

SENATE  
S.B. NO. 1822

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Introduced by  
Senator Edgardo J. Angara

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#### EXPLANATORY NOTE

Experience in the past highlighted the inability of the Bangko Sentral ng Pilipinas (BSP) to deal effectively and expeditiously with problem banks. The authority of the BSP over problem banks, in general, is limited to the grant of emergency advances in case of illiquidity, or closure in case of insolvency. Prompt corrective actions cannot be implemented due to the absence of clear and strong legal basis. Such inability of the BSP often causes losses of hard-earned money of the depositors and also losses of public funds.

Therefore, to better protect the interest of the depositors and to avoid losses of the public funds, this Bill seeks to adopt, among others, the following international best practices in banking supervision and other measures that will strengthen the regulatory and supervisory powers of the BSP over banks and other financial institutions:

1. The principle of consolidated supervision – This will authorize the BSP, when examining a bank or other financial institution under its supervision, to examine its subsidiaries and affiliates engaged in allied activities. This is an international best practice and very important in our jurisdiction since the parent institution can be adversely affected by the failure of its subsidiaries and affiliates. Hence, the BSP should be able to evaluate and determine the financial condition, not only of the parent institution under its supervision but also of its subsidiaries and affiliates.
2. BSP's authority to approve transfers or acquisitions of shares in a supervised institution where such transfer or acquisition or series of transfers or acquisitions should be sufficient to elect at least one seat in the board or would effect a change in the majority ownership or control of the voting stock of the institution – This is a proactive measure that would empower the BSP to prevent the entry of undesirable persons into the supervised institution. This is very important because failure of institutions is usually caused by the actions of controlling stockholders.
3. The authority of the Monetary Board to prescribe guidelines for the examination of supervised authorities – This proposal will result in more effective supervision since the resources and manpower of the BSP can be properly allocated and the examination of problem institutions can be prioritized.
4. The authority of the Monetary Board to direct existing stockholders to infuse additional capital or in case of their inability or refusal, to direct them to accept new investors or merge or consolidate with a qualified financial institution – This is also a proactive measure that could prevent failures of supervised institutions.

5. Prescribing additional and transparent grounds for bank closure such as announcement of unilateral closure, suspension of payment of deposits and deposit substitutes, or inability to pay liabilities as they become due – These proposed additional grounds for closing a bank will minimize losses on the part of the depositors and of public funds. This will even enable the PDIC to recover their payments of insured deposits.
6. Increase in penalties for violation of applicable laws and regulations – This is necessary because it has been observed in the past that banks opted to commit violations and just pay the penalty because the income from prohibited transactions was greater than the penalty. If not corrected, these practices would render useless some of BSP's monetary policies.
7. Indemnify BSP personnel for cost and expenses incurred by them in connection with any civil, administrative or criminal action, suit or proceedings – This will encourage BSP personnel, particularly the examiners, to discharge their duties and responsibilities properly without fear of retaliation.

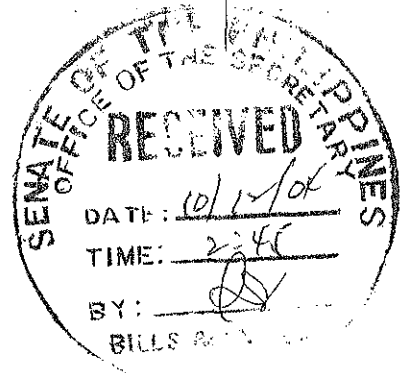
The Bill also aims to enhance the ability of the BSP to provide policy directions in the areas of money, banking and credit through the following:

1. Grant of authority to the BSP to request data not only from government entities but also from any person.
2. Authority of the Monetary Board to require all supervised institutions including their subsidiaries and affiliates to maintain balanced currency position between their assets and liabilities.

Approval of this Bill which is primarily aimed at providing better protection to the public, particularly the depositors and creditors of BSP's supervised institutions, is therefore earnestly sought.

  
**EDGARDO J. ANGARA**

13TH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )



SENATE

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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 Philippines in  
Congress assembled:

1       **Section 1.** Section 3, Republic Act No. 7653, otherwise known as the "The New  
2 Central Bank Act", is hereby amended to read as follows:

3               "SECTION 3. Responsibility and Primary Objective. - The Bangko Sentral shall  
4 provide policy directions in the areas of money, banking and credit. It shall have  
5 supervision over the operations of banks, QUASI-BANKS, TRUST ENTITIES AND  
6 OTHER FINANCIAL INSTITUTIONS WHICH UNDER THIS ACT OR SPECIAL LAWS  
7 ARE SUBJECT TO BANGKO SENTRAL SUPERVISION and exercise such regulatory  
8 powers as provided in this Act and other pertinent laws over the operations of [finance  
9 companies and] OTHER non-bank financial institutions NOT SUPERVISED OR  
10 REGULATED BY OTHER GOVERNMENT AGENCIES [performing quasi-banking functions,  
11 hereafter referred to as quasi-banks, and institutions performing similar functions].

12               The primary objective of the Bangko Sentral is to maintain price stability  
13 conducive to a balanced and sustainable growth of the economy. It shall also

1 promote and maintain monetary stability and the convertibility of the peso. IT  
2 SHALL LIKEWISE PROMOTE AND MAINTAIN THE STABILITY OF THE FINANCIAL  
3 AND PAYMENT SYSTEMS.

4 **Section 2.** Section 11 of the same Act is hereby amended by inserting a new  
5 paragraph between the third and the fourth paragraphs which shall read as follows:

6 "MEETINGS OF THE MONETARY BOARD MAY BE CONDUCTED THROUGH THE  
7 USE OF MODERN TECHNOLOGY INCLUDING BUT NOT LIMITED TO TELE-  
8 CONFERENCING OR VIDEO-CONFERENCING.

9 **Section 3.** Section 15 (Exercise of the Authority of the Monetary Board), paragraphs  
10 (b) and (e), of the same Act is hereby amended to read as follows:

11 "(b) direct the management, operations, and administration of the Bangko  
12 Sentral, reorganize its personnel, PROVIDE SEPARATION BENEFITS WHENEVER  
13 NECESSARY, and issue such rules and regulations as it may deem necessary or  
14 convenient for this purpose. The legal units of the Bangko Sentral shall be under the  
15 exclusive supervision and control of the Monetary Board;

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

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

5 The costs and expenses incurred in defending the aforementioned action, suit  
6 or proceeding may be paid by the Bangko Sentral in advance of the final disposition of  
7 such action, suit or proceeding upon receipt of an undertaking by or on behalf of the  
8 member [, officer, or employee] AND OTHER PERSONNEL to repay the amount  
9 advanced should it ultimately be determined by the Monetary Board that he is not  
10 entitled to be indemnified as provided in this subsection ON ACCOUNT OF GROSS  
11 NEGLIGENCE OR GROSS MISCONDUCT.

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

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

24 **Section 5.** The first paragraph of Section 21 of the same Act is hereby amended to  
25 read as follows:

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

5 **Section 6.** The first paragraph of Section 23 of the same Act is hereby amended to  
6 read as follows:

7 "SECTION 23. Authority to Obtain Data and Information.- The Bangko Sentral  
8 shall have the authority to request from ANY PERSON OR ENTITY, INCLUDING  
9 government offices and instrumentalities, or government-owned or controlled  
10 corporations, any data which it may require for the proper discharge of its functions  
11 and representatives. The Bangko Sentral through the Governor or in his absence, a  
12 duly authorized representative shall have the power to issue a subpoena for the  
13 production of the books and records for the aforesaid purpose. Those who refuse  
14 the subpoena without justifiable cause, or who refuse to supply the bank with data  
15 requested or required, shall be subject to punishment for contempt in accordance  
16 with the provisions of the Rules of Court."

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

18 "SECTION 25. Supervision and Examination. - The Bangko Sentral shall have  
19 supervision over, and conduct periodic or special examination of [ banking institutions,  
20 and ] BANKS, quasi-banks, AND TRUST ENTITIES, including their subsidiaries and  
21 affiliates engaged in allied activities, AND OTHER FINANCIAL INSTITUTIONS WHICH,  
22 UNDER SPECIAL LAWS, ARE SUBJECT TO BANGKO SENTRAL SUPERVISION.  
23 PURSUANT TO THE AUTHORITY OF THE BANGKO SENTRAL UNDER THIS SECTION,  
24 AND IN ADDITION TO SUCH OTHER AUTHORITY GRANTED BY LAW, PRIOR  
25 APPROVAL BY THE BANGKO SENTRAL SHALL BE REQUIRED FOR TRANSFERS OR

1 ACQUISITIONS OF SHARES OF STOCK IN BANKING INSTITUTIONS, QUASI-BANKS  
2 AND TRUST ENTITIES WHERE ANY SUCH TRANSFER OR ACQUISITION OR SERIES OF  
3 TRANSFERS OR ACQUISITIONS WOULD BE SUFFICIENT TO ELECT AT LEAST ONE  
4 SEAT IN THE BOARD OF DIRECTORS OR WOULD EFFECT A CHANGE IN THE  
5 MAJORITY OWNERSHIP OR CONTROL OF THE VOTING STOCK IN ANY OF THESE  
6 INSTITUTIONS. PRIOR TO SUCH APPROVAL, NO SUCH TRANSFER OR ACQUISITION  
7 SHALL BE RECOGNIZED IN THE BOOKS OF THE INSTITUTION NOR BY ANY  
8 GOVERNMENT AGENCY AND THE TRANSFEROR-STOCKHOLDERS, IN CASES  
9 INVOLVING TRANSFERS, SHALL REMAIN ACCOUNTABLE AND RESPONSIBLE  
10 THEREFOR. IN APPROVING SAID TRANSFERS OR ACQUISITIONS, REGARD SHALL BE  
11 GIVEN BY THE BANGKO SENTRAL TO THE FITNESS OF THE INCOMING  
12 STOCKHOLDERS AS MAY BE INDICATED BY THEIR INTEGRITY AND FINANCIAL  
13 CAPACITY.

14 For purposes of this section, a subsidiary means a corporation more than fifty  
15 percent (50%) of the voting stock of which is owned DIRECTLY OR INDIRECTLY by a  
16 bank [, or] quasi-bank OR TRUST ENTITY, and an affiliate means a corporation the  
17 voting stock of which, to the extent of fifty percent (50%) or less, is owned by a  
18 bank, quasi-bank, TRUST ENTITY or which is related or linked to such institution or  
19 intermediary through common stockholders or such other factors as may be  
20 determined by the Monetary Board.

21 CONTROL EXISTS WHEN THE PARENT OWNS DIRECTLY OR INDIRECTLY  
22 MORE THAN ONE HALF OF THE VOTING STOCK OF AN ENTERPRISE. CONTROL  
23 MAY ALSO EXIST EVEN WHEN THE PARENT OWNS ONE HALF OR LESS OF THE VOTING  
24 STOCK OF AN ENTERPRISE WHEN THERE IS:

25 (A) POWER OVER MORE THAN ONE HALF OF THE VOTING RIGHTS BY VIRTUE  
26 OF AN AGREEMENT WITH OTHER INVESTORS; OR

1 (B) POWER TO GOVERN THE FINANCIAL AND OPERATING POLICIES OF THE  
2 ENTERPRISE UNDER A STATUTE OR AN AGREEMENT; OR

3 (C) POWER TO APPOINT OR REMOVE THE MAJORITY OF THE MEMBERS OF  
4 THE BOARD OF DIRECTORS; OR

5 (D) POWER TO CAST THE MAJORITY OF VOTES AT MEETINGS OF THE BOARD  
6 OF DIRECTORS; OR

7 (E) OTHER ARRANGEMENTS SIMILAR TO ANY OF THE ABOVE.

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

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



1 the court. The 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 govern the  
3 issuance and dissolution of the restraining order or injunction contemplated in this  
4 section.

5 **Section 8.** Section 26 of the same Act is hereby amended to read as follows:

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

19 **Section 9.** Section 28 of the same Act is hereby amended to read as follows:

20 "SECTION 28. Examination and Fees. - The supervising and examining  
21 department head, personally or by deputy, shall examine the books of every [banking  
22 institution] BANK, QUASI-BANK AND TRUST ENTITY, INCLUDING ITS SUBSIDIARIES  
23 AND AFFILIATES ENGAGED IN ALLIED ACTIVITIES AND OTHER FINANCIAL  
24 INSTITUTIONS WHICH UNDER SPECIAL LAWS ARE SUBJECT TO BANGKO SENTRAL  
25 SUPERVISION, IN ACCORDANCE WITH THE GUIDELINES SET BY THE MONETARY

1 BOARD: [once in every twelve (12) months, and at such other times as the Monetary  
2 Board by an affirmative vote of five (5) members, may deem expedient and to  
3 make a report on the same to the Monetary Board: Provided, That there shall be an  
4 interval of at least twelve (12) months between REGULAR [annual] examinations:  
5 PROVIDED, FURTHER, THAT THE MONETARY BOARD BY AN AFFIRMATIVE VOTE OF  
6 AT LEAST FIVE (5) MEMBERS MAY AUTHORIZE A SPECIAL EXAMINATION IF THE  
7 CIRCUMSTANCES SO WARRANT.

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

17 [Banking] BANKS, [and quasi-banking institutions] QUASI-BANKS AND TRUST  
18 ENTITIES AND OTHER FINANCIAL INSTITUTIONS WHICH UNDER SPECIAL LAWS,  
19 [which] are subject to examination by the Bangko Sentral, shall pay to the Bangko  
20 Sentral, within the first thirty (30) days of each year, an annual fee in an amount  
21 equal to a percentage as may be prescribed by the Monetary Board [of] BASED ON  
22 its average total assets during the preceding year [as shown on its end-of-  
23 month balance sheets, after deducting cash on hand and amounts due from banks,  
24 including the Bangko Sentral and banks abroad]. IN CONSOLIDATED EXAMINATION  
25 OF RESOURCES, THE FEES FOR THE EXAMINATION OF SUBSIDIARIES AND  
26 AFFILIATES ENGAGED IN ALLIED ACTIVITIES SHALL BE CHARGED AGAINST THEIR  
27 PARENT INSTITUTION UNDER EXAMINATION.

1 THE MONETARY BOARD MAY LIKEWISE IMPOSE SIMILAR FEES ON OTHER  
2 FINANCIAL INSTITUTIONS UNDER BANGKO SENTRAL SUPERVISION."

3 **Section 10.** Section 30 of the same Act is hereby amended to read as follows:

4 "SECTION 30. Proceedings in Receivership and Liquidation.- Whenever,  
5 upon report of the head of the supervising [or] AND examining department, the  
6 Monetary Board finds that a bank, [or] quasi-bank OR A TRUST ENTITY:

7 (a) HAS NOTIFIED THE BANGKO SENTRAL OR PUBLICLY ANNOUNCED A  
8 UNILATERAL CLOSURE, OR IN ANY MANNER HAS SUSPENDED THE PAYMENT OF  
9 ITS DEPOSIT/DEPOSIT SUBSTITUTES LIABILITIES, OR is unable to pay its  
10 liabilities as they become due in the ordinary course of business: Provided, That  
11 this shall not include inability to pay caused by extraordinary demands induced  
12 by financial panic in the banking OR FINANCIAL community; OR

13 (b) has insufficient realizable assets TO MEET ITS LIABILITIES, as  
14 determined by the Bangko Sentral IN ACCORDANCE WITH THE BANKING  
15 REGULATIONS [to meet its liabilities]; or

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

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

21 in which cases, the Monetary Board may summarily and without need for prior  
22 hearing forbid the institution from doing business in the Philippines and IN CASE

1 IT IS A BANK, designate the Philippine Deposit Insurance Corporation as receiver of the  
2 banking institution.

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

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

17 IN ORDER TO REHABILITATE THE CLOSED INSTITUTION OR TO RESTORE ITS  
18 OPERATIONS WITH SAFETY TO ITS DEPOSITORS, CREDITORS AND THE GENERAL  
19 PUBLIC OR TO MERGE OR CONSOLIDATE THE CLOSED INSTITUTION WITH ANOTHER  
20 QUALIFIED INSTITUTION, THE RECEIVER MAY IMMEDIATELY TRANSFER OR  
21 DISPOSE OF ANY OR ALL OF THE ASSETS OF THE CLOSED INSTITUTION AND  
22 PERFORM SUCH OTHER ACTS AS MAY BE AUTHORIZED BY LAW.

23 If the receiver determines that the institution cannot be rehabilitated or  
24 permitted to resume business in accordance with [ the next preceding  
25 paragraph ] THIS SECTION, the Monetary Board shall notify in writing the board of

1 directors of its findings and direct the receiver to proceed with the liquidation of the  
2 institutions. The receiver shall:

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

13 (2) convert the assets of the institution to money, dispose of the same to  
14 creditors and other parties, for the purpose of paying the debts of such institution  
15 in accordance with the rules on concurrence and preference of credit under the  
16 Civil Code of the Philippines and he may, in the name of the institution, and with the  
17 assistance of counsel as he may retain, institute such actions as may be  
18 necessary to collect and recover accounts and assets of, or defend any action against  
19 the institution. The assets of an institution under receivership or liquidation shall be  
20 deemed in custodia legis in the hands of the receiver and shall, from the moment the  
21 institution was placed under such receivership or liquidation, be exempt from any  
22 order of garnishment, levy, attachment, or execution.

23 The actions of the Monetary Board taken under this section or under Section  
24 29 of this Act shall be final and executory, and may not be restrained or set aside  
25 by the court except on petition for certiorari on the ground AND UPON A FINDING  
26 AFTER DUE HEARING that the action taken was in excess of jurisdiction or with  
27 such grave abuse of discretion as to amount to lack or excess of jurisdiction:

1 PROVIDED, HOWEVER, THAT ANY ORDER RESTRAINING, ENJOINING OR SETTING  
2 ASIDE THE ACTION COMPLAINED OF IN THE PETITION FOR CERTIORARI, MAY  
3 ONLY BE ISSUED BY THE COURT OF APPEALS, BUT MAY BE DISSOLVED OR  
4 STAYED UPON BANGKO SENTRAL FILING A WRITTEN UNDERTAKING THAT IT WILL  
5 PAY ALL DAMAGES WHICH THE PETITIONER MAY SUFFER FROM THE DENIAL,  
6 DISSOLUTION OR STAY OF THE INJUNCTION SHOULD IT BE DECIDED IN A FINAL  
7 JUDGMENT THAT THE PETITIONER IS ENTITLED TO HAVE THE ACTS  
8 COMPLAINED OF PERMANENTLY ENJOINED. The petition for certiorari may only be  
9 filed by the stockholders of record representing the majority of the capital stock  
10 within ten (10) days from receipt by the board of directors of the institution of the  
11 order directing receivership, liquidation or conservatorship. THE PROVISIONS OF RULE  
12 58 OF THE 1997 RULES ON CIVIL PROCEDURE IN SO FAR AS THEY ARE APPLICABLE  
13 AND NOT INCONSISTENT WITH THE PROVISIONS OF THIS SECTION SHALL  
14 GOVERN THE ISSUANCE AND DISSOLUTION OF THE RESTRAINING ORDER OR  
15 INJUNCTION CONTEMPLATED IN THIS SECTION.

16 The designation of a conservator under Section 29 of this Act or the  
17 appointment of a receiver under this section shall be vested exclusively with the  
18 Monetary Board. Furthermore, the designation of a conservator is not a precondition to  
19 the designation of receiver."

20 THE AUTHORITY OF THE MONETARY BOARD TO PLACE A BANK, QUASI-BANK  
21 OR A TRUST ENTITY UNDER RECEIVERSHIP AS PROVIDED ABOVE MAY ALSO BE  
22 EXERCISED OVER NON-STOCK SAVINGS AND LOAN ASSOCIATIONS, BASED ON THE  
23 SAME APPLICABLE GROUNDS. FOR THIS PURPOSE, ANY PERSON OF RECOGNIZED  
24 COMPETENCE IN BANKING, CREDIT AND FINANCE MAY BE DESIGNATED AS A  
25 RECEIVER.

26 **Section 11.** *A new section entitled Section 30-A of the same Act shall be inserted*  
27 *between Sections 30 and 31 which shall read as follows:*

1 "SECTION 30-A. WHENEVER UPON THE REPORT OF THE HEAD OF THE  
2 SUPERVISING AND EXAMINING DEPARTMENT, THE MONETARY BOARD FINDS THAT  
3 THE ADJUSTED CAPITAL ACCOUNTS OF A BANK, QUASI-BANK OR TRUST ENTITY IS  
4 LOWER THAN THE MINIMUM CAPITAL REQUIRED UNDER EXISTING RULES AND  
5 REGULATIONS, OR IT HAS A CAPITAL ADEQUACY RATIO LOWER THAN THE  
6 MINIMUM RATIO PRESCRIBED UNDER EXISTING REGULATIONS, THE MONETARY  
7 BOARD SHALL HAVE THE AUTHORITY TO DIRECT THE EXISTING STOCKHOLDERS OF  
8 SAID BANK, QUASI-BANK OR TRUST ENTITY TO INFUSE CAPITAL WITHIN A PERIOD  
9 NOT EXCEEDING 90 DAYS FROM THE DATE OF DIRECTIVE IN SUCH AMOUNT AS  
10 MAY BE NECESSARY TO RESTORE THE ENTITY'S CAPITAL TO THE MINIMUM  
11 REQUIRED AMOUNT AND/OR RATIO. IN CASE OF INABILITY OR UNWILLINGNESS OF  
12 THE STOCKHOLDERS TO INFUSE THE REQUIRED AMOUNT OF ADDITIONAL CAPITAL  
13 WITHIN THE PRESCRIBED PERIOD, THE MONETARY BOARD MAY DIRECT SAID  
14 BANK, QUASI-BANK OR TRUST ENTITY TO ACCEPT INVESTMENTS FROM QUALIFIED  
15 THIRD PARTIES OR TO MERGE OR CONSOLIDATE WITH A QUALIFIED FINANCIAL  
16 INSTITUTION.

17 THE MONETARY BOARD MAY ALSO AUTHORIZE OR ORDER THE  
18 EXISTING STOCKHOLDERS OF THE CONCERNED ENTITY TO EFFECT A QUASI-  
19 REORGANIZATION OF SAID ENTITY TO REFLECT THE FAIR VALUE OF ITS CAPITAL.

20 **Section 12.** Section 36 of the same Act is hereby amended to read as follows:

21 "SECTION 36. Proceedings Upon Violation of This Act and Other Banking  
22 Laws, Rules, Regulations, Orders or Instructions.- Whenever a bank, [or] quasi-bank,  
23 TRUST ENTITY OR OTHER FINANCIAL INSTITUTION WHICH UNDER THIS ACT OR  
24 SPECIAL LAWS IS SUBJECT TO BANGKO SENTRAL SUPERVISION or whenever any  
25 person or entity willfully violates this Act or other pertinent banking laws being  
26 enforced or implemented by the Bangko Sentral or any order, instruction, rule or  
27 regulation issued by the Monetary Board, the person or persons responsible for

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

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

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

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



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

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

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

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

12 (e) revocation of quasi-banking license;

13 (F) REVOCATION OF TRUST LICENSE;

14 (G) PROHIBITION FROM DECLARING CASH DIVIDENDS;

15 (H) CONFISCATION BY AND FORFEITURE IN FAVOR OF THE BANGKO SENTRAL  
16 OF ANY AND ALL PROFITS, AS MAY BE DETERMINED BY THE MONETARY BOARD,  
17 ARISING FROM THE OFFENSE OR VIOLATION OF BANKING LAWS, RULES AND  
18 REGULATIONS; AND/OR

19 (I) OTHER SANCTIONS AS THE MONETARY BOARD MAY DEEM  
20 APPROPRIATE UNDER THE CIRCUMSTANCES.

1 THE DIRECTOR OR OFFICER RESPONSIBLE FOR THE VIOLATION MAY,  
2 AFTER DUE PROCESS, BE SUSPENDED, REMOVED OR DISQUALIFIED FROM  
3 HOLDING OFFICE, OR ANY POSITION, IN AN INSTITUTION UNDER THE  
4 SUPERVISION OF THE BANGKO SENTRAL, FOR A PERIOD TO BE DETERMINED BY  
5 THE MONETARY BOARD, TAKING INTO CONSIDERATION THE ATTENDANT  
6 CIRCUMSTANCES, SUCH AS THE NATURE AND GRAVITY OF THE ACT OR  
7 OMISSION AND THE SIZE OF THE INSTITUTION.

8 Resignation or termination from office shall not exempt such director or  
9 officer from administrative or criminal sanctions.

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

18 The above administrative sanctions need not be applied in the order of their  
19 severity.

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

1 violation. The cease and desist order shall be immediately effective upon service on the  
2 respondents.

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

10 The Governor is hereby authorized, at his discretion, to impose upon [banking  
11 institutions,] BANKS, QUASI-BANKS, AND TRUST ENTITIES, INCLUDING THEIR  
12 SUBSIDIARIES AND AFFILIATES ENGAGED IN ALLIED ACTIVITIES, AND OTHER  
13 FINANCIAL INSTITUTIONS WHICH UNDER SPECIAL LAWS ARE SUBJECT TO  
14 BANGKO SENTRAL SUPERVISION for any failure to comply with the requirements of law,  
15 Monetary Board regulations and policies, and/or instructions issued by the Monetary  
16 Board or by the Governor, fines not in excess of [Ten thousand pesos (P10,000) a]  
17 ONE HUNDRED THOUSAND PESOS (P100,000) PER BANKING day for each violation,  
18 the imposition of which shall be final and executory until reversed, modified or lifted by  
19 the Monetary Board on appeal."

20 **Section 14.** Section 77 of the same Act is hereby amended to read as follows:

21 "SECTION 77. Requirement of Balanced Currency Position.- The Monetary  
22 Board may require [the] banks, QUASI-BANKS, THEIR SUBSIDIARIES AND  
23 AFFILIATES ENGAGED IN ALLIED ACTIVITIES to maintain a balanced position  
24 between their assets and liabilities in Philippine pesos or in any other currency or

1 currencies in which they operate. [The Banks] THEY shall be granted a reasonable  
2 period of time in which to adjust their currency positions to any such requirement.

3 The powers granted under this section shall be exercised only when special  
4 circumstances make such action necessary, in the opinion of the Monetary Board,  
5 and shall be applied to all banks, QUASI-BANKS, THEIR SUBSIDIARIES AND  
6 AFFILIATES ENGAGED IN ALLIED ACTIVITIES alike and without discrimination."

7 **Section 15.** A new section entitled Section 88-A of the same Act shall be inserted  
8 between Sections 88 and 89 which shall read as follows:

9 "SECTION 88-A. EXEMPTION FROM ATTACHMENT. THE PROVISIONS OF ANY  
10 LAW TO THE CONTRARY NOTWITHSTANDING AND SECTION 31 OF THIS ACT,  
11 COLLATERALS ON LOANS AND ADVANCES GRANTED BY THE BANGKO SENTRAL TO  
12 BANKING INSTITUTIONS SHALL NOT BE SUBJECT TO ATTACHMENT, EXECUTION OR  
13 ANY OTHER COURT PROCESS, NOR SHALL THEY BE INCLUDED IN THE PROPERTY  
14 OF INSOLVENT PERSONS OR INSTITUTIONS, UNLESS ALL DEBTS AND OBLIGATIONS  
15 OF THE BANKING INSTITUTIONS TO THE BANGKO SENTRAL, WHETHER REGISTERED  
16 OR NOT, HAVE BEEN PAID, INCLUDING ACCRUED INTEREST, PENALTIES,  
17 COLLECTION EXPENSES, AND OTHER CHARGES."

18 **Section 16.** A new section entitled Section 89-A of the same Act shall be inserted  
19 between Sections 89 which shall read as follows:

20 "SECTION 89-A. CREDIT FACILITIES FOR ISLAMIC BANKS. THE BANGKO  
21 SENTRAL MAY, TAKING INTO CONSIDERATION THE PECULIAR CHARACTERISTICS  
22 OF ISLAMIC BANKING, FORMULATE RULES AND REGULATIONS FOR THE EXTENSION  
23 OF REDISCOUNTING OR OTHER SIMILAR FACILITIES TO ISLAMIC BANKS."

1       **Section 17.** Section 95 of the same Act is hereby amended to read as follows:

2               "SECTION 95. Definition of Deposit Substitutes. - The term "deposit  
3 substitutes" is defined as an alternative form of obtaining funds from the public, other  
4 than deposits, through the issuance, endorsement, or acceptance of debt  
5 instruments for the borrower's own account, for the purpose of re-lending or  
6 purchasing of receivables and other obligations. These instruments may include, but  
7 need not be limited to, bankers, acceptances, promissory notes, participations,  
8 certificates of assignment and similar instruments with recourse, and repurchase  
9 agreements. The Monetary Board shall determine what specific instruments shall  
10 be considered as deposit substitutes for the purposes of Section 94 of this Act[:]. THE  
11 MONETARY BOARD MAY ALSO EXCLUDE FUNDS OBTAINED OR BORROWED FROM  
12 CERTAIN INSTITUTIONAL LENDERS FROM THIS SECTION: Provided, however, That  
13 deposit substitutes of commercial, industrial and other non-financial companies  
14 issued for the limited purpose of financing their own needs or the needs of their agents  
15 or dealers shall not be covered by the provisions of Section 94 of this Act."

16       **Section 18.** The second paragraph of Section 102 of the same Act is hereby amended  
17 to read as follows:

18               "The deposit reserves maintained by the banks in the Bangko Sentral in  
19 accordance with the provisions of Section 94 of this Act shall serve as basis for the  
20 clearing of checks and the settlement of interbank balances, subject to such rules and  
21 regulations as the Monetary Board may issue with respect to such  
22 operations: Provided, That any bank which incurs an overdrawn in its deposit  
23 account with Bangko Sentral shall fully cover said overdraft, including interest thereon at  
24 a rate equivalent to one-tenth of one percent (1/10 of 1%) per day or the  
25 prevailing ninety-one-day treasury bill rate plus three percentage points, whichever is  
26 higher, not later than the next clearing day: Provided, HOWEVER, [further], That  
27 settlement of clearing balances shall not be effected for any account which IS

1 [continues to be] overdrawn for A PERIOD AS MAYBE DECIDED BY THE MONETARY  
2 BOARD WHENEVER WARRANTED BY THE CIRCUMSTANCES: PROVIDED, THAT SUCH  
3 PERIOD SHALL IN NO CASE EXCEED five (5) consecutive banking days until such  
4 time as the overdrawn is fully covered or otherwise converted into an emergency  
5 loan or advance pursuant to the provisions of Section 84 of this Act: Provided,  
6 finally, That the appropriate clearing office shall be officially notified of banks with  
7 overdrawn balances. Banks with existing overdrafts with the Bangko Sentral as of the  
8 effectivity of this Act shall, within such period as may be prescribed by the Monetary  
9 Board, either convert the overdraft into an emergency loan or advance with a plan  
10 of payment, or settle such overdrafts, and that, upon failure to so comply  
11 herewith, the Bangko Sentral shall take such action against the bank as may be  
12 warranted under this Act."

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

14 "SECTION 108. Minimum Capital Ratios. - The Monetary Board may  
15 prescribe minimum RISK-BASED CAPITAL ADEQUACY ratios BASED ON  
16 INTERNATIONALLY ACCEPTED STANDARDS [which the capital and surplus of the  
17 banks must bear to the volume of their assets, or to specific categories thereof, ]  
18 and may alter said ratios whenever it deems necessary. IN THE EXERCISE OF ITS  
19 AUTHORITY UNDER THIS SECTION, THE MONETARY BOARD MAY PRESCRIBE A  
20 HIGHER MINIMUM CAPITAL ADEQUACY RATIO FOR INDIVIDUAL BANKS WHICH  
21 ARE EXPOSED TO MORE THAN NORMAL RISKS."

22 **Section 20.** Section 116 of the same Act is hereby amended to read as follows:

23 "SECTION 116. Remuneration for Services .- The Bangko Sentral may charge  
24 equitable rates, commissions or fees for services which it renders to the Government,  
25 its political subdivisions and instrumentalities [.] AS WELL AS TO FINANCIAL

1 INSTITUTIONS OR ENTITIES UNDER THE BANGKO SENTRAL SUPERVISION:  
2 PROVIDED, THAT IN THE CASE OF BANKS AND QUASI-BANKS, SUCH CHARGES FOR  
3 SERVICES SHALL BE IN ADDITION TO THE SUPERVISION FEES AUTHORIZED  
4 UNDER SECTION 28 OF THIS ACT.

5 **Section 21.** Section 125 of the same Act is hereby amended to read as follows:

6 "SECTION 125. Tax Exemptions.- THE PROVISIONS OF ANY GENERAL OR  
7 SPECIAL LAW TO THE CONTRARY NOTWITHSTANDING, the Bangko Sentral  
8 shall be exempt [, for a period of five (5) years from the approval of this Act] from  
9 all national, provincial, municipal and city taxes, fees, charges and assessments [.] NOW  
10 IN FORCE OR HEREAFTER ESTABLISHED. The exemptions authorized in the  
11 preceding paragraph of this section shall apply to all property of the Bangko  
12 Sentral, to the resources, receipts, expenditures, profits and income of the Bangko  
13 Sentral; as well as to all contracts, deeds, documents and transactions related to  
14 the conduct of the business of the Bangko Sentral: Provided, however, That said  
15 exemptions shall apply only such taxes, fees, charges, and assessments for which the  
16 Bangko Sentral itself would otherwise be [,] liable, and shall not apply to taxes,  
17 fees, charges, or assessments payable by persons or other entities doing business  
18 with the Bangko Sentral: Provided, further, That foreign loans and other obligations  
19 of the Bangko Sentral shall be exempt, both as to principal and interest, from any and  
20 all other taxes if the payment of such taxes has been assumed by the Bangko Sentral."

21 **Section 22.** The first paragraph of Section 126 of the same Act is hereby amended to  
22 read as follows:

23 "SECTION 126. Exemption from Customs Duties. - The provision of any  
24 general or special law to the contrary notwithstanding, the importation and exportation  
25 by the Bangko Sentral of notes and coins, and of gold and other metals to be used

1 for purposes authorized under this Act, and the importation of all equipment AND  
2 SUPPLIES needed [for] IN THE BANGKO SENTRAL OPERATIONS SUCH AS bank  
3 note production, minting of coins, metal refining, [and other] security printing  
4 operations AND TRANSPORT OF CURRENCY shall be fully exempt from all customs  
5 duties and consular fees and from all other taxes, assessments and charges  
6 related to such importation or exportation."

7 **Section 23.** The first paragraph of Section 128 of the same Act is hereby amended to  
8 read as follows:

9 "SECTION 128. Prohibitions.- The Bangko Sentral shall not acquire shares  
10 of any kind or accept them as collateral, and shall not participate in the ownership or  
11 management of [any] AN enterprise, either directly or indirectly [.]: PROVIDED,  
12 THAT THIS PROHIBITION SHALL NOT APPLY WHENEVER SUCH OWNERSHIP  
13 AND/OR MANAGEMENT IS EXPRESSLY AUTHORIZED BY LAW, OR THE MONETARY  
14 BOARD BY A VOTE OF AT LEAST FIVE (5) OF ITS MEMBERS DEEMS AN ACQUISITION  
15 OR INVESTMENT TO BE NECESSARY TO THE PERFORMANCE BY BANGKO SENTRAL OF  
16 ITS MANDATES UNDER THIS ACT OR TO QUALIFY OR AS REQUIRED FOR  
17 MEMBERSHIP IN INTERNATIONAL AND REGIONAL ORGANIZATIONS."

18 **Section 24.** Repealing Clause. All provisions of existing laws, orders, rules and  
19 regulations, or parts thereof, in conflict or inconsistent with the provisions of this Act are hereby  
20 repealed.

21 **Section 25.** Separability Clause. If any provision or section of this Act or the  
22 application thereof to any person or circumstance is held to be invalid, the other provisions or  
23 sections of this Act, and the application of such provision or section to other persons or  
24 circumstances, shall not be affected thereby.



1           **Section 26.** Effectivity. This Act shall take effect after fifteen (15) days following its  
2 publication either in the Official Gazette or in a newspaper of general circulation in the  
3 Philippines.

4           Approved.