

**[PDIC REGULATORY ISSUANCE NO. 2005-03,
June 29, 2005]**

PDIC ADMINISTRATIVE OFFENSES, FINES AND PROCEDURE

Pursuant to Section 21 (g) 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 promulgation of the PDIC Rules on Administrative Offenses, Fines and Procedure in Administrative Cases.

Part I - Administrative Offenses and Fines

SECTION 1. Definition of Terms - For purposes of this Regulatory Issuance, the following terms shall mean:

- a. "Administrative Fine" shall refer to the amount of money which a bank and/or any of its director(s), officer(s), employee(s) or agent(s) is made to pay for committing any of the administrative offenses defined in this Regulatory Issuance.
- b. "Deposit Records" shall include, but not be limited to, subsidiary ledgers of deposit liabilities; duplicate copies of time certificates of deposits; deposit agreements (particularly with respect to joint accounts); signature cards; registers of logbooks used in connection with the issuance of new deposit accounts; individual files maintained by the bank for depositors (mainly for corporate accounts), if any; computer systems and data bases (including system documentation/manuals) pertaining to deposit operations; the deposit liabilities control ledgers which are part of the General Ledger of the bank; deposit/withdrawal slips; debit/credit memos; and other bank records having relevance to deposit liabilities.
- c. "False" information/statement shall refer to untrue, incorrect, inaccurate, erroneous and/or misleading information/statement as to facts alleged or amounts reported or stated in reports and/or supporting schedules/attachments or forged, altered and/or tampered documents/papers.
- d. "Splitting of Deposits" occurs whenever a deposit account with an outstanding balance of more than the statutory maximum amount of insured deposit maintained under the name of natural or juridical persons is broker down and transferred into two or more accounts in the name/s of natural or juridical persons or entities who have no beneficial ownership on transferred deposit in their names within thirty (30) days immediately preceding or during a bank-declared holiday, or immediately preceding a closure order issued by the Monetary Board of the Bangko Sentral ng Pilipinas for the purpose of availing of the maximum deposit insurance coverage.

e. "Unsafe and Unsound Practices" - shall refer to the acts or omissions as may be defined by the Bangko Sentral ng Pilipinas and/or the Board of Directors of PDIC.

f. "Willful Refusal" means the unjustified failure or avoidance or delay to perform an obligation imposed upon a bank and/or any of its director(s), officer(s), employee(s) or agents under any order, regulation or directive issued by PDIC.

SECTION 2. Administrative Offenses - The following acts or omissions shall constitute an Administrative Offense:

a. Any willful refusal to submit reports as required by law, rules and regulations;

b. Any unjustified refusal to permit examination and audit of the deposit records or the affairs of the institution;

c. Any willful making of a false statement or entry in any bank report or document required by PDIC;

d. Submission of false material information in connection with or in relation to any financial assistance of PDIC extended to the bank;

e. Splitting of deposits or creation of fictitious loans or deposit accounts;

f. Refusal to allow PDIC, its officers, employees and/or agents to take over the affairs, assets, liabilities and administration of a closed bank placed under its receivership or obstructing such action of PDIC;

g. Refusal to turn over or destroying or tampering bank records;

h. Fraudulent disposal, transfer or concealment of any asset, property or liability of the closed bank under receivership of PDIC;

i. Violation of, or causing any person to violate the exemption from garnishment, levy, attachment or execution provided under Republic Act No. 3591, as amended, otherwise known as the PDIC Charter, and Republic Act No. 7653, otherwise known as the New Central Bank Act;

j. Any willful failure or refusal to comply with, or violation of any provision of the PDIC Charter, this Regulatory Issuance or any PDIC order, rule or regulation or commission of any other irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Board of Directors of PDIC and/or the Bangko Sentral ng Pilipinas.

SECTION 3. Administrative Fines - In the absence of any specific fine imposed by PDIC for any of the acts or omissions specified under Section 2, the following administrative fines shall be imposed on any bank and/or any of its director(s), officer(s), employee(s) or agent(s):

1. For offenses mentioned in Section 2 (a), (b), (c), (d), (f), (g), (i) and (j) a fine as may be determined by the Board of Directors of PDIC but in no case to exceed P300,000.00 for each banking day of violation.

2. For offenses mentioned in section 2 (e), a fine as may be determined by the Board of Directors of PDIC but in no case to exceed 100% of the total amount split or fictitious loan created.

3. For offenses mentioned in section 2 (h), a fine as may be determined by the Board of Directors of PDIC but in no case to exceed the fair market value of the asset disposed, transferred or concealed or the amount of liability concealed.

Should the bank derive any financial gain as a result of the fraudulent, irregular and/or anomalous transaction, additional fine equivalent to the amount of the benefit shall be imposed.

The Administrative Fine imposed on a bank and/or any of its director(s), officer(s), employee(s) or agent(s) shall in no case exceed three times the amount of the damages or costs caused by the fraudulent, irregular and/or anomalous transactions for each day that the violation subsists, taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and size of the bank.

The damage or cost mentioned in the immediately preceding paragraph shall include financial benefit to the bank as a result of the fraudulent, irregular and/or anomalous transaction committed.

PART II - Rules of Procedure in Administrative Investigation

SECTION 4. Applicability - These rules shall apply to administrative investigations conducted against any bank and/or any of its director(s), officer(s), employee(s) or agent(s) charged with violation of any of the administrative offenses enumerated in Section 2 hereof.

SECTION 5. Nature of proceedings - Subject to the requirements of due process, the administrative investigation contemplated herein shall be conducted in a summary manner without strictly adhering to the legal technicalities obtaining in the courts of law.

SECTION 6. Confidentiality - The administrative investigation conducted under this Regulatory Issuance shall be confidential in nature except when disclosure thereof is required under any provision of law or this Regulatory Issuance.

SECTION 7. Administrative Charge -

a. *Where referred* - All complaints for violation of Section 2 of this Regulatory Issuance shall be filed with the Office of the General Counsel of PDIC which shall refer the same to the Investigation Department for evaluation. The Investigation Department after evaluating the complaint and its supporting documents, if any, may:

1) Dismiss the complaint;

2) Conduct a fact-finding investigation in accordance with the Regulatory Issuance No. 2005-02 if the complaint involves fraud, irregularity or anomaly; or