

181 CONDUCTING BUSINESS IN AN UNSAFE OR UNSOUND BANKING

Whether a particular activity may be considered as conducting business in an unsafe or unsound banking, all relevant facts must be considered. An analysis of the impact thereof on the bank's operations and financial conditions must be undertaken, including evaluation of capital position, asset condition, management, earnings posture and liquidity position.

In determining whether a particular act or omission, which is not otherwise prohibited by any law, rule or regulation affecting banks, may be deemed as conducting business in an unsafe or unsound banking, the Monetary Board, upon report of the head of the supervising or examining department based on findings in an examination or a complaint, shall consider any of the following circumstances:

- a. The act or omission has resulted or may result in material loss or damage, or abnormal risk or danger to the safety, stability, liquidity or solvency of the institution;
- b. The act or omission has resulted or may result in material loss or damage or abnormal risk to the institution's depositors, creditors, investors, stockholders, or to the Bangko Sentral, or to the public in general;
- c. The act or omission has caused any undue injury, or has given unwarranted benefits, advantage or preference to the bank or any party in the discharge by the director or officer of his duties and responsibilities through manifest partiality, evident bad faith or gross inexcusable negligence; or
- d. The act or omission involves entering into any contract or transaction manifestly and grossly disadvantageous to the bank, whether or not the director or officer profited or will profit thereby. The list of activities which may be considered unsafe or unsound is shown in *Appendix 49*.

Reportorial requirement. For purposes of determining market median rates on deposits and monitoring banks that rely excessively on large, high-cost or volatile deposits/borrowings specified in Item "g" of *Appendix 49*, all banks shall submit a quarterly report on bank deposit interest rates which shall be included in the report of selected branch accounts.

Guidelines on reportorial requirement for bank interest rates is provided in *Appendix 108*.

(Circular No. 848 dated 08 September 2014)