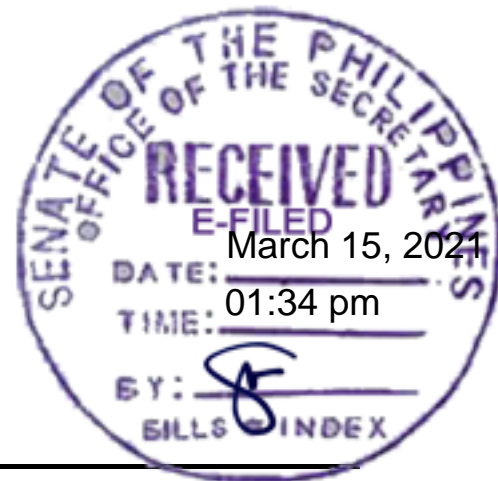


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE
S.B. No. 2101

Introduced by **SENATOR IMEE R. MARCOS**

AN ACT PROVIDING FOR THE CREATION, ORGANIZATION, AND OPERATION OF VIRTUAL BANKS, AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 8791, OTHERWISE KNOWN AS "THE GENERAL BANKING LAW OF 2000"

EXPLANATORY NOTE

Article II, Section 20 of the 1987 Constitution provides that, "*The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments.*"

The restriction in movement brought about by the various levels of community quarantine resulted in an increase in digital transactions, as many Filipinos were forced to do their banking, bill payment, and purchases through online means. During the period of March 17 - April 30, 2020, which was the peak of the Enhanced Community Quarantine (ECQ), an estimated 4.115 million digital accounts were opened in banks and among e-money issuers. The Bangko Sentral ng Pilipinas (BSP) also noted a 100% increase in new online sign-ups and app downloads for digital financial services for the period January-April 2020 compared to last year's level. As more people discover the advantages of online banking, online transactions are expected to be a part of the "new normal" even after the pandemic.

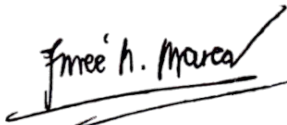
With the rise of online banking, a new business model that is gaining traction is virtual banking, or the delivery of retail banking services exclusively through electronic channels. A virtual bank relies solely on technology to complete its transactions and operates without a physical branch. This banking model is expected to improve financial inclusion by targeting the unbanked and underbanked segments of society by offering convenient access and less stringent documentary requirements. The presence of a digital financial account also facilitates credit score recording, allowing the underbanked access to financial services. Lastly, virtual banks are able to offer higher interest rates to deposits due to the elimination of overhead costs associated in maintaining physical offices, making them more attractive to depositors and fostering competition in the financial sector.

Virtual banking, however, comes with inherent risks and challenges. Given its substantial reliance on technology, online banking is prone to security risk. The security risk is a deterrent to digital banking participation. In spite of its convenience, a number

of people are still hesitant to use online banking transactions due to fears of becoming a victim of cyber fraud. Another fraud-related concern is the ease in which digital banking transactions may be used for money laundering. The lack of face-to-face contact in digital banking transactions introduces a heightened level of risk to institutions, by making them vulnerable to unauthorized users accessing customer accounts.

Given the potential advantages of virtual banking and the concerns associated with it, there is a need to establish a regulatory framework for virtual banking that ensures the safety of these transactions. This bill seeks to clearly define a virtual bank as a type of bank under Republic Act No. 8791, otherwise known as the General Banking Law of 2000 ("GBL"), and, ultimately, institutionalize the regulatory powers of the BSP on virtual banks. Necessarily, by doing so, this bill extends to virtual banks the protection already accorded to conventional banks – such as applicable standards for security, risk management, and managerial propriety – and imposes the same penalties for unlawful actions recognized under the GBL. By expressly recognizing virtual banks as within the scope of the GBL, virtual bank deposits will likewise be made subject to deposit insurance under Republic Act No. 3591, as amended. Ultimately, doing so will improve the uptake of virtual banking services, promoting financial inclusion in the process.

Considering the state of the economy and the urgent need for financial services of both consumers and borrowers, the approval of this measure is earnestly sought.



IMEE R. MARCOS

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BANKING LAW OF 2000"**

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

1 CHAPTER 1
2 GENERAL PROVISIONS

3 **SECTION 1.** *Declaration of Policy.* – It is the policy of the State to promote
4 financial inclusion by providing the regulatory and institutional frameworks requisite
5 for the development of safe, secure, accessible, and affordable financial products and
6 services. Towards this end, the State shall provide a regulatory framework that will
7 encourage the creation of stable, safe, and dependable virtual banks which will
8 develop the application of financial technology in the Philippines, as well as provide
9 enhanced consumer experience.

10 **SEC. 2.** Section 3.2 of Republic Act No. 8791, otherwise known as "The General
11 Banking Law of 2000", is hereby amended to read as follows:

12 "Section 3. *Definition and Classification of Banks.*

13 3.1. "Banks" shall refer to entities engaged in the lending of funds obtained in
14 the form of deposits.

1 3.2. Banks shall be classified into:

2 (a) Universal banks;

3 (b) Commercial banks;

4 (c) Thrift banks, composed of: (i) Savings and mortgage banks, (ii) Stock
5 savings and loan associations, and (iii) Private development banks, as defined
6 in the Republic Act No. 7906 (hereafter the "Thrift Banks Act");

7 (d) Rural banks, as defined in Republic Act No. 7353 (hereafter the "Rural Banks
8 Act");

9 (e) Cooperative banks, as defined in Republic Act No 6938 (hereafter the
10 "Cooperative Code");

11 (f) Islamic banks as defined in Republic Act No. 6848, otherwise known as the
12 "Charter of Al Amanah Islamic Investment Bank of the Philippines"; and

13 **(G) VIRTUAL BANKS, OR BANKS WHICH DELIVER AND/OR OFFER**
14 **RETAIL BANKING SERVICES, FINANCIAL PRODUCTS AND FINANCIAL**
15 **SERVICES PRIMARILY THROUGH THE INTERNET OR OTHER FORMS**
16 **OF ELECTRONIC CHANNELS INSTEAD OF PHYSICAL BRANCHES.**

17 **[(g)] (H)** Other classifications of banks as determined by the Monetary Board
18 of the Bangko Sentral ng Pilipinas.

19 **SEC. 3.** Section 8 of Republic Act No. 8791 is hereby amended to read as
20 follows:

21 "Section 8. *Organization.* – The Monetary Board may authorize the organization
22 of a bank or quasi-bank subject to the following conditions:

23 8.1 That the entity is a stock corporation;

24 8.2 That its funds are obtained from the public, which shall mean twenty (20)

1 or more persons; and

2 8.3 That the minimum capital requirements prescribed by the Monetary Board
3 for each category of banks are satisfied.

4 **BANKS AND FINANCIAL INSTITUTIONS, INCLUDING EXISTING**
5 **BANKS OPERATING IN THE PHILIPPINES, AND NON-FINANCIAL**
6 **INSTITUTIONS, INCLUDING TECHNOLOGY COMPANIES, MAY BE**
7 **AUTHORIZED BY THE MONETARY BOARD TO OWN AND OPERATE A**
8 **VIRTUAL BANK, SUBJECT TO SUBMISSION OF SUFFICIENT EVIDENCE**
9 **SATISFACTORY TO THE MONETARY BOARD, AND SUBJECT TO SUCH**
10 **REQUIREMENTS THAT MAY BE PRESCRIBED BY THE MONETARY**
11 **BOARD, THAT THE OWNERS AND PARENT COMPANIES OF A VIRTUAL**
12 **BANK ARE CAPABLE OF PROVIDING STRONG FINANCIAL,**
13 **TECHNOLOGICAL AND OTHER NECESSARY SUPPORT. THE MINIMUM**
14 **CAPITAL REQUIREMENT FOR VIRTUAL BANKS THAT MAY BE**
15 **PRESCRIBED BY THE MONETARY BOARD SHOULD NOT BE LOWER**
16 **THAN TWO BILLION PESOS (PHP2,000,000.00).**

17 No new commercial bank shall be established within three (3) years from the
18 effectivity of this Act. In the exercise of the authority granted herein, the
19 Monetary Board shall take into consideration their capability in terms of their
20 financial resources and technical expertise and integrity. The bank licensing
21 process shall incorporate an assessment of the bank's ownership structure,
22 directors and senior management, its operating plan and internal controls as
23 well as its projected financial condition and capital base.”

24 **SEC. 4.** Section 20 of Republic Act No. 8791 is hereby amended to read as
25 follows:

26 **“Section 20. *Bank Branches.*** - Universal or commercial banks may open
27 branches or other offices within or outside the Philippines upon prior approval
28 of the Bangko Sentral. **VIRTUAL BANKS MAY NOT OPEN, OTHER THAN**

1 **THE LOCAL OFFICE REQUIRED UNDER THIS ACT, ANY OTHER**
2 **PHYSICAL BRANCH, SUB-BRANCH OR BRANCH-LITE UNIT THROUGH**
3 **WHICH RETAIL BANKING SERVICES, FINANCIAL PRODUCTS AND**
4 **FINANCIAL SERVICES WILL BE OFFERED.** Branching by all other banks
5 shall be governed by pertinent laws.

6 A bank **OTHER THAN A VIRTUAL BANK** may, subject to prior approval of
7 the Monetary Board, use any or all of its branches as outlets for the
8 presentation and/or sale of the financial products of its allied undertaking or of
9 its investment house units. A bank authorized to establish branches or other
10 offices shall be responsible for all business conducted in such branches and
11 offices to the same extent and in the same manner as though such business
12 had all been conducted in the head office. A bank and its branches and offices
13 shall be treated as one unit.”

14 **SEC. 5.** A new Article III (entitled “Operations of Virtual Banks”) and
15 corresponding Sections 33 to 35 are hereby inserted under Chapter IV (Deposits,
16 Loans and Other Operations) of Republic Act No. 8791, immediately after Section 32
17 thereof, and will read as follows:

18 **“ARTICLE III – OPERATIONS OF VIRTUAL BANKS**

19 **SECTION 33. POWERS OF A VIRTUAL BANK. – A VIRTUAL BANK**
20 **SHALL HAVE THE AUTHORITY TO EXERCISE, IN ADDITION TO THE**
21 **GENERAL POWERS INCIDENT TO CORPORATIONS, ALL SUCH**
22 **POWERS AS MAY BE NECESSARY TO CARRY ON THE BUSINESS OF**
23 **VIRTUAL BANKING, SUCH AS:**

24 **(a) ACCEPT SAVINGS AND TIME DEPOSITS;**

25 **(b) ACT AS A COLLECTION AGENT FOR GOVERNMENT ENTITIES;**

26 **(c) GRANT LOANS, WHETHER SECURED OR UNSECURED;**

1 (d) EXTEND CREDIT FACILITIES TO PRIVATE AND GOVERNMENT
2 EMPLOYEES;

3 (e) ISSUE MORTGAGE AND CHATTEL MORTGAGE CERTIFICATES,
4 BUY AND SELL THEM FOR ITS OWN ACCOUNT OR FOR THE
5 ACCOUNT OF OTHERS, OR ACCEPT AND RECEIVE THEM IN
6 PAYMENT OR AS AMORTIZATION OF ITS LOAN;

7 (f) ACT AS CORRESPONDENT FOR OTHER FINANCIAL
8 INSTITUTIONS;

9 (g) INVEST IN READILY MARKETABLE BONDS AND OTHER DEBT
10 SECURITIES, COMMERCIAL PAPERS AND ACCOUNTS
11 RECEIVABLE, DRAFTS, BILLS OF EXCHANGE, ACCEPTANCES OR
12 NOTES ARISING OUT OF COMMERCIAL TRANSACTIONS; AND

13 (h) PURCHASE, HOLD AND CONVEY REAL ESTATE UNDER THE SAME
14 CONDITIONS AS THOSE GOVERNING COMMERCIAL BANKS.

15 A VIRTUAL BANK MAY ALSO PERFORM OTHER POWERS AND
16 FUNCTIONS AS MAY BE GRANTED TO OR RECOGNIZED, AND SUBJECT
17 TO SUCH CONDITIONS AND RULES AS MAY BE PRESCRIBED BY, THE
18 MONETARY BOARD.

19 SECTION 34. PHYSICAL PRESENCE IN THE PHILIPPINES – A VIRTUAL
20 BANK APPLICANT MUST MAINTAIN A PHYSICAL OFFICE IN THE
21 PHILIPPINES, WHICH SHALL BE CONSIDERED AS ITS PRINCIPAL
22 PLACE OF BUSINESS, WILL HOUSE ITS MANAGEMENT AND SUPPORT
23 OPERATIONS, AND SERVE AS ITS LOCAL TOUCHPOINT FOR
24 INTERFACING WITH, AND RECEIVING AND RESOLVING COMPLAINTS
25 BY, THE MONETARY BOARD AND CUSTOMERS.”

26 SECTION 35. PROMOTION OF FINANCIAL INCLUSION – IN ORDER TO

1 **ACTIVELY PROMOTE FINANCIAL INCLUSION, A VIRTUAL BANK**
2 **SHALL NOT IMPOSE MINIMUM ACCOUNT BALANCE REQUIREMENTS**
3 **FOR DEPOSIT ACCOUNTS.**

4 **A MINOR IN HIS OR HER OWN RIGHT AND NAME MAY, SUBJECT TO**
5 **THE RULES AND REGULATIONS THAT MAY BE PRESCRIBED BY THE**
6 **MONETARY BOARD, OPEN AN ACCOUNT WITH A VIRTUAL BANK,**
7 **MAKE DEPOSITS AND WITHDRAWALS FROM SUCH DEPOSITS, AND**
8 **RECEIVE DIVIDENDS AND INTEREST, AS THE CASE MAY BE.**

9 **SECTION 36. CONTINUING REVIEW OF TECHNOLOGY RISK**
10 **MANAGEMENT – A VIRTUAL BANK SHALL ESTABLISH PROCEDURES**
11 **FOR REGULAR REVIEW OF ITS SECURITY AND TECHNOLOGY**
12 **RELATED ARRANGEMENTS TO ENSURE THAT SUCH ARRANGEMENTS**
13 **REMAIN APPROPRIATE, HAVING REGARD TO THE CONTINUING**
14 **DEVELOPMENTS IN TECHNOLOGY. THE MONETARY BOARD SHALL**
15 **ALSO BE AUTHORIZED TO PERFORM, PERIODICALLY AND/OR FROM**
16 **TIME TO TIME, BOTH RANDOM AND SCHEDULED AUDITS OF THE**
17 **SECURITY OF EXISTING VIRTUAL BANKS INFORMATION**
18 **TECHNOLOGY GOVERNANCE AND SYSTEMS.**

19 **SEC. 6. *Renumbering Clause.*** – Article III entitled “Provisions Applicable to All
20 Banks, Quasi-Banks, and Trust Entities” and Sections 33 to 97 of Republic Act No.
21 8791 shall be renumbered accordingly.

22 **SEC. 7. *Annual Report.*** – The Monetary Board shall submit a report to the
23 Congress of the Philippines at the end of each calendar year of all the rules and
24 regulations promulgated by it in accordance with the provisions of this Act, as well as
25 its other actuations in connection with virtual banks together with an explanation of
26 its reasons therefor and recommendations on legislative actions.

27 **SEC. 8. *Transitory Provisions.*** – Existing virtual banks or virtual banking
28 services which were authorized by the Monetary Board prior to the effectivity of this

1 Act shall be given one hundred and eighty (180) days to comply with rules and
2 regulations set by the BSP pursuant to this Act. No further virtual banking licenses
3 shall be issued by the BSP in the period between the effectivity of this Act and the
4 issuance of applicable rules and regulations pursuant to this Act.

5 **SEC. 9. *Implementing Rules and Regulations.*** – The BSP shall promulgate the
6 necessary rules and regulations, or amend its existing rules governing and/or
7 regulating virtual banks, within ninety (90) working days from the effectivity of this
8 Act.

9 **SEC. 10. *Separability Clause.*** – If any portion or provision of this Act is
10 subsequently declared invalid or unconstitutional, other provisions hereof which are
11 not affected thereby shall remain in full force and effect.

12 **SEC. 11. *Repealing Clause.*** – All other laws, acts, presidential decrees,
13 executive orders, presidential proclamations, issuances, rules and regulations, or parts
14 thereof which are contrary to or inconsistent with any of the provisions of this Act are
15 hereby repealed, amended, or modified accordingly.

16 **SEC. 12. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
17 publication in the Official Gazette or in a newspaper of general circulation.

Approved,