

411 AUTHORITY TO PERFORM TRUST AND OTHER FIDUCIARY BUSINESS

With prior approval of the Monetary Board, banks may engage in trust and other fiduciary business under Chapter IX of R.A. No. 8791 (The General Banking Law of 2000).

If a bank is found to engage in unauthorized trust and other fiduciary business and/or investment management activities, whether as its primary, secondary or incidental business, the Monetary Board may impose administrative sanctions against such bank or its principal officers and/or majority stockholders or proceed against them in accordance with law.

The Monetary Board may take such action as it may deem proper such as, but may not be limited to, requiring the transfer or turnover of any trust and other fiduciary and/or investment management account (IMA) to duly incorporated and licensed entities of the choice of the trustor, beneficiary or client, as the case may be.

No bank shall advertise or represent itself as being engaged in trust and other fiduciary business or in investment management activities or represent itself as trustee or investment manager or use words of similar import; and/or use in connection with its business title the words *trust*, *trust corporation*, *trust company*, *trust plan* or words of similar import, without having obtained the required authority to do so.

Application for authority to perform trust and other fiduciary business. Banks desiring to perform trust and other fiduciary business shall file an application with the appropriate supervising department of the Bangko Sentral. The application shall be signed by the bank's president or officer of equivalent rank and shall be accompanied by the following documents:

- a. Certified true copy of the resolution of the institution's board of directors authorizing the application; and
- b. A certification signed by the president or the officer of equivalent rank that the institution has complied with all conditions/prerequisites for the grant of authority to perform trust and other fiduciary business.

Required capital. Banks applying for authority to perform trust and other fiduciary business must have minimum capital accounts as follows:

UBs/KBs. The amount required under Sec. 121, or such amount as may be required by the Monetary Board in the future.

Branches of foreign banks. The amount required under Sec. 103 or such amount as may be required by the Monetary Board in the future.

411 AUTHORITY TO PERFORM TRUST AND OTHER FIDUCIARY BUSINESS

TBs. P650.0 million or such amounts as may be required by the Monetary Board in the future.

Prerequisites for engaging in trust and other fiduciary business. Before it may engage in trust and other fiduciary business, a bank shall comply with the following requirements:

- a. The applicant has been duly licensed or incorporated as a bank or created as such by special law or charter;
- b. The articles of incorporation or governing charter of the institution shall include among its powers or purposes, acting as trustee or administering any trust or holding property in trust or on deposit for the use, or in behalf of others;
- c. The by-laws of the institution shall include among other things, provisions on the following;
 - (1) The organization plan or structure of the department, office or unit which shall conduct the trust and other fiduciary business of the institution;
 - (2) The creation of a trust committee, the appointment of a trust officer and subordinate officers of the trust department; and
 - (3) A clear definition of the duties and responsibilities as well as the line and staff functional relationships of the various units, officers and staff within the organization;
- d. The bank's operation during the preceding calendar year and for the period immediately preceding the date of application has been profitable;
- e. The bank is well capitalized whose risk-based capital adequacy ratio is not lower than twelve percent (12%) at the time of filing the application;
- f. It has not incurred net weekly reserve deficiencies during the eight (8)-week period immediately preceding the date of application;
- g. It has generally complied with banking laws, rules and regulations, orders or instructions of the Monetary Board and/or Bangko Sentral Management in the last two (2) preceding examinations prior to the date of application, particularly on the following:
 - (1) election of at least two (2) independent directors;
 - (2) attendance by every member of the board of directors in a special seminar for board of directors conducted or accredited by the Bangko Sentral;
 - (3) the ceilings on credit accommodations to DOSRI;
 - (4) liquidity floor requirements for government deposits;

411 AUTHORITY TO PERFORM TRUST AND OTHER FIDUCIARY BUSINESS

- (5) single borrower's limit; and
- (6) investment in bank premises and other fixed assets;
- h. It maintains adequate provisions for probable losses commensurate to the quality of its asset portfolio but not lower than the required allowance for credit losses as determined by the Bangko Sentral;
- i. It does not have float items outstanding for more than sixty (60) calendar days in the "*Due From/To Head Office/Branches/Other Offices*" accounts and the "*Due from Bangko Sentral*" account exceeding one percent (1%) of the total resources as of date of application;
- j. It has no past due obligations with the Bangko Sentral or with any government financial institution;
- k. It has established a risk management system appropriate to its operations characterized by clear delineation of responsibility for risk management, adequate risk measurement systems, appropriately structured risk limits, effective internal controls and complete, timely and efficient risk reporting system;
- l. It has a CAMELS composite rating of at least "3" in the last regular examination with management rating of not lower than "3"; and
- m. It has neither unpaid assessment due nor past due obligations with the PDIC.

Compliance with the foregoing as well as with other requirements under existing regulations shall be maintained up to the time the trust license is granted. A bank that fails in this respect shall be required to show compliance for another test period of the same duration.

Pre-operating requirements. A bank authorized to engage in trust and other fiduciary business shall, before engaging in actual operations, submit to the Bangko Sentral the following:

- a. Government securities acceptable to the Bangko Sentral amounting to P500,000 as minimum basic security deposit for the faithful performance of trust and other fiduciary duties required under Sec. 417;
- b. Organization chart of the trust department which shall carry out the trust and other fiduciary business of the bank; and
- c. Names and positions of individuals designated as chairman and members of the trust committee,

411 AUTHORITY TO PERFORM TRUST AND OTHER FIDUCIARY BUSINESS

trust officer and other subordinate officers of the trust department with their respective bio-data and statement of duties and responsibilities.