

S E N A T E

P.S. Resolution No. 166

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Introduced by Senator JUAN PONCE ENRILE

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**RESOLUTION**

**DIRECTING THE COMMITTEE ON BANKS, FINANCIAL INSTITUTIONS AND CURRENCIES, TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ILLEGAL SALE OF UNREGISTERED AND HIGH-RISK SECURITIES BY STANDARD CHARTERED BANK, WHICH RESULTED IN BILLIONS OF PESOS OF LOSSES TO THE INVESTING PUBLIC**

WHEREAS, Republic Act No. 7721, otherwise known as the "*Law Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines*", was approved on May 18, 1994 to promote greater participation of foreign banks in the Philippine Banking Industry that will stimulate economic growth and serve as a channel for the flow of funds into the economy;

WHEREAS, to promote greater competition in the Philippine Banking Industry, foreign banks were accorded the same privileges, allowed to perform the same functions and subjected to the same limitations under relevant banking laws imposed upon domestic banks;

WHEREAS, Standard Chartered Bank was among the foreign banks granted the privilege to do business in our country under Republic Act No. 7721;

WHEREAS, there are complaints against Standard Chartered Bank whose actions have reportedly defrauded hundreds of Filipino investors of billions of pesos through the sale of unregistered securities in the form of high-risk mutual funds falsely advertised and marketed as safe investment havens;

WHEREAS, there are reports that Standard Chartered Bank clearly knew that its actions were violative of Philippine banking and securities laws but cleverly disguised its illegal acts through the use of pro-forma agreements containing waivers of liability in favor of the bank;

WHEREAS, there are reports that in the early stages of conducting these questionable activities, the Bangko Sentral ng Pilipinas warned and eventually fined Standard Chartered Bank a measly P30,000 for violating Philippine banking laws;

WHEREAS, the particular operations of Standard Chartered Bank may constitute "*conducting business in an unsafe and unsound manner*", punishable under Section 37 of Republic Act No. 7653 and should have drawn the higher penalty of revocation of its quasi-banking license;

WHEREAS, Republic Act No. 8791 or the "*General Banking Act of 2000*" deems a particular act or omission as conducting business in an unsafe and unsound manner as follows:

*"Section 56.2 The act or omission has resulted or may result in material loss or damage or abnormal risk to the institution's depositors, creditors, investors, stockholders or to the Bangko Sentral or to the public in general".*

WHEREAS, the sale of unregistered securities is also a clear violation of Republic Act No. 8799 or "*The Securities Regulation Code of 2000*" which states:

*"Section 8.1 Securities shall not be sold or offered for sale or distribution within the Philippines, without a registration statement duly filed with and approved by the Commission. Prior to such sale, information on the securities, in such form and with such substance as the Commission may prescribe, shall be made available to each prospective purchaser."*

WHEREAS, the Securities and Exchange Commission (SEC) reportedly issued a Cease and Desist Order (CDO) against Standard Chartered Bank for the sale of these unregistered securities but the case was reportedly settled administratively and dismissed after Standard Chartered Bank paid a fine of P7 Million;

WHEREAS, the SEC reportedly made an official finding that Standard Chartered Bank actively engaged in promoting and marketing the so-called "*Global Third Party Mutual Funds*" to the investing public and even set revenue quotas for the sale of these funds;

WHEREAS, existing laws including the Securities Regulation Code seem to be inadequate in preventing the sale of unregistered securities and in effectively enforcing the registration rules intended to protect the investing public from fraudulent practices;

WHEREAS, the regulatory intervention by the SEC and BSP likewise appears inadequate in preventing the conduct of proscribed activities in a manner that would protect the investing public;

WHEREAS, there is a need for remedial legislation to address the situation, having in mind the imposition of proportionate penalties to offending entities and their directors, officers and representatives among other additional regulatory measures;

Now, therefore, **BE IT RESOLVED, AS IT IS HEREBY RESOLVED**, to direct the Committee on Banks, Currencies, and Financial Institutions, to conduct an inquiry, in aid of legislation, into the reported sale of unregistered and high-risk securities by Standard Chartered Bank which resulted in billions of losses to the investing public.

Adopted,

  
JUAN PONCE ENRILE  
Senator