

Department Administrative Order No. 09  
Series of 2008.

**RULES AND REGULATIONS TO IMPLEMENT  
REPUBLIC ACT NO. 6977, AS AMENDED BY REPUBLIC ACT NO. 8289, AND  
FURTHER AMENDED BY REPUBLIC ACT NO. 9501 OTHERWISE KNOWN AS  
THE AMENDED "MAGNA CARTA FOR MICRO, SMALL AND MEDIUM  
ENTERPRISES"**

*Pursuant to Section 21 of Republic Act 9501, the following rules and regulations implementing the Magna Carta for MSMEs are hereby prescribed, adopted and promulgated for the guidance of all concerned to carry out the provisions thereof.*

**Rule 1**

**Preliminary Provisions on Title and Construction and Interpretation**

SECTION 1. *Title.* These Rules shall be referred to as the "Implementing Rules and Regulations for Republic Act 6977, as amended by RA 8289 and further amended by RA 9501 and for brevity, it may be referred to as the IRR on the Magna Carta for MSMEs.

Sec. 2. *Construction and Interpretation.* These Rules shall be interpreted, construed and carried out the intents and purposes of the Declaration of Policy of RA 6977, as amended, and further amended by RA 9501 and which shall be made an integral section thereto.

**Rule 2**

**Declaration of Policy and other General Policy Statements**

SECTION 1. *Declaration of Policy.* It is hereby declared the policy of the State to promote, support, strengthen and encourage the growth and development of Micro, Small and Medium Enterprises (MSMEs) in all productive sectors of the economy particularly rural/agri-based enterprises. The State recognizes that MSMEs have the potential for more employment generation and economic growth and therefore can help provide a self-sufficient industrial foundation for the country.

To this end, the State shall recognize the specific needs of the MSME sector in general and each of its sub-sectors/categories, *i.e.*, micro, small and medium enterprises. In this regard, it shall ensure coordinative and collaborative mechanisms to pursue the following:

- a) promotion of entrepreneurship;
- b) support to entrepreneurs;
- c) encourage the establishment of MSMEs.

The State shall further ensure the continuing viability and growth of the MSMEs and thereby attain countryside industrialization by:

a) intensifying and expanding programs for training in entrepreneurship and for skills development for labor;

b) facilitating their access to sources of funds;

c) assuring to them access to a fair share of government contracts and related incentives and preferences;

d) complementing and supplementing financing programs for MSMEs and doing away with stringent and burdensome collateral requirements that micro and small entrepreneurs invariably find extreme difficulty complying with;

e) instituting safeguards for the protection and stability of the credit delivery system;

f) raising government efficiency and effectiveness in providing assistance to MSMEs throughout the country, at the least cost;

g) promoting linkages between large and small enterprises, and by encouraging the establishment of common service facilities;

h) making the private sector a partner in the task of building up MSMEs through the promotion and participation of private voluntary organizations, viable industry associations, and cooperatives; and

i) assuring a balanced and sustainable development through the establishment of a feedback and evaluation mechanism that will monitor the economic contributions as well as bottlenecks and environmental effects of the development of MSMEs.

*(Sec. 2, RA 6977, as amended by RA 8289, and further amended by RA 9501)*

**Sec. 2. *Local Economic Development.*** Pursuant to the Constitution, the Local Government Code and other existing laws, local economic development and current efforts and initiatives of local government units (LGUs) and other stakeholders towards providing an enabling environment for MSME development, shall be a thrust of this IRR. In this regard, technical support and coordination with existing structural mechanisms promoting MSMEs and entrepreneurship development in LGUs, particularly of provinces and non-component cities, shall be prioritized. This shall also be applicable to the cities and municipalities in the National Capital Region. Collaborative arrangements with other mechanisms involved in local economic development must be pursued to avoid duplication of efforts and to ensure coordinated actions.

**Sec. 3. *Identification of Replicable Practices, Barriers and Hindrances.*** To pursue this policy, replicable practices such as facilitative mechanisms in the country as well as those implemented in other countries shall be studied, adopted or adapted to ensure that this policy is implemented subject to existing laws, orders, rules, and regulations implemented in this jurisdiction. On the other hand, existing barriers and other hindrances in furtherance of this

policy, particularly in the countryside and other areas where pockets of poverty exist, shall be reviewed and appropriate policies put in place, as may be warranted.

Sec. 4. *Micro enterprises.* With the enactment of RA 9501 amending RA 6977, as amended by RA 8289, micro enterprises shall now be made part of the coverage of the Act separate and distinct from small enterprises. In this regard, the Micro, Small and Medium Enterprise Development Council (MSMEDC) shall consider the provisions under RA 8425 or the Social Reform and Poverty Alleviation Act; RA 9178 or the Barangay Micro Business Enterprises (BMBEs) Act of 2002; RA 7844 or the Export Development Act; and, Republic Act No. 7882 on the Act Providing Assistance to Women Engaging in Micro and Cottage Business Enterprises, in encouraging the establishment of micro enterprises and strengthening existing ones. For the purpose of coordinating with different concerned government entities to enhance assistance to this sub-sector, the beneficiaries of the above-mentioned laws shall be identified.

With regard to microfinance services for the exclusive use of the poor, the MSMEDC and the *Bangko Sentral ng Pilipinas* (BSP), shall coordinate with the National Anti-Poverty Commission (NAPC) on enjoining government financial institutions to open credit and savings windows for the poor, and advocating the creation of such windows for the poor among private banking institutions pursuant to the thrusts of the NAPC under RA 8425, particularly on Title 1, Section 5 (8).

### **Rule 3**

#### **Definition of MSMEs and Related Provisions Therein**

SECTION 1. *MSMEs Defined.* MSMEs shall be defined as any business activity or enterprise, whether single proprietorship, cooperative, partnership or corporation, engaged in the following:

- a) industry,
- b) agribusiness,
- c) trade, and
- d) services.

Business activities belonging to the above major sectors are defined as follows:

- a. Industry shall refer to set of all production units engaged primarily in the same or similar kinds of productive activities. The following are the major industry divisions: agriculture, hunting and forestry; fishing; mining and quarrying; manufacturing; electricity, gas and water supply; construction; wholesale and retail trade, repair of motor vehicles, motorcycles and personal and household goods; hotels and restaurants; transport, storage and communication; financial intermediation; real estate, renting and business activities; public administration and defense; compulsory social security; education; health and social work; other community, social and personal service activities; private household with employed persons; and extra-territorial organizations and bodies. This term is

used for disaggregating other labor and employment measures, e.g., total number of employed persons by major industry divisions;

- b. Agri-business shall refer to the production and processing of agricultural and fishery products (including their by-products and wastes), biofuels, feeds and organic fertilizers. The processing of agricultural products by the entity must be integrated with its own production/plantation or with contract growing arrangement;
- c. Trade shall refer to the business of buying and selling commodities. The concept of 'trade' is centered on the simple activity of the exchange of goods and/or services; and,
- d. Services shall refer to entities that are principally engaged in the sale of service to individuals for their own or household use and is generally recognized as such. It shall include the practice of one's profession (i.e., professions for which Professional Regulations Commissions (PRC) license is issued), and the operation of tourism-related establishment.

Sec. 2. *Categories of MSMEs.* In determining the specific category of a business activity or enterprise, *i.e.*, whether it is a micro, small or medium enterprise, the value of its total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must be computed.

Sec. 3. *Valuation of Assets* Cash consisting of Philippine currency shall be valued at actual currency value; if in foreign currency, it shall be valued at the official exchange rate as prescribed by the BSP. Other assets shall be generally valued at acquisition or historical cost, net of a reasonable amount for depreciation as determined under General Auditing and Accounting Principles (GAAP) if the asset is depreciable, or book value, whichever is higher. Real property shall be valued at acquisition cost, net of depreciation; however, if no sufficient proof is submitted as to its acquisition cost, the same shall be valued at current zonal value as established by the Bureau of Internal Revenue (BIR). The current zonal values may be secured from the a appropriate BIR- Revenue District Office.

Sec. 4. *Values of each MSME category.* The total values for each category, after excluding the identified land, based on the abovementioned rule shall be as follows:

micro	:	not more than P3,000,000
small	:	P3,000,001 - P 15,000,000
medium	:	P15,000,001 - P100,000,000

Sec. 5. *Procedure for review and adjustment of the above definitions.* The MSMEDC, based on its semestral review and validation of the Micro, Small, and Medium Enterprise Development Plan (MSMEDP), or upon recommendation of sectoral organizations concerned, shall review and adjust, as may be necessary, the above definitions taking into account inflation and other economic indicators.

The MSMEDC may use other variables such as number of employees, equity capital and assets size, which may vary for each category and business activity or enterprise.

Any adjustment made by the MSMEDC on the definition and categories of MSMEs upon its own review or upon the recommendation of the private sectors concerned, shall be upon a majority vote by the Council of its total membership. The adjustment of the definition and categories of MSMEs cannot be delegated to the Executive Committee of the said Council.

The recommendation of the private sectors concerned shall be in the form of a Resolution signed by the authorized representatives or officers, whichever is applicable, of the association or union of those engaged or belonging to said sectors.

Sec. 6. The Council shall ensure that notwithstanding the plans and programs set for MSMEs as a whole, there shall be set and implemented other plans and programs varied and distinct from each other, according to the specific needs of each category, encouraging MSMEs to graduate from one category to the next or even higher category.

#### **Rule 4**

#### **Eligibility for Government Assistance**

SECTION 1. *Eligibility for Government Assistance.* For MSMEs to qualify for assistance, counseling, incentives and promotion under this IRR as provided for by RA 6977, as amended by RA 8289 and further amended by RA 9501, they must be:

- a) duly registered with the appropriate agencies as presently provided by law. *Provided,* That in the case of micro enterprises as defined herein, registration, with the office of the municipal or city treasurer, shall be deemed sufficient compliance with this requirement. In the case of micro enterprises, the MSMEDC shall review the applicability of the process for registration provided for under RA 9178 or the BMBE Law and other existing laws in view of current replicable practices on simplification of procedures of local government units. This shall be done with concerned agencies such as the Department of Finance and Leagues of Cities and Municipalities. Within sixty (60) days from the effectivity of this Act, the MSMED shall, through a resolution, provide the guidelines for the registration of micro enterprises, with the office of the municipal or city treasurer, to qualify for assistance, counseling, incentives and promotion under RA 6977, as amended.

The guidelines pertinent to small and medium enterprises shall likewise be included in the above-mentioned resolution.

In the case of incentives for MSMEs provided for in other laws such as, but not inclusive to, the Investments Priorities Plan, the requirements of the concerned agencies for availment of incentives shall be applicable.

- b) one hundred percent (100%) owned, capitalized by Filipino citizens, whether single proprietorship or partnership. If the enterprise is a juridical

entity, at least sixty percent (60%) of its capital or outstanding stocks must be owned by Filipino citizens;

- c) a business activity within the major sectors of the economy, namely: industry, trade, services, including the practice of one's profession, the operation of tourism-related establishments, and agri-business, which for the purposes of this Act refers to any business activity involving the manufacturing, processing, and/or production of agricultural produce. Business activities involving fisheries, aquatic resources and other related industries shall likewise be covered by this Act.
- d) a business activity as provided in Section 3 of this Rule which is not a branch, subsidiary or division of a large scale enterprise.

However, this requirement shall not preclude MSMEs from accepting subcontracts and entering into franchise partnership with large enterprises or from joining in cooperative activities with other MSMEs.

*Sec. 2. Coverage of Small Business Corporation (SB Corporation).* Programs of the Small Business Corporation (SB Corporation) as provided in subsequent provisions of this Act shall be exclusively delivered and directed to bonafide MSMEs. The SB Corporation shall make known through all its offices and partner organizations its current programs pertaining to bonafide MSMEs.

*Sec. 3. Disqualification of MSMEs as Beneficiaries under RA 6977, as amended.* Any MSME, its directors, officers or agents, found to have committed fraud or misrepresentation for the purpose of availing the benefits under this Act shall be immediately disqualified as a beneficiary, without prejudice to any administrative, criminal or civil liability under existing laws.

*Sec. 4. Share of MSMEs in Government Procurement.* Eligible MSMEs shall be entitled to a share of at least ten percent (10%) of total procurement value of goods and services supplied to the Government, its bureaus, offices and agencies annually.

*Sec. 5. Monitoring on Required Government Procurement.* The Department of Budget and Management shall monitor the compliance of government agencies on the required procurement for MSMEs, as provided for in Sec. 4 of this Rule, and submit its report to the MSMEDC on a semestral basis, and to the Congress of the Philippines, through its appropriate committees on a yearly basis.

## **Rule 5**

### **Guiding Principles**

*SECTION. 1. Minimal Set of Rules and Simplification of Procedures and Requirements.* All government agencies having to do with MSMEs shall pursue the principle of minimum regulation to ensure stability of rules and to encourage entrepreneurial spirit among the citizenry. The agencies shall see to it that procedural rules and requirements, within their

respective offices and in coordination with other agencies, are minimized in the act of registration, availment of financing and in accessing other government services and assistance.

*Sec. 2. Role of the Private Sector.* In order to hasten growth and expansion of micro, small and medium enterprises, the private sector throughout the country shall be encouraged to assist in the effective implementation of RA 9501 and this IRR by participating in government programs for MSMEs for the attainment of the purposes hereof. To encourage private sector participation, the MSMED Council, in consultation with the concerned sector, may recommend a simplified procedure and localized incentives to MSMEs. The Government shall encourage the organization and establishment of MSME industry associations at the local and regional levels, where none exists, and their strengthening if already established. To ensure collective actions and initiatives, MSME industry associations preferably be unified under a national federation/association.

*Sec. 3. Coordination of Government Efforts.* Government efforts shall be coordinated to achieve coherence in objectives. All appropriate offices, particularly those under the Departments of Trade and Industry, Finance, Budget and Management, Agriculture, Agrarian Reform, Environment, Transportation and Communications, Public Works and Highways, Science and Technology, Interior and Local Government, and Tourism, as well as the National Economic and Development Authority (NEDA), Philippine Information Agency (PIA), and the *Bangko Sentral ng Pilipinas* (BSP), through their national, regional and provincial offices shall, to the best of their efforts and in coordination with local government units, provide the necessary support and assistance to MSMEs.

*Sec. 4. Decentralization.* The State shall accelerate the decentralization process by establishing regional and provincial offices in order to enhance and attain greater efficiency in the provision of services to the countryside and the implementation of RA 9501, in coordination with local government units. To this end, the government agencies shall effect a substantial delegation of authority to their regional and provincial offices to make decisions, particularly in the registration of beneficiaries, qualification for availment of benefits, accreditation of private voluntary organizations, industry associations and cooperatives, and to resolve complaints for violation of applicable laws.

## **Rule 6**

### **Micro, Small and Medium Enterprises Development Plan (MSMEDP)**

*SECTION 1. MSMEDP Approving and Recommending Authorities.* The President shall approve a six-year micro, small and medium enterprises development plan prepared by the Department of Trade and Industry (DTI), through the Bureau of Micro, Small and Medium Enterprise Development (BMSMED) and endorsed by the Micro, Small and Medium Enterprise Development Council (MSMEDC), which shall form part of the Medium Term Philippine Development Plan (MTPDP). It shall be formulated in consultation with the private sector, validated and updated semestraly. Such plan shall include a component on a micro credit financing scheme, which shall take into consideration current government programs on microfinance consistent with its definition under the Social Reform and Poverty Alleviation Act or RA 8425 earlier mentioned in Rule 2, Section 4 of this IRR.

Sec. 2 *Mechanism for Micro Credit Financing Scheme.* In the development of the microcredit financing scheme to be included in the MSMEDP, the MSMEDC shall coordinate with the National Anti-Poverty Commission (NAPC) and the Department of Finance-National Credit Council (DOF-NCC) in establishing policies and programs pursuant to the intents and thrusts of the laws granting mandates to these Councils to do so. Existing mandates on government agencies, such as the People's Credit and Finance Corporation (PCFC) microfinancing responsibilities under RA 8425, and replicable practices of non-governmental organizations and cooperatives, shall be considered. The BSMED and the MSMEDC shall ensure that these micro-financing institutions shall be represented in all consultations and deliberations on the matter.

Sec. 3. *Separate Category Plans for Micro, Small and Medium Enterprises.* The MSMEDP shall have separate category plans for micro, small and medium enterprises taking into consideration the specific needs of each category. Each category plan shall be based on updated statistics and such other relevant information to ensure its applicability and timeliness for the benefit of the MSMEs. The MSMEDP shall also ensure that policies and programs by industry are assessed and formulated accordingly through a value-chain analysis or such other tools on enterprise resource planning.

Sec. 4. *Coordination, Monitoring and Assessment of the MSMEDP.* The MSMEDC shall coordinate, monitor and assess the implementation of the MSMEDP. It shall also receive and make appropriate and timely decisions on the annual and medium-term MSME development plans as submitted by the Council Secretariat.

## **Rule 7**

### **Micro, Small and Medium Enterprise Development (MSMED) Council**

SECTION 1. *Strengthening of the Small and Medium Enterprise Development Council.* The existing Small and Medium Enterprise Development Council, which was created by Republic Act No. 6977, as amended by Republic Act No. 8289, shall, pursuant to RA 9501, be strengthened to effectively spur the growth and development of MSMEs throughout the country, and to carry out the policy declared in the Act. It shall now be known as the Micro, Small and Medium Enterprise Development (MSMED) Council or for brevity, MSMEDC.

The Council shall be the primary agency responsible for the promotion, growth and development of small and medium enterprises in the country by way of facilitating and closely coordinating national efforts to promote the viability and growth of small and medium enterprises, including assisting relevant agencies in the tapping of local and foreign funds for small and medium enterprise development, as well as promoting the use of existing programs, as well as seeking ways to maximize the use of our labor resources.

Sec. 2. *Attachment of the MSMEDC to the DTI.* The MSMEDC shall be attached to the Department of Trade and Industry and shall be constituted within sixty (60) days after the approval of RA 9501.

Sec. 3. *Composition.* The Council shall be headed by the Secretary of Trade and Industry as Chairperson, and may elect from among themselves a Vice-chairperson to preside over the Council meetings in the absence of the Chairperson. The members shall be the following:

- a) Secretary of Agriculture;
- b) Secretary of the Interior and Local Government;
- c) Secretary of Science and Technology;
- d) Secretary of Tourism;
- e) Chairperson of Small Business Corporation;
- f) Three (3) representatives from the MSME sector to represent Luzon, Visayas and Mindanao;
- g) One representative from the labor sector, to be nominated by accredited labor groups; and
- h) A representative from the private banking sector: to serve alternately among the Chamber of Thrift Banks; the Rural Bankers' Association of the Philippines (RBAP); and the Bankers' Association of the Philippines (BAP).

Sec. 4. *MSME and Labor Representation in the MSMEDC.* For the purpose of appointing the MSME and Labor Sector representatives in the MSMEDC, the Chair of the MSMEDC shall, within fifteen (15) days from the effectivity of this IRR, constitute a nominations committee composed of the five *ex-officio* members of the MSMEDC as members. The nominations committee shall, within fifteen (15) days from their constitution, initiate the process of selection which shall include the setting of criteria for selection and the process for accepting nominations from accredited labor groups, in the case of the labor sector representative, and by recognized trade associations, chambers, cooperatives, and/or business organizations, in the case of the MSME representatives. The nominations committee may also utilize existing guidelines on selection of Council members which shall include gender representation. They may also include as part of their selection process the identification of MSME nominees by category, *i.e.*, micro, small and medium but shall ensure that each of the major island groupings, *i.e.*, Luzon, Visayas and Mindanao, shall have one representative each.

The nominations committee, within forty five (45) days from its constitution shall submit a shortlist of nominees to the Chair of the MSMEDC who shall then endorse the shortlist to the President for appointment. The BMSMED shall assist the nominations committee in the selection process and shall ensure that the nominees involvement in local or regional activities concerning MSMEs shall be presented, with regard to the MSME representatives. The BMSMED shall also ensure that it shall receive from the appropriate government agency the current list of accredited labor groups.

Sec. 5. *Term of Office.* All members of the Council so appointed, except for the *ex-officio* members, shall serve for a term of three (3) years. The person so appointed to replace a member who has resigned, died, or been removed for cause shall serve only for the unexpired portion of the term.

In the case of the private banking sector, the three (3) year term shall be served alternately by the identified associations at one (1) year each. The sequence of service shall be based on the agreement reached by the bank associations. The bank associations shall inform the MSMEDC in writing of their representatives and the particular part of the term that he/she shall serve.

Sec. 6. *Authorized Per Diems and other expenses.* The private sector members of the Council shall receive *per diem* of Two thousand pesos (P2,000) per meeting, for a maximum of twenty-four (24) meetings per year. Said *per diem* may be adjusted by the MSMED Council

as appropriate. Accommodation, travel and transportation expenses and meals during meetings shall not be included in the afore-mentioned *per diem* and shall be shouldered by the MSMEDC. The per diems and other expenses shall be taken from the MSMEDC's appropriations under the General Appropriations Act.

*Sec. 7. Resource Persons during deliberations.* The Council may call upon the participation of any national or local government agency, association of local government officials or private sector organization in its deliberations especially when such agency or private sector organization is directly or indirectly concerned with and/or affecting the growth and development of MSMEs in any particular area or manner.

In case the deliberations pertain to micro credit finance and its beneficiaries, the MSMEDC shall ensure that these shall be held in coordination with the Department of Finance-National Credit Council (DOF-NCC). The NAPC and other government agencies, non-government organizations and cooperatives currently involved in providing financial services to the poor, such as the PCFC, shall be invited as resource persons.

Identified agencies with mandated responsibilities under RA 6977, as amended, shall be invited to be permanent resource persons in the MSMEDC meetings. These are the following: a) National Economic and Development Authority (NEDA) in accordance with Sec. 7-B (g); b) *Bangko Sentral ng Pilipinas* in accordance with Sec 15 and other relevant provisions, and (c) identified representatives of the Chair and Co-Chair of the Congressional Oversight Committee for MSMED (COC) shall be invited to be permanent resource persons in the MSMEDC meetings. The key role of the Philippine Information Agency in information dissemination and promotion as emphasized by its inclusion, through RA 9501 in Sec. 5(c) is recognized and mechanisms shall be put in place by the MSMEDC Secretariat in coordinating with the PIA with regard to new policies and programs put into place pursuant to RA 6977, as amended.

*Sec. 8. MSMEDC Executive Committee.* The Council may create an Executive Committee of five (5) members elected by the Council from among themselves or their designated permanent representatives, with at least two (2) members representing the private sector, and with authority to act for and on behalf of the Council during intervals of council meetings, and within the specific authority granted by the Council. The designated permanent representatives shall at least be an Assistant Secretary. Should said official be unable to attend the meeting, she/he may designate for that specific instance, a representative no lower than Director IV level to exercise voting rights. For purposes of clarifying this provision, private sector shall refer to the appointees of the President from among the MSMEs.

## **Rule 8**

### **Powers, Duties and Functions of the MSMEDC**

*SECTION. 1. Purpose of the MSMEDC and Guidelines on Its Powers, Duties and Functions.* The MSMED Council shall help establish the needed environment and opportunities conducive to the growth and development of the MSME sector. In this regard, it shall ensure that within one hundred eighty (180) days from its reconstitution under these Rules and pursuant to the spirit and intent of RA 6977, as amended by RA 8289, and further

amended by RA 9501, it shall deliberate on and subsequently approve the following, through Council Resolutions:

- a) Guidelines on the promotion of the productivity and viability of MSMEs in coordination with relevant government agencies and institutions at the national, regional and provincial levels particularly as regards the role of the MSMEDC in “directing and/or assisting” the above agencies and institutions. This may include the MSMEDC’s role as a clearing house; appropriate processes to resolve conflicting policies, and, mechanisms for the agencies and institutions to adhere to the MSMED Plan through creation of policies or amend/revise existing policies;
- b) a results-based monitoring system for policies and programs for MSMEs which shall also consider the establishment of a feedback and evaluation mechanism as provided for by Sec 2 (i) of RA 6977, as amended and further amended;
- c) identification of the timelines and consultation process for the submission of annual reports to the President and Congress;
- d) identification of timelines for its action and contents of periodic reports to be submitted to the MSMEDC by the *Bangko Sentral ng Pilipinas*, the Department of Budget and Management and such other agencies of government and the private sector as identified under this IRR or as may be required by the MSMEDC in order to perform its duties and functions;
- e) overall developmental plans and strategies of SB Corporation pursuant to the MSMEDC’s policy and program supervision over the Corporation in order to promote its operations; and,
- f) identification of officials responsible for the setting-up of other monitoring systems and such other mechanisms as provided for by this Act or as may be necessary to perform its duties and functions.

*Sec. 2. Recommendation to the President and Congress of Policy Matters.* The MSMEDC shall recommend to the President and the Congress all policy matters affecting MSMEs. In this regard, the report shall be submitted on a semestral basis, with the end-of-June submission identifying proposed legislation which the President may consider in the preparation of the State of the Nation Address. To pursue its mandate for the rationalization of existing MSME programs and agencies, the MSMEDC shall conduct a continuing review of government programs for MSMEs and shall likewise submit to Congress and the President a report thereon together with its policy recommendations.

*Sec. 3. Coordination and Integration of Various Activities.* The MSMEDC shall coordinate and integrate various government and private sector activities relating to MSME development. In this regard, the MSMEDC shall receive the written annual reports from the MSMEDCs of the cities and municipalities of the National Capital Region, and the Provincial and City MSMEDCs. Pursuant to the mandate to the DTI under Sec. 6 of RA 6977, as amended and further amended, to prepare the MSMEDP, the MSMEDC shall be provided the consolidated reports of the DTI Regional Operations and Development Group (RODG).

*Sec. 4. Review of Government Policies.* The MSMEDC shall review existing policies of government agencies that would affect the growth and development of MSMEs. Within ninety (90) days from the approval of this IRR, the Council Secretariat shall submit, for the information of the MSMEDC a database of existing laws, their Implementing Rules and Regulations, department orders pursuant to the implementation of the laws and such other relevant policies. The Secretariat shall also submit, together with the database, the proposed

monitoring system which will facilitate the review and recommendation process. The database shall include, but shall not be limited to the following laws: Local Government Code, General Banking Law, Social Reform and Poverty Alleviation Act, General Procurement Reform Law, BMBE Law, Export Development Act, Omnibus Incentives Law and the current Investments Priority Plan, Retail Law and Laws concerning Persons with Disabilities and Women engaged in Micro and Cottage Enterprises. The Council Secretariat shall update the database whenever a new law, relevant to MSMEs and RA 6977 as amended, is enacted, including department and executive issuances. In this regard, concerned agencies shall be requested to provide copies of their issuances to the Secretariat within thirty (30) days from their approval to ensure that the database is current.

*Sec. 5. Submission of Recommendations to Identified Offices.* The MSMEDC, pursuant to Sections 2 and 4 of this Rule, shall recommend changes to policies to the President and Congress through the Committee on Economic Affairs of the Senate and the Committee on Small Business and Entrepreneurship Development of the House of Representatives. Said recommendations shall be submitted whenever deemed necessary and included in the annual report which shall be submitted by MSMED to the President and Congress.

This provision shall include efforts related to the registration, financing and other activities relevant to MSMEs, in particular:

- a) to simplify rules and regulations, and
- b) to review the applicability and relevance of procedural and documentary requirements.

*Sec. 6. Monitoring of Progress on MSME Development.* The MSMEDC shall monitor and determine the progress of various agencies geared towards the development of the sector. This shall include overseeing, in coordination with local government units and the Department of Interior and Local Government as well as private sector groups/associations, the development among MSMEs. In this regard, the State, in furtherance of this policy and the guiding principle of decentralization of RA 6977, as amended, recognizes the critical roles played by the local government units and regional development councils. Towards this end, all existing SMED Councils shall now be recognized as MSMEDCs and shall be reconstituted to ensure the participation of representatives from the micro, small and medium categories of MSMEs, if presently not adequately represented. This is pursuant to the Guiding Principles of RA 6977, as amended, emphasizing the partnership of the LGUs, the private sector groups and industry associations. The DTI City and Provincial Offices shall serve as the Secretariat of the respective councils.

To ensure the sustainability of existing and new MSMEDCs in provinces and non-component cities, and LGUs in NCR, technical assistance shall be provided by the DTI jointly with the DILG to the LGUs in the following: (a) creating, through ordinances, provincial and city MSMEDCs where none exists; or, (b) ensuring, through the appropriate ordinance, resolution or executive issuance, that the thrusts of existing multi-sectoral mechanisms, such as local development councils geared towards local economic development, shall include the integration of specific plans and directions for MSMEs and provide for MSME participation if there is none. Necessary appropriations shall be made an integral provision of the local ordinance. In the case of existing MSMEDCs, provinces and non-component cities, appropriate local policies shall be put in place for their sustainability. In the case of the

National Capital Region, the DTI Regional Office shall coordinate with the Metro Manila Development Authority (MMDA) on appropriate steps to ensure a regional approach in MSME development, insofar as these are within the powers and functions of the MMDA.

Sec. 7. *Promulgation of Implementing Guidelines and the like.* The MSMEDC shall promulgate implementing guidelines, programs, and operating principles as may be deemed proper and necessary in the light of government policies and objectives of RA 6977, as amended by RA 8289 and further amended by RA 9501 and this IRR;

Sec. 8. *Policy and Coordinative Framework for Tapping of Funds for MSME Development.* The MSMEDC shall provide the appropriate policy and coordinative framework in assisting relevant government agencies, in coordination with the NEDA and the Coordinating Council for the Philippine Assistance Program, as may be necessary, in the tapping of local and foreign funds for MSME development.

Sec. 9. *Promotion of Productivity and Viability of MSMEs.* The MSMEDC shall promote the productivity and viability of MSMEs by way of directing and/or assisting relevant government agencies and institutions at the national, regional and provincial levels towards the:

- a) Provision of business training courses, technical training for technicians and skilled laborers and continuing skills upgrading programs;
- b) Provision of labor-management guidance, assistance and improvement of the working conditions of employees in MSMEs;
- c) Provision of guidance and assistance regarding product quality/product development and product diversification;
- d) Provision of guidance and assistance for the adoption of improved production techniques and commercialization of appropriate technologies for the product development and for increased utilization of indigenous raw materials;
- e) Provision of assistance in marketing and distribution of products of MSMEs through local supply-demand information, industry and provincial profiles, overseas marketing promotion, domestic market linkaging and the establishment of common service facilities such as common and/or cooperative bonded warehouse, grains storage, agro-processing and drying facilities, ice plants, refrigerated storage, cooperative trucking facilities, etc;
- f) Intensification of assistance and guidance to enable greater access to credit through a simplified multi-agency financing program; to encourage development of other modes of financing such as leasing and venture capital activities; to provide effective credit guarantee systems, and encourage the formation of credit guarantee associations, including setting up of credit records and information systems and to decentralize loan approval mechanisms;
- g) Provision of concessional interest rates, lower financing fees, which may include incentives for prompt credit payments, arrangements tying amortizations

to business cash flows, effective substitution of government guarantee cover on loans for the borrower's lack of collateral;

h) Provision of bankruptcy preventive measures through the setting up of a mutual relief system for distressed enterprises, and the establishment of measures such as insurance against extraordinary disasters;

i) Intensification of information dissemination campaigns and entrepreneurship education activities. Lending institutions and other agencies concerned with access to finance shall also ensure that their front-line officers and conduit banks, if any, have knowledge on promotion and assistance and initiatives of Local Government Units in the areas where the MSMEs are located as well as the current Investments Priorities Plan of the Board of Investments.

j) Availment of and easier access to tax credits and other tax and duty incentives as provided by the Omnibus Investment Code and other laws; and,

k) Provision of support for product experimentation and research and development activities as well as access to information on commercialized technologies.

In pursuance of the above, the MSMEDC shall ensure that concerns and issues on the implementation of RA 6977, as amended, shall be addressed by clustering said concerns and issues relative to the outcomes of the MSMED Plan, such as access to markets, access to finance, productivity and efficiency, and enabling environment.

In directing and/or assisting relevant government agencies and institutions at the national, regional and provincial levels, the MSMEDC shall ensure that the power to "direct" shall be geared towards harmonizing and facilitating the creation of appropriate policies/programs and shall consider the autonomy of each agency or institution to prescribe its procedures and other applicable actions pursuant to its mandates and thrusts under existing laws. The MSMEDC shall also initiate the signing of a Memorandum of Agreement with lead agencies involved in implementing Rules 8 and 9 of this IRR, which shall be identified by a MSMEDC Resolution, for the purpose of delineating the responsibilities of the parties in pursuing the provisions of RA 6977, as amended and further amended.

Thus, relevant government agencies and other institutions shall coordinate with industry associations, cooperatives and other concerned agencies in both the government and private sector. LGUs and provincial offices of government agencies are enjoined to provide facilities that will cater to the administrative and operational requirements of the greater majority of MSMEs in their respective areas.

With regard to capacity building programs, concerned agencies, in cooperation with industry associations, shall be requested to delineate their areas of coverage, *i.e.*, geographic, topical/program areas, etc. to ensure that the programs reach as many existing MSMEs and interested individuals and groups. The MSMEDC shall also identify not only geographical and sectoral concerns, but value-chain and/or enterprise resource planning issues as well. This shall be done with the appropriate stakeholders, and encourage the setting up or expansion of MSMEs in areas where pockets of poverty are present which will benefit poor and marginalized sectors.

The MSMEDC shall consult with the SB Corporation on the Council's appropriate action on developmental policies, programs and projects concerning access to finance and other credit facilities, including for distressed enterprises that the Council should approve in pursuance to RA 6977, as amended. The MSMEDC shall also consult with relevant agencies on the basis of concessional rates which shall be limited to incentives for prompt credit payments, arrangements tying amortizations to business cash flows, effective substitution of government guarantee cover on loans for the borrower's lack of collateral.

Sec. 10. *Other Duties and Functions Implemented through Appropriate Government Agencies.* The MSMEDC shall, in pursuance to Sec. 9 of this Rule, work through appropriate government agencies to:

a) Provide more infrastructure facilities and public utilities to support operations of MSMEs in coordination with regional, provincial and city MSMEDCs;

b) Establish, operate, and administer a small business incubation program in coordination with academic institutions, Department of Science and Technology and other appropriate government entities. The program is intended to provide space for start-up and expanding firms, shared use of equipment and work areas, daily management support services essential to high-quality commercial operations, technical assistance and other services to develop innovative and deserving MSMEs;

c) Conduct a nationwide information campaign with the Philippine Information Agency and government-private sector/basic sector councils/commissions such as the NAPC, Export Development Council (EDC) and National Commission on the Role of Filipino Women, to inform the public of all programs and services, government and nongovernment available to MSMEs. This shall be done in cooperation with existing industry associations, cooperatives, basic sector organizations such as women, informal sector and persons with disabilities;

d) Provide local and international network and linkages for MSME development in coordination with BSMED; and,

e) Compile and integrate statistical databank on Philippine MSMEs in coordination with the National Statistics Office (NSO) and National Statistical and Coordination Board (NSCB) which shall take appropriate initiatives in generating demand-driven MSME statistics.

Sec. 11. *MSME Centers.* The MSMEDC in coordination with the appropriate government and non-government agencies shall set up new MSME centers and revitalize already established MSME centers to provide MSMEs in the regions easier access to services such as, but not limited to, the following:

a) Accept and act on all registration applications of MSMEs;

- b) Streamline registration process and facilitate speedy registration for the establishment of business enterprises in the country;
- c) Provide all information and referral services it shall deem necessary or essential to the development and promotion of MSMEs;
- d) Conduct other programs or projects for entrepreneurial development in their respective areas; and,
- e) Provide courses and development programs, training, advice, consultation on business conceptualization and feasibility, financing, management, capacity building, human resources, marketing, and such other services to support the needs of MSMEs;

The MSMEDC shall also ensure that appropriate programs are established to strengthen and empower industry associations and federations and shall, pursuant to this Section, enter into coordinating and collaborative arrangements with industry associations which have wide geographical reach.

*Sec. 12. Annual Report on the Status of MSMEs.* The MSMEDC shall submit to the President and the Congress through the Oversight Committee as defined under RA 6977, as amended, and further amended, a yearly report on the status of MSMEs in the country, including the progress and impact of all relevant government policies, programs and legislation as well as private sector activities. For the purpose of the annual reporting to the President, the MSMEDC shall coordinate with the existing inter-agency committee on MSMEs tasked by or created pursuant to an Executive Issuance.

*Sec. 13. Coordination, Monitoring and Assessment of the MSMEDP.* The MSMEDC shall coordinate, monitor and assess the implementation of the MSMEDP, and when necessary, institute appropriate adjustments thereon in the light of changing conditions in both domestic and international environment.

*Sec. 14. Periodic Reports including Gender Responsiveness of MSME Policies and Programs.* The MSMEDC shall act on the periodic reports submitted by different government agencies as provided for by this IRR. Consistent with the gender responsiveness framework of the State, reports may include among others disaggregated data on gender and programs and projects geared towards women empowerment.

*Sec. 15. Other Powers and Functions.* The MSMEDC shall exercise all powers and functions necessary for the objectives and purposes of RA 6977, as amended by RA 8289, and further amended by RA 9501.

## **Rule 9**

### **MSMEDC Secretariat, Appropriations under the General Appropriations Act and MSMED Council Fund**

SECTION 1. *The Bureau of Micro, Small and Medium Enterprise Development.* The Bureau of Small and Medium Business Development (BSMBD) shall hereinafter referred to as the Bureau of Micro, Small and Medium Enterprise Development (BMSMED). The BMSMED, as provided for by Executive Order No. 133, February 1987, and other issuances, is an integral part of the Department of Trade and Industry. It is responsible for the promotion and development of MSMEs. It formulates and monitors development programs for private institutions involved in assisting the trade and industry sector, delivery mechanisms and linkages for marketing, financial and sub-contracting services and development programs for livelihood and micro, small, and medium enterprises.

Sec. 2. *Designation of the BMSMED as the Council Secretariat.* The BMSMED is hereby designated to act as the Council Secretariat and shall have the following duties and functions pertinent to its designation to:

- a) prepare and/or recommend, in coordination with local government units and/or associations of local government officials, the annual as well as medium-term MSME development plans for approval of the Council;
- b) coordinate the preparation of position papers and background materials for discussion or approval during Council meetings;
- c) to assist the Council in coordinating and monitoring MSME policies and programs and activities of all government agencies with respect to MSMEs;
- d) prepare, collate and integrate all inputs to the Council's yearly report on the status of MSMEs in the country;
- e) submit periodic reports to the Council on the progress and accomplishment of its work programs; and
- f) perform *ad hoc* functions as authorized by the Council.

Sec. 3. *Strengthening of the BMSMED.* Pursuant to the strengthening of the MSMEDC and the expansion of its powers, duties and responsibilities, the MSMEDC shall, within sixty (60) days from the effectivity of this IRR, review the organizational structure of the BMSMED in coordination with the appropriate offices of the DTI. The review shall result in a set of recommendations which will ensure the capacity and capability of BMSMED to respond to the needs of the MSMEDC and the sub-national councils. The appropriate MSMEDC resolution shall be addressed to the Secretary of Trade and Industry who has the broad power to reorganize the DTI pursuant to the Administrative Code No. 292 dated 27 July 1987 and other existing laws. The recommendations, subject to existing rules and regulations, may include the following: BMSMED to be given the authority to hire additional employees whether regular or contractual, and engage the services of consultants, as may be necessary, to supplement its current organizational complement.

Sec. 4. *Appropriations.* To finance its activities and operational expenses, the MSMEDC shall have a separate annual appropriation approved by the Department of Trade and Industry (DTI) which shall be provided in the General Appropriations Act starting in the fiscal year immediately following the approval of RA 9501. The MSMEDC may also accept contributions, subject to pertinent government accounting and auditing rules and regulations, from the private sector. Activities and operational expenses shall include those arising from professional fees of individuals or institutions which the MSMEDC may tap to conduct researches, studies or formulate policy papers and the like, which are germane to the powers, duties and functions of the MSMEDC.

Sec. 5. *MSMED Council Fund*. The MSMEDC shall set up the MSMED Council Fund for the development of the MSME Sector subject to existing laws, rules and guidelines applicable to funds established by law. Within sixty (60) days from the effectivity of this IRR, the MSMEDC through resolution shall identify the other possible sources for the Fund and the allowable expenses, such as support for regional and provincial and city MSMEDCs, which may be drawn from it.

## Rule 10

### Small Business Guarantee and Finance Corporation

SECTION 1. *Creation of the Small Business Guarantee & Finance Corporation*. By virtue of RA 6977, as amended, and further amended, there is hereby created a body corporate to be known as the Small Business Guarantee and Finance Corporation, hereinafter referred to as the Small Business Corporation or SB Corporation, which shall be charged with the primary responsibility of implementing comprehensive policies and programs to assist MSMEs in all areas, including but not limited to finance and information services, training and marketing.

Sec. 2. *Board of Directors*. The SB Corporation's corporate powers shall be vested on a Board of Directors composed of eleven (11) members which shall include the following:

- a) The Secretary of the Department of Trade and Industry;
- b) The Secretary of the Department of Finance;
- c) A private sector representative to be appointed by the President of the Republic of the Philippines upon the recommendation of the MSMED Council;
- d) Seven (7) representatives of the SB Corporation common stock shareholders who shall be elected based on proportional distribution, in accordance with Section 24 of the Corporation Code; and
- e) The President of the SB Corporation as *ex officio* member and to serve as Vice Chairperson of the Board.

Sec. 3. *Appointment of the Chairperson of the Board*. The President of the Philippines shall appoint the Chairperson of the Board from among its members.

Sec. 4. *Election of the Seven (7) Directors from SB Corporation Common Stock Shareholders*. In the election of the seven (7) directors from the SB Corporation's common stock shareholders, there must be present, either in person or by representative authorized to act by written proxy, the owners of the outstanding capital stock. The election must be by ballot if requested by any voting stockholder. Every stockholder is entitled to vote shall have the right to vote by its authorized proxy the number of shares of stock standing in its name on the stock books of the SB Corporation at the time of the election. The stockholders may vote such number of shares for as many persons as there are directors to be elected or it may cumulate said shares and give one candidate as many votes as the number of directors to be elected multiplied by the number of its shares shall equal, or it may distribute them on the same principle among as many candidates as it shall see fit: Provided, That the total number of votes cast by it shall not exceed the number of shares owned by the entity so represented as shown in the books of the SB Corporation multiplied by the whole number of directors to be

elected. Candidates receiving the highest number of votes shall be declared elected. Any meeting of the stockholders called for an election may adjourn from day to day or from time to time, but not indefinitely if, for any reason, no election is held, or if there are not present or represented by proxy, at the meeting, the owners of the outstanding capital stock.

The proxy so authorized shall notify the Board Secretariat that the former is the duly authorized representative of the common share holders by presenting his or her written proxy at least 30 days before the date of stockholders meeting.

Thereafter, the elections of the seven (7) directors from the SB Corporation common stock shareholders shall be held annually on such date and place as may be provided for under SB Corporation's amended By-Laws.

Sec. 5. *Term.* All members of the Board so appointed, except for the *ex-officio* members, shall serve for a term of three (3) years without reappointment. The person so appointed to replace a member of the Board who has resigned, died, or been removed for a cause shall serve only for the unexpired portion of the term.

Sec. 6. *Powers and Authorities of the Board.* The Board of Directors shall have, among others, the following specific powers and authorities:

- a) formulate policies necessary to carry out effectively the provisions of RA 6977, as amended by RA 9501, and to prescribe, amend, and repeal by-laws, rules and regulations for the effective operations of the SB Corporation;
- b) establish such branches, agencies, and subsidiaries as may be deemed necessary and convenient, provided that such subsidiaries are related to its core competencies and using internally generated funds;
- c) compromise or release, in whole or in part, any claim or liability whatsoever for or against the SB Corporation, including interest, penalties, fees, and/or other charges in accordance to its own by-laws and BSP Rules;
- d) fix the features of non-voting preferred shares in compliance primarily with RA 9501 and suppletorily by the Corporation Code, which shall be printed on the stock certificates evidencing the same;
- e) exercise all such other powers as may be necessary or incidental to carry out the SB Corporation's purposes; and
- f) notwithstanding the provisions of RA 6758 and Compensation Circular No. 10, series of 1989 issued by the DBM, the Board shall have the authority to provide for the organizational structure and staffing pattern of SB Corporation and to extend to the employees and personnel thereof salaries, allowances, and fringe benefits similar to those extended to and currently enjoyed by employees and personnel of other government financial institutions.

f.1. Within 120 days from the effectivity of this IRR, the Board shall approve a new organizational structure and staffing pattern of SB Corporation.

f.2. The salaries, allowances, and fringe benefits to be extended to the employees and personnel of SB Corporation shall be based on a survey of the salaries, allowances, and fringe benefits of other government financial institutions which SB Corporation shall conduct, subject to the review of the DTI Secretary before presentation to the Board for approval.

*Sec. 7. Structure and Powers of the SB Corporation.* The SB Corporation shall have the following structure and powers:

- a. be administratively attached to the DTI and shall be under the policy and program supervision of the MSMED Council;
- b. have its principal offices in Metro Manila whenever necessary, establish branch office in the provinces;
- c. exercise all the general powers conferred by law upon corporations under the Corporation Code, including those powers that are incidental or necessary to the attainment of the objective of RA 6977, as amended. For this purpose, the SB Corporation subject to compliance with the Rules and Regulations to be issued by the BSP and the Securities and Exchange Commission (SEC) insofar as they are relevant to its mandate and operations, shall have the following functions and duties:
  1. source and adopt development initiatives for globally competitive MSMEs in finance and business technologies;
  2. to extend all forms of financial assistance to eligible MSMEs The SB Corporation shall be given two (2) years from the effectivity of RA 9501 to comply with this requirement;
  3. guarantee loans obtained by qualified MSMEs under such terms and conditions adopted by the SB Corporation Board of Directors;
  4. hold, purchase, lease or otherwise acquire and own real and personal property, introduce necessary improvements thereon and to sell, mortgage, encumber or otherwise dispose of the same as may be necessary in the normal course of business;
  5. formulate means and methods of accepting alternative collaterals and implementing alternative loan evaluation models;
  6. apply for, receive, and accept grants and donations from sources within and outside the country;
  7. hold, own, purchase, acquire, sell, mortgage, dispose or otherwise invest or re-invest in stocks, bonds, treasury bills, debentures, securities and similar forms of indebtedness of the Government, its agencies and instrumentalities or any government financial institution.
- d. The SB Corporation may also engage in wholesale lending.

## **Capitalization and Funding of the SB Corporation**

SECTION 1. *SB Corporation's authorized Capital Stock.*--The SB Corporation shall have an authorized capital stock of Ten billion pesos (Php10,000,000,000.00).

- a) The initial capital of One billion pesos (Php1,000,000,000.00) shall be established from a pool of funds to be contributed in the form of equity investments in common stock by the Land Bank of the Philippines (LBP) and the Development Bank of the Philippines (DBP), in the amount of Two hundred million pesos (Php200,000,000.00) each.
- b) The Social Security System (SSS) and the Government Service Insurance System (GSIS) shall also set aside Two hundred million pesos (Php200,000,000.00) each for the SB Corporation.
- c) The authorized capital stock of the SB Corporation shall be divided into Eighty million (80,000,000) common shares and Twenty million (20,000,000) preferred shares with a par value of One hundred pesos (Php100.00) per share: Provided, That the common shares which have been issued, including those issued against the assets of the KKK Guaranty Fund consolidated under the SB Corporation by virtue of Executive Order No. 233, series of 2000 and Executive Order No. 19, series of 2001 and including those already subscribed, shall form part of the capitalization of the SB Corporation: Provided, further, that holders of preferred shares issued under RA No. 6977, as amended, shall have the option to convert the same into common shares.

Sec. 2. *Additional Equity Funding.* Additional equity funding shall come from trust placements of excess and unused funds of existing government agencies, bilateral and multilateral official development assistance funds, subscriptions from government owned or controlled corporations, and investments of private financial institutions and corporations: Provided, That any investment from the private sector shall only be in the form of preferred shares. The SB Corporation shall likewise notify the national government of the former's need for additional funding as may be necessary to meet its capitalization requirements and to seek its assistance to facilitate the inflow of additional equity funding from the foregoing sources.

Sec. 3. *Grace period on Dividend Commitments.* To allow for capital build-up, SB Corporation shall be given a five (5)-year grace period in its cash dividend commitments beginning on the date of effectivity of RA 9501. Thereafter, it may only declare as dividend not more than 30% of its net income and the rest withheld as retained earnings.

### **Rule 12**

#### **BSP Supervision and Examination and Venture Capital and Micro Finance Trust Fund of the SB Corporation**

SECTION 1. The SB Corporation shall be subject to the supervision and examination of the Bangko Sentral ng Pilipinas taking into consideration its developmental objectives. As such,

the BSP shall implement the appropriate system to supervise and examine the SB Corporation's quasi-banking functions.

*Sec. 2. Venture Capital and Micro Finance Trust Fund.* The SB Corporation may set aside an amount of money to encourage the setting up of programs on venture capital and on microfinance trust fund for the purpose of promoting business opportunities available to the MSME sector. The Venture Capital Fund shall be used mainly for venture capital finance especially in technology-oriented industries. The micro finance trust fund shall be used to provide collateral-free fixed and working capital loans to qualified micro and small enterprises run by those emerging out of poverty. The venture capital and micro finance trust fund shall be made available to the MSMEs in partnership with SB Corporation's participating financial institutions (PFIs). The micro finance trust may be used to provide wholesale funds to qualified micro finance institutions providing collateral-free and household cash-flow based loans to micro enterprises. In the case of the Venture Capital Fund, priority shall be given to technology-oriented small industries with high potential growth.

### **Rule 13**

#### **Mandatory Allocation of Credit Resources to Micro, Small and Medium Enterprises**

*SECTION 1. Mandatory Allocation.* For the period of ten (10) years from the date of the effectivity of this amendatory Act, all lending institutions as defined under *Bangko Sentral ng Pilipinas* rules, whether public or private, shall set aside at least eight percent (8%) for micro and small enterprises and at least two percent (2%) for medium enterprises of their total loan portfolio based on their balance sheet as of the end of the previous quarter, and make it available for MSME credit as herein contemplated.

*Sec. 2. Compliance of Mandatory Allocation.* Compliance of this provision shall be:

- a) actual extension of loans to eligible MSMEs; or
- b) actual subscription of preferred shares of stock of the SB Corporation; or
- c) wholesale lending to Participating Financial Institutions (PFIs) for on-lending to MSMEs; or
- d) purchase/discount of MSMEs receivables; or
- e) loans granted to export, import, and domestic traders subject to compliance with the pertinent provisions of RA 6977 as amended; or
- f) subscribe/purchase of liability instruments as may be offered by the SB Corporation.

*Sec. 3. Formulation of Implementing Rules for Mandatory Allocation.* The Bangko Sentral ng Pilipinas shall, within thirty (30) days from the effectivity of this IRR, formulate rules for

the effective implementation of this provision. In its formulation of the rules, the BSP shall ensure that it shall call for a consultation with concerned stakeholders on access to finance issues under Sec. 15 of RA 6977 as amended, particularly with regard to prioritization of actual extension of loans to eligible MSMEs, penalties on non-compliance by lending institutions, and, Subsections (b) and (f) of the above section. The BSP shall also review the implementation of current rules on mandatory allocation under existing laws to ensure harmonization of the appropriate provisions. *Provided, That* the purchase of government notes, securities and other negotiable instruments, except those from the SB Corporation as provided for in the preceding section, shall not be deemed compliance with the foregoing provisions. The BSP shall institute measures, within a reasonable period of time, to ensure that appropriate steps are taken by the lending institutions to avoid redundancy and duplication in their reporting under this Rule. In this regard, the measures shall include a determination of which lending institution shall report to the BSP on the amount of wholesale lending. *Provided further*, that the amounts actually extended through loans to eligible MSMEs from wholesale lending shall not be deemed compliance with the foregoing by the PFI or conduit bank. *Provided finally*, that the BSP shall, in its review of other existing laws provided in this section, propose to Congress, through the MSMED Council, amendments to laws which run counter to the intent of the mandatory allocation provisions of RA 6977 as amended.

*Sec. 4. Incentive Program to Encourage Lending to MSMEs.* The *Bangko Sentral ng Pilipinas* shall establish an incentive program to encourage lending to micro, small and medium industries beyond the mandatory credit allocation to said enterprises, such as possible reduction in bank's reserve requirement. The MSMEDC, shall, in coordination with the BSP, approve a resolution pursuant to this mandate within sixty (60) days from the issuance by the BSP of the rules for mandatory allocation.

*Sec. 5. Monitoring of Loan Applications.* The MSMED Council shall set up the appropriate systems to monitor all loan applications of MSMEs in order to account for the absorptive capacity of the MSME sector. The *Bangko Sentral ng Pilipinas* shall furnish to the MSMED Council on a quarterly basis comprehensive reports on the banks' compliance, noncompliance and penalties of the above provisions on the mandatory credit allocation for MSMEs. Pursuant to this provision, the MSMED Council and the BSP shall conduct a study on how this can be implemented, particularly with regard to capturing information based on geographical areas and by MSME category.

*Sec. 6. Recourse of Lending Institutions not Qualified to Hold or Acquire Lands of the Public Domain.* Lending institutions which are not qualified to acquire or hold lands of the public domain in the Philippines shall be permitted to bid and take part in sales of mortgaged real property in case of judicial or extra-judicial foreclosure, as well as avail of receivership, enforcement and other proceedings, solely upon default of a borrower, and for a period not exceeding five (5) years from actual possession: *Provided*, That in no event shall title to the property be transferred to such lending institution. If the lending institution is the winning bidder, it may, during said five (5) year period, transfer its rights to a qualified Philippine national, without prejudice to a borrower's rights under applicable laws. The BSP, shall formulate the appropriate rules concerning this provision.

#### **Rule 14**

#### **Micro, Small, and Medium Enterprise Week**

SECTION 1. *Micro, Small, and Medium Enterprise Week.* In order to institute continuing awareness of the primacy of small business in nation-building and in people empowerment, and to celebrate and espouse the firm commitment of the State in the promotion, growth and development of small business, the second week of July of every year shall be declared as the "Micro, Small, and Medium Enterprise Development Week". The MSMED Council, the Department of Trade and Industry, and the SB Corporation shall be jointly responsible in organizing activities for the event.

Sec. 2. *Presidential Awards for Outstanding MSME.* Presidential awards for outstanding MSMEs and good MSME practices, consisting of rewards in cash or in kind shall be granted to one hundred percent (100%) Filipino-owned companies during the MSME development week.

Sec. 3. *Presidential Recognition for Outstanding Development Partners.* Presidential recognition shall be given to MSME development partners which may include, among others, LGUs, banks, lending institutions, and international agencies.

## Rule 15

### Congressional Oversight Committee

SECTION 1. *Congressional Oversight Committee.* To monitor and oversee the implementation of this Act, there shall be a Congressional Oversight Committee on Micro, Small and Medium Enterprise Development (COC-MSMED).

Sec. 2. *Composition.* The COC-MSMED shall be composed of the following:

- a) Chair - Chairperson of the Senate Committee on Economic Affairs
- b) Co-Chair – Chairperson of the House Committee on Small Business and Entrepreneurship Development
- c) Five (5) Members from the Senate to include the chairpersons of the Senate committees on Trade and Commerce; and Banks, Financial Institutions and Currencies; and three (3) other members, two (2) of whom shall be nominated by the Senate Minority Leader
- d) Five (5) members from the House of Representatives to include the chairpersons of the House committees on Trade and Industry, Banks and Financial Intermediaries, and Appropriations, and two (2) Representatives who shall be nominated by the Minority Floor Leader of the House of Representatives.

Sec. 3. *Guidelines and Overall Framework of the COC-MSMED.* The COC-MSMED shall set the guidelines and overall framework for the monitoring of the implementation of RA 6977, as amended by RA 8289, and further amended by RA 9501. It shall adopt its internal rules of procedure.

Sec. 4. *COC-MSMED Secretariat.* The Secretariat of the COC-MSMED shall be drawn from the existing personnel of the Senate and House of Representatives committees comprising the COC-MSMED.

Sec. 5. *Coordination of the COC-MSMED Secretariat and the BMSMED.* The BMSMED shall coordinate with the Secretariat of the COC-MSMED regarding the timelines for the submission of

periodic reports and such as other reports, as may be necessary, by the MSMEDC as provided for by RA 6977, as amended and further amended by RA 9501. The BMSMED shall coordinate with them regarding concerns/issues which need to be addressed by the COC-MSMED.

## **Rule 16**

### **Penalties**

SECTION 1. *Sanctions on Non-Compliance of Mandatory Allocation by Lending Institutions.* The BSP shall impose administrative sanctions and other penalties on the lending institutions for non-compliance with provisions of the Amended Magna Carta for MSMEs and this IRR including a fine of not less than FIVE HUNDRED THOUSAND PESOS (Php500,000.00). *(adopted from Section 14, RA 6977, as amended by RA 8289)* The BSP shall, within thirty (30) days from the approval of this IRR, submit to the MSMEDC its guidelines concerning the details of this provision particularly with regard to the impossible fines.

Sec. 2. *Utilization of the Fund.* Penalties on noncompliance shall be directed to the development of the MSME sector. Ninety percent (90%) of the penalties collected should go to the MSMED Council Fund, while the remaining ten percent (10%) should be given to the BSP to cover for administrative expenses.

Sec. 3. *Payment of the Prescribed Penalty.* Within thirty (30) days from the written communication from the BSP, the lending institution penalized shall remit the amount of the prescribed penalty to the BSP. The corresponding ninety percent (90 %) shall then be remitted to the MSMEDC Fund as provided for by RA 9501 and this IRR.

## **Rule 17**

### **Provision of Amendments for IRR**

SECTION 1. *Information Dissemination on the Results of Consultations for the IRR.* The BMSMED, mandated by Section 20 of RA 9501 to be the lead agency in the DTI to formulate the IRR, shall submit a report to the following, based on issues and concerns raised during the multi-stakeholder consultations held in pursuant to the formulation of this IRR:

- a. Congress on matters needing legislative action;
- b. MSMED Council on matters within its powers and duties.
- c. President of the Philippines on matters needing executive issuances and the proposed steps to update the current 2004-2010 SMED Plan to conform to the provisions of RA 6977, as amended.

Sec. 2. *Public Information Campaign.* The BMSMED, in coordination with the PIA and the Regional Operations Group of the DTI, ensure that these Implementing Rules and Regulations shall be disseminated widely to the various stakeholders. This may be in the form of electronic updates and posting in the DTI website and leaflets or brochures which shall contain frequently asked questions, the applicable BSP Circulars and the like.

Sec. 3. *Amendments to the IRR.* In the event that amendments may be needed to this IRR, the BMSMED shall submit the proposed amendments to the MSMED Council for its deliberations and approval.

## **Rule 18**

### **Transitory Provisions**

#### **SB Corporation**

SECTION 1. *Incumbent Board of Directors, on Hold-Over Capacity.* The incumbent Board of Directors shall continue to hold office on hold-over capacity until the new Board of Directors of SB Corporation under RA 9501 shall have been fully constituted and convened.

Sec. 2. *First election of the Seven (7) Representatives of the SB Corporation Common Stock Shareholders.* The first election of the seven (7) representatives of the SB Corporation common stock shareholders shall be held not earlier than 30 days but not later than 45 days after the effectivity of these IRR.

Sec. 3. *Initial Conversion of Preferred to Common Shares.* The GSIS and the SSS, which are currently holders of SB Corporation preferred shares, shall have the option to convert their preferred shares into common shares at least 30 days prior to the first election of said seven (7) representatives upon written notification to the current Board Secretariat.

Sec. 4. *Notification in Writing of Conversion from Preferred to Common Shares.* Not less than 30 days prior to the annual elections of the seven (7) directors from the SB Corporation common stocks shareholders, preferred stocks shareholders shall notify in writing the Board Secretariat of their intention to convert their preferred shares to common shares.

Sec. 5. *Amended By-Laws.* The present SB Corporation Amended By-Laws dated December 7, 2001 shall continue to be in full force and effect insofar as its provisions which are not inconsistent with RA 9501 and this IRR are concerned.

#### **MSMED Council**

Sec. 6. *Full Reconstitution of MSMEDC.* The Secretary of the Department of Trade and Industry, as Chair of the MSMEDC, shall ensure that MSMEDC presently constituted from among the *ex-officio* members and the private sector and MSME representatives shall meet to deliberate and act appropriately on policy and program matters. The latter shall be limited to matters with identified timeframes, as provided by this IRR, and urgent concerns from consultations of the BMSMED, to ensure that there is no gap in policy and program formulation for the MSMEs. In this regard, the MSMEDC Chair shall ensure that the MSMEDC shall be reconstituted and its new members appointed by the President, or by the banking associations in the case of the banking sector, within ninety (90) days from the approval of this IRR.

## Rule 19

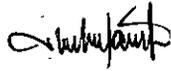
### Final Provisions

SECTION 1. *Effectivity Clause.* Pursuant to Section 20 of RA 9501, these Implementing Rules and Regulations of RA 6977, as amended by RA 8289 and further amended by RA 9501, formulated by the Department of Trade and Industry through the Bureau of Micro, Small and Medium Enterprise Development, shall prescribe the implementation of the Act. Upon approval of the Secretary of Trade and Industry, these rules shall take effect within thirty (30) days from its publication in a national newspaper of general circulation.

Sec. 2. *Separability Clause.* If, for any reason, any section or provision of the herein "IRR" or application of such rules and regulations or provision to any person or circumstances is declared unconstitutional or invalid, the remainder of this "IRR of the Amendment of the Magna Carta for Micro, Small and Medium Enterprises", or application of such provisions to other circumstances, shall not be affected by such declaration.

Sec. 3. *Repealing Clause.* Any provisions of the rules, regulations, codes, orders, resolutions, measures, and other policies or parts thereof issued and promulgated pursuant to this "IRR of the Amendment of the Magna Carta for Micro, Small and Medium Enterprises", which are inconsistent with the IRR are hereby superseded, repealed or amended accordingly.

Issued this 20<sup>th</sup> day of August 2008 in Makati City, Philippines.



**PETER B. FAVILA**  
Secretary  
Department of Trade and Industry

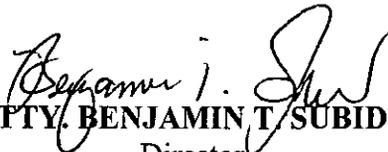
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