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SENATE

S. B. No. 2159

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Introduced by Senator Sergio Osmeña III

**“AN ACT AMENDING REPUBLIC ACT NO. 7721, OTHERWISE KNOWN AS “AN
ACT LIBERALIZING THE ENTRY AND SCOPE OF OPERATIONS OF FOREIGN
BANKS IN THE PHILIPPINES AND FOR OTHER PURPOSES”**

EXPLANATORY NOTE

In 1994, Republic Act (R.A.) No. 7721 was enacted liberalizing the entry of foreign banks into the country by providing for three (3) modes through which foreign banks may enter, namely by (i) acquisition of up to sixty percent (60%) of the voting stock of an existing bank, (ii) investing in up to sixty percent (60%) of the voting stock of a new banking subsidiary incorporated under the laws of the Philippines, or (ii) establishment of branches in the Philippines. The third mode of entry was made available for only five (5) years from the effectivity of R.A. No. 7721. On the other hand, while the availability of the first mode was extended and expanded by allowing foreign banks to own 100% of the voting stock of a domestic bank, this privilege was granted only for a period of seven (7) years starting 2000 pursuant to R.A. No. 8791, otherwise known as the General Banking Law of 2000.

The opening of the banking sector to more established foreign banks was spurred by the economic benefits foreseen with a liberalized economy brought about by the General Agreement on Trade and Tariff (GATT). The Philippines benefitted from this move by fostering competition in the banking industry which, in turn, raised the efficiency levels of banks through adoption of new technology and enhancement of human resource skills, reduced operating costs, instilled corporate governance structure reforms, encouraged more transparency and further developed the supervisory and regulatory framework. It can also be said that by allowing international players in the banking industry, the Philippines witnessed an increase in the availability of funds at competitive rates and increase in the types of hybrid financial instruments or products available in the market.


Once again, the Philippines is at the forefront of further regionalization in the ASEAN region, particularly through the ASEAN Banking Integration Framework which is intended to be implemented by 2020. The economic and financial integration of the ASEAN region is expected to bring across the region opportunities for growth and expansion particularly in the banking industry. The Philippines will benefit from this if the current limitations and restrictions that currently exist in its banking laws governing entry of foreign banks in the Philippines would be lifted to a certain extent. The Philippines now has the chance to be a step ahead and position itself ready to take advantage of the benefits of this economic integration through the further opening up of the banking industry to foreign banks, which the present bill seeks to address.

The entry of foreign banks through the full acquisition of voting stocks of domestic banks can also serve as a device to further strengthen the financial system. This opens up opportunities for weak banks to exit the system through sale of their voting stock to foreign banks which possess sufficient resources for such purpose. As cited above, foreign banks are also expected to bring new and fresh perspectives and technology in managing the entity which is fundamental in reversing conditions of investee bank. There is a greater incentive for foreign banks to engage in such transactions if the privilege to purchase the entire voting stock of the domestic bank is granted.

More importantly, the greater foreign participation in the banking industry is expected to augment the financial resources to which the Philippine economy may have access, thereby supporting the initiatives of the present administration in implementing various infrastructure projects and rehabilitation programs. The greater influx of capital coming into the Philippines and the availability of international capital to the domestic economy would also see expansion of enterprises and trades, which may potentially create more jobs for our fellow Filipinos.

Without a doubt, the Philippines stands to gain from the proposed expansion of foreign bank entry into the Philippines, especially in light of the prevailing economic conditions, both domestically and internationally.

For these reasons, the immediate passage of this bill is earnestly sought.


SERGIO OSMEÑA III
Senator



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“AN ACT AMENDING REPUBLIC ACT NO. 7721, OTHERWISE KNOWN AS “AN ACT LIBERALIZING THE ENTRY AND SCOPE OF OPERATIONS OF FOREIGN BANKS IN THE PHILIPPINES AND FOR OTHER PURPOSES”

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

1 **SECTION 1.** Section 2 of Republic Act No. 7721 is hereby amended to read as
2 follows:

3 “Sec. 2. Modes of Entry. - The Monetary Board may authorize foreign
4 banks to operate in the Philippine banking system through any **ONE** of the
5 following modes of entry: (i) by acquiring, purchasing or owning up to **ONE**
6 **HUNDRED PERCENT (100%) [sixty percent (60%)]** of the voting stock of
7 an existing bank; (ii) by investing in up to **ONE HUNDRED PERCENT**
8 **(100%) [sixty percent (60%)]** of the voting stock of a new banking
9 subsidiary incorporated under the laws of the Philippines; or (iii) by
10 establishing branches with full banking authority[: Provided, That a foreign
11 bank may avail itself of only one (1) mode of entry: Provided, further, That
12 a foreign bank or a Philippine corporation may own up to a sixty percent
13 (60%) of the voting stock of only one (1) domestic bank or new banking
14 subsidiary].”

15 **SEC. 2.** Section 3 of Republic Act No. 7721 is hereby amended to read as
16 follows:

17 “Sec. 3. Guidelines for Approval.- In approving entry applications of
18 foreign banks, the Monetary Board shall: (i) ensure geographic
19 representation and complementation; (ii) consider strategic trade and

1 investment relationships between the Philippines and the country of
2 incorporation of the foreign bank; (iii) study the demonstrated capacity,
3 global reputation for financial innovations and stability in a competitive
4 environment of the applicant; (iv) see to it that reciprocity rights are
5 enjoyed by Philippine banks in the applicant's country; and (v) consider
6 willingness to fully share their technology.

7 **[Only those among the top one hundred fifty (150) foreign banks in the**
8 **world or the top five (5) banks in their country of origin as of the date of**
9 **application] ONLY ESTABLISHED, REPUTABLE AND FINANCIALLY**
10 **SOUND FOREIGN BANKS** shall be allowed entry in accordance with
11 **Section 2 OF THIS ACT [(ii) and (iii) hereof]. THE FOREIGN BANK**
12 **APPLICANT MUST BE WIDELY-OWNED AND PUBLICLY-LISTED**
13 **UNLESS THE FOREIGN BANK APPLICANT IS OWNED BY THE**
14 **GOVERNMENT OF ITS COUNTRY OF ORIGIN.**

15 In the exercise of this authority, the Monetary Board shall adopt such
16 measures as may be necessary to: (i) ensure that [at all times] the
17 control of **AT LEAST** seventy percent (70%) of the resources or assets of
18 the entire banking system is held by domestic banks which are [at least]
19 majority-owned by Filipinos; **THE MONETARY BOARD MAY ALSO**
20 **SUSPEND FURTHER ENTRY OF FOREIGN BANKS UNDER ANY OR**
21 **ALL OF THE MODES PROVIDED IN SECTION 2 OF THIS ACT AT ANY**
22 **TIME AS NATIONAL INTEREST MAY REQUIRE.** [(ii) prevent a
23 dominant market position by one bank or the concentration of economic
24 power in one or more financial institutions, or in corporations,
25 participations, partnerships, groups or individuals with related interests;
26 and (iii) secure the listing in the Philippine Stock Exchange of the shares
27 of stocks of banking corporations established under Section 2(i) and (ii) of
28 this Act: Provided, That said banking corporations shall establish stock
29 option plans for their officers and employees as the resources or assets of
30 these corporations may allow in the best business judgment of their
31 respective boards of directors, pursuant to the Corporation Code of the
32 Philippines.]

33 **[To qualify to establish a branch or a subsidiary, the foreign bank applicant**
34 **must be widely-owned and publicly-listed in its country of origin, unless the**

1 foreign bank applicant is owned by the government of its country of
2 origin.]"

3 **SEC. 3.** Section 4 of Republic Act No. 7721 is hereby amended to read as
4 follows:

5 "Sec. 4. Capital Requirements. - (i) For Locally Incorporated Subsidiaries.
6 - The minimum capital required for locally incorporated subsidiaries of
7 foreign banks shall be equal to that prescribed by the Monetary Board for
8 domestic banks of the same category.

9 (ii) For Foreign Bank Branches.- Foreign banks **THAT SHALL BE**
10 **AUTHORIZED TO ESTABLISH BRANCHES** [seeking entry] pursuant to
11 Section 2 (iii) of this Act shall permanently assign capital [of not less than
12 the U.S. dollar equivalent of Two hundred ten million pesos
13 (P210,000,000.00) at the exchange rate on the date of the effectivity of
14 this Act, as] **OF AN AMOUNT NOT LESS THAN THE MINIMUM**
15 **CAPITAL REQUIRED FOR DOMESTIC BANKS OF THE SAME**
16 **CATEGORY** [ascertained by the Monetary Board]. The permanently
17 assigned capital shall be inwardly remitted and converted into Philippine
18 currency. [The foreign bank shall be entitled to three (3) branches.]"

19 **SEC. 4.** The third and fourth paragraphs of Section 4 of Republic Act No. 7721
20 are hereby amended to form part of Section 5 of Republic Act No. 7721. The original
21 provisions of Section 5 shall form part of Section 6.

22 "**SEC. 5. BRANCHING PRIVILEGES.**- The foreign bank **BRANCH** may
23 open [three (3) additional] **UP TO FIVE (5) SUB-branches** [in locations
24 designated] **AS MAY BE APPROVED** by the Monetary Board. **LOCALLY**
25 **INCORPORATED SUBSIDIARIES OF FOREIGN BANKS PURSUANT**
26 **TO SECTION 2(ii) OF THIS ACT SHALL HAVE THE SAME**
27 **BRANCHING PRIVILEGES AS DOMESTIC BANKS OF THE SAME**
28 **CAREGORY.** [by inwardly remitting and converting into Philippine
29 currency as permanently assigned capital, the U.S. dollar equivalent of
30 Thirty-five million pesos (P35,000,000.00) per additional branch at the
31 exchange rate on the date of the effectivity of this Act, as ascertained by
32 the Monetary Board. The total number of branches for each new foreign
33 bank entrant shall not exceed six (6).]"

1 [For purposes of meeting the prescribed capital ratios, the term "capital"
2 shall include permanently assigned capital plus "net due to head office,
3 branches and subsidiaries and offices outside the Philippines" in the ratio
4 prescribed by law or as may be prescribed by the Monetary Board:
5 Provided, That in all cases, the permanently assigned capital and fifteen
6 percent (15%) of "net due to" required to comply with prescribed capital
7 ratios shall be inwardly remitted and converted to Philippine currency:
8 Provided, further, That amounts invested in productive enterprises or
9 utilized by Philippine companies for export activities, shall not be subject
10 to conversion into Philippine currency: Provided, finally, That the Monetary
11 Board shall monitor the effective use of the "net due to" funds. Whenever
12 there results "net due from head office" outside the Philippines, this shall
13 be deducted from the capital accounts for purposes of determining the
14 required capital ratios.]”

15 **SEC. 5.** Section 6 of Republic Act No. 7721 is deleted and replaced with the
16 original provisions of Section 5 as follows:

17 **“Sec. 6. HEAD OFFICE GUARANTEE. THE HEAD OFFICE OF**
18 **FOREIGN BANK BRANCHES SHALL GUARANTEE PROMPT**
19 **PAYMENT OF ALL LIABILITIES OF ITS PHILIPPINE BRANCHES.**
20 [Entrants under Section 2(iii). - Foreign banks shall be allowed entry under
21 Section 2 (iii) within five (5) years from the effectivity of this Act. During
22 this period, six (6) new foreign banks shall be allowed entry under Section
23 2(iii) upon the approval of the Monetary Board. An additional four (4)
24 foreign banks may be allowed entry on recommendation of the Monetary
25 Board, subject to compliance with Sections 2, 3, 4, and 5 of this Act, upon
26 approval of the President as the national interest may require.]”

27 **SEC. 6.** Section 8 of Republic Act No. 7721 is hereby amended to read as
28 follows:

29 **“Sec. 8. Equal Treatment. - Foreign banks authorized to operate under**
30 **Section 2 of this Act, shall perform the same functions, enjoy the same**
31 **privileges, and be subject to the same limitations imposed upon a**
32 **Philippine bank of the same category. PROVIDED, HOWEVER, THAT**
33 **THE MONETARY BOARD MAY PRESCRIBE A HIGHER SINGLE**

1 **BORROWER'S LIMIT FOR A FOREIGN BANK BRANCH UP TO THE**
2 **EQUIVALENT OF ITS PERMANENTLY ASSIGNED CAPITAL FOR THE**
3 **PURPOSE OF PROMOTING FOREIGN INVESTMENTS.** [These limits
4 include, among others, the single borrower's limit and capital to risk asset
5 ratio as well as the capitalization required for expanded commercial
6 banking activities under the General Banking Act and other related laws of
7 the Philippines. The basis for computing the ratio shall be the capital of the
8 foreign bank branch in the Philippines.]

9 The foreign banks shall guarantee the observance of the rights of their
10 employees under the Constitution.

11 Any right, privilege or incentive granted to foreign banks or their
12 subsidiaries or affiliates under this Act, shall be equally enjoyed by and
13 extended under the same conditions to Philippine banks. [Philippine
14 corporations whose shares of stocks are listed in the Philippine Stock
15 Exchange or are of long standing for at least ten (10) years shall have the
16 right to acquire, purchase or own up to sixty percent (60%) of the voting
17 stock of a domestic bank.]”

18 **SEC. 7.** A new provision in Section 9 is hereby inserted in the same Act, in lieu
19 of the original provisions of Section 9 repealed by Section 11 of Republic Act No.
20 10000. Section 9 shall read as follows:

21 **“SECTION 9. PARTICIPATION IN FORECLOSURE PROCEEDINGS.**
22 **FOREIGN BANKS WHICH ARE AUTHORIZED TO DO BANKING**
23 **BUSINESS IN THE PHILIPPINES THROUGH ANY OF ITS MODES OF**
24 **ENTRY UNDER SECTION 2 SHALL BE ALLOWED TO BID AND TAKE**
25 **PART IN FORECLOSURE SALES OF REAL PROPERTY MORTGAGED**
26 **TO THEM, AS WELL AS TO AVAIL OF ENFORCEMENT AND OTHER**
27 **PROCEEDINGS, AND ACCORDINGLY TAKE POSSESSION OF THE**
28 **MORTGAGED PROPERTY, FOR A PERIOD NOT EXCEEDING FIVE (5)**
29 **YEARS FROM ACTUAL POSSESSION: PROVIDED, THAT IN NO**
30 **EVENT SHALL TITLE TO THE PROPERTY BE TRANSFERRED TO**
31 **SUCH FOREIGN BANK. IN CASE SAID BANK IS THE WINNING**
32 **BIDDER, IT SHALL, DURING THE SAID FIVE (5)-YEAR PERIOD,**
33 **TRANSFER ITS RIGHTS TO A QUALIFIED PHILIPPINE NATIONAL,**
34 **WITHOUT PREJUDICE TO A BORROWER'S RIGHTS UNDER**

1 **APPLICABLE LAWS. SHOULD THE BANK FAIL TO TRANSFER SUCH**
2 **PROPERTY WITHIN THE FIVE (5)-YEAR PERIOD, IT SHALL BE**
3 **PENALIZED ONE HALF (1/2) OF ONE PERCENT (1%) PER ANNUM OF**
4 **THE PRICE AT WHICH THE PROPERTY WAS FORECLOSED UNTIL IT**
5 **IS ABLE TO TRANSFER THE PROPERTY TO A QUALIFIED**
6 **PHILIPPINE NATIONAL.”**

7 **SEC. 8.** Section 10 of Republic Act No. 7721 is hereby amended to read as
8 follows:

9 “Sec. 10. Transitory Provisions. – **FOREIGN BANKS WHICH ARE**
10 **ALREADY AUTHORIZED TO DO BANKING BUSINESS IN THE**
11 **PHILIPPINES THROUGH ANY OF THE MODES OF ENTRY UNDER**
12 **SECTION 2 MAY APPLY TO CHANGE THEIR ORIGINAL MODE OF**
13 **ENTRY.**

14 Foreign banks operating through branches in the Philippines upon the
15 effectivity of this Act, shall **RETAIN THEIR ORIGINAL PRIVILEGE UPON**
16 **ENTRY TO ESTABLISH A LIMITED NUMBER OF SUB-BRANCHES.**
17 **HOWEVER, THE PREVIOUS RESTRICTION ON THE LOCATIONS OF**
18 **SUCH ADDITIONAL BRANCHES IS HEREBY LIFTED [be eligible for the**
19 privilege of establishing up to six (6) additional branches under the same
20 terms and conditions required by Section 4 (ii) hereof: Provided , That for
21 any branch additional to what is existing at the time of the effectivity of this
22 Act, the prescribed permanently assigned capital shall be complied with
23 immediately: Provided, further, That a foreign bank may open three (3)
24 branches in the location of its choice and the next three (3) branches in
25 locations designated by the Monetary Board to insure balanced economic
26 development in all the regions.]

27 The existing Philippine branches of foreign banks shall [be given]
28 **COMPLY WITHIN** one [-and-a-half (1 1/2)] year[s] from the effectivity of
29 this Act [to comply] with the minimum capital requirements as prescribed
30 under Section 4 (ii) of this Act, **UNLESS OTHERWISE EXTENDED BY**
31 **THE MONETARY BOARD.”**

1 **SEC. 9.** Section 13 of Republic Act No. 7721 is hereby amended to read as
2 follows:

3 Sec. **[13] 11.** **[Delegation of] Rule-Making Powers OF THE MONETARY**
4 **BOARD OF THE BANGKO SENTRAL NG PILIPINAS** and Compliance
5 Reports. - The Monetary Board is hereby authorized to issue such rules
6 and regulations as may be needed to implement the provisions of this Act
7 **[after consultation with the chairpersons of the Banks Committee of the**
8 **House of Representatives and the Senate of the Philippines].** On or before
9 May 30 of each year, the Monetary Board shall file a written report to
10 Congress and its respective Banks Committees, on the developments in
11 the implementation of this Act. **THE IMPLEMENTING RULES AND**
12 **REGULATIONS OF THIS ACT SHALL BE PUBLISHED IN AT LEAST**
13 **TWO (2) NEWSPAPERS OF GENERAL CIRCULATION. "**

14 **SEC. 10.** Section 12 of Republic Act No. 7721 is hereby amended to read as
15 follows:

16 "Sec. 12. Applicability of Other Banking Laws. – **[The provisions of**
17 **Republic Act No. 337, as amended, otherwise known as the General**
18 **Banking Act,] THE PROVISIONS OF REPUBLIC ACT NO. 7653,**
19 **OTHERWISE KNOWN AS THE NEW CENTRAL BANK ACT, THE**
20 **PROVISIONS OF REPUBLIC ACT NO. 8791, OTHERWISE KNOWN AS**
21 **THE GENERAL BANKING LAW OF 2000,** insofar as they are applicable
22 and not in conflict with any provision of this Act, shall apply to banks
23 authorized pursuant to this Act."

24 **SEC. 11.** Section 14 of Republic Act No. 7721 is hereby amended to read as
25 follows:

26 "Sec. **[14] 13.** Amendment and Repeal of Inconsistent Laws. – **[Sections**
27 **11, 12, 12-A, 12-B, 13, 14-A, 21-B, and 68 of Republic Act No. 337, as**
28 **amended, otherwise known as the General Banking Act: Sections 4 and 5**
29 **of Republic Act No. 7353, otherwise known as the Rural Banks Act;**
30 **Sections 4 and 14 of Republic Act No. 3779, as amended, otherwise**
31 **known as the Savings and Loan Association Act; and Section 4 of**
32 **Republic Act No. 4093, as amended, otherwise known as the Private**

1 Development Banks Act] **ALL LAWS, DECREES, EXECUTIVE**
2 **ORDERS, PROCLAMATIONS, RULES AND REGULATIONS, AND**
3 **OTHER ISSUANCES, OR PARTS THEREOF,** insofar as they are
4 inconsistent with this Act, are hereby repealed or modified accordingly.”

5 **SEC. 12.** Section 15 of Republic Act No. 7721 is hereby amended to read as
6 follows:

7 “Sec. [15] **14.** Effectivity Clause. - This Act shall take effect fifteen (15)
8 days after its publication in the Official Gazette or in **AT LEAST** two (2)
9 national newspapers of general circulation, **WHICHEVER IS EARLIER.**”

10 Approved.