



Bangko Sentral ng Pilipinas

OFFICE OF THE GOVERNOR

CIRCULAR NO. 640 Series of 2009

Pursuant to Monetary Board Resolution No. 1723 dated 23 December 2008, Annex A (List of Activities Which May Be Considered Unsafe and Unsound Banking Practices) of Circular No. 341 dated 6 August 2002 is hereby amended as follows:

Section 1. The opening paragraph and Items c and g of Annex A of Circular No. 341 are hereby amended to read as follows:

"The activities enumerated herein are considered only as guidelines and are not irrebutably presumed to be unsafe or unsound. Conversely, not all practices which might under the circumstances be termed unsafe or unsound are mentioned here. The Monetary Board may NOW AND THEN consider any other acts/omissions as unsafe or unsound practices."

"c. Operating in a way that produces a deficit in net operating income WITHOUT ADEQUATE MEASURES TO ENSURE A SURPLUS IN NET OPERATING INCOME IN THE FUTURE."

"x x x

"g. Excessive reliance on large, high-COST or volatile deposits/ borrowings TO FUND AGGRESSIVE GROWTH THAT MAY BE UNSUSTAINABLE.

FOR THIS PURPOSE, A BANK IS CONSIDERED OFFERING HIGH-COST DEPOSITS/BORROWINGS IF THE EFFECTIVE INTEREST RATE PAID ON SAID DEPOSITS/ BORROWINGS AND/OR NON-CASH INCENTIVES IS 50% OVER THE PREVAILING COMPARABLE MARKET MEDIAN RATE FOR SIMILAR BANK CATEGORIES, MATURITIES AND CURRENCY DENOMINATION AND ACCOMPANIED BY OTHER CIRCUMSTANCE/S SUCH AS:

"1. UNDUE RELIANCE ON SOLICITATION AND ACCEPTANCE OF BROKERED DEPOSITS;

"2. BANK INCURS LARGE SUM OF DEPOSIT GENERATION EXPENSES IN THE FORM OF COMMISSIONS, REFERRAL AND SOLICITATION FEES AND RELATED EXPENSES AND/OR PAYMENT OF ADVANCE INTEREST ON DEPOSITS;

"3. DEFERRAL OF THE ABOVE DEPOSIT GENERATION EXPENSES INCURRED TO DELAY RECORDING OF EXPENSES AND/OR INACCURATE AMORTIZATION OF ADVANCE INTEREST PAID ON DEPOSITS;

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"4. DEPOSIT PACKAGES OFFERED INCLUDE NON-CASH INCENTIVES DISPROPORTIONATE TO THE AMOUNT OF DEPOSITS SOUGHT WHICH GIVE UNDUE OR UNWARRANTED ADVANTAGE OR PREFERENCE FOR THE BANK; AND

"5. BANK MARKETS, SOLICITS AND ACCEPTS DEPOSITS OUTSIDE THE BANK PREMISES INCLUDING BRANCHES, UNLESS OTHERWISE AUTHORIZED BY THE BSP UNDER SECTIONS X213 (SERVICING DEPOSITS OUTSIDE BANK PREMISES) OR X621 (ELECTRONIC BANKING SERVICES) OF THE MANUAL OF REGULATIONS FOR BANKS."

Section 2. Item m of Annex A of Circular No. 341 is hereby amended and sub-items 12 to 15 are hereby added to Item m, to read as follows:

"m. Engaging in hazardous lending and lax collection policies and practices, as evidenced by ANY OF THE FOLLOWING CIRCUMSTANCES:

"x x x

"12. HIGH INCIDENCE OF SPURIOUS AND FRAUDULENT LOANS DUE TO PATENTLY INADEQUATE RISK MANAGEMENT SYSTEMS AND PROCEDURES RESULTING IN SIGNIFICANT IMPAIRMENT OF CAPITAL;

"13. BANK'S NICHE MOSTLY CONSISTS OF BORROWERS WHO HAVE IMPAIRED OR LIMITED CREDIT HISTORY, OR MAJORITY OF THE LOANS ARE EITHER CLEAN/UNSECURED OR BACKED WITH MINIMUM COLLATERAL VALUES EXCEPT THOSE UNDERWRITTEN USING MICROFINANCE TECHNOLOGY CONSISTENT WITH CIRCULAR NO. 272 DATED 30 JANUARY 2001 AND OTHER ACCEPTABLE CASHFLOW-BASED LENDING SYSTEMS; AND THE BANK DOES NOT HAVE A ROBUST RISK MANAGEMENT SYSTEM IN PLACE LEAVING THE BANK VULNERABLE TO LOSSES;

"14. LOAN RATES ARE EXCESSIVELY HIGHER THAN MARKET RATES TO COMPENSATE THE ADDED OR HIGHER RISKS INVOLVED. EXCESSIVELY HIGHER RATES ARE THOSE CHARACTERIZED BY EFFECTIVE INTEREST RATES THAT ARE 50% OVER THE PREVAILING COMPARABLE MARKET MEDIAN RATE FOR SIMILAR LOAN TYPES, MATURITIES AND COLLATERALS;

"15. ASSIGNMENT OF LOANS ON WITHOUT RECOURSE BASIS WITH REAL ESTATE PROPERTIES AS PAYMENT, RESULTING IN TOTAL INVESTMENT IN REAL ESTATE IN EXCESS OF THE PRESCRIBED CEILING.

Section 3. Item s and u of Annex A of Circular No. 341 are hereby amended to read as follows:

"s. Failure to heed warnings and admonitions of the supervisory AND REGULATORY authorities.

"x x x

"u. Any OTHER action likely to cause insolvency or substantial dissipation of assets or earnings of the institution or likely to seriously weaken its condition or otherwise seriously prejudice the interest of its depositors/investors/clients."

This Circular shall take effect immediately.

FOR THE MONETARY BOARD



AMANDO M. TETANGCO
Governor

16 January 2009