

**[ PDIC REGULATORY ISSUANCE NO. 2005-02,  
June 29, 2005 ]**

**RULES ON FACT-FINDING INVESTIGATION OF FRAUD,  
IRREGULARITIES AND ANOMALIES COMMITTED IN BANKS**

Pursuant to Section 9 (b-1) of Republic Act No. 3591, as amended, the Board of Directors of PDIC, by virtue of Resolution No. 2005-05-060 dated May 25, 2005, approved the adoption and promulgation of the following rules to govern PDIC's exercise of its fact-finding investigation powers.

**Rule 1. General Provisions**

*SECTION 1. Title* - These Rules shall be known as the PDIC Rules on Fact-Finding Investigation of Fraud, Irregularities and Anomalies Committed in Banks.

*SECTION 2. Coverage* - These Rules shall be applicable to all fact-finding investigations on fraud, irregularities and/or anomalies committed in banks that are conducted by PDIC based on: (a) complaints from depositors or other government agencies; and/or (b) final reports of examinations of banks conducted by the Bangko Sentral ng Pilipinas and/or PDIC.

*SECTION 3. Definition of Terms* - The terms hereunder shall be construed as follows:

- a. "BSP" shall refer to Bangko Sentral ng Pilipinas.
- b. "Bank" or "banking institution" are synonymous and interchangeable and shall refer to an entity authorized by the Monetary Board to engage in the lending of funds obtained from the public through the receipt of deposits and whose deposits are insured with PDIC.
- c. "PDIC Board" shall refer to PDIC's Board of Directors.
- d. "Charter" shall refer to Republic Act No. 3591, as amended.
- e. "Complaint" shall be as defined in Section 3, Rule 3 of these Rules.
- f. "Depositor" shall refer to a natural or juridical person who has a deposit with a bank subject of a complaint.
- g. "Examiner" shall refer to a PDIC officer, employee or agent appointed by the PDIC Board to examine and evaluate the condition/overall soundness of a bank.
- h. "Final Report of Examination" shall be as defined in Section 2, Rule 3.
- i. "Fraud" shall refer to anything calculated to deceive, including acts, omissions and concealment involving a breach of legal or equitable duty, trust,

or confidence justly reposed, resulting in damage to another, or by which an undue and unconscientious advantage is taken of another.

j. "General Counsel" shall refer to the General Counsel of PDIC.

k. "Government Agency", when used herein, shall refer to a regulatory agency or an agency expressly vested with jurisdiction to regulate, administer or adjudicate matters affecting substantial rights and interests of private persons.

l. "Investigation" shall refer to fact-finding examination, study or inquiry for determining whether the allegations in a complaint or findings in a final report of examination may properly be the subject of an administrative, criminal or civil action.

m. "Investigator" shall refer to a PDIC officer, employee or agent appointed by the PDIC Board to conduct a fact-finding investigation under these rules.

n. "Irregularity" or "Anomaly" shall refer to acts or omissions which do not constitute fraud but which may: (a) constitute an unsound or unsafe banking practice as may be defined by the BSP and/or the PDIC Board; (b) be a violation of the Charter, PDIC rules, regulations or instructions, and/or any written condition imposed by PDIC in connection with a transaction or grant by PDIC; and/or (c) not conform to what is generally considered or accepted as proper or right practice in the banking industry, or deviate/s from a general or common course, rule, practice or method prescribed by law or regulation.

o. "PDIC" shall refer to the Philippine Deposit Insurance Corporation.

p. "President and Chief Executive Officer" shall refer to the President and Chief Executive Officer of PDIC.

*SECTION 4. Proceedings in Investigations* - Being non-adversarial in nature, fact-finding investigation shall not adhere to technical rules of procedure.

*SECTION 5. Confidential in Nature* - The entire fact-finding investigation proceedings under these Rules shall be confidential in nature; except, when there is a finding in the investigation that may properly be the subject of a criminal or civil action. Further, any disclosure regarding the fact-finding investigation or the results thereof shall be in accordance with the provisions of Republic Act No. 3591, as amended.

## Rule 2. Scope and Jurisdiction

*SECTION 1. Scope of the Investigation* - Fact-finding Investigations shall be limited to the particular acts or omissions subject of a complaint or a Final Report of Examination.

*SECTION 2. Jurisdiction to Conduct Investigation of Fraud, Irregularities and Anomalies* - PDIC shall exercise jurisdiction over complaints filed by depositors or other government agencies and/or recommendations for the conduct of fact-finding investigation contained in Final Reports of Examination or any adverse finding stated therein involving fraud, irregularities and/or anomalies committed in bank/s that is/are:

a. Likely to cause insolvency or substantial dissipation of assets or earnings of the bank;

- b. Likely to seriously weaken the condition of the bank;
- c. Likely to seriously prejudice the interests of the depositors and PDIC;
- d. Likely to expose the deposit insurance fund to risks or PDIC to the payment of deposit insurance; and/or
- e. In violation of the PDIC Charter, orders, rules, regulations or instructions and/or any written condition imposed by the Corporation in connection with a transaction or grant by the Corporation.

*SECTION 3. Other Types of Fraud, Irregularities and Anomalies* - Complaints and Final Reports of Examination involving fraud, irregularities and/or anomalies other than those mentioned in Section 2 of this Rule shall be referred to the appropriate government agency or authority.

### Rule 3. Pre-Requisites and Initiatory Acts

*SECTION 1. Authorization by the PDIC Board* - In all cases, a fact-finding investigation shall be conducted only upon authorization by the PDIC Board acting on the recommendation contained in a Final Report of Examination or based on any adverse finding stated therein, and/or a complaint from a depositor or government agency. The Board shall likewise authorize the filing of criminal, civil, and/or administrative charges, if warranted. For this purpose, said authority is delegated to the President and Chief Executive Officer or the General Counsel in accordance with existing PDIC policies.

*SECTION 2. Final Report of Examination* - A Final Report of Examination shall refer to the document approved by the PDIC Board or the Monetary Board containing a written statement/narration of the findings and/or recommendations resulting from an examination of a bank.

A Final Report of Examination of examiners of PDIC and/or BSP shall contain the following:

- a. If possible, full name(s) and address(es) of the bank and/or its directors, officers, employees or agents or such description as would identify who appear to be responsible for the commission of fraud, irregularities and/or anomalies; and
- b. A narration of the relevant and material facts which shows the fraudulent, irregular or anomalous acts or omissions allegedly committed in a bank.

In addition to the foregoing, copies of relevant documents, if available, should accompany the Final Report of Examination.

*SECTION 3. Complaint* - A complaint is a verified statement from a depositor alleging the commission or omission of certain acts which constitute fraud, irregularity or anomaly in a bank. The complaint shall follow the form attached hereto as Annex "A"\* and/or contain the following:

- a. Full name and address of the complainant;
- b. Full name and address of the bank and/or the names or sufficient description that will identify the directors, officers, employees and/or agents thereof who appear to be responsible for the commission of fraud, irregularities and/or anomalies;