



Republic of the Philippines
Supreme Court
Manila

EN BANC

A.M. No. 19-12-02-SC

RULES ON LIQUIDATION OF CLOSED BANKS

RESOLUTION

Whereas, pursuant to Section 5 (5), Article VIII of the 1987 Constitution, the Supreme Court is vested with the power to promulgate rules concerning the pleading, practice, and procedure in all courts;

Whereas, under Republic Act No. 3591, as amended,¹ the Supreme Court “shall promulgate the appropriate procedural rules to implement” the provisions on liquidation of closed banks;²

Whereas, the Supreme Court Sub-Committee on Commercial Courts took the task of reviewing the Philippine Deposit Insurance Corporation’s proposed rules to govern the judicial assistance in the liquidation of closed banks;

NOW, THEREFORE, acting on the recommendation of the Sub-Committee on Commercial Courts, the Court resolved to **APPROVE** the “**Rules on Liquidation of Closed Banks.**”

The Rules on Liquidation of Closed Banks shall take effect on April 16, 2020 following its publication in the Official Gazette or in two (2) newspapers of general circulation not later than April 1, 2020.


February 18, 2020.

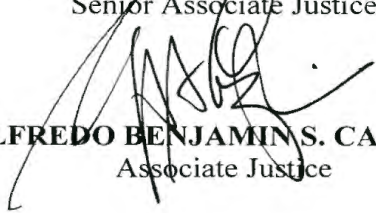
DIOSDADO M. PERALTA
Chief Justice

¹ Entitled “AN ACT ENHANCING THE RESOLUTION AND LIQUIDATION FRAMEWORK FOR BANKS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 3591, AS AMENDED, AND OTHER RELATED LAWS.” Republic Act No. 10846, approved on May 23, 2016.

² Section 16 (p) of Republic Act No. 3951, as amended, states: “(p) The Supreme Court shall promulgate the appropriate procedural rules to implement this section.”

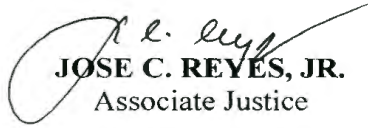

ESTELA M. PERLAS-BERNABE
Senior Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice


ALFREDO BENJAMINS S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice



JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice



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RULES ON LIQUIDATION OF CLOSED BANKS

Rule 1
Coverage

Section 1. *Title.* – These Rules shall be known and cited as the “Rules on Liquidation of Closed Banks.”

Section 2. *Scope.* – These Rules shall apply to banks closed and placed under liquidation by the Monetary Board (MB) of the *Bangko Sentral ng Pilipinas* (BSP) pursuant to Section 30 of Republic Act No. 7653,¹ as amended,² also known as “The New Central Bank Act” (NCBA), and Sections 12 to 16 of Republic Act No. 3591,³ as amended,⁴ entitled “An Act Establishing the Philippine Deposit Insurance Corporation, Defining Its Powers and Duties and for Other Purposes” (PDIC Charter).

Rule 2
Definition of Terms and Construction

Section 1. *Definition of Terms.* – For purposes of these Rules:

- a) *Asset* refers to a movable, immovable, tangible, or intangible resource or property over which a bank has an established or equitable interest, including the proceeds of the sale of its bank and branch licenses subject to the approval of the BSP.

¹ Approved on June 14, 1993.

² Republic Act No. 11211, entitled “AN ACT AMENDING REPUBLIC ACT NUMBER 7653, OTHERWISE KNOWN AS “THE NEW CENTRAL BANK ACT,” AND FOR OTHER PURPOSES,” approved on February 14, 2019.

³ (June 22, 1963).

⁴ Republic Act No. 10846, entitled “AN ACT ENHANCING THE RESOLUTION AND LIQUIDATION FRAMEWORK FOR BANKS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 3591. AS AMENDED, AND OTHER RELATED LAWS.” approved on May 23, 2016.

- b) **Asset Distribution Plan (ADP)** refers to the plan of distribution of the assets of a closed bank to its creditors, based on its estimated realizable value as of a certain cut-off date, prepared in accordance with the rules on concurrence and preference of credits under the Civil Code or other laws. An ADP may be partial when it pertains to the distribution of a portion or some of the assets of the closed bank, or final when it pertains to the distribution of all the assets of the closed bank.
- c) **Banks** are classified into: (1) universal banks; (2) commercial banks; (3) thrift banks composed of savings and mortgage banks, stock savings and loan associations, and private development banks; (4) rural banks; (5) cooperative banks; and (6) other classifications of banks as determined by the MB.

The Rules shall not apply to foreign bank branches but only to foreign banks which mode of entry was by acquisition of ownership of an existing bank or creation of a subsidiary.

- d) **Closed Bank** refers to a bank placed under liquidation by the MB pursuant to Section 30 of the NCBA and Section 12 of the PDIC Charter.
- e) **Comparative Statement of Condition** contains the financial positions of the closed bank as of the date of bank closure and as of the cut-off date/s for the subsequent year/s.
- f) **Creditor** refers to any individual or entity with a valid claim against the assets of the closed bank.
- g) **Disputed Claim** refers to a claim or suit against the assets of a closed bank, or for specific performance, or breach of contract, or damages, of whatever nature or character, whether for money or otherwise, liquidated or unliquidated, fixed or contingent, matured or current, denied or disallowed by the Receiver and subsequently filed in court.
- h) **Liquidation** refers to the proceedings under Sections 12 to 16 of the PDIC Charter in relation to Section 30 of the NCBA.
- i) **Liquidation Court (LC)** refers to the Regional Trial Court designated as Special Commercial Court (SCC) where the Petition for Assistance in the Liquidation (PAL) of a closed bank is filed and given due course.
- j) **Liquidation expenses** refer to amounts incurred for the gathering, taking charge, management, administration, disposal, and preservation of the assets and records of the closed bank, as well as the winding up of its affairs.

- k) **Liquidation fees** refer to amounts charged by the Receiver against the closed bank for the services rendered in the administration of its assets and affairs.
- l) **Master Liquidation Plan** refers to the liquidation plan adopted by the Philippine Deposit Insurance Corporation (PDIC) for general application to all closed banks referred to in Section 16 (h) of the PDIC Charter.
- m) **Receiver** refers to the PDIC, or any of its duly authorized agents acting as receiver of a closed bank.
- n) **Statement of Affairs (SOA)** refers to a report of financial condition of the closed bank at a given date, showing the (1) estimated realizable value of assets; (2) classification of credits; and (3) estimated liabilities to be settled.
- o) **Valid Claim** refers to the claim recognized by the Receiver or allowed by the LC.

Section 2. Construction. – These Rules shall be interpreted with the end in view of expeditiously terminating the liquidation of a closed bank. Where applicable, the provisions of the Rules of Court and other pertinent laws and rules shall supplement these Rules.

Rule 3 General Provisions

Section 1. Nature of the proceedings initiated by the filing of the PAL under these Rules.

- a) **A proceeding in rem.** – Jurisdiction over all persons affected by the proceedings shall be considered as acquired upon publication of the order setting the PAL for initial hearing in any newspaper of general circulation in the Philippines in the manner prescribed by these Rules.
- b) **A special proceeding.** – It declares the concomitant rights of the creditors and the order of payment of their valid claims in the disposition of the assets of the closed bank.
- c) **Exclusive jurisdiction.** – The LC shall have exclusive jurisdiction to adjudicate disputed claims against the closed bank, assist in the enforcement of individual liabilities of the stockholders, directors, and officers, and decide on all other issues as may be material to implement the Master Liquidation Plan.

Section 2. Powers of the Receiver. – The Receiver shall have the powers enumerated in the PDIC Charter and other existing laws.

Section 3. Temporary Restraining Order. – No court, except the Court of Appeals, shall issue any temporary restraining order, preliminary injunction, or preliminary mandatory injunction against the Receiver for any act done in connection with or in the exercise of its powers and functions under the PDIC Charter and other applicable laws.

The Supreme Court may issue a restraining order or injunction when the matter is of extreme urgency involving a constitutional issue, such that unless a temporary restraining order is issued, grave injustice and irreparable injury will arise. The party applying for the issuance of a restraining order or injunction shall file a bond in an amount to be fixed by the Supreme Court, which bond shall accrue in favor of the Receiver if the Court should finally decide that the applicant was not entitled to the relief sought.

Any restraining order or injunction issued in violation of this Section is void and shall have no force and effect.

Rule 4 Constitution of Liquidation Court

Section 1. Filing of Petition. – The Receiver shall file the PAL not later than one hundred eighty (180) days from the date of publication of notice of the bank's closure. The Receiver may, on motion, request for additional time of not more than thirty (30) days but only for compelling reasons, provided that the fees in Section 3 of this Rule are paid at the time of the filing of the motion.

Section 2. Venue. – The PAL shall be filed in the SCC which has jurisdiction over the principal office of the closed bank or the principal office of the Receiver, at the option of the latter.

Section 3. Docket and Other Lawful Fees. – Subject to Section 13 (e) (11) of the PDIC Charter, the Receiver shall pay to the Clerk of Court a docket fee and other lawful fees in the amount of Five Thousand Philippine Pesos (₱5,000.00).

Section 4. Form and Contents of the Petition. –

- a) The PAL shall be verified and filed simultaneously in three (3) printed copies and one (1) digitized copy (in PDF format) contained in a compact disc, flash drive, or other compatible Information and Communications Technology media.
- b) The petition must contain the following material facts:
 - 1) The name of the closed bank;

- 2) The MB Resolution ordering the closure and directing the PDIC, as Receiver, to proceed with the takeover and liquidate the bank;
 - 3) The grounds for closure as stated in the MB Resolution;
 - 4) The date of publication of notice of closure giving creditors sixty (60) days to file their claims before the Receiver;
 - 5) The financial condition of the bank as of date of closure showing the estimated realizable value of its assets; and
 - 6) An attachment showing the names and addresses of creditors with valid claims, those with claims filed but yet to be found valid, those with claims that have been denied and the reason/s for denial, as well those with claims that have been disallowed.
- c) Certified true copies of the following documents shall be attached to the PAL:
- 1) MB Resolution ordering the closure and liquidation of the closed bank;
 - 2) Takeover Report;
 - 3) Publisher's affidavit of publication of the notice of closure to creditors;
 - 4) Master Liquidation Plan; and
 - 5) Financial statements of the bank together with an inventory of its assets.

If the PAL is not sufficient in form and substance, the LC shall, within ten (10) days from receipt of the PAL, issue an Order directing the Receiver to comply with the foregoing requirements.

Section 5. Posting and Publication of the Order Setting the Case for Initial Hearing. – Within ten (10) days from receipt of the PAL that is compliant with the preceding section, the LC shall issue an Order:

- a) Stating that the PAL is sufficient in form and substance;
- b) Setting the initial hearing within sixty (60) days from receipt of the PAL;
- c) Directing the court sheriff or process server to post the Order in the bulletin boards of the LC and of the municipal or city hall where the principal office of the closed bank is located, at the expense of the Receiver;
- d) Directing all claimants whose claims were denied or disallowed by the Receiver to file their claims with the LC within sixty (60) days from date of receipt of final notice of denial or disallowance of their claims or within twenty (20) days from date of publication of this Order, whichever is later; and
- e) Directing the Receiver to cause, within a period of five (5) days from receipt of the Order, the one-time publication of the Order in a newspaper of general circulation in the Philippines.

Section 6. *Jurisdiction of LC.* – Upon the publication of the Order setting the PAL for initial hearing, the LC shall acquire exclusive jurisdiction over all persons affected by the proceedings.

Section 7. *Initial Hearing.* – During the initial hearing, the Receiver shall present proof of posting and publication as required herein and mark the documents in support of the PAL. Thereafter, formal offer of evidence shall be made in open court and the PAL shall be submitted for resolution.

Section 8. *Order Giving Due Course.* – After being satisfied that the jurisdictional requirements have been complied with, the court shall, within a period of not more than ten (10) days from the date of the Order submitting the PAL for resolution, issue an Order giving due course to the PAL and constituting itself as the LC of the closed bank with authority to receive and pass upon claims against the assets of the bank, monitor the timely reports of the Receiver, and approve the ADP.

Rule 5 Claims against the Assets of Closed Banks

A. Disputed Claims

Section 1. *Classification of Disputed Claims.* – Disputed claims are classified into:

- a) **Monetary claims** – those filed against the assets of a closed bank which were denied by the Receiver after evaluation, or disallowed by the Receiver for failure to file within the sixty (60)-day period from publication of notice of closure; and
- b) **Other claims** – those non-monetary claims such as for specific performance, breach of contract, or damages of whatever nature or character.

B. Monetary Claims

Section 2. *Filing of Claims.* – Within a period of sixty (60) days from receipt of final notice of denial or disallowance by the Receiver or twenty (20) days from publication as provided for in Section 5 (d), Rule 4 of these Rules, whichever is later, the claimant shall, upon payment of the docket fee amounting to three percent (3%) of the claim, file a Verified Claim with the LC and furnish a copy thereof to the Receiver.

A Verified Claim shall contain the following:

- a) A clear and concise statement of facts;
- b) Material dates pertaining to the date of filing of the claim with the Receiver and the date of receipt of the notice of denial or disallowance of claim by the Receiver;

- c) Grounds in support of the Verified Claim together with the original or certified true copies of relevant documentary evidence; and
- d) Affidavits of witnesses and other evidence in support of the Verified Claim.

Failure to file a Verified Claim with the LC within the above-stated period shall render the denial of the claim by the Receiver final.

Section 3. *Comment of the Receiver.* – Within fifteen (15) days from receipt of the Verified Claim, the Receiver shall file its Verified Comment thereto, together with the affidavits of witnesses and other evidence in support of its denial, including any ground for dismissal provided under Section 1, Rule 16 of the Rules of Court.

Section 4. *Reply.* – The claimant may file a Verified Reply, with supporting evidence, to deny or allege facts in denial or avoidance of new matters or in opposition to the grounds for dismissal alleged by the Receiver in its Verified Comment within ten (10) days from receipt thereof.

Upon receipt of the Verified Reply or upon the lapse of the ten (10)-day period to file the same, the Verified Claim shall be submitted for resolution.

Section 5. *Resolution.* – Within a period not exceeding thirty (30) days from submission for resolution, the LC shall either allow or disallow the Verified Claim based on the pleadings, affidavits, and evidence submitted and without need of a full-blown trial. The LC may, *motu proprio* or based on the Verified Comment, dismiss the Verified Claim on any of the applicable grounds under Section 1, Rule 16 of the Rules of Court.

Section 6. *Prohibited Pleadings and Motions.* – The following pleadings and motions shall neither be allowed nor acted upon by the LC in all cases under this Rule:

- a) Motion for a bill of particulars;
- b) Motion for new trial;
- c) Motion to dismiss; and
- d) Petition for relief from judgment.

C. Other Claims

Section 7. *Filing of Other Claims.* – All claims against the assets of the closed bank, other than those covered under Section B of this Rule, shall be filed with the LC, at any time prior to the submission of the Final ADP, by way of a Verified Notice of Claim upon payment of docket fee as provided for under Rule 141 of the Rules of Court.

The Verified Notice of Claim shall contain a clear and concise statement of facts with original or certified true copies of the relevant documentary evidence attached thereto.

Section 8. *Answer of the Receiver.* – Within fifteen (15) days from receipt of the Verified Notice of Claim, the Receiver shall file a Verified Answer, including any ground for dismissal based on Section 1, Rule 16 of the Rules of Court.

Section 9. *Reply.* – The claimant may file a Verified Reply to deny or allege facts in denial or avoidance of new matters or in opposition to grounds for dismissal alleged by the Receiver in its Verified Answer within ten (10) days from receipt thereof.

Section 10. *Dismissal of Claim.* – The LC may, *motu proprio* or based on the Verified Answer and Verified Reply, dismiss the Verified Notice of Claim on any of the applicable grounds under Section 1, Rule 16 of the Rules of Court.

Section 11. *Pre-trial and Trial.* – After the issues are joined, the LC may conduct pre-trial and trial in accordance with the Rules of Court.

Section 12. *Judgment on the Pleadings.* – Within ten (10) days after termination of the pre-trial, the LC may, *motu proprio* or on motion, resolve the Verified Notice of Claim based on the pleadings pursuant to Rule 34 of the Rules of Court.

Section 13. *Decision.* – After trial, the LC shall render a Decision within a period of forty-five (45) days from submission of the Verified Notice of Claim for resolution.

Rule 6 Liquidation Fees, Expenses, and Advances

Section 1. *Payment of Liquidation Fees.* – The Receiver is authorized to charge reasonable liquidation fees, which shall take into account factors, such as but not limited to, the extent of work depending on the stage of the liquidation, as well as the number of banking units involved. The payment of the liquidation fees shall be subject to the approval of the LC.

Section 2. *Payment of Liquidation Expenses and Advances.* – Without need of approval by the LC, the Receiver shall utilize all available funds of the closed bank, including funds generated by the Receiver from the conversion of assets, to pay for reasonable expenses incurred for the preservation of the assets and liquidation of the closed bank. Where the Receiver makes such advances due to insufficiency of funds of the closed bank, the Receiver may claim reimbursement upon showing that there are available funds but conditioned on the approval by the LC.

Rule 7
Liquidation Reports

Section 1. *Filing of Liquidation Report.* – After the LC has given due course to the petition, the Receiver shall file with the LC an annual Liquidation Report on the closed bank not later than the end of the third quarter of the succeeding year or as may be required by the LC.

Section 2. *Contents of the Liquidation Report.* – The Liquidation Report shall include the following information on the closed bank:

- a) Statement of Affairs;
- b) Plan of action for the succeeding fiscal year;
- c) Significant developments and/or financial highlights;
- d) Comparative statement of condition; and
- e) Other information material to assist the LC in the liquidation of the closed bank, including the status of implementation of the approved Partial ADP, if any.

Rule 8
Motion for Approval of the Asset Distribution Plan

A. The Proceedings (Partial or Final ADP)

Section 1. *Filing of the Motion for Approval of the ADP.* – A motion for approval of a Partial ADP may be filed at any time after the submission of the first Liquidation Report. The Receiver shall file a motion for approval of a Final ADP within five (5) years from the date of bank closure, which may be extended for compelling reasons but not beyond seven (7) years from such closure. The approval of the motion for approval of the Partial ADP shall follow the same procedure as that for the Final ADP.

Section 2. *Contents of the Motion.* – The motion for approval of the Partial or Final ADP shall contain the following:

- a) The assets of the closed bank to be distributed and their valuation as of the ADP's cut-off date; and
- b) The names of creditors with valid claims who will receive payment under the ADP in accordance with the rules on concurrence and preference of credits under the Civil Code or other laws.

The Receiver may also add the following proposals in the motion for approval:

- a) Write-off of specific assets and liabilities and the reasons therefor;
- b) Provision for future expenses, which shall cover the winding-up period;
- c) Payment of the Receiver's liquidation fees;

- d) Reimbursement of any liquidation expenses that the Receiver may have advanced in accordance with Rule 6 hereof;
- e) Authority of the Receiver to:
 - 1) distribute any recoveries or excess funds realized after the ADP cut-off date as payment for liquidation fees and expenses not otherwise included in the provision for future expenses, and the balance, if any, for payment to the creditors in accordance with the rules on concurrence and preference of credits under the Civil Code and other laws;
 - 2) release the collaterals of prescribed loan accounts which have been approved for write-off in the ADP and issue the corresponding cancellation of mortgage thereto, for loans upon demand of the registered owner during the winding-up period;
 - 3) report to the Bureau of the Treasury (BTr), after the lapse of the winding-up period, the unclaimed collaterals of prescribed loan accounts which have been approved for write-off in the Final ADP, for institution of appropriate escheat proceedings. In this relation, the LC shall grant the BTr with the corresponding authority to release such collaterals upon demand of the registered owner, and issue the corresponding cancellation of mortgage thereto;
 - 4) report and turnover to the BTr, after the lapse of the winding-up period for the institution of appropriate escheat proceedings, the titles, tax declarations, or other evidence of ownership which are in the custody of the bank and approved for write-off in the ADP; and
 - 5) such other matters relevant to the distribution of assets of the closed bank and termination of the liquidation proceedings.

Section 3. Order Setting the Motion for Hearing. – Within ten (10) days from receipt of the motion for approval of the Partial or Final ADP, the LC shall issue an Order setting it for hearing within ninety (90) days from receipt thereof and directing the creditors to file their comments not later than ten (10) days before the hearing.

Section 4. Notice to Creditors. – The Receiver shall: (a) cause the publication of the Order once in a newspaper of general circulation in the Philippines at least thirty (30) days prior to the date of hearing; and (b) serve the creditors a copy of the Order by personal service, registered mail, private courier, or electronic means, at least sixty (60) days prior to the date of hearing, attaching thereto a Notice containing the following:

- a) Name(s) of creditor(s);
- b) Amount to be settled;
- c) A statement that the Receiver shall publish a notice informing the creditors of the LC's action on the motion; and

- d) A caveat that the Resolution approving the ADP shall become final pursuant to Section 8 hereof.

Section 5. *Hearing on the Motion for Approval of the Partial or Final ADP.*

– At the hearing, the Receiver shall submit proof of publication and service of notice to concerned creditors, and thereafter, hear the comment/s or opposition/s to the motion.

B. Approval and Implementation of the Partial or Final ADP

Section 6. *Resolution of the Motion.* – On the basis of the pleadings submitted and without need of a full-blown trial, the LC may approve or disapprove the motion, in whole or in part, or order the amendment of the Partial or Final ADP within forty-five (45) days from submission of the motion for resolution.

Section 7. *Publication of the Resolution.* – At the expense of the closed bank, the LC shall direct the Receiver to cause the publication of the Resolution approving the Final or Partial ADP once in a newspaper of general circulation within five (5) days from receipt thereof.

Section 8. *Finality of the Resolution.* – The Resolution shall become final after the lapse of thirty (30) days from publication of the Resolution approving the Partial or Final ADP, or upon denial of a motion for reconsideration thereon.

Section 9. *Implementation of the Approved Partial or Final ADP.* – Upon finality of the Resolution approving the Partial or Final ADP, the Receiver shall implement the Partial or Final ADP. No temporary restraining order or injunction may be issued by any court, except the Court of Appeals when the matter is of extreme urgency, against the implementation of the Partial or Final ADP.

**Rule 9
Procedural Remedies**

Section 1. *Motion for Reconsideration.* – A party may file a motion for reconsideration of any order, resolution, or decision of the LC, within ten (10) days from receipt or from publication, whichever is applicable, of such order, resolution, or decision.

Section 2. *Petition for Certiorari.* – Resolution of motions for reconsideration can only be reviewed through a petition for *certiorari* to the Court of Appeals under Rule 65 of the Rules of Court within thirty (30) days from receipt thereof.

Rule 10
Termination of the Proceedings

Section 1. *Effect of Approval of the Final ADP.* – The finality of the Resolution approving the Final ADP shall usher in the winding-up phase under the PDIC Charter and the termination of the liquidation proceeding.

Section 2. *Termination of the Proceedings.* – Upon finality of the Resolution approving the Final ADP, the PAL shall, for all intents and purposes, be considered closed and terminated without prejudice to any assistance the LC may extend in the implementation of the Final ADP.

Section 3. *Final Report on the Implementation of the Approved Final ADP.* – The Receiver shall submit a final report on the implementation of the approved Final ADP to the MB and the Securities and Exchange Commission after the expiration of the winding-up period and serve a copy thereof to the LC.

Rule 11
Final Provisions

Section 1. *Separability.* – If any provision or section herein is held invalid, the other provisions or sections shall not be affected thereby.

Section 2. *Transitory Provision.* – Upon effectivity of these Rules:

- a) All pending PALs with regular courts that have not been given due course shall be transferred to the SCC as provided under Section 2, Rule 4 hereof.
- b) Other PALs which have been given due course shall continue to be heard by the courts where they are pending, but shall be governed by these Rules, unless the LC orders otherwise to prevent manifest injustice to the parties involved.
- c) Section 1, Rule 8 of these Rules directing the Receiver to file a motion for the approval of a Final ADP within five (5) years from date of closure shall apply prospectively to banks which shall be ordered closed after the effectivity of these Rules. For all banks closed prior thereto, the Receiver shall have a period of seven (7) years from the effectivity of these Rules to file the motion for approval of a Final ADP.

Section 3. *Effectivity* – These Rules on Liquidation of Closed Banks shall take effect fifteen (15) days after publication in at least two (2) newspapers of general circulation in the Philippines.