

## 1102 COLLECTION OF FINES AND OTHER CHARGES FROM BANKS

The following regulations shall govern the payment of monetary penalties and other charges by banks, and/or their directors and/or officers.

### ***Guidelines on the imposition of monetary penalties.***

#### a. Statement of Policy

The Bangko Sentral recognizes the need to impose monetary penalties as one of the possible sanctions to hold banks, and/or their directors and/or officers accountable for their conduct and to deter the future commission of violations.

This Section sets forth the guidelines in the imposition of monetary penalties as may be warranted under the circumstances based on the following general principles laid down in the Bangko Sentral Supervisory Enforcement Policy provided under Sec. 002 taking into consideration their impact on the bank's financial condition:

- (1) Root cause diagnosis;
- (2) Consistently matching the severity of enforcement action to the supervisory issue;
- (3) Successive or simultaneous deployment of enforcement actions;
- (4) Monitorability and follow-through; and
- (5) Escalation of enforcement actions.

Accordingly, the Bangko Sentral may impose monetary penalties, singly or together with non-monetary sanctions, if applicable, even at the outset or as an escalated sanction.

#### b. The following are the guidelines on the imposition of monetary penalties. on banks, and/or their directors and/or officers and the payment of such monetary penalties and other charges:

- (1) Banks, and/or their directors and/or officers shall be imposed the monetary penalties prescribed under applicable laws or other Bangko Sentral rules and regulations.

In the absence of provision on monetary penalty for the violation/ offense, banks and/or their directors and/or officers may be imposed a maximum monetary penalty of P30,000.00 per calendar day for each violation/ offense in accordance with the following schedule:

Penalty Level <sup>1</sup> \ Asset Size	High	Low
Up to P200 million	5,000	2,500

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Above P200 million but not exceeding P500 million	10,000	5,000
Above P500 million but not exceeding P1 billion	15,000	7,500
<u>Above P1 billion but not exceeding P10 billion</u>	<u>20,000</u>	<u>10,000</u>
<u>Above 10 billion but not exceeding P50 billion</u>	<u>25,000</u>	<u>12,500</u>
<u>Above P50 billion</u>	<u>30,000</u>	<u>15,000</u>

The Bangko Sentral may use a penalty rate prescribed under the next higher range of asset size after considering the following attendant circumstances: (a) the harm caused or potential harm caused to the bank and/or its stakeholders; (b) the seriousness of the violation or irregularity; and (c) the intentionality and frequency; *Provided*, That the resulting penalty will have no adverse impact on the BSFI’s operations, liquidity and/or capitalization.

If the monetary penalty is less than the gain derived or loss avoided by the bank and/or director and/or officer in committing the violation/s, the Bangko Sentral may assess total monetary penalties equivalent to the gain derived or loss avoided.

The appropriate supervising department shall notify the bank/director or officer concerned of the violation and the corresponding amount of monetary penalty, together with a directive for the bank/director or officer concerned to explain within fifteen {15} banking/business days from receipt of the letter why the assessed monetary penalty should not be imposed against it/him/her. The recommendation to impose monetary penalties shall be approved by the Governor or the Monetary Board, as the case may be. The decision of the Governor/Monetary Board shall be communicated to the bank/ director or officer concerned.

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

- (2) *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.
  
- (3) *Request for reconsideration or appeal.* A request for reconsideration on the monetary penalty approved by the Governor/Monetary Board is allowed. The bank/director or officer concerned shall be notified of the decision of the Governor/Monetary Board thereon. An appeal from the decision of the Governor on the request for reconsideration may be made to the Monetary

Board.

A request for reconsideration or appeal shall be filed within fifteen (15) calendar days from receipt of the notice of the decision of the Governor/Monetary Board.

- (4) *Payment of monetary penalties.* Banks, and/or their directors and/or officers shall pay the monetary penalties within fifteen (15) calendar days from receipt of the notice of the decision of the Governor/Monetary Board or receipt of the notice of the decision denying the appeal or request for reconsideration, where applicable.

In the case of banks, penalties which remain unpaid after due date shall be automatically debited against their corresponding demand deposit account (DDA) with the Bangko Sentral. In the case of directors and/or officers, their employer bank shall advance the payment of the penalty to the Bangko Sentral in their behalf on or before due date through automatic debit of its DDA with the Bangko Sentral. In case the director and/ or officer is no longer connected with the bank, payment thereof shall be for the account of the director and/or officer who shall pay directly to the Bangko Sentral in the form of cash or check or such other acceptable means of payment and in accordance with the provisions of Sec. 1102.

For uniform implementation of the above regulations, the procedural guidelines embodied in *Appendix 24*, shall be observed.

- (5) *Additional charge for late payment of monetary penalty.* Late payment or monetary penalty shall be subject to an additional charge of six percent (6%) per annum to be computed from the time said penalty becomes due and payable up to the time of actual payment.

**Cost of checks and documentary stamps.** Banks are given fifteen (15) days from receipt of invoice to settle their accounts with the Bangko Sentral Security Printing Plant for transactions representing the cost of printed checks and documentary stamps. Accounts not settled within fifteen (15) days will be debited against the bank's corresponding demand deposit account with the Bangko Sentral. A debit advice showing invoices paid shall be sent to the head office of the bank concerned.

**Check/demand draft payments to the Bangko Sentral of thrift, cooperative and rural banks.** TBs, Coop Banks and RBs shall make all check and demand draft payments for transactions other than those required to be paid through the banks DDA either to the Bangko Sentral Cash Department or to Bangko Sentral Regional Offices and Braches. Such payments shall be accompanied by an appropriate payment form as shown in *Appendix 31*. Payments not accompanied by the required payment forms shall be presumed to be additions to reserves and shall be credited to the demand deposit account of the paying bank.

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*(Circular No. 988 dated 20 December 2017)*

### Footnotes

1. **“High” penalty level** is generally imposed on serious offenses/ violations such as unsafe or unsound practices; fraudulent acts; and major acts or omissions defined as the bank’s/individual’s failure to comply with the requirements of banking laws, rules and regulations, as well as Monetary Board directives/instructions which have/may have a material adverse impact on bank’s solvency, liquidity or profitability. This penalty level may also be imposed as an escalated monetary penalty to violations previously meted with “low” penalty level.

**“Low” penalty level** is imposed on all other acts or omissions that cannot be classified under serious offenses/violations as described above.