



BANGKO SENTRAL NG PILIPINAS

CIRCULAR NO. 1125 Series of 2021

OFFICE OF THE GOVERNOR

Subject : Revised Guidelines on the Imposition of Monetary Penalties on Bangko Sentral ng Pilipinas-Supervised Financial Institutions, and/or their Directors/Trustees, Officers and/or Employees for Violations of Banking and Other Applicable Laws with Sanctions Falling under Section 37 of Republic Act No. 7653 (The New Central Bank Act), as Amended

The Monetary Board, in its Resolution No. 1063 dated 12 August 2021, approved the revised guidelines on the imposition of monetary penalties on Bangko Sentral-Supervised Financial Institutions (BSFIs), and/or their directors/trustees, officers and/or employees for violations of banking and other applicable laws whose sanctions fall under Section 37 of Republic Act (R.A.) No. 7653 (The New Central Bank Act), as amended, except those instances where specific monetary penalties have been provided under applicable laws or other Bangko Sentral rules and regulations, including reporting violations (i.e., erroneous/delayed and unsubmitted regulatory reports) for which specific monetary penalties are provided under the regulations.

Section 1. Sec. 004 of the Manual of Regulations for Banks (MORB), and Secs. 004-Q/004-S/003-P/003-N/004-T/001-CC of the Manual of Regulations for Non-Bank Financial Institutions (MORNBI) are hereby added to read as follows:

004/004-Q/004-S/003-P/003-N/004-T/001-CC MONETARY PENALTIES ON BSFIs, AND/OR THEIR DIRECTORS/TRUSTEES, OFFICERS AND/OR EMPLOYEES

The Bangko Sentral recognizes the need to impose monetary penalties as one of the possible administrative sanctions to hold BSFIs, and/or their directors/trustees, officers and/or employees accountable for their conduct, deter future commission of violations, and achieve the overarching supervisory objectives of changed behavior and mitigated risks.

Pursuant to Section 37 of R.A. No. 7653, as amended, banks, and/or their directors, officers and/or employees may be imposed a maximum monetary penalty of ₱1 million for each transactional violation or ₱100 thousand per calendar day for violations of a continuing nature. In case profit is gained or loss is avoided as a result of the violation, the Bangko Sentral may also impose a fine of no more than three (3) times the profit gained or loss avoided.

To ensure fairness, consistency and reasonableness in the imposition of monetary penalties, the Bangko Sentral takes into consideration the attendant circumstances of each case, such as the nature and gravity of the violation or irregularity and the size of the financial institution, including other aggravating and mitigating factors. Further, in accordance with Sec. 002/002-Q/002-S/002-P/001-N/002-T, the Bangko Sentral may impose monetary penalties, singly or in combination with non-monetary sanctions, if appropriate.

The guidelines on the imposition of monetary penalties for violations in which sanctions fall under Section 37 of Republic Act (R.A.) No. 7653 (The New Central Bank Act), as amended, and other applicable laws are in *Appendix 24/Q-26/S-18/P-12/N-20/T-6/CC-4*.

Section 2. Appendix 24 of the MORB is hereby retitled and amended as shown in Annex A. The guidelines under Annex A shall likewise apply to non-bank financial institutions (NBFIs) and shall be codified as Appendices Q-26, S-18, P-12, N-20, T-6 and CC-4 with some amendments, as follows:

a) For all Appendices:

- 1) References to the term "bank/s" and "TBs, RBs or Coop banks" shall be replaced with quasi-bank/s (QB/s)/non-stock savings and loan associations (NSSLAs)/non-bank financial institutions (NBFI/s)/trust corporation/s/credit card issuers/pawnshop/s, as applicable.
- 2) Section II Item "c.(1)" shall read as: "xxx For QBs/NSSLAs/pawnshops/NBFIs/trust corporations/credit card issuers which maintain a demand deposit account (DDA) with the Bangko Sentral, the amount of the penalty/ies that remain unpaid shall be automatically debited from their DDA after the lapse of the fifteen (15)-calendar day period within which to pay the monetary penalties. xxx"
- 3) Section II Item "c.(5)" shall read as: "In the absence of DDA with the Bangko Sentral, penalties shall be paid through any acceptable means of payment and in accordance with the provisions of Sec. 1102-Q/811-S/701-P/806-N/402-T/121-CC".
- 4) Section II Item "c.(6)", cross reference to Sec. 1102 shall be replaced with Sec. 1102-Q, 811-S, 701-P, 806-N, 402-T, and 121-CC, as applicable.

b) For Appendices S-18 and P-12, references to the term "directors" shall be replaced with "trustees", as applicable.

c) For Section I Items "c" and "e" of Appendix S-18, the phrase "conducting business in an unsafe or unsound manner" shall be replaced with "conducting business in an unsafe or unsound manner and/or performing acts, practices or omissions considered prejudicial to the interest of members".

d) For Appendix Q-26, Section II Item "c" shall read as:

"c. *Payment of Monetary Penalties/Fines.* QBs, and/or their directors, officers and/or employees shall pay the monetary penalties/fines for reserve deficiency, reportorial delay/deficiency, refusal to permit examination, or failure to comply with, or violation of, any law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor, within fifteen (15) calendar days from receipt of the notice of the decision of the Governor imposing said monetary penalties, and payment thereof shall not be suspended by the filing of an appeal to the Monetary Board.
xxx"

Section 3. Sec. 1102 of the MORB and Sec. 1102-Q of the MORNBFi are hereby retitled as "Other Payments of Banks/NBFIs". Further, the provisions in the first paragraph and the "Guidelines on the imposition of monetary penalties" under the said Sections are hereby deleted. The provision on "Check/demand draft payments to the Bangko Sentral" is hereby amended to read, as follows:

"Payments to the Bangko Sentral. Banks shall make payments for transactions, including penalties and other charges, other than those required to be paid through the banks' DDA, in accordance with the manner of payment provided in the billing notice, or through any such acceptable means of payment as may be provided in pertinent advisories issued by the Bangko Sentral. xxx"

Section 4. The provisions in Section 701-P, and the first paragraph and the "Guidelines on the imposition of monetary penalties" under Sections 811-S, 806-N, and 402-T of the MORNBFi are hereby deleted, and the amended provisions of Section 1102-Q of the MORNBFi, as provided in Section 3 of this Circular, shall be adopted with amendment on the reference to the applicable type of BSFi.

Section 5. All references to Sec. 1102/1102-Q/811-S/701-P/806-N/402-T shall hereby add reference to App. 24/Q-26/S-18/P-12/N-20/T-6. Further, the following Section of CC regulations shall be amended as follows:

Section	Existing provision	Amended provision
Item "b" of Sec. 121-CC	xxx their directors and officers xxx	xxx and/or their directors, officers and/or employees xxx
Item "c.i" of Sec. 121-CC	xxx Sec. 1102-Q (<i>Guidelines on the Imposition of</i>	xxx Sec. 1102-Q (<i>Other Payments of NBFIs</i>) and Appendix CC-4 [Guidelines on the Imposition of Monetary Penalties on BSFIs, and/or their

Section	Existing provision	Amended provision
	<i>Monetary Penalties)xxx</i>	Directors, Officers and/or Employees for Violations falling under Section 37 of Republic Act No. 7653 (The New Central Bank Act), as amended, and Other Applicable Laws] xxx
Item "c.ii" of Sec. 121-CC	xxx Sec. 1102-Q <i>(Guidelines on the Imposition of Monetary Penalties)</i>	xxx Sec. 1102-Q <i>(Other Payments of NBFIs)</i> , Appendix CC-4 [Guidelines on the Imposition of Monetary Penalties on BSFIs, and/or their Directors, Officers and/or Employees for Violations falling under Section 37 of Republic Act No. 7653 (The New Central Bank Act), as amended, and Other Applicable Laws], Sec. 101-Q xxx

Section 6. This Circular shall be of suppletory application to Circular No. 1012, series of 2018, or to the amendments thereof.

Section 7. This Circular shall take effect fifteen (15) days following its publication on the Official Gazette or in a newspaper of general circulation.

FOR THE MONETARY BOARD:

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BENJAMIN E. DIOKNO
Governor

10 August 2021

**GUIDELINES ON THE IMPOSITION OF MONETARY PENALTIES ON BANKS, AND/OR
THEIR DIRECTORS, OFFICERS AND/OR EMPLOYEES FOR VIOLATIONS OF
BANKING AND OTHER APPLICABLE LAWS WITH SANCTIONS FALLING UNDER
SECTION 37 OF REPUBLIC ACT NO. 7653 (THE NEW CENTRAL BANK ACT),
AS AMENDED**

*(Appendix to Sec. 004 on Monetary Penalties on Banks, and/or their Directors,
Officers, and/or Employees)*

The following are the guidelines on the imposition of monetary penalties on banks, and/or their directors, officers and/or employees.

I. *Definition of Terms.* For purposes of this Appendix, the following definitions shall apply:

- a. *Transactional violation* refers to an act or omission constituting a violation of any applicable law or any order, instruction/directive or regulation issued by the Monetary Board, or any order, instruction/directive or ruling by the Governor which is consummated and concluded in a single instance/occasion.

For licensing-related violations, transactional violation refers to the failure to obtain approval prior to engaging in an activity which the institution is qualified to undertake at the onset, based on eligibility test and assessment of compliance with the prudential criteria set forth under existing Bangko Sentral rules and regulations.

- b. *Continuing violation* refers to an act or omission constituting a violation of any applicable law or any order, instruction/directive or regulation issued by the Monetary Board, or any order, instruction/directive or ruling by the Governor in which the violation persists or lingers over time from the instant the particular act was committed or omitted until the violation is stopped.

For licensing-related violations, continuing violation refers to an act which the institution is not qualified to undertake at the onset based on eligibility test and assessment of compliance with the prudential criteria set forth under existing Bangko Sentral rules and regulations.

II. *Imposition and Payment of Monetary Penalties.*

- a. In accordance with Section 37 of R.A. No. 7653, as amended, monetary penalties may be imposed against banks and/or their directors, officers and/or employees for any willful violation of its charter or bylaws; willful delay in the submission of reports or publications thereof as required by law, rules and regulations; any refusal to permit examination into the affairs of the institution; any willful making of a false or misleading statement to the Monetary Board or the appropriate supervising and examining department or its examiners; any willful failure or refusal to comply with, or violation of, any banking law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor; or any commission of irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Monetary Board.

In the absence of specific provision under other applicable laws or Bangko Sentral rules and regulations prescribing the imposable monetary penalty for the above-mentioned violations/offenses, banks, and/or their directors, officers and/or employees may be imposed a maximum monetary penalty of ₱1 million for each transactional violation or ₱100 thousand per calendar day for violations of a continuing nature as provided under Section 37 of R.A. No. 7653, as amended. Further, in case profit is gained or loss is avoided as a result of the violation, the Bangko Sentral may impose a fine of no more than three (3) times the profit gained or loss avoided on top of the aforementioned monetary penalty.

The Bangko Sentral considers the attendant circumstances of the case, including aggravating and mitigating factors, in the guided exercise of supervisory discretion to reach a reasonable and proportionate monetary penalty that best achieve the Bangko Sentral's supervisory objectives. These factors include the: (1) nature, gravity and seriousness of the violation or irregularity; (2) financial and/or non-financial impact of the violation or irregularity to the bank, its industry and/or the financial system; (3) intentionality, frequency and duration of the violation or irregularity; and (4) measures undertaken to stop or correct the violation or irregularity.

The appropriate department of the Bangko Sentral shall notify the bank, and/or director, officer and/or employee concerned of the violation, together with a directive for the bank, and/or director, officer and/or employee concerned to show cause within fifteen (15) banking days from receipt of the letter why no monetary penalty under Section 37 of R.A. No. 7653, as amended, should be imposed. The recommendation to impose monetary penalties shall be approved by the Governor or the Monetary Board, as the case may be, pursuant to Section 37 of R.A. No. 7653, as amended: *Provided*, That monetary penalties against directors, officers and/or employees shall be approved only by the Monetary Board. The decision of the Governor/Monetary Board shall be communicated to the bank, and/or director, officer and/or employee concerned.

However, the Bangko Sentral is not precluded from imposing non-monetary sanctions along with monetary penalties if circumstances so warrant.

- b. *Basis for the computation of the period or duration of penalty.* The computation of the period or duration of all penalties shall be based on calendar days. For this purpose the terms "per banking day", "per business day", "per day" and/or "a day" as used in this Manual, and other Bangko Sentral rules and regulations shall mean "per calendar day" and/or "calendar day" as the case may be.
- c. *Payment of Monetary Penalties.* Banks, and/or their directors, officers and/or employees shall pay the monetary penalties within fifteen (15) calendar days from receipt of the notice of the decision of the Governor imposing said monetary penalties, and payment thereof shall not be suspended by the filing of an appeal to the Monetary Board.

Monetary penalties imposed by original decisions of the Monetary Board shall be paid within fifteen (15) calendar days from the last day to file a motion for reconsideration where none has been filed or within fifteen (15) calendar days from receipt of the notice of the decision of the Monetary Board affirming the decision on motion for reconsideration, as the case may be.

For uniform implementation of the above regulation, the following procedural guidelines shall be observed:

- (1) xxx. The amount of the penalty/ies that remain unpaid shall be automatically debited from the bank's demand deposit account (DDA) with the Bangko Sentral after the lapse of the fifteen (15)-calendar day period within which to pay the monetary penalties. xxx.
- (2) xxx.
- (3) xxx.
- (4) xxx.
- (5) Payment by banks of penalty, plus the additional charge, if any, through any such acceptable means of payment shall be made in accordance with the provisions of Sec. 1102.
- (6) In the case of penalty/ies imposed on bank directors, officers and/or employees, the employer bank and said directors, officers and/or employees shall be advised by the appropriate department of the Bangko Sentral that the employer bank's DDA with the Bangko Sentral shall be debited for the amount of the penalty as advance payment on behalf of the director, officer and/or employee whose penalty/ies remain unpaid after the lapse of fifteen (15) calendar days within which to pay the monetary penalty. In case the director, officer and/or employee is no longer connected with the bank, payment thereof shall be for the account of the director, officer and/or employee who shall pay directly to the Bangko Sentral through any such acceptable means of payment in accordance with the provisions of Sec. 1102. The procedures under Items "2", "3" and "4" hereof shall likewise apply.

III. *Appeal or Motion for Reconsideration.*

The imposition of monetary penalties by the Governor shall be final and executory until reversed, modified or lifted by the Monetary Board on appeal. The appeal shall be filed within fifteen (15) calendar days from receipt of the notice of the decision, copy furnished the appropriate department of the Bangko Sentral. No motion for reconsideration of the decision of the Governor or of the Monetary Board on appeal shall be allowed.

Original decisions of the Monetary Board imposing monetary penalties shall become final and executory after fifteen (15) calendar days from receipt of the Monetary Board decision, unless a motion for reconsideration is timely filed, copy furnished the appropriate department of the Bangko Sentral.

The appeal or the motion for reconsideration shall be in writing and shall specify the findings or conclusions in the decision which are not supported by the evidence or which are contrary to law, making express reference to the evidence or to the provisions of law alleged to be contrary to such findings or conclusions.

A *pro forma* appeal or motion for reconsideration shall be denied outright and shall not prevent the decision from attaining finality.