

[BSP CIRCULAR NO. 587, S. OF 2007, October 26, 2007]

REVISED FORMAT OF REPORT ON CRIMES AND LOSSES, AND OTHER RELATED POLICY GUIDELINES

Pursuant to Monetary Board Resolution No. 1158 dated 11 October 2007, the following amendments to Subsection X162.4 of the Manual of Regulations for Banks (MORB) are hereby issued:

1. The existing BSP Form on Report on Crimes and Losses i.e , DCB I/II Form 6G (BSP 7-16-20), SES III Form 16, and RB/COB Form 21 (BSP 7-19-50 A) submitted by banks is hereby amended per attached report format (Annex "A"*) and renumbered SES Form 6G.

2. Subsection X162-4 (c)- Definition of Terms - For the purpose of this regulation, the following definitions shall apply:

a. Estafa - A crime committed by a person who defrauds another causing the latter to suffer damage by means of any of the following: (a) unfaithfulness or abuse of confidence, (b) false pretense or (c) fraudulent acts/means, under Articles 315 to 317 of the Revised Penal Code, as amended.

b. Theft - A crime committed by a person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take personal property of another without the latter's consent pursuant to Article 308 and other pertinent provisions of Chapter III, Title X of the Revised Penal Code, as amended.

c. Robbery - A crime committed by a person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or 7 intimidation of any person, or using force upon anything pursuant to Article 295 and other pertinent provisions of Chapter 1, Title X of the Revised Penal Code, as amended.

d. Falsification - A crime committed by a person who falsifies a document by (a) Counterfeiting or imitating any handwriting, signature or rubric; (b) Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate; (c) Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them; (d) Making untruthful statements in a narration of facts; (e) Altering true dates; (f) Making any alteration or intercalation in a genuine document which changes its meaning; (g) Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a

copy a statement contrary to, or different from, that of the genuine original; or (h) Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book and other acts falling under Article 169, 171 and 172 of the Revised Penal Code, as amended.

e. Credit-Card Related - Crimes arising through the use of credit cards.

f. Other Crimes that may Cause Loss to the Bank crimes committed that cannot be appropriately classified under any of the above classifications.

g. Negligence - The failure to exercise the care which an ordinarily prudent person would use under the circumstances in the discharge of the duty then resting upon him (People v. Aguilar, 2899-R, 18 October 1949).

h. Non-Crime Related Loss - Incidents that may cause the bank to suffer a loss arising from fortuitous events.

i. Insider - Person involved include stockholders, directors, officers and employees of the bank.

j. Outsider- Persons involved other than an insider.

k. Perpetrator - A person, whether an insider or outsider, who is responsible for the Commission of crime either by direct participation, inducement or cooperation, including accomplices and accessories as defined under Articles 18 and 19 of the Revised Penal Code, as amended.

l. Victim - An insider or outsider other than the perpetrator, who is the aggrieved party to the crime and may as result of the incident, suffered the loss,

m. Attempted Crime - A crime is attempted when the perpetrator commences the commission of the crime directly by overt acts but does not perform all of the acts of execution which constitute the crime by reason of some cause or act other than his own voluntary desistance under Article 6 of the Revised Penal Code, as amended.

n. Frustrated Crime - A crime is classified as frustrated, when the perpetrator performs all the acts of execution which should produce the crime as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator under Article 6 of the Revised Penal Code, as amended.

o. Consummated Crime - A crime is consummated when all the acts of execution which constitute the crime was performed. As a result, the bank may have suffered a loss, the recoverable portion of which should be deducted to arrive at the probable loss incurred by the bank.

p. Termination of the Investigation - An investigation is said to be terminated when all the material facts/information which are sufficient to