of a TC: *Provided*, That said relationship must be fully disclosed in all transactions by such individuals or family groups or related interests.
- e. Two (2) or more corporations owned or controlled by the same family group or same group of persons shall be considered related interests but may each own up to forty percent (40%) of the voting stock of a TC: *Provided*, That said relationship must be fully disclosed in all transactions by such corporations or related groups of persons with the TC.
- f. Determination of foreign-owned voting stock and citizenship of corporate stockholders in a TC as well as the relationship of stockholders of a TC.
 - (1) The percentage of foreign-owned voting stock in a TC should be based on citizenship of individual stockholders, including beneficial owners² of shares being held by nominees, custodians and other vehicles; and
 - (2) The citizenship of the corporation, which is a stockholder of a TC, shall follow the citizenship of the controlling stockholders of the corporation. For purposes hereof, the term "*controlling stockholders*" shall refer to stockholders holding more than fifty percent (50%) of the voting stock of the corporate stockholders of the TC.
 - (3) The relationship of individuals who are stockholders of a TC shall be determined in accordance with the provisions of Articles 963 to 966 of the Civil Code of the Philippines.

§ 4126T.2 Transactions involving voting shares of stocks. The provisions relevant to the transactions involving voting shares of stocks as provided under Subsection X126.2 of the MORB, in so far as applicable to TCs, shall apply.

Secs. 4127T - 4135T – (Reserved)

Sec. 4136T Dividends. No TC shall declare dividends greater than its accumulated net profits then on hand, deducting therefrom its losses. At the time of declaration, the TC shall have complied with the following:

- a. Minimum capitalization;
- b. Basic security deposit;
- c. No net losses from operations in any one of the two calendar or fiscal years

² Beneficial owner refers to natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.

- immediately preceding the date of dividend declaration; and
- d. Has not committed any of the following major violations:
- (1) Unsafe and unsound practices as defined under existing Bangko Sentral regulations;
 - (2) Uncorrected major violations/exceptions cited in the previous examination;
 - (3) Engaging in activities without the required prior approval or license from the Bangko Sentral such as, but not limited to derivatives; and
 - (4) Refusal to permit examination into the affairs of the institution or any willful making of a false or misleading statement to the Monetary Board or to the appropriate department of the SES.

The provisions under Subsections 4136Q.1, 4136Q.2.b, 4136Q.4, 4136Q.5 and 4136Q.7 of the MORNBFi shall be adopted relative to dividends declaration of a TC.

Secs. 4137T - 4140T (Reserved)

I. DIRECTORS, OFFICERS AND EMPLOYEES

Sec. 4141T Definition; Qualifications; Powers; Responsibilities and Duties of Board of Directors. Unless otherwise provided specifically, the provisions of Section 4141Q, and its Subsections, of the MORNBFi, in so far as applicable, shall be adopted.

§ 4141T.1 (Reserved)

§ 4141T.2 *Qualifications of a director.* In addition to the provisions of Subsection 4141Q.2 of the MORNBFi, the members of the Board are expected to be familiar with Philippine laws, rules and regulations, and best practices on trust business, as well as uphold at all times, ethical and good governance standards. Accordingly, the members of the board of directors shall possess the necessary technical expertise and relevant experience in such trust business which may be indicated by any of the following:

- a. At least one (1) year of actual experience in trust, other fiduciary business, or investment management activities;
- b. At least three (3) years of professional experience in relevant field such as banking, finance, economics, law and risk management;
- c. Completion of at least ninety (90) training hours on trust, other fiduciary business, or investment management activities acceptable to the Bangko Sentral; or
- d. Completion of a relevant global or local professional certification program.

§ 4141T.3 *Powers/responsibilities and duties of board of directors.* In addition to the provisions prescribed under Subsection 4141Q.3 of the MORNBFi, the Board of Directors (BOD) shall conduct regular meetings at least once every quarter, or more frequently as necessary, depending on the size and complexity of the fiduciary business.

§ 4141T.4 – 4141T.9 (Reserved)

Sec. 4142T Definition; Qualifications; and Duties and Responsibilities of Officers. The definition, qualifications and duties of officers provided under Section 4142Q of the MORNBF, shall be adopted for TC, unless otherwise provided herein.

Moreover, in line with the fit and proper criterion of the abovementioned Section, the President who shall be appointed shall also possess the following qualifications:

- a. At least five (5) years of actual management experience in trust, other fiduciary and investment management operations; or
- b. At least five (5) years of actual experience as officer of a bank, non-bank financial institution or related field: *Provided, That* said officer passed the training program in trust, other fiduciary and investment management operations acceptable to the Bangko Sentral.

Officers of the TC with position of senior vice president and up, shall at least possess the requirement in Item “(b)” above.

The foregoing qualifications for officers shall be in addition to those required or prescribed under R. A. No. 8791, the Corporation Code of the Philippines (Batas Pambansa Blg. 68) and other existing applicable laws and regulations.

§ 4142T.1 - 4142T.2 (Reserved)

§ 4142T.3 Duties and responsibilities of officers. The president shall have general supervision and direction of the business affairs of the TC; he/she shall be responsible in the management of the day-to-day activities of the TC. In this regard, the president shall provide supervision and direction in the following areas:

- a. Adherence to the basic standards in the administration of trust, other fiduciary and investment management accounts pursuant to *Appendix Q-48* of the MORNBF;
- b. Development and implementation of relevant policies and procedures on fiduciary activities;
- c. Observance of sound risk management practices and maintenance of necessary controls to protect assets under custody and held in trust or other fiduciary capacity;
- d. Implementation of investment and other fiduciary activities in accordance with agreements with clients and parameters set by the BOD;
- e. Regular reportorial requirements to the BOD on business performance and other matters requiring its attention;
- f. Maintenance of adequate books, records and files for each trust or other fiduciary account and provision of timely and regular disclosures to clients on the status of their accounts; and
- g. Submission of periodic reports to regulatory agencies on the conduct of the trust operations.

The other duties and responsibilities for officers as provided under Subsection 4142Q.3 of the MORNBF shall likewise apply to the officers of the TC.

§ 4142T.4 Prohibitions to become officer. No appointive or elective public official, whether full-time or part-time, shall at the same time serve as officer of the TC.

Sec. 4143T Disqualification of Directors and Officers. In so far as applicable, Section 4143Q of the MORNBFI shall be adopted by the TC. In addition, Subsections 4143Q.1 and 4143Q.2 of the MORNBFI as well as the following shall also be considered grounds for disqualification of directors and officers:

a. Negligence in the performance of the duties and responsibilities stipulated in the contract creating the trust, other fiduciary and investment management account and which directly or indirectly caused material loss/impairment of the managed trust, other fiduciary and investment management assets;

b. Entering into an arrangement or scheme which will compromise or prejudice the interest, rights and privileges of the trustor, principal and/or beneficiaries; and

c. Other grounds as may be approved by the Monetary Board.

The foregoing grounds for disqualification for directors shall be in addition to those prescribed under the Corporation Code of the Philippines (Batas Pambansa Blg. 68) and other existing applicable laws and regulations.

§ 4143T.1 - 4143T.5 (Reserved)

Sec. 4144T Bio-data of Directors and Officers. The applicable provisions of Section 4144Q of the MORNBFI shall be adopted by the TC.

Sec. 4145T Interlocking Directorship/Officership.

- a. Interlocking directorship between a TC and another FI shall be allowed.
- b. No interlocking directorship and officership, and interlocking officership and secondments, shall be allowed between TCs and between a TC and any FI except, with prior approval of the Monetary Board, on concurrent officership position in the same capacity which do not involve management functions such as internal auditor, corporate secretary, assistant corporate secretary, and security officer, within a group. For this purpose, secondment shall refer to the transfer/detachment of a person from his regular organization for temporary assignment elsewhere where the seconded employee remains the employee of the home employer although his salaries and other remuneration may be borne by the host organization.

§ 4145T.1 Representatives of government. The provisions of this Subsection shall apply to persons appointed to such positions as representatives of the government or government-owned or controlled entities unless otherwise provided under existing laws.

Secs. 4146T - 4148T (Reserved)

Sec. 4149T Conducting Business in Unsafe/Unsound Manner. Section 4408Q, and its Subsections, of the MORNBFI on unsafe and unsound practices shall be adopted for TCs.

Sec. 4150T Rules of Procedure on Administrative Cases Involving Directors and Officers of TC. Section 4150Q of the MORNBFI on the rules of procedure on administrative cases involving directors and officer of QBs shall likewise be adopted for TCs.

J. BRANCHES/MARKETING OFFICES

Sec. 4151T Establishment of Branches/Marketing Offices. TCs may establish branch(es) only upon prior approval of the Monetary Board. However, it shall carry out its trust and other fiduciary business only at the place of business specified in its articles of incorporation. In the case of marketing office(s), it may be established subject to prior notification to the Bangko Sentral: *Provided*, That the marketing activities is in accordance with the provisions stated under Section 4152T of this Manual.

For purposes of this Section, a *branch* shall refer to any permanent office or place of business other than the head office and maintains a complete set of books of accounts. A *marketing office* shall refer to any permanent office or place of business other than the head office which engages only in non-transactional activities such as marketing of its products. *Marketing* shall only include the promotion and presentation of the TC's trust products to clients or prospective clients and shall not involve the actual opening of trust/fiduciary account, and the receiving or dealing with client's money and/or property. The account opening shall be strictly undertaken by the TC in accordance with the Basic Standards set forth in *Appendix Q-48* of the MORNBFI.

§ 4151T.1 to 4151T.2 (Reserved)

§ 4151T.3 Prerequisites for the grant of authority to establish a branch/marketing office. TCs may establish a branch/marketing office subject to the following pre-qualification requirements:

- a. Capital adequacy and solvency;
- b. No uncorrected findings of unsafe and unsound practices;
- c. It has complied with the required basic security deposits for the preceding four (4) quarters prior to application;
- d. It has established a risk management system appropriate to its operations, characterized by clear delineation of responsibility for risk management, adequate risk measurement system, appropriately structured risk limits, effective internal control system and complete, timely and efficient risk reporting system; and
- e. It has no major supervisory concerns outstanding on safety and soundness immediately preceding the date of application.

§ 4151T.4 Prohibition. No application for establishment of new branch(es) shall be accepted if the TC has approved but unopened branch(es).

§ 4151T.5 Documentary Requirements.

- a. All branch applications shall be supported by the following documents:

- (1) Certification that a TC has the ability to conduct operations from the head office as not to be a cause for delayed submission of reports to the Bangko Sentral and/or recording of transactions in the head office;
 - (2) Certified true copy of the board resolution authorizing the establishment of a branch;
 - (3) Areas to be served;
 - (4) Business and/or economic justification (including data) for the establishment of the branch; and
 - (5) Certification/Undertaking signed by the President that the TC has complied or will comply, as the case maybe, with the prerequisites for the grant of authority to establish a branch under Subsection 4151T.3.
- b. For marketing office(s), the notice shall be supported with Items “(2), (3)” and “(5)” of the above documentary requirements.

§ 4151T.6 Filing/Processing Fee. A non-refundable filing fee of P2,000.00 shall be paid for each branch application. Moreover, a processing fee of P25,000.00 shall be paid for each branch application processed, regardless of the final decision of the Bangko Sentral.

§ 4151T.7 Date of Opening. Approved branch(es) shall be opened within six (6) months from the date of approval thereof and shall not be subject to any extension.

§ 4151T.8 Requirement for opening branch(es)/marketing office(s). Not later than five (5) banking days from date of opening, the TC shall notify the appropriate department of the SES of the actual date of opening of its branch/marketing office.

§ 4151T.9 Relocation/closure of branch(es)/marketing office/(s). Relocation/closure of branch(es)/marketing office/s may be effected only with prior notification to the Bangko Sentral in accordance with the following procedures:

1. Notice of the relocation/closure of the branch/marketing office signed by the president of the TC, together with a certified true copy of the resolution of the TC's board of directors authorizing said relocation/closure and stating the justifications/reasons thereof, shall be submitted by the TC to the appropriate department of the SES;
2. Upon receipt of “no objection notice” from the Bangko Sentral but at least forty-five (45) calendar days prior to the closure, notice of relocation/closure shall be sent by the TC to the trustors' and other creditors' last known addresses by registered mail service of the Philpost or delivery service of other mail couriers or electronic mail, and posters shall also be displayed in conspicuous places in the premises of the branch to be closed. Proofs of receipt of notice by the trustors and other creditors shall be kept on file and made available upon request of the Bangko Sentral; and
3. Within five (5) banking days from the date of relocation/closure of the branch/marketing office, a notice of such relocation/closure signed by the compliance officer with the rank of a vice president or equivalent rank, or by a higher ranking officer, together with a certification that the notification

requirement in Item "2" above has been complied with, shall be submitted to the appropriate department of the SES.

§ 4151T.10 Sanctions. Any violation of the provisions of Subsections 4151T.1 to 4151T.9 depending on the materiality or seriousness of the violation, may constitute a ground for considering the same as unsafe and unsound practice and may be a ground for cancellation of the franchise and closure of said branch/marketing office established herein without prejudice to the imposition of applicable criminal and administrative sanctions prescribed under Sections 36 and 37, respectively of R.A. No. 7653; and if any part of any certification submitted by the TC as required in this Section is found to be false, the following sanctions shall be imposed:

a. *On the TC.* Suspension for one (1) year of the privilege to establish and/or open approved branches/marketing office, and/or relocate branches/marketing office.

b. *On the certifying officer.* A fine of P5,000 per day from the time the certification was made up to the time the certification was found to be false for each branch/marketing office opened, relocated, or closed without prejudice to the sanctions under Section 35 of R.A. No. 7653.

K. MARKETING

Sec. 4152T General Policy. TCs shall put in place sound policies and procedures covering its marketing arrangement giving primary consideration in upholding consumer protection in accordance with the Consumer Protection Framework of the Bangko Sentral. Such policies and procedures shall be embodied in a marketing plan and in case of significant changes to be made thereon, TCs shall notify the appropriate department of the SES within thirty (30) calendar days prior to the implementation of such change.

§ 4152T.1 Governance in Marketing. In marketing its trust products, TCs shall:

1. Establish policies and procedures covering the marketing of its trust products such as, but not limited to, verification and handling of client information, disclosures of key features of trust products, extent of authority of marketing personnel, and risk disclosures;
2. Be responsible for the conduct and regular training of its marketing personnel. For purposes of this Section, marketing personnel shall mean any person performing marketing functions for the TC;
3. Establish proper customer feedback and complaint-handling mechanisms; and
4. Comply with all laws and regulations applicable in the Philippines including labor laws, anti-money laundering rules, outsourcing and those governing the trust activities/services performed by the marketing personnel on the TC's behalf.

§ 4152T.2 Marketing Personnel. TCs shall ensure that its marketing personnel are fit and proper, act within the bounds of their functions, and adhere to the Code of Ethics and Professional Standards required under Section 4401T. Accordingly, TCs shall establish policies and procedures covering the following:

- a. Duties and responsibilities of its marketing personnel;
- b. Conduct of due diligence check on the fitness and propriety of its marketing

- personnel which includes monitoring and reviewing on an ongoing basis their performance; and
- c. Conduct of continuing training and education especially on updates relative to the TC's trust products.

With respect to the marketing personnel themselves, they shall be required to:

1. Undergo training program on trust, other fiduciary and investment management activities. This training program may be conducted by their respective trust entities or by the Trust Officers Association of the Philippines (TOAP) or any training provider acceptable to the Bangko Sentral. However, if the training is conducted by the trust entities, such training program shall be regularly reviewed/validated by TOAP. It is understood that all training materials shall be made available for review and/or validation, whenever necessary;
2. Continuously update themselves on the features and characteristics of the trust products they are selling; and
3. Conduct themselves with integrity, honesty and with proper representation to the clients of the TC.

§ 4152T.3 Marketing Materials. TCs shall ensure that its marketing materials give a fair and balanced view of the trust product being offered. Marketing materials may be considered fair and balanced when they are clear and easily understood; highlight the purpose and risks of the product; and do not omit any material information that would cause the marketing materials to be misleading. All marketing materials should specify (1) that the same is a trust product and therefore not insured nor governed by the Philippine Deposit Insurance Corporation (PDIC); (2) that any loss/income is for the account of the client/investor; and (3) that the TC is not liable for losses unless upon willful default, bad faith or gross negligence.

Subsection 4410Q.7 of the MORNBF, on the minimum disclosure requirements shall be adopted by the TC, in so far as applicable to the trust product.

§ 4152T.4 Complaints Resolution. TCs, in the marketing and distribution of its products, shall establish systems and controls regarding the recording and handling of complaints. The provisions on Consumer Protection Framework of the Bangko Sentral shall apply.

§ 4152T.5 Reports. TCs shall submit on an annual basis a certification signed by the President and the Compliance Officer that:

- a. The appointed marketing personnel are fit and proper and has undergone the requisite training; and
- b. The TC has a policy on handling and ensuring the accountability, as well as a system of monitoring the activities and performance of its marketing personnel.

Said certification shall be submitted on or before 30 January of the following year and shall be considered a Category A-2 report.

L. DISTRIBUTION OF TRUST PRODUCTS

Sec. 4153T Distribution of Trust Products. TCs shall adopt a distribution arrangement that is consistent with its strategic plan of operation. Such arrangement shall be conducted in a manner that is not prohibited by laws, rules and regulations. Further, a TC shall only be allowed to distribute its own products, otherwise, outsourcing should be taken into consideration as provided under Section 4162T of this Manual.

Secs. 4154T - 4155T (Reserved)

M. BUSINESS DAYS AND HOURS

Sec. 4156T Business days and hours. TCs may adopt such business days and hours as they deem proper in the conduct of their operations: *Provided*, That such business days and hours are properly disclosed to clients/investor: *Provided, further*, That TCs shall post conspicuously at all times in their place of business their schedule of regular business days and hours.

Secs. 4157T - 4159T (Reserved)

N. TRUST CORPORATION PREMISES

Sec. 4160T Trust Corporation Premises; Other Fixed Assets. The regulations under Section 4160Q of the MORNBFi and its Subsections (except Subsection 4160Q.3 Reclassification of real and other properties acquired to QB premises, furniture, fixture and equipment; Sanction) shall be adopted for the premises and other fixed assets of the TC.

O. MANAGEMENT CONTRACTS AND OUTSOURCING OF OTHER FUNCTIONS

Sec. 4161T Management Contracts. Subject to existing laws and regulations, all agreements whereby the affairs or operations of a TC will be carried out by another corporation, person or group of persons, shall be subject to prior Bangko Sentral approval.

The agreements referred to in the preceding paragraph shall not be entered into for a period longer than five (5) years.

Sec. 4162T Duties and Responsibilities of TCs and their Directors/ Officers in All Cases of Outsourcing of Other Functions. Only TCs with trust composite rating of at least "2" and a Management rating of not lower than "3" shall be allowed to outsource designated activities without prior Bangko Sentral approval. Otherwise, the TC must secure approval from the appropriate supervising department of the Bangko Sentral whose evaluation shall be based on the TCs ability to manage risk attendant to outsourcing. The TC shall likewise ensure that outsourcing of activities will not compromise confidentiality or access to (client) sensitive information. Moreover, no TC shall outsource inherent trust functions such as but not limited to managing of risk exposures and strategic decision-making activities. The rules on outsourcing of services as shown under Section X162 of the MORB and *Appendix Q-37* of the MORNBFi, in so far as applicable, shall apply.

Secs. 4163T - 4172T (Reserved)

P. RISK MANAGEMENT GUIDELINES

Sec. 4173T Risk Management Guidelines. Risk management guidelines for trust and other fiduciary business and investment management activities shall be governed by the applicable regulations under Sections 4174Q, 4175Q, 4176Q and 4177Q, MORNBFi, and by *Appendix Q-48a* of the MORNBFi-Risk Management Guidelines for Trust and Other Fiduciary Business and Investment Management Activities.

Secs. 4174T –4177T (Reserved)

Sec. 4178T Credit Risk Management. The guidelines on sound credit risk management practices as provided under Section 4178Q and the following Subsections of the MORNBFi shall apply in so far as applicable to TCs:

- 4178Q.1 Evaluation of credit risk management system
- 4178Q.2 Role of the Board and Senior Management
- 4178Q.3 Credit risk management structure
- 4178Q.4 Credit risk strategy
- 4178Q.5 Credit policies, processes and procedures

Sec. 4179T (Reserved)

Sec. 4180T Compliance System. The applicable provisions under Section 4180Q of the MORNBFi and its Subsections shall be adopted by the TC.

Secs. 4181T- 4184T (Reserved)

Sec. 4185T Internal Control System. The applicable provisions under Section 4185Q of the MORNBFi and its Subsections shall be adopted by the TC.

Sec. 4186T Internal Audit Function. Internal audit is an independent, objective assurance and consulting function established to examine, evaluate and improve the effectiveness of risk management, internal control, and governance processes of an organization.

The board of directors, in a resolution entered in its minutes, may adopt a suitable continuous audit system to supplement and/or replace the performance of an annual audit, the audit may be conducted in intervals commensurate with the assessed levels of risk in trust and investment management operations: *Provided*, That such intervals shall be supported and reassessed regularly to ensure appropriateness given the current risk and volume of the trust and investment management operations. In any case, the audit shall ascertain whether the institution's trust and other fiduciary business and investment management activities have been administered in accordance with laws, Bangko Sentral rules and regulations, and sound trust or fiduciary principles. The report of the audit, together with the actions thereon, shall be noted in the minutes of the TC's board of directors. Other applicable provisions of Section 4186Q of the MORNBFi and its Subsections shall likewise be adopted by the TC.

Secs. 4187T - 4188T (Reserved)

Sec. 4189T Selection, Appointment, Reporting Requirements and Delisting of External Auditors and/or Auditing Firm; Sanction. The provisions under Section 4189Q of the MORNBFi shall be adopted in so far as applicable to the TC.

Sec. 4190T Audited Financial Statements of TCs; Financial Audit. The TC's operation shall be subject to financial audit by an external auditor acceptable to the Bangko Sentral not later than thirty (30) calendar days after the close of the calendar or the fiscal year adopted by the TC. Such audit, which shall cover among others, the TC's operation, practices and policies, audit and internal control system, shall be subject to auditing standards to the extent necessary to express an opinion on the financial statements. Report of such audit shall be submitted to the board of directors and the appropriate department of the SES not later than one hundred twenty (120) calendar days after the close of the calendar year or the fiscal year adopted by the TC and shall contain, among other things, the complete set of financial statements and other information required by Bangko Sentral to be submitted under Section 4190Q of the MORNBFi: *Provided*, That a reconciliation of the balance sheet in the Audited Financial Statement (AFS) and the Financial Reporting Package for Trust Institutions (FRPTI) shall also be prepared for each of the general categories of contractual relationships (i.e., UITF trust, institutional-trust, and individual trust; other fiduciary; institutional-agency, and individual-agency; and special purpose trust) of the trust/investment management department of an institution with its clients following the format in *Appendix Q-33* of the MORNBFi.

The report of the audit, together with the actions thereon, shall be noted in the minutes of the board of directors of the TC. Other provisions of Section 4190Q of the MORNBFi in so far as applicable shall likewise be adopted by the TC.

§ 4190T.1 Audited Financial Statements of TCs. The TC shall submit two (2) sets of AFS: AFS of the TC proper and AFS covering trust operations. The provisions of Section 4190Q and its Subsections, and Subsection 4425Q.3 of the MORNBFi shall be adopted in so far as applicable to the TC.

§ 4190T.2 - 4190T.3 (Reserved)

§ 4190T.4 Disclosure Requirements in the Notes to the Audited Financial Statements. TCs shall require their external auditors to include the following additional information in the notes to financial statements:

- a. Basic quantitative indicators of financial performance such as return on average equity, return on average assets (computed pursuant to Subsection 4190Q.4, MORNBFi) and percentage of total trust fees to total AUM;
- b. Total outstanding investment, loans and other credit exposures to TC's DOSRI and related parties with breakdown and name of DOSRI/related parties;
- c. Nature and amount of contingencies and commitments arising from off-balance sheet items, if any;
- d. Provisions and allowances for losses and how these are determined;
- e. Aggregate amount of secured liabilities and assets pledged as security; and

- f. Accounting policies which shall include, but shall not be limited to, general accounting principles, changes in accounting policies/practices, principles of consolidation, policies and methods for determining when assets are impaired, recognizing income on impaired assets and losses on non-performing credits, income recognition, valuation policies and accounting policies.

Sec. 4191T Records. TCs shall have a true and accurate account, record or statement of their daily transactions. The TC shall also keep books and records on trust, other fiduciary and IMAs separate and distinct from the books and records of its proprietary accounts and shall strictly follow and implement the FRPTI prescribed by the Bangko Sentral.

The making of any false entry or the willful omission of entries relevant to any transaction is a ground for the imposition of administrative sanctions under Section 37 of R.A. No. 7653, without prejudice to the criminal liability of the director or officer responsible therefor under Sections 35 and 36 of R.A. No. 7653 and/or the applicable provisions of the Revised Penal Code. Records shall be up-to-date and shall contain sufficient detail so that an audit trail is established. Other provisions of Sections 4191Q and 4421Q of the MORNBFI shall be adopted in so far as applicable to the TC.

Sec. 4192T Reports/Manner of Filing. The applicable provisions of Section 4192Q of the MORNBFI shall be adopted by the TC, except that, instead of *Appendix Q-3*, the applicable reports for TCs are those enumerated under *Appendix T-3*.

The TC, if a subsidiary/affiliate of a bank, is required to submit a quarterly report to the appropriate supervising department of the Bangko Sentral on its financial transactions with the bank within twenty (20) calendar days after the end of the reference quarter.

Q. PROMPT CORRECTIVE ACTION FRAMEWORK

Sec. 4193T Prompt Corrective Action Framework. The framework for the enforcement of prompt corrective action (PCA) on banks which is in *Appendix 69* of the Manual of Regulations for Banks (MORB), shall govern the PCA taken on TCs to the extent applicable, or by analogy.

Sec. 4194T (Reserved)

R. LIQUIDATION AND RECEIVERSHIP

Sec. 4195T Voluntary Liquidation. A TC which intends to surrender its trust license shall file with the Bangko Sentral a certified copy of the resolution of its board of directors manifesting such intention. The appropriate department of the SES shall then conduct an examination of the TC's trust, other fiduciary business and investment management activities. If the TC is found to have satisfactorily discharged its duties and responsibilities as trustee, fiduciary or investment manager, and has provided for the orderly closure or transfer of its trust, fiduciary or IMAs, the Monetary Board, on the basis of the recommendation of the examining department, shall order the revocation of the institution's authority to engage in trust and other fiduciary management activities.

TCs shall adopt the provisions of *Appendix Q-58* of the MORNBF on the guidelines on voluntary liquidation.

Sec. 4196T Receivership and Involuntary Liquidation. The Monetary Board, after considering the report of the appropriate department of the SES, may revoke the TC's authority to engage in trust, other fiduciary business and investment management activities in accordance with Section 37 of R.A. No. 7653 (The New Central Bank Act). Upon revocation of the trust, other fiduciary and investment management license, the TC shall be required to wind down and liquidate its trust, other fiduciary business and investment management activities, and distribute proceeds thereof to its clients. It shall be unlawful for any such TC to thereafter perform or engage in trust, other fiduciary business and investment management activities.

Whenever a receiver is appointed by the Monetary Board for a TC, the receiver shall, pursuant to the instructions of the Monetary Board, proceed to close the trust, other fiduciary and IMAs promptly and/or transfer all other accounts to substitute trustees, fiduciaries or investment managers acceptable to the trustors, beneficiaries, principals or other parties in interest: *Provided*, That where the trustee, fiduciary or investment manager is acting as such under appointment by a court, the receiver shall proceed pursuant to the instructions of said court.

✓ The guidelines on receivership and liquidation of banks found in Section X198 and its Subsections of the MORB, shall apply to the placement of a trust corporation under receivership or liquidation, to the extent possibly, or by analogy.

In case of a TC which license has been revoked by the Monetary Board, any director or officer thereof

- a. who refuses to turn over the corporation's records and assets under management to the appointed successor-trustee(s), or
- b. who tampers with the corporation's records, or
- c. who appropriates for himself for another party or destroys or causes the misappropriation and destruction of the TC's assets under management, or
- d. who receives or permits or causes to be received in said corporation any part or all of the assets under management, or
- e. who pays out or permits or causes to be transferred any part thereof,

shall be subject to the penal provisions of the New Central Bank Act.

Sec. 4197T - 4198T (Reserved)

S. GENERAL PROVISION ON SANCTIONS

Sec. 4199T General Provisions on Sanctions. Pursuant to Section 91 of R. A. No. 8791, the Monetary Board may impose sanctions and monetary penalty for any violation of the provisions of this Part. This is without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted that may include the suspension or revocation

of a TC's authority to engage in trust, other fiduciary business and investment management activities and such other sanctions as may be provided by law and existing regulations. If the offender is a director or officer of the TC, the Monetary Board may also suspend or remove such director or officer. If the violation is committed by a corporation, such corporation may be dissolved by quo warranto proceedings instituted by the solicitor general.

The guidelines for the imposition of monetary penalty shown in *Appendix T-2* shall govern the imposition of monetary penalty for violations/offenses with administrative sanctions falling under Section 37 of R.A. No. 7653 on TCs, their directors and/or officers.

PART TWO (RESERVED)

PART THREE

ASSET MANAGEMENT OPERATIONS

Sec. 4301T Management of Risk Assets/Minimum Guidelines on Investment Operations. It shall be the responsibility of the board of directors of a TC to formulate written policies on credit and investment activities, and risk diversification and to set the guidelines for evaluation of proprietary and fiduciary assets. Sound credit and investment processes are essential if a TC is to perform its asset management function effectively and minimize the risk inherent in any credit and investment activity. The responsibility should be approached in a way that will provide assurance to the client, the stockholders and supervisory authorities that timely and adequate action will be taken to maintain the quality of the loan and investment portfolio and other fiduciary assets.

Sec. 4302T Loan Portfolio and Other Risk Assets Review System. The following provisions of Section 4178Q of the MORNBFI on operating under a sound credit granting process shall be adopted, in so far as applicable to the TC:

- | | |
|----------|---|
| 4178Q.6 | Credit approval process |
| 4178Q.7 | Credit granting and loan evaluation/analysis process and underwriting standards |
| 4178Q.8 | Renewal or extension of maturity date of credits |
| 4178Q.10 | Country and Transfer Risks |
| 4178Q.12 | Credit Administration |
| 4178Q.13 | Credit Risk Measurement, Validation and Stress Testing |
| 4178Q.14 | Credit Risk Management Information and Reporting Systems |
| 4178Q.15 | Credit Monitoring |
| 4178Q.16 | Credit Review Process |
| 4178Q.17 | Credit Classification and Provisioning |
| 4178Q.18 | Credit Workout and Remedial Management of Problem Credits |
| 4178Q.19 | Writing off problem credits |
| 4178Q.20 | Enforcement Actions |

Sec. 4303T Large Exposures. TCs are expected to adopt policies and processes that will identify, measure, monitor and control large exposures as well as potential conflict of interest in the administration of fiduciary business.

Large exposures should be kept under regular review to ensure quality and controls thereof to safeguard against credit risk concentrations.

Large exposures shall refer to exposures to counterparty or a group of related counterparties equal or greater than five percent (5%) of TC's combined capital account as defined under Section 4111T of the MORNBFI.

Sec. 4304T Applicable Regulations on Credit and Investment Operations. Unless otherwise provided herein, the following regulations in Part Three of the MORNBFI shall be adopted, in so far as applicable to the TC:

- Sec. 4304Q Grant of Loans and Other Credit Accommodations, and its Subsections (except for Subsection 4304Q.2 which is now renumbered as 4178Q.7)
- Sec. 4305Q Interest and Other Charges, and its Subsections
- Sec. 4306Q Past Due Accounts, and Subsections 4306Q.1, 4306Q.2 and 4306Q.7
- Sec. 4307Q Truth in Lending Act Disclosure Requirement, and its Subsections
- Sec. 4309Q Non-Performing Loans, and its Subsections
- Sec. 4327Q Transactions Covered
- Sec. 4334Q Procedural Requirements
- Sec. 4388Q Purchase of Receivables and Other Obligations
- Sec. 4394Q Acquired Assets in Settlement of Loans (except Subsections 4394Q.10 Transfer/Sale of Non-Performing Assets to a Special Purpose Vehicle or to an individual; 4394Q.15 Joint Venture of QBs with Real Estate Development Companies)

Secs. 4305T - 4325T (Reserved)

Sec. 4326T Loans/Credit Accommodations to Directors, Officers, Stockholders and their Related Interests (DOSRI) and Related Parties. Dealings of a TC with any of its DOSRI and related parties³ shall be in the regular course of business and upon terms not less favorable to the TC and/or its clients than those offered to others. DOSRI shall be defined in accordance with the definitions under Subsection 4326Q.1 of the MORNBFI and Sections 12 and 13 of R.A. 8791 on related interests.

The TC is expected to clearly articulate policies and procedures on the handling of any transaction with DOSRI and other related parties ensuring that there is appropriate disclosure and effective compliance with existing laws, rules and regulations at all times and no stakeholder is unduly disadvantaged.

Sec. 4327T (Reserved)

Sec. 4328T Transactions Not Covered. The provisions under Section 4328Q of the MORNBFI (except its Subsections) shall be adopted by the TC.

§ 4328T.1 - 4328T.5 (Reserved)

Sec. 4329T Reports. The TC shall submit a report to the appropriate supervising department covering transactions of the TC with its DOSRI and related parties within twenty (20) calendar days from end of the reference quarter. Moreover, TC's records on monitoring large exposures and loans to DOSRI and its related parties shall be made available to the Bangko Sentral examiners for verification at any given time. When warranted, the Bangko

³ As defined under Subsec. 4141Q.3.c.5.a of the MORNBFI

Sentral may impose additional reporting requirements on TC in relation to its large exposures and credit risk concentrations.

Secs. 4330T - 4398T (Reserved)

Sec. 4399T General Provision on Sanctions. Pursuant to Section 91 of R. A. No. 8791, the Monetary Board may impose sanctions and monetary penalty for any violation of the provisions of this Part. This is without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted that may include the suspension or revocation of a TC's authority to engage in trust, other fiduciary business and investment management activities and such other sanctions as may be provided by law. If the offender is a director or officer of the TC, the Monetary Board may also suspend or remove such director or officer. If the violation is committed by a corporation, such corporation may be dissolved by quo warranto proceedings instituted by the solicitor general.

The guidelines for the imposition of monetary penalty shown in *Appendix T-2* shall govern the imposition of monetary penalty for violations/offenses with administrative sanctions falling under Section 37 of R.A. No. 7653 on TCs, their directors and/or officers.

PART FOUR

TRUST, OTHER FIDUCIARY BUSINESS AND INVESTMENT MANAGEMENT ACTIVITIES

Sec. 4401T Statement of Principles. The cardinal principle common to all trust and other fiduciary relationships is fidelity. Policies predicated upon this principle shall be directed towards observance of the following:

a. *Prudent administration.* The trust, investment management and other fiduciary accounts shall be administered in conformity with the intention and purpose of the client as manifested in the terms of the agreement, and with the skill, care, prudence and diligence necessary under the circumstance then prevailing that a prudent man acting in like capacity and familiar with such matters would exercise in the conduct of an enterprise of like character and with similar aims.

b. *Undivided loyalty and utmost care.* In the discharge of fiduciary responsibility, the interests of clients shall be placed above those of the TC. Clear policies and procedures shall be developed in dealing with conflict of interest situations. The fiduciary assets shall be objectively and fairly administered, invested and distributed giving due regard to the beneficiaries' respective interests.

c. *Non-delegation of responsibilities.* The administration of the trust, investment management, or fiduciary responsibilities or the performance of acts that should be personally performed shall not be delegated as the client's confidence is reposed on the TC.

d. *Preserving and protecting property.* Reasonable care and diligence shall be observed to preserve and protect the property entrusted. Fiduciary assets shall be kept legally separate and distinct from proprietary assets and from one fiduciary/trust/investment management account to another.

e. *Keeping and rendering accounts.* A true and accurate account or record of transactions entered into shall be kept. Reports on the trust, investment management and other fiduciary accounts shall be rendered to the trustor, principal, beneficiary or other party in interest, or the court concerned, or any party duly designated by a court order, as the case may be, in accordance with Section 4421Q of the MORNBF. Likewise, all material facts within the knowledge or reasonably discoverable by the TC, particularly information that would enable clients to make well-informed decisions, shall be promptly transmitted/relayed to clients for them to protect their interests.

Furthermore, practices shall be carried out in accordance with the basic standards (*Appendix Q-48* of MORNBF) and risk management guidelines for trust, other fiduciary business and investment management activities (*Appendix Q-48a* of MORNBF).

An institution incorporated or authorized to engage in trust and fiduciary business is under no obligation, either legal or moral, to accept any such business being offered nor has it the right to accept if the same is contrary to law, rules, regulations, public order and public policy. It shall advertise its services in a dignified manner and enter such business only when demand for such service is evident, when specially equipped to render such service and upon full appreciation of the responsibilities involved. It shall be ready and willing to give full

disclosure of the services being offered and shall conduct its dealing with transparency. Harmonious relationship shall likewise be pursued with other professions to achieve the common goal of mutual service to the public and protection of its interest.

The TC shall formulate and adhere to a Code of Ethics and Professional Standards (Code and Standards), duly approved by the Board of Directors, that defines the ethical principles and professional conduct of fiduciary functions with the clients' best interest in mind. It shall be the responsibility of the Board of Directors of the TC to ensure strict conformance with the Code and Standards by all its directors, officers and personnel. To this end, the Board of Directors shall incorporate compliance procedures in its Code and Standards.

Sec. 4402T Applicable Regulations on Trust and Other Fiduciary Activities. In addition to the provisions in the "T" regulation of the MORNBF, trust operations and other fiduciary activities, including investment management shall be subject to the following regulations provided under Part Four of the MORNBF, in so far as applicable to the TC:

- a. Section 4407Q Non-Trust, Non-Fiduciary and/or Non-Investment Management Activities
- b. Section 4409Q Trust and Other Fiduciary Business (*except Subsections 4409Q.4 Ceiling on Loans; 4409Q.8 Tax-exempt Individual Trust Accounts*)
- c. Section 4410Q Unit Investment Trust Funds
- d. Section 4411Q Investment Management Activities (*except on the required pre-numbered contractual agreement form; and except Subsections 4411Q.7 Ceilings on Loans; 4411Q.10 Tax-Exempt Individual IMA*)
- e. Section 4413Q Required Retained Earnings Appropriation
- f. Section 4422Q Custody of Assets
- g. Section 4423Q Fees and Commissions
- h. Section 4424Q Taxes
- i. Section 4425Q.1 Reports Required to Trustor, Beneficiary, Principal;
- j. Section 4499 Sanctions (For this purpose the guidelines for the imposition of monetary penalty as shown under *Appendix T-2* shall be used by TCs)

Secs. 4403T - 4409T (Reserved)

§§ 4409T.1- 4409T.16 (Reserved)

§ 4409T.17 Trust fund of pre-need companies. The rules and regulations on the acceptance, management and administration of trust funds of pre-need companies by TCs shall be governed by Chapter VIII of the Pre-need Code of the Philippines (Republic Act No. 9829).

Secs. 4410T - 4411T (Reserved)

Sec. 4412T Foreign Currency Denominated Trust, Other Fiduciary and Investment Management Account. A TC may accept foreign currency-denominated (FCD) trust, other fiduciary and IMA accounts in any acceptable foreign currency.

For purposes of this Section, “acceptable foreign exchange” comprise those foreign currencies which are acceptable to and exchangeable at the Bangko Sentral and which form part of the international reserves of the country.

§ 4412T.1 *Applicability of rules and regulations.* Unless otherwise revised by the provisions of this Section, the rules and regulations governing the administration of trust, other fiduciary or investment management accounts, including UITFs, shall be observed.

§ 4412T.2 *Allowable loans and investments.* FCD accounts may be invested in loans and investments as allowed under the written contract between the TC and its clients: *Provided*, That the loans and investments are allowed under existing Bangko Sentral regulations and are properly disclosed to trustors/principals/fund participants: *Provided further*, That the pertinent rules and regulations in the Manual of Regulations on Foreign Exchange Transactions (Part V of MORB) are complied with.

The TC shall adopt a written policy on the determination of the level of liquid assets appropriate to each client after considering the client’s mandate/s or objective/s, given constraints and unique needs and circumstances. The Investment Policy Statement of each client shall show the basis for the client’s liquidity requirement.

§ 4412T.3 *Accounting.* TCs shall maintain a separate accounting for these foreign currency transactions that will enable preparation of the Balance Sheet and Income Statement covering said funds. FCD assets and accountabilities shall be recorded at their foreign currency amounts and their local currency equivalent using the Philippine Dealing System (PDS) Peso/US Dollar closing rate and the New York US Dollar/Third Currencies closing rate. For purposes of preparing the FCD financial statements, the TC shall use the US dollar (USD) as its functional currency. However, for purposes of consolidating the FCD financial statements with the Peso financial statements, these shall be translated into the presentation currency, i.e. Philippine Peso (PHP).

The TC shall also prepare financial reports to clients as required under Section 4425Q of the MORNBF, reflecting dollar denominated assets and accountabilities and consolidated reports reflecting the peso and foreign currency (translated into Philippine Peso) denominated assets and accountabilities.

Secs. 4413T - 4440T (Reserved)

Sec. 4441T *Securities Custodianship and Securities Registry Operations.* The provisions under Section 4441Q of the MORNBF, and its Subsections, shall be adopted for TC with the following changes:

§§ 4441T.1 to 4441T.4 (Reserved)

§ 4441T.5 *Pre-qualification requirements for a securities custodian/registry.* The pre-qualification requirements for a securities custodian/registry under Subsection 4441Q.5 of the MORNBF shall apply, except for items a (QB requirement); and c (CAMELS composite

rating requirement), of said Subsection. In addition to the said requirements, TC must have a Trust Composite Rating of at least "3" in the last regular examination.

§§ 4441T.6 - 4441T.14 (Reserved)

§ 4441T.15 *Trust Rating System and Rating downgrade.* In the event that the TC's trust rating of "3" is downgraded during a particular examination, the TC has one (1) examination cycle from date of receipt of the report of examination, which shall serve as notice of downgrade, within which to correct/address the cause of the downgrade, otherwise sanction will be imposed which include, but is not limited to: (1) suspension of custodianship authority and limiting the TC's custodianship accounts to the level immediately prior to the downgrade until such time the rating is restored to "3"; or (2) revocation of the custodianship authority.

§§ 4441T.16 - 4441T.29 (Reserved)

Secs. 4442T - 4499T (Reserved)

PART FIVE - PART EIGHT (RESERVED)

PART NINE - MISCELLANEOUS

A. SUNDRY PROVISIONS

Sec. 4901T (Reserved)

§ 4901T.1 Annual Supervision Fees. TCs shall pay to the Bangko Sentral an annual supervision fee of 0.01% of the average monthly balance of assets under management for the first three (3) years of the TC's operations. However, a supervision fee of 0.02% of the average monthly balance of assets under management shall be imposed on the 4th year and onwards. Securities held under custodianship shall be exempt from annual fees. The average monthly balance shall refer to the sum of the twelve (12) month-end balances of the preceding calendar year divided by a factor of twelve (12). Said annual supervision fee shall be paid by the TCs on or before end-February of every year. Non-payment of the supervisory fee within the prescribed period shall subject the concerned TC to the sanctions prescribed under Section 37 of R.A. No. 7653.

Sec. 4902T Payment of Fines and Other Charges. The provisions of Section 4902Q of the MORNBFBI shall apply to TCs.

Sec. 4903T (Reserved)

✓ **Sec. 4904T Applicable Regulations on TCs.** Trust operations and investment management activities of TCs shall be subject to the applicable regulations in Parts Five (Foreign Exchange Operations), Six (Treasury and Money Market Operations), Seven (Electronic Operations and Other Services) and Eight (Anti-Money Laundering Operations) of the MORNBFBI, unless otherwise provided in this Manual.

Sec. 4905T Transitory Provision. TCs spun off from trust departments of banks/NBFIs, may continue to operate as a trust department within a reasonable period of time, to be determined by the Bangko Sentral, after the grant of the Authority to Operate as TC. Necessary documentations and transfer of resources may be done during this period: *Provided*, That new services and/or products to be offered by the TC during this period shall be rendered by the newly incorporated TC: *Provided, further*, That all necessary arrangements, notices to clients/investors/creditors shall be made by the TC immediately after receipt of approval from the Bangko Sentral of its Authority to Establish as a TC.

Secs. 4906T - 4998T (Reserved)

✓ **Sec. 4999T General Provision on Sanctions.** Pursuant to Section 91 of R. A. No. 8791, the Monetary Board may impose sanctions and monetary penalty for any violation of the provisions of this Part. This is without prejudice to the imposition of other sanctions as the Monetary Board may consider warranted that may include the suspension or revocation of a TC's authority to engage in trust, other fiduciary business and investment management activities and such other sanctions as may be provided by law. If the offender is a director

or officer of the TC, the Monetary Board may also suspend or remove such director or officer. If the violation is committed by a corporation, such corporation may be dissolved by quo warranto proceedings instituted by the solicitor general.

The guidelines for the imposition of monetary penalty shown in *Appendix T-2* shall govern the imposition of monetary penalty for violations/offenses with administrative sanctions falling under Section 37 of R.A. No. 7653 on TCs, their directors and/or officers.

**List of Appendices of MORB/Q Regulations Applicable
To Trust Corporations**

Appendix T-1

Regulations		Reference in the T Regulations
MORB		
4-Format of Affidavit on Transactions Involving Voting Shares of Stocks		4126T.2 Transactions Involving Voting Shares of Stocks
69-Prompt Corrective Action Framework		Sec. 4193T Prompt Corrective Action Framework
Q Regulations		
Q-3-c Reporting Guidelines on Crimes/Losses		4192T Reports/Manner of Filing
Q-4 Guidelines on Prescribed Reports Signatories and Signatory Authorization		4192T Reports/Manner of Filing
Q-5 Minimum Internal Control Standards for Quasi-banks		4185T Internal Control System <i>(same standards is required for TCs)</i>
Q-10 Guidelines in Identifying and Monitoring Problem Loans and Other Risk Assets and Setting-Up of Allowance for Probable Losses		4302T Loan portfolio and Other Risk Assets Review System (as amended by Circular No. 855 dated 29 October 2014)
Q-11 Format-Disclosure Statement of Loan/Credit Transaction		Sec. 4304T Applicable Regulations on Credit and Investment Operations
Q-12 Abstract of “Truth in Lending Act” (Republic Act No. 3765)		Sec. 4307Q Truth in Lending Act Disclosure Requirement, and its Subsections
Q-14 Sample Investment Management Agreement		Sec. 4402T Applicable Regulations on Trust and Other Fiduciary Activities Sec. 4411Q Investment Management Activities <i>(except on the required pre-numbered contractual agreement form; and except Subsections 4411Q.7 Ceilings on Loans; 4411Q.10 Tax-Exempt Individual IMA)</i>
Q-15 Risk Management Guidelines for Derivatives		Sec. 4904T Applicable Regulations on TCs
Q-16 Sales and Marketing Guidelines for Derivatives		
16a	Sample Risk Disclosure Statement for Derivatives Activities	
Q-20 Classification, Accounting Procedures, Valuation and Sales and Transfers of Investments in Debt Securities and Marketable Equity Securities		Sec. 4304T Applicable Regulations on Credit and Investment Operations. Sec. 4388Q Purchase of Receivables and Other Obligations
20a	Establishing the Market Benchmarks/Reference Prices and Computation Method Used to Mark-to-Market Debt and Marketable Equity Securities	
Q-21 Guidelines on the use of Scrippless (RoSS) Securities as Security Deposit for the Faithful Performance of Trust Duties		§ 4112T.1 Basic Security Deposit
Q-22 Procedures on Collection of Fines/Penalties from Quasi-banks and/or Directors/Officers of QBs		Sec. 4902T Payment of Fines and Other Charges
22a	Pro-Forma Payment Form	
Q-23 (Reserved)		

Regulations		Reference in the T Regulations
Q-24 Activities which may be Considered Unsafe and Unsound Practices		Sec. 4149T Conducting Business in Unsafe/Unsound Manner
Q-29 Guidelines and Minimum Documentary Requirements for Foreign Exchange Forward and Swap Transactions		Sec. 4904T Applicable Regulations on TCs
Q-30 Guidelines to Govern the Selection, Appointment, Reporting Requirements and Delisting of External Auditors and/or Auditing Firm of Covered Entities		Sec. 4189T Selection, Appointment, Reporting Requirements and Delisting of External Auditors and/or Auditing Firm; Sanction.
Q-31 Qualification Requirements for a Bank/Non-Bank Financial Institution Applying for Accreditation to Act AS Trustee on any Mortgage or Bond Issued by any Municipality, Government-Owned or Controlled Corporation, or any Body Politic		Sec. 4402T Applicable Regulations on Trust and Other Fiduciary Activities Section 4409Q Trust and Other Fiduciary Business (except Subsections 4409Q.4 Ceiling on Loans; 4409Q.8 Tax-exempt Individual Trust Accounts)
Q-33 Checklist of BSP Requirements in the Submission of Financial Audit Report, Annual Audit Report and Reports Required Under Appendix Q-30		Sec. 4190T Audited Financial Statements of TCs; Financial Audit.
Q-34 Key Information and Investment Disclosure Statement (pursuant to Circular No. 852 dated 21 October 2014)		Sec. 4402T Applicable Regulations on Trust and Other Fiduciary Activities Section 4410Q Unit Investment Trust Funds
34a	Unit Investments Trust Funds Risk Disclosure Statement	
Q-35 Bangko Sentral Rules of Procedure on Administrative Cases Involving Directors and Officers of Quasi-banks and Trust Entities		Sec. 4150T Rules of Procedure on Administrative Cases Involving Directors and Officers of TC
Q-37 Documents Required Under the Revised Outsourcing Framework for Non-Banks		Sec. 4162T Duties and Responsibilities of TCs and their Directors/ Officers in All Cases of Outsourcing of Other Functions
Q-38 Implementation of the Delivery by the Seller of Securities Directly to the Buyer or to his Designated Securities Custodian/Central Securities Depository		Sec. 4441T Securities Custodianship and Securities Registry Operations.
38a	Delivery of Government Securities to the Investor's Principal Securities Account with the Registry of Scripless Securities	
Q-39 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		Replaced by Appendix T-2 (Guidelines for the Imposition of Monetary Penalty for Violations/Offenses with Sanctions Falling Under Section 37 of R.A. No. 7653 on Trust Corporations, Directors and/or Officers)
Q-42 Guidelines on Supervision by Risk		Sec. 4173T Risk Management Guidelines
Q-43 Guidelines on Market Risk Management		
Q-44 Guidelines on Liquidity Risk Management		
Q-45 Authorization Form for Querying the Bangko Sentral Watchlist Files for Screening Applicants and Confirming Appointments of Directors and Officials		Sec. 4143T Disqualification of Directors and Officers
Q-47 Guidelines for Trust Departments' Placements in the Special Deposit Account Facility of the Bangko		Sec. 4402T Applicable Regulations on Trust and Other Fiduciary Activities

Regulations		Reference in the T Regulations
Sentral		Section 4409Q Trust and Other Fiduciary Business <i>(except Subsections 4409Q.4 Ceiling on Loans; 4409Q.8 Tax-exempt Individual Trust Accounts)</i>
47a	Special Deposit Account Placements of Trust Departments/Entities as Agent for Tax-Exempt Institutions and Accounts	
47b	Guidelines on the Prohibition Against Non-Residents from Investing in the SDA Facility	
47c	Access of Trust Department/Entities which are counterparties in Special Deposit Account (SDA) Facility of the Bangko Sentral	
Q-48 Basic Standards in the Administration of Trust, Other Fiduciary and Investment Management Accounts		§ 4142T.3 Duties and responsibilities of officers Sec. 4401T Statement of Principles
48a	Risk Management Guidelines for Trust and Other Fiduciary Business and Investment Management Activities	Sec. 4173T Risk Management Guidelines Sec. 4401T-Statement of Principles
Q-49 Guidelines for Days Declared as Public Sector Holidays		Sec. 4904T Applicable Regulations on TCs
Q-50 Guidelines on the Submission of Application for Merger and Consolidation		Sec. 4108T Authority Resulting from Merger or Consolidation
Q-56 Guidelines Governing the Implementation/Early Adoption of Philippine Financial Reporting Standards (PFRS 9) Financial Instruments		Sec. 4191T Records
Q-57 List of Documentary Requirements-Confirmation of the Election/Appointment of the Members of the Board of Directors/SVPs and Above or Equivalent Ranks of Non-Banks with Quasi-Banking Functions		Sec. 4141T Definition; Qualifications; Powers; Responsibilities and Duties of Board of Directors.
57b	List of Members of the Board of Directors and Officers	
Q-58 Guidelines on Receivership and Liquidation Proceedings of Non-Banks with Quasi-Banking Functions and Trust Entities.		Sec. 4195T Voluntary Liquidation Sec. 4196T Receivership and Involuntary Liquidation
Q-59a-IT Risk Management Standards and Guidelines Area: IT Audit		Sec. 4173T Risk Management Guidelines
Q-59b IT Risk Management Standards and Guidelines Area: Information Security		
Q-59c IT Risk Management Standards and Guidelines Area: Project Management/ Development, Acquisition and Change Management		
Q-59d-IT Risk Management Standards and Guidelines Area: IT Operations		
Q-59e IT Risk Management Standards and Guidelines Area: IT Outsourcing/Vendor Management		
Q-59f-IT Risk Management Standards and Guidelines Area: Electronic Banking, Electronic Payment, Electronic Money and Other Electronic Products and Services		
Q-60 Report on Breach in Information Security		

**THE GUIDELINES FOR THE IMPOSITION OF MONETARY PENALTY FOR
VIOLATIONS/OFFENSES WITH SANCTIONS FALLING UNDER
SECTION 37 OF R. A. NO. 7653 ON TRUST CORPORATIONS,
DIRECTORS AND/OR OFFICERS**

The schedule of penalty, categorized based on: (1) the nature of offenses such as minor, less serious, and/or serious, and (2) the size of the assets under management of the trust corporation, shall be as follows:

A. For Serious Offense

Assets Under Management Size	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
Penalty Range						
Minimum	P 500	P 1, 000	P 3, 000	P 10, 000	P 18, 000	P 25, 000
Medium	750	1, 500	5, 000	12, 500	20, 000	27, 500
Maximum	1, 000	2, 000	7, 000	15, 000	22, 000	30, 000

B. For Less Serious Offense

Assets Under Management Size	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
Penalty Range						
Minimum	P 300	P 600	P 1, 000	P 3, 000	P 7, 000	P 15, 000
Medium	350	700	1, 250	4, 000	8, 500	17, 500
Maximum	400	800	1, 500	5, 000	10, 000	20, 000

C. For Minor Offense

Assets Under Management Size	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
Penalty Range						
Minimum	P 150	P 300	P 600	P 1, 000	P 3, 000	P 6,000
Medium	200	400	700	1, 500	4, 000	8, 000
Maximum	250	500	800	2, 000	5, 000	10, 000

For purposes of this Regulation, the following definition of terms shall mean:

1. **Serious Offense** - This refers to unsafe or unsound practice. An unsafe or unsound practice is one in which there has been some conduct, whether act or omission, which is contrary to accepted standards of prudent fiduciary activities, and trust business/operation, and may result to the exposure of the trust corporation and its shareholders to abnormal risk or loss.

In determining the acts or omissions included under the unsafe or unsound practice, an analysis of the impact thereof on the trust corporations' operations and financial condition must be undertaken, including evaluation of capital position, asset condition, management, earnings posture and liquidity position. The following circumstances shall be considered:

- (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 creditors, investors, trust/other fiduciary/investment management clients, 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 trust corporation 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 trust corporation, whether or not the director or officer profited or will profit thereby.

Certain acts or omissions as falling under this classification maybe determined based on the guidelines provided under Appendix Q-24 of the MORNBFIL.

2. **Less Serious Offense** - These include major acts or omissions defined as trust corporation/individual's failure to comply with the requirements of banking laws, rules and regulations, provisions of Manual of Regulations(MOR)/Circulars/Memorandum as well as Monetary Board directives/instructions having *material*¹ impact on trust corporation's solvency, liquidity or profitability and/or those violations classified as major offenses under the Report of Examination, except those classified under unsafe or unsound practice.
3. **Minor Offense** - These include acts or omissions which are procedural in nature, can be corrected immediately and do not have material impact on the solvency, liquidity and profitability of the trust corporation. All other acts or omissions that cannot be classified under the major offenses/violations will be classified under this category.
4. **Minimum** refers to the range of penalties to be imposed if the mitigating factor(s) outweigh the aggravating circumstances.
5. **Medium** refers to the penalty to be imposed in the absence of any mitigating and aggravating circumstances or if the mitigating factor(s) offset the aggravating factor(s).
6. **Maximum** refers to the penalty to be imposed if the aggravating circumstances outweigh the mitigating factor(s).

In determining the amount of penalty, a two-stage assessment shall be conducted as follows:

Step 1: Determine the nature of offense whether it is: (a) Serious; (b) Less Serious; or (c) Minor Offense; and

Step 2: Determine whether there are aggravating and/or mitigating factors (as listed and defined in Appendix T-2a).

¹ SFAS/IAS defines materiality as any information, which if omitted or misstated, could influence the economic decisions of users taken on the basis of the financial statements. Per Financial Accounting Standard Board (FASB), it is defined as the magnitude of an omission or misstatement of accounting information.

Both the aggravating and mitigating factors shall be considered for initial penalty imposition and subsequent requests for reconsideration thereto.

The foregoing monetary penalties shall be without prejudice to the imposition of non-monetary sanctions, if and when deemed applicable by the Monetary Board. Violations of banking laws and Bangko Sentral regulations with specific penal clause are not covered by this Regulation.

Aggravating and Mitigating Factors to be Considered in the Imposition of Penalty

1. Aggravating Factors:

(a) Frequency of the commission of specific violation – This pertains to commission or omission of a specific offense involving either the same or different transaction. This will also refer to a violation which may have been corrected in the past but found repeated in another transaction/account in the subsequent examination.

In determining frequency, the number of times of commission or omission of a specific offense during the preceding three (3) - year period shall also be considered.

The word “offense” pertains to a violation that connotes infraction of existing BSP rules and regulations as well as non-compliance with BSP/MB directives.

(b) Duration of Violations Prior to Notification – This pertains to the length of time prior to the latest notification on the violation. Violations that have been existing for a long time before it was revealed/discovered in the regular examination or are under evaluation for a long time due to pending requests or correspondences from trust corporations on whether a violation has actually occurred shall be dealt with through this criterion. Violations outstanding for more than one (1) year prior to notification, at the minimum, will qualify as violations outstanding for a long time.

(c) Continuation of offense or omission after notification – This pertains to the persistence of an act or offense after the latest notification on the existence of the violation, either from the appropriate Supervision and Examination Department or from the Monetary Board and/or Deputy Governor, in cases where the violation has been elevated accordingly. This covers the period after the final notification of the existence of the violation until such time that the violation has been corrected and/or remedied. The corrective action shall be reckoned with from the date of notification.

(d) Concealment – This factor pertains to the cover up of a violation. In evaluating this factor, one shall consider the intention of the party(ies) involved and whether pecuniary benefit may accrue accordingly. Intention precedes concealment. The act of concealing an offense or omission carries with it the intention to defraud regulators. Moreover, the amount of pecuniary benefit, which may or may not accrue from the offense or omission, shall also be considered under this factor.

Concealment may be apparent in cases when trust corporation officers purposely complicates the transaction to make it difficult to uncover or refuse to provide information/ documents that would support the violation/offense committed.

Inasmuch as concealment and intention are speculative matters and may be difficult to establish, appropriate support of facts or circumstantial evidence in this factor shall be considered.

(e) Loss or risk of loss to trust corporation – In assessing this factor, “potential loss” refers to any time at which the trust corporation was in danger of sustaining a loss.

- *Substantial actual loss* – The trust corporation has been exposed to a significant loss of earnings and capital. The volume of accounts involved in the loss is substantial/significant in relation to the institution’s assets and capital. The trust corporation/individual may have substantial/serious violations that could impact the reputation and earnings of the trust corporation.
- *Minimal actual loss or substantial risk of loss* – The trust corporation has incurred minimal loss or will be exposed to substantial risk of loss of earnings or capital although both do not materially impact financial condition. The volume of accounts involved for minimal loss or substantial risk of loss is reasonable and manageable. While a loss was incurred, the trust corporation could absorb the loss in the normal course of business. Substantial risk of loss includes *any potential losses the aggregate of which amounts to at least one percent (1%) of the capital of the trust corporation*¹.
- *Minimal risk of loss* – The risk exposure on earnings or capital is minimal. Trust corporation is not vulnerable to significant loss. The volume of accounts involved for potential loss/risk is minimal/negligible. The risk of loss would have little impact on the trust corporation or its financial condition. The risk of loss aggregating to less than one percent (1%) of the capital of the trust corporation will fall under this classification.

(f) Impact to trust/asset or investment management industry– In assessing this factor, it is appropriate to consider any possible negative impact or harm to the trust corporation. (e.g., A violation of law involving insider abuse may result in adverse publicity for the institution, possibly causing a sudden mass redemption/withdrawal of trust investments or termination of trust, other fiduciary or investment management accounts and affecting the trust corporation’s trust business). Resulting effect on the trust/asset or investment management industry on the violation/offenses committed by the trust corporation, if any, will also be considered. Sources of data may come from news reports.

¹ Cir. 410 dated 29 October 2003 provides that external auditors of trust entities must report to BSP, among others, any potential losses the aggregate of which amounts to at least one percent (1%) of the capital to enable the BSP to take timely and appropriate remedial action.

- *Substantial impact on trust corporation. No impact on trust/asset or investment management industry.* This may involve reputational risk of the trust corporation as a result of negative publicity generated for example, by involvement of trust corporation's director/officer in activities not acceptable to the regulatory bodies. This may also involve insider abuse of authority/power. However, the trust/asset or investment management industry is not affected for this isolated case.
- *Moderate impact on trust/asset or investment management industry or on public perception of trust/asset or investment management industry.* This may involve poor corporate governance and mismanagement of trust corporation that may result to erosion of public confidence.
- *Substantial impact on trust/asset or investment management industry or on public perception of trust/asset or investment management industry.* This is a worst-case scenario. The violations/irregular activities of the trust corporation may totally erode the trust and confidence of the investing public resulting to a nationwide mass redemption/withdrawal of trust investments or termination of trust, other fiduciary or investment management accounts. Pessimistic perception of the investing public on the trust/asset or investment management is highly observed.

2. Mitigating Factors

(a) Good Faith – Good faith is the absence of intention of the erring individual/entity in the commission of a violation.

- *Full Cooperation* - This is determined by the actions of the individual and/or trust corporation towards the regulators after or even before notification of the offense and/or omission. Assistance rendered by the trust corporation during the investigation and/or examination conducted relative to the cited offense and/or omission may be viewed favorably when computing the amount of penalty to be imposed on the trust corporation/individual.
- *With positive measures/action undertaken although not corrected immediately.* The trust corporation is willing to remedy/correct the violation but is being restrained of its capacity to take immediate action thus, will undertake a Memorandum of Undertaking/Commitment for a specified period as a sign of good faith. The trust corporation has started to rectify the infraction by instituting reforms in their operations or systems.

- *Voluntary disclosure of offense* - Voluntary disclosure of the trust corporation of the offense committed before it is discovered by BSP examiners in the regular/special examination or in the supervisory work (e.g. submission of reports to the BSP disclosing the violation committed by the trust corporation based on the internal auditor's findings) may be considered as the highest level of mitigation under this factor.

The burden of proof, however, falls on the trust corporation/individual to support its/his/ her claim of good faith and may be used as basis to mitigate the amount of penalty that may be imposed.

Category	Form No.	MOR Ref./T-Regulations	Report Title	Frequency	Submission Deadline	Submission Procedure
A-1		4192T/4192Q.3	Copy of Published Statement of Condition with Publisher's Certificate	Quarterly	5 th business day from publication date	Appropriate department of the SES
A-1	Unnumbered	4611Q.5	Report on Outstanding Derivatives Contracts	Monthly	15 th business day from end of reference month	-do-
A-1	Unnumbered	4611Q.5	Report on Trading Gain/(Loss) on Financial Derivatives	Monthly	15 th business day from end of reference month	-do-
A-2	BSP 7-16-11	X126.2/4126T.2	Consolidated List of Stockholders and Their Stockholdings	Annual/quarterly when any changes occur	12 th business day after the end of the calendar year and if there are changes, 12 th business day after the end of the reference quarter	-do-
A-2	Unnumbered (no prescribed form)	4141Q.9	Certification under oath of directors that they have received copies of the general responsibility and specific duties and responsibilities of the board of directors and that they fully understand and accept the same	Upon election as first-time director with a TC	10 th business day from date of election	-do-
A-2		4152T.5	Certification on the Fitness and Propriety of marketing personnel and the existence of policy on the handling of TCs' marketing personnel. (NEW REPORT)	Annual	On or before 30 January of the following year	-do-
A-2	BSP-7-26-02-A	4192T	Consolidated Statement of Condition	Monthly	15 th business day from end of reference month	Separate report for Head Office and each branch; Email to SDC

LIST OF REPORTS REQUIRED FROM TRUST CORPORATIONS

Appendix T-3

Category	Form No.	MOR Ref./T-Regulations	Report Title	Frequency	Submission Deadline	Submission Procedure
			Schedules:			
A-2	BSP-7-26-02-A (Schedule 1)	4192T	Loans/Receivables and Trading Account Securities			Separate report for Head Office and each branch; Email to SDC
A-2	BSP-7-26-02-A (Schedule 4)	4192T	Remaining Maturities of Selected Accounts Interest Rate and Maturity Matching			-do-
A-2	BSP-7-26-02-A (Schedule 3)	4192T	Interest Rate and Maturity Matching			-do-
A-2	BSP-7-26-02-A (Schedule 2)	4192T	Underwritten Securities, Trading Account Securities-Investments, Available for Sale Securities and Investments in Bonds & Other Debt Instruments			-do-
A-2	BSP-7-26-03-A	4192T	Consolidated Statement of Income and Expenses	Monthly	15 th business day of the following end of reference month	Separate report for Head Office and each branch; Email to SDC
A-2	BSP-7-26-24	4192Q	Credit and Equity Exposures to Individuals/Companies/Groups Aggregating P1 million & above	Quarterly	15 th business day from end of reference quarter	Electronic submission- SDC
			Notarized Control Prooflist	Quarterly	15 th business day from end of reference quarter	Fax to SDC
A-2	Unnumbered	4801Q	Report on Suspicious Transaction	As transaction occurs	10 th business day from date of transaction/knowledge	Original and duplicate Anti-Money Laundering Council (AMLC)

Category	Form No.	MOR Ref./T-Regulations	Report Title	Frequency	Submission Deadline	Submission Procedure
A-2	Unnumbered	4801Q	Report on Covered Transactions	As transaction occurs	10 th business day from date of transaction/knowledge	Original and duplicate Anti-Money Laundering Council (AMLC)
A-2	Unnumbered	4191T	Financial Reporting Package for Trust Institutions	Quarterly	20 th business day after end of reference quarter	SDC
			Schedules:			
			Balance Sheet			
			A1 to A2 Main Report			
			B to B2 Details of Investments in Debt and Equity Securities			
			C to C2 Details of Loans and Receivables			
			D to D2 Wealth/Asset/Fund Management-UITF			
			E-Fiduciary Accounts			
			E1 to E1B – Other Fiduciary Services-UITF			
			Income Statement			
			Control Prooflist	Quarterly	20 th business day after end of reference quarter	SDC
A-3		4328Q.5/4326T	Transmittal of Board Resolution/Written Approval on Credit Accommodations to Affiliates	As loans to affiliate is approved	20 th business day after date of approval	Original and duplicate to appropriate department of the SES
A-3	BSP-7-26-18.1	4329T	Credit Accommodations to Directors, Officers, Stockholders and	Quarterly	20 calendar days from end of	Appropriate department of the SES

LIST OF REPORTS REQUIRED FROM TRUST CORPORATIONS

Appendix T-3

Category	Form No.	MOR Ref./T-Regulations	Report Title	Frequency	Submission Deadline	Submission Procedure
			Their Related Interests		reference quarter	
A-3	Unnumbered	4334Q/4326T	Copy of Written Approval on Board of Directors on Credit Accommodations to directors, Officers, Stockholders, and Their Related Interests	As approved	20 th business day from date of approval	Appropriate department of the SES
B	Unnumbered	4103T.1	Documentary requirements/information on organizational structure and operational policies	Upon submission of application to engage in TC		-do-
				As changes occur	15 th calendar day from change/issuance	-do-
B		4141Q.4	Notice of Election/Appointments of Members of Board of Directors and Committees	As changes occur	10 th day from election/assumption of office	-do-
B	Unnumbered (no prescribed form)	4143Q.4	Report on Disqualification of Director/Officer	As disqualification occurs	Within 72 hours from receipt of report by board of directors	-do-
B	Indicate the form no. (for QB – SES II Form 15 (NP08-TB))	4144Q	Biographical Data of Directors/Officers with ID picture - if submitted in CD form-Notarized first page of each of the directors'/officers Biographical Data saved in CD and control proof list -if sent by electronic mail-Notarized first page of Biographical Data or	Upon every election/re-election or appointment/promotion or if change in name occurs, or if requesting approval for interlocks.	10 th business day from the date of the meeting of the board of directors/officers are elected or appointed/promoted 10 th business day from the date the change of name occurred	Hard copy to appropriate department of the SES

Category	Form No.	MOR Ref./T-Regulations	Report Title	Frequency	Submission Deadline	Submission Procedure
			Notarized list of names of Directors/Officers whose Biographical Data were submitted thru electronic mail to be faxed to SDC			
B	Unnumbered	4144Q	List of Members of the Board of Directors and Officers	Annually	10 th business day from the annual election of the board of directors	Hard copy to appropriate department of the SES
B		4144Q	Duly accomplished and notarized authorization form for querying the BSP watchlist files	Upon election or appointment/promotion as first time director/officer within a TC	10 th business day from date of election of the directors/meeting of the board of directors in which the officers are appointed/promoted	-do-
B	Unnumbered (no prescribed form)	4190T/4190T.1 /4190Q	Audited Financial Statements (two (2) sets of AFS: AFS of the TC proper and AFS covering trust operations) for Previous Year Prepared by the External Auditor and the corresponding Auditor's Letter of Comments	Annually	120 th calendar day after the end of reference year	Appropriate department of the SES
B		4192Q	Certification under oath of independent directors that he/she is an independent director as defined under Subsec. 4141Q.2 and that all the information thereby supplied are true and correct	Upon election	10 th business day from the date of election	Hard copy to appropriate department of the SES

LIST OF REPORTS REQUIRED FROM TRUST CORPORATIONS

Appendix T-3

Category	Form No.	MOR Ref./T-Regulations	Report Title	Frequency	Submission Deadline	Submission Procedure
B		4192Q/ 4141Q.9	Certification under oath of directors/officers that he/she has all the qualifications and none of the disqualifications	Upon every election/re-election or appointment/promotion	10 th business day from date of election of the directors/meeting of the board of directors in which the officers are appointed/promoted	Hard copy to appropriate department of the SES
B		4192T	Report on Intra-Group Transaction	Quarterly	20 calendar days after the end of reference quarter	-do-
B	BSP 7-26-26	4192Q.3	Statement of Condition for Publication	Quarterly	20 th business day from receipt of call	Appropriate department of the SES
			Control Prooflist duly signed by the authorized officer of the institution			
B		4192Q	Annual Report of Management to Stockholders Covering Results of Operations for the Previous Year	Annually	As soon as available	Appropriate department of the SES
B	Unnumbered	4192Q	Report on Crimes/Losses for Head Office/Branches	As crime or incident occurs	within five (5) business days from knowledge of the crime or incident; Where a thorough investigation and evaluation of facts is necessary to complete the report, an initial report submitted within the five (5)-business day deadline may be accepted: <i>Provided, That a</i>	In two (2) copies: the original to the appropriate department of the SES and the duplicate to the BSP Security Coordinator, thru the Director, Security Investigation and Transport Department

LIST OF REPORTS REQUIRED FROM TRUST CORPORATIONS

Appendix T-3

Category	Form No.	MOR Ref./T-Regulations	Report Title	Frequency	Submission Deadline	Submission Procedure
					complete report is submitted not later than fifteen (15) business days from termination of investigation.	
B	Unnumbered	4192Q	Board Resolution on trust corporation's signatories of report submitted to BSP	As authorized	3 rd day from date of resolution	Appropriate department of the SES
B	Unnumbered (no prescribed form)	4192Q	Corporate Secretary's Certification under oath on list of stockholders and/or groups of stockholders	As change in composition of stockholders occurs	Immediately after change	-do-
B	BSP 7-26-13	4306Q	Past Due Receivables, Loans and/or Commercial Papers/Private Securities	Quarterly	15 th calendar day after end of reference quarter	-do-
B	SES Form 6H (CBP-7-16-21), revised	4306Q.5	Notice of Write-offs of Loans, Other Credit Accommodations, Advances and Other Assets (i) Sworn statement signed by the President or officer of equivalent rank stating that the write-off did not include DOSRI (ii) Board resolution approving write-off	As write-off occurs	Within 30 business days after every write-off	-do-
B		4409Q.16	Waiver of Confidentiality of Information under Sections 2 and 3 of R.A. No. 1405, as amended	As transaction occurs		Appropriate department of the SES

LIST OF REPORTS REQUIRED FROM TRUST CORPORATIONS

Appendix T-3

Category	Form No.	MOR Ref./T-Regulations	Report Title	Frequency	Submission Deadline	Submission Procedure
B	Unnumbered	4625Q.9	Report on FX Swaps with Customers' where 1 st leg is a Purchase of FX Against Pesos (For TCs with derivative license)	Monthly	5 th business day after end of reference month	IOD @ e-mail: iod@bsp.gov.ph cc: mail SDC
B	Unnumbered	4625Q.9	Report on Cancellations, Roll-overs and Non-delivery of FX Forwards Purchase-Sales Contracts and Forward Leg of Swap Contracts (for TC with derivatives license)	Monthly	5 th business day after end of reference month	IOD @ e-mail: iod@bsp.gov.ph cc: mail SDC
		M-019 dated 05.05.08	Report on NDF transactions with non-resident	Weekly	2 nd business day after end of reference week	Email to SDC
			Control Prooflist			Fax to SDC
B	SEC Form	MAB dated 09.02.05	General Information Sheet	Annually or as changes occurs	30 th day from date of Annual Stockholders' meeting or if changes occur, 7 th day from date of change.	Appropriate department of the SES
	Unnumbered	4177Q.8	IT Risk Profile Report	Annually	25 calendar days after end of reference year	Electronically to the SDC