

## **RULES AND PROCEDURES ON ADMINISTRATIVE CASES INVOLVING DIRECTORS AND OFFICERS OF BSFI**

***(Appendix to Sec. 137 on Rules of procedures on administrative cases involving directors and officers of BSFI)***

### **RULE I - GENERAL PROVISIONS**

Section 1. **Title.** – These Rules shall be known as the ***Bangko Sentral ng Pilipinas Revised Rules of Procedure on Administrative Cases Involving Directors and Officers of Bangko Sentral - Supervised Financial Institutions.***

Section 2. **Applicability.** – These Rules shall apply to administrative cases filed with the Office of Special Investigation (OSI), Bangko Sentral, involving directors and officers of BSFI in relation to Section 37 of Republic Act No. 7653 (The New Central Bank Act) and Section 16 of Republic Act No. 8791 (The General Banking Law of 2000).

These Rules shall also apply to administrative cases arising out of the fact finding investigation conducted by OSI.

Complaints against BSFI, as a juridical entity shall not be covered by these Rules.

Supervisory and enforcement actions shall also not be covered by these Rules.

Section 3. **Nature of Proceedings.** –The proceedings under these Rules shall be summary in nature and shall be conducted without necessarily adhering to the technical rules of procedure and evidence applicable to judicial trials .

In the absence of applicable provision in these Rules, and pursuant to the summary nature of these proceedings, the pertinent provisions of the Rules of Court may be applied suppletorily.

Section 4. **Appearance of Counsel.** – The parties, if they so desire, may be assisted or represented by counsel.

Section 5. **Confidentiality of Proceedings.** – Proceedings under these Rules shall be confidential and shall not be disclosed to third parties, except to the extent as may be provided under existing laws. All communications relating to these proceedings shall be made in writing, copy furnished the other party.

### **RULE II- DEFINITION OF TERMS**

Section 6. **Adoption.** – The terms as defined in the Manual of Regulations are hereby adopted in these Rules.

### **RULE III - PLEADINGS AND NOTICES**

Section 7. **Complaint.** – The complaint shall be in writing, and subscribed and sworn to by the complainant. No anonymous complaint shall be entertained.

Section 8. **Where to file.** – The complaint shall be filed with OSI, in as many copies as there are respondents, including two (2) copies for OSI.

Section 9. **Contents of the Complaint.** -The complaint shall contain the ultimate facts of the case, and shall include the following:

- a. The full name and address of the complainant;
- b. The full name and address of the respondent;
- c. The position of the respondent, in the BSFI;
- d. A specification of the charges against the respondent;
- e. A statement of the material facts;
- f. A statement as to whether or not a similar complaint has been filed with the Bangko Sentral, the Supreme Court, the Court of Appeals, any other tribunal or agency;
- g. Except for complaints arising from factual investigation conducted by the OSI or the appropriate supervising sector of the Bangko Sentral a statement that the complaint was previously referred to appropriate supervising department of the Bangko Sentra for appropriate action of the Financial Institution where the bank officer or director complained of belongs, with a copy of the response of said Financial Institution that failed to settle or resolve the complaint, or upon the lapse of thirty {30} calendar days from referral of the complaint by the appropriate supervising department of the Bangko Sentral to the Financial Institution in case of the latter's failure or refusal to respond.

The complaint shall include copies of documents and sworn statements of witnesses, if any, in support of the complaint.

Section 10. **Action on the Complaint.** – Upon a determination that the complaint is sufficient in form and substance, and complies with Rule III, Section 9 of – these Rules, OSI shall issue a notice requiring the respondent to file a sworn answer to the complaint.

However, if the complaint fails to comply with the immediately preceding section, OSI shall dismiss the complaint, without prejudice, or take such appropriate action as may be warranted.

Section 11. **Answer.** – Within ten (10) days from receipt of the notice to file answer and a copy of the complaint, respondent shall submit a sworn answer, copy of which shall be furnished the complainant.

The respondent, in the sworn answer, shall specifically admit or deny all the charges specified in the complaint, including evidence in support thereof.

The failure of the respondent to file an answer within the prescribed period shall be considered as a waiver of the respondent's right to file the same, and the case shall be resolved based solely on the evidence presented by the complainant.

Section 12. **Prohibited Pleadings and Motions.** – The following pleadings or motions are prohibited:

- (i) Motion to dismiss, except on the ground of lack of jurisdiction;
- (ii) Motion for bill of particulars;
- (iii) Motion for the issuance of subpoena duces tecum and/or ad testificandum, provisional remedies, modes of discovery, and similar reliefs;
- (iv) Dilatory motions for postponement or extension of time; and
- (v) Other pleadings or motions of a similar nature.

#### **RULE IV- MODES OF SERVICE**

Section 13. **Modes of Service.** – Service of pleadings, motions, orders or processes may be made by personal delivery, registered mail, courier, or other modes of service as defined under this Rule.

Personal service shall be made by delivering to the parties a copy of the pleading, motion, order or process.

Service by registered mail or courier shall be made by sending a copy of the pleading, motion, order or process in a sealed envelope, addressed to the parties' residence, office or regular place of business.

Section 14. **Other modes of service.** – For processes or pleadings other than the notice to file answer and a copy of the complaint, service may also be made by electronic mail or other electronic form that

provides a record of delivery.

Section 15. ***Completeness of service.*** – Personal service is complete upon actual delivery. Service by registered mail shall be deemed complete upon actual receipt by the parties, or after five (5) calendar days from the date of receipt of the first notice of the postmaster, whichever date is earlier.

Service made via courier shall be deemed complete on the date of the actual delivery by the courier.

For other modes of service, the date indicated in the electronic record of delivery or the transmission report shall be the effective date of receipt.

#### **RULE V- JURISDICTION OVER THE RESPONDENT**

Section 16. ***Acquisition of jurisdiction over the respondent.*** – Jurisdiction over the respondent is acquired once service of the notice to file answer and a copy of the complaint is completed.

Should the respondent refuse to receive the notice to file answer and a copy of the complaint, the service may be effected by leaving the same at the respondent's residence, office or regular place of business.

Should the respondent no longer be connected with the BSFI at the time of the filing of the complaint, service may be effected by leaving the notice to file answer and a copy of the complaint at, or sending them to, the respondent's last known address.

#### **RULE VI - PROCEEDINGS BEFORE THE HEARING OFFICER**

Section 17. ***Submission of Position Papers.*** – The Hearing Officer shall direct the parties to simultaneously submit their verified position papers with supporting documents and affidavits, if any, on a date to be set by the Hearing Officer.

Section 18. ***Submission of Comment.*** – A party may file a comment on the position paper within ten (10) calendar days from receipt thereof.

Section 19. ***Issuance of Clarificatory Order.*** – The Hearing Officer may issue a clarificatory order to elicit facts or information necessary for the prompt and just resolution of the administrative case.

#### **RULE VII - RESOLUTION OF THE CASE**

Section 20. **Submission of Report.** – Within sixty (60) calendar days from issuance of an Order declaring that the case is submitted for resolution, the Hearing Officer shall submit a report to the Monetary Board, which shall contain a recommendation stating clearly and distinctly the findings of facts, determination of issues and conclusions of law on which it is based. The period of time to resolve the case may be extended, for good cause, only upon approval of the General Counsel.

In case the report recommends the dismissal of the Complaint, the Report shall be submitted for approval by the Governor. The dismissal of the Complaint shall not be subject to appeal to the Monetary Board.

Section 21. **Issuance and Finality of Resolution.** – After consideration of the report, the Monetary Board shall issue its resolution which shall become final and executory upon the lapse of fifteen (15) calendar days from receipt thereof by the parties, unless a motion for reconsideration has been timely filed.

Section 22. **Motion for Reconsideration.** – A motion for reconsideration, on the ground of grave errors of fact or law, may be filed by the parties within fifteen (15) calendar days from receipt of the resolution with the Monetary Board.

No second motion for reconsideration shall be allowed.

Section 23. **Enforcement.** – The resolution shall be referred to the department of the Bangko Sentral concerned, for appropriate action.

#### **RULE VIII - APPEAL**

Section 24. **Appeal.** – An appeal from the resolution of the Monetary Board may be filed before the Court of Appeals within the period and in the manner provided under Rule 43 of the Rules of Court.

Interlocutory orders of the OSI shall not be subject to appeal to the Governor or the Monetary Board.

Section 25. **Effect of Appeal.** – The appeal shall not stay the enforcement of the resolution sought to be reviewed, unless the Court of Appeals shall direct otherwise upon such terms as it may deem just.

#### **RULE IX - MISCELLANEOUS PROVISIONS**

Section 26. **Repeal.** – All existing rules, regulations, orders or circulars or any part thereof inconsistent with these Rules are hereby repealed, amended or modified accordingly.

Section 27. **Separability Clause.** – If any part of these Rules is declared unconstitutional or illegal, the other parts or provisions shall remain valid.

Section 28. **Effectivity.** – These Rules shall take effect on 1 January 2019.

Section 29. **Transitory Provision.** -All pending administrative cases filed with the Supervised Banks Complaints Evaluation Group (SBCEG), Office of the General Counsel and Legal Services, shall be resolved by the SBCEG in accordance with the provisions of Sec. and App, prior to the effectivity of these Rules. Upon the effectivity of these Rules, all pending cases with the SBCEG shall be resolved in accordance with the new Rules in so far as applicable.

*(Circular No. 1012 dated 12 September 2018)*