



Bangko Sentral ng Pilipinas

OFFICE OF THE GOVERNOR

Circular No. 454

Series of 2004

Pursuant to Monetary Board Resolution Nos. 1278 and 1328 dated 09 September 2004 and 16 September 2004, respectively, Circular No. 398, Series of 2003 governing the credit card operations of banks and subsidiary credit card companies is hereby amended as follows:

Section 1. Section 4337Q shall be added to the Manual of Regulations for Non-Bank Financial Institutions (MORNBFI) so as to incorporate the provisions of Circular No. 398, Series of 2003, as amended.

Section 2. The second paragraph of Sections X320 and 4301N **Credit Card Operations; General Policy** of the Manual of Regulations for Banks (MORB) and the MORNBFI, respectively, is hereby amended to read as follows:

"Towards this end, the rules and regulations that shall govern the credit card operations of banks and subsidiary/AFFILIATE credit card companies, aligned with global best practices, are hereby issued, as follows:"

Section 3. Banks and/or their subsidiary credit card companies as mentioned under Subsecs. X320.2, X320.3, X320.4, X320.9, X320.10, X320.11 and X320.13 of the MORB and Subsecs. 4301N.2, 4301N.3, 4301N.4, 4301N.9, 4301N.10, 4301N.11, and 4301N.13 of the MORNBFI or whenever mentioned in Circular No. 398 shall refer to banks and/or their subsidiary/AFFILIATE credit card companies.

Section 4. Item C, Section 3 of Circular No. 398, Series of 2003 on Appendix 18 - Guidelines in Identifying and Monitoring Problem Loans and Other Risk Assets and Setting up of Allowance for Probable Losses (Appendix to Sec. X302) of the MORB shall form part of Appendix ____ of N Regulations of the MORNBFI.

For purposes of said Appendix ____, the provisions on the classification of loans and allowance for probable losses under Appendix Q-10 of the MORNBFI shall apply.

Section 5. The following definitions of subsidiary and affiliate are hereby added to **Definition of Terms** under Subsecs. X320.1 and 4301N.1 of the MORB and the MORNBFI, respectively:

PANANALAPING MATATAG, BANSANG PANATAG

- f) "*Subsidiary*" refers to a corporation or firm more than fifty percent (50%) of the outstanding voting stock of which is directly or indirectly owned, controlled or held with the power to vote by a bank or other financial institution.
- g) "*Affiliate*" refers to an entity linked directly or indirectly to a bank or other financial institution *through any one or a combination of any of the following*:
 - 1) Ownership, control or power to vote, *whether by permanent or temporary proxy or voting trust, or other similar contracts, by a bank or other financial institution of at least 10% or more of the outstanding voting stock of the entity, or vice-versa*;
 - 2) Interlocking directorship or officership, except in cases involving independent directors as defined under existing regulations;
 - 3) Common stockholders owning *at least* ten percent (10%) of the outstanding voting stock of each financial institution and the entity; or
 - 4) Management contract or any arrangement granting power to the bank or other financial institution to direct or cause the direction of management and policies of the entity, or vice-versa.

Section 6. Item (k) is hereby added to Subsecs. X320.4 and 4301N.4 **Information to be disclosed** of the MORB and MORNBF1, respectively, to read, as follows:

- k) For transactions made in foreign currencies and/or outside the Philippines, for dual currency accounts (peso and dollar billings), as well as payments made by credit cardholders in any currency other than the billing currency: the application of payments; the manner of conversion from the transaction currency and payment currency to Philippine pesos or billing currency; definition or general description of verifiable blended exchange/conversion rates (e.g., MASTERCARD and/or VISA International rates on the day the item was processed/posted to the billing statement, plus mark-up, if any) including conversion commission; and/or other currency conversion charges and costs arising from the purchase by the card company of foreign currency to settle the customer's transactions shall also be disclosed.

Section 7. Subsecs. X320.14 of the MORB and 4301N.14 of the MORNBF1 are hereby renumbered as Subsecs. X320.15 and 4301N.15, respectively, and new provisions are hereby provided under Subsecs. X320.14 and 4301N.14 to read, as follows:

Unfair Collection Practices. Banks, subsidiary/affiliate credit card companies, collection agencies, counsels and other agents may resort to all reasonable and legally permissible means to collect amounts due them under the credit card agreement: *Provided*, That in the exercise of their rights and performance of duties, they must observe good faith and reasonable conduct and refrain from engaging in unscrupulous or untoward acts. Without limiting the general application of the foregoing, the following conduct is a violation of this Subsection:

- a) the use or threat of violence or other criminal means to harm the physical person, reputation, or property of any person;
- b) the use of obscenities, insults, or profane language which amount to a criminal act or offense under applicable laws;
- c) disclosure of the names of credit cardholders who allegedly refuse to pay debts, except as allowed under Subsec. X320.9 and 4301N.9;
- d) threat to take any action that cannot legally be taken;
- e) communicating or threat to communicate to any person credit information which is known to be false, including failure to communicate that a debt is being disputed;
- f) any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a cardholder; and
- g) making contact at unreasonable/inconvenient times or hours which shall be defined as contact before 6:00 A.M. or after 10:00 P.M., unless the account is past due for more than sixty (60) days or the cardholder has given express permission or said times are the only reasonable or convenient opportunities for contact.

Section 8. The following General Ledger accounts shall be added to the Manual of Accounts for banks and non-banks:

1. Restructured Loans – Credit Card Receivables (GL ACCT CODE)

This represents credit card receivables that have been renegotiated or modified to either lengthen or postpone the original scheduled installment payments, or substantially alter the original terms and conditions of the credit card agreement due to credit quality concerns. This account does not include receivables whose original terms and conditions are modified at the instance of the cardholder but which have not shown weaknesses/deterioration at the time of renegotiation: *Provided*, That any subsequent renegotiation or modification of the terms and conditions of repayment shall be deemed restructuring which shall warrant the classification and reporting under this account of the concerned receivable.

Sub-control account

2. Past Due Restructured Loans – Credit Card Receivables (GL ACCT CODE)

This represents restructured credit card receivables which are considered past due under existing rules and regulations. The loan shall remain in this account until fully paid, arrangements are formalized for its renewal/ restructuring or collection case has been filed in court.

3. Items in Litigation – Restructured Loans - Credit Card Receivables (GL ACCT CODE)

This represents restructured credit card receivables for which collection cases have been filed in court. The loan shall remain in this account during the pendency of the proceedings, until full payment, restructuring of the obligation, or such other disposition is made as would cause such proceedings to cease. All expenses incurred incidental to the litigation shall be charged to operations and lodged under "Litigation/Assets Acquired Expenses" account. Corresponding memorandum entries for the expenses shall be made on the individual subsidiary ledger of the account concerned.

This Circular shall take effect fifteen (15) days following its publication either in the Official Gazette or in a newspaper of general circulation.

FOR THE MONETARY BOARD:



ARMANDO L. SURATOS
Officer-In-Charge

24 Sept. 2004