

[BSP CIRCULAR NO. 434, May 18, 2004]

AMENDMENTS TO CIRCULARS NOS. 283, 391, 341, 246 AND 297

The Monetary Board, in its Resolution No. 300 dated March 11, 2004, approved the amendments to the following circulars/regulations:

Section 1. Section 3 of Circular No. 283 dated May 17, 2001 is hereby amended to read as follows:

"Section 3. Subsecs. X141.4 and 4141Q.4 are hereby added to the Manual of Regulations as follows:

"SPECIFIC DUTIES AND RESPONSIBILITIES OF THE
BOARD OF DIRECTORS:

"1. x x x x x x x x x

"x x x x x x x x x

" 9.To constitute the following committees:

"(a) *Audit committee.* The audit committee shall be composed of members of the board of directors, at least two (2) of whom shall be independent directors, preferably with accounting and finance experience. The audit committee provides oversight of the institution's internal and external auditors. It shall be responsible for the setting-up of the internal audit department and for the appointment of the internal auditor as well as the independent external auditor. It shall monitor and evaluate the adequacy and effectiveness of the internal control system.

"x x x x x x x x x"

Section 2. Item "a" of Section 4, Circular No. 391 dated July 15, 2003

which amended Section 3 of Circular No. 296 dated September 17, 2001, is hereby amended to read as follows:

"Section 4. Subsecs. X143.5 and 4143Q.5 Confirmation of the election/ appointment of directors and officers are hereby renumbered as Subsecs. X141.4 and 4141Q.4 and amended to read as follows:

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

Confirming Authority	Position Level
a. Monetary Board	Directors, Senior Vice Presidents and above of universal banks and commercial banks as well as the Directors, President, Chief Executive Officer, Chief Operating Officer, Senior Vice Presidents or equivalent rank of thrift banks, Islamic banks, rural banks, cooperative banks, quasi-banks and trust entities with total assets of at least P1 billion.
"x x x	x x x
	x x x"

Section 3. Section 2 of Circular No. 341 dated August 6, 2002 is hereby amended to read as follows:

"Section 2. The Monetary Board may, at its discretion and based on the seriousness and materiality of the acts or omissions, impose any or all of the following sanctions provided under Section 37 of R.A. No. 7653 and Section 56 of R.A. No. 8791, whenever a bank, quasi-bank or trust entity conducts business in an unsafe and unsound manner:

For Banks	For Non-Banks
a. Issue an order requiring the institution to cease and desist from	a. Issue an order requiring the NBQB/trust entity to cease and desist from

conducting business in an unsafe and unsound manner and may further order that immediate action be taken to correct the conditions resulting from such unsafe or unsound practice; unsound practice;	conducting business in an unsafe and unsound manner and may further order that immediate action be taken to correct the conditions resulting from such unsafe or unsound practice;
b. Fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed Thirty Thousand pesos (P30,000.00) a day on a per transaction basis taking into consideration the attendant circumstances, such as the gravity of the act or omission and the size of the bank, to be imposed on the bank, their directors and/or responsible officers;	b. Fines in amounts as may be determined by the Monetary Board to be appropriate but in no case to exceed P30,000 a day on a per transaction basis taking into consideration the attendant circumstances, such as the gravity of the act or omission and the size of the NBQB/trust entity, to be imposed on the NBQB/trust entity, their directors and/or responsible officers;
c. Suspension of interbank clearing privileges/ immediate exclusion from clearing;	c. Suspension of lending or foreign exchange operations or authority to accept new deposit substitutes and/or new trust accounts or to make new investments;
d. Suspension of rediscounting privileges or access to Bangko Sentral credit facilities;	--
e. Suspension of lending or foreign exchange operations or authority to accept	--