

**[PDIC REGULATORY ISSUANCE NO. 94-1,
December 07, 1994]**

ISSUANCE OF CEASE AND DESIST ORDER

Quoted below is the pertinent Section of RA 3591, as amended (Philippine Deposit Insurance Act), governing PDIC's power to issue Cease and Desist Orders:

SANCTIONS AGAINST UNSAFE AND UNSOUND BANKING PRACTICE

"SECTION 7 (a) Whenever upon examination by the Corporation into the condition of any insured bank, it shall be disclosed that an insured bank or its directors or agents have committed, are committing or about to commit unsafe or unsound practices in conducting the business of the bank, or have violated, are violating or about to violate, any provisions of any law or regulation to which the insured bank is subject, the Board of Directors shall submit the report of the examination to the Monetary Board to secure corrective action thereon. If no such corrective action, is taken by the Monetary Board within sixty (60) days from the submission of the report, the Board of Directors shall, *motu proprio*, institute corrective action which it deems necessary. The Board of Directors may issue a cease and desist order and require the bank or its directors or agents concerned to correct practices, or violations within sixty (60) days. However, if the practice or violation is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to seriously weaken the condition of the bank or otherwise seriously prejudice the interest of its depositors and the Corporation, the period to take corrective action shall not be more than fifteen (15) days. The order may also include the imposition of fines provided in Section 16 (f) hereof. The Board of Directors shall duly inform the Monetary Board of the Central Bank of the Philippines of action it has taken with respect to such practice or violations. If the bank violates the cease and desist order or fails to correct the practices or violations as required within the period prescribed herein, the Corporation shall terminate the insured status of the bank the consequences of the termination of insured status of the bank on the Corporation, the bank and the depositors and their deposits shall be governed by Section 6 (h) hereof.

b) The actions and proceedings provided in the preceding subsection may be undertaken by the Corporation if, in its opinion, an insured bank or its directors or agents have violations, are violating or about to violate any provision of this Act or any order, rules or instruction issued by the Corporation or any written condition imposed by the Corporation or any written condition imposed by the corporation in connection with any transaction with or grant by the Corporation. (Amended by EO 890, 08 April 1983; R.A. 7400, 13 April 1992)."

To implement the aforementioned provisions of law, the Corporation has established procedures for the guidance of all member insured-banks or its directors or agents, which was approved by the Board of Directors, in its Resolution No. 94-11-118 dated Nov. 25, 1994.

Definition of Terms

1. The Corporation shall refer to the Philippine Deposit Insurance Corporation.
2. Cease and Desist Order (CDO) shall refer to the Order issued by PDIC, thru its Board of Directors, to a member insured bank or its directors or agents to correct (a) the unsafe or unsound practices in conducting the business of the bank (b) violated of any law or regulation to which the insured bank is subject or (c) violations of the provision of R.A. No. 3591, as amended or any order rule or instruction issued by the Corporation in connection with any transaction with or grant by the Corporation.

The object of the CDO is to protect depositors and PDIC against existing or potential risk exposure arising from said practices or violations.

3. Unsafe or Unsound Practices shall refer to any action or lack of action which is contrary to generally accepted standards of prudent operation, the possible consequences of which, if continued, would result in abnormal risk of loss or damage to a bank, depositors and its shareholders or even the depletion of the Insurance Fund administered by PDIC.
4. Responsible Bank Directors/Officers/Employees shall refer to any bank officer/employee who shall be held accountable or answerable for any conduct or obligation in connection with bank transactions.

Procedures

1. When the PDIC's examination of a bank discloses that the bank or its directors or agents (a) have committed, are committing or about to commit unsafe or unsound practices in conducting the business of the bank, (b) have violated, are violating or about to violate any provisions of any law or regulation to which the bank is subject, or (c) if in the opinion of PDIC, the bank or its directors or agents have violated, are violating or about to violate any provision of the PDIC charter or any order, rule or instruction issued by the PDIC or any written condition imposed by PDIC or any written condition imposed by PDIC in connection with any transaction with or grant by PDIC, the bank or its directors or agents shall be given a reasonable period not exceeding 60 days within which to submit an action plan acceptable to PDIC to correct the practices. PDIC shall monitor the bank's compliance to its Action Plan in close coordination with BSP.
2. When the bank fails to submit such action plan within the prescribed period the examination findings shall be referred to the PDIC Board of Directors for appropriate action.
3. The PDIC Board shall in turn submit the report of the examination to the Monetary Board to secure corrective action and the Monetary Board shall undertake any and all necessary corrective action within sixty (60) days from submission of the report.