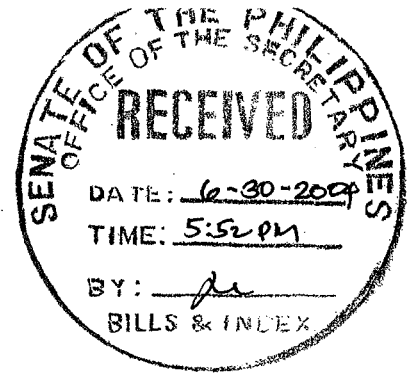


THIRTEENTH CONGRESS OF THE REPUBLIC  
OF THE PHILIPPINES  
First Regular Session



S E N A T E

S. No. 557

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Introduced by Senator S. R. Osmeña III

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#### EXPLANATORY NOTE

In June 1993, Republic Act No. 7653 entitled, "The New Central Bank Act," creating the *Bangko Sentral ng Pilipinas* (BSP) was signed into law. The Act established the *Bangko Sentral* as an independent central monetary authority with broader supervisory and regulatory powers over the operations of banks and quasi-banks and a bigger capital to make the bank more effective in conducting monetary policy.

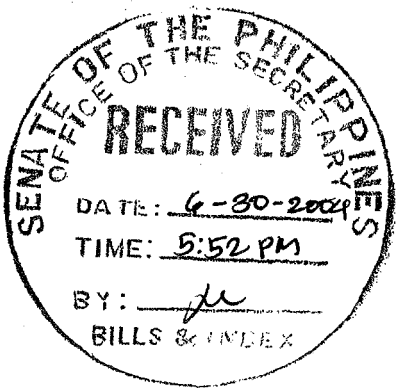
The primary objective of the BSP is to maintain price stability conducive to a balanced and sustainable growth of the economy. It shall also promote monetary stability and the convertibility of the peso. It shall supervise banks and provide policy directions in the areas of money, banking and credit.

It has been noted, however, that several provisions of the law have to be modified so that the *Bangko Sentral* may effectively discharge its supervisory powers over banks and quasi-banks and for it to attain optimum operational efficiency within the organization. Moreover, amendments to the said law are needed to complement the provisions of the revised General Banking Act.

In view of the important role that the *Bangko Sentral* plays in maintaining a stable and sound financial system, approval of this bill is earnestly sought.

  
SERGIO OSMEÑA III  
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )



S E N A T E  
S. No. 557

Introduced by Senator S. R. Osmeña III

AN ACT  
AMENDING REPUBLIC ACT NUMBERED SEVENTY-SIX HUNDRED AND  
FIFTY-THREE ENTITLED "THE NEW CENTRAL BANK ACT" AND FOR  
OTHER PURPOSES

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

**Section 1.** The first paragraph of Section 3, Republic Act Numbered 7653  
is hereby amended to read as follows:

**"SECTION 3. Responsibility and Primary Objective.** – The  
*Bangko Sentral* shall provide directions in the areas of money, banking  
and credit. It shall have supervision over the operations of banks, QUASI-  
BANKS, TRUST ENTITIES AND OTHER FINANCIAL INSTITUTIONS  
WHICH UNDER THIS ACT OR SPECIAL LAWS ARE SUBJECT TO  
BANGKO SENTRAL SUPERVISION and exercise such regulatory powers  
as provided in this Act and other pertinent laws over the operations of  
[finance companies and] OTHER non-bank financial institutions  
[performing quasi-banking functions, hereafter referred to as quasi-banks,  
and institutions performing similar functions].

**SEC. 2.** Section 11 of the same Act is hereby amended by inserting a new  
paragraph after the third paragraph and the present fourth paragraph shall be on  
the fifth paragraph. The new fourth paragraph shall read as follows:

1 "AS MAY BE WARRANTED BY COMPELLING REASONS OR  
2 CIRCUMSTANCES, A MEETING OF THE BOARD MAY BE  
3 CONDUCTED THROUGH THE USE OF MODERN TECHNOLOGY  
4 INCLUDING BUT NOT LIMITED TO TELEPHONE OR VIDEO  
5 CONFERENCING: *PROVIDED*, THAT IN ALL CASES, A QUORUM  
6 SHALL BE PHYSICALLY PRESENT."

7 **SEC. 3.** Section 15, paragraphs (c) and (e) of the same Act are hereby  
8 amended to read as follows:

9 "( c) establish a human resource management system which shall  
10 govern the selection, hiring, appointment, transfer, promotion, or dismissal  
11 of all personnel. Such system shall aim to establish professional and  
12 excellence at all levels of the *Bangko Sentral* in accordance with sound  
13 principles of management.

14 A compensation structure, based on job evaluation studies and  
15 wage surveys and subject to the Board's approval, shall be instituted as  
16 an integral component of the *Bangko Sentral's* human resource  
17 development program. [*Provided*, That the Monetary Board shall make its  
18 own system conform as closely as possible with the principles provided for  
19 under Republic Act No. 6758: *Provided, however*, That compensation and  
20 wage structure of employees whose positions fall under salary grade 19  
21 and below shall be in accordance with the rates prescribed under Republic  
22 Act No. 6758.] *PROVIDED*, THAT CONSISTENT WITH THE  
23 PROVISIONS OF ARTICLE XII, SEC. 20 OF THE CONSTITUTION OF  
24 THE REPUBLIC OF THE PHILIPPINES MANDATING THE  
25 ESTABLISHMENT OF AN INDEPENDENT CENTRAL MONETARY  
26 AUTHORITY, ALL POSITIONS IN THE *BANGKO SENTRAL NG*  
27 *PILIPINAS* SHALL BE GOVERNED BY A COMPENSATION, POSITION  
28 CLASSIFICATION SYSTEM AND QUALIFICATION STANDARDS  
29 APPROVED BY THE MONETARY BOARD BASED ON

1       COMPREHENSIVE JOB ANALYSIS AND AUDIT OF ACTUAL DUTIES  
2       AND RESPONSIBILITIES. THE *BANGKO SENTRAL* SHALL BE  
3       EXEMPT FROM THE OPERATION OF EXISTING LAWS, RULES AND  
4       REGULATIONS ON COMPENSATION, POSITION CLASSIFICATION  
5       AND QUALIFICATION STANDARDS. IT SHALL, HOWEVER,  
6       ENDEAVOR TO MAKE ITS SYSTEM CONFORM AS CLOSELY AS  
7       POSSIBLE TO THE PRINCIPLES UNDER REPUBLIC ACT NO. 6758, AS  
8       AMENDED.

9       On the recommendation of the Governor, appoint, fix the  
10      remunerations and other emoluments, and remove personnel of the  
11      *Bangko Sentral*, subject to pertinent civil service laws: *Provided*, That the  
12      Monetary Board shall have exclusive and final authority to promote,  
13      transfer, assign, or reassign personnel of the *Bangko Sentral* and these  
14      personnel actions are deemed made in the interest of the service and not  
15      disciplinary: *Provided, further*, That the Monetary Board may delegate  
16      such authority to the Governor OR TO ANY OF THE DEPUTY  
17      GOVERNORS, OR IN CASE OF REASSIGNMENT WITHIN A  
18      DEPARTMENT, TO THE HEAD OF THE DEPARTMENT CONCERNED,  
19      under such guidelines as [its] THE BOARD may determine.”

20      XXXXXXXXXXXX

21      “(e) indemnify its members and [other officials] OTHER  
22      PERSONNEL of the *Bangko Sentral* [, including personnel of the  
23      departments performing supervision and examination functions] against all  
24      costs and expenses reasonably incurred by such persons in connection  
25      with any civil or criminal action, suit or proceedings to which he may be, or  
26      is, made a party by reason of the performance of his functions or duties,  
27      unless he is finally adjudged in such action or proceeding to be liable for  
28      GROSS negligence or misconduct.

1           In the event of a settlement or compromise, indemnification shall be  
2           provided only in connection with such matters covered by the settlement  
3           as to which the *Bangko Sentral* is advised by external counsel that the  
4           person to be indemnified did not commit any GROSS negligence or  
5           misconduct.

6           The costs and expenses incurred in defending the aforementioned  
7           action, suit or proceeding may be paid by the *Bangko Sentral* in advance  
8           of the final disposition of such action, suit or proceeding upon receipt of an  
9           undertaking by or on behalf of the member, officer, or employee to repay  
10          the amount advanced should it ultimately be determined by the Monetary  
11          Board that he is not entitled to be indemnified as provided in this  
12          subsection: *PROVIDED, HOWEVER, THAT SUCH COSTS AND*  
13          EXPENSES SHALL INCLUDE THOSE INCURRED IN FILING  
14          COUNTERCHARGES NECESSARY FOR THE DISPOSAL OF  
15          UNSETTLED ISSUES RELATED TO THE ACTIONS HEREIN  
16          MENTIONED, INCLUDING THOSE FILED FOR CLAIMS FOR  
17          COMPENSATORY DAMAGES."

18          **SEC. 4.** The first paragraph of Section 16 of the same Act is hereby  
19          amended to read as follows:

20                **"Section 16. Responsibility. –** THE GENERAL RULE AND THE  
21                EXCEPTION THEREFROM ON THE LIABILITY OF PUBLIC OFFICERS  
22                AS PROVIDED IN SECTIONS 38 AND 39 OF CHAPTER 9, BOOK 1 OF  
23                THE REVISED ADMINISTRATIVE CODE OF 1987 SHALL APPLY TO  
24                members of the Monetary Board, officials, examiners, and OTHER  
25                employees of the *Bangko Sentral* who SHALL NOT BE CIVILLY LIABLE  
26                FOR ACTS DONE IN THE PERFORMANCE OF THEIR OFFICIAL  
27                DUTIES, UNLESS THERE IS A CLEAR SHOWING OF WILLFUL  
28                VIOLATION OF THIS STATUTE, BAD FAITH, MALICE OR GROSS  
29                NEGLIGENCE RESULTING IN [willfully violate this Act or who are guilty

1 of negligence, abuses or acts of malfeasance or misfeasance or fail to  
2 exercise extraordinary diligence in the performance of his duties shall be  
3 held liable for] any loss or injury [suffered by] TO the *Bangko Sentral* or  
4 other institutions. [as a result of such violation, negligence, abuse,  
5 malfeasance, misfeasance or failure to exercise extraordinary diligence,]

6 ONLY THE *BANGKO SENTRAL* AND/OR THE INSTITUTION  
7 WHICH DIRECTLY SUSTAINED THE LOSS OR INJURY FROM ANY OF  
8 THE FOREGOING ACTS OR OMISSIONS OF *BANGKO SENTRAL*  
9 PERSONNEL SHALL HAVE THE RIGHT TO FILE AN ACTION FOR  
10 DAMAGES AGAINST THE LATTER.”

11 **SEC. 5.** Section 25 of the same Act is hereby amended to read as follows:

12 **“SECTION 25. Supervision and Examination.** – The *Bangko*  
13 *Sentral* shall have supervision over, and shall conduct periodic or special  
14 examination of [banking institutions, and] BANKS, quasi-banks, AND  
15 TRUST ENTITIES, including their subsidiaries and affiliates engaged in  
16 allied activities, AND OTHER FINANCIAL INSTITUTIONS WHICH,  
17 UNDER SPECIAL LAWS, ARE SUBJECT TO *BANGKO SENTRAL*  
18 SUPERVISION. PURSUANT TO THE AUTHORITY OF THE *BANGKO*  
19 *SENTRAL* SHALL BE REQUIRED FOR TRANSFERS OR  
20 ACQUISITIONS OR SERIES OF TRANSFERS OR ACQUISITIONS  
21 WOULD BE SUFFICIENT TO ELECT AT LEAST ONE SEAT IN THE  
22 BOARD OF DIRECTORS OR WOULD EFFECT A CHANGE IN THE  
23 MAJORITY OWNERSHIP OR CONTROL OF THE VOTING STOCK IN  
24 ANY OF THESE INSTITUTIONS NOR BY ANY GOVERNMENT AGENCY  
25 AND THE TRANSFEROR-STOCKHOLDERS, IN CASES INVOLVING  
26 TRANSFERES, SHALL REMAIN ACCOUNTABLE AND RESPONSIBLE  
27 THEREFOR. IN APPROVING SAID TRANSFERS OR ACQUISITIONS,  
28 REGARD SHALL BE GIVEN BY THE *BANGKO SENTRAL* TO THE  
29 FITNESS OF THE INCOMING STOCKHOLDERS AS MAY BE

1 INDICATED BY THEIR INTEGRITY, FINANCIAL CAPACITY AND  
2 STANDING IN THE COMMUNITY.

3 For purposes of this section, a subsidiary means a corporation  
4 more than fifty percent (50%) of the voting stock of which is owned by a  
5 bank or quasi-bank and an affiliate means a corporation the voting stock  
6 of which, to the extent of TWENTY-FIVE PERCENT (25%) TO fifty  
7 percent (50%) [or less], is owned by a bank or quasi-bank or which is  
8 related or linked to such institution or intermediary through common  
9 stockholders or such other factors as may be determined by the Monetary  
10 Board.

11 The department heads and the examiners of the supervising and/or  
12 examining departments are hereby authorized to administer oaths to any  
13 director, officer, or employee of any institution under their respective  
14 supervision or subject to their examination and to compel the presentation  
15 of all books, documents, papers or records necessary in their judgment to  
16 ascertain the facts relative to the true condition of any institution as well as  
17 the books and records of persons and entities relative to or in connection  
18 with the operations, activities or transactions of the institution under  
19 examination, subject to the provision of existing laws protecting or  
20 safeguarding the secrecy or confidentiality of bank deposits as well as  
21 investments of private persons, natural or juridical, in debt instruments  
22 issued by the Government.

23 No restraining order or injunction shall be issued by the Court  
24 enjoining the *Bangko Sentral* from examining any institution subject to  
25 supervision or examination by the *Bangko Sentral*, unless there is  
26 convincing proof that the action of the Bangko Sentral is plainly arbitrary  
27 and made in bad faith and the petitioner or plaintiff files with the clerk or  
28 judge of the court in which the action is pending a bond executed in favor  
29 of the *Bangko Sentral*, in an amount to be fixed by the court. The

1 provisions of Rule 58 of the New Rules of Court insofar as they are  
2 applicable and not inconsistent with the provisions of this section shall  
3 govern the issuance and dissolution of the restraining order of injunction  
4 contemplated in this section.

5 NO ACTION, SUIT OR PROCEEDING SHALL LIE AGAINST  
6 OFFICIALS AND PERSONNEL OF THE SUPERVISION AND  
7 EXAMINATION SECTOR IN CONNECTION WITH ANY ACT DONE IN  
8 GOOD FAITH, OR OMISSION, IN THE EXERCISE OF THEIR  
9 FUNCTIONS UNDER THIS SECTION.”

10 **SEC. 6.** Section 26 of the same Act is hereby amended to read as follows:

11 “SECTION 26. *Bank Deposits and Investments.* – Any director,  
12 officer or stockholder who, together with his related interest, contracts a  
13 loan or any form of financial accommodation from: (1) his bank; or (2) from  
14 a bank (a) which is a subsidiary of a bank holding company of which both  
15 his bank and the lending bank are subsidiaries or (b) in which a controlling  
16 proportion of the shares is owned by the same interest that owns a  
17 controlling proportion of the shares of his bank, [in excess of five percent  
18 (5%) of the capital and surplus of the bank, or in the maximum amount  
19 permitted by law, whichever is lower,] REGARDLESS OF THE AMOUNT  
20 OF THE LOAN OR CREDIT ACCOMMODATION, shall be required by the  
21 lending bank to waive the RIGHT TO secrecy of his deposits of whatever  
22 nature in all banks in the Philippines. Any information obtained from an  
23 examination of his deposits shall be held strictly confidential and may be  
24 used by the examiners only in connection with their supervisory and  
25 examination responsibility or by the *Bangko Sentral* in an appropriate legal  
26 action it has initiated involving the deposit account.”

27 **Sec. 7.** Section 28 of the same Act is hereby amended to read as follows:

28 “SECTION 28. **Examination and Fees.** – The supervising and  
29 examining department head, personally or by deputy, shall examine



1 REGULARLY the books of every [banking institution once in every twelve  
2 (12) months] BANK, QUASI-BANK AND TRUST ENTITY, INCLUDING  
3 ITS SUBSIDIARIES AND AFFILIATES ENGAGED IN ALLIED  
4 ACTIVITIES AND OTHER FINANCIAL INSTITUTIONS WHICH UNDER  
5 SPECIAL LAWS ARE SUBJECT TO *BANGKO SENTRAL*  
6 SUPERVISION, IN ACCORDANCE WITH THE GUIDELINES SET BY  
7 THE MONETARY BOARD, and at such other times as the Monetary  
8 Board by an affirmative vote of five (5) members, may deem expedient  
9 and to make a report on the same to the Monetary Board [*:Provided, That*  
10 *there shall be an interval of at least twelve (12) months between annual*  
11 *examinations*]. INSPECTION OF CERTAIN RECORDS FOR  
12 VERIFICATION PURPOSES SHALL NOT BE DEEMED AN  
13 EXAMINATION FOR PURPOSES OF THIS PROVISION.

14 The [bank] INSTITUTION concerned shall afford to the head of the  
15 appropriate supervising and examining departments and to his authorized  
16 deputies full opportunity to examine its books, cash and available assets  
17 and general condition at any time during [banking] BUSINESS hours when  
18 requested to do so by the *Bangko Sentral* : *Provided, however, that none*  
19 *of the reports and other papers relative to such examinations shall be*  
20 *open to inspection by the public except insofar as such publicity is*  
21 *incidental to the proceedings hereinafter authorized or is necessary for the*  
22 *prosecution of violations in connection with the business of such*  
23 *institutions.*

24 [Banking] BANKS, [and quasi-banking institutions] QUASI-BANKS  
25 AND TRUST ENTITIES AND OTHER FINANCIAL INSTITUTIONS  
26 WHICH UNDER SPECIAL LAWS, [which] are subject to examination by  
27 the *Bangko Sentral*, shall pay to the *Bangko Sentral*, within the first thirty  
28 (30) days of each year, an annual fee in an amount equal to a percentage  
29 as may be prescribed by the Monetary Board [of] BASED ON its average

1 total assets during the preceding year [as shown on its end-of-month  
2 balance sheets, after deducting cash or hand and amounts due from  
3 banks, including the *Bangko Sentral* and banks abroad]. IN  
4 CONSOLIDATED EXAMINATION OF RESOURCES, THE FEES FOR  
5 THE EXAMINATION OF SUBSIDIARIES AND AFFILIATES SHALL BE  
6 CHARGED AGAINST THEIR PRINCIPAL INSTITUTION UNDER  
7 EXAMINATION.

8 THE MONETARY BOARD MAY LIKEWISE IMPOSE SIMILAR  
9 FEES ON OTHER FINANCIAL INSTITUTIONS UNDER *BANGKO*  
10 *SENTRAL* SUPERVISION."

11 **Sec. 8.** Section 30 of the same Act is hereby amended to read as follows:

12 **"SECTION 30. *Proceedings in Receivership and Liquidation.* –**

13 Whenever, upon report of the head of the supervising or examining  
14 department, the Monetary Board finds that a bank, [or] quasi-bank OR A  
15 TRUST ENTITY:

16 [(a)] (A) HAS NOTIFIED THE *BANGKO SENTRAL* OR PUBLICLY  
17 ANNOUNCED A UNILATERAL CLOSURE, OR IN ANY MANNER HAS  
18 SUSPENDED THE PAYMENT OF ITS DEPOSIT / DEPOSIT  
19 SUBSTITUTES LIABILITIES, OR in unable to pay its liabilities as they  
20 become due in the ordinary course of business: *Provided*, That this shall  
21 not include inability to pay caused by extraordinary demands induced by  
22 financial panic in the banking OR FINANCIAL community; OR

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

25 (c ) cannot continue in business without involving probable losses  
26 to its depositors or creditors; or

27 (D) HAS A CAPITAL ADEQUACY RATIO OF LESS THAN TWO  
28 PERCENT (2%) CONTINUOUSLY FOR MORE THAN THIRTY (30)  
29 DAYS; OR

1 [(d)] (E) has willfully violated a cease and desist order under  
2 Section 37 that has become final, involving acts or transactions which  
3 amount to fraud or a dissipation of the assets of the institution; in which  
4 cases, the Monetary Board may summarily and without need for prior  
5 hearing forbid the institution from doing business in the Philippines and IN  
6 CASE IT IS A BANK, designate the Philippine Deposit Insurance  
7 Corporation as receiver of the banking institution.

8 For a quasi-bank OR A TRUST ENTITY, any person or recognized  
9 competence in banking or finance may be designated as receiver.

10 The receiver shall immediately gather and take charge of all the  
11 assets and liabilities of the institution, administer the same for the benefit  
12 of its creditors, and, UNLESS OTHERWISE AUTHORIZED BY LAW,  
13 exercise the general powers of a receiver under the Revised Rules of  
14 Court but shall not, with the exception of administrative expenditures, pay  
15 or commit any act that will involve the transfer or disposition of any asset  
16 of the institution: *Provided* , That the receiver may deposit or place the  
17 funds of the institution in non-speculative investments. The receiver shall  
18 determine as soon as possible, but not later than ninety (90) days from  
19 take-over, whether the institution may be rehabilitated or otherwise placed  
20 in such a condition so that it may be permitted to resume business with  
21 safety to its depositors and creditors and the general public: *Provided*,  
22 That the determination for the resumption of business of the institution  
23 shall be subject to prior approval of the Monetary Board.

24 IN ORDER TO REHABILITATE THE CLOSED INSTITUTION OR  
25 TO RESTORE ITS OPERATIONS WITH SAFETY TO ITS DEPOSITORS,  
26 CREDITORS AND THE GENERAL PUBLIC OR TO MERGE OR  
27 CONSOLIDATE THE CLOSED INSTITUTION WITH ANOTHER  
28 QUALIFIED INSTITUTION, THE RECEIVER MAY IMMEDIATELY  
29 TRANSFER OR DISPOSE OF ANY OR ALL OF THE ASSETS OF THE

1       CLOSED INSTITUTION AND PERFORMS SUCH OTHER ACTS AS MAY  
2       BE AUTHORIZED BY LAW.

3               If the receiver determines that the institution cannot be rehabilitated  
4       or permitted to resume business in accordance with [the next preceding  
5       paragraph] THIS SECTION, the Monetary Board shall notify in writing the  
6       board of directors to proceed with the liquidation of the institutions. The  
7       receiver shall:

8               (1)     file *ex parte* with the proper Regional Trial Court, and without  
9       requirement of prior notice or any other action, a petition for assistance in  
10      the liquidation of the institution pursuant to a liquidation plan adopted by  
11      the Philippine Deposit Insurance Corporation for general application to all  
12      closed banks. In case of quasi-banks OR TRUST ENTITIES, the  
13      liquidation plan shall be adopted by the Monetary Board. Upon acquiring  
14      jurisdiction, the court shall, upon motion by the receiver after due notice,  
15      adjudicate disputed claims against the institution, assist the enforcement  
16      of individual liabilities of the stockholders, directors and officers, and  
17      decide on other issues as may be material to implement the liquidation  
18      plan adopted. The receiver shall pay the cost of the proceedings from the  
19      assets of the institution.

20              (2)     Convert the assets of the institution to money, dispose of the  
21      same to creditors and other parties, for the purpose of paying the debts of  
22      such institution in accordance with the rules on concurrence and  
23      preference of credit under the Civil Code of the Philippines and he may, in  
24      the name of the institution, and with the assistance of counsel as he may  
25      retain, institute such actions as may be necessary to collect and recover  
26      accounts and assets of, or defend any action against the institution. The  
27      assets of an institution under receivership or liquidation shall be deemed  
28      in *custodial legis* in the hands of the receiver and shall, from the moment

1 the institution was placed under such receivership or liquidation, be  
2 exempt from any order of garnishment, levy, attachment, or execution.

3 The actions of the Monetary Board taken under this section or  
4 under Section 29 of this Act shall be final and executory, and may not be  
5 restrained or set aside by the court except on petition for *certiorari* on the  
6 ground AND UPON A FINDING AFTER DUE HEARING that the action  
7 taken was in excess of jurisdiction or with such grave abuse of discretion  
8 as to amount to lack or excess of jurisdiction: *PROVIDED, HOWEVER,*  
9 *THAT ANY ORDER RESTRAINING, ENJOINING OR SETTING ASIDE*  
10 *THE ACTION COMPLAINED OF IN THE PETITION FOR CERTIORARI,*  
11 *UNLESS SUCH ORDER IS ISSUED BY THE SUPREME COURT, MAY*  
12 *BE DISSOLVED OR STAYED UPON BANGKO SENTRAL FILING A*  
13 *WRITTEN UNDERTAKING THAT IT WILL PAY ALL DAMAGES WHICH*  
14 *THE PETITIONER MAY SUFFER FROM THE DENIAL, DISSOLUTION*  
15 *OR STAY OF THE INJUNCTION SHOULD IT BE DECIDED IN A FINAL*  
16 *JUDGEMENT THAT THE PETITIONER IS ENTITLED TO HAVE THE*  
17 *ACTS COMPLAINED OF PERMANENTLY ENJOINED.* The petition for  
18 *certiorari* may only be filed by the stockholders of record representing the  
19 majority of the capital stock within ten (10) days from receipt by the board  
20 of directors of the institution of the order directing receivership, liquidation  
21 or conservatorship. THE PROVISIONS OF RULE 58 OF THE 1997  
22 RULES IN CIVIL PROCEDURE IN SO FAR AS THEY ARE APPLICABLE  
23 AND NOT INCONSISTENT WITH THE PROVISIONS OF THIS SECTION  
24 SHALL GOVERN THE ISSUANCE AND DISSOLUTION OF THE  
25 RESTRAINING ORDER OR INJUNCTION CONTEMPLATED IN THIS  
26 SECTION.

27 The designation of a conservator under Section 29 of this Act or the  
28 appointment of a receiver under this section shall be vested exclusively

1 with the Monetary Board. Furthermore, the designation of a conservator is  
2 not a precondition to the designation of receiver.”

3 **SEC. 9.** Section 36 of the same Act is hereby amended to read as follows:

4 **“SECTION 36. *Proceedings Upon Violation of This Act and***  
5 ***Other Banking Laws, Rules, Regulations, Orders or Instructions.* –**

6 Whenever a bank, [or] quasi-bank, TRUST ENTITY OR OTHER  
7 FINANCIAL INSTITUTION WHICH UNDER THIS ACT OR SPECIAL  
8 LAWS IS SUBJECT TO *BANGKO SENTRAL* SUPERVISION or whenever  
9 any person or entity willfully violates this Act or other pertinent banking  
10 laws being enforced or implemented by the *Bangko Sentral* or any order,  
11 instruction, rules or regulation issued by the Monetary Board, the person  
12 or persons responsible for such violation shall unless otherwise provided  
13 in this Act be punished by a fine of not less than Fifty thousand pesos  
14 (P50,000) nor more than [Two hundred thousand pesos (P200,000)] TWO  
15 MILLION PESOS (P2,000.000) or by imprisonment of not less than two (2)  
16 years nor more than ten (10) years, or both, at the discretion of the court.  
17 THE ACCESORY PENALTY OF CONFISCATION OR FORFEITURE OF  
18 INSTRUMENTS AND PROCEEDS OF THE OFFENSE SHALL IN ALL  
19 SUCH CASES BE IMPOSED UPON CONVICTION OF THE ACCUSED.

20 UPON PROBABLE CASUE BEING ESTABLISHED THAT AN  
21 OFFENSE PENALIZED UNDER THIS SECTION HAS BEEN  
22 COMMITTED OR IS BEING COMMITTED AND THAT A BANK DEPOSIT  
23 OR SIMILAR ACCOUNT APPEARS TO HAVE BEEN USED, OR IS  
24 BEING USED AS A MEANS TO COMMIT THE OFFENSE, OR TO  
25 CONCEAL ITS COMMISSION OR ITS PROCEEDS, ANY COMPETENT  
26 COURT MAY ORDER THE EXAMINATION OF THE ACCOUNT AND  
27 THEIR BALANCES SEQUESTERED, NOTWITHSTANDING THE  
28 PROVISIONS OF REPUBLIC ACT NO. 1405, REPUBLIC ACT NO. 6426,  
29 REPUBLIC ACT NO. 8791, AND OTHER LAWS. THE ORDER OF

1 EXAMINATION AND SEQUESTRATION SHALL ISSUE UPON  
2 APPLICATION AND COMPLIANCE WITH THE FORMAL AND LEGAL  
3 REQUISITES PRESCRIBED IN RULE 126 OF THE RULES OF COURT  
4 FOR THE ISSUANCE OF A SEARCH WARRANT. BANK DEPOSITS  
5 MAY LIKEWISE BE EXAMINED BY THE ANTI-MONEY LAUNDERING  
6 COUNCIL PURSUANT TO SECTION 11, REPUBLIC ACT NO. 9160.

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

13 **SEC. 10.** Section 37 of the same Act is hereby amended to read as  
14 follows:

15 **"SECTION 37. *Administrative Sanctions* [ on Banks and Quasi-**  
16 **Banks].** – Without prejudice to the criminal sanctions against the culpable  
17 persons provided in Sections 34, 35, and 36 of this Act, the Monetary  
18 Board, may, at its discretion, impose upon any bank, [or] quasi-bank OR  
19 TRUST ENTITY, their directors and/or officers, for any willful violation of  
20 its charter or bylaws, willful delay in the submission of reports or  
21 publications thereof as required by law, rules and regulations; any refusal  
22 to permit examination into the affairs of the institution; any willful making of  
23 a false or misleading statement to the Board or the appropriate  
24 supervising and examining department or its examiners; any willful failure  
25 or refusal to comply with, or violation of, any banking law or any order,  
26 instruction or regulation issued by the Monetary Board, or any order,  
27 instruction or ruling by the Governor; or any commission of irregularities,  
28 and/or conducting business in an unsafe or unsound manner as may be

1 determined by the Monetary Board, the following administrative sanctions,  
2 whenever applicable:

3 (a) fines in amounts as may be determined by the Monetary Board  
4 to be appropriate, but in no cases to exceed [Thirty thousand pesos  
5 (P30,000) a] THREE HUNDRED THOUSAND PESOS (P300,000) PER  
6 BANKING day for each violation, taking into consideration the attendant  
7 circumstances, such as the nature and gravity of the violation or  
8 irregularity and the size of the [bank or quasi-bank] INSTITUTION;

9 (b) suspension of rediscounting privileges or access to *Bangko*  
10 *Sentral* credit facilities;

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

13 (d) suspension of interbank clearing privileges; [and/or]

14 (e) revocation of quasi-banking license;

15 (F) REVOCATION OF TRUST LICENSE;

16 (G) PROHIBITION FROM DECLARING CASH DIVIDENDS;

17 (H) CONFISCATION BY AND FORFEITURE IN FAVOR OF THE  
18 *BANGKO SENTRAL* OF ANY AND ALL PROFITS, AS MAY BE  
19 DETERMINED BY THE MONETARY BOARD, ARISING FROM THE  
20 OFFENSE OR VIOLATION OF BANKING LAWS AND REGULATIONS,  
21 OR ACT OR OMISSION CONSTITUTING AN UNSAFE OR UNSOUND  
22 PRACTICE; AND/OR

23 (I) OTHER SANCTIONS AS THE MONETARY BOARD MAY  
24 DEEM APPROPRIATE UNDER THE CIRCUMSTANCES.

25 THE DIRECTOR OR OFFICER RESPONSIBLE FOR THE  
26 VIOLATION MAY, AFTER DUE HEARING, BE SUSPENDED, REMOVED  
27 OR DISQUALIFIED FROM HOLDING OFFICE, OF ANY POSITION, IN  
28 AN INSTITUTION UNDER THE SUPERVISION OF THE *BANGKO*  
29 *SENTRAL*, FOR A PERIOD TO BE DETERMINED BY THE MONETARY



1 BOARD WHICH SHALL IN NO CASE EXCEED A PERIOD OF FIVE (5)  
2 YEARS, TAKING INTO CONSIDERATION THE ATTENDANT  
3 CIRCUMSTANCES, SUCH AS THE NATURE AND GRAVITY OF THE  
4 ACT OR OMISSION AND THE SIZE OF THE INSTITUTION.

5 Resignation or termination from office shall not exempt such  
6 director or officer from administrative or criminal sanctions.

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

16 The above administrative sanctions need not be applied in the  
17 order of their severity.

18 Whether or not there is an administrative proceeding, if the  
19 institution and/or the directors and/or officers concerned continue with or  
20 otherwise persist in the commission of the indicated practice or violation,  
21 the Monetary Board may issue an order requiring the institution and/or the  
22 directors and/or officers concerned to cease and desist from the indicated  
23 practice or violation, and may further order that immediate action be taken  
24 to correct the conditions resulting from such practice or violation. The  
25 cease and desist order shall be immediately effective upon service on the  
26 respondent.

27 The respondents shall be afforded an opportunity to defend their  
28 action in a hearing before the Monetary Board or any committee chaired  
29 by any Monetary Board member created for the purpose, upon request

1 made by the respondents within five (5) days from their receipt of the  
2 order. If no such hearing is requested within said period, the order shall be  
3 final. If a hearing is conducted, all issues shall be determined on the basis  
4 of records, after which the Monetary Board may either reconsider or make  
5 final its order.

6 The Governor is hereby authorized, at his discretion, to impose  
7 upon [banking institutions,] BANKS, QUASI-BANKS, AND TRUST  
8 ENTITIES, INCLUDING THEIR PARENTS, SUBSIDIARIES AND  
9 AFFILIATES ENGAGED IN ALLIED ACTIVITIES, AND OTHER  
10 FINANCIAL INSTITUTIONS WHICH UNDER SPECIAL LAWS ARE  
11 SUBJECT TO BANGKO SENTRAL SUPERVISION for any failure to  
12 comply with the requirements of law, Monetary Board regulations and  
13 policies, and/or instructions issued by the Monetary Board or by the  
14 Governor, fines not in excess of Ten thousand pesos (P10,000) a day for  
15 each violation, the imposition of which shall be final and executory until  
16 reversed, modified or lifted by the Monetary Board on appeal."

17 **SEC. 11.** Section 77 of the same Act is hereby amended to read as  
18 follows:

19 **"SECTION 77. Requirement of Balance Currency Position. –**

20 The Monetary Board may require [the] banks, QUASI-BANKS, THEIR  
21 SUBSIDIARIES AND AFFILIATES to maintain a balanced position  
22 between their assets and liabilities in Philippine pesos or in any other  
23 currency or currencies in which they operate. [The Banks] THEY shall be  
24 granted a reasonable period of time in which to adjust their currency  
25 positions to any such requirement.

26 The powers granted under this section shall be exercised only  
27 when special circumstances make such action necessary, in the opinion of  
28 the Monetary Board, and shall be applied to all banks, QUASI-BANKS,

1       THEIR SUBSIDIARIES AND AFFILIATES alike and without  
2       discrimination.”

3       **SEC. 12.** The last paragraph of Section 84 of the same Act is hereby  
4       amended to read as follows:

5               “Whenever a [financial] BANK [institution] incurs an overdraft in its  
6       account with the *Bangko Sentral* , the same shall be eliminated within the  
7       period prescribed in Section 102 of this Act. THE OVERDRAFT MAY BE  
8       CONVERTED INTO AN EMERGENCY LOAN OR ADVANCE, AND  
9       SHALL BE GOVERNED BY THE PROVISIONS OF THIS SECTION.  
10      *PROVIDED, HOWEVER,* THAT THE CEILING PRESCRIBED HEREIN  
11      ON THE AMOUNT OF ANY EMERGENCY LOAN OR ADVANCE THAT  
12      MAY BE GRANTED TO A BANK SHALL NOT APPLY TO THE  
13      CONVERSION OF THEIR OVERDRAFT INTO AN EMERGENCY LOAN  
14      OR ADVANCE.”

15      **SEC. 13.** Section 102 of the same Act is hereby amended to read as  
16      follows:

17              **“SECTION 102. *Interbank Settlement.*** – The *Bangko Sentral* shall  
18      establish facilities for interbank clearing under such rules and regulations  
19      as the Monetary Board may prescribe: *Provided,* That the *Bangko Sentral*  
20      may charge administrative and other fees for the maintenance of such  
21      facilities.

22              The deposit reserves maintained by the banks in the *Bangko*  
23      *Sentral* in accordance with the provisions of Section 94 of this Act shall  
24      serve as basis for the clearing of checks and the settlement of interbank  
25      balances, subject to such rules and regulations as the Monetary Board  
26      may issue with respect to such operations: *Provided,* That any bank which  
27      incurs an overdrawn in its deposit account with *Bangko Sentral* shall fully  
28      cover said overdraft, including interest thereon at a rate equivalent to one-  
29      tenth of one percent (1/10 or 1%) per day or the prevailing ninety-one-day

1 Treasury bill rate plus three percentage points, whichever is higher, not  
2 later than the next clearing day: *Provided, HOWEVER, [further]* , That  
3 settlement of clearing balances shall not be effected for any account which  
4 IS [continues to be] overdrawn for A PERIOD AS MAY BE DECIDED BY  
5 THE MONETARY BOARD WHENEVER WARRANTED BY THE  
6 CIRCUMSTANCES: *PROVIDED*, THAT SUCH PERIOD SHALL IN NO  
7 CASE EXCEED five (5) consecutive banking days until such time as the  
8 overdrawing is fully covered or otherwise converted into an emergency  
9 loan or advance pursuant to the provisions of Section 84 of this Act:  
10 *Provided, finally*, That the appropriate clearing office shall be officially  
11 notified of banks with overdrawn balances. Banks with existing overdrafts  
12 with the *Bangko Sentral* as of the effectivity of this Act shall, within such  
13 period as may be prescribed by the Monetary Board, either convert the  
14 overdraft into an emergency loan or advance with a plan of payment, or  
15 settle such overdrafts, and that, upon failure to so comply herewith, the  
16 *Bangko Sentral* shall take such action against the bank as may be  
17 warranted under this Act.”

18 **SEC. 14.** Section 108 of the same Act is hereby amended to read as  
19 follows:

20 **“SECTION 108. *Minimum Capital Ratios.*** – The Monetary Board  
21 may prescribe minimum RISK-BASED CAPITAL ADEQUACY ratios  
22 BASED ON INTERNATIONALLY ACCEPTED STANDARDS INCLUDING  
23 THOSE PRESCRIBED BY THE SAME COMMITTEE [which the capital  
24 and surplus of the banks must bear to the volume of their assets, or to  
25 specific categories thereof,] and may alter said ratios whenever it deems  
26 necessary. IN THE EXERCISE OF ITS AUTHORITY UNDER THIS  
27 SECTION, THE MONETARY BOARD MAY PRESCRIBE A HIGHER  
28 MINIMUM CAPITAL ADEQUACY RATIO FOR BANKS WHICH ARE  
29 EXPOSED TO MORE THAN NORMAL RISKS.”

1       **SEC. 15.** Section 116 of the same Act is hereby amended to read as  
2 follows:

3               **“SECTION 116. *Remuneration for Services.*** – The *Bangko*  
4 *Sentral* may charge equitable rates, commissions or fees for services  
5 which it renders to the Government, its political subdivisions and  
6 instrumentalities [.] AS WELL AS TO FINANCIAL INSTITUTIONS:  
7 *PROVIDED*, THAT IN THE CASE OF BANKS AND QUASI-BANKS,  
8 SUCH CHARGES FOR SERVICES SHALL BE IN ADDITION TO THE  
9 SUPERVISION FEES AUTHORIZED UNDER SECTION 28 OF THIS  
10 ACT: *PROVIDED, FURTHER*, THAT *BANGKO SENTRAL* MAY  
11 OUTSOURCE ANY SUCH SERVICES WHEN THE COST AND  
12 APPROPRIATE CONTROLS JUSTIFY IT.”

13       **SEC. 16.** Section 125 of the same Act is hereby amended to read as  
14 follows:

15               **“SECTION 125. *Tax Exemptions.*** – The PROVISIONS OF ANY  
16 GENERAL OR SPECIAL LAW TO THE CONTRARY  
17 NOTWITHSTANDING, the *Bangko Sentral* shall be exempt, [for a period  
18 of five (5) years] from the approval of this Act, from all national, provincial,  
19 municipal and city taxes, fees, charges and assessments [.] NOW IN  
20 FORCE OR HEREAFTER ESTABLISHED.

21               The exemptions authorized in the preceding paragraph of this  
22 section shall apply to all property of the *Bangko Sentral*, to the resources,  
23 receipts, expenditures, profits and income of the *Bangko Sentral*, as well  
24 as to all contracts, deeds, documents and transactions related to the  
25 conduct of the business of the *Bangko Sentral*: *Provided, however*, That  
26 said exemptions shall apply only such taxes, fees, charges, and  
27 assessments for which the *Bangko Sentral* itself would otherwise be [.]  
28 liable, and shall not apply to taxes, fees, charges, or assessments payable  
29 by persons or other entities doing business with the *Bangko Sentral*:

1        *Provided, further,* That foreign loans and other obligations of the *Bangko*  
2        *Sentral* shall be exempt, both as to principal and interest, from any and all  
3        other taxes if the payment of such taxes has been assumed by the  
4        *Bangko Sentral.*”

5        **SEC. 17.** Section 126 of the same Act is hereby amended to read as  
6        follows:

7                **“SECTION 126. *Exemption from Customs Duties.*** – The  
8        provision of any general or special law to the contrary notwithstanding, the  
9        importation and exportation by the *Bangko Sentral* of notes and coins, and  
10       of gold and other metals to be used for purposes authorized under this  
11       Act, and the importation of all equipment AND SUPPLIES needed [for] IN  
12       THE *BANGKO SENTRAL* OPERATIONS SUCH AS bank note production,  
13       minting of coins, metal refining, [and other] security printing operations  
14       AND TRANSPORT OF CURRENCY shall be fully exempt from all  
15       customs duties and consular fees and from all other taxes, assessments  
16       and charges related to such importation or exportation.”

17       **SEC. 18.** Section 128 of the same Act is hereby amended to read as  
18       follows:

19                **“SECTION 128. *Prohibitions.*** – The *Bangko Sentral* shall not  
20       acquire shares of any kind or accept them as collateral, and shall not  
21       participate in the ownership or management of any enterprise, either  
22       directly or indirectly [.] *PROVIDED,* THAT THIS PROHIBITION SHALL  
23       NOT APPLY WHENEVER SUCH OWNERSHIP AND/OR MANAGEMENT  
24       IS EXPRESSLY AUTHORIZED BY LAW, OR THE MONETARY BOARD  
25       BY A VOTE OF AT LEAST FIVE (5) OF ITS MEMBERS DEEMS AN  
26       ACQUISITION TO BE NECESSARY TO THE EXECUTION BY *BANGKO*  
27       *SENTRAL* OF ITS MANDATES UNDER THIS ACT.”

28                The *Bangko Sentral* shall not engage in development banking or  
29       financing: *PROVIDED, however,* That outstanding loans obtained or

1 extended for development financing shall not be affected by the prohibition  
2 of this section.”

3 **SEC. 19.** Subparagraph (b) of Section 132 of the same Act is hereby  
4 amended to read as follows:

5 “(b) the *Bangko Sentral* shall remit [seventy-five percent (75%)]  
6 NINETY PERCENT (90%) of its net profits to a special deposit account  
7 (sinking fund) until such time as the net liabilities of the Central Bank shall  
8 have been liquidated through generally accepted finance mechanism such  
9 as, but not limited to, write-offs, set-offs, condonation, collections,  
10 reappraisal, revaluation and bond issuance by the National Government,  
11 or to the National Government as dividends;”

12 **SEC. 20. Separability Clause.** If any provision of this Act is held invalid  
13 for any reason, the remainder of this Act shall not be affected thereby.

14 **SEC. 21. Repealing Clause.-** All laws, decrees, orders, letters of  
15 instruction, letters of implementation, rules and regulations, or parts thereof  
16 inconsistent with any provision of this Act are hereby amended, modified,  
17 repealed insofar as they are inconsistent with the provisions of this Act.

18 **SEC. 22. Effectivity.-** This Act shall take effect fifteen (15) days from the  
19 date of its publication in at least two (2) national newspapers of general  
20 circulation.

Approved,