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
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 Congess assembled:

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

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

"The capital of the Bangko Sentral shall be TWO HUNDRED [Fifty] billion pesos (P50,000,000,000), to be fully subscribed by the Government of the Republic, hereafter referred to as the Government. [Ten billion pesos (P10,000,000,000) of which] THE UNPAID SUBSCRIPTION shall be fully paid for by the Government IN CASH AND/OR GOVERNMENT SECURITIES UPON EFFECTIVITY OF THIS ACT. THEREAFTER THE ADEQUACY OF THE CAPITALIZATION SHALL BE SUBJECT TO REVIEW EVERY FIVE (5) YEARS AND ADJUSTED UPON JOINT RECOMMENDATION BY THE SECRETARY OF FINANCE, THE SECRETARY OF BUDGET AND MANAGEMENT AND THE MONETARY BOARD. THE PAYMENT OF ANY UNPAID SUBSCRIPTION AND/OR INCREASE IN CAPITALIZATION SHALL BE AUTOMATICALLY APPROPRIATED IN THE ANNUAL GENERAL APPROPRIATIONS ACT. [upon the effectivity of this Act and the balance to be paid for within a period of two (2) years from the effectivity of this Act in such manner and form as the Government, through the Secretary of Finance and the Secretary of Budget and Management, may thereafter determine.]"

SEC. 2. Section 3 of the same Act is hereby amended to read as follows:
"SEC. 3. Responsibility and Primary Objective. - The Bangko Sentral shall provide policy directions in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory AND EXAMINATION powers as provided in this Act and other pertinent laws over the QUASI-BANKING operations of [finance companies and] non-bank financial institutions. [performing quasi-banking functions, hereafter referred to as quasi-banks, and institutions performing similar functions] AS MAY BE DETERMINED BY THE MONETARY BOARD, IT SHALL LIKewise exercise REGULATORY AND EXAMINATION POWERS OVER MONEY SERVICE BUSINESSES, CREDIT GRANTING BUSINESSES, AND PAYMENT SYSTEM OPERATORS.

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


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

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

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

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

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

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

"THE MEETINGS OF THE MONETARY BOARD MAY BE CONDUCTED THROUGH MODERN TECHNOLOGIES SUCH AS,
BUT NOT LIMITED TO, TELECONFERENCING AND VIDEOCONFERENCING."

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

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

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

"THE ABOVE NOTWITHSTANDING, MEMBERS OF THE MONETARY BOARD AND OTHER PERSONNEL OF THE BANGKO SENTRAL SHALL NOT BE SUBJECT TO ANY ACTION, CLAIM OR DEMAND IN CONNECTION WITH ANY ACT DONE OR OMITTED BY THEM IN THE PERFORMANCE OF THEIR DUTIES AND EXERCISE OF THEIR POWERS EXCEPT FOR THOSE ACTIONS AND OMISSIONS DONE IN EVIDENT BAD FAITH OR GROSS NEGLIGENCE. UNLESS THE ACTIONS OF THE BANGKO SENTRAL, MEMBERS OF THE MONETARY BOARD AND ITS OTHER PERSONNEL ARE FOUND TO BE IN WILLFUL VIOLATION OF THIS ACT, PERFORMED WITH EVIDENT BAD FAITH OR GROSS NEGLIGENCE, THEY ARE HELD FREE AND HARMLESS TO THE FULLEST EXTENT PERMITTED BY LAW FROM ANY LIABILITY, AND THEY SHALL BE INDEMNIFIED FOR ANY AND ALL LIABILITIES, LOSSES, CLAIMS, DEMANDS, DAMAGES, DEFICIENCIES, COSTS AND EXPENSES OF WHATSOEVER KIND AND NATURE THAT MAY ARISE IN CONNECTION WITH THE EXERCISE OF THEIR POWERS AND PERFORMANCE OF THEIR DUTIES AND FUNCTIONS."
SEC. 5. Section 21 of the same Act is hereby amended to read as follows:

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

"In the absence of the Governor, a Deputy Governor designated by the Governor shall act as chief executive of the Bangko Sentral and shall exercise the powers and perform the duties of the Governor. Whenever the [Government] GOVERNOR is unable to attend meetings of government boards or councils in which he is an ex officio member pursuant to provisions of special laws, a Deputy Governor as may be designated by the Governor shall be vested with authority to participate and exercise the right to vote in such meetings."

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

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

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

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

"SEC. 25. Supervision and Examination. — The Bangko Sentral shall have supervision over, and conduct [periodic] REGULAR or special examinations of, banking institutions and quasi-banks, including their subsidiaries and affiliates engaged in allied activities.
"THE BANGKO SENTRAL SHALL HAVE REGULATORY
AUTHORITY OVER, AND CONDUCT REGULAR OR SPECIAL
EXAMINATIONS OF, ENTITIES WHICH UNDER THIS ACT OR BY
SPECIAL LAWS ARE SUBJECT TO ITS JURISDICTION.

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

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

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

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

"The department heads and the examiners of the supervising
and/or examining departments are hereby authorized to administer oaths
to any director, officer, or employee of any institution under their
respective supervision or subject to their examination, [and] to compel the
presentation of all books, documents, papers or records necessary in their
judgment to ascertain the facts relative to the true condition of any
institution as well as the books and records of persons and entities relative
to or in connection with the operations, activities or transactions of the
institution under examination, AND TO INQUIRE INTO BANK
DEPOSITS AND INVESTMENT ACCOUNTS IN THE COURSE OF
AN EXAMINATION IN ORDER TO ASCERTAIN COMPLIANCE
WITH THE LAWS AND BANKING REGULATIONS, OR IN CASES
WHERE THERE IS REASONABLE GROUND TO BELIEVE THAT A
FRAUD, IRREGULARITY OR UNLAWFUL ACTIVITY HAS BEEN OR
IS BEING COMMITTED AND THAT IT IS NECESSARY TO LOOK
INTO THE DEPOSIT OR INVESTMENT TO ESTABLISH SUCH
FRAUD, IRREGULARITY OR UNLAWFUL ACTIVITY. [subject to the
provision of existing laws protecting or safeguarding the secrecy or
confidentiality of bank deposits as well as investments of private persons,
natural or juridical, in debt instruments issued by the Government.]

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

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

“SEC. 25-A. AUTHORITY TO APPROVE TRANSFER OF SHARES
- TRANSFERS OR ACQUISITIONS, OR A SERIES THEREOF, OF AT
LEAST TEN PERCENT (10%) OF THE VOTING SHARES IN BANKS
OR QUASI-BANKS SHALL REQUIRE THE PRIOR APPROVAL OF
THE BANGKO SENTRAL. THE SELLING OR CONVEYING
STOCKHOLDER SHALL SUBMIT SUCH TRANSFER OR
ACQUISITION FOR APPROVAL BY THE BANGKO SENTRAL
WITHIN SUCH PERIOD AS MAY BE PRESCRIBED BY THE
MONETARY BOARD. IN APPROVING SUCH TRANSFERS OR
ACQUISITIONS, REGARD SHALL BE GIVEN BY THE BANGKO
SENTRAL TO THE FITNESS OF THE INCOMING STOCKHOLDERS
AS MAY BE INDICATED IN THEIR INTEGRITY, REPUTATION
AND FINANCIAL CAPACITY. WITHOUT BANGKO SENTRAL
APPROVAL, NO SUCH TRANSFER OR ACQUISITION SHALL
HAVE LEGAL EFFECT NOR SHALL THE SAME BE RECOGNIZED
IN THE BOOKS OF THE INSTITUTION OR BY ANY GOVERNMENT
AGENCY, AND THE TRANSFEROR-STOCKHOLDERS SHALL
REMAIN ACCOUNTABLE AND RESPONSIBLE THEREFOR.
TRANSFER OF ACTUAL CONTROL OR MANAGEMENT OF THE
INSTITUTION TO THE NEW STOCKHOLDERS OR THEIR
REPRESENTATIVES PRIOR TO BANGKO SENTRAL APPROVAL
SHALL MAKE THE TRANSFEROR, THE TRANSFEE AND ANY
PERSON RESPONSIBLE THEREFOR LIABLE UNDER SECTIONS 36
AND 37 OF THIS ACT. NOTWITHSTANDING ANY PROVISION OF
LAW TO THE CONTRARY, THE BANGKO SENTRAL MAY SHARE
WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION
ANY INFORMATION THAT THE BANGKO SENTRAL MAY OBTAIN
PERTAINING TO TRANSFER OR ACQUISITION OF SHARES OR
SERIES OF TRANSFERS OR ACQUISITION OF SHARES IN BANKS
AND QUASI-BANKS."

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

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

xxx

"(d) borrowing from any institution subject to supervision or
examination by the Bangko Sentral shall be prohibited unless said
borrowings [are] IS TRANSACTED ON AN ARM’S LENGTH BASIS
[adequately secured], fully disclosed to the Monetary Board, and shall be
subject to such rules and regulations as the Monetary Board may
prescribe [Provided, however, that personnel of the supervising and
examining departments are prohibited from borrowing from a bank
under their supervision and examination]. xxx"

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

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

"The INSTITUTION [bank] concerned shall afford to the head of
the appropriate supervising and examining departments and to his
authorized deputies full opportunity to examine its books AND
RECORDS, cash and [available] assets and general condition AND
REVIEW ITS SYSTEMS AND PROCEDURES at any time during
BUSINESS [banking] hours when requested to do so by the Bangko Sentral; Provided, however, That none of the reports and other papers relative to such examinations shall be open to inspection by the public except insofar as such publicity is incidental to the proceedings hereinafter authorized or is necessary for the prosecution of violations in connection with the business of such institutions.

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

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

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

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

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

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

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

"(c) cannot continue in business without involving probable losses to its depositors or creditors; or
“(d) has willfully violated a cease and desist order under Section 37 that has become final, involving acts or transactions which amount to fraud or a dissipation of the assets of the institution;

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

"[For a quasi-bank, any person of recognized competence in banking or finance may be designated as receiver.]

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

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

"[In the case of banks, the receiver shall, upon acquiring jurisdiction, the court shall, upon motion by the receiver after due notice, adjudicate disputed claims against the institution, assist the enforcement of individual liabilities of the stockholders, directors and officers, and decide other issues as may be material to implement the liquidation plan. The receiver shall pay the cost of the proceedings from the assets of the institution.]"
"[2. convert the assets of the institutions to money, dispose of the
same to creditors and other parties, for the purpose of paying the debts of
such institution in accordance with the rules on concurrence and
preference of credit under the Civil Code of the Philippines and he may,
in the name of the institution, and with the assistance of counsel as he
may retain, institute such actions as may be necessary to collect and
recover accounts and assets of, or defend any action against, the
institution. The assets of an institution under receivership or liquidation
shall be deemed in custodia legis in the hands of the receiver and shall,
from the moment the institution was placed under such receivership or
liquidation, be exempt from any order of garnishment, levy, attachment,
or execution.]

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

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

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

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

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

"[SEC. 32. Disposition of Revenues and Earnings.—All revenues and
earnings realized by the receiver in winding up the affairs and
administering the assets of any bank or quasi-bank within the purview of this Act shall be used to pay the costs, fees and expenses mentioned in the preceding section, salaries of such personnel whose employment is rendered necessary in the discharge of the liquidation together with other additional expenses caused thereby. The balance of revenues and earnings, after the payment of all said expenses, shall form part of the assets available for payment to creditors.”

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

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

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

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

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

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

“SEC. 36. Proceedings Upon Violation of This Act and Other Banking Laws, Rules, Regulations, Orders or Instructions. — Whenever a bank, [or] quasi-bank, INCLUDING THEIR SUBSIDIARIES AND AFFILIATES ENGAGED IN ALLIED ACTIVITIES OR OTHER ENTITY WHICH UNDER THIS ACT OR SPECIAL LAWS IS SUBJECT TO BANGKO SENTRAL SUPERVISION or whenever any person or entity willfully violates this Act or other pertinent banking laws being enforced or implemented by the Bangko Sentral or any order, instruction, rule or
regulation issued by the Monetary Board, the person or persons responsible for such violation shall unless otherwise provided in this Act be punished by a fine of not less than Fifty thousand pesos (P50,000) nor more than [Two hundred thousand pesos (P200,000)] TWO MILLION PESOS (P2,000,000.00) or by imprisonment of not less than two (2) years nor more than ten (10) years, or both, at the discretion of the court.

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

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

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

"THE CASH REWARD OF INFORMERS SHALL BE SUBJECT TO APPLICABLE WITHHOLDING TAXES."

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

"SEC. 37. Administrative Sanctions on [Banks and Quasi-Banks] SUPERVISED ENTITIES. — Without prejudice to the criminal sanctions against the culpable persons provided in Sections 34, 35, and 36 of this Act, the Monetary Board may, at its discretion, impose upon any bank, [or] quasi-bank, INCLUDING THEIR SUBSIDIARIES AND AFFILIATES ENGAGED IN ALLIED ACTIVITIES, OR OTHER ENTITY WHICH UNDER THIS ACT OR SPECIAL LAWS ARE SUBJECT TO THE BANGKO SENTRAL SUPERVISION, AND/OR their directors, officers and/or EMPLOYEES, for any willful violation of its
charter or by-laws, willful delay in the submission of reports or publications thereof as required by law, rules and regulations; any refusal to permit examination into the affairs of the institution; any willful making of a false or misleading statement to the Board or the appropriate supervising and examining department or its examiners; any willful failure or refusal to comply with, or violation of, any banking law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor; or any commission of irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Monetary Board, the following administrative sanctions, whenever applicable:

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

"(b) suspension of rediscounting privileges or access to Bangko Sentral credit facilities;

"(c) suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;

"(d) suspension of interbank clearing privileges; and/or

"(e) SUSPENSION OR revocation of quasi-banking OR OTHER SPECIAL licenseS.

"Resignation or termination from office shall not exempt such director, officer OR EMPLOYEE from administrative or criminal sanctions.

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

"The above administrative sanctions need not be applied in the order of their severity.
"Whether or not there is an administrative proceeding, if the institution and/or the directors, officers and/or EMPLOYEES concerned continue with or otherwise persist in the commission of the indicated practice or violation, the Monetary Board may issue an order requiring the institution and/or the directors, officers and/or EMPLOYEES concerned to cease and desist from the indicated practice or violation, and may further order that immediate action be taken to correct the conditions resulting from such practice or violation. The cease and desist order shall be immediately effective upon service on the respondents.

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

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

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

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

"ANY RESTRAINING ORDER OR INJUNCTION ISSUED IN VIOLATION OF THIS SECTION IS VOID AND OF NO FORCE AND EFFECT.

"THE PROVISIONS OF RULES OF COURT ON INJUNCTIONS IN SO FAR AS THEY ARE APPLICABLE AND NOT INCONSISTENT WITH THE PROVISIONS OF THIS ACT SHALL GOVERN THE
ISSUANCE AND DISSOLUTION OF RESTRAINING ORDERS OR INJUNCTIONS AGAINST THE BANGKO SENTRAL.”

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

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

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

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

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

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

“SEC. 45. Revaluation Profits and Losses. — UNREALIZED profits or losses arising from any revaluation of the Bangko Sentral’s [net] assets [or], liabilities OR DERIVATIVE INSTRUMENTS DENOMINATED in [gold or] foreign currencies with respect to the MOVEMENTS OF PRICES AND EXCHANGE RATES FROM THIRD CURRENCIES TO Philippine peso shall not be included in the computation of the annual profits and losses of the Bangko Sentral. Any profits or losses arising in this manner shall be offset by any amounts which, as a consequence of such revaluations, are owed by the Philippines to any international or regional intergovernmental financial institution of which the Philippines is a member or are owed by these institutions to the Philippines. Any
remaining UNREALIZED profit or loss shall be carried in a special frozen account which shall be named "Revaluation of International Reserve (RIR)", and the net balance of which shall appear either among the liabilities or among the assets of the Bangko Sentral, depending on whether the revaluations have produced net profits or net losses.

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

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

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

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

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

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

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

(I) the causes of the rise or fall of [the monetary aggregates, of credit or of] prices;
“(2) the extent to which the changes in [the monetary aggregates, in credit, or in] prices have been reflected in changes in
the level of domestic output, employment, wages and economic
activity in general, and the nature and significance of any such
changes; and

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

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

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

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

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

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

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

“The Monetary Board may, at its discretion, likewise authorize the
Bangko Sentral to grant emergency loans or advances to banking
institutions, even during normal periods, for the purpose of assisting a
bank in a precarious financial condition or under serious financial
pressures brought by unforeseen events, or events which, though
foreseeable, could not be prevented by the bank concerned: Provided,
however, That the Monetary Board has ascertained that the bank is not
insolvent and has the assets defined hereunder to secure the advances:
Provided, further, That a concurrent vote of at least five (5) members of the
Monetary Board is obtained.

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

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

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

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

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

"In connection with the exercise of these powers, the prohibitions
in Section 128 of this Act shall not apply insofar as it refers to acceptance
as collateral of shares and their acquisition as a result of foreclosure
proceedings, including the exercise of voting rights pertaining to said
shares: Provided, however, That should the Bangko Sentral acquire any of
the shares it has accepted as collateral as a result of foreclosure
proceedings, the Bangko Sentral shall dispose of said shares by public
bidding within one (1) year from the date of consolidation of title by the
Bangko Sentral.

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

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

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

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

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

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

"NO RESTRAINING ORDER OR INJUNCTION SHALL BE
ISSUED BY THE COURT ENJOINING THE BANGKO SENTRAL
FROM PROCEEDING WITH THE FORECLOSURE OF THE
MORTGAGE UNLESS A BOND IS POSTED IN FAVOR OF THE
BAN<BR>KO SEN<BR>TRAL IN AN AMOUNT EQUIVALENT TO THE<BR>TOTAL CLAIM OF THE BAN<BR>KO SENS<BR>TRAL. THE RESTRAINING<BR>ORDER OR INJUNCTION SHALL BE REFUSED OR, IF GRANTED,<BR>SHALL BE DISSOLVED UPON FILING BY THE BAN<BR>KO SENS<BR>TRAL OF A BOND, WHICH SHALL BE IN THE FORM OF A BAN<BR>KO SENS<BR>TRAL CHECK, IN AN AMOUNT TWICE THE AMOUNT OF THE<BR>ORIGINAL BOND POSTED CONDITIONED THAT THE BAN<BR>KO SENS<BR>TRAL WILL PAY THE DAMAGES WHICH THE PARTY MAY<BR>SUFFER BY THE REFUSAL OR DISSOLUTION OF THE<BR>INJUNCTION. THE PROVISIONS OF THE RULES OF COURT ON<BR>INJUNCTIONS INSOFAR AS THEY ARE APPLICABLE AND NOT<BR>INCONSISTENT WITH THE PROVISIONS OF THIS SECTION<BR>SHALL GOVERN THE ISSUANCE AND DISSOLUTION OF THE<BR>RESTRAINING ORDER OR INJUNCTION CONTEMPLATED IN<BR>THIS SECTION.”

SEC. 29. A new section entitled Section 88-C is hereby included in the same Act<BR>to read as follows:


SEC. 30. A new section entitled Section 88-D is hereby included in the same Act<BR>to read as follows:
“SEC. 88-D. UNSECURED BANGKO SENTRAL CLAIMS. - ALL UNSECURED CLAIMS OF THE BANGKO SENTRAL SHALL BE CONSIDERED PREFERRED CREDITS SIMILAR TO TAXES DUE TO THE NATIONAL GOVERNMENT IN THE ORDER OF PREFERENCE UNDER ARTICLE 2244 OF THE NEW CIVIL CODE.”

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

“SEC. 89-A. FINANCIAL FACILITIES FOR ISLAMIC BANKS. - THE BANGKO SENTRAL MAY, TAKING INTO CONSIDERATION THE PECULIAR CHARACTERISTICS OF ISLAMIC BANKING, FORMULATE RULES AND REGULATIONS FOR THE EXTENSION OF FINANCIAL FACILITIES TO ISLAMIC BANKS PROVIDED SUCH EXPOSURES SHALL BE PROPERLY SECURED.”

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

“SEC. 89-B. LOANS TO THE PHILIPPINE DEPOSIT INSURANCE CORPORATION. - THE BANGKO SENTRAL, PURSUANT TO ITS MANDATE OF MAINTAINING FINANCIAL STABILITY, MAY LEND FUNDS TO THE PHILIPPINE DEPOSIT INSURANCE CORPORATION FOR INSURANCE PURPOSES AND IN CASES OF FINANCIAL ASSISTANCE THAT THE LATTER IS AUTHORIZED TO EXTEND UNDER SECTION 22(E) OF REPUBLIC ACT NO. 3591, AS AMENDED. NOTWITHSTANDING SECTION 23 OF REPUBLIC ACT NO. 3591, AS AMENDED, THE MONETARY BOARD SHALL PRESCRIBE INTEREST RATES AND SUCH OTHER TERMS AND CONDITIONS OF THE LOAN.”

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

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

“The Monetary Board shall determine the interest rates, maturities and other characteristics of said obligations of the Bangko Sentral, and
may, if it deems it advisable, denominate the obligations in gold or
foreign currencies.

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

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

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

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

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

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

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

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

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

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

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

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

"SEC. 113. Official Deposits. — The Bangko Sentral shall be the
official depository of the Government, its political subdivisions and
instrumentalities as well as of government-owned or -controlled
corporations. and— a As a general policy, their cash balances should be
deposited with the Bangko Sentral, with only minimum working balances
to be held by government-owned banks and such other banks LICENSED
TO OPERATE [incorporated] in the Philippines as the Monetary Board
may AUTHORIZE. [designate, subject to such rules and regulations as
the Board may prescribe. Provided, That such banks may hold deposits of
the political subdivisions and instrumentalities of the Government
beyond their minimum working balances whenever such subdivisions
and instrumentalities have outstanding loans with said banks."

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

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

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

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

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

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

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

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

"The exemption authorized in the preceding paragraph of this
section shall apply to all property of the Bangko Sentral, to the resources,
receipts, expenditures, profits and income of the Bangko Sentral, as well as
to all contracts, deeds, documents and transactions related to the conduct
of the business of the Bangko Sentral: Provided, however, That said
exemptions shall apply only to such taxes, fees, charges and assessments
for which the Bangko Sentral itself would otherwise be liable, and shall not
apply to taxes, fees, charges, or assessments payable by persons or other
entities doing business with the Bangko Sentral: Provided, further, That
foreign loans and other obligations of the Bangko Sentral shall be exempt,
both as to principal and interest, from any and all taxes if the payment of
such taxes has been assumed by the Bangko Sentral.”

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

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

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

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

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

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