

137 CONFIRMATION OF THE ELECTION/APPOINTMENT OF
DIRECTORS/OFFICERS; BIO-DATA OF DIRECTORS AND OFFICERS;
INTERLOCKING DIRECTORSHIPS AND/OR OFFICERSHIPS; RULES OF
**137 CONFIRMATION OF THE ELECTION/APPOINTMENT OF DIRECTORS/OFFICERS;
BIO-DATA OF DIRECTORS AND OFFICERS; INTERLOCKING DIRECTORSHIPS AND/OR
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OFFICERS OF BSFIs**
DIRECTORS AND OFFICERS OF BSFIs

Confirmation of election/appointment of directors/officers.

a. *Confirming authority.* The election/appointment of directors/officers shall be subject to confirmation by the following:

Confirming Authority	Position Level
a. Monetary Board	Directors and CEO of UBs and KBs, including their subsidiary banks, QBs, trust corporations ¹ and NBFIs with trust authority; of stand-alone Islamic Banks, TBs, RBs, Coop Banks, QBs and NBFIs with trust authority with total assets of at least P10.0 billion; and of trust corporations with assets under management of at least P10.0 billion.
b. SES Committee	Directors and CEO of stand-alone Islamic Banks, TBs, RBs, Coop Banks, QBs, and NBFIs with trust authority with total assets of less than P10.0 billion; and of trust corporations ² with assets under management of less than P10.0 billion.
	Treasurer and heads of internal audit, risk management and compliance functions, and other officers with rank of senior vice president and above (or equivalent ranks) of UBs and KBs and their subsidiary banks, QBs, trust corporations, and NBFIs with trust authority; of stand-alone Islamic Banks, TBs RBs, Coop Banks, QBs and NBFIs with trust authority; and of trust corporations.
	Trust Officer regardless of rank of banks/QBs/NBFIs as provided in Sec. 412 (<i>Confirmation of the appointment/designation of trust officer and independent professional</i>).

Provided, That BSFIs shall report to the appropriate supervising department of the Bangko Sentral, any succeeding resignation, retirement, or replacement of directors/officers as mentioned within twenty (20) banking days after such resignation/retirement/replacement.

The election/appointment of abovementioned directors/officers shall be deemed to have been confirmed by the Bangko Sentral, if after sixty (60) banking days from receipt of the complete required reports, the appropriate supervising department of the Bangko Sentral does not advise the BSFI concerned against said election/appointment.

However, the confirmation by the Monetary Board/SES Committee of the election/appointment to above-mentioned position levels shall not be required in the following

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cases:

- (1) Re-election of a director (as a director) in the same BSFI or election of the same director in another bank, QB, trust corporation, and NBF¹ with trust authority within a banking group; OFFICERS OF BSFIs
- (2) Re-election of an independent director (as an independent director or not) in the same BSFI or election of the same director (as an independent director or not) in another bank, QB, trust corporation, and NBF¹ with trust authority within a banking group; and
- (3) Promotion of an officer, other than to that which requires (a) prior Monetary Board approval, or (b) a different set of minimum qualifications, or (c) a different level of confirming authority as provided in the first paragraph hereof, in the same bank or appointment/transfer to another bank, QB, trust corporation, and NBF¹ with trust authority within a banking group:

Provided, That the director/officer concerned has been previously confirmed by the Monetary Board, or if previously confirmed by the SES Committee, his/her re-election/promotion/transfer requires the same level of confirming authority as provided in the first paragraph hereof: *Provided, further*, That said director/officer has had continuous service within the same BSFI or banking group. This exemption shall apply to directors/officers confirmed by the Monetary Board/SES Committee starting 01 January 2011.

The appointment of officers below the rank of senior vice president (SVP) other than the treasurer, trust officer, and heads of internal audit, risk management, and compliance functions regardless of rank shall be subject neither to Monetary Board approval nor Bangko Sentral confirmation.

For purposes of this Section, the term *banking group* shall refer to the parent bank and its subsidiary banks, QBs, trust entities, and other NBFIs other than stand-alone and trust corporations as well as other banks, QBs, trust entities, and other NBFIs other than stand-alone and trust corporations over which the parent bank has the power to exercise “control” as defined in Sec. 131 (*Definition of terms*).

The required certifications and other documentary proof of qualifications for the confirmation of the election/appointment of directors/officers, and approval of the appointment of compliance officers of banks/QBs/NBF¹ with trust authority/trust corporations are shown in *Appendix 101*. Non-submission of complete documentary requirements within the prescribed period shall be construed as his/her failure to establish his/her qualifications for the position.

A director/officer whose election/appointment was not confirmed for failure to submit the complete documentary requirements shall be deemed removed from office after due notice to the board of directors of the BSFI, even if he has assumed the position to which he was elected/ appointed, pursuant to Section 16 of R.A. No. 8791.

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- a. BSFI shall submit to the appropriate supervising department of the Bangko Sentral a bio-data with ID picture of their (1) directors and officers who are subject to confirmation under this Section, or (2) officers below the rank of SVP requiring a different set of minimum qualifications, upon every election/re-election/appointment/promotion in a prescribed form and for first time directors/officers within a particular bank/banking group whose election/appointment requires Monetary Board/SES Committee confirmation, the duly notarized authorization form per *Appendix 80*, within twenty (20) banking days from the date of election/re-election of the directors/meeting of the board of directors in which the officers are appointed/promoted, in accordance with *Appendix 7*.

The bio-data shall be updated and submitted in cases of change of name due to change in civil status and change of residential address, within twenty (20) banking days from the date the change occurred, and in cases of requests for prior Monetary Board approval of interlocks.

For other officers below the rank of SVP other than the treasurer, trust officer, and heads of internal audit, risk management, and compliance functions regardless of rank, the BSFI shall not be required to submit their bio-data to the Bangko Sentral.

- b. The bank shall, however, keep a complete record of the bio-data of all its directors and officers and shall maintain a system of updating said records which shall be made available during on-site examination or when required by the Bangko Sentral for submission for off-site verification.
- c. Banks shall also submit to the appropriate supervising department of the Bangko Sentral, a duly notarized list of the incumbent members of the board of directors and officers (president or equivalent rank, down the line, format attached as *Appendix 102*, within twenty (20) banking days from the annual election of the board of directors as provided in the bank's by-laws, in accordance with *Appendix 7*.
- d. If after evaluation, the appropriate supervising department of the Bangko Sentral shall find grounds for disqualification, the director/officer so elected/re-elected/appointed/promoted may be recommended for removal from office even if he/she has assumed the position to which he/she was elected/re-elected/appointed/promoted pursuant to Section 16 of R.A. No. 8791.

In the case of the independent directors, the bio-data shall be accompanied by a certification under oath from the director concerned that he is an independent director as defined under Item "g" of Sec. 131 (*Definition of terms*).

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For purposes of this Section, QBs shall refer to investment houses, finance companies, trust entities and all other NBFIs with quasi-banking functions while NBFIs shall refer to investment houses, finance companies, trust entities, insurance companies, securities dealers/brokers, credit card companies, non-stock savings and loan associations (NSSLAs), holding companies, investment companies, government NBFIs, asset management companies, insurance agencies/brokers, venture capital corporations, FX dealers, money changers, lending investors, pawnshops, fund managers, mutual building and loan associations, remittance agents and all other NBFIs without quasi-banking functions.

a. *Interlocking directorships*

While concurrent directorship may be the least prejudicial of the various relationship cited in this Section to the interests of the FIs involved, certain measures are still necessary to safeguard against the disadvantages that could result from indiscriminate concurrent directorship.

- (1) Except as may be authorized by the Monetary Board or as otherwise provided hereunder, there shall be no concurrent directorships between banks or between a bank and a QB or an NBF.
- (2) Without the need for prior approval of the Monetary Board, concurrent directorships between entities not involving an investment house shall be allowed in the following cases:
 - (a) Banks not belonging to the same category: *Provided*, That not more than one (1) bank shall have quasi-banking functions;
 - (b) A bank and an NBF;
 - (c) A bank without quasi-banking functions and a QB; and
 - (d) A bank and one (1) or more of its subsidiary bank/s, QB/s and NBFI/s.

For purposes of the foregoing, a husband and his wife shall be considered as one (1) person.

b. *Interlocking directorships and officerships*

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In order to prevent any conflict of interest resulting from the exercise of directorship coupled with the reinforcing influence of an officer's decision-making and implementing powers, the following rules shall be observed:

- (1) Except as may be authorized by the Monetary Board or as otherwise provided hereunder, there shall be no concurrent directorship and officership between banks or between a bank and a QB or an NBFi; and
- (2) Without the need for prior approval of the Monetary Board, concurrent directorship and officership between a bank and one (1) or more of its subsidiary bank/s, QB/s and NBFi/s, other than investment house/s, shall be allowed.

c. Interlocking officerships

A concurrent officership in different FIs may present more serious problems of self-dealing and conflict of interest. Multiple positions may result in poor governance or unfair competitive advantage. Considering the full-time nature of officer positions, the difficulties of serving two (2) offices at the same time, and the need for effective and efficient management, the following rules shall be observed:

As a general rule, there shall be no concurrent officerships between banks or, between a bank and a QB or a NBFi.³

In the case of non-governmental organizations (NGOs)/foundations that are engaged in retail microfinance operations, as defined under Item "e(8)" of Sec. 341 (*Definition of terms*), BSFI officers are prohibited from holding officership position or other positions that may cause them to be involved in the daily microfinance operations of related NGOs/foundations.

However, subject to prior approval of the Monetary Board, concurrent officerships, may be allowed in the following cases:

- (1) Between a bank and not more than two (2) of its subsidiary bank/s, QB/s, and NBFi/s, other than investment house/s; or
- (2) Between a bank and not more than two (2) of its subsidiary QB/s and NBFi/s; or
- (3) Between two (2) banks, or between a bank and a QB or an NBFi, other than an investment house: *Provided*, That at least twenty percent (20%) of the equity of each of the banks, QBs or NBFIs is owned by a holding company or a bank/QB and the interlocking arrangement is necessary for the holding company or the bank/QB to provide technical expertise or

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managerial assistance to its subsidiaries/affiliates.
Aforementioned concurrent officerships may be allowed, subject to the following conditions:

- (a) that the positions do not involve any functional conflict of interests;
 - (b) that any officer holding the positions of president, chief executive officer, chief operating officer or chief financial officer or their equivalent may not be concurrently appointed to any of said positions or their equivalent;
 - (c) that the officer involved, or his spouse or any of his relatives within the first degree of consanguinity or affinity or by legal adoption, or a corporation, association or firm wholly- or majority-owned or controlled by such officer or his relatives enumerated above, does not own in his/its own capacity more than twenty percent (20%) of the subscribed capital stock of the entities in which the bank has equity investments; and
 - (d) that where any of the positions involved is held on full-time basis, adequate justification shall be submitted to the Monetary Board; or
- (4) Concurrent officership positions in the same capacity which do not involve management functions, i.e., internal auditor, corporate secretary, assistant corporate secretary and security officer, between a bank and one or more of its subsidiary QB/s and NBFIs, or between bank/s, QB/s and NBFIs, other than investment house/s: *Provided*, That at least twenty percent (20%) of the equity of each of the banks, QBs and NBFIs is owned by a holding company or by any of the banks/QBs within the group.
- (5) Concurrent officership positions as corporate secretary or assistant corporate secretary between bank/s, QB/s and NBFIs, other than investment house/s, outside of those covered under Item "c(4)" above: *Provided*, That proof of disclosure to and consent from all of the involved FIs, on the concurrent officership positions, shall be submitted to the Bangko Sentral.

For purposes of this Section, members of a group or committee, including sub-groups or sub-committees, whose duties include functions of management such as those ordinarily performed by regular officers, shall likewise be considered as officers.

It shall be the responsibility of the corporate governance committee to conduct an annual performance evaluation of the board of directors and senior management. When a director or

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officer has multiple positions, the committee should determine whether or not said director or officer is able to and has been adequately carrying out his/her duties and, if necessary, recommend changes to the board based upon said performance/review.

The general principles and standards that will govern the business relationships between banks and their related NGOs/foundations engaged in retail microfinance are found in *Appendix 23*.

d. *Secondment*

A BSFI may second or transfer its employee to another entity for temporary assignment: *Provided*, That it has a board-approved policy on secondment and that the transfer of the employee is approved by the appropriate authority of the BSFI: *Provided, further*, That the secondee or the transferred employee shall relinquish all his duties, responsibilities, and authorities in the BSFI, and shall receive remuneration and other incentives from the host entity. BSFIs shall submit a notice within ten (10) banking days from the approval of secondments of employees to the appropriate supervising department of the Bangko Sentral.

e. *Representatives of government*

The provisions of this Section shall apply to persons appointed to such positions as representatives of the government or government-owned or controlled entities holding voting shares of stock of banks unless otherwise provided under existing laws.

Rules of procedures on administrative cases involving directors and officers of BSFIs. The rules of procedure on administrative cases involving directors and officers of BSFIs are shown in *Appendix 63* and *Appendix 135*.

(Circular Nos. 969 dated 22 August 2017, 953 dated 27 March 2017, 887 dated 07 October 2015, and 851 dated 30 September 2014)

Footnotes

1. As defined under Subsec. 4102T.1 of the MORNBFIT
2. As defined under Subsec. 4102T.1 of the MORNBFIT
3. BSFI officers, who concurrently held officership position or other positions that caused them to be involved in the daily microfinance operations of related NGOs/foundations, were given up to 30 September 2011 to relinquish such officer position.