

BANKING AND INSURANCE BOARD MEETING
DIRECTOR'S CONFERENCE ROOM, July 17, 2014, Thursday, 2:00pm

AGENDA

- I Approval of Minutes for meeting held on March 20, 2014
- II Old Business
 - 1. **Vincent Insurance Services Corporation.** Mr. Carlos was tasked by the Commissioner to inquire if Vincent Insurance is willing to pay the cost of transcribing the 2-day session records of the administrative proceedings. In the meantime, the hearing will resume if and when the Attorney General's office can give the assistance of a Hearing Officer to handle the case.
 - 2. **Funds Deposit with eligible banks for GovGuam Agencies**—a request for opinion from the Attorney General's office is still pending as of today. The first request for opinion was sent to AG's office on August 4, 2010 and again on April 2, 2013.
 - 3. **An Act to Adopt the Uniform Electronic Transaction Act (UETA)**—the Board needs to discuss the bill and can vote to support or not to support the bill.
 - 4. **The National Insurance Producer Registry (NIPR)** - the department is in preparatory stage of testing the process through on line testing environment. Our Information Technology (IT) personnel and NIPR's IT personnel are communicating regarding this program.
- III. New Business
 - 1. **Cyber Risks: The Growing Threat**
 - 2. **EMV (Europay, Mastercard, Visa) Chip Card Technology**

BANKING AND INSURANCE BOARD OF DIRECTORS

MINUTES OF THE MEETING

July 17, 2014, 2:00pm

Director's Conference Room, Department of Revenue & Taxation

1240 Army Drive, Barrigada, Guam 96913

ATTENDANCE:

PRESENT:

Artemio B. Ilagan, Chairman, Banking & Insurance Commissioner

Edelfrida Ada

Cesar Garcia

David Silva

Mark O. Fish

Danilo Rapadas

W. West Cassidy

ABSENT:

Rose Fejeran

ALSO PRESENT:

John Q. Carlos, Regulatory Programs Administrator

Alice P. Sebastian-Cruz, Regulatory Examiner II

CALLED TO ORDER:

The publication of the meeting was confirmed and the presence of the six (6) board members was acknowledged. Chairman Ilagan called the meeting to order at 2:17 pm.

APPROVAL OF MINUTES:

The Chairman opened up the meeting by asking if the Board wanted to discuss further the minutes of the board meeting held on March 20, 2014 before asking a motion for approval. Dave Silva moved to approve the minutes and Danilo Rapadas seconded.

OLD BUSINESS:

1. **Vincent Insurance Services Corporation.** This business is one of the oldest among the agenda. After another round of discussion, it was agreed that the Board will do 2 things: 1) Get a quote of how much to transcribe the minutes and ask Vincent if they are willing to pay the cost of transcription. This was recommended by Ms. Del Ada. 2) Give them a set date to bring up the matter within 10 (ten) days from receipt of transcription and close the issue if they do not respond after ten days. This was brought up by Mr. Rapadas and Mr. Fish.
2. **Funds Deposit with Eligible Banks for GovGuam Agencies**—the last time a request for opinion was sent to AG’s office was April 2, 2013 and still waiting for response as of this writing.
3. **An Act to Adopt the Uniform Electronic Transaction Act** —the Chairman said that the Board needs to discuss the bill and decide to support or not to support the bill. He requested Mr. Carlos to talk about oversight hearing back in June regarding the matter.

Mr. Carlos reported that there was an oversight hearing that were attended by people from the Guam Board of Realtors and people from Title Insurance. There was a discussion on the benefits of the electronic signatures. They discussed the fastest method to close a transaction between the seller and the buyer is by way of adopting and agreeing the electronic signature. In the end, it was agreed that if both parties will agree to electronic signature, then the electronic signature will suffice to bind both parties. Mr. Carlos mentioned about the provision in the UETA bill proposed by Senator San Nicolas: the Act does not apply to trusts and wills. In certain instances, it applies to only specific provisions of the uniform commercial code particularly to holder in due course, sales and uniform code filings (UCC) that are already perfected.

Mark Fish inquired what the title companies are saying on this bill. He said that at this point, banks are not ready to entertain this digital signature for loans due to provisions of anti-money laundering and US patriot Act. It is their practice that title transfer transactions and debt obligation transactions must be signed in person by parties in front of the loan officer. Mr. Fish stated that if the Title companies agreed to the Act, and if they will give them the title reports with the title insurance they need based on the digital signatures, then there's no problem. He is aware that banks will eventually gear towards that direction but someone needs to figure out the way to be there.

Mr. Carlos explained that this is why there should be a binding agreement between parties. The buyer and the seller must have a signed agreement between both parties so that there is no question as to the validity of transaction as binding.

Mr. Fish also commented on having a very old UCC –around 30 years old. It does not address the issues in the modern world, especially Title 9. He mentioned that the bank association inquired as to how much it will cost to get it updated and it is around 6 figures.

Mr. Rapadas inquired if there was any difference between the Model Law and the UETA. Mr. Carlos said that he has not done any comparison but he will do it side by side and send out what was adopted in the bill. The Chairman said that after the comparison is sent, the Board will read it and then they will notify Mr. Carlos if they agree or not and then it will be sent to the Legislature.

Mr. Cassidy asked if this bill must be codified or can just be agreed or use as guidelines. Mr. Carlos and Mr. Rapadas stated that this has been codified in most of the states.

Mr. Garcia mentioned that he did the comparison and it is actually verbatim and the only changes made were references to Guam and specific provisions of UCC.

4. **The National Insurance Producer Registry (NIPR)**-the Chairman explained that this is the registry of all the insurance producers in the world ran by NAIC to capture all the insurance producers in the United States and the Territories. Guam did not have enough time to get the NIPR running for this year due to Information Technology (IT) problems and therefore, he is anticipating next year being up and running. All fees are paid through NIPR and fees are transferred to Treasurer of Guam.

David Silva inquired if they can get all the data of the Guam agents and producers loaded into the database and so that come renewal time, the information are already there and just implement the process.

The Chairman explained that data are uploaded that one of the problems with NIPR was the numbering fields of Guam and NIPR does not interface. Mr. Carlos added that all the agents and producers are computerized since 1992. Once the merging of software from NIPR and Guam happens, any agent and producer will be assigned National Producer Number (NPN). Once all the programming testing are done and all is up and running, then the mere keying of NPN will bring out data of agents and producers in Guam and renewal can be processed. This will enable the applicants themselves to renew their license. There will be no participation of the Examiners except maybe for printing the licenses being renewed.

David Silva inquired as to time proximity before the actual on line license renewal happens. Mr. Ilagan assured the Board that NIPR on line will happen by next year. The Chairman stated that the Commissioner's Office will update the Board as to the progress of NIPR project.

DISCUSSION ON MNLS:

Ms. Carmelita Gogue of Marianas Finance Corporation attended the meeting to raise some questions on the checklist and the MNLS regulations as she has taken the exam and passed and wanting to secure an individual mortgage loan originator license through the NMLS website.

Mr. Carlos explained that if Ms. Gogue is applying through the company that sponsors her and fills out the company sponsorship form, it is only the company that should submit the audited financial report that shows the net worth of \$250,000.00. The \$50,000.00 security bond must also be submitted by the sponsoring company and not the individual applicant who is an employee of the company.

Mr. Fish inquired when the Department is going to start working on the applicants on line and also asked if there is reciprocity of applicants among Guam and all the others states. Mr. Carlos confirmed that NMLS website for Guam is ready to accept applications. There is no reciprocity. Mortgage loan originators that are licenses in other states must still submit an application with Guam through the NMLS.

NEW BUSINESS:

1. **Cyberrisk**—Mr. Carlos stated that this cyber risk pertains to security of financial institutions. He mentioned that there is less breach on financial institutions but more on other institutions such as hospitals and retail establishments. Mr. Rapadas said that most problems are merchants to bank customers. Mr. Fish mentioned about the recent debit and credit card fraud wherein one bank lost around \$150,000—Citibank –because they have more credit cards out in the market. All banks in Guam had their share of this cyber risk fraud.

David Silva inquired how did this happen. Mr. Fish said that at first, they thought that it came from those people who are processing automated payments through GWA both on telephone and on line transaction and then went down to DMR as common processor for GWA and GPA. At the end, they concluded it is not from DMR but it happened in the payment process. The Banker's Association contacted the FBI to do a thorough investigation on the matter and concluded that it happened off island like Russia. Mr. Rapadas mentioned that there are so many opportunities for breach whether it is the customer or merchants' personal computer that gets hacked.

Mr. Fish said that banks are the victims here because under Regulation E if a bank customer has a fraudulent transaction using a credit or debit card and the account is with the bank, by law, the bank must reimburse the bank customer. The burden is left on the bank to prove that the bank customer did not initiate the transaction.

Mr. Rapadas said that there are just too much frauds going on and the banks are the ones taking all losses. The retailers are not moved because they know the banks suffer the loss and not the retailers. But now, the bank's policy is if the merchant does not have an appropriate security procedure on the retailers' operation which is required on all agreements, then the banks can come to them for breach of contract. But they do not go after all bank customers unless it is a huge company who can absorb the loss.

Mr. Fish shared that they have a follow up meeting with FBI on the investigation of the situation. FBI showed them a flowchart of how and where it happened concluding that it was a very small breach based on worldwide activities and therefore, they decided to drop the investigation. The FBI admitted that they do not have the money or the time to pursue the deal. Mr. Fish stated that they are now waiting for the US Secret Service report but he believes that there will not be any further investigation on the thing because US Secret Service is even stretched further as far as personnel and resources are concerned. The banks' investigatory capabilities are limited and therefore, he feels that they will just hope that the FBI or US Secret Service will find something.

Mr. Carlos made on the comment at this point about the need of insurance protection by financial institution because right now, the comprehensive general liability will have exclusion that it does not cover business interruption when they stop operation just because of cyber fraud. He suggested that insurance companies need to develop a tailored protection so that vendors and financial institution will be protected. He shared that ISO is developing specific provisions on cyber risks.

David Silva stated that what's more important than business interruption is the liability that associated with the third party liabilities –the numerous credit cards issued and the clean up.

2. **Chip Card Technology**—Mr. Carlos started by saying that the Chip Technology is a part of the solution on the cyber risk problems. The Chip technology is the European Mastercard and Visa combination project.

Mr. Rapadas said that he has attended many conferences of this Chip Technology. He said this is a concern for them because one of the reasons why Guam is being hit by this cyber risk problem is due to the fact that all countries are on EMV technology except of the United States and we are the closest to the countries using EMV technology like Japan and Korea. The US is gearing towards the technology in about 2 to 3 years and they are trying to get Guam merchants to buy in. Merchants are the ones to buy the new machine readers and the banks are to give new cards with the chips.

Mr. Carlos stated that VISA sent out a notice that starting October 1, 2015, all vendors must start using the terminals compatible to the chip and pin technology otherwise, the losses will be shouldered by the vendors—not by the banks and not by Visa

Mr. Rapadas said that as the programs roll down, Guam will be seeing a lot of marketing ads from the banks that will come out in about 3 to 6 months to prepare merchants and consumers on the chip and pin usage.

The meeting was adjourned at 3:20pm. The motion to adjourn was done by Ms. Del Ada and seconded by Mr. Danny Rapadas. The next insurance board meeting was set for the 2nd Thursday of November, November 13, 2014.