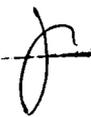


SENATE
S. B. No. 1027

BY: 

Introduced by Senator FRANCIS G. ESCUDERO

AN ACT AMENDING REPUBLIC ACT NUMBER 7653,
OTHERWISE KNOWN AS "THE NEW CENTRAL BANK ACT",
AND FOR OTHER PURPOSES

EXPLANATORY NOTE

In 1993, the Philippine Congress enacted Republic Act (R.A.) No. 7653 (The New Central Bank Act) creating the *Bangko Sentral ng Pilipinas* (BSP) pursuant to the directive in the 1987 Constitution mandating the establishment of an independent central monetary authority (Section 20, Article XII, 1987 Constitution). The BSP replaced the old Central Bank of the Philippines, which had been established by Republic Act No. 265 in 1948. Twenty years hence, the economic milieu in the Philippines has changed, globalization has increased the integration of financial markets, and the scope of operations of financial institutions has evolved. In light of these, there is, undoubtedly, a need to respond to contemporary challenges by amending R.A. No. 7653 in order that the BSP shall remain effective in its conduct of monetary policy and supervision of entities within the financial system.

Towards this end, this bill proposes to strengthen the tools which the BSP exercises in performing its mandates, supplement the mechanisms in protecting savings of depositors and in ensuring the smooth flow of transactions in the financial system, as well as to enhance the corporate viability of the BSP. The proposed amendments in this bill are three-fold, and the salient features thereof include:

1. Strengthening BSP's Monetary Stability function

- a) Restoration of authority to obtain data from private persons or entities for purposes of statistical and policy development, as well as ascertaining compliance with laws and banking regulations, and authority to issue negotiable certificates of indebtedness even during normal times, both of which were powers granted to the old Central Bank of the Philippines; and
- b) Removal of thresholds in the growth of monetary aggregates, credit and prices as guiding principles in monetary administration, in view of current international trends in monetary policy frameworks adopting inflation targeting.

2. Strengthening BSP's Financial Stability function

a) Formal statutory recognition of the BSP's mandate of promoting and maintaining financial stability in close coordination with other relevant agencies, as well as grant of statutory oversight of payment and settlement systems;

3. Enhancing BSP's Prudential Supervision Function

a) Enhancement of BSP's supervisory authority by: i) expanding the entities it supervises to include other categories of financial institutions; ii) granting authority to impose sanctions on transfers and acquisitions of substantial shares of banks and quasi-banks without BSP approval; iii) allowing full flexibility to conduct risk-based supervision of financial institutions; iv) strengthening of administrative and criminal sanctions to include, among other things, forfeiture of profits from unauthorized financial transactions; and v) improving resolution mechanisms to deal with problematic financial institutions; and

b) Legal protection for BSP officials and staff when performing official duties similar to that provided to officers and employees of the Philippine Deposit Insurance Corporation (PDIC) under the latter's charter (Republic Act No. 9576).

4. Strengthening BSP's Corporate and Financial Viability

a) Additional BSP capitalization of P150 billion, payable immediately upon effectivity of the Act;

b) Grant of flexibility to establish adequate loss allowances and create reserve buffers against future risks and contingencies, and restoration of tax exemption, similar to other central banks in the world;

c) Enhancement to credit operations by granting exemption from court processes relating to collateral obtained from banks, similar to that enjoyed by Land Bank of the Philippines (LBP), and the authority to deputize the BSP legal staff in extrajudicial foreclosure of mortgaged properties in the same manner that the legal staff of LBP and Development Bank of the Philippines (DBP) may so be deputized under their respective charters.

These amendments, once enacted into law, will empower the BSP to effectively respond to challenges and innovations of a globalized economy and, more significantly, to better perform its constitutional mandates. Indeed, an empowered BSP is indispensable in ensuring a competitive, robust and inclusive economy, and a financial system that will support a higher quality of life for Filipinos.

In view of the foregoing, approval of this bill is earnestly sought.



FRANCIS G. ESCUDERO

16 AUG 16 12:06

SENATE
S.B. No. 1027

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Introduced by Senator FRANCIS G. ESCUDERO

**AN ACT AMENDING REPUBLIC ACT NUMBER 7653,
OTHERWISE KNOWN AS "THE NEW CENTRAL BANK ACT",
AND FOR OTHER PURPOSES**

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 **SECTION 1.** Section 2 of Republic Act No. 7653, otherwise known as "The New
2 Central Bank Act" is hereby amended to read as follows:

3
4 "SEC. 2. *Creation of the Bangko Sentral.* - There is hereby established
5 an independent central monetary authority, which shall be a body
6 corporate known as the *Bangko Sentral ng Pilipinas*, hereafter referred to as
7 the *Bangko Sentral*.

8
9 "The capital of the *Bangko Sentral* shall be **TWO HUNDRED [Fifty]**
10 billion pesos (P[50,]200,000,000,000), to be fully subscribed by the
11 Government of the Republic, hereafter referred to as the Government.
12 [~~Ten billion pesos (P10,000,000,000) of which~~] **THE UNPAID**
13 **SUBSCRIPTION** shall be fully paid for by the Government **IN CASH**
14 **AND/OR GOVERNMENT SECURITIES UPON EFFECTIVITY OF**
15 **THIS ACT. THEREAFTER THE ADEQUACY OF THE**
16 **CAPITALIZATION SHALL BE SUBJECT TO REVIEW EVERY FIVE (5)**
17 **YEARS AND ADJUSTED UPON JOINT RECOMMENDATION BY**
18 **THE SECRETARY OF FINANCE, THE SECRETARY OF BUDGET**
19 **AND MANAGEMENT AND THE MONETARY BOARD. THE**
20 **PAYMENT OF ANY UNPAID SUBSCRIPTION AND/OR INCREASE**
21 **IN CAPITALIZATION SHALL BE AUTOMATICALLY**
22 **APPROPRIATED IN THE ANNUAL GENERAL APPROPRIATIONS**
23 **ACT. [upon the effectivity of this Act and the balance to be paid for**
24 **within a period of two (2) years from the effectivity of this Act in such**
25 **manner and form as the Government, through the Secretary of Finance**
26 **and the Secretary of Budget and Management, may thereafter**
27 **determine.]"**

28
29
30 **SEC. 2.** Section 3 of the same Act is hereby amended to read as follows:
31

1 "SEC. 3. *Responsibility and Primary Objective.* - The *Bangko Sentral*
2 shall provide policy directions in the areas of money, banking, and
3 credit. It shall have supervision over the operations of banks and exercise
4 such regulatory **AND EXAMINATION** powers as provided in this Act
5 and other pertinent laws over the **QUASI-BANKING** operations of
6 [~~finance companies and~~] non-bank financial institutions. [~~performing~~
7 ~~quasi-banking functions, hereafter referred to as quasi-banks, and~~
8 ~~institutions performing similar functions~~] **AS MAY BE DETERMINED**
9 **BY THE MONETARY BOARD, IT SHALL LIKEWISE EXERCISE**
10 **REGULATORY AND EXAMINATION POWERS OVER MONEY**
11 **SERVICE BUSINESSES, CREDIT GRANTING BUSINESSES, AND**
12 **PAYMENT SYSTEM OPERATORS.**

13
14 "The primary objective of the *Bangko Sentral* is to maintain price
15 stability conducive to a balanced and sustainable growth of the economy.
16 It shall also promote and maintain monetary stability and the
17 convertibility of the peso.

18
19 "THE **BANGKO SENTRAL SHALL PROMOTE FINANCIAL**
20 **STABILITY AND CLOSELY WORK WITH OTHER RELEVANT**
21 **BODIES INCLUDING, BUT NOT LIMITED TO, THE SECURITIES**
22 **AND EXCHANGE COMMISSION, THE INSURANCE**
23 **COMMISSION, THE PHILIPPINE DEPOSIT INSURANCE**
24 **CORPORATION AND THE NATIONAL GOVERNMENT.**

25
26 "THE **BANGKO SENTRAL SHALL OVERSEE THE PAYMENT**
27 **AND SETTLEMENT SYSTEMS IN THE PHILIPPINES, INCLUDING**
28 **CRITICAL FINANCIAL MARKET INFRASTRUCTURES, IN ORDER**
29 **TO PROMOTE SOUND AND PRUDENT PRACTICES CONSISTENT**
30 **WITH THE MAINTENANCE OF FINANCIAL STABILITY."**

31
32
33 **SEC. 3.** Section 11 of the same Act is hereby amended to read as follows:

34
35 "SEC. 11. *Meetings.* - The Monetary Board shall meet at least once
36 a week. The Board may be called to a meeting by the Governor of the
37 *Bangko Sentral* or by two (2) other members of the Board.

38
39 "The presence of four (4) members shall constitute a quorum:
40 *Provided*, That in all cases the Governor or his duly designated alternate
41 shall be among the four (4).

42
43 "Unless otherwise provided in this Act, all decisions of the
44 Monetary Board shall require the concurrence of at least four (4)
45 members.

46
47 "The *Bangko Sentral* shall maintain and preserve a complete record
48 of the proceedings and deliberations of the Monetary Board, including the
49 tapes and transcripts of the stenographic notes, either in their original
50 form or in microfilm.

51
52 "THE **MEETINGS OF THE MONETARY BOARD MAY BE**
53 **CONDUCTED THROUGH MODERN TECHNOLOGIES SUCH AS,**

1 BUT NOT LIMITED TO, TELECONFERENCING AND
2 VIDEOCONFERENCING.”
3
4

5 SEC. 4. Section 16 of the same Act is hereby amended to read as follows:
6

7 “SEC. 16. *Responsibility.* - THE GENERAL RULE AND THE
8 EXCEPTION THEREFROM ON THE LIABILITY OF PUBLIC OFFICERS
9 AS PROVIDED IN SECTIONS 38 AND 39 OF CHAPTER 9, BOOK 1 OF
10 THE REVISED ADMINISTRATIVE CODE OF 1987 SHALL APPLY TO
11 THE members of the Monetary Board [~~r officials, examiners, and employees~~]
12 AND OTHER PERSONNEL of the *Bangko Sentral* [~~who willfully violate this~~
13 ~~Act or who are guilty of negligence, abuses or acts of malfeasance or~~
14 ~~misfeasance or fail to exercise extraordinary diligence in the performance of~~
15 ~~his duties shall be held liable for any loss or injury suffered by the~~ *Bangko*
16 *Sentral* ~~or other banking institutions as a result of such violation, negligence,~~
17 ~~abuse, malfeasance, misfeasance or failure to exercise extraordinary~~
18 ~~diligence].~~
19

20 “Similar responsibility shall apply to members OF THE MONETARY
21 BOARD, ~~officers, and employees~~ AND OTHER PERSONNEL of the *Bangko*
22 *Sentral* for: (1) the disclosure of any information of a confidential nature, or
23 any information on the discussions or resolutions of the Monetary Board, or
24 about the confidential operations of the *Bangko Sentral*, unless the disclosure
25 is in connection with the performance of official functions with the *Bangko*
26 *Sentral*, or is with prior authorization of the Monetary Board or the Governor;
27 or (2) the use of such information for personal gain or to the detriment of the
28 Government, the *Bangko Sentral* or third parties: *Provided, however,* That any
29 data or information required to be submitted to the President and/or the
30 Congress, or to be published under the provisions of this Act shall not be
31 considered confidential.
32

33 “THE ABOVE NOTWITHSTANDING, MEMBERS OF THE
34 MONETARY BOARD AND OTHER PERSONNEL OF THE BANGKO
35 SENTRAL SHALL NOT BE SUBJECT TO ANY ACTION, CLAIM OR
36 DEMAND IN CONNECTION WITH ANY ACT DONE OR OMITTED
37 BY THEM IN THE PERFORMANCE OF THEIR DUTIES AND
38 EXERCISE OF THEIR POWERS EXCEPT FOR THOSE ACTIONS AND
39 OMISSIONS DONE IN EVIDENT BAD FAITH OR GROSS
40 NEGLIGENCE. UNLESS THE ACTIONS OF THE BANGKO
41 SENTRAL, MEMBERS OF THE MONETARY BOARD AND ITS
42 OTHER PERSONNEL ARE FOUND TO BE IN WILLFUL VIOLATION
43 OF THIS ACT, PERFORMED WITH EVIDENT BAD FAITH OR
44 GROSS NEGLIGENCE, THEY ARE HELD FREE AND HARMLESS TO
45 THE FULLEST EXTENT PERMITTED BY LAW FROM ANY
46 LIABILITY, AND THEY SHALL BE INDEMNIFIED FOR ANY AND
47 ALL LIABILITIES, LOSSES, CLAIMS, DEMANDS, DAMAGES,
48 DEFICIENCIES, COSTS AND EXPENSES OF WHATSOEVER KIND
49 AND NATURE THAT MAY ARISE IN CONNECTION WITH THE
50 EXERCISE OF THEIR POWERS AND PERFORMANCE OF THEIR
51 DUTIES AND FUNCTIONS.”
52
53

1 SEC. 5. Section 21 of the same Act is hereby amended to read as follows:
2

3 “SEC. 21. *Deputy Governors.* — The Governor of the *Bangko Sentral*,
4 with the approval of the Monetary Board, shall appoint not more than
5 [~~three (3)~~] **FIVE (5)** Deputy Governors who shall perform duties as may
6 be assigned to them by the Governor and the Board.
7

8 “In the absence of the Governor, a Deputy Governor designated by
9 the Governor shall act as chief executive of the *Bangko Sentral* and shall
10 exercise the powers and perform the duties of the Governor. Whenever
11 the [~~Government~~] **GOVERNOR** is unable to attend meetings of
12 government boards or councils in which he is an ex officio member
13 pursuant to provisions of special laws, a Deputy Governor as may be
14 designated by the Governor shall be vested with authority to participate
15 and exercise the right to vote in such meetings.”
16
17

18 SEC. 6. Section 23 of the same Act is hereby amended to read as follows:
19

20 “SEC. 23. *Authority to Obtain Data and Information.* — The *Bangko*
21 *Sentral* shall have the authority to **REQUIRE** [~~request~~] from **ANY**
22 **PERSON OR ENTITY, INCLUDING** government offices and
23 instrumentalities, or government-owned or -controlled corporations, any
24 data [~~which it may~~], **FOR STATISTICAL AND POLICY**
25 **DEVELOPMENT PURPOSES** [~~require for~~] **IN RELATION TO** the
26 proper discharge of its functions and responsibilities, **PROVIDED, THAT**
27 **DISAGGREGATED DATA GATHERED ARE SUBJECT TO**
28 **PREVAILING CONFIDENTIALITY LAWS.** The *Bangko Sentral* through
29 the Governor or in his absence, a duly authorized representative shall
30 have the power to issue a subpoena for the production of the books and
31 records for the aforesaid purpose. Those who refuse the subpoena
32 without justifiable cause, or who refuse to supply the [~~bank~~] **BANGKO**
33 **SENTRAL** with data [~~requested or~~] required, shall be subject to
34 punishment for contempt in accordance with the provisions of the Rules
35 of Court.
36

37 Data on individuals **AND** firms, other than banks, gathered by the
38 [~~Department of Economic Research and other departments or units of the~~]
39 *Bangko Sentral* shall not be made available to any person or entity outside
40 of the *Bangko Sentral* whether public or private except under order of the
41 court or under such conditions as may be prescribed by the Monetary
42 Board: *Provided, however,* That the collective data on firms may be released
43 to interested persons or entities: *Provided, finally,* That in the case of data
44 on banks, the provisions of Section 27 of this Act shall apply.”
45

46 SEC. 7. Section 25 of the same Act is hereby amended to read as follows:
47

48 “SEC. 25. *Supervision and Examination.* — The *Bangko Sentral* shall
49 have supervision over, and conduct [~~periodic~~] **REGULAR** or special
50 examinations of, banking institutions and quasi-banks, including their
51 subsidiaries and affiliates engaged in allied activities.
52

1 "THE BANGKO SENTRAL SHALL HAVE REGULATORY
2 AUTHORITY OVER, AND CONDUCT REGULAR OR SPECIAL
3 EXAMINATIONS OF, ENTITIES WHICH UNDER THIS ACT OR BY
4 SPECIAL LAWS ARE SUBJECT TO ITS JURISDICTION.
5

6 "THE BANGKO SENTRAL SHALL ALSO HAVE THE POWER
7 TO OBTAIN INFORMATION FROM THE PARENT OR OTHER
8 AFFILIATE COMPANIES OF SUPERVISED INSTITUTIONS AND
9 EXAMINE TRANSACTIONS BETWEEN A SUPERVISED
10 INSTITUTION AND SAID ENTITIES, FOR SUPERVISORY
11 PURPOSES.
12

13 "A PARENT COMPANY MEANS A CORPORATION WHICH
14 OWNS OR HOLDS WITH POWER TO VOTE DIRECTLY OR
15 INDIRECTLY THE VOTING STOCK OF A SUPERVISED
16 INSTITUTION OF THE BANGKO SENTRAL SUFFICIENT TO
17 CONTROL ITS MANAGEMENT AND OPERATIONS, SUBJECT TO
18 THE GUIDELINES ISSUED BY THE MONETARY BOARD.
19

20 "AS USED IN THIS SECTION AND SECTION 25-A, AND
21 SUBJECT TO THE GUIDELINES ISSUED BY THE MONETARY
22 BOARD, CONTROL EXISTS WHEN THE PARENT COMPANY
23 OWNS DIRECTLY OR INDIRECTLY MORE THAN ONE HALF OF
24 THE VOTING STOCK OF A SUPERVISED INSTITUTION.
25 CONTROL ALSO EXISTS EVEN WHEN THE PARENT COMPANY
26 OWNS ONE HALF OR LESS OF THE VOTING STOCK OF THE
27 SUPERVISED INSTITUTION WHEN: (1) THERE IS POWER OVER
28 MORE THAN ONE HALF OF THE VOTING RIGHTS BY PROXY OR
29 BY VIRTUE OF AN AGREEMENT WITH OTHER INVESTORS
30 WHICH THEREBY ENABLES THE PARENT COMPANY TO CAST
31 THE MAJORITY OF VOTES AT MEETINGS OF THE
32 STOCKHOLDERS OF THE SUPERVISED INSTITUTION OR TO
33 ELECT THE MAJORITY OF MEMBERS OF THE BOARD OF
34 DIRECTORS OF THE SUPERVISED INSTITUTION, OR (2) THERE IS
35 POWER TO DETERMINE THE FINANCIAL AND OPERATING
36 POLICIES OF THE SUPERVISED INSTITUTION, OR OTHER
37 SIMILAR ARRANGEMENTS.
38

39 "For purposes of this section, a subsidiary means a corporation
40 more than fifty percent (50%) of the voting stock of which is **DIRECTLY**
41 **OR INDIRECTLY** owned, **CONTROLLED OR HELD WITH POWER**
42 **TO VOTE** by a bank or quasi-bank and an affiliate means a corporation
43 the voting stock of which, to the extent of fifty percent (50%) or less, is
44 owned by a bank or quasi-bank or which is related or linked **DIRECTLY**
45 **OR INDIRECTLY** to such institution or intermediary through common
46 stockholders or such other factors as may be determined by the Monetary
47 Board.
48

49 "The department heads and the examiners of the supervising
50 and/or examining departments are hereby authorized to administer oaths
51 to any director, officer, or employee of any institution under their
52 respective supervision or subject to their examination, [and] to compel the
53 presentation of all books, documents, papers or records necessary in their
54 judgment to ascertain the facts relative to the true condition of any

1 institution as well as the books and records of persons and entities relative
2 to or in connection with the operations, activities or transactions of the
3 institution under examination, AND TO INQUIRE INTO BANK
4 DEPOSITS AND INVESTMENT ACCOUNTS IN THE COURSE OF
5 AN EXAMINATION IN ORDER TO ASCERTAIN COMPLIANCE
6 WITH THE LAWS AND BANKING REGULATIONS, OR IN CASES
7 WHERE THERE IS REASONABLE GROUND TO BELIEVE THAT A
8 FRAUD, IRREGULARITY OR UNLAWFUL ACTIVITY HAS BEEN OR
9 IS BEING COMMITTED AND THAT IT IS NECESSARY TO LOOK
10 INTO THE DEPOSIT OR INVESTMENT TO ESTABLISH SUCH
11 FRAUD, IRREGULARITY OR UNLAWFUL ACTIVITY. [~~subject to the~~
12 ~~provision of existing laws protecting or safeguarding the secrecy or~~
13 ~~confidentiality of bank deposits as well as investments of private persons,~~
14 ~~natural or juridical, in debt instruments issued by the Government.]~~
15

16 "No restraining order or injunction shall be issued by the court
17 enjoining the *Bangko Sentral* from examining any institution subject to
18 supervision or examination by the *Bangko Sentral*, unless there is
19 convincing proof that the action of the *Bangko Sentral* is plainly arbitrary
20 and made in bad faith and the petitioner or plaintiff files with the clerk or
21 judge of the court in which the action is pending a bond executed in favor
22 of the *Bangko Sentral*, in an amount to be fixed by the court. The
23 provisions of Rule 58 of the New Rules of Court insofar as they are
24 applicable and not inconsistent with the provisions of this section shall
25 govern the issuance and dissolution of the restraining order or injunction
26 contemplated in this section."
27

28
29 SEC. 8. A new section entitled Section 25-A is hereby included in the same Act to
30 read as follows:
31

32 "SEC. 25-A. AUTHORITY TO APPROVE TRANSFER OF SHARES
33 - TRANSFERS OR ACQUISITIONS, OR A SERIES THEREOF, OF AT
34 LEAST TEN PERCENT (10%) OF THE VOTING SHARES IN BANKS
35 OR QUASI-BANKS SHALL REQUIRE THE PRIOR APPROVAL OF
36 THE BANGKO SENTRAL. THE SELLING OR CONVEYING
37 STOCKHOLDER SHALL SUBMIT SUCH TRANSFER OR
38 ACQUISITION FOR APPROVAL BY THE BANGKO SENTRAL
39 WITHIN SUCH PERIOD AS MAY BE PRESCRIBED BY THE
40 MONETARY BOARD. IN APPROVING SUCH TRANSFERS OR
41 ACQUISITIONS, REGARD SHALL BE GIVEN BY THE BANGKO
42 SENTRAL TO THE FITNESS OF THE INCOMING STOCKHOLDERS
43 AS MAY BE INDICATED IN THEIR INTEGRITY, REPUTATION
44 AND FINANCIAL CAPACITY. WITHOUT BANGKO SENTRAL
45 APPROVAL, NO SUCH TRANSFER OR ACQUISITION SHALL
46 HAVE LEGAL EFFECT NOR SHALL THE SAME BE RECOGNIZED
47 IN THE BOOKS OF THE INSTITUTION OR BY ANY GOVERNMENT
48 AGENCY, AND THE TRANSFEROR-STOCKHOLDERS SHALL
49 REMAIN ACCOUNTABLE AND RESPONSIBLE THEREFOR.
50 TRANSFER OF ACTUAL CONTROL OR MANAGEMENT OF THE
51 INSTITUTION TO THE NEW STOCKHOLDERS OR THEIR
52 REPRESENTATIVES PRIOR TO BANGKO SENTRAL APPROVAL
53 SHALL MAKE THE TRANSFEROR, THE TRANSFEREE AND ANY

1 PERSON RESPONSIBLE THEREFOR LIABLE UNDER SECTIONS 36
2 AND 37 OF THIS ACT. NOTWITHSTANDING ANY PROVISION OF
3 LAW TO THE CONTRARY, THE BANGKO SENTRAL MAY SHARE
4 WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION
5 ANY INFORMATION THAT THE BANGKO SENTRAL MAY OBTAIN
6 PERTAINING TO TRANSFER OR ACQUISITION OF SHARES OR
7 SERIES OF TRANSFERS OR ACQUISITION OF SHARES IN BANKS
8 AND QUASI-BANKS.”
9

10
11 SEC. 9. Section 27 (d) of the same Act is hereby amended to read as follows:
12

13 “SEC. 27. *Prohibitions.* – In addition to the prohibitions found in
14 Republic Act Nos. 3019 and 6713, personnel of the Bangko Sentral are
15 hereby prohibited from:
16

17 xxx
18

19 “(d) borrowing from any institution subject to supervision or
20 examination by the Bangko Sentral shall be prohibited unless said
21 borrowing[s-are] **IS TRANSACTED ON AN ARM’S LENGTH BASIS**
22 [~~adequately secured~~], fully disclosed to the Monetary Board, and shall be
23 subject to such rules and regulations as the Monetary Board may
24 prescribe[: ~~Provided, however, That personnel of the supervising and~~
25 ~~examining departments are prohibited from borrowing from a bank~~
26 ~~under their supervision and examination~~]. xxx”
27

28
29 SEC. 10. Section 28 of the same Act is hereby amended to read as follows:
30

31 “SEC. 28. *Examination and Fees.* – The supervising and examining
32 department head, personally or by deputy, shall examine the [~~books~~]
33 **OPERATIONS** of every bank[ing] **AND QUASI-BANK, INCLUDING**
34 **THEIR SUBSIDIARIES AND AFFILIATES ENGAGED IN ALLIED**
35 **ACTIVITIES, AND OTHER ENTITIES WHICH UNDER THIS ACT**
36 **OR SPECIAL LAWS ARE SUBJECT TO BANGKO SENTRAL**
37 **SUPERVISION, IN ACCORDANCE WITH THE GUIDELINES SET BY**
38 **THE MONETARY BOARD TAKING INTO CONSIDERATION**
39 **SOUND AND PRUDENT PRACTICES.** [~~once in every twelve (12)~~
40 ~~months, and at such other times as the Monetary Board by an affirmative~~
41 ~~vote of five (5) members, may deem expedient and to make a report on~~
42 ~~the same to the Monetary Board:] *Provided,* That there shall be an interval
43 of at least twelve (12) months between [~~annual~~] **REGULAR** examinations;
44 **PROVIDED, FURTHER, THAT THE MONETARY BOARD, BY AN**
45 **AFFIRMATIVE VOTE OF AT LEAST FIVE (5) MEMBERS, MAY**
46 **AUTHORIZE A SPECIAL EXAMINATION IF THE**
47 **CIRCUMSTANCES WARRANT.**
48~~

49 “The **INSTITUTION** [~~bank~~] concerned shall afford to the head of
50 the appropriate supervising and examining departments and to his
51 authorized deputies full opportunity to examine its books **AND**
52 **RECORDS**, cash and [~~available~~] assets and general condition **AND**
53 **REVIEW ITS SYSTEMS AND PROCEDURES** at any time during

1 **BUSINESS** [~~banking~~] hours when requested to do so by the *Bangko*
2 *Sentral*: *Provided, however,* That none of the reports and other papers
3 relative to such examinations shall be open to inspection by the public
4 except insofar as such publicity is incidental to the proceedings
5 hereinafter authorized or is necessary for the prosecution of violations in
6 connection with the business of such institutions.

7
8 ~~"[Banking and quasi-banking institutions which are subject to~~
9 ~~examination by the *Bangko Sentral*]~~ **SUPERVISED INSTITUTIONS** shall
10 pay to the *Bangko Sentral*, **NO LATER THAN MAY 31 OF EACH YEAR**
11 ~~[within the first thirty (30) days of each year],~~ an annual **SUPERVISION**
12 fee ~~[in an amount equal to a percentage,]~~ as may be prescribed by the
13 Monetary Board. ~~[of its average total assets during the preceding year as~~
14 ~~shown on its end-of-month balance sheets, after deducting cash on hand~~
15 ~~and amounts due from banks, including the *Bangko Sentral* and banks~~
16 ~~abroad.]~~ **IN DETERMINING THE AMOUNT OF THE ANNUAL**
17 **SUPERVISION FEE, THE MONETARY BOARD SHALL CONSIDER**
18 **THE COSTS OF SUPERVISION."**

19
20
21 **SEC. 11.** A new section entitled Section 28-A is hereby included in the same Act
22 to read as follows:

23
24 **"SEC. 28-A. BANGKO SENTRAL COORDINATION. - THE**
25 **SUSPENSION OR REVOCATION OF ANY GOVERNMENT LICENSE**
26 **NECESSARY FOR THE OPERATION OF A BANGKO SENTRAL-**
27 **SUPERVISED ENTITY MUST BE DONE ONLY WITH PRIOR**
28 **CONSULTATION WITH THE BANGKO SENTRAL."**

29
30
31 **SEC. 12.** Section 30 of the same Act is hereby amended to read as follows:

32
33 **"SEC. 30. Proceedings in Receivership and Liquidation. -** Whenever,
34 upon report of the head of the supervising or examining department, the
35 Monetary Board finds that a bank or quasi-bank:

36
37 **"(a) HAS NOTIFIED THE BANGKO SENTRAL OR PUBLICLY**
38 **ANNOUNCED A UNILATERAL CLOSURE, OR HAS BEEN**
39 **DORMANT FOR AT LEAST SIXTY (60) DAYS OR IN ANY MANNER**
40 **HAS SUSPENDED THE PAYMENT OF ITS DEPOSIT/DEPOSIT**
41 **SUBSTITUTE LIABILITIES, OR is unable to pay its liabilities as they**
42 **become due in the ordinary course of business: *Provided,* That this shall**
43 **not include inability to pay caused by extraordinary demands induced by**
44 **financial panic in the banking community;**

45
46 **"(b) has insufficient realizable assets, as determined by the *Bangko***
47 ***Sentral,* to meet its liabilities; or**

48
49 **"(c) cannot continue in business without involving probable losses**
50 **to its depositors or creditors; or**

1 “(d) has willfully violated a cease and desist order under Section 37
2 that has become final, involving acts or transactions which amount to
3 fraud or a dissipation of the assets of the institution;
4

5 in which cases, the Monetary Board may summarily and without need for
6 prior hearing forbid the institution from doing business in the Philippines
7 and **IN THE CASE OF BANKS**, designate the Philippine Deposit
8 Insurance Corporation (PDIC) as receiver [~~of the banking institution~~]
9 **AND DIRECT THE PDIC TO PROCEED WITH THE LIQUIDATION**
10 **OF THE CLOSED BANK PURSUANT TO THIS SECTION AND THE**
11 **RELEVANT PROVISIONS OF REPUBLIC ACT NO. 3591, AS**
12 **AMENDED. THE MONETARY BOARD SHALL NOTIFY IN**
13 **WRITING THE BOARD OF DIRECTORS OF THE CLOSED BANK OF**
14 **ITS DECISION.**

15
16 ~~“[For a quasi-bank, any person of recognized competence in~~
17 ~~banking or finance may be designated as receiver.]~~
18

19 ~~“[The receiver shall immediately gather and take charge of all the~~
20 ~~assets and liabilities of the institution, administer the same for the benefit~~
21 ~~of its creditors, and exercise the general powers of a receiver under the~~
22 ~~Revised Rules of Court but shall not, with the exception of administrative~~
23 ~~expenditures, pay or commit any act that will involve the transfer or~~
24 ~~disposition of any asset of the institution: *Provided*, That the receiver may~~
25 ~~deposit or place the funds of the institution in nonspeculative~~
26 ~~investments. The receiver shall determine as soon as possible, but not~~
27 ~~later than ninety (90) days from takeover, whether the institution may be~~
28 ~~rehabilitated or otherwise placed in such a condition so that it may be~~
29 ~~permitted to resume business with safety to its depositors and creditors~~
30 ~~and the general public: *Provided*, That any determination for the~~
31 ~~resumption of business of the institution shall be subject to prior approval~~
32 ~~of the Monetary Board.]~~
33

34 ~~“[If the receiver determines that the institution cannot be~~
35 ~~rehabilitated or permitted to resume business in accordance with the next~~
36 ~~preceding paragraph, the Monetary Board shall notify in writing the~~
37 ~~board of directors of its findings and direct the receiver to proceed with~~
38 ~~the liquidation of the institution. The receiver shall:]~~
39

40 ~~“[1. file *ex parte* with the proper regional trial court, and without~~
41 ~~requirement of prior notice or any other action, a petition for assistance in~~
42 ~~the liquidation of the institution pursuant to a liquidation plan adopted~~
43 ~~by the Philippine Deposit Insurance Corporation for general application~~
44 ~~to all closed banks. In case of quasi-banks, the liquidation plan shall be~~
45 ~~adopted by the Monetary Board. Upon acquiring jurisdiction, the court~~
46 ~~shall, upon motion by the receiver after due notice, adjudicate disputed~~
47 ~~claims against the institution, assist the enforcement of individual~~
48 ~~liabilities of the stockholders, directors and officers, and decide on other~~
49 ~~issues as may be material to implement the liquidation plan adopted. The~~
50 ~~receiver shall pay the cost of the proceedings from the assets of the~~
51 ~~institution.]~~
52

1 ~~"[2. convert the assets of the institutions to money, dispose of the~~
2 ~~same to creditors and other parties, for the purpose of paying the debts of~~
3 ~~such institution in accordance with the rules on concurrence and~~
4 ~~preference of credit under the Civil Code of the Philippines and he may,~~
5 ~~in the name of the institution, and with the assistance of counsel as he~~
6 ~~may retain, institute such actions as may be necessary to collect and~~
7 ~~recover accounts and assets of, or defend any action against, the~~
8 ~~institution. The assets of an institution under receivership or liquidation~~
9 ~~shall be deemed in *custodia legis* in the hands of the receiver and shall,~~
10 ~~from the moment the institution was placed under such receivership or~~
11 ~~liquidation, be exempt from any order of garnishment, levy, attachment,~~
12 ~~or execution.]~~

13
14 "The actions of the Monetary Board taken under this section or
15 under Section 29 of this Act shall be final and executory, and may not be
16 restrained or set aside by the court except on petition for *certiorari* on the
17 ground that the action taken was in excess of jurisdiction or with such
18 grave abuse of discretion as to amount to lack or excess of jurisdiction.
19 The petition for *certiorari* may only be filed by the stockholders of record
20 representing the majority of the capital stock within ten (10) days from
21 receipt by the board of directors of the institution of the order directing
22 receivership, liquidation or conservatorship. The designation of a
23 conservator under Section 29 of this Act or the appointment of a receiver
24 under this section shall be vested exclusively with the Monetary Board.
25 Furthermore, the designation of a conservator is not a precondition to the
26 designation of a receiver.

27
28 **"THE AUTHORITY OF THE MONETARY BOARD TO**
29 **SUMMARILY AND WITHOUT NEED FOR PRIOR HEARING**
30 **FORBID THE BANK OR QUASI-BANK FROM DOING BUSINESS IN**
31 **THE PHILIPPINES AS PROVIDED ABOVE MAY ALSO BE**
32 **EXERCISED OVER NON-STOCK SAVINGS AND LOAN**
33 **ASSOCIATIONS, BASED ON THE SAME APPLICABLE GROUNDS.**
34 **FOR QUASI-BANKS AND NON-STOCK SAVINGS AND LOAN**
35 **ASSOCIATIONS, ANY PERSON OF RECOGNIZED COMPETENCE**
36 **IN BANKING, CREDIT OR FINANCE MAY BE DESIGNATED BY**
37 **THE BANGKO SENTRAL AS A RECEIVER."**

38
39
40 SEC. 13. Section 31 of the same Act is hereby deleted.

41
42 ~~"[SEC. 31. *Distribution of Assets.*—In case of liquidation of a bank~~
43 ~~or quasi-bank, after payment of the cost of proceedings, including~~
44 ~~reasonable expenses and fees of the receiver to be allowed by the court,~~
45 ~~the receiver shall pay the debts of such institution, under order of the~~
46 ~~court, in accordance with the rules on concurrence and preference of~~
47 ~~credit as provided in the Civil Code.]"~~

48
49
50 SEC. 14. Section 32 of the same Act is hereby deleted.

51
52 ~~"[SEC. 32. *Disposition of Revenues and Earnings.*—All revenues and~~
53 ~~earnings realized by the receiver in winding up the affairs and~~

1 administering the assets of any bank or quasi-bank within the purview of
2 this Act shall be used to pay the costs, fees and expenses mentioned in the
3 preceding section, salaries of such personnel whose employment is
4 rendered necessary in the discharge of the liquidation together with other
5 additional expenses caused thereby. The balance of revenues and
6 earnings, after the payment of all said expenses, shall form part of the
7 assets available for payment to creditors.]”
8
9

10 SEC. 15. Section 34 of the same Act is hereby amended to read as follows:
11

12 “SEC. 34. *Refusal to Make Reports or Permit Examination.* – Any
13 officer, owner, agent, manager, director or officer-in-charge of any
14 institution [~~subject to the supervision or examination by the *Bangko Sentral*~~
15 ~~within the purview of this act]~~ who, being required in writing by the
16 Monetary Board or by the head of the supervising and examining
17 department **WITHIN THE PURVIEW OF THIS ACT AND RELEVANT**
18 **LAWS** willfully refuses to file the required report or permit any lawful
19 examination into the affairs of such institution shall be punished by a fine
20 of not less than fifty thousand pesos (P50,000) nor more than [~~one~~
21 ~~hundred thousand pesos (P100,000)] **TWO MILLION PESOS (P2,000,000)**
22 or by imprisonment of not less than one (1) year nor more than five (5)
23 years, or both, [~~in~~] **AT** the discretion of the court.
24~~

25 “**THIS SHALL ALSO APPLY TO THE OFFICER, OWNER,**
26 **AGENT, MANAGER, DIRECTOR OR OFFICER-IN-CHARGE OF THE**
27 **AFFILIATE COMPANY/IES AND PARENT COMPANY OF A BANK**
28 **OR QUASI-BANK, AS WELL AS THE AFFILIATES OF SUCH**
29 **PARENT COMPANY, WHOSE TRANSACTIONS ARE SUBJECT TO**
30 **EXAMINATION UNDER THIS LAW.”**
31
32

33 SEC. 16. Section 35 of the same Act is hereby amended to read as follows”
34

35 “SEC. 35. *False Statement.* – The willful making of a false or
36 misleading statement on a material fact to the Monetary Board or to the
37 examiners of the *Bangko Sentral* shall be punished by a fine of not less than
38 One hundred thousand pesos (P100,000) nor more than [~~Two hundred~~
39 ~~thousand pesos (P200,000)] **TWO MILLION PESOS (P2,000,000)**, or by
40 imprisonment of not more than (5) years, or both, at the discretion of the
41 court.”
42
43~~

44 SEC. 17. Section 36 of the same Act is hereby amended to read as follows:
45

46 “SEC. 36. *Proceedings Upon Violation of This Act and Other Banking*
47 *Laws, Rules, Regulations, Orders or Instructions.* – Whenever a bank, [~~or~~]
48 quasi-bank, **INCLUDING THEIR SUBSIDIARIES AND AFFILIATES**
49 **ENGAGED IN ALLIED ACTIVITIES OR OTHER ENTITY WHICH**
50 **UNDER THIS ACT OR SPECIAL LAWS IS SUBJECT TO BANGKO**
51 **SENTRAL SUPERVISION** or whenever any person or entity willfully
52 violates this Act or other pertinent banking laws being enforced or
53 implemented by the *Bangko Sentral* or any order, instruction, rule or

1 regulation issued by the Monetary Board, the person or persons
2 responsible for such violation shall unless otherwise provided in this Act
3 be punished by a fine of not less than Fifty thousand pesos (P50,000) nor
4 more than [~~Two hundred thousand pesos (P200,000)~~] **TWO MILLION**
5 **PESOS (P2,000,000.00)** or by imprisonment of not less than two (2) years
6 nor more than ten (10) years, or both, at the discretion of the court.

7
8 "Whenever **AN ENTITY UNDER BANGKO SENTRAL**
9 **SUPERVISION** [~~a bank or quasi-bank~~] persists in carrying on its business
10 in an unlawful or unsafe manner, the Board may, without prejudice to the
11 penalties provided in the preceding paragraph of this Section and the
12 administrative sanctions provided in Section 37 of this Act, take action
13 under Section 30 of this Act.

14
15 "THE **BANGKO SENTRAL MAY GRANT INFORMER'S**
16 **REWARD TO ANY PERSON, EXCEPT AN OFFICER OR EMPLOYEE**
17 **OF THE BANGKO SENTRAL OR OF ANY INTELLIGENCE OR LAW**
18 **ENFORCEMENT AGENCY, INCLUDING THE RELATIVES OF SUCH**
19 **OFFICER OR EMPLOYEE WITHIN THE THIRD DEGREE OF**
20 **CONSANGUINITY OR AFFINITY, WHO VOLUNTARILY GIVE**
21 **DEFINITE INFORMATION NOT YET IN THE POSSESSION OF THE**
22 **BANGKO SENTRAL LEADING TO THE: (A) ARREST OF BANK**
23 **DIRECTORS OR OFFICERS AND/OR BSP PERSONNEL FOR**
24 **VIOLATION OF THIS ACT OR ANY BANKING AND OTHER LAWS**
25 **IMPLEMENTED OR ENFORCED BY THE BANGKO SENTRAL, OR**
26 **FOR VIOLATION OF OTHER PENAL LAWS COMMITTED IN**
27 **CONNECTION WITH THEIR EMPLOYMENT OR FUNCTIONS; OR**
28 **(B) FILING OF CRIMINAL CHARGES AGAINST ANY PERSON FOR**
29 **VIOLATION OF SECTION 50 OF THIS ACT.**

30
31 "THE **MONETARY BOARD IS HEREBY AUTHORIZED TO**
32 **PROMULGATE THE IMPLEMENTING GUIDELINES FOR THE**
33 **GRANT OF INFORMER'S REWARD, WHICH IN NO CASE SHALL**
34 **EXCEED ONE MILLION PESOS (P1,000,000.00). SAID GUIDELINES**
35 **MAY PROVIDE FOR ADDITIONAL QUALIFICATIONS AND**
36 **DISQUALIFICATIONS OF INFORMANTS AS WELL AS THE FORM**
37 **AND MINIMUM CONTENT OF THE INFORMATION GIVEN.**

38
39 "THE **CASH REWARD OF INFORMERS SHALL BE SUBJECT**
40 **TO APPLICABLE WITHHOLDING TAXES."**

41
42
43 **SEC. 18.** Section 37 of the same Act is hereby amended to read as follows:

44
45 "SEC. 37. *Administrative Sanctions on* [~~Banks and Quasi-Banks~~]
46 *SUPERVISED ENTITIES.* – Without prejudice to the criminal sanctions
47 against the culpable persons provided in Sections 34, 35, and 36 of this
48 Act, the Monetary Board may, at its discretion, impose upon any bank,
49 [~~or~~] quasi-bank, **INCLUDING THEIR SUBSIDIARIES AND**
50 **AFFILIATES ENGAGED IN ALLIED ACTIVITIES, OR OTHER**
51 **ENTITY WHICH UNDER THIS ACT OR SPECIAL LAWS ARE**
52 **SUBJECT TO THE BANGKO SENTRAL SUPERVISION, AND/OR their**
53 **directors, officers and/or EMPLOYEES, for any willful violation of its**

1 charter or by-laws, willful delay in the submission of reports or
2 publications thereof as required by law, rules and regulations; any refusal
3 to permit examination into the affairs of the institution; any willful
4 making of a false or misleading statement to the Board or the appropriate
5 supervising and examining department or its examiners; any willful
6 failure or refusal to comply with, or violation of, any banking law or any
7 order, instruction or regulation issued by the Monetary Board, or any
8 order, instruction or ruling by the Governor; or any commission of
9 irregularities, and/or conducting business in an unsafe or unsound
10 manner as may be determined by the Monetary Board, the following
11 administrative sanctions, whenever applicable:
12

13 “(a) fines in amounts as may be determined by the Monetary Board
14 to be appropriate, but in no case to exceed [~~Thirty thousand pesos~~
15 (~~P30,000~~)] **ONE MILLION PESOS (P1,000,000.00) FOR EACH**
16 **TRANSACTIONAL VIOLATION OR ONE HUNDRED THOUSAND**
17 **PESOS (P100,000.00) PER CALENDAR [a]day for [each] violationS OF A**
18 **CONTINUING NATURE**, taking into consideration the attendant
19 circumstances, such as the nature and gravity of the violation or
20 irregularity and the size of the **INSTITUTION**, [~~bank or quasi-bank~~]
21 **PROVIDED: THAT IN CASE PROFIT IS GAINED OR LOSS IS**
22 **AVOIDED AS A RESULT OF THE VIOLATION, A FINE NO MORE**
23 **THAN THREE (3) TIMES THE PROFIT GAINED OR LOSS AVOIDED**
24 **MAY ALSO BE IMPOSED;**
25

26 “(b) suspension of rediscounting privileges or access to *Bangko*
27 *Sentral* credit facilities;
28

29 “(c) suspension of lending or foreign exchange operations or
30 authority to accept new deposits or make new investments;
31

32 “(d) suspension of interbank clearing privileges; and/or
33

34 “(e) **SUSPENSION OR** revocation of quasi-banking **OR OTHER**
35 **SPECIAL** licenseS.
36

37 “Resignation or termination from office shall not exempt such
38 director, officer **OR EMPLOYEE** from administrative or criminal
39 sanctions.
40

41 “The Monetary Board may, whenever warranted by circumstances,
42 preventively suspend any director or officer of [~~a bank or quasi-bank~~]
43 **THE INSTITUTION** pending an investigation: *Provided*, That should the
44 case be not finally decided by the *Bangko Sentral* within a period of one
45 hundred twenty (120) days after the date of suspension, said director or
46 officer shall be reinstated in his position: *Provided, further*, That when the
47 delay in the disposition of the case is due to the fault, negligence or
48 petition of the director or officer, the period of delay shall not be counted
49 in computing the period of suspension herein provided.
50

51 “The above administrative sanctions need not be applied in the
52 order of their severity.
53

1 "Whether or not there is an administrative proceeding, if the
2 institution and/or the directors, officers and/or **EMPLOYEES** concerned
3 continue with or otherwise persist in the commission of the indicated
4 practice or violation, the Monetary Board may issue an order requiring
5 the institution and/or the directors, officers and/or **EMPLOYEES**
6 concerned to cease and desist from the indicated practice or violation, and
7 may further order that immediate action be taken to correct the conditions
8 resulting from such practice or violation. The cease and desist order shall
9 be immediately effective upon service on the respondents.

10
11 "The respondents shall be afforded an opportunity to defend their
12 action in a hearing before the Monetary Board or any committee chaired
13 by any Monetary Board member created for the purpose, upon request
14 made by the respondents within five (5) days from their receipt of the
15 order. If no such hearing is requested within said period, the order shall
16 be final. If a hearing is conducted, all issues shall be determined on the
17 basis of records, after which the Monetary Board may either reconsider or
18 make final its order.

19
20 "The Governor is hereby authorized, at his discretion, to impose
21 upon [~~banking—institutions~~], **BANKS AND QUASI-BANKS,**
22 **INCLUDING THEIR SUBSIDIARIES AND AFFILIATES ENGAGED**
23 **IN ALLIED ACTIVITIES, AND OTHER ENTITIES WHICH UNDER**
24 **THIS ACT OR SPECIAL LAWS ARE SUBJECT TO BANGKO**
25 **SENTRAL SUPERVISION** for any failure to comply with the
26 requirements of law, Monetary Board regulations and policies, and/or
27 instructions issued by the Monetary Board or by the Governor, fines not
28 in excess of [~~Ten—thousand—pesos—(P10,000)~~] **ONE HUNDRED**
29 **THOUSAND PESOS (P100,000.00) FOR EACH TRANSACTIONAL**
30 **VIOLATION OR THIRTY THOUSAND PESOS (P30,000.00) PER**
31 **CALENDAR [a] day for [each] violationS OF A CONTINUING**
32 **NATURE,** the imposition of which shall be final and executory until
33 reversed, modified or lifted by the Monetary Board on appeal."

34
35
36 **SEC. 19.** A new section entitled Section 38-A is hereby included in the same Act
37 to read as follows:

38
39 **"SEC. 38-A. ISSUANCE OF INJUNCTIVE RELIEF AGAINST**
40 **BANGKO SENTRAL ACTIONS. - NO COURT, OTHER THAN THE**
41 **COURT OF APPEALS AND THE SUPREME COURT, SHALL ISSUE**
42 **ANY TEMPORARY RESTRAINING ORDER, PRELIMINARY**
43 **INJUNCTION OR PRELIMINARY MANDATORY INJUNCTION**
44 **AGAINST THE BANGKO SENTRAL FOR ANY ACTION UNDER**
45 **THIS ACT.**

46
47 **"ANY RESTRAINING ORDER OR INJUNCTION ISSUED IN**
48 **VIOLATION OF THIS SECTION IS VOID AND OF NO FORCE AND**
49 **EFFECT.**

50
51 **"THE PROVISIONS OF RULES OF COURT ON INJUNCTIONS**
52 **IN SO FAR AS THEY ARE APPLICABLE AND NOT INCONSISTENT**
53 **WITH THE PROVISIONS OF THIS ACT SHALL GOVERN THE**

1 ISSUANCE AND DISSOLUTION OF RESTRAINING ORDERS OR
2 INJUNCTIONS AGAINST THE BANGKO SENTRAL.”

3
4
5 SEC. 20. Section 43 of the same Act is hereby amended as follows:

6
7 “SEC. 43. *Computation of Profits and Losses.* – Within the first thirty
8 (30) days following the end of each year, the *Bangko Sentral* shall
9 determine its net profits or losses. [~~In the calculation of net profits, the~~
10 ~~*Bangko Sentral* shall make adequate allowance or establish adequate~~
11 ~~reserves for bad and doubtful accounts]~~ NOTWITHSTANDING ANY
12 PROVISION OF LAW TO THE CONTRARY, THE NET PROFIT OF
13 THE BANGKO SENTRAL SHALL BE DETERMINED AFTER
14 ALLOWING FOR EXPENSES OF OPERATION, ADEQUATE
15 ALLOWANCES AND PROVISIONS FOR BAD AND DOUBTFUL
16 DEBTS, DEPRECIATION IN ASSETS, AND SUCH OTHER
17 ALLOWANCES AND CONTINGENCIES OR PURPOSES AS THE
18 MONETARY BOARD MAY DETERMINE IN ACCORDANCE WITH
19 PRUDENT FINANCIAL MANAGEMENT AND EFFECTIVE
20 CENTRAL BANKING OPERATIONS.”

21
22
23 SEC. 21. A new section entitled Section 43-A is hereby included in the same Act
24 to read as follows:

25
26 “SEC. 43-A. *BANGKO SENTRAL RESERVE FUND.* - THE
27 BANGKO SENTRAL SHALL ESTABLISH A RESERVE FUND TO
28 MITIGATE FUTURE RISKS AND CONTINGENCIES INHERENT IN
29 CARRYING OUT THE BANGKO SENTRAL-MANDATED
30 FUNCTIONS AS CENTRAL MONETARY AUTHORITY. THE
31 RESERVE FUND SHALL CONSIST OF FLUCTUATION RESERVE,
32 CONTINGENCY RESERVE AND SUCH OTHER RESERVES AS THE
33 MONETARY BOARD DEEMS PRUDENT OR NECESSARY.

34
35 “THE FLUCTUATION RESERVE SHALL COVER LOSSES
36 FROM EXCHANGE RATE AND PRICE VOLATILITY AND SHALL BE
37 DERIVED FROM THE NET PROFITS BEFORE DISTRIBUTION, AS
38 PROVIDED UNDER SECTION 44 OF THIS ACT.”

39
40
41 SEC. 22. Section 45 of the same Act is hereby amended to read as follows:

42
43 “SEC. 45. *Revaluation Profits and Losses.* – UNREALIZED profits or
44 losses arising from any revaluation of the *Bangko Sentral's* [~~net~~] assets [~~or~~],
45 liabilities OR DERIVATIVE INSTRUMENTS DENOMINATED in [~~gold~~
46 ~~or~~] foreign currencies with respect to the MOVEMENTS OF PRICES
47 AND EXCHANGE RATES FROM THIRD CURRENCIES TO Philippine
48 peso shall not be included in the computation of the annual profits and
49 losses of the *Bangko Sentral*. Any profits or losses arising in this manner
50 shall be offset by any amounts which, as a consequence of such
51 revaluations, are owed by the Philippines to any international or regional
52 intergovernmental financial institution of which the Philippines is a
53 member or are owed by these institutions to the Philippines. Any

1 remaining UNREALIZED profit or loss shall be carried in a special frozen
2 account which shall be named "Revaluation of International Reserve
3 (RIR)", and the net balance of which shall appear either among the
4 liabilities or among the assets of the *Bangko Sentral*, depending on whether
5 the revaluations have produced net profits or net losses.
6

7 "The [~~Revaluation of International Reserve~~] RIR account shall be
8 [~~neither~~] credited [~~nor~~] OR debited FOR THE PERIODIC
9 REVALUATION AS AUTHORIZED IN THIS SECTION AND TO
10 REFLECT THE CORRESPONDING ADJUSTMENT RESULTING TO
11 REDUCTION IN THE BANGKO SENTRAL'S NET FOREIGN ASSETS,
12 LIABILITIES AND FOREIGN CURRENCY-DENOMINATED
13 DERIVATIVE INSTRUMENTS. THE RIR SHALL BE ADJUSTED
14 AND RECOGNIZED IN THE INCOME STATEMENT UPON SALE OF
15 GOLD AND FOREIGN SECURITIES, OR WHEN THE FOREIGN
16 CURRENCY IS REPATRIATED TO LOCAL CURRENCY OR IS USED
17 TO PAY FOREIGN OBLIGATIONS, OR UPON MATURITY OF A
18 FOREIGN CURRENCY-DENOMINATED FORWARD OR OPTION
19 CONTRACT INVOLVING THE PHILIPPINE PESO. [~~for any purposes~~
20 ~~other than those specifically authorized in this section.~~]"
21
22

23 SEC. 23. Section 61 of the same Act is hereby amended to read as follows:
24

25 "SEC. 61. *Guiding Principle.* – THE MONETARY BOARD SHALL
26 REGULARLY ASSESS PRICE DEVELOPMENTS AND OUTLOOK
27 AND, BASED ON ITS ANALYSIS AND EVALUATION OF
28 INFLATIONARY PRESSURES, USE ITS POLICY INSTRUMENTS TO
29 ATTAIN AND MAINTAIN PRICE STABILITY. [~~The Monetary Board~~
30 ~~shall endeavor to control any expansion or contraction in monetary~~
31 ~~aggregates which is prejudicial to the attainment or maintenance of price~~
32 ~~stability.]"~~

33
34
35 SEC. 24. Section 63 of the same Act is hereby amended to read as follows:
36

37 "SEC. 63. *Action when Abnormal Movements Occur in the [~~Monetary~~*
38 *Aggregates, Credit, Or] Price Level.* – Whenever abnormal movements in
39 the [~~monetary aggregates, in credit, or in] prices endanger the stability of~~
40 the Philippine economy or important sectors thereof, the Monetary Board
41 shall:
42

43 "(a) take such remedial measures as are appropriate and within the
44 powers granted to the Monetary Board and the *Bangko Sentral* under the
45 provisions of this Act; and
46

47 "(b) submit to the President of the Philippines and the Congress,
48 and make public, a detailed report which shall include, as a minimum, a
49 description and analysis of:
50

51 "(1) the causes of the rise or fall of [~~the monetary aggregates,~~
52 ~~of credit or of] prices;
53~~

1 “(2) the extent to which the changes in [~~the monetary~~
2 ~~aggregates, in credit, or in~~] prices have been reflected in changes in
3 the level of domestic output, employment, wages and economic
4 activity in general, and the nature and significance of any such
5 changes; and
6

7 “(3) the measures which the Monetary Board has taken and
8 the other monetary, fiscal or administrative measures which it
9 recommends to be adopted.
10

11 “Whenever the [~~monetary aggregates, or the level of credit,~~
12 ~~increases or decreases by more than fifteen percent (15%), or the~~] cost of
13 living index increases by more than ten percent (10%), in relation to the
14 level existing at the end of the corresponding month of the preceding
15 year, or even though [~~any of these~~] **THIS** quantitative guideline[s have]
16 **HAS** not been reached when in its judgment the circumstances so
17 warrant, the Monetary Board shall submit the reports mentioned in this
18 Section, and shall state therein whether, in the opinion of the Board, said
19 changes in the [~~monetary aggregates, credit or~~] cost of living represent a
20 threat to the stability of the Philippine economy or of important sectors
21 thereof.
22

23 “The Monetary Board shall continue to submit periodic reports to
24 the President of the Philippines and to Congress until it considers that the
25 [~~monetary, credit or~~] price disturbances have disappeared or have been
26 adequately controlled.”
27

28
29 **SEC. 25.** Section 81 of the same Act is hereby amended to read as follows:
30

31 “SEC. 81. *Guiding Principles.* – The rediscounts, discounts, loans
32 and advances which the *Bangko Sentral* is authorized to extend to banking
33 institutions, under the provisions of the present article of this Act shall be
34 used to influence the volume of credit consistent with the objective of
35 price stability **AND MAINTENANCE OF FINANCIAL STABILITY.**”
36

37 **SEC. 26.** Section 84 of the same Act is hereby amended to read as follows:
38

39 “SEC. 84. *Emergency Loans and Advances.* - In periods of national
40 and/or local emergency or of imminent financial panic which directly
41 threaten monetary and **FINANCIAL** [~~banking~~] stability, the Monetary
42 Board may, by a vote of at least five (5) of its members, authorize the
43 *Bangko Sentral* to grant extraordinary loans or advances to banking
44 institutions, secured by assets as defined hereunder: *Provided,* That while
45 such loans or advances are outstanding, the debtor institution shall not,
46 except upon prior authorization by the Monetary Board, expand the total
47 volume of its loans or investments.
48

49 “The Monetary Board may, at its discretion, likewise authorize the
50 *Bangko Sentral* to grant emergency loans or advances to banking
51 institutions, even during normal periods, for the purpose of assisting a
52 bank in a precarious financial condition or under serious financial

1 pressures brought by unforeseen events, or events which, though
2 foreseeable, could not be prevented by the bank concerned: *Provided,*
3 *however,* That the Monetary Board has ascertained that the bank is not
4 insolvent and has the assets defined hereunder to secure the advances:
5 *Provided, further,* That a concurrent vote of at least five (5) members of the
6 Monetary Board is obtained.

7
8 "The amount of any emergency loan or advance shall not exceed
9 the sum of fifty percent (50%) of total deposits and deposit substitutes of
10 the banking institution, and shall be disbursed in two (2) or more
11 tranches. The amount of the first tranche shall be limited to twenty-five
12 percent (25%) of the total deposit and deposit substitutes of the institution
13 and shall be secured by (A) government securities, (B) **ACCEPTABLE**
14 **GUARANTEES BACKED UP BY THE NATIONAL GOVERNMENT**
15 **OR ITS SECURITIES;** (C) ~~[to the extent of their applicable loan values~~
16 ~~and]~~ other unencumbered first class collaterals and (D) **OTHER KINDS**
17 **OF COLLATERALS AS MAY BE AUTHORIZED BY THE MONETARY**
18 **BOARD IN ACCORDANCE WITH SOUND RISK MANAGEMENT**
19 **PRINCIPLES** ~~[which the Monetary Board may approve]:~~ *Provided,* That if
20 as determined by the Monetary Board, the circumstances surrounding the
21 emergency warrant a loan or advance greater than the amount provided
22 hereinabove, the amount of the first tranche may exceed twenty-five
23 percent (25%) of the bank's total deposit and deposit substitutes if the
24 same is adequately secured by ~~[applicable loan values of government~~
25 ~~securities and unencumbered first class collaterals]~~ **ANY OF THE**
26 **COLLATERALS SET FORTH ABOVE AS** approved by the Monetary
27 Board, and the principal stockholders of the institution furnish an
28 acceptable undertaking to indemnify and hold harmless from suit a
29 conservator whose appointment the Monetary Board may find necessary
30 at any time.

31
32 "Prior to the release of the first tranche, the banking institution
33 shall submit to the *Bangko Sentral* a resolution of its board of directors
34 authorizing the *Bangko Sentral* to evaluate other assets of the banking
35 institution certified by its external auditor to be good and available for
36 collateral purposes should the release of the subsequent tranche be
37 thereafter applied for.

38
39 "The Monetary Board may, by a vote of at least five (5) of its
40 members, authorize the release of a subsequent tranche on condition that
41 the principal stockholders of the institution:

42
43 "(a) furnish an acceptable undertaking to indemnify and hold
44 harmless from suit a conservator whose appointment the Monetary Board
45 may find necessary at any time; and

46
47 "(b) provide acceptable security which, in the judgment of the
48 Monetary Board, would be adequate to supplement, where necessary, the
49 assets tendered by the banking institution to collateralize the subsequent
50 tranche.

51
52 "In connection with the exercise of these powers, the prohibitions
53 in Section 128 of this Act shall not apply insofar as it refers to acceptance

1 as collateral of shares and their acquisition as a result of foreclosure
2 proceedings, including the exercise of voting rights pertaining to said
3 shares: *Provided, however,* That should the *Bangko Sentral* acquire any of
4 the shares it has accepted as collateral as a result of foreclosure
5 proceedings, the *Bangko Sentral* shall dispose of said shares by public
6 bidding within one (1) year from the date of consolidation of title by the
7 *Bangko Sentral*.
8

9 "Whenever a financial institution incurs an overdraft in its account
10 with the *Bangko Sentral*, the same shall be eliminated within the period
11 prescribed in Section 102 of this Act."
12

13
14 **SEC. 27.** A new section entitled Section 88-A is hereby included in the same Act
15 to read as follows:
16

17 **"SEC. 88-A. EXEMPTION OF COLLATERALS FROM**
18 **ATTACHMENTS, EXECUTIONS AND OTHER RESTRICTIONS. -**
19 **COLLATERALS ON LOANS AND ADVANCES GRANTED BY THE**
20 **BANGKO SENTRAL, WHETHER OR NOT THE INTEREST OF THE**
21 **BANGKO SENTRAL IS REGISTERED, SHALL NOT BE SUBJECT TO**
22 **ATTACHMENT, EXECUTION OR ANY OTHER COURT PROCESS**
23 **OR ADMINISTRATIVE RESTRICTIONS ON LAND USE, NOR**
24 **SHALL THEY BE INCLUDED IN THE PROPERTY OF INSOLVENT**
25 **PERSONS OR INSTITUTIONS."**
26

27
28 **SEC. 28.** A new section entitled Section 88-B is hereby included in the same Act
29 to read as follows:
30

31 **"SEC. 88-B. DEPUTIZATION OF LEGAL STAFF IN CASE OF**
32 **FORECLOSURES. - IN CASE OF AN EXTRAJUDICIAL**
33 **FORECLOSURE OF MORTGAGE IN CONNECTION WITH LOANS**
34 **AND ADVANCES UNDER THIS ARTICLE, THE BANGKO SENTRAL**
35 **MAY DEPUTIZE ANY OF ITS LAWYERS TO CONDUCT THE**
36 **PUBLIC AUCTION PURSUANT TO ACT NO. 3135, AS AMENDED.**
37

38 **"LIKEWISE, IN CASE OF A JUDICIAL FORECLOSURE IN**
39 **CONNECTION WITH LOANS AND ADVANCES UNDER THIS**
40 **ARTICLE, THE BANGKO SENTRAL MAY, WITH THE APPROVAL OF**
41 **THE COURT, DEPUTIZE ANY OF ITS LAWYERS TO ACT AS**
42 **SPECIAL SHERIFF IN THE SALE OF A DEBTOR'S PROPERTIES**
43 **AND IN THE ENFORCEMENT OF COURT WRITS AND PROCESSES**
44 **RELATED THERETO. THE SPECIAL SHERIFF OF THE BANGKO**
45 **SENTRAL SHALL MAKE A REPORT TO THE PROPER COURT**
46 **AFTER ANY ACTION HAS BEEN TAKEN BY HIM, WHICH COURT**
47 **SHALL TREAT SUCH ACTION AS IF IT WERE AN ACT OF ITS**
48 **OWN SHERIFF IN ALL RESPECTS.**
49

50 **"NO RESTRAINING ORDER OR INJUNCTION SHALL BE**
51 **ISSUED BY THE COURT ENJOINING THE BANGKO SENTRAL**
52 **FROM PROCEEDING WITH THE FORECLOSURE OF THE**
53 **MORTGAGE UNLESS A BOND IS POSTED IN FAVOR OF THE**

1 BANGKO SENTRAL IN AN AMOUNT EQUIVALENT TO THE
2 TOTAL CLAIM OF THE BANGKO SENTRAL. THE RESTRAINING
3 ORDER OR INJUNCTION SHALL BE REFUSED OR, IF GRANTED,
4 SHALL BE DISSOLVED UPON FILING BY THE BANGKO SENTRAL
5 OF A BOND, WHICH SHALL BE IN THE FORM OF A BANGKO
6 SENTRAL CHECK, IN AN AMOUNT TWICE THE AMOUNT OF THE
7 ORIGINAL BOND POSTED CONDITIONED THAT THE BANGKO
8 SENTRAL WILL PAY THE DAMAGES WHICH THE PARTY MAY
9 SUFFER BY THE REFUSAL OR DISSOLUTION OF THE
10 INJUNCTION. THE PROVISIONS OF THE RULES OF COURT ON
11 INJUNCTIONS INsofar AS THEY ARE APPLICABLE AND NOT
12 INCONSISTENT WITH THE PROVISIONS OF THIS SECTION
13 SHALL GOVERN THE ISSUANCE AND DISSOLUTION OF THE
14 RESTRAINING ORDER OR INJUNCTION CONTEMPLATED IN
15 THIS SECTION.”
16
17

18 SEC. 29. A new section entitled Section 88-C is hereby included in the same Act
19 to read as follows:
20

21 “SEC. 88-C. *RIGHT OF REDEMPTION OF FORECLOSED REAL*
22 *PROPERTY; RIGHT OF POSSESSION DURING REDEMPTION*
23 *PERIOD. - IN THE EVENT OF FORECLOSURE, WHETHER*
24 *JUDICIALLY OR EXTRAJUDICIALLY, THE MORTGAGOR, WHO IS*
25 *A NATURAL PERSON, SHALL HAVE THE RIGHT TO REDEEM THE*
26 *PROPERTY WITHIN ONE (1) YEAR FROM THE DATE OF*
27 *FORECLOSURE SALE. IN CASE THE MORTGAGOR IS A*
28 *JURIDICAL PERSON, THE MORTGAGOR SHALL HAVE THE*
29 *RIGHT TO REDEEM THE PROPERTY SOLD IN AN*
30 *EXTRAJUDICIAL FORECLOSURE SALE UNDER ACT NO. 3135*
31 *WITHIN ONE (1) YEAR FROM THE DATE OF FORECLOSURE SALE;*
32 *PROVIDED, THAT IN CASE OF JUDICIAL FORECLOSURE, THE*
33 *MORTGAGOR SHALL HAVE THE RIGHT TO REDEEM THE*
34 *PROPERTY SOLD WITHIN NINETY (90) DAYS FROM THE*
35 *FORECLOSURE SALE BUT NOT LATER THAN THE*
36 *REGISTRATION OF THE CERTIFICATE OF FORECLOSURE SALE.*
37 *REDEMPTION SHALL BE EFFECTED BY PAYING THE PRINCIPAL,*
38 *INTERESTS, CHARGES, COMMISSIONS AND ALL CLAIMS OF*
39 *WHATEVER NATURE OF THE BANGKO SENTRAL OUTSTANDING*
40 *AND DUE AS OF THE DATE OF FORECLOSURE SALE, INCLUDING*
41 *ALL COSTS AND OTHER EXPENSES INCURRED BY REASON OF*
42 *THE FORECLOSURE SALE AND CUSTODY OF THE PROPERTY.*
43

44 “THE BANGKO SENTRAL, AS PURCHASER IN THE
45 FORECLOSURE SALE AND WITHOUT NEED OF POSTING A
46 BOND, MAY TAKE POSSESSION OF THE FORECLOSED
47 PROPERTY DURING THE REDEMPTION PERIOD. THE BANGKO
48 SENTRAL SHALL BE ENTITLED TO THE FRUITS OF THE
49 PROPERTY, THE SAME TO BE APPLIED AGAINST THE
50 REDEMPTION PRICE.”
51
52

53 SEC. 30. A new section entitled Section 88-D is hereby included in the same Act
54 to read as follows:

1
2 **"SEC. 88-D. UNSECURED BANGKO SENTRAL CLAIMS. - ALL**
3 **UNSECURED CLAIMS OF THE BANGKO SENTRAL SHALL BE**
4 **CONSIDERED PREFERRED CREDITS SIMILAR TO TAXES DUE TO**
5 **THE NATIONAL GOVERNMENT IN THE ORDER OF PREFERENCE**
6 **UNDER ARTICLE 2244 OF THE NEW CIVIL CODE."**
7
8

9 **SEC. 31.** A new section entitled Section 89-A is hereby included in the same Act
10 to read as follows:
11

12 **"SEC. 89-A. FINANCIAL FACILITIES FOR ISLAMIC BANKS. -**
13 **THE BANGKO SENTRAL MAY, TAKING INTO CONSIDERATION**
14 **THE PECULIAR CHARACTERISTICS OF ISLAMIC BANKING,**
15 **FORMULATE RULES AND REGULATIONS FOR THE EXTENSION**
16 **OF FINANCIAL FACILITIES TO ISLAMIC BANKS PROVIDED**
17 **SUCH EXPOSURES SHALL BE PROPERLY SECURED."**
18
19

20 **SEC. 32.** A new section entitled Section 89-B is hereby included in the same Act
21 to read as follows:
22

23 **"SEC. 89-B. LOANS TO THE PHILIPPINE DEPOSIT**
24 **INSURANCE CORPORATION. - THE BANGKO SENTRAL,**
25 **PURSUANT TO ITS MANDATE OF MAINTAINING FINANCIAL**
26 **STABILITY, MAY LEND FUNDS TO THE PHILIPPINE DEPOSIT**
27 **INSURANCE CORPORATION FOR INSURANCE PURPOSES AND**
28 **IN CASES OF FINANCIAL ASSISTANCE THAT THE LATTER IS**
29 **AUTHORIZED TO EXTEND UNDER SECTION 22(E) OF REPUBLIC**
30 **ACT NO. 3591, AS AMENDED. NOTWITHSTANDING SECTION 23**
31 **OF REPUBLIC ACT NO. 3591, AS AMENDED, THE MONETARY**
32 **BOARD SHALL PRESCRIBE INTEREST RATES AND SUCH OTHER**
33 **TERMS AND CONDITIONS OF THE LOAN."**
34
35

36 **SEC. 33.** Section 92 of the same Act is hereby amended to read as follows:
37

38 **"SEC. 92. Issue and Negotiation of Bangko Sentral Obligations. -** In
39 order to provide the *Bangko Sentral* with effective instruments for open
40 market operations, the *Bangko Sentral* may, subject to such rules and
41 regulations as the Monetary Board may prescribe and in accordance with
42 the principles stated in Section 90 of this Act, issue, place, buy and sell
43 freely negotiable evidences of indebtedness of the *Bangko Sentral*.
44 [~~Provided, That issuance of such certificates of indebtedness shall be made~~
45 ~~only in cases of extraordinary movement in price levels.~~] Said evidences
46 of indebtedness may be issued directly against the international reserve of
47 the *Bangko Sentral* or against the securities which it has acquired under the
48 provisions of Section 91 of this Act, or may be issued without relation to
49 specific types of assets of the *Bangko Sentral*.
50

51 "The Monetary Board shall determine the interest rates, maturities
52 and other characteristics of said obligations of the *Bangko Sentral*, and

1 may, if it deems it advisable, denominate the obligations in gold or
2 foreign currencies.

3
4 "Subject to the principles stated in Section 90 of this Act, the
5 evidences of indebtedness of the *Bangko Sentral* to which this section refers
6 may be acquired by the *Bangko Sentral* before their maturity, either
7 through purchases in the open market or through redemptions at par and
8 by lot if the *Bangko Sentral* has reserved the right to make such
9 redemptions. The evidences of indebtedness acquired or redeemed by the
10 *Bangko Sentral* shall not be included among its assets, and shall be
11 immediately retired and cancelled."

12
13
14 **SEC. 34.** Section 95 of the same Act is hereby amended to read as follows:

15
16 "SEC. 95. *Definition of Deposit Substitutes.* - The term "deposit
17 substitutes" is defined as an alternative form of obtaining funds from the
18 public, other than deposits, through the issuance, endorsement, or
19 acceptance of debt instruments for the borrower's own account, for the
20 purpose of relending or purchasing of receivables and other obligations.
21 These instruments may include, but need not be limited to, bankers
22 acceptances, promissory notes, participations, certificates of assignment
23 and similar instruments with recourse, and repurchase agreements. **THE**
24 **PHRASE 'OBTAINING FUNDS FROM THE PUBLIC' SHALL MEAN**
25 **BORROWING FROM TWENTY (20) OR MORE LENDERS AT ANY**
26 **ONE TIME, AND, FOR THIS PURPOSE, "LENDERS" SHALL REFER**
27 **TO INDIVIDUALS AND CORPORATE ENTITIES THAT ARE NOT**
28 **ACTING AS FINANCIAL INTERMEDIARIES, SUBJECT TO THE**
29 **SAFEGUARDS AND REGULATIONS ISSUED BY THE MONETARY**
30 **BOARD.** The Monetary Board shall determine what specific instruments
31 shall be considered as deposit substitutes for the purposes of Section 94 of
32 this Act: *Provided, however,* That deposit substitutes of commercial,
33 industrial and other non-financial companies for the limited purpose of
34 financing their own needs or the needs of their agents or dealers shall not
35 be covered by the provisions of Section 94 of this Act."

36
37
38 **SEC. 35.** Section 101 of the same Act is hereby amended to read as follows:

39
40 "SEC. 101. *Reserve Deficiencies.* - Whenever the reserve position of
41 any bank or quasi-bank, computed in the manner specified in the
42 preceding section of this Act, is below the required minimum, the bank or
43 quasi-bank shall pay the *Bangko Sentral* [~~one-tenth of one percent (1/10 of~~
44 ~~1%) per day on the amount of the deficiency or the prevailing ninety-one-~~
45 ~~day treasury bill rate plus three percentage points, whichever is higher]~~
46 **MONETARY PENALTY AS MAY BE PRESCRIBED BY THE**
47 **MONETARY BOARD:** *Provided, however,* That banks and quasi-banks
48 shall ordinarily be permitted to offset any reserve deficiency occurring on
49 one or more days of the week with any excess reserves which they may
50 hold on other days of the same week and shall be required to pay the
51 penalty [~~only on the average daily deficiency during the week]~~ **IN**
52 **ACCORDANCE WITH THE MECHANISM APPROVED BY THE**
53 **MONETARY BOARD.** In cases of abuse, the Monetary Board may deny

1 any bank or quasi-bank the privilege of offsetting reserve deficiencies in
2 the aforesaid manner.

3
4 "If a bank or quasi-bank chronically has a reserve deficiency, the
5 Monetary Board may limit or prohibit the making of new loans or
6 investments by the institution and may require that part or all of the net
7 profits of the institution be assigned to surplus.

8
9 "The Monetary Board may modify or set aside the reserve
10 deficiency penalties provided in this section, for part or the entire period
11 of a strike or lockout affecting a bank or a quasi-bank as defined in the
12 Labor Code, or of a national emergency affecting operations of banks or
13 quasi-banks, **OR IN SUCH OTHER INSTANCES WHERE THE GRANT
14 OF WAIVER OF PENALTIES IS DETERMINED BY THE MONETARY
15 BOARD TO BE JUSTIFIABLE.** The Monetary Board may also modify or
16 set aside reserve deficiency penalties for rehabilitation program of a
17 bank."

18
19
20 **SEC. 36.** Section 104 of the same Act is hereby amended to read as follows:

21
22 "SEC. 104. *Guiding Principle.* — The Monetary Board shall use the
23 powers granted to it under this Act to ensure that the supply, availability
24 and cost of money are in accord with the needs of the Philippine economy
25 and that bank credit is not granted for speculative purposes prejudicial to
26 the national interests. Regulations on bank operations shall be applied to
27 all banks of the same category, **AS MAY BE DEFINED BY THE
28 MONETARY BOARD,** uniformly and without discrimination."
29
30

31 **SEC. 37.** Section 108 of the same Act is hereby amended to read as follows:

32
33 "SEC. 108. *Minimum Capital Ratios.* — The Monetary Board may
34 prescribe minimum **RISK-BASED CAPITAL ADEQUACY** ratios **BASED
35 ON INTERNATIONALLY ACCEPTED STANDARDS** [~~which the~~
36 ~~capital and surplus of the banks must bear to the volume of their assets, or~~
37 ~~to specific categories thereof,~~] and may alter said ratios whenever it
38 deems necessary. **IN THE EXERCISE OF ITS AUTHORITY UNDER
39 THIS SECTION, THE MONETARY BOARD MAY REQUIRE BANKS
40 TO HOLD CAPITAL BEYOND THE MINIMUM REQUIREMENTS
41 COMMENSURATE TO THEIR RISK PROFILE.**"
42
43

44 **SEC. 38.** Section 113 of the same Act is hereby amended to read as follows:

45
46 "SEC. 113. *Official Deposits.* — The *Bangko Sentral* shall be the
47 official depository of the Government, its political subdivisions and
48 instrumentalities as well as of government-owned or -controlled
49 corporations. ~~and, a~~ As a general policy, their cash balances should be
50 deposited with the *Bangko Sentral*, with only minimum working balances
51 to be held by government-owned banks and such other banks **LICENSED
52 TO OPERATE** [~~incorporated~~] in the Philippines as the Monetary Board
53 may **AUTHORIZE.** [~~designate, subject to such rules and regulations as~~

1 the Board may prescribe: ~~Provided, That such banks may hold deposits of~~
2 ~~the political subdivisions and instrumentalities of the Government~~
3 ~~beyond their minimum working balances whenever such subdivisions~~
4 ~~and instrumentalities have outstanding loans with said banks.]~~

5
6 "The *Bangko Sentral* may **ACCEPT DEPOSITS AND** pay interest
7 on **SUCH deposits AND OTHER SIMILAR PLACEMENTS** of the
8 Government or of its political subdivisions and instrumentalities, banks
9 **AND OTHER BANGKO SENTRAL-SUPERVISED INSTITUTIONS."**

10
11
12 **SEC. 39.** Section 123 of the same Act is hereby amended to read as follows:

13
14 "SEC. 123. *Financial Advice on Official Credit Operations.* — Before
15 undertaking any credit operation abroad, the Government, through the
16 Secretary of Finance, shall request the opinion, in writing, of the Monetary
17 Board on the monetary implications of the contemplated action. Such
18 opinions must similarly be requested by all political subdivisions and
19 instrumentalities of the Government before any credit operation abroad is
20 undertaken by them.

21
22 "The opinion of the Monetary Board shall be based on the gold and
23 foreign exchange resources and obligations of the nation and on the
24 effects of the proposed operation on the balance of payments and on
25 monetary aggregates.

26
27 "Whenever the Government, or any of its political subdivisions or
28 instrumentalities, contemplates borrowing within the Philippines, the
29 prior opinion of the Monetary Board shall likewise be requested in order
30 that the Board may render an opinion on the probable effects of the
31 proposed operation on monetary aggregates, the price level, and the
32 balance of payments.

33
34 "A CREDIT OPERATION OR BORROWING AS PROVIDED
35 HEREIN MAY TAKE THE FORM OF DIFFERENT CREDIT
36 FACILITIES SUCH AS BUT NOT LIMITED TO A SINGLE LOAN,
37 SERIES OF LOANS UNDER A BORROWING PROGRAM, OR
38 CREDIT LINES. NO PRIOR MONETARY BOARD OPINION SHALL
39 BE REQUIRED FOR INDIVIDUAL DRAWDOWNS OR
40 BORROWINGS WITHIN APPROVED CREDIT LINES OR
41 BORROWING PROGRAMS."

42
43
44 **SEC. 40.** Section 125 of the same Act is hereby amended to read as follows:

45
46 "SEC. 125. *Tax Exemptions.* — The *Bangko Sentral* shall be exempt
47 ~~for a period of five (5) years from the approval of this Act~~ from all
48 national, provincial, municipal and city taxes, fees, charges and
49 assessments.

50
51 "The exemption authorized in the preceding paragraph of this
52 section shall apply to all property of the *Bangko Sentral*, to the resources,
53 receipts, expenditures, profits and income of the *Bangko Sentral*, as well as

1 to all contracts, deeds, documents and transactions related to the conduct
2 of the business of the *Bangko Sentral*: *Provided, however,* That said
3 exemptions shall apply only to such taxes, fees, charges and assessments
4 for which the *Bangko Sentral* itself would otherwise be liable, and shall not
5 apply to taxes, fees, charges, or assessments payable by persons or other
6 entities doing business with the *Bangko Sentral*: *Provided, further,* That
7 foreign loans and other obligations of the *Bangko Sentral* shall be exempt,
8 both as to principal and interest, from any and all taxes if the payment of
9 such taxes has been assumed by the *Bangko Sentral*.”
10
11

12 **SEC. 41.** Section 128 of the same Act is hereby amended to read as follows:
13

14 “SEC. 128. *Prohibitions.* – The *Bangko Sentral* shall not acquire
15 shares of any kind or accept them as collateral, and shall not participate in
16 the ownership or management of any enterprise, either directly or
17 indirectly: [-] **PROVIDED, THAT THIS PROHIBITION SHALL NOT**
18 **APPLY WHENEVER THE MONETARY BOARD, BY A VOTE OF AT**
19 **LEAST FIVE (5) OF ITS MEMBERS, (1) DEEMS AN ACQUISITION**
20 **OR INVESTMENT TO BE NECESSARY TO QUALIFY OR A**
21 **REQUIRED FOR MEMBERSHIP IN INTERNATIONAL AND**
22 **REGIONAL ORGANIZATIONS OR (2) DETERMINES THAT**
23 **INVESTING IN AND/OR OPERATING AN ENTERPRISE WILL BE**
24 **CONSISTENT WITH THE EFFECTIVE FULFILLMENT OF ITS**
25 **MANDATE AND WILL NOT CONSTITUTE ANY CONFLICT OF**
26 **INTEREST.**
27

28 “The *Bangko Sentral* shall not engage in development banking or
29 financing: *Provided, however,* That outstanding loans obtained or extended
30 for development financing shall not be affected by the prohibition of this
31 section.”
32
33

34 **SEC. 42. *Repealing Clause.*** All provisions of existing laws, orders, rules and
35 regulations, or parts thereof which are in conflict or inconsistent with the provisions of
36 this Act are hereby repealed, amended or modified accordingly.
37

38 **SEC. 43. *Separability Clause.*** If any provision or section of this Act is held to be
39 unconstitutional or invalid, the other provisions or sections hereof, which are not
40 affected thereby shall continue to be in full force and effect.
41

42 **SEC. 44. *Effectivity.*** This Act shall take effect fifteen (15) days following its
43 publication in the *Official Gazette* or in a newspaper of general circulation in the
44 Philippines.